



**Local Agency
Formation Commission
of Santa Clara County**

777 North First Street
Suite 410
San Jose, CA 95112

SantaClaraLAFCO.org

Commissioners

Rich Constantine
Susan Ellenberg
Sergio Jimenez
Yoriko Kishimoto
Linda J. LeZotte
Mike Wasserman
Susan Vicklund Wilson

Alternate Commissioners

Helen Chapman
Cindy Chavez
Maya Esparza
Russ Melton
Terry Trumbull
Executive Officer
Neelima Palacherla

**REGULAR MEETING
FEBRUARY 3, 2021 ▪ 1:15 PM
AGENDA**

Chairperson: Susan Ellenberg ▪ Vice-Chairperson: Linda J. LeZotte

***** BY VIRTUAL TELECONFERENCE ONLY *****

Pursuant to the provisions of California Governor's Executive Order N-29-20, issued on March 17, 2020, this meeting will be held by teleconference only. No physical location will be available for this meeting. However, members of the public will be able to access and participate in the meeting.

PUBLIC ACCESS AND PUBLIC COMMENT INSTRUCTIONS

PUBLIC ACCESS

Members of the public may access and watch a live stream of the meeting on Zoom at <https://sccgov-org.zoom.us/j/92954459955>. Alternately, the public may listen in to the meeting by dialing (669) 900-6833 and entering **Meeting ID 92954459955#** when prompted.

WRITTEN PUBLIC COMMENTS may be submitted by email to LAFCO@ceo.sccgov.org. Written comments will be distributed to the Commission as quickly as possible. Please note that documents may take up to 24 hours to be posted to the agenda on the LAFCO website.

SPOKEN PUBLIC COMMENTS will be accepted through the teleconference meeting. To address the Commission, click on the link <https://sccgov-org.zoom.us/j/92954459955> to access the Zoom-based meeting.

1. You will be asked to enter an email address and name. We request that you identify yourself by name as this will be visible online and will be used to notify you that it is your turn to speak.
2. When the Chairperson calls for the item on which you wish to speak, click on "raise hand" icon. The Clerk will activate and unmute speakers in turn. Speakers will be notified shortly before they are called to speak.
3. When called, please limit your remarks to the time limit allotted (3 minutes).

NOTICE TO THE PUBLIC

1. Pursuant to Government Code §84308, no LAFCO commissioner shall accept, solicit, or direct a contribution of more than \$250 from any party, or his/her agent; or any participant or his /or her agent, while a LAFCO proceeding is pending, and for three months following the date a final decision is rendered by LAFCO. Prior to rendering a decision on a LAFCO proceeding, any LAFCO commissioner who received a contribution of more than \$250 within the preceding 12 months from a party or participant shall disclose that fact on the record of the proceeding. If a commissioner receives a contribution which would otherwise require disqualification returns the contribution within 30 days of knowing about the contribution and the proceeding, the commissioner shall be permitted to participate in the proceeding. A party to a LAFCO proceeding shall disclose on the record of the proceeding any contribution of more than \$250 within the preceding 12 months by the party, or his or her agent, to a LAFCO commissioner. For forms, visit the LAFCO website at www.santaclaralafco.org. No party, or his or her agent and no participant, or his or her agent, shall make a contribution of more than \$250 to any LAFCO commissioner during the proceeding or for 3 months following the date a final decision is rendered by LAFCO.
2. Pursuant to Government Code Sections 56100.1, 56300, 56700.1, 57009 and 81000 et seq., any person or combination of persons who directly or indirectly contribute(s) a total of \$1,000 or more or expend(s) a total of \$1,000 or more in support of or in opposition to specified LAFCO proposals or proceedings, which generally include proposed reorganizations or changes of organization, may be required to comply with the disclosure requirements of the Political Reform Act (See also, Section 84250 et seq.). These requirements contain provisions for making disclosures of contributions and expenditures at specified intervals. More information on the scope of the required disclosures is available at the web site of the FPPC: www.fppc.ca.gov. Questions regarding FPPC material, including FPPC forms, should be directed to the FPPC's advice line at 1-866-ASK-FPPC (1-866-275-3772).
3. Pursuant to Government Code §56300(c), LAFCO adopted lobbying disclosure requirements which require that any person or entity lobbying the Commission or 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. In addition to submitting a declaration, 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. Additionally, every applicant shall file a declaration under penalty of perjury listing all lobbyists that they have hired to influence the action taken by LAFCO on their application. For forms, visit the LAFCO website at www.santaclaralafco.org.
4. Any disclosable public records related to an open session item on the agenda and distributed to all or a majority of the Commissioners less than 72 hours prior to that meeting are available for public inspection at the LAFCO Office, 777 North First Street, Suite 410, San Jose, California, during normal business hours. (Government Code §54957.5.)
5. 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) 993-4705.

1. **ROLL CALL**
2. **WELCOME NEW COMMISSIONERS**
3. **PUBLIC COMMENTS**

This portion of the meeting provides an opportunity for members of the public to address the Commission on matters not on the agenda, provided that the subject matter is within the jurisdiction of the Commission. No action may be taken on off-agenda items unless authorized by law. Speakers are limited to THREE minutes. All statements that require a response will be referred to staff for reply in writing.

4. **APPROVE MINUTES OF DECEMBER 2, 2020 LAFCO MEETING**

ITEMS FOR ACTION / INFORMATION

5. **COUNTYWIDE FIRE SERVICE REVIEW REQUEST FOR PROPOSALS**

Recommended Action:

1. Authorize staff to issue a Request for Proposals (RFP) for a professional service firm to prepare a Countywide Fire Service Review.
2. Delegate authority to the LAFCO Executive Officer to enter into an agreement with the most qualified consultant in an amount not to exceed \$125,000, which may be amended with a contingency amount of up to \$10,000; and to execute any necessary amendments subject to LAFCO Counsel's review and approval.

6. **INITIATE DISSOLUTION OF INACTIVE SPECIAL DISTRICT – RECLAMATION DISTRICT NO. 16633**

Recommended Action:

CEQA Action

1. As Lead Agency under CEQA, determine that the proposed dissolution of Reclamation District No. 1663 is exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15061(b)(3).

Project Action

2. Adopt Resolution No. 2021-01 initiating dissolution of Reclamation District No. 1663.

7. **MOU BETWEEN LAFCO AND THE COUNTY OF SANTA CLARA REGARDING WEBCASTING SERVICES FOR LAFCO MEETINGS**

Recommended Action: Approve the draft Memorandum of Understanding (MOU) between LAFCO and the County of Santa Clara regarding the County's provision of webcasting services for LAFCO meetings held in the County Board Chambers.

8. ADOPTION OF AMENDED CONFLICT OF INTEREST CODE

Recommended Action: Adopt Resolution No. 2021-02 approving LAFCO's amended Conflict of Interest Code.

9. SAN DIEGO LAFCO'S LEGISLATIVE EFFORT TO AMEND GOVERNMENT CODE §56133(e)

Recommended Action: Provide conceptual support for San Diego LAFCO's legislative effort to clarify that LAFCOs determine an "out of agency service by contract" is exempt from LAFCO approval under Government Code §56133(e).

10. FINANCE COMMITTEE FOR FISCAL YEAR 2021-2022

Recommended Action: Establish a committee composed of three commissioners to work with staff to develop and recommend the proposed FY 2021-2022 LAFCO work plan and budget for consideration by the full commission.

11. EXECUTIVE OFFICER'S REPORT

11.1 Changes in LAFCO Staffing

Recommended Action: Accept report and provide direction, as necessary.

11.2 Update on Regional Housing Needs Allocation (RHNA) for Unincorporated Santa Clara County

Recommended Action: Accept report and provide direction, as necessary.

11.3 Meeting with City of Morgan Hill on Urban Service Area Amendments

Recommended Action: Accept report and provide direction, as necessary.

11.4 San Jose Annexations and Concurrent Detachments from Burbank Sanitary District

Recommended Action: Accept report and provide direction, as necessary.

11.5 Presentation on LAFCO to Leadership Sunnyvale

Recommended Action: Accept report and provide direction, as necessary.

11.6 Quarterly Meeting with County Planning Staff

Recommended Action: Accept report and provide direction, as necessary.

11.7 Santa Clara County Special Districts Association Meeting

Recommended Action: Accept report and provide direction, as necessary.

11.8 Santa Clara County Association of Planning Officials Meeting

Recommended Action: Accept report and provide direction, as necessary.

11.9 Meeting with County Office of Sustainability Regarding its Community Climate Action Plan

Recommended Action: Accept report and provide direction, as necessary.

12. PENDING APPLICATIONS / UPCOMING PROJECTS

12.1 Annexation to West Valley Sanitation District of property located on Suview Drive in Los Gatos – WVSD 2020-01 (Suview Drive)

13. COMMISSIONER REPORTS

14. NEWSPAPER ARTICLES / NEWSLETTERS

15. WRITTEN CORRESPONDENCE

15.1 Letter from Santa Clara Valley Water District regarding Guadalupe River Corridor Management Plan (January 5, 2021)

16. ADJOURN

Adjourn to the regular LAFCO meeting on April 7, 2021 at 1:15 PM in the Board of Supervisors' Chambers, 70 West Hedding Street, San Jose.



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ITEM # 2

Alternate Commissioners
Helen Chapman
Cindy Chavez
Maya Esparza
Russ Melton
Terry Trumbull
Executive Officer
Neelima Palacherla

LAFCO MEETING: February 3, 2021

TO: LAFCO

**FROM: Neelima Palacherla, Executive Officer
Dunia Noel, Asst. Executive Officer
Lakshmi Rajagopalan, Analyst**

SUBJECT: WELCOME NEW COMMISSIONERS

FOR INFORMATION ONLY

At its January 11, 2021 meeting, the Independent Special District Selection Committee (ISDSC) appointed Yoriko Kishimoto (Board Member, Midpeninsula Regional Open Space District and LAFCO Alternate Commissioner) as the regular member for the remainder of the current term which ends in May 2021 and to serve a new 4-year term from June 2021 to May 2025. The ISDSC appointed Helen Chapman (Board Member, Santa Clara Valley Open Space Authority) as an alternate member to complete the remainder of the current term vacated by Alternate Commissioner Kishimoto and to serve a new 4-year term from June 2021 to May 2025.

In December 2020, Commissioner Hall’s term on the Board of the Santa Clara Valley Open Space Authority expired, resulting in the end of his service on LAFCO and creating a regular member vacancy (for special districts) on LAFCO for the remainder of his 4-year term which ends in May 2021. The special district alternate member, Kishimoto’s 4-year term also ends in May 2021.

Pursuant to Government Code §56332(b), Executive Officer Palacherla convened a meeting of the ISDSC on January 11, 2021 to appoint special district members to serve on LAFCO for the following positions and terms:

- One regular member to serve the remainder of the current term which ends in May 2021,
- One regular member to serve in a new 4-year term from June 2021 to May 2025,
- One alternate member to serve the remainder of the current term which ends in May 2021 (if the current alternate member is appointed as the regular member), and

- One alternate member to serve in a new 4-year term from June 2021 to May 2025.

In December 2012, LAFCO adopted Resolution No. 2012-07, expanding its membership to include two special district members and one alternate special district member. As agreed upon by the Special Districts Association of Santa Clara County, the Santa Clara Valley Water District (SCVWD) appoints one special district member to LAFCO, and the ISDSC appoints the second member and an alternate member to serve in place of the two regular special district members.

We thank the ISDSC members and other parties for their time and attendance at the January 11, 2021 meeting and for their interest in LAFCO.

LAFCO staff conducts an orientation program to educate incoming Commissioners on the history and purpose of LAFCO, its State mandate, the role of commissioners and staff; and Santa Clara LAFCO's key planning boundaries, regulatory and planning tools, application review process, service reviews program, decision-making process, policies and procedures, outreach and collaboration efforts, and current/upcoming projects. Staff conducted an orientation session for Alternate Commissioner Helen Chapman on January 19, 2021.



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LAFCO MEETING: February 3, 2021

TO: LAFCO

**FROM: Neelima Palacherla, Executive Officer
Dunia Noel, Asst. Executive Officer
Emmanuel Abell, LAFCO Clerk**

SUBJECT: WELCOME NEW COMMISSIONER

FOR INFORMATION ONLY

LAFCO staff received notification (Attachment A) from the Santa Clara Valley Water District that the District's Board of Directors has appointed Gary Kremen (Board Member, Santa Clara Valley Water District) to serve as the regular member on LAFCO. Commissioner Kremen will replace and complete Commissioner Linda J. LeZotte's term on LAFCO, which expires on May 31, 2023.

LAFCO staff is in the process of onboarding Commissioner Kremen, for the February 3, 2021 LAFCO meeting.

Independent special districts have two designated seats on LAFCO. By agreement amongst the districts, one seat is held by a board member of the Santa Clara Valley Water District and the other seat is appointed by the Independent Special District Selection Committee (ISDSC).

We thank Commissioner LeZotte and we will recognize her service at the next LAFCO meeting.

ATTACHMENT

Attachment A: Letter from the Santa Clara Valley Water District re: 2021 Representative Appointments – Santa Clara Valley Water District (January 30, 2021)



Supplemental Information No. 1
ITEM #2, Attachment A

Clean Water • Healthy Environment • Flood Protection

January 30, 2021

Emmanuel Abello
LAFCO Clerk
Local Agency Formation Commission (LAFCO)
70 West Hedding Street, 11th Floor, East Wing
San Jose, CA 95110

Subject: 2021 Representative Appointments – Santa Clara Valley Water District

Dear Emmanuel:

At their meeting on January 27, 2021, the Santa Clara Valley Water District Board of Directors made the following appointment to LAFCO:

SCVWD Representative
Gary Kremen, Director District 7
Email: GKremen@valleywater.org
Phone: (415) 305-3052

You can also forward communications for Director Kremen to:

Candice Kwok-Smith
Board Support Officer
ckwok-smith@valleywater.org
5750 Almaden Expressway, San Jose, CA 95118
(408) 630-3193

If you have any questions, please do not hesitate to contact me at mking@valleywater.org or (408) 630-2711.

Sincerely,

A handwritten signature in purple ink that reads "Michele L. King".

Michele L. King, CMC
Clerk/Board of Directors





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ITEM # 4

Alternate Commissioners
Helen Chapman
Cindy Chavez
Maya Esparza
Russ Melton
Terry Trumbull
Executive Officer
Neelima Palacherla

LAFCO MEETING MINUTES WEDNESDAY, DECEMBER 2, 2020

CALL TO ORDER

The meeting was called to order at 1:15 p.m.

Pursuant to the provisions of California Governor’s Executive Order N-29-20 issued on March 17, 2020, this meeting was held by teleconference only.

1. ROLL CALL

The following commissioners were present:

- Chairperson Sergio Jimenez
- Vice Chairperson Susan Ellenberg
- Commissioner Rich Constantine
- Commissioner Sequoia Hall (joined at 1:20 p.m.)
- Commissioner Linda J. LeZotte
- Commissioner Mike Wasserman
- Alternate Commissioner Yoriko Kishimoto (joined at 1:20 p.m.)
- Alternate Commissioner Russ Melton
- Alternate Commissioner Terry Trumbull

The following commissioners were absent:

- Alternate Commissioner Cindy Chavez
- Alternate Commissioner Maya Esparza

The following staff members were present:

- Neelima Palacherla, LAFCO Executive Officer
- Dunia Noel, LAFCO Assistant Executive Officer
- Emmanuel Abello, LAFCO Clerk
- Mala Subramanian, LAFCO Counsel

2. PUBLIC COMMENTS

There were none.

AYES: Constantine, Ellenberg, Hall, Jimenez, LeZotte, Wasserman, Vicklund Wilson

NOES: None ABSTAIN: None ABSENT: None

MOTION PASSED

5. PROPOSED REVISION OF LAFCO'S SERVICE REVIEW WORK PLAN TO PRIORITIZE THE COUNTYWIDE FIRE SERVICE REVIEW

Dunia Noel, LAFCO Analyst, presented the staff report.

Ms. Palacherla added that she contacted Fire Chief Tony Bowden who informed her that Garry Herceg, Deputy County Executive, is coordinating the County's fire study. She stated that she then contacted Mr. Herceg and it is her understanding that the County's study will focus on operational and implementation issues that are specific to the County, and that the County Board of Supervisors will consider the issue at its December 15, 2020 meeting. She indicated that LAFCO's fire service review would be broad in nature and will look at various issues including wildfire prevention and safety.

Allan Epstein, a resident of Los Altos Hills, noted his comment letter and proposed that the wildland fire portions be taken out from the fire service review and studied separately, and he noted that the issue will require more specific study and immediate action than a broad and comprehensive study. He then questioned how LAFCO's service review differs from the County's fire study.

In response to an inquiry from **Chairperson Jimenez**, Ms. Palacherla indicated that she has no more specific information about the County study at this time.

In response to an inquiry by **Commissioner LeZotte**, Ms. Palacherla indicated that LAFCO's fire service review will not look at operational issues. She referenced the LAFCO staff report prepared at the end of the 2010 Fire Service Review that included implementation steps for the recommendations from the Service Review and noted that it identifies the agencies that may further study and implement the recommendations. She anticipated that the County study will be at the operational level and could consider the implementation of recommended options. In response to another inquiry by **Commissioner LeZotte**, Ms. Palacherla stated that the issues regarding private fire protection services will be added to the list of issues that the consultant will talk about with the fire agencies.

In response to an inquiry by **Chairperson Jimenez**, Ms. Palacherla explained the service review process and informed that staff will prepare a draft RFP, circulate it for review and comment and bring it for LAFCO approval at the February meeting. **Commissioner Ellenberg** observed that the process as outlined indicates that there are opportunities for LAFCO and the County to interact to prevent overlaps and ensure a thorough study.

Commissioner Wasserman noted that LAFCO's work plan includes review of special districts and that a fire service review would also include special districts and

be duplicative. He proposed that the same consultant be hired for both LAFCO's fire service review and the County study to prevent overlaps in the two separate studies and to be fiscally responsible. He also proposed that staff do the service review in-house since it is included in the work plan and LAFCO recently added a staff member. At the request of **Chairperson Jimenez**, Ms. Palacherla provided a brief overview of LAFCO's service review program and explained LAFCO's approach to the various services reviews such as for countywide fire services, countywide water and wastewater services, a review of other remaining special districts and a review of cities. She noted that districts included in the fire or water service reviews are not included in the special districts service review. She also noted that LAFCO may step back and consider a different approach to service reviews if desired. She informed that LAFCO retains consultants with the necessary expertise to conduct its service reviews and that staff's role has been to plan for, manage and review the work of the consultant, and coordinate with affected agencies. In response to another inquiry by **Commissioner Wasserman**, Ms. Palacherla informed that a service review is a year-long process and that the cost for the consultant is included in the LAFCO budget, and she indicated that the four fire districts being studied at this time will not be included in the review of special districts. In response to another inquiry by **Commissioner Wasserman**, Ms. Palacherla reiterated that LAFCO's fire service review is countywide and will include the four fire districts and all city fire departments. **Commissioner Wasserman** then confirmed that LAFCO will hire a consultant to study the four fire districts along with the cities that provide fire services and that the service review report is expected to be completed in 12 months.

In response to the inquiry by **Chairperson Jimenez**, Ms. Palacherla advised that while it may be possible for both LAFCO and the County's study to be done by the same consultant, the scope of LAFCO's fire service review will be different from the County's as LAFCO's review is will broad in scope and will be at a higher level, and the County will likely focus on specific operational aspects, and therefore may require different consultant qualifications and technical expertise. She indicated that LAFCO's study is mandated by state law and the expectation is that it is an independent study and having a consultant working on both studies would make it difficult to clarify responsibilities between LAFCO and the County.

Alternate Commissioner Kishimoto indicated the need for a focused study on wildfires in the wildlands and wildland-urban interface considering the wind and drought exacerbated by climate change, and she cited an article about fuel and wind driven wildfires. She also inquired whether land use zoning could be a potential solution to keeping development out of areas susceptible to severe fire danger. Ms. Palacherla informed that the previous fire service reviews covered the underserved areas in the Diablo mountain range and the Santa Cruz mountains and was the basis for large annexations to the Santa Clara County Central Fire Protection District and the South Santa Clara County Fire Protection District, but there are still remaining underserved areas along the Diablo range. She also indicated that wildfire issues would continue to be a focus area for the fire service review. She noted that in most cases it is not LAFCO but the County that would have the ability to study, analyze

further and implement any recommendations that come out of the service review. Ms. Palacherla also informed that LAFCO does not have land use authority and could not make land use recommendations, but the study can consider current general plan designations as a strategy for managing growth in such areas.

Commissioner Hall expressed agreement with Alternate Commissioner Kishimoto and noted that open space districts own a lot of land and play a key role in fire protection of the land. He discussed how the Santa Clara Valley Open Space Authority (OSA) has created buffer zones and coordinated with local fire agencies, and he briefly discussed OSA's role in containing the fire outside Morgan Hill four years ago. He noted the importance of interagency communication and the coordination of responsibilities in both fire and water services, and he directed attention to an article about UC San Diego's Covid-19 wastewater surveillance as a model for collaboration. He stated that coordinating local governments is one role that LAFCO can play in the county. He also informed that a recent regional study has found that open space lands create real dollar benefits.

Commissioner Susan Vicklund Wilson indicated that service reviews look at the upper level governance of the fire agencies but may have recommendations for future focused studies, such as the special study on Saratoga Fire district to look at potential consolidation. She noted that the type of consultant expertise that LAFCO and the County would need for their studies would likely be different. She noted that the service review could be the starting point for the County's study and vice versa, and she expressed optimism for a smoother service review as agencies are more willing to share information. Ms. Palacherla expressed agreement and added that LAFCO's fire service review was placed on hold last year to await the completion of the County's management audit of the fire districts as the reports could inform LAFCO's service review. She recommended that it is now time for LAFCO to move forward with the fire service review.

Commissioner Wasserman requested that staff provide a breakdown of how their time is spent during the year. He noted that a fire service review is overdue and requested for the schedule of service reviews of the other special districts.

Commissioner Vicklund Wilson stated that LAFCO has retained a consultant to conduct LAFCO's Organizational Assessment Study which contains such information on staffing issues. She also indicated that specific studies on individual agencies such as El Camino Healthcare District and Saratoga Fire District are considered part of the service review program and that LAFCO has the ability to skip a service review when a previous study is still determined as sufficient and if everything is going well. Ms. Palacherla expressed agreement and stated that LAFCO completed service reviews annually until 2015, and that staff has been working on fire issues since the 2010 fire service review and has conducted the special study on Saratoga Fire District in 2014. She informed that state law requires LAFCO to update spheres of influence of special districts every five years and conduct service reviews prior to the update, as necessary. In response to an inquiry by **Commissioner Wasserman**, Ms. Palacherla indicated that the Special Study on the Saratoga Fire District was about governance

options recommended for the district in the 2010 fire service review, and she provided a brief overview on it. **Commissioner Wasserman** indicated that he has learned more about the service review program and expressed hope that the public has gained a better understanding of LAFCO's service review program. He noted that it is important to have transparency.

The Commission:

1. Directed staff to revise the LAFCO Service Review work plan as follows (listed from highest priority to lowest priority):
 - a. Countywide Fire Service Review
 - b. Countywide Water and Wastewater Service Review
 - c. Special Districts Service Review
 - d. Cities Service Review
2. Directed staff to prepare for the Commission's consideration at the February 3, 2021 LAFCO meeting a Draft Request for Proposals (RFP) for a professional services firm to conduct a Countywide Fire Service Review.
3. Appointed Commissioner Susan Vicklund Wilson and Alternate Commissioner Yoriko Kishimoto to serve on the Countywide Fire Service Review Technical Advisory Committee.

Motion: Wasserman

Second: Ellenberg

AYES: Constantine, Ellenberg, Hall, Jimenez, LeZotte, Wasserman, Vicklund Wilson

NOES: None ABSTAIN: None ABSENT: None

MOTION PASSED

6. UPDATE ON REGIONAL HOUSING NEEDS ALLOCATION FOR UNINCORPORATED SANTA CLARA COUNTY

Ms. Palacherla presented the staff report.

In response to inquiries by **Commissioner Ellenberg**, Ms. Palacherla advised that LAFCO has provided comments to the Association of Bay Area Government (ABAG) and is participating in partner agency discussions on the issue. In response to further inquiry by **Commissioner Ellenberg**, Ms. Palacherla informed that LAFCO has no authority over ABAG and that LAFCO's role in this instance is as an advocate and that LAFCO does not have a direct role in the Regional Housing Needs Allocation (RHNA) implementation. She noted that while LAFCO approval is not needed for development in the unincorporated County, LAFCO approval is needed prior to any city extension of services into the unincorporated areas to serve potential new development approved by the County to meet their RHNA allocations.

Commissioner Ellenberg requested staff to provide LAFCO with regular updates on this issue, as they become available.

Commissioner Wasserman expressed support for requesting ABAG and the cities to modify RHNA allocations for the unincorporated County since it conflicts with the County General Plan, Plan Bay Area 2050 and greenhouse gas reduction goals. He also indicated that while the State is mandating the County and the cities to build more homes, it is not providing the funds to pay for new services such as police, water, fire protection, schools and infrastructure.

In response to an inquiry by **Chairperson Jimenez**, Ms. Palacherla agreed that potential new legislation is an option to address this issue and noted that other counties such as Napa and Sonoma are experiencing similar concerns as unincorporated Santa Clara County. She noted that ABAG is currently required to consider LAFCO's sphere of influence boundaries in the preparation of the Plan Bay Area 2050, which was the basis for the RHNA methodology until this year.

The Commission accepted the report, directed staff to continue working with ABAG on RHNA and to keep the Commission informed on the issue.

