

RESOLUTION NO. 2024-03

RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION OF SANTA CLARA COUNTY UPDATING ITS POLICIES AS PART OF PHASE 1 OF ITS COMPREHENSIVE REVIEW AND UPDATE OF LAFCO POLICIES

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

WHEREAS, Government Code Section 56300 requires the Commission to establish written policies and procedures and exercise its powers pursuant to this part in a manner consistent with those policies and procedures and that encourages and provides planned, well-ordered, efficient urban development patterns with appropriate consideration of preserving open-space and agricultural lands within those patterns; and

WHEREAS, the Commission previously authorized the Comprehensive Review and Update of LAFCO Policies to be conducted; and

WHEREAS, the Executive Officer set October 2, 2024 and December 4, 2024 as public hearing dates for Phase 1 of the Comprehensive Review and Update of LAFCO Policies; and

WHEREAS, the Commission considered the report of the Executive Officer; and the attachments thereto, the comments received in writing and the comments presented at the October 2, 2024 and December 4, 2024 public hearings; and

WHEREAS, the Commission as Lead Agency has complied with the California Environmental Quality Act (CEQA), as described below; and

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

SECTION 1:

As Lead Agency under CEQA, LAFCO determines that the Comprehensive Review and Update of LAFCO Policies – Phase 1 is not subject to the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines: §15060(c)(2) and §15060(c)(3).

SECTION 2:

LAFCO hereby adopts as follows the updated:

- a. Chapter 2: Sphere of Influence (SOI) Policies (Attachment 1)
- b. Chapter 3: Urban Service Area (USA) Policies (Attachment 2)
- c. Chapter 4: Annexation, Detachment, and Reorganization Policies (Attachment 3)

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- d. Chapter 5: Out-of-Agency Services by Contract (OASC) Policies (Attachment 4)
- e. Chapter 6: Island Annexation Policies (Attachment 5)
- f. Chapter 7: Agricultural Land Preservation and Mitigation Policies (Attachment 6)
- g. Chapter 8: Urban Growth Boundaries (UGB) Policies (Attachment 7)

SECTION 3:

LAFCO hereby rescinds the existing Boundary Agreement Lines Policies, and the Policies for Gilroy Agricultural Lands, as they are both no longer applicable.

PASSED AND ADOPTED, by the Local Agency Formation Commission of Santa Clara County, State of California, on December 4, 2024, by the following vote:

AYES: ARENAS, BEALL, KAMEI, KISHIMOTO, MELTON, TRUMBULL

NOES: None

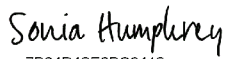
ABSENT: LEE

ABSTAIN: None

DocuSigned by:

C8AF550EA32A498...
Russ Melton, Chairperson
LAFCO of Santa Clara County

ATTEST:

DocuSigned by:

7B34D12E6BC6412...
Sonia Humphrey, LAFCO Clerk

APPROVED AS TO FORM:

Signed by:

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Malathy Subramanian, LAFCO Counsel

Attachments to Resolution No. 2024-03

- Attachment 1 - Chapter 2: Sphere of Influence (SOI) Policies
- Attachment 2 - Chapter 3: Urban Service Area (USA) Policies
- Attachment 3 - Chapter 4: Annexation, Detachment, and Reorganization Policies
- Attachment 4 - Chapter 5: Out of Agency Services by Contract (OASC) Policies
- Attachment 5 - Chapter 6: Island Annexation Policies
- Attachment 6 - Chapter 7: Agricultural Land Preservation and Mitigation Policies
- Attachment 7 - Chapter 8: Urban Growth Boundaries Policies

CHAPTER 2. SPHERE OF INFLUENCE POLICIES

2.1 SPHERE OF INFLUENCE (SOI) DEFINED

State law (GC §56076) defines a Sphere of Influence as “a plan for the probable physical boundaries and service area of a local agency, as determined by the Commission.” Local agency includes special districts and cities. In other words, a SOI boundary under State law represents the outermost possible extent of a local agency’s territorial jurisdiction and service area.

Consistent with State law, a SOI should be based on a number of factors, including sound planning principles related to a local agency’s physical geography, its anticipated and desired growth, its ability to accommodate land uses and development in a safe and appropriate manner consistent with state goals and policies, and its ability to plan for and provide services in a cost effective and efficient manner.

In Santa Clara County, the SOI is of critical importance to special districts as it delineates their potential physical boundaries and service area. However, the inclusion of an area within a city’s SOI boundary is not an indication that the city will either ultimately annex or provide services in the area. The critical boundary for cities is the Urban Service Area (USA), which is the definitive, Santa Clara LAFCO-adopted planning boundary indicating whether an area will be potentially annexed and provided with urban services. Santa Clara LAFCO-approved USAs serve the objectives of the Cortese-Knox-Hertzberg Act, such as directing the location of urban development to prevent urban sprawl, ensuring an agency’s ability to provide efficient services, and preserving agricultural and open space lands. Therefore, for cities in Santa Clara County, USAs serve the objectives of SOIs as defined in state law.