Motion: Vicklund Wilson

Second: Constantine

AYES: Constantine, Ellenberg, Hall, Jimenez, LeZotte, Wasserman, Vicklund Wilson

NOES: None

ABSTAIN: None

ABSENT: None

MOTION PASSED

7. NOTIFICATION OF INACTIVE DISTRICTS IN SANTA CLARA COUNTY

Ms. Noel presented the staff report.

The Commission accepted the report.

Motion: Vicklund Wilson

Second: Constantine

AYES: Constantine, Ellenberg, Hall, Jimenez, LeZotte, Wasserman, Vicklund Wilson

NOES: None

ABSTAIN: None

ABSENT: None

MOTION PASSED

8. EXECUTIVE OFFICER'S REPORT

8.1 Update on LAFCO Organizational Assessment

The Commission accepted the report.

8.2 Update on Rancho Rinconada Recreation and Park District Special Study

The Commission accepted the report.

8.3 Correspondence re. San Jose Annexations and Concurrent Detachments from Burbank Sanitary District

In response to the inquiry by **Commissioner Ellenberg**, Ms. Palacherla informed that she has no further updates on the issue at this time beyond what is in the staff report. **Commissioner Ellenberg** requested staff to notify her with any new information on the issue as the area is within her Supervisorial District. **Chairperson**

Jimenez, as the City of San Jose Council Member, offered his assistance for coordination with the city. **Alternate Commissioner Kishimoto** expressed her interest in the issue and requested updates.

The Commission accepted the report.

8.4 Meeting with Town of Los Altos Hills, West Bay Sanitary District & San Mateo LAFCO re. Potential Annexation

The Commission accepted the report.

8.5 Presentation on LAFCO to Guadalupe-Coyote Resource Conservation District

The Commission accepted the report.

8.6 Comment Letter on City of Gilroy's 2040 General Plan Final Environmental Impact Report

The Commission accepted the report.

8.7 Comment Letter on San Jose Staff Recommendation on the Future of Coyote Valley

The Commission accepted the report.

8.8 Santa Clara County Association of Planning Officials Meeting

The Commission accepted the report.

8.9 Sustainability County Working Group Meeting

The Commission accepted the report.

8.10 Inter-Jurisdictional GIS Working Group Meeting

The Commission accepted the report.

9. CALAFCO RELATED ACTIVITIES

9.1 Report on CALAFCO Legislative Committee Meetings

The Commission noted the report.

9.2 CALAFCO Monthly Meetings for Executive Officers

The Commission noted the report.

9.3 CALAFCO University Webinar Series

The Commission noted the report.

10. 2021 SCHEDULE OF LAFCO MEETINGS

The Commission adopted the schedule of LAFCO meetings and application filing deadlines for 2021.

Motion: Wasserman

Second: Hall

AYES: Constantine, Ellenberg, Hall, Jimenez, LeZotte, Wasserman, Vicklund Wilson

NOES: None

ABSTAIN: None

ABSENT: Hall

MOTION PASSED

11. APPOINTMENT OF 2021 LAFCO CHAIRPERSON AND VICE-CHAIRPERSON

Ms. Noel presented the staff report.

Chairperson Jimenez inquired if there was prior discussion with members recommended for appointment, and Ms. Noel indicated that there was none.

Commissioner Vicklund Wilson moved for appointment of Commissioner Ellenberg as Chairperson for 2021 and Commissioner LeZotte as Vice Chairperson.

Commissioner Hall seconded.

Commissioner Wasserman requested clarification whether staff recommendation is appointment of a County representative as Chairperson and the special districts representative as Vice Chairperson, and **Chairperson Jimenez** clarified that the motion is to appoint Commissioner Ellenberg as Chairperson and Commissioner LeZotte as Vice Chairperson. **Commissioner Ellenberg** offered to yield the nomination in favor of Commissioner Wasserman who is also a County representative, and **Commissioner Wasserman** declined.

The Commission appointed Commissioner Ellenberg to serve as Chairperson for 2021 and Commissioner Linda LeZotte to serve as Vice-Chairperson for 2021.

Motion: Vicklund Wilson

Second: Hall

AYES: Constantine, Ellenberg, Hall, Jimenez, LeZotte, Wasserman, Vicklund Wilson

NOES: None

ABSTAIN: None

ABSENT: None

MOTION PASSED

12. RESOLUTION OF COMMENDATION FOR OUTGOING COMMISSIONER SEQUOIA HALL

Chairperson Jimenez read the resolution of commendation for outgoing Commissioner Hall.

Commissioner Jimenez expressed his appreciation to Commissioner Hall for the perspective he brings to the meetings and for sharing his expertise on LAFCO and open space, and noted that LAFCO will lose a strong voice that has consistently stood for open space. **Commissioner Vicklund Wilson** stated that LAFCO would lose Commissioner Hall's thoughtful and diplomatic approach to several crucial issues that LAFCO has addressed over the years. **Commissioner LeZotte** expressed agreement and recognized Commissioner Hall's wise counsel and thoughtful comments on many issues, particularly those at the Finance Committee, and she stated that Commissioner Hall understands what LAFCO is and has always reminded

members of their role on LAFCO. **Alternate Commissioner Kishimoto** indicated that special districts appreciate Commissioner Hall's representation, and his thoughtful and balanced approach on LAFCO reflects his diverse public service experience. **Commissioner Ellenberg** recalled that when she was campaigning for her supervisorial seat, Commissioner Hall spoke to her on the importance of LAFCO that encouraged her to serve on the Commission. **Alternate Commissioner Melton** acknowledged Commissioner Hall's good demeanor, thoughtfulness, knowledge and deep understanding of the LAFCO mission, and recognized his work on the Finance Committee. **Commissioner Wasserman** observed that Commissioner Hall comes to the meetings prepared for the items on the agenda but he listens to what other members say before he makes his decision, and that he has comprehensive knowledge about LAFCO and the environment. He expressed appreciation for Commissioner Hall's leadership and professionalism. Ms. Palacherla expressed appreciation to Commissioner Hall for his service and for helping LAFCO build connections with partner agencies.

Commissioner Hall expressed appreciation for the comments and stated that he has served on LAFCO to make the community a better place, and he stated that LAFCO is where local leaders should come together and ensure that they are communicating effectively in getting government to work efficiently from a higher level perspective. He requested distribution of a white paper by the Rodale Institute regarding a partnership with a local hospital for organic farming which represents LAFCO's mission. He stated that he enjoyed working with the commission and staff, and he expressed appreciation to the staff.

13. PENDING APPLICATIONS / UPCOMING PROJECTS

There were none.

14. COMMISSIONER REPORTS

There were none.

15. NEWSPAPER ARTICLES / NEWSLETTERS

There were none.

16. WRITTEN CORRESPONDENCE

There was none.

12. PERFORMANCE EVALUATION

The Commission adjourned to closed session at 3:16 p.m., and reconvened at 3:22 p.m., with no report.

13. ADJOURN

The Commission adjourned at 3:22 p.m., to the next regular LAFCO meeting on February 3, 2021 at 1:15 p.m., by teleconference.

Approved on _____.

Susan Ellenberg, Chairperson
Local Agency Formation Commission of Santa Clara County

By: _____
Emmanuel Abello, LAFCO Clerk

DRAFT



**Local Agency
Formation Commission
of Santa Clara County**

777 North First Street
Suite 410
San Jose, CA 95112

SantaClaraLAFCO.org

Commissioners

Rich Constantine
Susan Ellenberg
Sergio Jimenez
Yoriko Kishimoto
Linda J. LeZotte
Mike Wasserman
Susan Vicklund Wilson

Alternate Commissioners

Helen Chapman
Cindy Chavez
Maya Esparza
Russ Melton
Terry Trumbull

Executive Officer

Neelima Palacherla

LAFCO MEETING: February 3, 2020

TO: LAFCO

**FROM: Neelima Palacherla, Executive Officer
Dunia Noel, Asst. Executive Officer
Lakshmi Rajagopalan, Analyst**

SUBJECT: COUNTYWIDE FIRE SERVICE REVIEW REQUEST FOR PROPOSALS

STAFF RECOMMENDATION

1. Authorize staff to issue a Request for Proposals (RFP) for a professional service firm to prepare a Countywide Fire Service Review.
2. Delegate authority to the LAFCO Executive Officer to enter into an agreement with the most qualified consultant in an amount not to exceed \$125,000, which may be amended with a contingency amount of up to \$10,000; and to execute any necessary amendments subject to LAFCO Counsel's review and approval.

BACKGROUND

Santa Clara LAFCO is responsible for establishing, reviewing and updating Spheres of Influence (SOI) for 43 public agencies in Santa Clara County (15 Cities and 28 special districts). State law (Government Code §56425) requires LAFCO to review and update once every five years or as necessary, the sphere of influence of each city and special district. Government Code §56430 requires LAFCO to conduct a service review prior to or in conjunction with a sphere of influence update for special districts and cities.

A service review is a comprehensive review of municipal services in a designated geographic area in order to obtain information about services, evaluate provision of services, and recommend actions when necessary, to promote the efficient provision of those services.

LAFCO, at its December 2, 2020 meeting, directed staff to prioritize the preparation of a Countywide Fire Service Review and to prepare a Draft RFP for a professional services firm to conduct this review. LAFCO appointed Commissioner Susan Vicklund Wilson and Commissioner Yoriko Kishimoto to serve on the Countywide Fire Service Review Technical Advisory Committee (TAC) and directed LAFCO staff to contact and request representation on the TAC from the Santa Clara

County/Cities Managers' Association and the Santa Clara County Fire Chiefs' Association.

Lastly, LAFCO directed staff to distribute the Draft RFP to affected agencies, associations, and TAC members for review and comment.

COUNTYWIDE FIRE SERVICE REVIEW

Distribution of Draft Request for Proposals (RFP) for Review and Comment

On December 18, 2020, LAFCO staff distributed a Draft RFP for the preparation of a Countywide Fire Service Review to LAFCO Commissioners, the County, the 15 Cities, the 28 Special Districts, (including the four fire districts), the Santa Clara County/Cities Managers' Association, the Santa Clara County Fire Chiefs' Association, and others for their review and comment. LAFCO also requested their assistance in identifying potential qualified consultants and identifying any other issues surrounding the provision of fire protection services in the county. The deadline for providing LAFCO with written comments concerning the Draft RFP was January 13, 2021. LAFCO staff received comments from the following:

- Carl Cahill, City Manager for the Town of Los Altos Hills
- Yoriko Kishimoto, LAFCO Commissioner and TAC Member
- Deborah Feng, City Manager for the City of Cupertino
- Christina Turner, City Manager for the City of Morgan Hill
- J. Logan, General Manager for the Los Altos Hills County Fire District
- Brian Malone, Assistant General Manager for the Midpeninsula Regional Open Space District

All of the comments received are included in **Attachment A**. A summary of these comments and LAFCO staff's response to them is presented in **Attachment B**. LAFCO staff has revised the Draft RFP and Scope of Services to address these comments, as necessary. Please see **Attachment C** for the Revised Draft RFP, including a revised Scope of Services, with tracked underlined changes.

Proposed Timeline for the Service Review

The following is a brief timeline for completing this Service Review:

- Release RFP: February 4, 2021
- Proposals due: February 25, 2021
- Firm Interviews and Selection of Firm: late March 10, 2021
- Firm Begins Service Review: late March 2021
- LAFCO Public Workshop and Public Hearing on Draft Report: December 2021
- LAFCO Public Hearing on Revised Draft Report: February 2022

Proposed Budget

The Countywide Fire Service Review will be conducted by a professional service firm under the operational direction of the LAFCO Executive Officer. Staff recommends an allocation of \$125,000 for the Countywide Fire Service Review, which may be amended with a contingency amount of up to \$10,000, with LAFCO Counsel's review and approval. The LAFCO Executive Officer will negotiate the final project cost with the selected firm.

This amount is larger than prior service reviews, as the going rate for service reviews has risen significantly since LAFCO's last service review (i.e. 2015 Cities Service Review) and in light of the proposed increase in the overall scope of the Countywide Fire Service Review to address emerging issues and comments received from affected agencies.

The selected consultant's work on the Countywide Fire Service Review is anticipated to begin in late March 2021 (this fiscal year) and continue well into the next fiscal year, concluding in February 2022. Staff recommends that the Service Review be budgeted over this fiscal year and next fiscal year. The LAFCO Budget for this Fiscal Year (2020-2021) includes sufficient funding to commence the Service Review and LAFCO can budget for the remaining balance as part of its Fiscal Year 2021-2022 budget planning process.

Countywide Fire Service Review TAC

The members on the Technical Advisory Committee (TAC) will serve as a liaison with their respective Associations, and will help select a consultant for the service review and provide technical expertise/advice throughout the service review process. The TAC consists of the following members:

- Commissioners Yoriko Kishimoto and Susan Vicklund Wilson appointed by LAFCO
- James Lindsay (City Manager, City of Saratoga) appointed by the Santa Clara County/Cities Managers' Association, with two additional appointees anticipated
- Tony Bowden (Fire Chief, Santa Clara County Central Fire Protection District), Ruben Torres (Fire Chief, City of Santa Clara Fire Department), Jim Wyatt (Fire Chief, City of Gilroy Fire Department), all appointed by Santa Clara County Fire Chiefs' Association

NEXT STEPS

Upon LAFCO authorization, staff will send the Final RFP to the firms on LAFCO's consultant list and will post the RFP on the LAFCO website and the CALAFCO website for other interested firms. Responses to the RFP are due by Thursday, February 25, 2021 at 5 PM, as specified in greater detail in the RFP. LAFCO staff and volunteers from the TAC will review responses to the RFP and interview qualified consultants.

ATTACHMENTS

- Attachment A: Comments Received on Countywide Fire Service Review Draft RFP
- Attachment B: Table Summarizing Comments Received on Draft RFP and LAFCO Staff Response
- Attachment C: Final Countywide Fire Service Review RFP including the Scope of Services, with tracked underlined changes

AGENDA ITEM # 5
Attachment A

From: [Carl Cahill](#)
To: [LAFCO](#)
Cc: [Cody Einfalt](#); [Abello, Emmanuel](#)
Subject: [EXTERNAL] FW: Requesting Review of Draft RFP for LAFCO's Fire Service Review
Date: Wednesday, December 23, 2020 3:00:29 PM

Dear LAFCO Director and Staff,

Thank you for offering the Town of Los Altos Hills the opportunity to review and comment on the draft RFP for LAFCO's Countywide Fire Service Review.

Town comments to LAFCO on the draft RFP are as follows:

- Review of fire protection services should be done from the point of view of the service recipient which includes the 15 individual cities in Santa Clara County, and not just from the perspective of service provider. The Town of Los Altos Hills should be a full partner in the Fire Service Review discussion.

- After decades of responsible annexation of unincorporated territory by the Town of Los Altos Hills, since its incorporation in 1956, the population and boundaries of the Los Altos Hills Fire District are now largely within the municipal boundaries of Los Altos Hills. This year, certain members of the County Board of Supervisors attempted to quickly and covertly dissolve the Los Altos Hills Fire District on the very thin and unjustifiable basis of a management audit. The County Management team and the two Supervisors spearheading the dissolution never made any effort to first engage the community and meet with the elected and appointed officials of the Town of Los Altos Hills to discuss this very important topic of fire protection services. It was as if the Town didn't even exist.

With the notable exception of its own District 5, County Supervisor Joe Simitian, the Town no longer has any confidence in the ability or commitment of Santa Clara County government to understand the needs or represent the interests of the Los Altos Hills community with regard to local fire protection services. The Town government is far better positioned to provide oversight and effective delivery of contract fire protection services and be responsive to the needs and perceptions of local residents than the County. In the interest of efficient and good governance, the Town believes that the LAFCO service review should examine options, available under the Government Code, for merging the Los Altos Hills Fire Protection District with the Town of Los Altos Hills or the formation of a subsidiary district where the Town of Los Altos Hills City Council would serve as the District Board of Directors.

Thank you for your consideration of our comments.

Carl

Carl Cahill | City Manager

a: Town of Los Altos Hills | 23679 Fremont Road, Los Altos Hills, CA, 94022
email: ccahill@losaltoshills.ca.gov | **w:** www.losaltoshills.ca.gov
p: (650) 947-2514

From: Abello, Emmanuel <Emmanuel.Abello@ceo.sccgov.org>
Sent: Friday, December 18, 2020 4:56 PM
Cc: Palacherla, Neelima <Neelima.Palacherla@ceo.sccgov.org>; Noel, Dunia <Dunia.Noel@ceo.sccgov.org>; Rajagopalan, Lakshmi <lakshmi.rajagopalan@ceo.sccgov.org>
Subject: Requesting Review of Draft RFP for LAFCO's Fire Service Review

Dear [City and District Managers](#), [County Executive](#), [City and District Fire Chiefs](#), [Other Affected Agencies](#) and [Interested Parties](#):

Please see attached memo requesting your review of and comments on the Draft Request for Proposals for LAFCO's Countywide Fire Service Review. Thank you for your assistance.

NOTE: In light of COVID-19 response measures from the Governor of the State of California and the Santa Clara County Public Health Department, commencing March 17, and extended through May 3, 2020, all staff of Santa Clara LAFCO are under a "Shelter in Place" directive, working remotely from home. If you have an inquiry, we encourage you to contact us by email at LAFCO@ceo.sccgov.org.

Thank you,

Emmanuel Abello

Commission Clerk

LAFCO of Santa Clara County

777 North First Street, Suite 410

San Jose, CA 95112

(408) 993-4705

Twitter: [@SantaClaraLAFCO](https://twitter.com/SantaClaraLAFCO)

www.SantaClaraLAFCO.org

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From: [Palacherla, Neelima](#)
To: [Rajagopalan, Lakshmi](#); [Noel, Dunia](#); [Abello, Emmanuel](#)
Subject: FW: comments on Fire service review
Date: Monday, January 11, 2021 4:00:16 PM

FYI. Well done and comments on RFP.

Neelima Palacherla, Executive Officer
LAFCO of Santa Clara County

From: Yoriko Kishimoto <ykishimoto@openspace.org>
Sent: Monday, January 11, 2021 3:23 PM
To: Palacherla, Neelima <Neelima.Palacherla@ceo.sccgov.org>
Subject: [EXTERNAL] comments on Fire service review

Hi Neelima - thanks for a special election meeting well run. We got great attendance and great outcome for me and ultimately, the alternate!

I had started looking at the fire service review and my biggest point is the third point below. It seems that climate change has become so much bigger an issue in the whole county picture about fires, and so we should almost break out Wildland Urban Interface or WUI as its own category in addition to structural fire and wildland fires to analyze.

We could even include some wording about wind-driven vs. fuel driven fires, but perhaps too much? It is a game changer, since the higher winds + more fuel + more development in WUI is disastrous. Severe and Very Severe fire hazard zoning would help keep development down in those areas.

What do you think?

Draft Request for Proposals:

Page 1 and beyond "Countywide Fire Protection" to "Countywide Fire Protection and Emergency Medical Services"

Page 3 "Fire Protection Services" heading to "Fire Protection and Emergency Medical Services"

Page 3: under "Fire Protection service Expertise:
add bulletin point

* Experience with recent climate changes (drought, winds, fuel) and their impact on wildland/urban interface (WUI) fires

From: [Deborah L. Feng](#)
To: [Abello, Emmanuel](#)
Cc: [Ashley Sanks](#); [Palacherla, Neelima](#); [Noel, Dunia](#); [Rajagopalan, Lakshmi](#)
Subject: [EXTERNAL] RE: Requesting Review of Draft RFP for LAFCO's Fire Service Review
Date: Monday, January 11, 2021 3:49:42 PM
Attachments: [image009.png](#)
[image010.png](#)
[image011.png](#)
[image012.png](#)
[image013.png](#)
[image014.png](#)
[image015.png](#)
[image016.png](#)

Hello Emmanuel,

I wasn't sure if this one small edit warranted input via the link provided in the other email, however, the City of Cupertino is not listed under the section listing cities that contract for fire services. We contract with County Fire.

Thanks,
Deb



Deborah L. Feng
City Manager
City Manager's Office
DebF@cupertino.org
(408) 777-3250



From: Abello, Emmanuel <Emmanuel.Abello@ceo.sccgov.org>
Sent: Friday, December 18, 2020 4:45 PM
To: Deborah L. Feng <DebF@cupertino.org>
Cc: Ashley Sanks <ashleys@cupertino.org>; Palacherla, Neelima <Neelima.Palacherla@ceo.sccgov.org>; Noel, Dunia <Dunia.Noel@ceo.sccgov.org>; Rajagopalan, Lakshmi <lakshmi.rajagopalan@ceo.sccgov.org>
Subject: Requesting Review of Draft RFP for LAFCO's Fire Service Review

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Ms. Feng and Members of the Santa Clara County City Managers' Association:
Please see attached memo requesting your review of and comments on the Draft Request for Proposals for LAFCO's Countywide Fire Service Review. In addition, please let us know the name of the City Manager that will represent the Association on the Technical Advisory Committee for LAFCO's Countywide Fire Service Review. Thank you for your assistance.

NOTE: In light of COVID-19 response measures from the Governor of the State of California and the Santa Clara County Public Health Department, commencing March 17, and extended through May 3, 2020, all staff of Santa

From: [Harjot Sangha](#)
To: [LAFCO](#)
Cc: [christina.turner](#)
Subject: [EXTERNAL] LAFCO's Countywide Fire Services Review RFP Comments - City of Morgan Hill
Date: Tuesday, January 12, 2021 7:32:01 PM
Attachments: [LAFCO Fire Services Review RFP Comments_City of Morgan Hill.pdf](#)

Hello,

Thank you for the opportunity to review and provide comments on the draft Request for Proposal (RFP) for Countywide Fire Services Review. Attached please find comments from the City of Morgan Hill.

Please confirm receipt and let us know if you have any questions.

Thank you,

CITY OF MORGAN HILL

HARJOT SANGHA, CGFM Assistant to the City Manager

17575 Peak Avenue, Morgan Hill, California, USA 95037
c 408.888.6690 f 408.778-1564
e harjot.sangha@morganhill.ca.gov | www.morganhill.ca.gov
[Facebook](#) | [Twitter](#)



17575 Peak Avenue
Morgan Hill, CA 95037-4128
TEL: (408) 779-7271
FAX: (408) 779-3117
www.morganhill.ca.gov

January 12, 2021

Neelima Palacheria, Executive Officer
Local Agency Formation Commission of Santa Clara County (LAFCO)
777 North First Street, Ste 140
San Jose, CA 95112

Re: Comments on Draft Request for Proposal (RFP) for LAFCO's Countywide Fire Service Review

Dear Neelima:

Thank you for the opportunity to review the draft RFP for LAFCO's Countywide Fire Services review. We have the following comments for your consideration:

1. Public review and comment period: We request that the number of days for public review and comment period be increased from 21 days to at least 45 days. We believe the current 21-day period is not a sufficient time to address a report being conducted on Countywide fire services review.
2. Community workshops: We request that scope of services include community workshops where the consultant will present its findings in a formal setting and receive public input/comments prior to LAFCO public hearing/adoption.
3. Technical Advisory Committee: We request that at least one representative of the TAC be from the South County region of Morgan Hill, San Martin, and Gilroy.
4. Santa Clara County Fire Services Review: We understand the County of Santa Clara is pursuing a separate fire services review. We strongly urge LAFCO to review its scope of services with that of the County's to ensure there is no overlap.

Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read "CT", is positioned above the typed name of the signatory.

Christina Turner
City Manager
City of Morgan Hill

From: [Sarah Henricks](#)
To: [LAFCO](#)
Cc: [J Logan](#); [LAHCFD Clerk](#)
Subject: [EXTERNAL] Review of Draft Request for Proposals for LAFCO's Countywide Fire Service Review
Date: Tuesday, January 12, 2021 9:58:16 AM
Attachments: [LAHCFD comments on draft RFP Fire Services Review FINAL011221.pdf](#)

Dear Ms. Palacherla and Santa Clara LAFCO,

Thank you for the opportunity to review and comment on the Draft RFP for LAFCO's upcoming Countywide Fire Service Review.

Attached please find comments for your consideration.

Thank you for convening the LAFCO Countywide Fire Services Review and the RFP process.

Thank you,
Sarah

Sarah Henricks
Special Projects Services Consulting
Los Altos Hills County Fire District
SpecialProjects@lahcfd.org



January 12, 2021

Neelima Palacherla, Executive Officer
Local Agency Formation Commission of Santa Clara County (LAFCO)
777 North First Street
Suite 410
San Jose, CA 95112

Re: Review and Comments on Draft Request for Proposals (RFP) for LAFCO's Countywide Fire Service Review

Dear Ms. Palacherla:

Thank you for the opportunity to review and comment on the Draft RFP for LAFCO's upcoming Countywide Fire Service Review.

Attached please find comments for your consideration.

Thank you for convening the LAFCO Countywide Fire Services Review and the RFP process.

Sincerely,
J. Logan
General Manager
Los Altos Hills County Fire District

cc: LAHCFD Board of Commissioners

Clara LAFCO are under a "Shelter in Place" directive, working remotely from home. If you have an inquiry, we encourage you to contact us by email at LAFCO@ceo.sccgov.org.

Thank you,

Emmanuel Abello

Commission Clerk

LAFCO of Santa Clara County

777 North First Street, Suite 410

San Jose, CA 95112

(408) 993-4705

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Review and Comments: LAFCO Draft RFP, Attachment A and Draft Scope of Services

Submitted by Los Altos Hills County Fire District

January 12, 2021

- Current RFP seeks analysis of “disadvantaged communities,” as required by Government Code section 56430 (*Draft Scope of Services, Page 1, Section 1, #2, #3*) or communities with an annual median household income that is less than 80% of the statewide annual median household income. In addition to requirements under the Government Code, RFP could also seek analysis of agencies based on a broader definition of “disadvantaged.” “Disadvantaged” could include more than just income. Additional elements may include:
 - Fire risk (Wildland and structural)
 - Geography and topography of a given jurisdiction
 - Proximity to outside agencies/jurisdictions and their ability to respond to encroaching wildfire risk and/or ability/willingness to provide mutual aid
 - Magnitude of potential damages within various jurisdictions
 - Cost to rebuild/repair infrastructure and recover post wildfire/disaster

- Current RFP seeks analysis of “Present and planned capacity of public facilities and adequacy of public services, including infrastructure needs or deficiencies” (*Draft Scope of Services, Page 1, Section 1, #3*). The 2010 Fire Service Review only considered fire stations, line apparatus, performance standards, and mutual aid to assess public facilities and adequacy of public service. Additional public facilities to consider may include:
 - Roadway infrastructure as it relates to ingress/egress in evacuation (*Establish areas of safe refuge as alternatives where road improvements are limited or prohibited due to environmental concerns and issues regarding topography).
 - Jurisdiction planning documents as they relate to roadway development to increase or improve evacuation options.
 - Analysis of each agency’s ability to manage/plan/implement evacuation with a focus on life-safety.
 - How does a lack of public facilities impact an agency’s ability to hold meetings, educational forums, or conduct outreach for community education and outreach for fire protection?
 - Who should address these issues?

- Current RFP requests consideration of “...emerging issues and questions, such as the impact of climate change on wildland fire prevention, evacuation, and recovery plans; wildland urban interface fire concerns; provision and receipt of mutual aid; use of private fire protection service providers; interagency communication and coordination responsibilities in anticipation of and during fire events, fire prevention planning for public open space and/or preserved lands; new law requiring LAFCO to review fire service contracts; and LAFCO’s consideration of fire risks when reviewing proposals that are located in a very high fire hazard zone.” (*Draft Scope of Services, page 4*)
Additional considerations could include:

- How is each agency able to address WUI (Wildland Urban Interface) and wildfire issues?
 - How would County-wide adoption of an updated version of the current CWPP or a newly developed wildland guidance document impact prioritization and provide consistency in service delivery and prevention and protection across the County, especially in “disadvantaged communities” as newly defined above, as it relates to high fire risk areas?
 - What kind of communication and/or partnership model is needed for interagency communication as it relates to prevention planning/programming in the WUI and in public open space and/or preserved lands? How can agencies partner to address shared borders?
 - Recommend addition of representative from North County jurisdictions to the TAC Committee.
- What kind of fire prevention, protection and community resiliency programs are agencies providing to their respective jurisdictions in addition to fire suppression and emergency medical services, and what is the value of those programs to the immediate and surrounding community? Does consolidation of these services ensure better delivery and protection, or does it overwhelm an agency? What is the value of local governance for decisions on fire protection and prevention services and programs that strengthen local community resiliency to withstand and recover from wildland fires?
 - Provide recommendations based on best practices for operational programming, such as hazardous vegetation mitigation, dead and dying tree and Eucalyptus tree removal, shaded fuel breaks, fuel and fire breaks, and align program delivery with appropriate planning documents.
 - Analyze effectiveness of current programs and provide benchmarks or other information that agencies can use to evaluate their programming and conduct gap analysis. (See FireSafe Marin).
 - Provide suggestions for how to encourage community participation to reduce wildfire risk, education and outreach programs to residents, and strengthen of community resiliency.
 - Analysis by agency of frequency and locations of mutual aid and automatic aid services as a provider and a recipient, cost formula for mutual and auto-aid services, regional benefits offered by each agency pertaining to fire protection and prevention and summary of how mutual aid benefits or burdens the countywide fire protection system.

From: [Brian Malone](#)
To: [LAFCO](#)
Cc: [aruiz](#)
Subject: [EXTERNAL] Comments on Draft Request For Proposals Countywide Fire Service Review
Date: Wednesday, January 13, 2021 9:01:35 AM

January 13, 2020

Neelima Palacherla, Executive Officer
Santa Clara County Local Agency Formation Commission (LAFCO)
777 North First Street, Suite 410
San Jose, CA 95112

RE: Review of Draft Request for Proposals (RFP) for LAFCO's Countywide Fire Service Review

Dear Ms. Palacherla,

Thank you for the opportunity to comment on the Draft RFP for the Countywide Fire Service Review. One of the Midpeninsula Regional Open Space District's (Midpen) Strategic Goals and Objectives is to: *Work with fire agencies and surrounding communities to strengthen the prevention of, preparation for and response to wildland fires for enhanced ecosystem resiliency and public safety.* Midpen conducts extensive annual vegetation management and is in the environmental review period for our Wildland Fire Resiliency Program to increase vegetation management work and reintroduce prescribed fire to establish healthy, resilient fire-adapted ecosystems, protect natural resources, reduce wildland fire risk, and facilitate fire suppression and emergency access. While we are not a fire service provider, Midpen does supplement local fire response by training rangers and a group of maintenance staff in basic wildfire suppression, equipping staff with wildland fire gear, carrying slip on pumpers with 125 gallons of water on most ranger trucks, and keeping two water trucks available for water supply on District lands.

Midpen respectfully submits these comments and suggested edits regarding the Draft RFP which are on **Attachment 1 Draft Scope of Services**, Section II: Overview of Fire Protection Service and 911 Emergency Medical Services in Santa Clara County, on page 4 of 6, in the paragraph on emerging issues and questions (copied below for clarity).

The service review will also consider emerging issues and questions, such as the impact of climate change on wildland fire prevention, evacuation, and recovery plans; wildland urban interface fire concerns; provision and receipt of mutual aid; use of private fire protection service providers; interagency communication and coordination responsibilities in anticipation of and during fire events, fire prevention planning for public open space and/or preserved lands; new law requiring LAFCO to review fire service contracts; and LAFCO's consideration of fire risks when reviewing proposals that are located in a very high fire hazard zone. The service review will identify potential options/opportunities for addressing these issues, as necessary.

Under the *provision and receipt of mutual aid* please add, **“including mutual aid with adjacent County agencies”**. Many high fire risk areas within the County are located near and along county

boundary lines shared between Santa Clara County and adjacent County jurisdictions (including San Mateo and Santa Cruz counties). Midpen staff are aware of the ongoing jurisdictional confusion that occurs along the county borders, which at times has led to an increase in response time to calls for roadway accidents and medical calls. In particular, the upper Page Mill Road area and Skyline Boulevard between Hwy 9 and Page Mill/Alpine Road intersections have had response issues due to the convergence of multiple jurisdictional boundary lines. Improving inter-county communication and coordination within these zones could potentially improve response times overall and increase efficiencies.

Under fire prevention planning for public open space and/or preserved lands Midpen suggests broadening the review of fire prevention planning to read, **“fire prevention planning for public and private lands and public rights-of-way”**. It is Midpen’s experience in developing and cooperating on fuel reduction projects that often the most difficult aspects are continuity of effort across private lands and public rights-of-way as roadways are often the most practical and efficient locations for fuel reduction projects.

One suggested addition for emerging issues is, **“fire prone invasive species management along public roadways”**. Midpen has made great progress in reducing fuel loads and improving native habitat through invasive species management. However, invasive plant populations on and adjacent to public roadways and public rights-of-way are often unmanaged and present an increasing fire risk of concern that also merits attention and a plan of action.

In addition, on page 3 of 6 in the Draft Scope of Services heading **Other**, please consider adding a reference to other FireSafe Councils (South Skyline, Lexington) who like the Santa Clara County FireSafe Council work closely with fire agencies on fire prevention, evacuation planning, and other tasks particularly in more remote areas.

Thank you again for the opportunity to submit comments to the RFP. Please feel free to contact me at bmalone@openspace.org if you have any questions regarding these comments.

Sincerely,
Brian Malone

cc: Ana Ruiz, Midpen General Manager
Midpen Board of Directors



Brian Malone
Assistant General Manager
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**LAFCO COUNTYWIDE FIRE SERVICES REVIEW DRAFT RFP-
SUMMARY OF COMMENTS RECEIVED & LAFCO STAFF RESPONSE**

**AGENDA ITEM # 5
Attachment B**

Comment Summary	Response
Commenter #1: Carl Cahill, City Manager for the Town of Los Altos Hills	
<p>1) Review of fire protection services should be done from the point of view of the service recipient which includes the 15 individual cities in Santa Clara County, and not just from the perspective of the service provider.</p>	<p>Comment noted. The Countywide Fire Service Review will focus on agencies that provide fire service. Some cities lie within existing fire district boundaries and receive services from the district, whereas other cities contract with a specific service provider for service, yet others have their own fire departments. Each city or community that receives fire service from a service provider is important and the information will be integrated in the chapter for the service provider.</p>
<p>2) Town of Los Altos Hills should be a full partner in the Fire Service Review discussion.</p>	<p>Comment noted. There will be multiple opportunities to participate and provide input throughout the service review process, commencing with the current opportunity to review and provide comments on the Draft RFP. We welcome your input throughout the process and encourage you to reach out to LAFCO staff. Furthermore, the service review schedule includes two formal public review periods to allow for affected agencies and the public to review and provide comments.</p>
<p>3) LAFCO service review should examine options, available under the Government Code, for merging the Los Altos Hills Fire Protection District with the Town of Los Altos Hills or the formation of a subsidiary district where the Town of Los Altos Hills City Council would serve as the District Board of Directors.</p>	<p>Comment noted. As part of the service review, various alternative governance structure options will be evaluated, including but not limited to, the two options that the Town has identified in its comment letter.</p>

**LAFCO COUNTYWIDE FIRE SERVICES REVIEW DRAFT RFP–
SUMMARY OF COMMENTS RECEIVED & LAFCO STAFF RESPONSE**

Commenter #2: Yoriko Kishimoto, LAFCO Commissioner and LAFCO Fire Service Review TAC Member	
1) Change - “Countywide Fire Protection” in Page 1 and beyond to “Countywide Fire Protection and Emergency Medical Services”	Comment noted. Emergency medical response service is one aspect of the overall fire service issues and will be included in the study.
2) Change - “Fire Protection Services” heading in Page 3 to “Fire Protection and Emergency Medical Services”	Comment noted. Emergency medical response service is one aspect of the overall fire service issues and will be included in the study.
3) Under VI. Proposal Requirements - Page 3: under “Fire Protection service Expertise: add bullet point to include: Experience with recent climate changes (drought, winds, fuel) and their impact on wildland/urban interface (WUI) fires	Comment is addressed under “VI. Proposal Requirement.” See Page 4 of the Revised Draft RFP.
4) Include Wildland Urban Interface or WUI as its own category in addition to structural fire and wildland fires to analyze.	Comment is addressed under “Preliminary Fire Service Issues and Topics.” See Page 4 of the Revised Draft RFP (Attachment 1).
5) Include some wording about wind-driven vs. fuel driven fires as higher winds + more fuel + more development in WUI is disastrous. Severe and Very Severe fire hazard zoning would help keep development down in those areas.	Comment is addressed under “Preliminary Fire Service Issues and Topics.” See Page 4 of the Revised Draft RFP (Attachment 1).
Commenter #3: Deborah Feng, City Manager for the City of Cupertino	
1) List City of Cupertino under the section listing cities that contract for fire services. Cupertino contracts with County Fire.	Comment noted. Our understanding is that the City of Cupertino lies within the boundaries of the Santa Clara County Central Fire Protection District (SCCFPD), and thus receives fire service from the District. As such, the City does not contract for those services.

**LAFCO COUNTYWIDE FIRE SERVICES REVIEW DRAFT RFP–
SUMMARY OF COMMENTS RECEIVED & LAFCO STAFF RESPONSE**

Commenter #4: Christina Turner, City Manager for the City of Morgan Hill	
<p>1) <u>Public review and comment period</u>: Increase number of days for public review and comment period from 21 days to at least 45 days. We believe the current 21-day period is not a sufficient time to address a report being conducted on Countywide fire services review.</p>	<p>Comment noted. Pursuant to Govt. Code Section 56427, LAFCO is required to provide a 21-day notice period before the public hearing. The service review schedule includes two such formal public review periods to allow for affected agencies to review and provide comments. Furthermore, each agency that provides fire service and each agency that receives fire service by contract from another agency will have an opportunity to review and verify the applicable compiled data on their agency before publication of the Draft Report.</p>
<p>2) <u>Community workshops</u>: Scope of services should include community workshops where the consultant will present its findings in a formal setting and receive public input/comments prior to LAFCO public hearing/adoption.</p>	<p>Comment is addressed under “III. Service Review Tasks Overview, Section 4., Draft Service Review Report & LAFCO Workshop and LAFCO Public Hearing.” See Page 6 of the Revised Draft RFP (Attachment 1).</p>
<p>3) <u>Technical Advisory Committee</u>: At least one representative of the TAC should be from the South County region of Morgan Hill, San Martin, and Gilroy.</p>	<p>Comment noted.</p> <p>LAFCO has appointed Commissioners Susan Vicklund Wilson and Yoriko Kishimoto to serve on the Countywide Fire Service Review TAC. LAFCO has requested that Santa Clara County/Cities Managers’ Association and the Santa Clara County Fire Chiefs’ Association make their own appointments to the TAC, with the expectation that these members will liaison with their respective Association and member agencies.</p>

**LAFCO COUNTYWIDE FIRE SERVICES REVIEW DRAFT RFP–
SUMMARY OF COMMENTS RECEIVED & LAFCO STAFF RESPONSE**

	<p>The Santa Clara County/Cities Managers' Association has appointed James Lindsay (City Manager for City of Saratoga).</p> <p>The Santa Clara County Fire Chiefs' Association has appointed Fire Chief Tony Bowden (Santa Clara County Fire Protection District) and Fire Chief Ruben Torres (City of Santa Clara Fire Department).</p> <p>In light of this comment, we welcome the Santa Clara County/Cities Manager's Association and the Santa Clara County Fire Chiefs' Association to each add an additional representative to the TAC. We have contacted both Associations to inform them of your comment and this new opportunity and await their response.</p>
<p>4) <u>Santa Clara County Fire Services Review</u>: LAFCO should review its scope of services with that of the County's to ensure there is no overlap.</p>	<p>Comment noted. State law [Govt. Code Section 56430] and Santa Clara LAFCO's adopted policies on Service Reviews guide the content of LAFCO's service review. We have informed the County of LAFCO's plans to conduct a Countywide Fire Service Review as outlined in the Draft RFP, including the Scope of Services. It is not LAFCO's intent to duplicate the County's efforts. As much as possible we will respect the time and effort of the affected agencies in conducting this required service review.</p>

**LAFCO COUNTYWIDE FIRE SERVICES REVIEW DRAFT RFP–
SUMMARY OF COMMENTS RECEIVED & LAFCO STAFF RESPONSE**

Commenter #5: J. Logan, General Manager for the Los Altos Hills County Fire District

1) Analysis of “disadvantaged communities,” as required by Government Code section 56430 (Draft Scope of Services, Page 1, Section 1, #2, #3)

In addition to requirements under the Government Code 56430 for analysis of disadvantaged communities, RFP could also seek analysis of agencies based on a broader definition of “disadvantaged.” “Disadvantaged” could include more than just income. Additional elements may include:

- Fire risk (Wildland and structural)
- Geography and topography of a given jurisdiction
- Proximity to outside agencies/jurisdictions and their ability to respond to encroaching wildfire risk and/or ability/willingness to provide mutual aid
- Magnitude of potential damages within various jurisdictions
- Cost to rebuild/repair infrastructure and recover post wildfire/disaster

Comment noted. "Disadvantaged Unincorporated Community" or DUC is defined by Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 ("CKH") as an inhabited territory (meaning territory within which there reside 12 or more registered voters), or as determined by LAFCO policy, that constitutes all or a portion of a "disadvantaged community" as defined by section 79505.5 of Water Code. The State Water Code defines a "disadvantaged community" as a community with an annual median household income that is less than 80 percent of the statewide annual median household income.

Pursuant to Govt. Code §56430(a)(3), LAFCO is required to prepare a written statement of determinations with respect to present and planned capacity of public facilities, adequacy of public services, and infrastructure needs or deficiencies including the needs or deficiencies related to sewer, municipal and industrial water, and structural fire protection in any DUC within or contiguous to the sphere of influence.

In the LAFCO’s Cities Service Review (adopted December 2, 2015), no disadvantaged unincorporated communities (DUCs) were identified within the Town of Los Altos Hills.

Therefore, these elements are addressed under “Preliminary Fire Service Issues and Topics.” See

**LAFCO COUNTYWIDE FIRE SERVICES REVIEW DRAFT RFP–
SUMMARY OF COMMENTS RECEIVED & LAFCO STAFF RESPONSE**

	Pages 4 and 5 of the Revised Draft RFP (Attachment 1).
<p>2) <u>“Present and planned capacity of public facilities and adequacy of public services, including infrastructure needs or deficiencies” (Draft Scope of Services, Page 1, Section 1, #3)</u> The 2010 Fire Service Review only considered fire stations, line apparatus, performance standards, and mutual aid to assess public facilities and adequacy of public service. Additional public facilities to consider may include:</p> <ul style="list-style-type: none"> • Roadway infrastructure as it relates to ingress/egress in evacuation (*Establish areas of safe refuge as alternatives where road improvements are limited or prohibited due to environmental concerns and issues regarding topography). • Jurisdiction planning documents as they relate to roadway development to increase or improve evacuation options. • Analysis of each agency’s ability to manage/plan/implement evacuation with a focus on life-safety. • How does a lack of public facilities impact an agency’s ability to hold meetings, educational forums, or conduct outreach for community education and outreach for fire protection? • Who should address these issues? 	<p>Comment noted. We agree that these are important issues. However, some of the issues require very specific analysis and may be beyond the scope of this service review which is of a broad nature.</p>
<p>3) <u>Consideration of “...emerging issues and questions, such as the impact of climate change on wildland fire prevention, evacuation, and recovery plans.....located in a very high fire hazard zone.” (Draft Scope of Services, page 4)</u> Additional considerations could include:</p> <ul style="list-style-type: none"> • How is each agency able to address WUI (Wildland Urban Interface) and wildfire issues? 	<p>Comment is addressed under “Preliminary Fire Service Issues and Topics.” See Page 4 of the Revised Draft RFP (Attachment 1).</p>

**LAFCO COUNTYWIDE FIRE SERVICES REVIEW DRAFT RFP-
SUMMARY OF COMMENTS RECEIVED & LAFCO STAFF RESPONSE**

- How would County-wide adoption of an updated version of the current CWPP or a newly developed wildland guidance document impact prioritization and provide consistency in service delivery and prevention and protection across the County, especially in “disadvantaged communities” as newly defined above, as it relates to high fire risk areas?
- What kind of communication and/or partnership model is needed for interagency communication as it relates to prevention planning/programming in the WUI and in public open space and/or preserved lands? How can agencies partner to address shared borders?
- Recommend addition of representative from North County jurisdictions to the TAC Committee.

Comment noted.

LAFCO has appointed Commissioners Susan Vicklund Wilson and Yoriko Kishimoto to serve on the Countywide Fire Service Review TAC. LAFCO has requested that Santa Clara County/Cities Managers’ Association and the Santa Clara County Fire Chiefs’ Association make their own appointments to the TAC, with the expectation that these members will liaison with their respective Association and member agencies.

The Santa Clara County/Cities Managers’ Association has appointed James Lindsay (City Manager for City of Saratoga).

The Santa Clara County Fire Chiefs’ Association has appointed Fire Chief Tony Bowden (Santa Clara County Fire Protection District) and Fire Chief Ruben Torres (City of Santa Clara Fire Department).

**LAFCO COUNTYWIDE FIRE SERVICES REVIEW DRAFT RFP–
SUMMARY OF COMMENTS RECEIVED & LAFCO STAFF RESPONSE**

	<p>In light of this comment, we welcome the Santa Clara County/Cities Manager’s Association and the Santa Clara County Fire Chiefs’ Association to each add an additional representative to the TAC. We have contacted both Associations to inform them of your comment and this new opportunity and await their response.</p>
<p>4) What kind of fire prevention, protection and community resiliency programs are agencies providing to their respective jurisdictions in addition to fire suppression and emergency medical services, and what is the value of those programs to the immediate and surrounding community? Does consolidation of these services ensure better delivery and protection, or does it overwhelm an agency? What is the value of local governance for decisions on fire protection and prevention services and programs that strengthen local community resiliency to withstand and recover from wildland fires?</p> <ul style="list-style-type: none"> • Provide recommendations based on best practices for operational programming, such as hazardous vegetation mitigation, dead and dying tree and Eucalyptus tree removal, shaded fuel breaks, fuel and fire breaks, and align program delivery with appropriate planning documents. • Analyze effectiveness of current programs and provide benchmarks or other information that agencies can use to evaluate their programming and conduct gap analysis. (<i>See FireSafe Marin</i>). • Provide suggestions for how to encourage community participation to reduce wildfire risk, education and outreach programs to residents, and strengthen community resiliency. 	<p>Comment is addressed under “Preliminary Fire Service Issues and Topics.” See Page 5 of the Revised Draft RFP (Attachment 1).</p>

**LAFCO COUNTYWIDE FIRE SERVICES REVIEW DRAFT RFP–
SUMMARY OF COMMENTS RECEIVED & LAFCO STAFF RESPONSE**

<p>5) Analysis by agency of frequency and locations of mutual aid and automatic aid services as a provider and a recipient, cost formula for mutual and auto-aid services, regional benefits offered by each agency pertaining to fire protection and prevention and summary of how mutual aid benefits or burdens the countywide fire protection system.</p>	<p>Comment is addressed under “Preliminary Fire Service Issues and Topics.” See Page 5 of the Revised Draft RFP (Attachment 1).</p>
<p>Commenter #6: Brian Malone, Assistant General Manager for the Midpeninsula Regional Open Space District</p>	
<p>1) Under the provision and receipt of mutual aid please add, “including mutual aid with adjacent County agencies.”</p>	<p>Comment is addressed under “Preliminary Fire Service Issues and Topics.” See Page 5 of the Revised Draft RFP (Attachment 1).</p>
<p>2) Under fire prevention planning for public open space and/or preserved lands Midpeninsula suggests broadening the review of fire prevention planning to read, “fire prevention planning for public and private lands and public rights-of-way”.</p>	<p>As it relates to lands within a service provider’s boundary, this comment is addressed under “Preliminary Fire Service Issues and Topics.” See Page 5 of the Revised Draft RFP (Attachment 1).</p>
<p>3) One suggested addition for emerging issues is, “fire prone invasive species management along public roadways”.</p>	<p>Comment noted. Thank you for bringing this issue to our attention. However, this issue may require very specific analysis and may be beyond the scope of this service review which is of a broad nature.</p>
<p>4) On page 3 of 6 in the Draft Scope of Services heading Other, consider adding a reference to other FireSafe Councils (South Skyline, Lexington) who like the Santa Clara County FireSafe Council work closely with fire agencies on fire prevention, evacuation planning, and other tasks particularly in more remote areas.</p>	<p>Comment noted. We hope that the Santa Clara County FireSafe Council can coordinate information on other FireSafe Councils operating in the county.</p>



**Local Agency
Formation Commission
of Santa Clara County**

777 North First Street
Suite 410
San Jose, CA 95112

SantaClaraLAFCO.org

Commissioners

Rich Constantine
Susan Ellenberg
Sergio Jimenez
Yoriko Kishimoto
Linda J. LeZotte
Mike Wasserman
Susan Vicklund Wilson

Alternate Commissioners

Helen Chapman
Cindy Chavez
Maya Esparza
Russ Melton
Terry Trumbull

Executive Officer

Neelima Palacherla

REVISED DRAFT REQUEST FOR PROPOSALS
COUNTYWIDE FIRE SERVICE REVIEW

I. OBJECTIVE

The Local Agency Formation Commission (LAFCO) of Santa Clara County is seeking proposals from professional service firms to prepare a Countywide Fire Service Review. This work is to be completed in compliance with applicable California Government Code sections, local LAFCO policies and the latest available LAFCO Municipal Service Review Guidelines prepared by the Governor's Office of Planning and Research (OPR). The service reviews are intended to serve as a tool to help LAFCO, the public and other agencies better understand the public service structure and to develop information to update the spheres of influence of special districts and cities in the county. LAFCO is not required to initiate boundary changes based on service reviews. However, LAFCO, local agencies or the public may subsequently use the service reviews together with additional research and analysis where necessary, to pursue changes in jurisdictional boundaries or spheres of influence.

II. BACKGROUND

The Cortese Knox Hertzberg Local Government Reorganization Act (CKH Act) mandates that LAFCO conduct service reviews prior to or in conjunction with sphere of influence updates and requires that LAFCO once every five years, as necessary, review and update the sphere of influence of each city and special district [Government Code § 56430]. The Service Review must include an analysis and written statement of determination regarding each of the following seven categories:

- Growth and population projections for the affected area
- Location and characteristics of any disadvantaged unincorporated communities within or contiguous to the sphere of influence
- Present and planned capacity of public facilities, adequacy of public services, and infrastructure needs or deficiencies including needs or deficiencies related to sewers, municipal and industrial water, and structural fire protection in any disadvantaged, unincorporated communities within or contiguous to the sphere of influence
- 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

Additionally, as part of the sphere of influence updates LAFCO must prepare an analysis and written statement of determinations for each special district regarding certain factors. [Government Code § 56425(e)]

Santa Clara LAFCO is responsible for establishing, reviewing, and updating Spheres of Influence for 44 public agencies in Santa Clara County (15 cities and 28 special districts). LAFCO's Service Review Policies (adopted October 14, 2009), along with the State Office of Planning and Research's Municipal Service Review Guidelines, provide guidance to LAFCO in preparing and conducting service reviews.

LAFCO completed and adopted its first round of service reviews and sphere of influence updates prior to January 1, 2008 and its second round of service reviews and sphere of influence updates for all cities and special districts prior to January 1, 2015.