To summarize, in Santa Clara County, the following definitions are maintained:

Special Districts SOI: SOI for a special district, means a plan for the probable physical boundaries and service area of the district, as determined by Santa Clara LAFCO.

Cities SOI: For cities in Santa Clara County, a SOI generally delineates areas where the city and County have shared interests in preserving non-urban levels of land use and does not necessarily indicate areas that a city will annex or provide with urban services.

The role of USAs and the Countywide Urban Development Policies (CUDPs), both unique to Santa Clara County, are further defined and articulated in two separate chapters of the Santa Clara LAFCO policies. To fully understand how the use and application of SOI boundaries currently function in Santa Clara County, it is important to understand both the legislative history and local evolution of SOIs as a planning concept.

2.2 LEGISLATIVE HISTORY

Since 1963, State legislation has provided LAFCOs with authority to initiate and conduct studies on the structure of local government and the provision of services within the county. The intent of this permissive authority was to encourage LAFCOs to establish long range, comprehensive goals and plans for implementing their mandated purpose of

"discouraging urban sprawl and encouraging the orderly formation and development of local agencies."

The State Legislature declared in 1972 that LAFCOs must perform studies if they are to meaningfully carry out their "purposes and responsibilities for planning and shaping the logical and orderly development and coordination of local governmental agencies so as to advantageously provide for the present and future needs of the county and its communities". With this declaration, the Legislature amended the Knox-Nisbet Act to mandate LAFCOs to develop and determine the "sphere of influence" of each local agency within the county.

In 1983, the Cortese-Knox Act was amended to require LAFCOs to determine the SOI of each local agency by January 1, 1985, and to mandate that all changes of organization must be consistent with adopted SOIs.

The laws were further amended with the Cortese-Knox-Hertzberg Local Government Reorganization Act (CKH Act) of 2000, which requires LAFCOs to conduct a service review prior to or in conjunction with the establishment or amendment of a local agency's SOI. Furthermore, the CKH Act requires LAFCOs to review and update, as necessary, each local agency's SOI before January 1, 2008, and every five years thereafter, as needed.

These successive changes to State law reflect the evolution of state policy for SOIs to secure the purposes of state LAFCO laws and ensure proper functioning of local agencies in the delivery of services. The evolution of SOI boundaries and policies in Santa Clara County follows the evolution of SOIs in state law, as well as reflecting the unique circumstances of Santa Clara County as it responded to the challenges of rapid, unplanned, uncontrolled sprawl in the decades immediately following World War II.

2.3 DEVELOPMENT OF CITY AND SPECIAL DISTRICT SPHERES OF INFLUENCE IN SANTA CLARA COUNTY

One of the first matters that the Santa Clara LAFCO addressed upon its creation in 1963 was to establish "sphere of influence" boundaries to prevent further annexation wars. These original SOIs (later to be known as boundary agreement lines) divided the county into 15 parts and were nothing more than boundaries between each of the fifteen cities to prevent a city from annexing territory in the area of interest of another. This process of establishing SOIs (or boundary agreement lines) was essentially completed in 1967.

These boundaries put a temporary halt to the annexation wars, and their adoption set the stage for the collaborative development and adoption of the CUDPs by Santa Clara LAFCO, the County and the 15 cities, including the establishment of USA boundaries for each of the 15 cities.

These original SOI boundaries in many cases extended from city limits outward to the county boundary, well beyond any interest of the cities regarding annexation, much less a city's ability to serve such an expansive area. In this regard, they furthermore did not meet the intent of the subsequent 1972 SOI mandates as prescribed in the Knox Nisbet Act.

Consequently, in June 1976, Santa Clara LAFCO renamed the SOI boundaries as the 'boundary agreement lines' and established new SOI boundaries for cities in a manner

more closely related to the state requirements. These new SOI boundaries for cities generally corresponded to the outer limits of a city's planning interest, as shown on the land use diagrams of a city general plan, and inherently included areas where both the County and the city had shared interests. It is important to note that by 1973, the County and cities had mutually agreed to the CUDPs whereby urban development would henceforth be confined to lands in city jurisdiction, and lands outside city USAs would be primarily conserved for agriculture, open space, natural resource protection, and related goals of environmental stewardship.

In 1985, Santa Clara LAFCO completed its efforts in fulfillment of state laws and formally adopted SOI boundaries for all special districts, after completing a comprehensive review and analysis necessary to make the determinations required in state law.