LAFCO's most recent [Countywide Fire Service Review Report](#) was adopted in 2010 and is available on the LAFCO website. The Report has been a valuable resource for LAFCO, the public, and other local agencies seeking to gain a better understanding on how fire service and emergency medical services are provided in the county.

LAFCO, at its December 2, 2020 meeting set priorities for the completion of LAFCO's third round of service reviews and sphere of influence updates. LAFCO's service reviews work plan calls for the completion of 4 studies over the next four calendar years. It is anticipated that these studies will be conducted by professional service firms under the operational direction of the LAFCO Executive Officer. One of the first priorities, a countywide review of fire service in Santa Clara County and sphere of influence updates for fire districts, is the subject of this Request for Proposal (RFP).

III. SCOPE OF SERVICES

A draft Scope of Services is enclosed with this RFP as **Attachment 1**. A final statement of services to be provided will be negotiated with the firm selected to conduct the service review and will be included as part of the professional services agreement.

IV. BUDGET

A final budget amount for this project will be negotiated with the firm selected for the work prior to reaching agreement. The anticipated project cost of the proposal should not exceed TBD.

V. SCHEDULE

It is anticipated that the firm will start work in late **March 2021**. The final schedule for this project will be negotiated with the firm selected for the work prior to

reaching an agreement and will be based on the key steps listed in the Scope of Services.

VI. PROPOSAL REQUIREMENTS

Response to this RFP must include all of the following:

1. A statement about the firm that describes its history as well as the competencies and resumes of the principal and all professionals who will be involved in the work. This statement should describe the firm's level of expertise in the following areas:

General Expertise

- Familiarity with CKH Act, the role and functions of LAFCO, and the service review process
- Ability to analyze and present information in an organized format
- Ability to quickly interpret varied budget and planning documents
- Ability to facilitate and synthesize input from a variety of stakeholders
- Familiarity with public input processes and experience in managing the presentation and dissemination of public information for review and comment
- Experience in fostering multi-agency partnerships and cooperative problem-solving
- Ability to provide flexible and creative alternatives where necessary to resolve service and policy issues

Fire Protection Service Expertise

- Management level understanding of how fire protection services are financed and delivered
- Experience with operational aspects of fire protection service provision in California (fire departments, fire districts, and volunteer fire companies)
- Experience in fire protection service organization analysis, including evaluating government structure options (advantages and disadvantages of the consolidation or reorganization of service providers)
- Experience in the financial analysis of fire protection service delivery systems, including identifying financing constraints / opportunities and cost avoidance opportunities
- Experience in evaluating fire protection service delivery systems, including performance measurements, and benchmarking techniques
- Experience in evaluating impacts of recent climate change (drought, winds, fuel) and their impact on fires in wildland/urban interface (WUI)

2. Identification of the lead professional responsible for the project and identification of the professional(s) who will be performing the day-to-day work.
3. Identification of any associate consultant firms to be involved. If associate consultant firms are proposed, describe the work they will perform and include the same information for each as required for items 1 and 2 above.
4. A statement of related experience accomplished in the last five years and references for each such project, including the contact name, address, and telephone number.
5. A statement regarding the anticipated approach for this project, explicitly discussing and identifying suggested changes to the draft Scope of Services (**Attachment 1**).
6. Identification of any information, materials and/or work assistance required from LAFCO and / or involved fire agencies or departments to complete the project. The expectation is that the consultant will use all available data sources to develop/update information for agency profiles in an effort to minimize the workload for affected agencies.
7. An overall project schedule, including the timing of each work task.
8. Information about the availability of all professionals who will be involved in the work, including any associate consultants.
9. The anticipated project cost, including:
 - a. A not-to-exceed total budget amount.
 - b. The cost for each major sub-task identified in the draft Scope of Services.
 - c. The hourly rates for each person who will be involved in the work, including the rates of any associate consultants.
10. Comments about the draft services agreement (**Attachment 2**) specifically including the ability of the firm to meet the insurance requirements and other provisions.

VII. SUBMISSION REQUIREMENTS

Please note that the LAFCO office is closed to the public due to the ongoing COVID-19 pandemic and all LAFCO staff are working remotely. Responses to RFP will be accepted by email only at lafco@ceo.sccgov.org and should be addressed to Neelima Palacherla, LAFCO Executive Officer. Proposals should be submitted in a complete, single electronic file to the email specified in this notice.

DUE DATE AND TIME: Thursday, February 25, 2021, at 5:00 PM

Proposals received after that time and date will not be considered. Santa Clara LAFCO accepts no responsibility if delivery is made to another location other than location specified above and/or delayed deliveries.

VIII. EVALUATION CRITERIA AND SELECTION PROCESS

Firms will be selected for further consideration and follow-up interviews based on the following criteria:

- Relevant work experience
- The completeness of the responses
- Overall project approaches identified
- Proposed project budget

A consultant selection committee will conduct interviews and the most qualified firm will be selected based on the above evaluation criteria and reference checks. **Interviews will be held in early March 2021.** The selection committee is expected to make a decision soon after. Following the selection of the most qualified firm, a final services agreement including budget, schedule, and final Scope of Services statement will be negotiated before executing the contract.

LAFCO reserves the right to reject any or all proposals, to issue addenda to the RFP, to modify the RFP or to cancel the RFP.

IX. LAFCO CONTACT

Neelima Palacherla, Executive Officer
LAFCO of Santa Clara County
Voice: (408) 993-4713
Email: lafco@ceo.sccgov.org

X. ATTACHMENTS

1. Draft Scope of Services (**Attachment 1**)
2. Draft Professional Service Agreement and insurance obligations (**Attachment 2**)

XI. REFERENCE INFORMATION

Please refer to LAFCO's website (www.santaclaralafco.org) for general information about Santa Clara LAFCO and the following links for further information:

1. LAFCO's Service Review Policies:
(<https://santaclaralafco.org/resources/policies/service-review-policies>)
2. LAFCO Municipal Service Review Guidelines, issued by the Governor's Office of Planning and Research:
(<https://calafco.org/sites/default/files/resources/MSRGuidelines-FINAL.pdf>)
3. LAFCO Service Reviews Webpage: (<https://santaclaralafco.org/cities-and-special-districts/service-reviews>)
4. 2010 Countywide Fire Service Review (Adopted December 15, 2010):
(<https://santaclaralafco.org/cities-and-special-districts/service-reviews/second-round/2010-countywide-fire-service-review>)

5. Saratoga Fire Protection District Special Study (Adopted May 9, 2014):
(<https://santaclaralafco.org/cities-and-special-districts/service-reviews/second-round/saratoga-fire-protection-district-special>)
6. 2004 Countywide Fire Service Review (Adopted April 7, 2004):
(<https://santaclaralafco.org/cities-and-special-districts/service-reviews/first-round/countywide-fire-protection-service-review>)
7. Relevant LAFCO Staff Reports
 - December 2, 2020 Meeting
(<https://santaclaralafco.org/meetings/commission-meeting-2020-12-02-211500>)(see Item #5)

DRAFT

REVISED DRAFT SCOPE OF SERVICES

**COUNTYWIDE FIRE SERVICE ~~PROTECTION~~ REVIEW AND FIRE DISTRICT
SPHERE OF INFLUENCE UPDATES**

The Countywide Fire Service Review Report will provide a comprehensive overview of all the agencies that provide fire service and emergency medical services in the County, evaluate the provision of these services, recommend actions to promote efficient service delivery, and review and update the spheres of influence of the 4 fire districts.

**I. SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATES
REQUIREMENTS**

Pursuant to California Government Code §56430, LAFCO is required to adopt a written statement of determination for each of the following considerations:

1. Growth and population projections for the affected area.
2. Location and characteristics of any disadvantaged unincorporated communities within or contiguous to the sphere of influence
3. Present and planned capacity of public facilities, adequacy of public services and infrastructure needs or deficiencies including needs or deficiencies related to sewers, municipal and industrial water, and structural fire protection in any disadvantaged, unincorporated communities within or contiguous to the sphere of influence
4. Financial ability of agencies to provide services.
5. Status of, and opportunities for, shared facilities.
6. Accountability for community service needs, including governmental structure and operational efficiencies.
7. Any other matter related to effective or efficient service delivery, as required by commission policy.

California Government Code §56425 requires LAFCO, when determining the sphere of influence of each local agency, to prepare and adopt a written statement of determination for each city and special district regarding the following considerations:

1. The present and planned land uses in the area, including agricultural and open-space lands.
2. The present and probable need for public facilities and services in the area.
3. The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide.

4. The existence of any social or economic communities of interest in the area if the commission determines that they are relevant to the agency Status of, and opportunities for, shared facilities.
5. For an update of a sphere of influence of a city or special district that provides public facilities or services related to sewers, municipal and industrial water, or structural fire protections that occurs pursuant to subdivision (g) on or after July 1, 2012, the present and probable need for those public facilities and services of any disadvantaged unincorporated communities within the existing sphere of influence.

II. OVERVIEW OF FIRE ~~PROTECTION SERVICES~~ AND 911 EMERGENCY MEDICAL SERVICES IN SANTA CLARA COUNTY

There are several agencies providing fire ~~protection~~ services in Santa Clara County. Some of the county's 15 cities provide their own fire ~~protection~~ services, where other cities contract with other service providers. Four special districts provide fire protection services to various parts of the County. The California Department of Forestry and Fire Protection (CAL FIRE) provides fire protection services for wild land fires during the "fire season" to some of the unincorporated areas within the county. The South Santa Clara County Fire District contracts with CAL FIRE for personnel and administration. Similarly, the City of Morgan Hill contracts with CAL FIRE for personnel. These agencies coordinate fire ~~protection~~ services with each other through a system of contracts, mutual aid agreements, automatic aid agreements, and boundary drop agreements. Several volunteer fire companies operate independently of these agencies within the county.

In addition, Stanford University contracts with the City of Palo Alto for fire suppression services for Stanford University facilities and lands. The NASA Ames Fire Department is responsible for fire protection service at NASA Ames Research/Moffett Airfield.

The Santa Clara County FireSafe Council, a non-profit organization, collaborates with CAL FIRE, Santa Clara County Central Fire Protection District and regional fire districts on a variety of projects involving fire prevention planning, fuel reduction, tree removal, and evacuation preparedness and planning.

Lastly, the County of Santa Clara contracts with Rural/Metro of California for advanced life support emergency ambulance services in the Santa Clara County Exclusive Operating Area (EOA). Per the agreement, the County's EOA includes Mountain View, Santa Clara, Cupertino, Milpitas, Sunnyvale, Los Altos, Los Altos Hills, Campbell, Los Gatos, Monte Sereno, Saratoga, San Jose, Morgan Hill, Gilroy, and all areas outside organized cities (including Moffett Field/NASA/AMES and unincorporated county not covered by a legally organized city or fire district). The County's EOA does not include the City of Palo Alto and Stanford lands, but allows Rural/Metro to provide ambulance mutual aid and automatic aid services to the City of Palo Alto as approved by the County and the City. The City of Palo Alto and private companies provide advanced life support emergency ambulance services to lands in the City and Stanford lands.

Identification of Service Providers for Study

Within Santa Clara County, the following agencies and organizations that provide fire protection services and/or emergency medical services and will be included in the service review:

Districts

1. Santa Clara County Central Fire Protection District (SCCFPD)
2. South Santa Clara County Fire Protection District
3. Los Altos Hills County Fire District
4. Saratoga Fire Protection District

Cities

1. City of Milpitas Fire Department
2. City of Santa Clara Fire Department
3. City of San Jose Fire Department
4. City of Sunnyvale Fire Department
5. City of Gilroy Fire Department
6. City of Palo Alto Fire Department
7. City of Mountain View Fire Department

Cities that Contract for Service

1. City of Morgan Hill Fire Department (contracts with CAL FIRE)
2. City of Campbell (contracts with SCCFPD)
3. City of Los Altos (contracts with SCCFPD)

Other

1. California Department of Forestry and Fire Protection (CAL FIRE)
2. NASA/AMES/Moffett Field
3. County of Santa Clara for 911 Emergency Medical Ambulance Services (contracts with Rural/Metro part of American Medical Response)
4. Volunteer Fire Companies (TBD)
5. Santa Clara County FireSafe Council

Preliminary Fire Service Issues and Topics

In addition to including the required analysis and written statement of service review determinations and sphere of influence updates, the Report will follow up on the issues and options/opportunities for addressing those issues that were

identified in the prior Countywide Fire Service Review which remain relevant. These issues include but are not limited to:

- Options for funding and providing services to underserved areas in the County and the status of and best practices for roles and oversight of volunteer fire companies to provide services in these areas
- Regional fire and emergency medical service delivery in South County Region
- Analysis of issues and efficiencies of fire districts contracting for service with another fire district
- Assessment of other opportunities to improve service effectiveness or efficiency for fire service providers in the County

~~The service review will also consider emerging issues and questions, such as the impact of climate change on wildland fire prevention, evacuation, and recovery plans; wildland urban interface fire concerns; provision and receipt of mutual aid with adjacent County agencies; use of private fire protection service providers; interagency communication and coordination responsibilities in anticipation of and during fire events, fire prevention planning for fire prevention planning for public and private lands and public rights-of-way public open space and/or preserved lands; new law requiring LAFCO to review fire service contracts; and LAFCO's consideration of fire risks when reviewing proposals that are located in a very high fire hazard zone. The service review will identify potential options/opportunities for addressing these issues, as necessary.~~

The service review will also consider the following emerging issues, many of which are interconnected or overlap; and identify potential options/opportunities for addressing these issues in Santa Clara County, as necessary:

Climate Change, Wildfires, and Fire Concerns in the Wildland Urban Interface:
A review of the risks and impact of climate change on fire service provision in Santa Clara County, including specific communities considered at higher risk due to their geography and topography; a review of what agencies are doing to mitigate the increased associated risks of wild fires; and analysis of the pros and cons of various alternative options for better addressing these risks.

The review will analyze how each applicable agency is addressing fire concerns in the wildland urban interface (WUI) and how the combined presence of certain environmental factors (e.g. high winds and high fuel levels) and man-made factors (e.g. more development) can significantly increase fire danger in the WUI.

The review will also consider whether current and/or new plans and guiding documents (e.g. Santa Clara County Community Wildfire Protection Plan, etc.) could enable affected agencies to better prioritize and provide consistency in the delivery of fire prevention and protection services countywide, including in high fire risk areas.

Role of Mutual and Automatic Aid, and Interagency Communication and Coordination:

A review and analysis by agency of the frequency and locations of mutual aid and automatic aid services as a provider and a recipient (including mutual aid with adjacent County agencies), the cost formula for mutual aid and automatic aid services, regional benefits offered by each agency pertaining to fire protection and prevention, and how mutual aid benefits and/or burdens the countywide fire protection system. The review will also consider interagency communication and coordination responsibilities in fire prevention planning/programming and during fire events, including in the WUI, along shared borders, and on public and private lands and public rights-of-way.

Fire Prevention, Protection, and Community Resiliency:

A review and analysis of the fire prevention, protection, and community resiliency programs agencies are providing in Santa Clara County, including programs intended to strengthen local community resiliency to withstand and recover from wildland fires. This review will identify and use appropriate benchmarks to analyze the effectiveness of these programs; analyze the pros and cons of various alternative options for providing these programs/services; and identify applicable best practices for safe evacuation of residents, hazardous vegetation removal and mitigation, creation of fuel and fire breaks, better alignment of programs with plans, and increased community understanding of and participation in these programs.

Other Miscellaneous:

A review of the new law requiring LAFCO to review fire service contracts; of LAFCO's consideration of fire risks when reviewing proposals that are located in a very high fire hazard zone; and of the presence and use of private fire protection services providers in Santa Clara County.

III. SERVICE REVIEW TASKS OVERVIEW

The Countywide Fire ~~Protection~~-Service Review will be conducted in accordance with LAFCO policies adopted by the Commission and the service review guidelines developed by the Governor's Office of Planning and Research (OPR) where feasible. Preparation of the service review will include the following key steps, although other activities may be necessary:

1. Data Collection and Review

- Develop questionnaire relating to the evaluation categories for service reviews
- Identify appropriate standards to be used for service evaluation, as necessary
- Review questionnaire with LAFCO staff and Technical Advisory Committee (TAC)

- Collect information through interviews, meetings, surveys and /or research. All available data sources should be used to gather/update the information.
- Compile information in a database
- Verify compiled information with agencies

Work Products: Consultant must deliver to LAFCO staff complete information for each agency.

2. Data Analysis

- Analyze data and prepare preliminary findings based on standards, where appropriate
- Present and discuss the preliminary findings with LAFCO staff
- Present preliminary findings to TAC/agencies staff

Work Products: Consultant must deliver preliminary analysis and findings to LAFCO staff.

3. Administrative Draft Service Review Report

- Prepare an Administrative Draft Report for LAFCO staff review, in accordance with the project schedule.
- LAFCO staff will review and provide comments on the Administrative Draft Report, in accordance with the schedule

Work Products: Consultant must deliver Administrative Draft Report to LAFCO staff.

4. Draft Service Review Report & LAFCO Workshop and LAFCO Public Hearing

- Address LAFCO staff's comments and prepare a Draft Service Review Report
- LAFCO staff will distribute the Draft Report for a 21-day public review and comment period
- Provide written responses to comments received during the public review period
- Present the Draft Report at LAFCO Workshop and LAFCO Public Hearing

Work Products: Consultant must deliver MS Word version and a PDF version of the Draft Report.

5. Revised Draft Report & LAFCO Public Hearing

- Revise the Draft Report to address comments and submit the Revised Draft Report to LAFCO staff
- LAFCO staff will distribute the Revised Draft Report for a 21-day public review and comment period
- Provide written responses to comments received during the public review period
- Present the Revised Draft Report at the LAFCO Public Hearing and/or LAFCO workshop

Work Products: Consultant must deliver a MS Word version and a PDF version of the Revised Draft Report.

6. Final Service Review Report

- Following LAFCO adoption of the Service Review, prepare the Final Report.

Work Products: Consultant must deliver a MS Word version, a PDF version, and 3 hard copies of the Final Report.

DRAFT

**SERVICES AGREEMENT BETWEEN THE LOCAL AGENCY FORMATION
COMMISSION OF SANTA CLARA COUNTY AND _____ FOR
COUNTYWIDE FIRE SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATES**

This Agreement (“Agreement”) is made effective _____, by and between the Local Agency Formation Commission of Santa Clara County (“LAFCO”) and _____ (“Contractor”) to provide consulting services for the development of a countywide service review for fire protection services within Santa Clara County and for the sphere of influence updates for the four special districts providing fire protection services in the county.

WHEREAS, pursuant to the Cortese-Knox-Hertzberg Act, Government Code section 56000 et seq., LAFCO is an independent body; and

WHEREAS, LAFCO needs assistance with the preparation of a countywide service review of fire protection services in Santa Clara County; and

WHEREAS, Contractor has experience and expertise necessary to provide such services; and

WHEREAS, at the _____ meeting of LAFCO, the Commission delegated authority to the LAFCO Executive Officer to execute an agreement with the most qualified consultant for preparation of the countywide fire service review;

THEREFORE, the parties agree as follows:

1. Nature of Services.

Contractor will provide to LAFCO the services described in Exhibit A, Scope of Services, which is attached hereto and incorporated herein by this reference. Contractor shall perform the services in accordance with the project timeline as described in Exhibit A2, which is attached hereto and incorporated herein by this reference.

2. Term of Agreement.

This Agreement is effective from the date of final execution, to and including _____, unless terminated earlier in accordance with Section 4.

3. Compensation.

A. Contractor will be compensated for services provided under this Agreement in accordance with the Rate Schedule included in Exhibit A3, which is attached hereto and incorporated herein by this reference. Contractor will complete all the work and tasks described in Exhibit A for an amount not to exceed _____. The Contractor shall be paid based on the rate schedule indicated in Exhibit A3, but

compensation and expenses shall not exceed the maximum compensation stated herein.

B. Contractor will provide LAFCO with task-specific invoices based on estimated costs in Contractor's proposal, which shall be accompanied by a detailed summary of activities undertaken over the course of completing the task.

C. Delivery of the administrative draft report, the draft report addressing staff comments for public review and comment, the revised draft report for public review and comment, and the final report adopted by LAFCO shall be in accordance with the project timeline provided in Exhibit A2, which has been negotiated between the parties prior to the effective date of this Agreement, or as otherwise determined by mutual written agreement of the parties. If the reports are not delivered according to such timeline in Exhibit A2 or as otherwise mutually agreed or if they do not comply with the requirements in the Scope of Services, it is understood, acknowledged and agreed that LAFCO will suffer damage. As fixed and liquidated damages, LAFCO shall withhold from Contractor the payment of the sum of \$200 per calendar day for each and every calendar day of delay beyond the date that such reports are due in accordance with Exhibit A2, or as otherwise mutually agreed. For purposes of this section, the total cost for each of the tasks shall be consistent with the rate schedule in Exhibit A3.

4. Termination.

A. Termination Without Cause. Either party may terminate this Agreement without cause by giving the other party thirty (30) days written notice.

B. Termination for Cause. LAFCO may terminate this Agreement for cause upon written notice to Contractor. For purposes of this Agreement, cause includes, but is not limited to, any of the following: (1) material breach of this Agreement by Contractor, (b) violation by Contractor of any applicable laws, (c) assignment by Contractor of this Agreement without the written consent of LAFCO pursuant to Section 13, or (d) failure to provide services in a satisfactory manner. Such notice shall specify the reason for termination and shall indicate the effective date of such termination.

C. In the event of termination, Contractor will deliver to LAFCO copies of all reports and other work performed by Contractor under this Agreement whether complete or incomplete, and upon receipt thereof, Contractor will be compensated based on the completion of services provided, as solely and reasonably determined by LAFCO.

5. Project Managers; Substitution

A. Contractor designates _____ as the Contractor's Project Manager for the purpose of performing the services under this Agreement. _____ will serve as day-to-day contact for LAFCO and work directly with staff.

B. LAFCO designates the LAFCO Executive Officer as its Project Manager for the purpose of managing the services performed under this Agreement.

C. Contractor may not substitute anyone other than _____ to serve as Project Manager without the written permission of the LAFCO Executive Officer or her authorized representative. Any such substitution shall be with a person or firm of commensurate experience and knowledge necessary for the tasks to be undertaken.

6. Conflicts of Interest.

In accepting this Agreement, Contractor covenants that it presently has no interest, and will not acquire any interest, direct or indirect, financial or otherwise, which would conflict in any manner or degree with the performance of the Services.

Contractor further covenants that, in the performance of this Agreement, it will not employ any contractor or person having such an interest.

7. Indemnification/Insurance.

Contractor's indemnification and insurance obligations with respect to this Agreement are set forth in Exhibit B, attached hereto and incorporated herein by this reference.

8. Compliance with all Laws.

Contractor shall, during the term of this contract, comply with all applicable federal, state, and local rules, regulations, and laws.

9. Maintenance of Records.

Contractor shall maintain financial records adequate to show that LAFCO funds paid under the contract were used for purposes consistent with the terms of the contract. These records shall be maintained during the term of this contract and for a period of three (3) years from termination of this contract or until all claims, if any, have been resolved, whichever period is longer, or longer if otherwise required under other provisions of this contract.

10. Nondiscrimination.

Contractor will comply with all applicable Federal, State, and local laws and regulations including Santa Clara County's equal opportunity requirements. Such laws include but are not limited to the following: Title VII of the Civil Rights Act of 1964 as amended; Americans with Disabilities Act of 1990; The Rehabilitation Act of 1973 (Sections 503 and 504); California Fair Employment and Housing Act (Government Code sections 12900 et seq.); California Labor Code sections 1101 and 1102. Contractor will not discriminate against any subcontractor, employee, or applicant for employment because of age, race, color, national origin, ancestry, religion, sex/gender, sexual orientation, mental disability, physical disability, medical condition, political beliefs, organizational affiliations, or marital status in the recruitment, selection for training including apprenticeship, hiring, employment,

utilization, promotion, layoff, rates of pay or other forms of compensation. Nor will Contractor discriminate in provision of services provided under this contract because of age, race, color, national origin, ancestry, religion, sex/gender, sexual orientation, mental disability, physical disability, medical condition, political beliefs, organizational affiliations, or marital status.

11. Notices.

All notices required by this Agreement will be deemed given when in writing and delivered personally or deposited in the United States mail, postage prepaid, return receipt requested, addressed to the other party at the address set forth below or at such other address as the party may designate in writing in accordance with this section:

To Contractor: _____

To LAFCO: LAFCO Executive Officer
777 North First Street, Suite 410
San Jose, CA 95112

12. Governing Law.

This Agreement has been executed and delivered in, and will be construed and enforced in accordance with, the laws of the State of California. Venue shall be in Santa Clara County.

13. Assignment.

Contractor has been selected to perform services under this Agreement based upon the qualifications and experience of Contractor's personnel. Contractor may not assign this Agreement or the rights and obligations hereunder without the specific written consent of LAFCO. Any attempted assignment or subcontract without prior written consent will be null and void and will be cause, in LAFCO's sole and absolute discretion, for immediate termination of the Agreement.

14. Relationships of Parties; Independent Contractor.

Contractor will perform all work and services described herein as an independent contractor and not as an officer, agent, servant or employee of LAFCO. None of the provisions of this Agreement is intended to create, nor shall be deemed or construed to create, any relationship between the parties other than that of independent parties contracting with each other for purpose of effecting the provisions of this Agreement. The parties are not, and will not be construed to be in a relationship of joint venture, partnership or employer-employee. Neither party has the authority to make any statements, representations or commitments of any kind

on behalf of the other party, or to use the name of the other party in any publications or advertisements, except with the written consent of the other party or as is explicitly provided herein. Contractor will be solely responsible for the acts and omissions of its officers, agents, employees, contractors, and subcontractors, if any.

15. Entire Agreement.

This document represents the entire Agreement between the parties with respect to the subject matter hereof. All prior negotiations and written and/or oral agreements between the parties with respect to the subject matter of this Agreement are merged into this Agreement.