Between 2005 and 2010, Santa Clara LAFCO conducted its first round of service reviews and comprehensively reviewed and updated the spheres of influence of the 15 cities and 28 special districts in the county. Since that time, Santa Clara LAFCO has continued to conduct service reviews and to review and update, as necessary, the spheres of influence of cities and special districts.

2.4 CURRENT ROLE AND PURPOSES OF SOI BOUNDARIES

Sphere of Influence boundaries serve multiple purposes and may be used to:

- Promote orderly urban development
- Promote cooperative planning efforts among cities, the county and special districts to address concerns regarding land use and development standards, premature conversion of agricultural and open space lands and efficient provision of public services
- Serve as a master plan for future local government reorganization by providing long range guidance for efficient provision of public services; shaping logical governmental entities able to provide services in the most economic manner, avoiding expensive duplication of services or facilities
- Guide consideration of proposals and studies for changes of organization or reorganization

2.5 SOI ADOPTION AND AMENDMENT POLICIES

Santa Clara LAFCO's policies for SOIs reflect the fundamental mandates of state law, the specific roles of SOIs within Santa Clara County, and appropriate procedural considerations for future changes to SOIs. The following are Santa Clara LAFCO's policies regarding the adoption, updating, and amendment of spheres of influence:

1. **Mandate.** Consistent with GC §56425(a), LAFCO must adopt and maintain a SOI for each city and special district.
2. **Consistency with SOI:** Pursuant to GC §56375.5, LAFCO cannot take actions that are inconsistent with a SOI.

3. **Timing of Initial Adoption.** State law (GC §56426.5) directs LAFCOs to establish SOIs within one year of the effective date of formation of a special district or incorporation of a new city.
4. **Review and Updates.** Consistent with GC §56425(g), LAFCO shall review and update as necessary, each sphere of influence every five years.
5. **Initiation.** Pursuant to GC §56428(a), any person or local agency may file a written request and application with the LAFCO Executive Officer requesting LAFCO to amend an adopted SOI. Although determination of the SOI is a LAFCO responsibility, LAFCO encourages the participation of the subject city or special district and other stakeholders.
6. **Statement of Determinations.** Pursuant to GC §56425(e), in determining a SOI for a city or special district, LAFCO must consider and prepare a written statement of determinations regarding the following:
 - a. The present and planned land uses in the area, including agricultural and open space lands
 - b. The present and probable need for public facilities and services in the area
 - c. The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide
 - d. The existence of any social or economic communities of interest in the area if the Commission determines that they are relevant to the agency
 - e. For an update of the SOI of a city or special district that provides public facilities or services related to sewers, municipal or industrial water, or structural fire protection, the present and probable need for those public facilities and services of any disadvantaged unincorporated communities within the existing SOI
7. **Establishment of Special District Function and Classes of Service.** Additionally, when adopting, amending, or updating the SOI for a special district, LAFCO shall establish the nature, location, and extent of any functions or classes of services provided by existing districts and may require existing districts to file written statements with LAFCO specifying the functions or classes of service provided by the districts. (GC §56425 (i), (j))
8. **Service Review Requirement.** Consistent with GC §56430, LAFCO will prepare a service review prior to or in conjunction with the establishment or update of the SOI unless LAFCO determines that a prior service review is adequate. A SOI amendment that does not have any adverse regional, planning, economic, service, or environmental impacts will not require a service review.
9. **Consistency with Service Reviews.** LAFCO will consider applicable service reviews when rendering SOI determinations and discourage SOI amendments that undermine service review determinations and recommendations.

10. **City SOIs and Annexation.** Inclusion of territory within a city SOI should not necessarily be seen as an indication that the city will either annex or develop such territory to urban levels. The USA boundary shall serve as an indication of a city's intent for annexation, urban development and provision of urban services.
11. **Overlapping SOIs.** Spheres of Influence for cities and special districts may overlap when both agencies expect to provide different services to the area.
12. **Special Districts Providing Urban Services Outside City USAs.** Consistent with the intent of the CUDPs that urban development should occur within city USAs, and that urban services necessary for urban development should only be provided within adopted USAs, SOIs for special districts which provide urban services outside USAs shall be aligned as closely as possible with existing city USAs. LAFCO shall discourage expansion of the SOI of a special district that would extend urban services for purposes of promoting new development in unincorporated areas outside city USAs.
13. **Service Duplication.** LAFCO will discourage duplications in service provision when establishing a new SOI or amending an existing SOI.
14. **Special District "Zero SOIs."** Where a special district is coterminous with or lies substantially within the boundary or SOI of a city or another district which is capable of providing the service, the special district may be given a zero sphere of influence which encompasses no territory. The zero sphere of influence designation indicates LAFCO's determination that after consideration of all factors in GC §56425, the agency should cease to exist and that its public service responsibilities should be re-allocated to another agency, as necessary, through consolidation, merger, dissolution or establishment as a subsidiary district.

The CKH Act specifies the criteria and procedures for the initiation of such subsequent reorganizations, and for the LAFCO review and approval process. Therefore, a zero SOI does not mean that LAFCO will automatically dissolve a district.

15. **City SOI Updates and Required Meeting with County.** Prior to a city submitting an application to LAFCO to update its SOI, the city shall complete the requirement contained in GC §56425(b) to meet with the County to discuss the proposed new SOI boundary and explore methods to reach agreement on development standards and planning and zoning requirements within the SOI. The purpose of this requirement is to consider city and County concerns and promote logical and orderly development within the SOI.

Pursuant to GC §56425(b) & (c), if an agreement is reached between the city and the County, the city must forward the agreement to LAFCO along with its application to update the SOI. LAFCO shall consider the agreement when determining the city's SOI and give it great weight, to the extent that it is consistent with LAFCO policies. If LAFCO's final SOI determinations are consistent with the agreement, the city and the County must adopt the agreement at noticed public hearings. After the agreement is adopted by the city and county and

reflected in their respective General Plans, any County-approved development within the SOI must be consistent with the agreement terms.

Pursuant to GC §56425(d), if no agreement is reached between the city and the County, the application may be submitted to LAFCO and LAFCO shall consider a SOI for the city consistent with LAFCO policies.

CHAPTER 3. URBAN SERVICE AREA POLICIES

3.1 INTRODUCTION

In Santa Clara County, Urban Service Areas (USAs) are geographic planning areas that encompass all lands, incorporated or unincorporated, intended to be urbanized and provided with urban services and infrastructure upon annexation to a city.

The definition and application of USAs in Santa Clara County are unique and are part of a long-standing countywide growth management framework referred to as the Countywide Urban Development Policies (CUDPs). Under these policies, urban expansion is to occur in an orderly, efficient, and planned manner within cities, which are solely responsible for planning and accommodating urban development within explicitly adopted USA boundaries whose location and expansion is subject to Santa Clara LAFCO approval.

The USAs were first proposed by each of the 15 cities and adopted by Santa Clara LAFCO in 1972-1973 as further documented in the Countywide Urban Development Policy # 1.4. With the continued implementation of the CUDPs since the early 1970s, Santa Clara LAFCO assumed a critical role as the arbiter of urban area expansion through the review and amendment of USAs. This role gives Santa Clara LAFCO the responsibility to protect natural resource lands while facilitating the development of vibrant, more sustainable communities. Santa Clara LAFCO's ongoing mission creates public value across Santa Clara County, limiting unnecessary urban expansion, promoting appropriate infill and redevelopment, minimizing public service costs, and preserving the remaining vital natural and open space resources from which the county as a whole benefits.

Because of its advance review and determination of USA boundaries, Santa Clara LAFCO does not review proposals for city annexation of unincorporated lands located within a city's USA. State law [Government Code (GC) §56757] gives cities in Santa Clara County the authority to conduct and approve such annexations within their USA boundaries if the proposals are initiated by city resolution and meet certain conditions.

3.2 URBAN SERVICE AREAS DEFINED

In Santa Clara County, USA boundaries delineate and differentiate those areas intended to be urbanized from those areas not intended to be urbanized. USAs include lands currently urbanized and annexed to cities and provided with urban services, as well as unincorporated lands that a city intends to annex in order to develop those lands and provide them with urban services within five years.

USAs intentionally exclude natural resource lands, such as agricultural and open space lands; and lands deemed generally unsuited for urban development, such as bay lands, floodplains, wetlands, hillsides and mountainous lands, seismic and/or geologic hazard areas, and very high fire hazard areas.

3.3 URBAN SERVICE AREA AMENDMENT PROCEDURAL POLICIES

The following procedures apply for processing of urban service area amendment proposals:

1. **Initiation.** All USA amendments require Santa Clara LAFCO approval. An USA amendment request must be initiated by city council resolution and application to LAFCO.
2. **City Evaluation.** While a city may process requests for USA amendments on behalf of property owners, it is the city's responsibility as the LAFCO applicant to first evaluate whether the request is consistent with the applicable city, county, and LAFCO policies and determine whether the city supports the request.
3. **Pre-Application Meeting.** In order to aid the city's evaluation of an USA amendment request, LAFCO encourages the city to have a pre-application meeting with LAFCO staff as early as possible to discuss its USA amendment plans and obtain more information on the LAFCO policies and procedures that may apply to the specific proposal.
4. **Major General Plan Updates.** LAFCO requires that a city establish a stable baseline of its service plans and land use designations for LAFCO's evaluation of its USA amendment request. Therefore, LAFCO will not accept an USA amendment request from a city that is in the process of conducting a major General Plan update which involves changes to land use designations and service plans. LAFCO staff may consider limited exceptions on a case-by-case basis.
5. **USA Amendment Request Frequency.** Each city may submit an USA amendment request to LAFCO once in a calendar year. The date the application is heard by LAFCO shall determine the calendar year. USA amendment requests shall be limited to once a year in order to encourage a city to consider and understand the comprehensive impacts of USA amendments on its services, facilities / infrastructure, fiscal health, and the environment; and to ensure that LAFCO considers such requests in a similarly comprehensive manner. Until a city's application has been heard and acted upon by LAFCO, no further USA amendment requests will be accepted for filing from that city.
6. **Exception to Once-a-Year Rule.** The Commission may make an exception to the once-a-year limitation for USA amendment requests when such amendment is needed to carry out some special institutional development or activity that is in the public interest. Such exceptions shall not normally be extended in connection with proposed residential, commercial, or industrial development.
7. **CEQA.** An USA amendment proposal is considered a project under the California Environmental Quality Act (CEQA). Pursuant to CEQA, a city would be the Lead Agency for such a proposal and LAFCO would be a Responsible Agency. Therefore, LAFCO is required to rely on the city's CEQA documentation (initial study, negative/mitigated negative declaration, environmental impact report, etc.), with few exceptions. Cities must consult with LAFCO on the scoping of CEQA documentation for the potential proposal.

3.4 URBAN SERVICE AREA AMENDMENT POLICIES AND EVALUATION CRITERIA

Review and amendment of USA boundaries is Santa Clara LAFCO's primary vehicle for ensuring orderly city growth. Therefore, Santa Clara LAFCO shall carefully consider all USA amendment requests, consistent with LAFCO policies and State law.

USA amendment proposals may involve expansion of an USA to accommodate future growth; retraction of an USA to better align with city's growth and open space / agricultural land preservation plans, and adjustments between cities' USA boundaries to facilitate island annexations and logical boundaries; and enhance service delivery and governance efficiencies.

Consistent with the CUDPs, it is the goal of Santa Clara LAFCO that future urban development and other necessary public facilities such as schools and recreational facilities should be planned and accommodated within existing urban areas, through infill and redevelopment, rather than through the expansion of USA boundaries. Such city-centered, climate-smart growth policies play a critical role in preventing sprawl, ensuring efficient delivery of services, promoting more efficient use of existing urbanized areas, and preserving open space and agricultural lands.

A complementary goal is that where expansion is necessary, it should be done to accommodate the demonstrated need for urban growth in as compact and efficient manner as possible, supportive of the above goal and rationale.

To further these goals and in accordance with GC §56668, Santa Clara LAFCO must take into account many factors when considering an USA amendment proposal. Certain factors may be more applicable or more critical than others, depending on the specific proposal and circumstances. The following are Santa Clara LAFCO's policies and evaluative criteria for considering USA amendment proposals:

1. **Infill and Efficient Development Patterns.** In order to promote efficient development patterns and compact infill development and prevent the conversion of agricultural land in accordance with GC §56377, Santa Clara LAFCO shall discourage amendment proposals that seek to expand the USA when a city has a more than 5-year supply of vacant land within its existing USA or when a city does not clearly demonstrate the need for the USA amendment. LAFCO will consider the following evaluative criteria:
 - a. The city's explanation for why the USA amendment is necessary, why infill development is not undertaken first, and how an orderly, efficient growth pattern, consistent with LAFCO mandates will be maintained
 - b. The city's current vacant lands inventory for the same or similar proposed uses prepared in accordance with Santa Clara LAFCO's Vacant Lands Methodology included as Exhibit A. The vacant lands inventory is an informational tool to help evaluate the availability of vacant lands within the city. If a city has special conditions that do not align with LAFCO's methodology, it may also prepare an alternate vacant lands inventory and explain why the alternate analysis is more appropriate, for LAFCO's consideration.

- c. Whether the city has a more than 5-years supply of vacant lands that can be developed for the same or similar proposed uses as determined by the LAFCO Vacant Lands Methodology. If the city has more than 5-years supply, LAFCO shall consider the city's explanation for the need for more lands at this time, along with all the other factors for considering USA amendment proposals.
 - d. Whether and to what extent the city has developed and successfully implemented targeted strategies such as fiscal and regulatory incentives to generate active and more efficient use of vacant and underutilized lands within its existing boundaries
 - e. Whether the city has planned for and implemented policies for encouraging higher density development in order to use land more efficiently
 - f. Whether the City has applied an appropriate general plan and pre-zoning designation to the proposal area
 - g. Whether the proposed urban development is imminent or is likely to occur within the proposal area within the next 5 years
 - h. Whether the city has planned for locating its community's facility needs such as schools, and recreational facilities, within its existing boundaries
2. **Impacts to Agricultural and Open Space Lands.** In order to preserve agricultural and open space lands, Santa Clara LAFCO shall discourage amendment proposals that include or adversely impact agricultural lands and open space, consistent with GC §56377(a). LAFCO will consider:
- a. Whether the proposal will result in the conversion of prime agricultural lands. As defined in GC §56064, "prime agricultural land" means an area of land, whether a single parcel or contiguous parcels, that has not been developed for a use other than an agricultural use and that meets any of the following qualifications:
 - i. Land that qualifies, if irrigated, for rating as class I or class II in the USDA Natural Resources Conservation Service land use capability classification, whether or not land is actually irrigated, provided that irrigation is feasible
 - ii. Land that qualifies for rating 80 through 100 Storie Index Rating
 - iii. Land that supports livestock used for the production of food and fiber and that has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture in the National Range and Pasture Handbook, Revision 1, December 2003
 - iv. Land planted with fruit or nut-bearing trees, vines, bushes, or crops that have a nonbearing period of less than five years and that will return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than four hundred dollars (\$400) per acre