16. Amendments.

This Agreement may be amended only by an instrument signed by the parties.

17. Counterparts.

This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

18. Severability.

If any provision of this Agreement is found by a court of competent jurisdiction to be void, invalid or unenforceable, the same will either be reformed to comply with applicable law or stricken if not so conformable, so as not to affect the validity or enforceability of this Agreement.

19. Waiver.

No delay or failure to require performance of any provision of this Agreement shall constitute a waiver of that provision as to that or any other instance. Any waiver granted by a party must be in writing, and shall apply to the specific instance expressly stated.

20. Ownership of Materials and Confidentiality.

A. Documents & Data; Licensing of Intellectual Property. This Agreement creates a non-exclusive and perpetual license for LAFCO to copy, use, modify, reuse, or sublicense any and all copyrights, designs, and other intellectual property embodied in plans, specifications, studies, drawings, estimates, and other documents or works of authorship fixed in any tangible medium of expression, including but not limited to, physical drawings or data magnetically or otherwise recorded on computer diskettes, which are prepared or caused to be prepared by Contractor under this Agreement ("Documents & Data"). Contractor shall require all sub consultants to agree in writing that LAFCO is granted a non-exclusive and perpetual license for any Documents & Data the sub consultant prepares under this Agreement. Contractor represents and warrants that Contractor has the legal right to license any and all Documents & Data. Contractor makes no such representation and warranty

in regard to Documents & Data which were prepared by design professionals other than Contractor or provided to Contractor by LAFCO. LAFCO shall not be limited in any way in its use of the Documents & Data at any time, provided that any such use not within the purposes intended by this Agreement shall be at LAFCO's sole risk.

B. Confidentiality. All ideas, memoranda, specifications, plans, procedures, drawings, descriptions, computer program data, input record data, written information, and other Documents & Data either created by or provided to Contractor in connection with the performance of this Agreement shall be held confidential by Contractor. Such materials shall not, without the prior written consent of Contractor, be used by Contractor for any purposes other than the performance of the Agreement. Nor shall such materials be disclosed to any person or entity not connected with the performance of the Agreement. Nothing furnished to Contractor which is otherwise known to Contractor or is generally known, or has become known, to the related industry shall be deemed confidential. Contractor shall not use LAFCO's name or insignia, photographs of the Services, or any publicity pertaining to the Services in any magazine, trade paper, newspaper, television or radio production or other similar medium without the prior written consent of LAFCO.

C. Confidential Information. LAFCO shall refrain from releasing Contractor's proprietary information ("Proprietary Information") unless LAFCO's legal counsel determines that the release of the Proprietary Information is required by the California Public Records Act or other applicable state or federal law, or order of a court of competent jurisdiction, in which case LAFCO shall notify Contractor of its intention to release Proprietary Information. Contractor shall have five (5) working days after receipt of the Release Notice to give LAFCO written notice of Contractor's objection to LAFCO's release of Proprietary Information. Contractor shall indemnify, defend and hold harmless LAFCO, and its officers, directors, employees, and agents from and against all liability, loss, cost or expense (including attorney's fees) arising out of a legal action brought to compel the release of Proprietary Information. LAFCO shall not release the Proprietary Information after receipt of the Objection Notice unless either: (1) Contractor fails to fully indemnify, defend (with LAFCO's choice of legal counsel), and hold LAFCO harmless from any legal action brought to compel such release; and/or (2) a final and non-appealable order by a court of competent jurisdiction requires that LAFCO release such information.

IN WITNESS WHEREOF, LAFCO and Contractor have executed this Agreement as follows:

LAFCO

Contractor

Neelima Palacherla

LAFCO Executive Officer

Date: _____

Date: _____

APPROVED AS TO FORM:

Malathy Subramanian, LAFCO Counsel

Exhibits to this Agreement:

Exhibit A - Scope of Services

Exhibit A2 - Project Timeline

Exhibit A3 - Rate Schedule

Exhibit B - Indemnification and Insurance

INSURANCE REQUIREMENTS FOR STANDARD SERVICE CONTRACTS ABOVE \$100,000

Indemnity

The Contractor shall indemnify, defend, and hold harmless the Local Agency Formation Commission of Santa Clara County (hereinafter "LAFCO"), its officers, agents and employees from any claim, liability, loss, injury or damage arising out of, or in connection with, performance of this Agreement by Contractor and/or its agents, employees or sub-contractors, excepting only loss, injury or damage caused by the sole negligence or willful misconduct of personnel employed by LAFCO. It is the intent of the parties to this Agreement to provide the broadest possible coverage for LAFCO. The Contractor shall reimburse LAFCO for all costs, attorneys' fees, expenses and liabilities incurred with respect to any litigation in which the Contractor contests its obligation to indemnify, defend and/or hold harmless the LAFCO under this Agreement and does not prevail in that contest.

Insurance

Without limiting the Contractor's indemnification of LAFCO, the Contractor shall provide and maintain at its own expense, during the term of this Agreement, or as may be further required herein, the following insurance coverages and provisions:

A. Evidence of Coverage

Prior to commencement of this Agreement, the Contractor shall provide a Certificate of Insurance certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate. In addition, a copy of the policy or policies shall be provided by the Contractor upon request.

This verification of coverage shall be sent to the LAFCO Executive Officer, unless otherwise directed. The Contractor shall not receive a Notice to Proceed with the work under the Agreement until it has obtained all insurance required and such insurance has been approved by LAFCO Executive Officer. This approval of insurance shall neither relieve nor decrease the liability of the Contractor.

B. Qualifying Insurers

All coverages, except surety, shall be issued by companies which hold a current policyholder's alphabetic and financial size category rating of not less than A-V, according to the current Best's Key Rating Guide or a company of equal financial stability that is approved by the LAFCO Executive Officer.

C. Notice of Cancellation

All coverage as required herein shall not be canceled or changed so as to no longer meet the specified insurance requirements without 30 days' prior written notice of such cancellation or change being delivered to the LAFCO Executive Officer.

D. Insurance Required

1. Commercial General Liability Insurance

Coverage at least as broad as Insurance Services Office ("ISO") Form CG 00 01 covering commercial general liability on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal and advertising injury with limits no less than \$2,000,000.00 per occurrence. If a

general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

2. Automobile Liability Insurance

Coverage at least as broad as ISO Form Number CA 0001 covering, Code 1 (any auto), or if Contractor has no owned autos, Code 8 (hired) and 9 (non-owned), with limits no less than \$1,000,000.00 combined single limit for bodily injury and property damage.

3. Workers' Compensation and Employer's Liability Insurance

Workers' Compensation Insurance as required by the State of California, with statutory limits, and Employer's Liability Insurance with limit of no less than \$1,000,000.00 per accident for bodily injury or disease. *(Not required if Contractor provides written verification it has no employees)*

E. Special Provisions

The following provisions shall apply to this Agreement:

1. The foregoing requirements as to the types and limits of insurance coverage to be maintained by the Contractor and any approval of said insurance by the LAFCO Executive Officer or insurance consultant(s) are not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by the Contractor pursuant to this Agreement, including but not limited to the provisions concerning indemnification.
2. LAFCO acknowledges that some insurance requirements contained in this Agreement may be fulfilled by self-insurance on the part of the Contractor. However, this shall not in any way limit liabilities assumed by the Contractor under this Agreement. Any self-insurance shall be approved in writing by LAFCO upon satisfactory evidence of financial capacity. Contractor's obligation hereunder may be satisfied in whole or in part by adequately funded self-insurance programs or self-insurance retentions.
3. Contractor's general liability and automobile liability policies shall be endorsed to (1) be primary and shall not seek contribution from the LAFCO's coverage and (2) add LAFCO and its officers, officials, employees, and agents as additional insureds under such policies using Insurance Services Office form CG 20 10 and CG 20 37 (or equivalent) on the general liability policy.
4. Contractor hereby grants to LAFCO a waiver of any right to subrogation which any insurer of said Contractor may acquire against the LAFCO by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation from its insurers, but this provision applies regardless of whether or not the LAFCO has received a waiver of subrogation endorsement from the insurer. The Workers' Compensation Policy shall be endorsed with a waiver of subrogation in favor of the LAFCO for all work performed by Contractor, its employees, agents and subcontractors.
5. Should any of the work under this Agreement be sublet, the Contractor shall require each of its subcontractors of any tier to carry the aforementioned coverages, or Contractor may insure subcontractors under its own policies.

6. LAFCO reserves the right to withhold payments to or terminate the contract with the Contractor in the event of material noncompliance with the insurance requirements outlined above.

F. Fidelity Bonds (Required only if contractor will be receiving advanced funds or payments)

Before receiving compensation under this Agreement, Contractor will furnish LAFCO with evidence that all officials, employees, and agents handling or having access to funds received or disbursed under this Agreement, or authorized to sign or countersign checks, are covered by a BLANKET FIDELITY BOND in an amount of AT LEAST fifteen percent (15%) of the maximum financial obligation of the LAFCO cited herein. If such bond is canceled or reduced, Contractor will notify LAFCO immediately, and LAFCO may withhold further payment to Contractor until proper coverage has been obtained. Failure to give such notice may be cause for termination of this Agreement, at the option of LAFCO.

Supplemental Information No. 2 Agenda Item #5

From: [Neal Mielke](#)
To: [LAFCO](#)
Subject: [EXTERNAL] Public comment re County Fire Services RFP
Date: Monday, February 1, 2021 11:04:42 AM

Dear Chairperson Ellenberg and LAFCO Commissioners,

This is a public comment re: County Fire Services RFP (Feb 3rd agenda item 5).

I have three points:

1) In addition to the fire service providers listed, the MROSD has vegetation management programs that are probably as critical to the safety of my community as anything that my local Fire District does. Other park services may perform similar functions. These should be included in the study.

2) Although the section describing the scope of wildfire issues is an excellent summary of what needs to be studied and improved, its very breadth means that there is considerable (if not complete) overlap with the County Administration study commissioned by the Board of Supervisors, and with the Wildland Fire Protection Plan developed (but never implemented) by the County Fire Chief. Looking at the big picture, it is hard for me to see that LAFCO and the County are working towards a concrete wildfire protection plan, as opposed to merely spinning off studies resulting in paper reports that will be ignored.

3) Regarding the comment from the Los Altos Hills City Manager, I would like to offer my perspective, as a resident of the Town who is familiar with the opinions of many other residents (I was the creator of the anti-consolidation petition which collected over 1300 signatures here). Mr. Cahill is correct that many residents have shaken trust in whether County Government will look out for our safety. There are several reasons for this, all stemming from the push to consolidate last October. These include: zero prior consultation with residents; the legal sleight-of-hand in which the BOS was to step in as LAHCFD Fire Commission and request consolidation; and explicit statements by then-Supervisor Cortese that the purpose of consolidation was to extract funds from the LAHCFD and spread them around the county. That said, the BOS did reject that proposal, and I would like to thank Supervisor (and LAFCO Chairperson) Ellenberg and the other Supervisors who did so. We are on the same side; we all want improved fire safety. Nevertheless, trust has been shaken, and it is only natural for many residents to think that a merger is called for. I do hope that LAFCO should seriously study a merger between Los Altos Hills and the LAHCFD, and publish an even-handed review of the pros and cons.

Thank you

Neal Mielke
Los Altos Hills

From: allanepstein@aol.com
To: [LAFCO](#)
Cc: [Abello, Emmanuel](#); [Palacherla, Neelima](#)
Subject: [EXTERNAL] Public comment re: County Fire Services RFP February 3, 2021 agenda item 5
Date: Monday, February 1, 2021 4:44:31 PM

Dear Chairperson Ellenberg and LAFCO Commissioners,

Public comment: County Fire Services RFP February 3, 2021 Agenda Item 5.

I reiterate my concerns as to overlap with the County's proposed study expressed in my December 1, 2020 email. [LAFCO 2020 12 02 December Agenda r3.pdf \(santaclaralafco.org\)](#) Page 109. Board discussion at the last LAFCO meeting did little to resolve my concerns, and changes proposed in the final RFP only make stronger the likelihood of overlap with the County related to studying Wildland Fire Preparedness and Planning. To ensure resources are not wasted and all issues are thoroughly covered, suggest a review of Supervisor Simitian's Memorandum dated November 30, 2020 as to the County's Study objective, and further discussion with the County on its Operational Options Study scope of work prior to finalizing and releasing the Fire Services RFP.

Thank you for including forest, park, and open space operators in the studies of Wildland Fire prevention and planning. Areas under their control are likely to be the source of, or conduit for fire transmission into residential areas. These areas also offer the most likely locations for necessary fire breaks and lines of defense.

The RFP Scope of work requires the follow up on the issues and options/opportunities for addressing those issues that were identified in the 2010 Countywide Fire Service Review which remain relevant, which include:

- Options for funding and providing services to underserved areas in the County

Service study should review the use of funds from Proposition 172, passed in November 1993, which created a one-half percent state sales tax for local public safety, including fire protection services, and in 2019 generated \$220 million in Public Safety Sales Tax revenue in Santa Clara County.

Recently, Supervisor Simitian commented on another sales tax proposition where public officials intended to redirect funds differently from how voters were led to believe prior to voting, "...it breaks a promise made to voters before the measure went on the ballot ...and undermines trust in public institutions, which could jeopardize the passage of future tax measures."

- Regional fire and emergency medical service delivery in South County Region

Service Study should benefit from the extensive Standard of Coverage Report done in 2019 for Cities of Gilroy and Morgan Hill and the South Santa Clara County Fire District.

A new section was added since the draft RFP, "Role of Mutual and Automatic Aid, and Interagency Communication and Coordination.

Ms. Palacherla stated in the prior meeting, "... the scope of LAFCO's fire service review will be different from the County's as LAFCO's review is broad in scope and will be at a higher level, and the County will likely focus on specific operational aspects, and therefore may require different consultant qualifications and technical expertise."

While the consultant can collect facts and figures, given the limitations of the scope of the RFP and the difficulty and complexity of analyzing operational benefits, information is likely to be useful only as a broad indicator and may overlap the County study.

Finally, I see neither LAFCO nor County study addressing the immediate needs of wildland fire planning and preparation and encourage the County to continue greater efforts through

existing organizations.

Thank you for your efforts to improve government efficiency and effectiveness.

Hope you find this helpful.

Best,

Allan Epstein

Los Altos Hills



**Local Agency
Formation Commission
of Santa Clara County**
777 North First Street
Suite 410
San Jose, CA 95112
SantaClaraLAFCO.org

Commissioners
Rich Constantine
Susan Ellenberg
Sergio Jimenez
Yoriko Kishimoto
Linda J. LeZotte
Mike Wasserman
Susan Vicklund Wilson

ITEM # 6

Alternate Commissioners
Helen Chapman
Cindy Chavez
Maya Esparza
Russ Melton
Terry Trumbull
Executive Officer
Neelima Palacherla

LAFCO MEETING: February 3, 2021

TO: LAFCO

**FROM: Neelima Palacherla, Executive Officer
Lakshmi Rajagopalan, Analyst**

**SUBJECT: INITIATE DISSOLUTION OF INACTIVE SPECIAL DISTRICT
– RECLAMATION DISTRICT NO. 1663**

STAFF RECOMMENDATION

CEQA Action

1. As Lead Agency under CEQA, determine that the proposed dissolution of Reclamation District No. 1663 is exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15061(b)(3).

Project Action

2. Adopt Resolution No. 2021-01 initiating dissolution of Reclamation District No. 1663.

RECLAMATION DISTRICT NO.1663

On November 5, 2020 Santa Clara LAFCO received a Notice of Inactive Special District in Santa Clara County (**Attachment A**) from the California State Controller's Office (SCO) which identified the Reclamation District No. 1663 as "inactive".

Staff reached out to the Santa Clara County Controller Treasurer Department to confirm the "inactive" designation. On December 23, 2020, the County Controller Treasurer Department provided a letter (**Attachment B**) confirming Reclamation District No.1663 met the criteria for an inactive special district as per Government Code Section 56042 and that they have no concerns related to the dissolution of Reclamation District No.1663.

The Reclamation District No. 1663 was formed in 1916 and has been inactive for almost 40 years. County records indicate that in 1970 LAFCO recommended that the District be dissolved. The County considered taking action to dissolve the District in 1977 but did not do so when one of the property owners, who was also the sole remaining District trustee, objected. Please refer to Item #7 in LAFCO's December 2, 2020 meeting packet for more background information.

SB 448 REQUIRES DISSOLUTION OF INACTIVE SPECIAL DISTRICTS

SB 448 which became effective on January 1, 2018, established a streamlined process for LAFCOs to dissolve inactive districts. It included provisions in the Cortese Knox Hertzberg Local Government Reorganization Act of 2000 (CKH Act) regarding the identification and dissolution of inactive districts.

Government Code Section 56879 (**Attachment C**) requires the State Controller's Office (SCO) to create a list of inactive districts annually, on or before November 1, and to notify applicable LAFCOs of inactive special districts in their county.

Government Code Section 56042 (**Attachment C**) defines "inactive district," as a special district that meets the following criteria:

- a. The special district is as defined in Section 56036.
- b. The special district has had no financial transactions in the previous fiscal year.
- c. The special district has no assets and liabilities.
- d. The special district has no outstanding debts, judgements, litigation, contracts, liens, or claims.

Within 90 days of receiving the notice from the SCO, LAFCOs are required to initiate dissolution of inactive districts unless LAFCO determines that the district does not meet the criteria for "inactive district," in which case LAFCO must inform the SCO. The Commission is required to hold one public hearing and dissolve the inactive district. Per Government Code Section 56879(c), the dissolution of the inactive district shall not be subject to protest proceedings.

ENVIRONMENTAL ASSESSMENT

LAFCO of Santa Clara County is the Lead Agency under the California Environmental Quality Act (CEQA) for the proposed dissolution of the inactive special district - Reclamation District No. 1663. Pursuant to State CEQA Guidelines Section 15061(b)(3), this action is exempt from CEQA.

§ 15061. REVIEW FOR EXEMPTION

(b) A project is exempt from CEQA if:

(3) The activity is covered by the common sense exemption that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

NEXT STEPS

As required by Government Code Section 56879, staff have drafted a resolution of application initiating dissolution of Reclamation District No. 1663 (**Attachment D**) for the Commission's consideration and adoption. A public hearing will be held at the April 7, 2021 meeting to dissolve the inactive district.

ATTACHMENTS

- Attachment A: California State Controller's Office Notification of Inactive Special Districts in County (November 5, 2020)
- Attachment B: Santa Clara County Controller Treasurer Department Letter Confirming Inactive Status of Reclamation District No.1663 (December 23, 2020)
- Attachment C: Government Code Excerpts – Inactive Special Districts (Government Code §56042 and Government Code §56879)
- Attachment D: Draft Resolution No. 2021-01 – Resolution of Application initiating dissolution of Reclamation District No.1663



BETTY T. YEE
California State Controller

November 5, 2020

Neelima Palacherla
Santa Clara LAFCO
777 North First Street, Suite 410
San Jose, CA, 95112

SUBJECT: Notification of Inactive Special Districts in County

Dear Neelima Palacherla:

Chapter 334, Statutes of 2017, also known as Senate Bill (SB) 448, added various provisions to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 regarding special districts that are inactive. It requires the State Controller's Office (SCO) to create a list of inactive special districts based on information in the special district's Financial Transactions Report (FTR), to publish the list of inactive special districts on its website annually, and to notify the local agency formation commission in the county or counties in which the inactive special district is located.

Pursuant to Government Code (GC) section 56042, an "inactive special district" must:

- Meet the definition set forth in GC section 56036;
- Have no financial transactions in the previous fiscal year; and
- Have no assets, liabilities, outstanding debts, judgments, litigation, contracts, liens, or claims.

Pursuant to GC 56879, within 90 days of receiving this notice, the Commission is required to initiate dissolution of inactive special districts by resolution, unless the Commission determines that a district does not meet the criteria set forth in GC 56042. Additionally, the Commission is required to notify SCO if it determines that district does not meet the dissolution criteria in GC 56042. Once the dissolution process is complete, please inform SCO using the contact information on page 2.

The enclosure lists the special districts within your jurisdiction that are inactive, based on financial data in each special district's fiscal year 2018-19 FTR. The complete list of inactive California special districts may be found at:

https://www.sco.ca.gov/ard_local_rep_freq_requested.html.

Neelima Palacherla

November 5, 2020

Page 2

If you have any questions or need to notify us of a special district's status, please contact Derek Miller by telephone at (916) 322-5579, or by email at dmiller@sco.ca.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Phillip Pangilinan". The signature is fluid and cursive, with the first name "Phillip" and last name "Pangilinan" clearly distinguishable.

PHILLIP PANGILINAN

Manager

Local Government Reporting Section

Enclosure

State Controller's Office
2018-19 Inactive Districts for Santa Clara County

County Name	District Name	District Type	Email Address	Street Address 1	Street Address 2	P.O. Box	City	Zip
Santa Clara	Reclamation District No. 1663	Dependent		70 W. Hedding, East Wing, 2nd Floor			Santa Clara	95110

Note: Email Address belongs to the Financial Transactions Report preparer; in some cases this may be an outside consultant.

Proof of Service by Mail

I declare: I am a citizen of the United States, over the age of 18 years, and not a party to this action. My business address is State Controller's Office, 3301 C Street, Suite 740, Sacramento, California 95816.

On the date set forth below, I served the following entitled document:

Notification of Inactive Special Districts in County

by placing a true copy thereof in a sealed envelope addressed to the person(s) named below at the address(es) shown and by placing said envelope for collection and mailing, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

Name: Neelima Palacherla
Santa Clara Local Agency Formation Commission

Address: Santa Clara LAFCO
777 North First Street, Suite 410
San Jose, CA 95112

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

Executed on November 05, 2020, at Sacramento, California.

Signature: 

Printed Name: Derek Miller

County of Santa Clara

Finance Agency
Controller-Treasurer

County Government Center
70 West Hedding Street, East Wing 2nd floor
San Jose, California 95110-1705
(408) 299-5206 FAX 287-7629



December 23, 2020

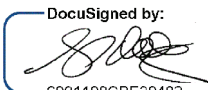
Neelima Palacherla
LAFCO Executive Officer
777 North First Street, Suite 410
San Jose, CA 95112

Dear Ms. Palacherla:

In regard to the State Controller's letter dated November 5, 2020 on Notification of Inactive Special Districts, and an email inquiry from Lakshmi Rajagopalan on December 22, 2020, I am writing to confirm to you that the County's Reclamation District No.1663 met the criteria for an inactive special district in Government Code 56042. The District had no financial transactions in the previous year, no assets and liabilities, and no outstanding debts, judgements, litigation, contracts, liens or claims.

The Controller Treasurer Department has no concerns or comments related to the dissolution of Reclamation District No.1663.

Sincerely,

DocuSigned by:

6991198CBE39482...

George P. Doorley
Controller-Treasurer, County of Santa Clara

CALIFORNIA GOVERNMENT CODE EXCERPTS

INACTIVE SPECIAL DISTRICTS

"Inactive district"

56042. "Inactive district" means a special district that meets all of the following:

- (a) The special district is as defined in Section 56036.
- (b) The special district has had no financial transactions in the previous fiscal year.
- (c) The special district has no assets and liabilities.
- (d) The special district has no outstanding debts, judgements, litigation, contracts, liens, or claims.

"District" or "special district"

56036. (a) "District" or "special district" are synonymous and mean an agency of the state, formed pursuant to general law or special act, for the local performance of governmental or proprietary functions within limited boundaries and in areas outside district boundaries when authorized by the commission pursuant to Section 56133.

(b) "District" or "special district" includes a county service area,

but excludes all of the following:

- (1) The state.
- (2) A county.
- (3) A city.
- (4) A school district or a community college district.
- (5) An assessment district or special assessment district.
- (6) An improvement district.
- (7) A community facilities district formed pursuant to the Mello-Roos Community Facilities Act of 1982, (Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5).
- (8) A permanent road division formed pursuant to Article 3 (commencing with Section 1160) of Chapter 4 of Division 2 of the Streets and Highways Code.
- (9) An air pollution control district or an air quality maintenance district.
- (10) A zone of any special district.

Inactive special district list

56879. (a) On or before November 1, 2018, and every year thereafter, the Controller shall create a list of special districts that are inactive, as defined in Section 56042, based upon the financial reports received by the Controller pursuant to Section 53891. The Controller shall publish the list of inactive districts on the Controller's Internet Web site. The Controller shall also notify the commission in the county or counties in which the district is located if the Controller has included the district in this list.

**Inactive special district:
dissolution**

(b) The commission shall initiate dissolution of inactive districts by resolution within 90 days of receiving notification from the Controller pursuant to subdivision (a), unless the commission determines that the district does not meet the criteria set forth in Section 56042. The commission shall notify the Controller if the commission determines that a district does not meet the criteria set forth in Section 56042.

(c) The commission shall dissolve inactive districts. The commission shall hold one public hearing on the dissolution of an inactive district pursuant to this section no more than 90 days following the adoption of the resolution initiating dissolution. The dissolution of an inactive district shall not be subject to any of the following:

- (1) Chapter 1 (commencing with Section 57000) to Chapter 7 (commencing with Section 57176), inclusive, of Part 4.
- (2) Determinations pursuant to subdivision (b) of Section 56881.
- (3) Requirements for commission-initiated changes of organization described in paragraph (3) of subdivision (a) of Section 56375.

56879.5. This article shall not apply to a special district formed by special legislation that is required by its enabling statute to obtain funding within a specified period of time or be dissolved. That district shall not be subject to this article during that specified period of time.