- v. Land that has returned from the production of unprocessed agricultural plant products an annual gross value of not less than four hundred dollars (\$400) per acre for three of the previous five calendar years
- b. Pursuant to GC §56668 and GC §56668(e), whether the proposal will adversely impact the continued agricultural productivity and viability of the proposal area, and/or adjacent/surrounding lands, including but not limited to the following factors:
 - i. Whether the proposal area, and/or adjacent/surrounding lands are located within an Agricultural Resource Area or Agricultural Preservation Area designated by the County, a city, or another public land conservation entity
 - ii. Whether the proposal area, and/or adjacent/surrounding lands are located within a designated Agricultural Zoning District in an adopted County and/or City Zoning Ordinance
 - iii. Whether the proposal area, and/or adjacent/surrounding lands are designated “Agriculture” in an adopted County and/or City General Plan
 - iv. Whether the proposal would introduce incompatible land uses into an agricultural area, generate urban/agricultural conflicts, or promote land speculation and disinvestment in agriculture – disrupting the conditions necessary for agriculture to thrive
 - v. Whether public facilities or infrastructure (e.g. such as roads, sanitary sewers, water lines, stormwater drainage facilities) related to the proposal would be sized or situated as to facilitate conversion of agricultural lands located outside of the proposal area, or will be extended through adjacent/surrounding agricultural lands
 - vi. Whether natural or man-made barriers serve to buffer agricultural or existing open space lands outside of the proposal area from the effects of the proposal
 - vii. Whether the proposal area, and/or adjacent/surrounding lands include lands that are subject to a Williamson Act contract or Farmland Security Zone contract
 - viii. Whether the proposal area, and/or adjacent/surrounding lands are under an agricultural or open space conservation easement
 - ix. Whether the proposal area, and/or adjacent/surrounding lands are designated in the Department of Conservation’s Farmland Mapping and Monitoring Program as Prime Farmland, Farmland of Statewide Importance, Unique Farmland, or Farmland of Local Importance
- c. The city’s explanation for why the conversion of agricultural lands and/or open space is necessary to promote the planned, orderly, efficient development of the city
- d. Whether the city has developed and successfully implemented measures/plans to first avoid and minimize the conversion of agricultural or

open space lands prior to bringing forward a proposal that involves conversion of agricultural or open space lands; and in instances where it is not possible to avoid or minimize conversion, whether the proposal contains mitigation for the conversion of any such lands consistent with LAFCO policies

- e. If an amendment proposal includes agricultural or open space lands for the purpose of preservation, LAFCO will require an explanation of why the inclusion of agricultural or open space lands is necessary and a demonstration that effective measures have been adopted for permanently protecting the agricultural or open space status of the affected territory. Such measures may include:
 - i. Acquisition and transfer of ownership of agricultural land or transfer of agricultural conservation easements to an agricultural conservation entity for permanent protection of the agricultural land
 - ii. Acquisition and transfer of ownership of open space or transfer of open space easements to a conservation entity for permanent protection of the open space land
3. **Logical, Orderly Boundaries.** LAFCO shall discourage amendment proposals that will not result in logical and orderly boundaries. LAFCO will consider:
- a. Whether the boundaries of the proposal are contiguous with the current USA [GC §56757(c)(6) and GC §56668(f)]
 - b. Whether the proposal will result in islands, flags, peninsulas, corridors or other irregular boundary configurations which are illogical and/or difficult to serve [GC §56757(c)(4)]
 - c. Whether the boundaries of the proposal follow natural and man-made features, such as ridge lines, drainage areas, watercourses, edges of right-of-way, and lines of assessment or ownership [GC §56668(a)]
 - d. Whether the proposed boundaries would result in an intrusion of urbanization into a predominantly agricultural or rural area [GC §56668(d)]
4. **Avoid Natural Hazard Lands.** In order to minimize public exposure to risks associated with natural hazards and limit unplanned public costs to maintain and repair public infrastructure, LAFCO shall discourage USA expansions into lands designated very high fire hazard zones and into lands subject to other natural hazards such as geologic / seismic hazards, flood hazards, and fire hazards, Pursuant to GC §56668(q), LAFCO will consider maps and information related to fire hazards, FEMA flood zones, earthquake fault zones and landslide hazard zones contained in:
- a. A local hazard mitigation plan
 - b. A safety element of a general plan
 - c. Any maps that identify land as a very high fire hazard severity zone pursuant to GC §51178 or maps that identify land determined to be in a state responsibility area pursuant to §4102 of the Public Resources Code