RESOLUTION NO. 2021-01

**RESOLUTION OF APPLICATION OF THE
LOCAL AGENCY FORMATION COMMISSION OF SANTA CLARA COUNTY
INITIATING PROCEEDINGS FOR THE
DISSOLUTION OF RECLAMATION DISTRICT NO. 1663
AS IDENTIFIED BY THE STATE CONTROLLER'S OFFICE**

WHEREAS, the Local Agency Formation Commission of Santa Clara County (LAFCO) hereinafter referred to as the "Commission," is responsible for regulating boundary changes affecting cities and special districts under the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000; and

WHEREAS, in accordance with Senate Bill 448, the State Controller's Office, on November 5, 2020 notified LAFCO that Reclamation District No. 1663 is an inactive special district; and

WHEREAS, the Santa Clara County Controller-Treasurer's Office, on December 23, 2020 confirmed that the County's Reclamation District No. 1663 met the criteria for an inactive special district as defined in Government Code Section 56042 and that the District had no financial transactions in the previous year, no assets and liabilities, and no outstanding debts, judgements, litigation, contracts, liens or claims; and

WHEREAS, the Commission pursuant to Government Code Section 56879 shall initiate the dissolution of Reclamation District No. 1663 within 90 days of the receipt of the notice from the State Controller's Office unless the Commission finds that the district is not inactive as defined in Government Code Section 56042; and

WHEREAS, the Commission considered all factors required by law under Government Code Section 56042 and its adopted local policies and procedures; and

WHEREAS, the Executive Officer's report and recommendations on the proposal have been presented to the Commission in the manner provided by law;

NOW, THEREFORE, the Commission, does hereby resolve, determine and order as follows:

SECTION 1:

The Commission serves as the lead agency under the California Environmental Quality Act (CEQA) in considering the impacts of the proposal and the Commission independently finds the action is exempt from CEQA pursuant to State CEQA Guidelines Section 15061(b)(3) as "it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment."

SECTION 2:

The Commission finds that Reclamation District No. 1663 is an inactive district as defined in Government Code Section 56042, and hereby initiates the dissolution of the District pursuant to Government Code Section 56879(b).

RESOLUTION NO. 2021-01

SECTION 3:

Pursuant to Government Code Section 56879(c), the Commission shall hold one public hearing no more than 90 days following the initiation of the dissolution.

PASSED AND ADOPTED by the Local Agency Formation Commission of Santa Clara County, on February 3, 2021, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Susan Ellenberg, Chairperson
LAFCO of Santa Clara County

ATTEST:

APPROVED AS TO FORM:

Emmanuel Abello, LAFCO Clerk

Malathy Subramanian, LAFCO Counsel



**Local Agency
Formation Commission
of Santa Clara County**
777 North First Street
Suite 410
San Jose, CA 95112
SantaClaraLAFCO.org

Commissioners
Rich Constantine
Susan Ellenberg
Sergio Jimenez
Yoriko Kishimoto
Linda J. LeZotte
Mike Wasserman
Susan Vicklund Wilson

ITEM # 7

Alternate Commissioners
Helen Chapman
Cindy Chavez
Maya Esparza
Russ Melton
Terry Trumbull
Executive Officer
Neelima Palacherla

LAFCO MEETING: February 3, 2021

TO: LAFCO

**FROM: Neelima Palacherla, Executive Officer
Lakshmi Rajagopalan, Analyst**

**SUBJECT: MOU BETWEEN LAFCO AND THE COUNTY OF SANTA
CLARA REGARDING WEBCASTING SERVICES FOR
LAFCO MEETINGS**

STAFF RECOMMENDATION

Approve the draft Memorandum Of Understanding (MOU) between LAFCO and the County of Santa Clara regarding the County’s provision of webcasting services for LAFCO meetings held in the County Board Chambers.

BACKGROUND

At the February 5, 2020 meeting, the Commission directed staff to work with the Office of the Clerk of the Board of Supervisors (COB) to develop a Memorandum of Understanding (MOU) between LAFCO and the County to allow use of the County’s Agenda Management System (AMS) with integrated webcasting capabilities, and the webcasting equipment in the County Board Chambers, to webcast LAFCO meetings.

Staff has worked with the County to discuss LAFCO’s needs and the terms under which the County would provide the above services to LAFCO. During these discussions, it became clear that LAFCO will be unable to use the County’s current AMS as it cannot be integrated on LAFCO’s web portal and will require LAFCO to appear as a County subgroup, rather than as an independent local agency. The County is in the process of soliciting a vendor for a new AMS system which might have the option to integrate on LAFCO’s web portal. The County anticipates that the new AMS would be in place by the end of the year. Therefore, at this time, LAFCO will proceed with procuring only the webcasting services.

The Draft MOU (**Attachment A**) sets out the provisions for the County to provide webcasting services for LAFCO Meetings as specified in Exhibit A (Specifications) and Exhibit B (Pass-Through Service Costs for Webcast-Related Staffing and Equipment Use) of the MOU. Both LAFCO Counsel and County Counsel have reviewed the MOU.

Webcasting LAFCO meetings provides county residents and interested members of the public the ability to watch webcasts of LAFCO meetings on the internet and promotes transparency and public engagement.

NEXT STEPS

Following approval of the MOU by the Commission, the MOU will be forwarded to the County Procurement Department for signature. Staff will work with the COB's office on an implementation schedule that will allow webcasting of LAFCO meetings from the Board Chambers.

ATTACHMENTS

Attachment A: Draft MOU between LAFCO and the County regarding webcasting services for LAFCO meetings.

Execution Version

**MEMORANDUM OF UNDERSTANDING BETWEEN THE COUNTY OF SANTA CLARA AND
THE LOCAL AGENCY FORMATION COMMISSION OF SANTA CLARA REGARDING
WEBCASTING IN THE COUNTY BOARD OF SUPERVISORS' CHAMBERS**

This Memorandum of Understanding (“MOU”) is made and entered into as of January [•] 2021 (the “Effective Date”), by and between the County of Santa Clara, a political subdivision of the State of California (the “County”), and the Local Agency Formation Commission of Santa Clara County, an independent local agency created pursuant to Cal. Gov. Code §56325 (“LAFCO”, and together with the County, the “Parties”).

RECITALS

WHEREAS, LAFCO wishes to ensure that residents of the County have the ability to observe and participate in webcasts of LAFCO meetings on the internet;

WHEREAS, LAFCO meetings are currently held in the County of Santa Clara Government Center Board of Supervisors' Chambers (the “Chambers”);

WHEREAS, the County currently has equipment and service contracts with media services firms (such firms collectively, including (i) any subcontractors of such firms and (ii) any other firms (and subcontractors of such firms) that may provide the same or similar services to the County in the future, are referred to herein as the “Contractors”) to webcast meetings of the Board of Supervisors of the County (the “Board”) taking place in the Chambers;

WHEREAS, the County desires, subject to the terms and conditions of this MOU, to facilitate the webcasting of LAFCO meetings in the Chambers.

NOW, THEREFORE, the County and LAFCO hereby agree as follows:

1. Provision of Webcasting Services

1.1. Webcasting of Meetings.

- a. In exchange for the consideration set forth in Section 1.2 and subject to the terms of this MOU, the County agrees to direct the Contractors and the County’s Technology Services & Solutions Department (“TSS”) to provide webcasting services substantially equivalent to those set forth in Exhibit A hereto (the “Services”) for LAFCO meetings (each, a “Meeting”) held in the Chambers and to allow LAFCO and the Contractors to use all equipment in the Chambers that is necessary or convenient for the provision of the Services.
- b. LAFCO shall have the option, with respect to each Meeting, to utilize all of the Services or only those of the Services required by LAFCO at such Meeting.
- c. The Parties acknowledge and agree that the Contractors and Services set forth in Exhibit A are subject to change in the ordinary course at the reasonable discretion of the County. Exhibit A is intended by the Parties to provide current details of the Services and not bind the County to employ any particular Contractors or exact manner of webcasting the Meetings.

- 1.2. Reimbursement. Subject to the terms of this MOU, LAFCO will fully reimburse the County for all expenses associated with the provision of the Services (“Reimbursable Expenses”) at the rates set forth in Exhibit B or at other rates actually incurred by the County. Reimbursable Expenses shall also include the reasonable replacement or repair costs of any damage to (a) the Chambers,

(b) any County equipment, or (c) any equipment belonging to the Contractors that may be incurred while providing the Services as a result of any negligence or willful misconduct by LAFCO.

- a. The County shall deliver statements (each, a “Reimbursement Statement”) setting forth Reimbursable Expenses to LAFCO not more than 45 days after June 30 of each year during the Term (as defined in Section 2.1) or at other times mutually agreed by the Parties. Upon receipt of a Reimbursement Statement, LAFCO shall within 45 days deposit or cause to be deposited the full undisputed amount set forth on such Reimbursement Statement to an account designated by the Clerk of the Board of Supervisors of the County (the “Clerk”).
- b. If any element of the Reimbursable Expenses set forth on a Reimbursement Statement is disputed by LAFCO, LAFCO shall inform the Clerk of such dispute within 30 days of receipt of such Reimbursement Statement. The Parties shall make good faith efforts to resolve any disputed Reimbursable Expenses. In connection with any such dispute, LAFCO may request that the Clerk provide reasonable documentation of Reimbursable Expenses, including any changes to the costs set forth on Exhibit B.

2. Term and Termination

- 2.1. Term. This MOU shall be effective as of the date hereof and will terminate on June 30, 2023 unless (a) earlier terminated pursuant to Section 2.2 or (b) extended pursuant to Section 2.3. Notwithstanding the foregoing, no Services shall be provided or any Reimbursable Expenses incurred prior to the occurrence of the first Meeting taking place in the Chambers.
- 2.2. Termination.
 - a. At any time during the Term and subject to the terms of Section 2.4, either Party may terminate this MOU for any reason upon 30 days written notice delivered to the other Party.
 - b. If for any reason one or more of the Contractors cease providing webcasting services to the County (a “Contractor Termination”), the County shall have the right to terminate this MOU immediately upon notice to LAFCO. If the County does not terminate this MOU upon such Contractor Termination, the Parties shall make good faith efforts to agree to a replacement for the Contractor no longer providing services and this MOU shall continue in force as provided in this Section 2.
- 2.3. Extension. At any time not less than 90 days prior to the end of the Term, LAFCO may deliver to the County a written request to extend this MOU (an “Extension Request”). Upon written agreement to such request by the Clerk on behalf of the County, the term shall be extended by the period of time agreed by the Parties in the Extension Request, which period shall not exceed 5 years.
- 2.4. Termination Expenses. Upon the conclusion of the Term or when this MOU is terminated as provided in Section 2.2, the County shall within 90 days of such termination deliver to LAFCO a Reimbursement Statement including a.) all Reimbursable Expenses incurred prior to such termination and b.) any reasonable costs incurred by TSS for removing any LAFCO equipment and materials from the Chambers.
- 2.5. Survival. Notwithstanding the termination of this MOU as provided in this Section 2, the terms of Section 1.2 shall survive such termination with respect to any Reimbursable Expenses provided in Section 2.4, Section 4 shall survive with respect to any Claims incurred prior to such termination, Section 7.5 shall survive with respect to any cause of action arising from this MOU, and Section 7.7 shall survive with respect to any alleged causes of action taking place prior to the termination of this MOU.

3. Use of the Chambers

3.1. County Priority. Subject to the terms of this Section 3 and subject to all County policies, rules, and codes with respect to the use of the Chambers and County property, including without limitation any applicable health or safety rules ("County Rules"), the County shall allow LAFCO to use the Chambers for meetings during those times that the County determines the Chambers are not otherwise being used for the business of the County.

- a. The County shall make reasonable efforts to make the Chambers available for all Meetings. To facilitate scheduling by the County, LAFCO shall provide the Clerk with reasonable advanced notice of all planned Meetings to be conducted in the Chambers.
- b. Notwithstanding the provisions of Section 3.1(a), the Clerk may pre-empt any Meeting in the event of a conflict with any scheduled or emergency meeting of the Board or other County entity that the Clerk reasonably determines will require the use of the Chambers.
- c. In the event of any pre-emption of a Meeting pursuant to Section 3.1(b), the Parties shall work cooperatively to arrange a reasonable alternate time for the use of the Chambers for such Meeting.

3.2. Condition of the Chambers.

- a. At the conclusion of each Meeting taking place in the Chambers, LAFCO shall use reasonable efforts to reset hardware and/or software and, as applicable, return settings to the configuration normally used by TSS or the Contractors. To the extent reasonably necessary, the Parties shall cooperate to develop technical procedural documents to be used by LAFCO personnel in connection with the Services and their obligations under this Section 3.2(a). The Parties shall reasonably divide the costs associated with developing any technical manuals or procedures required by this Section 3.2(a).
- b. LAFCO shall use the Chambers only for public meetings related to the purposes set forth in Cal. Gov. Code § 56300 (*et seq.*) and shall not use or permit the Chambers to be used for any other purpose or by any other entity without the prior written consent of County. LAFCO agrees to fully reimburse the County as provided in Section 1.2 for any damage to the Chambers or other expenses incurred as a result of any violation of this Section 3.2(b).
- c. LAFCO agrees to comply with all County Rules when using the Chambers and any County equipment. In addition to any other legal or civil liability for violation of County Rules, LAFCO shall be responsible for any reasonable costs or expenses that arise as a result of a failure to comply with County Rules (including without limitation any reasonable attorneys' fees or legal expenses arising from such failure), and any such undisputed costs or expenses shall be considered Reimbursable Expenses hereunder and reimbursed by LAFCO pursuant to the terms of Section 1.2.

4. Indemnification

In lieu of and notwithstanding the pro rata risk allocation which might otherwise be imposed between the Parties pursuant to Cal. Gov. Code § 895.6, the County and LAFCO agree that all losses or liabilities incurred by a party shall not be shared pro rata but instead the County and LAFCO agree that, pursuant to Cal. Gov. Code § 895.4, each of the parties hereto shall fully indemnify and hold the other Party, its officers, Board members, employees and agents, harmless from any claim, expense or cost, damage or liability imposed for injury (as defined by Cal. Gov. Code § 810.8) occurring by reason of the negligent acts or omissions or willful misconduct of the indemnifying Party, its officers, Board members,

employees or agents, under or in connection with or arising out of any work, authority or jurisdiction delegated to such party under this Agreement (“Claims”). No Party, nor any officer, Board member, employee or agent thereof shall be responsible for any damage or liability occurring by reason of the negligent acts or omissions or willful misconduct of the other Party hereto, its officers, Board members, employees or agents, under or in connection with or arising out of any work, authority or jurisdiction delegated to such other parties under this MOU. Notwithstanding the foregoing, LAFCO agrees to defend and indemnify the County in any lawsuit or legal action brought by the Contractors related specifically to the use of the Chambers by LAFCO or the provision of the Services by the Contractors for LAFCO.

5. Insurance

Without limiting the indemnification obligations of either party under Section 4 of this MOU, each party shall maintain or cause to be maintained the following insurance coverage: (1) a policy of commercial general liability with limits of liability not less than one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) annual aggregate; (ii) a policy of workers’ compensation providing statutory coverage; (iii) a policy of public officials errors and omissions liability with limits of liability not less than one million dollars (\$1,000,000) per occurrence/aggregate; and (iv) such other insurance or self-insurance as shall be necessary to insure it against any claim or claims for damages arising under this MOU. Insurance afforded by the commercial general liability policy of a Party shall be endorsed to provide coverage to the other Party as an additional insured. Each Party shall provide a Certificate of Insurance certifying that coverage as required herein has been obtained. The requirements of this Section 5 may be satisfied by the provision of similar coverage through a self-insurance program.

6. Notices

Notices to the parties in connection with this Agreement shall be made by certified mail, return receipt requested. Notices are effective upon the earlier of five (5) days after placement in the U.S. mail, postage paid or when actually received by a Party. Notices shall be sent to the following:

County:
Office of the Clerk-Board of Supervisors
Attn: Administrative Services Manager
County Government Center
70 West Hedding Street, East Wing, 10th Floor
San Jose, CA 95110

LAFCO:
Neelima Palacherla, LAFCO Executive Officer
Local Agency Formation Commission of Santa Clara County
777 North First Street, Suite 410
San Jose, CA 95112

7. Miscellaneous

7.1. Entire Agreement; Amendment. This MOU and the Exhibits hereto constitute the entire agreement among the Parties with respect to the subject matter hereof and supersedes all prior agreements and understandings, written and oral, among the Parties with respect to the subject

matter hereof. This MOU may be amended only by a written instrument executed by the Parties hereto.

- 7.2. Execution and Effectiveness. This MOU shall be binding on the County and LAFCO from the Effective Date. Unless otherwise prohibited by law, the parties agree that an electronic copy of a signed MOU, or an electronically signed MOU, has the same force and legal effect as an MOU executed with an original ink signature. The term “electronic copy of a signed MOU” refers to a transmission by facsimile, electronic mail, or other electronic means of a copy of an original signed MOU in a portable document format. The term “electronically signed MOU” means an MOU that is executed by applying an electronic signature using technology approved by the County.
- 7.3. Representations. The persons executing this MOU represent that they have authority to bind their respective Parties.
- 7.4. Third Party Beneficiaries. This MOU does not, and is not intended to, confer any rights or remedies upon any person or entity other than the Parties.
- 7.5. Governing Law; Consent to Jurisdiction. The Parties agree that this MOU was executed in and shall be governed by the laws of the State of California, without regard to its conflicts of law principles, including the application of any applicable statutes of limitations and equitable principles and the availability of any remedies. The Parties further agree to submit to the jurisdiction of the courts located in Santa Clara County, California.
- 7.6. Assignment. Neither Party may assign this MOU or such Party’s rights and obligations hereunder without the prior written consent of the other Party.
- 7.7. Compliance with Non-Discrimination and Equal Opportunity Laws. The Parties shall comply with all applicable laws concerning nondiscrimination and equal opportunity in the use of the Chambers and in all related employment and contracting, including but not limited to the following: Santa Clara County’s policies for contractors on nondiscrimination and equal opportunity; Title VII of the Civil Rights Act of 1964 as amended; Americans with Disabilities Act of 1990; the Age Discrimination in Employment Act of 1967; the Rehabilitation Act of 1973 (Sections 503 and 504); the Equal Pay Act of 1963; California Fair Employment and Housing Act (Gov. Code § 12900 et seq.); California Labor Code sections 1101, 1102, and 1197.5; and the Genetic Information Nondiscrimination Act of 2008. In addition to the foregoing, the Parties shall not discriminate against any subcontractor, employee, or applicant for employment because of age, race, color, national origin, ancestry, religion, sex, gender identity, gender expression, sexual orientation, mental disability, physical disability, medical condition, political belief, organizational affiliation, or marital status in the recruitment, selection for training (including but not limited to apprenticeship), hiring, employment, assignment, promotion, layoff, rates of pay or other forms of compensation. The Parties shall not discriminate in the use of the Chambers or the provision of the Services because of age, race, color, national origin, ancestry, religion, sex, gender identity, gender expression, sexual orientation, mental disability, physical disability, medical condition, political beliefs, organizational affiliations, or marital status. LAFCO acknowledges that its nondiscrimination obligations extend to LAFCO’s policies and procedures in conducting Meetings in the Chambers, including obligations regarding effective communication with persons with disabilities, and acknowledges that the indemnification provisions in Section 4 of this agreement include claims arising out of applicable nondiscrimination laws.

[Signature Page Follows]

IN WITNESS WHEREOF, the County and LAFCO have executed this MOU as of the dates set forth below.

COUNTY OF SANTA CLARA

**LOCAL AGENCY FORMATION
COMMISSION OF SANTA CLARA
COUNTY**

By: _____
Name: Cheryl Liu
Title: Director of Procurement
Date:

By: _____
Name: Susan Ellenberg
Title: Chairperson, Santa Clara LAFCO
Date:

**APPROVED AS TO FORM
AND LEGALITY**

APPROVED AS TO FORM

By: _____
Name: Robert D. Fannion
Title: Deputy County Counsel
Date:

By: _____
Name: Malathy Subramanian
Title: LAFCO Counsel
Date:

Exhibit A
SPECIFICATIONS

SOFTWARE

- LAFCO may upload and publish its meetings to the internet using the IQM2 software application (MinuteTraq), under the County of Santa Clara's licensing agreement with IQM2.

HARDWARE

- LAFCO may access IQM2 in Chambers using a County-owned laptop.
- LAFCO may stream its meetings to the internet using the County-owned equipment.
- LAFCO may caption LAFCO meetings using the County's closed caption encoder and phone interface system
- LAFCO shall be responsible for any archiving of LAFCO webcasts. No County equipment will be used for this purpose.

INTERNET ACCESS & SECURITY

- The identity and contact information of the LAFCO personnel that will access the Chambers control room to manage and operate the County laptop and webcast encoder shall be communicated to the Clerk of the Board's designated information technology support personnel in advance of access.
- LAFCO will employ reasonable and industry standard precautions to protect County information technology assets and prevent unauthorized access to County information technology.
- County shall allocate IP addresses for LAFCO use in Chambers, as necessary.
- County reserves right to implement any and all network security protocols it sees fit to reasonably maintain the integrity of its network and data.

FUTURE UPGRADES

- The above specifications reflect required compatibility/technical standards necessary at the time this Agreement is put into effect. County reserves the right to modify these specifications over time as may be necessary to operate with future equipment upgrades. That notwithstanding, County shall make reasonable efforts to work with LAFCO staff to determine new requirements.

Exhibit B

**PASS-THROUGH SERVICE COSTS FOR WEBCAST-RELATED
STAFFING AND EQUIPMENT USE**

SERVICE	COST PER HOUR	COST PER MEETING	NOTES
Hourly Productive Rate and Use of Agenda Management System (AMS)	\$96.00	\$192.00 w/ AMS \$96.00 w/o AMS	Hourly cost for use and maintenance of shared equipment and software and Clerk of the Board support activities.
TSS – Customer Care	\$172.00	\$344.00	Field support for set up and duration of meetings.
CreaTV Meeting Crew	\$105.00	\$420.00	Two onsite camera operators. Vendor requires 2-hour minimum.
CreaTV Production Coordinator	\$52.50	\$52.50	Pre-production for graphics (Lower Third). Usually, 1-hour per meeting.
Dynamic Captioning	\$90.00	\$180.00	Remote, real-time closed captioning production. Vendor requires 2-hour minimum.

Cost Per Meeting – All Services: \$1,118.50

Cost Per Meeting – No AMS or Captioning: \$842.50

Note: The rates above are based on current pass-through costs for two-hour meetings. LAFCO will be charged a standard per meeting rate, depending on the types of services utilized. By June 15 of each fiscal year, Clerk of the Board will bill LAFCO based on the actual number of meetings held in the prior 12 month period. Payment is due by June 30. LAFCO will be informed of any anticipated changes to estimated costs for the upcoming fiscal year by March 31.



**Local Agency
Formation Commission
of Santa Clara County**
777 North First Street
Suite 410
San Jose, CA 95112
SantaClaraLAFCO.org

Commissioners
Rich Constantine
Susan Ellenberg
Sergio Jimenez
Yoriko Kishimoto
Linda J. LeZotte
Mike Wasserman
Susan Vicklund Wilson

ITEM # 8

Alternate Commissioners
Helen Chapman
Cindy Chavez
Maya Esparza
Russ Melton
Terry Trumbull
Executive Officer
Neelima Palacherla

LAFCO MEETING: February 3, 2021

TO: LAFCO

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

SUBJECT: ADOPTION OF AMENDED CONFLICT OF INTEREST CODE

STAFF RECOMMENDATION

Adopt Resolution No. 2021-02 approving LAFCO’s amended Conflict of Interest Code.

BACKGROUND

Pursuant to Government Code Section 87306.5 of the Political Reform Act (the “Act”) the Board of Supervisors, LAFCO’S code-reviewing body, directed LAFCO to conduct a review of its Conflict of Interest Code to determine if a change in the Code was necessitated, file a statement of review with the County no later than October 1, 2020 reflecting the results of that review, and, if necessary, amend LAFCO’s Conflict of Interest Code based upon such review and submit it to the Board of Supervisors for approval in accordance with Government Code Section 87303.

Staff conducted the biennial review of LAFCO's Conflict of Interest Code as required under Government Code Section 87306.5 and as directed by the Board of Supervisors, LAFCO's code-reviewing body. A Conflict of Interest code designates those employees, members, officers, and consultants who make or participate in the making of decisions which may affect financial interests and who must disclose those interests in financial disclosure statements. The Commission adopted Resolution No. 2020-02 in August 2020 to include a new position that is required to be designated and to update cited Regulation numbers.

However, following submittal of the LAFCO resolution to the County, the County Counsel’s Office has requested a further revision to remove the General Counsel position since this position is filled under contract rather than by a directly hired employee. LAFCO’s General Counsel would still be required to file – but under the Consultant category. Upon Commission approval of the Resolution, staff will forward the Resolution to the County for the County Board of Supervisors’ final approval, in order to complete the process.

ATTACHMENTS

- Attachment A: Legislative (Redline) Version of Amended Code Showing Changes Made
- Attachment B: Resolution of Adoption of Amendment and Clean Version of Amended Code

LEGISLATIVE VERSION
(SHOWS CHANGES MADE)

**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 (2 California Code of Regulations section 18730), that contains the terms of a standard conflict of interest code, which can be incorporated by reference into an agency’s code. After public notice and hearing [Section Regulation 18730](#) may be amended by the Fair Political Practices Commission to conform to amendments to the Political Reform 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-. This incorporation page, Regulation 18730, and the attached Appendix designating positions and establishing disclosure categories, shall collectively constitute the Conflict of Interest Code (the “Code”) of the **Local Agency Formation Commission of Santa Clara County (“LAFCO”)**.

All officials and designated positions shall file their statements of economic interests with the **LAFCO Clerk**, as LAFCO’s Filing Official. If a statement is received in signed paper format, the **LAFCO Clerk** shall make and retain a copy and forward the original of this statement to the filing officer, the County of Santa Clara Clerk of the Board of Supervisors. If a statement is electronically filed using the County of Santa Clara’s Form 700 e-filing system, both the **LAFCO Clerk** and the County of Santa Clara Clerk of the Board of Supervisors will receive access to the e-filed statement simultaneously. The **LAFCO Clerk** will make all retained statements available for public inspection and reproduction during regular business hours (Gov. Code section 81008).

Amended per County Counsel Notice dated ~~June 27, 2014~~ _____, [2020](#).

Approved by the County of Santa Clara Board of Supervisors Date: _____

APPENDIX

CONFLICT OF INTEREST CODE

OF THE

LOCAL AGENCY FORMATION COMMISSION

OF SANTA CLARA COUNTY

EXHIBIT 'A'

OFFICIALS WHO MANAGE PUBLIC INVESTMENTS

LAFCO Officials who manage public investments, as defined by 2 California Code of Regulations section ~~18701(b)~~ 18700.3, are NOT subject to LAFCO's Code, but must file disclosure statements under Government Code section 87200, et seq. (2 California Code Regulations. §18730(b)(3).) These positions are listed here for informational purposes only.

It has been determined that LAFCO currently has no officials who manage public investments.

DESIGNATED POSITIONS

GOVERNED BY THE CONFLICT OF INTEREST CODE

<u>DESIGNATED POSITIONS'</u> <u>TITLE OR FUNCTION</u>	<u>DISCLOSURE CATEGORY</u> <u>ASSIGNED</u>
Commissioner	1
Alternate Commissioner	1
Executive Officer	1
Assistant Executive Officer/ Analyst	1
General Counsel	1
LAFCO Analyst	1
Consultant	2
Newly Created Position	*

***Newly Created Positions**

A newly created position that makes or participates in the making of decisions that may foreseeably have a material effect on any financial interest of the position-holder, and which specific position title is not yet listed in an agency's conflict of interest code is included in the list of designated positions and shall disclose pursuant to the broadest disclosure category in the code, subject to the following limitation: The Executive Officer may determine in writing that a particular newly created position, 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 broadest disclosure requirements, but instead must comply with more tailored disclosure requirements specific to that newly created position. Such written determination shall include a description of the newly created position'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. (Gov. Code Section 81008.)

As soon as the Commission has a newly created position that must file statements of economic interests, the Commission shall contact the County of Santa Clara Clerk of the Board of Supervisors Form 700 division to notify it of the new position title to be added in the County's electronic Form 700 record management system, known as eDisclosure. Upon this notification, the Clerk's office shall enter the actual position title of the newly created position into eDisclosure and the Commission shall ensure that the name of any individual(s) holding the newly created position is entered under that position title in eDisclosure.

Additionally, within 90 days of the creation of a newly created position that must file statements of economic interests, the Commission shall update this conflict-of-interest code to add the actual position title in its list of designated positions, and submit the amended conflict of interest code to the County of Santa Clara Office of the County Counsel for code-reviewing body approval by the County Board of Supervisors. (Gov. Code Sec. 87306.)

EXHIBIT 'B'

DISCLOSURE CATEGORIES

The disclosure categories listed below identify the types of economic interests that the designated position must disclose for each disclosure category to which he or she is assigned.

Disclosure Category 1: (a) All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, that are located in, that do business in, or own real property within the jurisdiction of LAFCO; and (b) All interests in real property which is located in whole or in part within, or not more than two miles outside, the jurisdiction of LAFCO, or of any land owned or used by LAFCO.

Disclosure Category 2: Individuals serving as a consultant as defined in FPPC Reg ~~18701~~ 18700.3 must file under the broadest disclosure set forth in this Code subject to the following limitation:

The Executive Officer may determine that, due to the range of duties or contractual obligations, it is more appropriate to designate a limited disclosure requirement. A clear explanation of the duties and a statement of the extent of the disclosure requirements must be in a written document. 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.

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RESOLUTION NO. 2021-02

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

WHEREAS, 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 the County of Santa Clara ("LAFCO"), and requires all public agencies to adopt and promulgate a Conflict of Interest Code; and,

WHEREAS, LAFCO adopted a Conflict of Interest Code ("Code") which was amended on June 27, 2014, in compliance with Government Code Section 81000 et seq.; and,

WHEREAS, the biennial review of LAFCO's Code was conducted as required under Government Code section 87306.5; and,

WHEREAS, notice of the time and place of a public meeting on, and of consideration by the Commission of, the proposed amended Code was publicly posted for review at the offices of LAFCO; and,

WHEREAS, a public meeting was held upon the proposed amended Code at a regular meeting of the Commission on February 3, 2021, at which all present were given an opportunity to be heard on the proposed amended Conflict of Interest Code.

NOW, THEREFORE, BE IT RESOLVED by the Local Agency Formation Commission of the County of Santa Clara that the Commission does hereby adopt the proposed amended Conflict of Interest Code, a copy of which is attached hereto and shall be on file with the LAFCO Clerk and available for inspection to the public during regular business hours; and,

BE IT FURTHER RESOLVED that the said amended Conflict of Interest Code shall be submitted to the Board of Supervisors of the County of Santa Clara for approval and said amendment shall become effective immediately upon approval by the Board of Supervisors.

APPROVED AND ADOPTED this 3rd day of February, 2021.

Chairperson
Local Agency Formation Commission
of the County of Santa Clara

ATTEST:

Clerk to the Commission
Local Agency Formation Commission
of the County of Santa Clara

**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 (2 California Code of Regulations section 18730), that contains the terms of a standard conflict of interest code, which can be incorporated by reference into an agency’s code. After public notice and hearing Regulation 18730 may be amended by the Fair Political Practices Commission to conform to amendments to the Political Reform 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. This incorporation page, Regulation 18730, and the attached Appendix designating positions and establishing disclosure categories, shall collectively constitute the Conflict of Interest Code (the “Code”) of the **Local Agency Formation Commission of Santa Clara County (“LAFCO”)**.

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Amended per County Counsel Notice dated _____, 2020.

Approved by the County of Santa Clara Board of Supervisors Date: _____

APPENDIX

CONFLICT OF INTEREST CODE

OF THE

LOCAL AGENCY FORMATION COMMISSION

OF SANTA CLARA COUNTY

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It has been determined that LAFCO currently has no officials who manage public investments.

DESIGNATED POSITIONS

GOVERNED BY THE CONFLICT OF INTEREST CODE

<u>DESIGNATED POSITIONS'</u> <u>TITLE OR FUNCTION</u>	<u>DISCLOSURE CATEGORY</u> <u>ASSIGNED</u>
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Alternate Commissioner	1
Executive Officer	1
Assistant Executive Officer/ Analyst	1
LAFCO Analyst	1
Consultant	2
Newly Created Position	*

***Newly Created Positions**

A newly created position that makes or participates in the making of decisions that may foreseeably have a material effect on any financial interest of the position-holder, and which specific position title is not yet listed in an agency's conflict of interest code is included in the list of designated positions and shall disclose pursuant to the broadest disclosure category in the code, subject to the following limitation: The Executive Officer may determine in writing that a particular newly created position, 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 broadest

disclosure requirements, but instead must comply with more tailored disclosure requirements specific to that newly created position. Such written determination shall include a description of the newly created position'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. (Gov. Code Section 81008.)

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Additionally, within 90 days of the creation of a newly created position that must file statements of economic interests, the Commission shall update this conflict-of-interest code to add the actual position title in its list of designated positions, and submit the amended conflict of interest code to the County of Santa Clara Office of the County Counsel for code-reviewing body approval by the County Board of Supervisors. (Gov. Code Sec. 87306.)

EXHIBIT 'B'

DISCLOSURE CATEGORIES

The disclosure categories listed below identify the types of economic interests that the designated position must disclose for each disclosure category to which he or she is assigned.

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Disclosure Category 2: Individuals serving as a consultant as defined in FPPC Reg 18700.3 must file under the broadest disclosure set forth in this Code subject to the following limitation:

The Executive Officer may determine that, due to the range of duties or contractual obligations, it is more appropriate to designate a limited disclosure requirement. A clear explanation of the duties and a statement of the extent of the disclosure requirements must be in a written document. 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.



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Commissioners
Rich Constantine
Susan Ellenberg
Sergio Jimenez
Yoriko Kishimoto
Linda J. LeZotte
Mike Wasserman
Susan Vicklund Wilson

ITEM # 9

Alternate Commissioners
Helen Chapman
Cindy Chavez
Maya Esparza
Russ Melton
Terry Trumbull
Executive Officer
Neelima Palacherla

LAFCO MEETING: February 3, 2021

TO: LAFCO

**FROM: Neelima Palacherla, Executive Officer
Dunia Noel, Asst. Executive Officer**

**SUBJECT: SAN DIEGO LAFCO'S LEGISLATIVE EFFORT TO AMEND
GOVERNMENT CODE §56133(e)**

STAFF RECOMMENDATION

Provide conceptual support for San Diego LAFCO's legislative effort to clarify that LAFCOs determine an "out of agency service by contract" is exempt from LAFCO approval under Government Code §56133(e).

BACKGROUND

Government Code (GC) §56133, enacted in 1993, requires an agency such as a city or a special district, to obtain LAFCO approval prior to providing services by contract outside its jurisdictional boundary. LAFCO regulates city and special district boundaries that generally determine where a city or special district provides services. The intent of GC §56133 is to ensure that "out of agency services by contract" do not circumvent LAFCO's regulation of jurisdictional boundaries and lead to disorderly growth patterns due to lack of appropriate oversight.

Specifically, the GC §56133 provisions allow LAFCO to approve "out of agency services by contract" under the following two scenarios: to territories within an agency's sphere of influence in anticipation of a later change of organization (i.e., annexation); or to territories outside of the agency's sphere of influence in order to respond to an impending threat to health or public safety. GC §56133(e) outlines the limited circumstances under which such "out of agency services by contract" are exempt from seeking LAFCO approval. Attachment A contains GC §56133.

In most instances and in compliance with the statute's intent, local agencies defer to LAFCO in determining the exemption eligibility and over the years many agencies have contacted Santa Clara LAFCO staff to ask informally whether their service extensions would be considered exempt. However, interpretation of current law by some agencies has led to agencies self-exempting themselves and bypassing LAFCO's authority for adjudicating any exemption.

Because state law currently lacks clarity on this matter, some LAFCOs have adopted local policies establishing that LAFCO must determine that an “out of agency service by contract” is exempt under GC §56133(e).

For the sake of consistent implementation and to avoid subsequent conflicts that could result in fiscal and legal impacts for affected parties, it is logical for the LAFCO in each county to be the single body that would adjudicate the matter consistent with State Law and local policies rather than individual agencies making this decision on their own. Making this change helps ensure that local agencies are checking in with their LAFCOs before providing services beyond their boundaries.

The CALAFCO Legislative Committee has previously discussed whether the statewide organization should sponsor legislation to resolve this matter but has now deferred the issue because of other priorities and lack of resources.

Recently, San Diego LAFCO has decided to take the initiative to lead the legislative effort on amending GC §56133(e) to clarify that LAFCOs determine exemption eligibility. Their effort will include securing a bill author, performing stakeholder outreach and working accordingly with legislative staff in Sacramento with the goal of introducing a bill in 2022. San Diego LAFCO is requesting conceptual support for this legislative effort from several other LAFCOs, including Santa Clara LAFCO.

NEXT STEPS

Upon receiving the Commission’s conceptual support for amendment of GC §56133(e), staff will relay such support to San Diego LAFCO. The Commission will have an opportunity to consider full support once San Diego LAFCO has obtained an author and the proposed bill language is formalized, at which time staff will provide an additional report and recommendation.

ATTACHMENTS

Attachment A: Government Code §56133



GOVERNMENT CODE - GOV

TITLE 5. LOCAL AGENCIES [50001 - 57607] (*Title 5 added by Stats. 1949, Ch. 81.)*

DIVISION 3. CORTESE-KNOX-HERTZBERG LOCAL GOVERNMENT REORGANIZATION ACT OF 2000 [56000 - 57550] (*Heading of Division 3 amended by Stats. 2001, Ch. 388, Sec. 1.)*

PART 1. GENERAL [56000 - 56160] (*Part 1 added by Stats. 1985, Ch. 541, Sec. 3.)*

CHAPTER 3. Introductory and General Provisions [56100 - 56134] (*Chapter 3 added by Stats. 1985, Ch. 541, Sec. 3.)*

56133. (a) A city or district may provide new or extended services by contract or agreement outside its jurisdictional boundary only if it first requests and receives written approval from the commission.

(b) The commission may authorize a city or district to provide new or extended services outside its jurisdictional boundary but within its sphere of influence in anticipation of a later change of organization.

(c) The commission may authorize a city or district to provide new or extended services outside its jurisdictional boundary and outside its sphere of influence to respond to an existing or impending threat to the health or safety of the public or the residents of the affected territory, if both of the following requirements are met:

(1) The entity applying for approval has provided the commission with documentation of a threat to the health and safety of the public or the affected residents.

(2) The commission has notified any alternate service provider, including any water corporation as defined in Section 241 of the Public Utilities Code, that has filed a map and a statement of its service capabilities with the commission.

(d) The executive officer, within 30 days of receipt of a request for approval by a city or district to extend services outside its jurisdictional boundary, shall determine whether the request is complete and acceptable for filing or whether the request is incomplete. If a request is determined not to be complete, the executive officer shall immediately transmit that determination to the requester, specifying those parts of the request that are incomplete and the manner in which they can be made complete. When the request is deemed complete, the executive officer shall place the request on the agenda of the next commission meeting for which adequate notice can be given but not more than 90 days from the date that the request is deemed complete, unless the commission has delegated approval of requests made pursuant to this section to the executive officer. The commission or executive officer shall approve, disapprove, or approve with conditions

the extended services. If the new or extended services are disapproved or approved with conditions, the applicant may request reconsideration, citing the reasons for reconsideration.

(e) This section does not apply to any of the following:

(1) Two or more public agencies where the public service to be provided is an alternative to, or substitute for, public services already being provided by an existing public service provider and where the level of service to be provided is consistent with the level of service contemplated by the existing service provider.

(2) The transfer of nonpotable or nontreated water.

(3) The provision of surplus water to agricultural lands and facilities, including, but not limited to, incidental residential structures, for projects that serve conservation purposes or that directly support agricultural industries. However, prior to extending surplus water service to any project that will support or induce development, the city or district shall first request and receive written approval from the commission in the affected county.

(4) An extended service that a city or district was providing on or before January 1, 2001.

(5) A local publicly owned electric utility, as defined by Section 9604 of the Public Utilities Code, providing electric services that do not involve the acquisition, construction, or installation of electric distribution facilities by the local publicly owned electric utility, outside of the utility's jurisdictional boundary.

(6) A fire protection contract, as defined in subdivision (a) of Section 56134.

(f) This section applies only to the commission of the county in which the extension of service is proposed.

(Amended by Stats. 2019, Ch. 20, Sec. 3. (AB 1822) Effective January 1, 2020.)



Local Agency
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Commissioners
Rich Constantine
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Yoriko Kishimoto
Linda J. LeZotte
Mike Wasserman
Susan Vicklund Wilson

ITEM # 10

Alternate Commissioners
Helen Chapman
Cindy Chavez
Maya Esparza
Russ Melton
Terry Trumbull
Executive Officer
Neelima Palacherla

LAFCO MEETING: February 3, 2021

TO: LAFCO

**FROM: Neelima Palacherla, Executive Officer
Dunia Noel, Asst. Executive Officer
Lakshmi Rajagopalan, Analyst**

SUBJECT: FINANCE COMMITTEE FOR FISCAL YEAR 2021-2022

STAFF RECOMMENDATION

Establish a committee composed of three commissioners to work with staff to develop and recommend the proposed FY 2021-2022 LAFCO work plan and budget for consideration by the full commission.

BACKGROUND

The LAFCO Finance Committee will discuss budget related issues and work with staff to recommend the FY 2021-2022 work plan and budget for the full Commission’s consideration and adoption. The time commitment for commissioners serving on this committee would be limited to 2 or 3 meetings, between the months of February and May.

In February 2019, LAFCO appointed Commissioner LeZotte, former Commissioner Hall, and Alternate Commissioner Melton to serve on the LAFCO Finance Committee. Because of ongoing issues (i.e., LAFCO’s Comprehensive Organizational Assessment), the Finance Committee continued its work through two fiscal years (2019-2020 and 2020-2021).

The Cortese Knox Hertzberg Local Government Reorganization Act of 2000 (CKH Act) requires LAFCO, as an independent agency, to annually adopt a draft budget by May 1 and a final budget by June 15 at noticed public hearings.



**Local Agency
Formation Commission
of Santa Clara County**
777 North First Street
Suite 410
San Jose, CA 95112
SantaClaraLAFCO.org

Commissioners
Rich Constantine
Susan Ellenberg
Sergio Jimenez
Yoriko Kishimoto
Linda J. LeZotte
Mike Wasserman
Susan Vicklund Wilson

ITEM # 11

Alternate Commissioners
Helen Chapman
Cindy Chavez
Maya Esparza
Russ Melton
Terry Trumbull
Executive Officer
Neelima Palacherla

LAFCO MEETING: February 3, 2021

TO: LAFCO

**FROM: Neelima Palacherla, Executive Officer
Dunia Noel, Asst. Executive Officer
Lakshmi Rajagopalan, Analyst**

SUBJECT: EXECUTIVE OFFICER’S REPORT

STAFF RECOMMENDATION

Accept reports and provide direction, as necessary.

11.1 CHANGES IN LAFCO STAFFING

Departure of LAFCO Analyst

In early January 2021, Analyst Lakshmi Rajagopalan provided notice that she will be leaving at the end of January 2021 to pursue new opportunities at the City of Oakland’s Planning & Building Department. Lakshmi has worked for Santa Clara LAFCO for three years and during that time has made significant and numerous contributions. LAFCO thanks Lakshmi for her service and wishes her success in her future endeavors. Given that the County is conducting a Classification Study of LAFCO which could directly impact LAFCO staff positions, it is prudent to delay any recruitment and hiring efforts until the Study is completed and implementation of the Study’s recommendations has occurred.

With Analyst Rajagopalan’s departure, LAFCO will be a staff of three, a reduction of 25% in terms of total staff resources. LAFCO’s workload in 2021 is expected to be significant, with the commencement of the Countywide Fire Service Review, completion of a comprehensive review of LAFCO policies, anticipated applications from cities and special districts, and critical administrative projects. Until staffing levels can return to normal, LAFCO operations will be significantly impacted.

11.2 UPDATE ON REGIONAL HOUSING NEEDS ALLOCATION (RHNA) FOR UNINCORPORATED SANTA CLARA COUNTY

Collaboration with Partner Agencies

EO Palacherla continues to attend meetings of a coalition of partner agencies and entities (including Santa Clara Valley Open Space Authority, Midpeninsula Regional Open Space District, Santa Clara County, Marin County, San Mateo LAFCO, and Green Foothills) concerned about ABAG's RHNA methodology and overallocation of RHNA to unincorporated counties in the Bay Area. The purpose of these meetings is to discuss and strategize on how best to address this critical issue and to explore potential legislation to resolve the issue.

Comment Letter to ABAG

On January 21, 2020, LAFCO staff submitted a comment letter (**Attachment A**) to ABAG expressing concern that the RHNA methodology and resulting high RHNA allocation to the unincorporated County is inconsistent with Plan Bay Area goals, statutory objectives and the longstanding cooperative interagency agreement (known as the Countywide Urban Development Policies) between the County, the 15 Cities, and LAFCO which has existed since the early 1970s. The central policy of this agreement is that urban development should occur solely within cities and rural unincorporated lands outside cities should remain rural. The letter urges ABAG to revise its RHNA methodology accordingly.

RHNA Next Steps

The ABAG Executive Board approved the Draft RHNA methodology and Final Subregional Shares at its January 21, 2021 meeting. ABAG will now submit the Draft RHNA Methodology to the California Department of Housing and Community Development for review and then use the State's feedback to develop a Final Draft Methodology and Final Draft RHNA allocation in spring 2021. Release of the Final Draft RHNA allocation will be followed by an appeals period starting in summer 2021, with the Final RHNA allocation assigned to each of the Bay Area local agencies in late 2021.

Staff will continue to meet and collaborate with partner agencies and provide updates to the Commission, as necessary.

11.3 MEETING WITH CITY OF MORGAN HILL ON URBAN SERVICE AREA AMENDMENTS

At the request of the City of Morgan Hill staff, EO Palacherla and Legal Counsel Subramanian met with the Assistant City Manager, City Attorney, Development Services Director, and Principal Planner on December 16, 2020 to discuss issues relating to the Annexation EIR and Urban Service Area (USA) amendments.

City staff and LAFCO staff discussed the following:

- City staff informed LAFCO staff that the City does not anticipate any USA amendments in the next two years and therefore does not see the need to prepare an annexation EIR at this time. LAFCO staff agreed. The City and LAFCO entered into a Settlement Agreement on February 1, 2017. Per the agreement, the City's environmental review for an USA amendment and/or annexation shall not rely on or tier from the City's General Plan EIR, and the City shall prepare an Annexation EIR which shall include specific analysis of environmental impacts.
- In order to eliminate potential conflicts and confusion at the City, City staff requested clarification and LAFCO staff clarified that the City does not need LAFCO approval to approve development and provide services to areas already located within the Morgan Hill city limits, even if they are located outside the City's USA, as the City has full jurisdiction once lands are within its city limits. The City agreed.
- City staff confirmed that funding is a concern in terms of the City's ability to serve the unincorporated Holiday Lake Estate area. City staff stated that the City is open to discussing the potential future annexation of that area, if funding sources become available. LAFCO staff agreed.

11.4 SAN JOSE ANNEXATIONS AND CONCURRENT DETACHMENTS FROM BURBANK SANITARY DISTRICT

On December 21, 2020, EO Palacherla met with Ken Colson (President, Burbank Sanitary District) in order to discuss issues raised in his letter dated November 19, 2020 (**Attachment B**). She explained LAFCO's policies surrounding annexations in unincorporated islands, such as Burbank, and informed him of LAFCO's offer to facilitate discussions between BSD and the City of San Jose on these issues.

On January 21, 2020, EO Palacherla and Asst. EO Noel met with Jared Hart (Division Manager, City of San Jose Planning Office) on this matter and possible next steps. Mr. Hart indicated that he would need to discuss this with the City's Public Works Department and the City's leadership and provide an update on the City's position. LAFCO staff will continue to update on this issue, as necessary.

As was reported in Item #8.3 in LAFCO's December 2, 2020 meeting packet, Burbank Sanitary District (BSD) has sent a letter to the City of San Jose, expressing concerns specifically about a proposed City of San Jose annexation and more broadly about the City's parcel by parcel annexations (within the Burbank area, an unincorporated island within the City of San Jose's Urban Service Area), which include concurrent detachments of territory from the BSD. In response, EO Palacherla met with Ben Porter (BSD's General Manager) in November 2020 to discuss BSD's concerns, and offered to facilitate new joint discussions between the BSD and the City of San Jose once BSD has identified a preferred option and a viable plan and timeline for the eventual dissolution of the district. Please see Item #8.3 in LAFCO's December 2, 2020 meeting packet for further background.

11.5 PRESENTATION ON LAFCO TO LEADERSHIP SUNNYVALE

At the invitation of Tara Martin-Milius (Executive Director of Leadership Sunnyvale and former LAFCO Commissioner), EO Palacherla and Asst. EO Noel gave a presentation on Santa Clara LAFCO to Leadership Sunnyvale on December 4, 2020, as part of their program curriculum on special districts and LAFCO. The 30-minute presentation included an overview of LAFCO and a discussion on how LAFCO's work to steer growth to areas where urban services can be delivered efficiently and to protect farmland and open space benefits the whole county. See **Attachment C** for letter of appreciation from Leadership Sunnyvale

11.6 QUARTERLY MEETING WITH COUNTY PLANNING STAFF

LAFCO staff and County Planning Department staff have quarterly meetings to discuss issues of common interest or concern. At the December 10, 2020 quarterly meeting, County staff provided updates on the proposed Metta Tam Tu Buddhist Temple and the Christopher Ranch farmworker housing project. County staff also provided an update on their ongoing work to address issues with ABAG's RHNA Methodology and allocation to the unincorporated County. Lastly, County staff and LAFCO staff discussed the recent small water systems legislation and its impacts on development proposals in the unincorporated area. Staff discussed how having a better understanding of the County's development review process could assist in addressing this issue. As a next step, County staff stated that they would prepare flow charts of the development review process, for development by right and for development that requires use permits, and share them with LAFCO staff.

11.7 SANTA CLARA COUNTY SPECIAL DISTRICTS ASSOCIATION MEETING

On December 7, 2020, EO Palacherla attended the quarterly meeting of the Santa Clara County Special Districts Association (SDA) which was held by teleconference. Ms. Palacherla provided updates on LAFCO activities, including the upcoming ISDSC meeting to select LAFCO members and the initiation of the Countywide Fire Service Review.

The meeting included a presentation from guest speaker Seth M. Schalet, Chief Executive Officer, Santa Clara County FireSafe Council. Meeting attendees, including various district staff and board members, field staff for various state legislators, and a representative of the California Special Districts Association, provided reports and shared information on current projects or issues of interest. The next meeting of the SDA is scheduled for March 1, 2021.

11.8 SANTA CLARA COUNTY ASSOCIATION OF PLANNING OFFICIALS MEETING

EO Palacherla, Asst. and EO Noel, attended the December 2, 2020 virtual meeting of the Santa Clara County Association of Planning Officials (SCCAPO) which featured a

presentation from the Government Alliance on Race and Equity on planning and race/equity.

EO Palacherla also attended the January 6, 2021 virtual meeting of the SCCAPO. The meeting included updates on planning operations under Shelter in Place, housing bills, Regional Housing Needs Allocation distribution methodology, and the Planning Collaborative and presentations on various grants programs available to cities. Lastly, attendees provided updates on planning and development-related issues in their individual jurisdictions.

11.9 MEETING WITH COUNTY OFFICE OF SUSTAINABILITY REGARDING ITS COMMUNITY CLIMATE ACTION PLAN

The Office of Sustainability has kicked off the development of a Community Climate Action Plan (CCAP) that will outline actions the County will take to reduce greenhouse gas emissions and will include a big picture understanding of the region to develop actions that complement other local strategies. On January 5, 2021, EO Palacherla and Analyst Rajagopalan met with the County Office of Sustainability to discuss alignment between the CCAP and LAFCO efforts.

ATTACHMENTS

- Attachment A: LAFCO Letter re: Draft RHNA Methodology – Concern Regarding Overallocation to Unincorporated Santa Clara County (January 21, 2021)
- Attachment B: Letter from Burbank Sanitary District re. Proposed City of San Jose Annexation No. 44 (APN 274-16-050, 052, 053, 069 and 070) (November 19, 2020)
- Attachment C: Letter from Leadership Sunnyvale re. Leadership Sunnyvale Special Districts Day (December 5, 2020)



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Cindy Chavez
Maya Esparza
Russ Melton
Terry Trumbull

Executive Officer

Neelima Palacherla

January 21, 2021

VIA EMAIL: RHNA@bayareametro.gov

Mayor Jesse Arreguin, President Executive Board
Association of Bay Area Governments (ABAG)
375 Beale Street, Suite 700
San Francisco, CA 94105

**RE: DRAFT RHNA METHODOLOGY - CONCERN REGARDING OVERALLOCATION TO
UNINCORPORATED SANTA CLARA COUNTY**

Dear President Arreguin and ABAG Executive Board,

Thank you for the opportunity to comment on the Draft Regional Housing Needs Allocation (RHNA) Methodology. Santa Clara LAFCO recognizes the current housing crisis and supports the need for producing adequate housing to accommodate projected growth in our region, consistent with statutory requirements. We appreciate that ABAG's revised RHNA methodology has resulted in a reduction to the County's allocation from 4,100 to 3,158 units. However, this revised allocation is significantly above the County's estimated capacity for housing production in the unincorporated area and is contrary to Plan Bay Area goals and climate-smart growth policy.

We submit this letter to reiterate our ongoing concerns regarding the RHNA Methodology that has produced high allocations for unincorporated Santa Clara County which if met would promote sprawl and pose a serious threat to farmland and open space preservation in our region without significantly contributing to meeting our housing needs in a manner that is consistent with statutory requirements.

**RHNA Methodology Ignores Longstanding Cooperative Interagency Agreement on
Location of Future Urban Development, including Housing**

As stated in our prior letter dated August 10, 2020, since the early 1970's, urban growth and development in Santa Clara County has been governed by an agreement (known as the Countywide Urban Development Policies) between the County, the 15 cities, and LAFCO. The most central policy of this longstanding agreement is that urban development should occur solely within cities and rural unincorporated lands outside cities should remain rural. In Santa Clara County, the 15 cities have the responsibility to plan for, accommodate and provide services to urban development, whereas the county has made a commitment to limit densities and urban uses in the rural unincorporated areas in order to protect natural resource lands. Further, the County does not provide

urban services such as sewers within the unincorporated rural areas. Consistent implementation of this agreement by the parties over the years has helped discourage urban sprawl, preserve agricultural and open space lands, and promote efficient urban services delivery in Santa Clara County. **ABAG's Draft RHNA Methodology and allocation fails to acknowledge and account for this foundational agreement between the 15 cities and the County that directs urban development into cities, away from the rural unincorporated areas.**

Furthermore, under the same agreement, it is infeasible for the County to meet its large housing allocation within existing urban unincorporated communities that are near job and transit centers. In Santa Clara County, most such existing urban unincorporated areas are located within city Urban Services Areas (USA) and referred to as urban islands. The longstanding countywide agreement calls for urban unincorporated islands (with the exception of Stanford) to eventually annex into their surrounding cities, so that cities have complete responsibility for urban services and land use authority over all lands within their USA boundaries. Accordingly, the County has referral policies that provide cities with an opportunity to annex these unincorporated islands as a prerequisite to proposed new urban development. Additionally, the County General Plan policies require that major development proposals in urban unincorporated areas conform to city General Plans. As a result, while new housing development may be appropriate in some of these urban unincorporated islands, such development could occur only upon annexation to the cities. It is therefore unrealistic and infeasible to expect the County to meet its large RHNA allocations in the urban unincorporated areas, just as it is infeasible in the rural unincorporated areas due to lack of urban services and in the public interest of keeping urban development out of natural resource lands and other natural hazard lands deemed unsuitable for urban development.

ABAG should meet Statutory Requirements for Developing RHNA Methodology and NOT defer its Responsibility

The Draft RHNA Methodology is inconsistent with Government Code §65584(d) as it does not further the objectives of promoting infill development, the protection of environmental and agricultural resources, the encouragement of efficient development patterns, and the achievement of the region's greenhouse gas reductions targets and therefore fails to comply with statutory requirements.

ABAG notes that the Housing Element law allows an unincorporated county to develop an agreement to transfer a portion of its RHNA allocation to a city after it receives its RHNA allocation from ABAG. We appreciate ABAG's offer to provide assistance to local jurisdictions with this process. We believe that while this may be a useful fall-back provision in some cases, the important issue of high allocations to county unincorporated areas should be addressed in advance and resolved within the RHNA Methodology by ABAG and not deferred for future negotiation/resolution amongst local jurisdictions.

For the above stated reasons, we respectfully request that ABAG revise its RHNA methodology and allocations for unincorporated Santa Clara County to take into consideration the longstanding cooperative agreement between the 15 cities and the

County, and more importantly to ensure that much needed housing is feasible and will be built in locations capable of meeting statutory objectives.

Sincerely,

A handwritten signature in cursive script, appearing to read "N. Palacherla".

Neelima Palacherla
Executive Officer

CC: LAFCO Members
Jacqueline Onciano, Santa Clara County Planning Director



Burbank Sanitary District

20863 Stevens Creek Blvd., Suite 100

Cupertino, CA 95014

Phone (408) 255-2137 Fax (408) 253-5173

www.burbanksanitary.org

"Serving the Burbank Community since 1940"

November 19, 2020

File: BSD #20-013

Ms. Susan Ellenberg
Santa Clara County Board of Supervisors

Re: Proposed City of San Jose Annexation No. 44 (APN 274-16-050, 052, 053, 069 and 070)

I am writing to you today to request your assistance to advocate for the Burbank Sanitary District's protest of the proposed City of San Jose Annexation No. 44. The Burbank Sanitary District has received the City of San Jose's proposal to annex five parcels currently in the County of Santa Clara to the City of San Jose with the indication that this annexation will also involve detachment from the Burbank Sanitary District. We have sent a letter to the City to reserve our right to protest this annexation and you were copied on that letter. The primary reason we are reserving our right to protest this annexation was included in that letter and is duplicated here below as item 1 for your reference. Additional reasons for protesting the annexation are also provided below as items 2 through 5.

While we object to the five parcels detachment from the District, we support the City of San Jose's annexing those parcels. Our reasons for objecting to detachment are as follows:

- 1) We object to the spot and piece-meal detachment processes. LAFCO performed Special District Review: Phase 2, dated December 4, 2013. In its review, LAFCO recommended two governance structures for Burbank Sanitary District as follows:
 - a. Continue existence and service within its existing boundaries until all areas have been annexed to the City of San Jose.
 - b. Dissolution within a certain timeframe with services continued by the City for San Jose outside of the City's limits in anticipation of annexation.

In LAFCO's finding and report, it states as follows:

Over the course of this review two governance structure options were identified with regard to Burbank Sanitary District 1) continued existence and service within its existing boundaries until all areas have been annexed to the City of San Jose and 2) dissolution within a certain timeframe with services continued by the City of San Jose outside of city limits in anticipation of annexation.

At present, BSD faces a particular challenge in planning for its eventual dissolution. It has been the long-term goal of LAFCO and the County that unincorporated islands should be annexed to the cities. Likewise, the City of San Jose has a General Plan policy that states that unincorporated islands should be annexed. BSD is entirely surrounded by the City of San Jose and consists of territory that is

anticipated to be eventually annexed by the City in its entirety. As areas are annexed into the City, they are concurrently detached from BSD. All infrastructure and related capacity is transferred to the City, and wastewater services are continued by the City of San Jose. This process poses three challenges to BSD:

- 1) difficulties in coordinating maintenance of mains with San Jose,
- 2) struggles in planning for eventual nonexistence in an unknown timeframe, and
- 3) a declining number of connections that will eventually reach (or may already have reached) a level that lacks economies of scale for the District to provide services.

As areas are annexed, only the related infrastructure associated with the particular parcels is transferred to the City, which can occasionally consist of an access point for an entire main — portions of which BSD still owns and is responsible for maintaining. BSD has reported that at times it has been difficult to receive the City of San Jose's approval to access district-owned sections of the main through the access point now owned by the City. Additionally, an annexation may result in the transfer of a large segment of main, through which flow from the District collects, and the operations of which impact the upstream operations of BSD's system. Mains of this nature require collaboration with the City, given the dual impact that the function of the main has on both agencies. BSD has offered assistance in maintaining mains outside of its bounds, which impact services within its bounds; however, the City of San Jose has not accepted these offers to date.

While it is anticipated that San Jose will annex all territory within BSD, the timeframe within which this will occur is unknown. The City, as the land use authority, controls the schedule of the annexations, and BSD has no input as to timing. As such, BSD must attempt to plan for financing of its system's capital needs and spend down its reserves without a deadline, which places the District in a continual planning limbo.

Finally, as connections are detached from BSD, it results in less revenue for the District. Eventually, the overhead and operations of the District will become inefficient given the dwindling number of connections being served. This lack of economies of scale will result in high rates compared to other providers to continue the operations of the District.

In consideration of the challenges faced by BSD discussed here, two governance options were identified. First, BSD could continue to exist and provide services within its existing boundaries until all

areas have been annexed to the City of San Jose. Under this option, the City could annex territory within the District, but BSD would continue to own the infrastructure and provide services to the territory that is within the District as its boundaries exist now. Once all properties within BSD had been annexed by the City, the District would be dissolved and the City would take on wastewater, solid waste collection, and street sweeping services. In this manner, the outcome would ultimately be the same with BSD dissolving and the City providing services, but it would allow the District to continue to provide services until that time, eliminating some of the challenges previously identified.

LAFCO recommended Item 1b be pursued for implementation. In March 2014, LAFCO arranged a joint meeting with the City of San Jose, Burbank Sanitary District and LAFCO staff to consider implementation of Item 1b. The City of San Jose's position was that the City was not interested in providing services within the Burbank Sanitary District per LAFCO's Item 1b recommendation. With this decision made by the City of San Jose, the District had to resort to LAFCO's recommendation 1a, which is for the district to continue existence and service within its boundary until all areas have been annexed to the City of San Jose.

- 2) **Solid Waste Disposal Services:** With spot annexation, it is difficult for our solid waste provider to monitor, track, and provide solid waste disposal services. In addition, the District has a contract with our solid waste disposal company for cost recovery over the next five years. If these parcels are detached from the District, payment would need to be made by the City of San Jose for these costs as no further revenue would be collectible by the vendor.
- 3) Since 2014, Burbank's Board of Directors has been required to continue providing sanitation services until the entire Burbank Sanitary District is annexed (in its entirety) to the City of San Jose. To date, no annexation schedules have been provided from the City of San Jose. The Burbank Board has honored this commitment to best serve the District with significant public outreach efforts, and we have received positive support from our rate payers to stay independent. To continue providing the best services to its residents, the District aggressively applied for a State grant program that helps disadvantaged communities, and we narrowly failed to meet the median household requirements (by \$8,553).
- 4) **Economic hardship:** As LAFCO has stated, as connections are detached from BSD, it results in less revenue for the District. Eventually, the overhead and operations of the District will become inefficient given the dwindling number of connections being served. This lack of economy of scale will result in high rates compared to other providers to continue the operations of the District. When the State allowed pocket annexation, the City of San Jose did not annex the entire Burbank Sanitary District. The pocket annexation the City completed was to annex all parcels fronting San Carlos

Street. This annexation was detrimental to Burbank's financial viability because the properties annexed were all commercial properties that generated greater revenue for the District. Currently, the District's service charge is the highest in Santa Clara County, more than double the City of San Jose's charges.

- 5) Reduction of Revenue Generation Leading to Insolvency: if the Burbank Sanitary District's ability to collect revenue is continually reduced to the point that it is no longer able to sustain its own operations, it would then need to gain assistance from the County of Santa Clara. It is not our intention to get to that point, as we prefer to operate independently on a sustainable basis, but it is my hope this illustrates how preventing the insolvency of the District from happening is beneficial to all of us.

Thank you for your time and consideration. If you would like to discuss this matter further, please contact our District Manager, Benjamin Porter (bporter@markthomas.com or 408-497-3933) to arrange a meeting.

Sincerely,



Ken Colson, President
Burbank Sanitary District

CC: Ms. Neelima Palacherla, Executive Officer
Santa Clara County LAFCO



December 5, 2020

Neelima Palacherla, Executive Officer
Dunia Noel, Assistant Executive Officer
Santa Clara County LAFCO

Re: Leadership Sunnyvale Special Districts Day

Dear Neelima and Dunia,

Many thanks for taking your time and sharing your expertise with Leadership Sunnyvale. Your presentation about the LAFCO, clarifying the differences between LAFCO and the relationship to other districts helped to make the governance structures clearer. It was also an excellent overview of the benefits you provide to service area. The two maps of 1929 and 2018 were wonderfully illustrative. The description of the types of activities you are involved with were also helpful in defining responsibilities and outcomes in an influential, somewhat obscure, and complex system!

Most people have heard about Districts, but few understand how they work, much less understand the role of LAFCO. Your presentation of the history and current activities was so informative and addressed many of the questions our people had about LAFCO. Many thanks for your time and contribution to the participant's knowledge of government structures and responsibilities.

Leadership Sunnyvale has been providing services to Sunnyvale's diverse community for 35 years, through training in the fundamentals of Leadership and community engagement. It is conversations with leaders like you that help people understand the government so much better, while engaging them in thought provoking interaction. This year, with COVID19 and its complications, the elections, digital meetings, and so much more, the information you shared was even more important for civic engagement.

We are all incredibly grateful for the time, energy, and expertise, you share with us. You model ways for all of us to lead and engage in effectively.

With gratitude for your service, your example, and your willingness to participate,

Tara Martin-Milius
Executive Director
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January 5, 2021

Ms. Stephanie Moreno, Executive Director
Guadalupe-Coyote Resource Conservation District
888 North First Street, Suite 204
San Jose, CA 95112

Dear Ms. Moreno:

On December 14, 2020, the Guadalupe-Coyote Resource Conservation District (GCRCD) Board adopted actions to provide financial and staff support to seek grant funding to develop a Guadalupe River Corridor Management Plan through a watershed stakeholder forum. The Santa Clara Valley Water District (Valley Water) appreciates the interest in the Guadalupe Watershed, but we feel strongly that the development of a river corridor management plan is best accomplished through the multi-benefit lens of Valley Water's One Water Plan.

When we last met, you and your Board Chair had committed to working with Valley Water in a more collaborative fashion. The approach taken by the GCRCD at the hastily called, December 14 special meeting not only causes concern with the promise to work collaboratively, but would duplicate Valley Water's efforts, appears to be beyond your agency's sphere of influence, and raise transparency concerns. I understand that GCRCD Director Byler expressed concerns on multiple occasions about the funding allocation decisions ultimately adopted at the special meeting, which demonstrates that the concerns detailed below are not isolated. As to how to move forward, it has been and continues to be our policy to welcome participation in the One Water Plan process from interested stakeholders, including any newly-formed watershed forum that may be created by GCRCD.

VALLEY WATER'S ONE WATER PLAN

Since 2013, Valley Water has been developing an integrated water resources master plan, otherwise known as the One Water Plan. This plan is similar to a river corridor management plan; however, it has a much broader context both topically and spatially. This effort develops a decision-making framework for improving watershed health and managing water resources throughout Santa Clara County. A Countywide Framework will be finalized in 2021, complete with a vision, goals, and measurable objectives. It will provide guidance for integrated water supply, flood protection, and environmental stewardship, as well as water quality, climate change, trails, and open space.

One Water includes Framework-guided plans specific to each of the County's five watershed areas. The Coyote Creek Watershed Plan will be finalized this year, and the Guadalupe River Watershed Plan will also get underway this year. More in-depth studies into particular areas of a watershed also are included in One Water, where additional detail is available and/or necessary to guide specific locations, methods, and prioritization of actions and projects. To date, these have taken the form of case studies, watershed tools, and stream corridor priority plans.



STAKEHOLDER ENGAGEMENT THROUGH THE ONE WATER PLAN

Valley Water feels that the One Water Plan, with both its framework and associated watershed plans, addresses all aspects of a river corridor management plan and does so through an inclusive process with broad, diverse stakeholder engagement. Municipalities, non-governmental organizations, business, academia, agricultural interests, neighborhood associations, tribes, and economically disadvantaged communities are all included throughout the process. Engagement thus far for the One Water Framework and the Coyote Watershed Plan has been carried out through a variety of methods, including a formal Stakeholder Working Group, in which GCRCD, Sierra Club, Audubon Society, and many others participated, as well as more targeted outreach to individual groups and communities.

COLLABORATION IS ESSENTIAL

For watershed and river plans to be effective and sustainable, it is essential that all participating stakeholders have a clear understanding of the vision, can see their role in the process, and share a desire to improve watershed health and to holistically manage water resources. To that end, One Water is not just about Valley Water lands but the entirety of the watershed. It is in the upper watershed and on the urban-rural interface where we look to GCRCD to provide valuable input, help identify and close data gaps, highlight areas in need of conservation or improvement, and to help network with other groups.

Valley Water supports the idea of a more robust watershed group or forum to bolster watershed planning and even act as a stakeholder engagement method for the One Water Plan. It also could provide a vehicle to cost share, apply for grants, and build transparency and trust among local non-government organizations, local government, and the community at large.

DUPLICATIVE EFFORTS WASTE PUBLIC RESOURCES

The One Water process is well underway and actions by GCRCD to develop a Guadalupe River Corridor Management Plan would be concurrent to the ongoing Valley Water effort and would be confusing to stakeholders unless coordinated with the One Water Plan. The GCRCD Board action on December 14 was taken without consultation with Valley Water and expends public resources on duplicative planning and stakeholder engagement processes in a manner that raises questions about prudent use of taxpayer dollars. The issues of duplicated efforts and overlapping jurisdiction were identified in a report titled "[Santa Clara Countywide Water Service Review](#)" prepared by independent consultants and adopted by the Local Agency Formation Commission of Santa Clara County (LAFCO) on December 7, 2011. By initiating a duplicative stakeholder process and Guadalupe River Corridor Management Plan, the GCRCD Board not only exercises its overlapping jurisdiction discussed in the LAFCO report, but exceeds it in violation of [GCRCD's Long Range Plan accepted by LAFCO on April 3, 2013](#).

GCRCD'S SPHERE OF INFLUENCE

The boundaries established for GCRCD through public process in compliance with state law include mostly rural and mountainous or hilly areas of the northeastern and northwestern portions of Santa Clara County. Much of the planning and management of a Guadalupe River Corridor Management Plan would seek to regulate impacts and foster benefits in the urban areas of the Santa Clara Valley floor. The GCRCD Board action raises questions as to its authority to expend funds seeking to regulate

activities outside its sphere of influence, and clearly inside Valley Water's jurisdiction which includes the stewardship of streams anywhere in Santa Clara County. The sphere of influence question was addressed in GCRCD's LAFCO-accepted Long Range Plan which states the following:

"The GCRCD will phase out previous program work on flood control and related main-stem river projects that overlap and/or duplicate work being carried out by other agencies and/or special districts in Santa Clara County, including the Santa Clara Valley Water District (SCVWD), and are outside of District boundaries. Instead, the District will shift its focus to lower order/headwater streams within District boundaries."

TIMING OF THE GCRCD BOARD ACTION

The GCRCD Board actions, which appropriate \$30,000 and direct the Executive Director to submit or collaborate to submit an application for a federal Bureau of Reclamation grant for up to \$100,000 for the development of a Guadalupe River Corridor Management Plan, were taken one day before the Santa Clara County Board of Supervisors approved the appointment of three new GCRCD Board members. While it is uncertain as to whether these new Board members would support or oppose funding efforts arguably outside GCRCD's sphere of influence and Long Range Plan as accepted by LAFCO, the size of the appropriation as a percentage of annual revenue create a valid policy rationale for allowing the new Board members to weigh in on the actions.

LET'S WORK TOGETHER

Working together is essential to the success of any river corridor management plan. Valley Water's jurisdiction to develop such a plan is clear and the One Water Plan is the proper venue which can address all aspects of a river corridor management plan for the Guadalupe Watershed. One Water already has an inclusive process with broad stakeholder outreach; however, we would welcome further participation from GCRCD or a newly-formed, diverse watershed forum to help Valley Water build a better plan for the Guadalupe Watershed.

Finally, I want to reiterate my commitment on behalf of Valley Water to foster a productive working relationship with the GCRCD, and I hope that the recent actions in December were an anomaly, and that you continue to share this same vision for working together. I look forward to doing so.

Sincerely,



Rick L. Callender, Esq.
Chief Executive Officer

cc: Members, Guadalupe-Coyote Resource Conservation District (GCRCD) Board
kn:fd
0105a-l

Guadalupe-Coyote Resource Conservation District (GCRCD)

An independent special district of the State of California



February 3, 2021

Rick Lanman, M.D.
President

Gary Jahns, Ph.D.
Vice-President

Gail Bautista
Director

Susan Hare
Director

Paula Quintero
Director

Roger Castillo
Associate Director
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Larry Johmann
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Director Emeritus

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Director Emeritus

Mel Sarmiento
Associate Director

Kat Wilson
Associate Director

Stephanie Moreno
Executive Director
District Clerk

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Neelima Palacherla, Executive Officer
LAFCO of Santa Clara County
777 North First Street, Suite 410
San Jose, CA 95112

RE: Item 15.1 – Santa Clara LAFCO Agenda for February 3, 2021

Dear Ms. Palacherla:

Guadalupe-Coyote Resource Conservation District (GCRCD) Board President Lanman and I were surprised to see a letter written to me by Valley Water CEO Rick Callender and copied to our Board of Directors appear on the agenda for the Santa Clara LAFCO; this would indicate the letter was more widely distributed than stated on its "cc:" list. We were not contacted before the letter was sent, and the letter contents appear to have been based upon third-party reporting from our December 14, 2021 Board of Directors meeting. Because the actions described in the letter were not the actions taken by our Board of Directors, I subsequently had a detailed telephone conversation with Mr. Callender, during which he agreed to listen to the recording of the meeting where the Board approved funding to develop a grant application to help local stakeholders establish a collaborative, stakeholder-driven watershed group and to participate in a collaborative effort convened by Valley Water to develop a River Corridor Management Plan. At this time, we are treating the letter as a misunderstanding between our two special districts, and hope to have it resolved shortly. If any member of LAFCO also would like to listen to the recording of our December 14 meeting, it is available on our website (www.rcdsantaclara.org).

Unfortunately, this is not the first time GCRCD has had to respond to mischaracterizations of its jurisdiction and authorities. The plain fact is that our special district has and continues to operate within the legal authorities set forth by the State of California in Division 9 of the Public Resources Code. Those legal authorities include conservation of soil, water and wildlife resources in our County. Additionally, GCRCD has recognized status as a watershed stakeholder in the lower watersheds because actions taken (or not taken) there can have a significant impact on the wildlife in our upper watersheds. Our district does not conduct duplicative activities to Valley Water, but rather provides public education and access to scientific experts and data, and offers constituent services in furtherance

of our mutual goal to restore and maintain healthy watersheds for the benefit of those living and working in our region.

A further understanding of how the State of California envisioned the role of resource conservation districts in watershed management and protection can be found in Section 9001 (PRC, Division 9), which reads as follows:

9001 (a) The Legislature hereby declares that resource conservation is of fundamental importance to the prosperity and welfare of the people of this state. The Legislature believes that the state must assume leadership in formulating and putting into effect a statewide program of soil and water conservation and related natural resource conservation and hereby declares that this division is enacted to accomplish the following purposes:

(1) To provide the means by which the state may cooperate with the United States and with resource conservation districts organized pursuant to this division in securing the adoption in this state of conservation practices, including, but not limited to, farm, range, open space, urban development, wildlife, recreation, watershed, water quality, and woodland, best adapted to save the basic resources, soil, water, and air of the state from unreasonable and economically preventable waste and destruction.

(2) To provide for the organization and operation of resource conservation districts for the purposes of soil and water conservation, the control of runoff, the prevention and control of soil erosion, and erosion stabilization, including, but not limited to, these purposes in open areas, agricultural areas, urban development, wildlife areas, recreational developments, watershed management, the protection of water quality and water reclamation, the development of storage and distribution of water, and the treatment of each acre of land according to its needs.

(b) The districts, in addition to any other authority provided by law, may do all of the following:

(1) Ensure consistency with the authorities and policies of the United States, this state, counties, cities, public districts, other resource conservation districts, persons, associations, and corporations.

(2) With the consent of the owner, construct on privately or publicly owned lands any necessary works for the prevention and control of soil erosion and erosion stabilization.

(3) Facilitate coordinated resource management efforts for watershed restoration and enhancement....

Thank you for the opportunity to provide this information to you and your Commission. I hope this clears up any confusion that may have been caused by the Valley Water letter. Please feel free to contact me if you have any questions.

Sincerely,



Stephanie Moreno

Executive Director/District Clerk

Cc: GCRCB Board of Directors
CEO Rick Callender