5. **Availability of Adequate Water Supply.** In order to ensure timely availability of water supplies adequate for existing and planned future needs, LAFCO shall discourage amendment proposals that do not clearly demonstrate that an adequate water supply is available to the proposal area(s) pursuant to GC §65352.5, and that water proposed to be provided to new areas does not include supplies needed for unserved properties already within the city, the city's USA or other properties already charged for city water services. In determining water availability pursuant to GC §56668(l), LAFCO will consider the following:
 - a. The city's plan for providing water service to the area and its statement of existing water supply including:
 - i. The current version of the city's or water supplier's urban water management plan and capital improvement program or plan, and the current version of the groundwater management agency's groundwater sustainability plan
 - ii. A description of the source or sources of the water supply currently available to the city taking into account historical data concerning wet, normal, and dry runoff years
 - iii. The quantity of surface and groundwater that was purveyed by the city / water supplier in each of the previous five years including a description of the number of service units available; number of service units currently allocated; number of service units that are anticipating future service within the city and its current USA boundary and number of service units needed for the proposal area
 - b. Whether the city is able to provide adequate water supply to the proposal area in the next 5 years, including drought years, while reserving capacity for areas within the city and USA that have not yet developed
 - c. Whether the city is capable of providing adequate services when needed to areas already in the city, in the city's USA or to other properties entitled to service
 - d. If capacity is not reserved for unserved property within the city and its USA, the current estimate of potential unserved properties and related water supply needs
 - e. Whether additional infrastructure and or new water supplies are necessary to accommodate future development or increases in service demand. If so, whether plans, permits and financing plans are in place to ensure that infrastructure and supply are available when necessary, including compliance with required administrative and legislated processes, such as CEQA review, CEQA mitigation monitoring plans, or State Water Resources Board allocation permits. If permits are not current or in process, or allocations approved, whether approval is expected
 - f. Whether facilities or services comply with environmental and safety standards so as to permit acquisition, treatment, and distribution of necessary water

6. **Ability to Provide and Fund Public Services and Infrastructure.** In order to ensure efficient service provision, LAFCO shall discourage amendment proposals that do not clearly demonstrate that the city has the ability to provide and fund services to the proposal area without detracting from current service levels within the city, and in areas that the city has already committed to serve. Consistent with GC §56668(b) and (k), LAFCO will consider:
 - a. The city's plan for providing services (such as sewer, water, police, fire, stormwater, garbage disposal, library, lighting, parks, and street maintenance) within the proposal area prepared in accordance with LAFCO's Guide for preparing a Plan for Service included as Exhibit B, and which pursuant to GC §56653 shall include:
 - i. An enumeration and description of services currently provided and/or to be provided and the corresponding service provider
 - ii. The level and range of those services as well as detailed information on the size, location, and capacity of infrastructure both existing and required
 - iii. Estimated time frame for service delivery
 - iv. A statement indicating capital improvements, or upgrading of structures, roads, sewers, water facilities or other conditions that the city would require in the affected territory prior to providing service
 - v. A description of how the services will be financed
 - b. Whether the proposal is expected to result in any significant increase in service needs and/or new facilities, personnel, apparatus or equipment as a result of adding the proposal area
 - c. Whether the anticipated increase in service needs (e.g. increase in calls for fire and police services) and/or new facilities are likely to result in an increase in service costs and how the city plans to finance the anticipated increase in service costs
 - d. Whether the proposal will require the construction of new infrastructure (e.g. sanitary sewers, water mains, stormwater drainage facilities) and/or expansion of existing infrastructure (e.g. wastewater treatment plant, water treatment plant) and how the city plans to address the associated fiscal impacts
 - e. The ability of school districts to provide school facilities and whether there would be sufficient school capacity available to serve the affected territory at the time of development
7. **Fiscal Sustainability.** In order to ensure fiscal sustainability, LAFCO shall discourage amendment proposals that would have adverse financial impacts on the provision of government services. Consistent with GC §56668(c) & (k), LAFCO will consider the following:

- a. Financial impacts to the County, and to the affected city, special districts, and school districts and the feasibility of measures identified to mitigate any adverse impacts
 - b. Existence of any significant citywide infrastructure maintenance funding gaps and feasibility of the measures identified by the city to address such gaps
 - c. The city's anticipated need for major capital improvement projects related to water, wastewater, stormwater, roads, fire, and police services, and the feasibility of funding measures to address these needs
 - d. City's reliance on reserves to address financial impacts and consistency with the city's adopted reserve policy
8. **Island Annexations.** In order to ensure efficient service provision and orderly growth and development, LAFCO shall discourage USA amendment proposals that seek to add new lands to a city's USA when a city has unincorporated islands existing within its current USA. LAFCO will consider:
 - a. Whether the city has initiated and completed annexation proceedings and / or adopted annexation plans and taken appropriate actions to annex its islands as recommended in LAFCO's Island Annexation Policies
 - b. The city's explanation of why annexation of the island(s) is not undertaken first
9. **Conformance with Service Reviews and Spheres of Influence.** In accordance with GC §56668(i), LAFCO shall consider the applicable service reviews and shall discourage amendment proposals that are inconsistent with adopted service review determinations and recommendations, or that are inconsistent with the LAFCO adopted sphere of influence for an affected local agency.
10. **Conformance with City and County General Plans.** In accordance with GC §56668(h), LAFCO shall consider whether the proposed USA amendment is consistent with the current city and county general plans and policies.
11. **Conformance with Regional Transportation Plan.** Consistent with GC §56668(g), LAFCO shall discourage USA amendment proposals that undermine the goals of the Regional Transportation Plan and Sustainable Communities Strategy prepared by the Metropolitan Transportation Commission (MTC) for the nine-county San Francisco Bay Area.
12. **Impacts on Housing.** LAFCO shall discourage USA amendment proposals that undermine Regional Housing Needs Allocation plans, reduce affordable housing stock, or propose additional urbanization without attention to affordable housing needs. LAFCO will consider:
 - a. The extent to which the proposal will affect a city or county in achieving their respective Regional Housing Needs Allocation plans as determined by Association of Bay Area Governments (ABAG), consistent with GC §56668(m)

- b. Whether the proposal introduces urban uses into rural areas thus increasing the value of currently affordable rural area housing and reducing regional affordable housing supply
 - c. Whether the proposal directs growth away from agricultural/open space lands towards infill areas and encourages development of vacant land within existing urban areas thus decreasing infrastructure costs and potentially housing construction costs
 - d. Whether funding of infrastructure to support development in the proposal area imposes an unfair burden on residents or customers within the existing boundaries thus impacting housing construction costs in the proposal area and within existing boundaries
- 13. **Environmental Justice.** In accordance with GC §56668(p), LAFCO will consider the extent to which the amendment proposal will promote environmental justice, specifically the fair treatment and meaningful involvement of people of all races, cultures, incomes, and national origins with respect to the location of public facilities and the provision of public services in order to ensure a healthy environment for all people such that the effects of pollution are not disproportionately borne by any particular populations or communities.
- 14. **Public Comments.** In accordance with GC §56668(j) and (n), LAFCO shall consider comments from any affected public agencies or other public agency, proponents, landowners, voters, interested parties and members of the public.
- 15. **Agricultural Worker Housing Needs.** In order to promote efficient development patterns and compact infill development and prevent the conversion of agricultural land in accordance with GC §56377, Santa Clara LAFCO shall encourage, to the extent possible, agricultural worker housing to be located within cities or their urban service areas, where necessary infrastructure, services, support resources, and the broader community already exists.
 - a. Agricultural workers are an essential component of Santa Clara County's agricultural industry and agricultural worker housing supports the preservation of open space and agricultural lands, continued sustainability of agriculture, delivery of agricultural produce, and continued viability of Santa Clara County's food system. Santa Clara LAFCO will give special consideration to USA amendment proposals that consist solely of agricultural worker housing and that meet both the following requirements:
 - i. The city seeking USA amendment has methods (e.g., requirements for recordation of deed restrictions and/or affordability covenants on the property) currently in place to ensure affordability and occupancy of the proposed agricultural worker housing for eligible agricultural workers over the long term and for not less than 55 years.
 - ii. The proposed agricultural worker housing will be maintained and operated by a qualified affordable housing organization that has been certified pursuant to Health & Safety Code §17030.10, a public agency, or an employer providing housing.

- b. Santa Clara LAFCO shall consider the following in evaluating such proposals:
 - i. Whether the proposal fulfills the established need for agricultural worker housing and whether it is consistent with the city and/or County's long-term agricultural land conservation plans
 - ii. Whether the proposed development of agricultural worker housing is imminent or is likely to occur within the proposal area within the next 5 years in accordance with Policy #3.4.1(g)
 - iii. Whether the proposal will result in logical and orderly boundaries in accordance with Policy #3.4.3, and whether the city has the ability to provide and fund necessary public services and infrastructure in accordance with Policy #3.4.6

Exhibit A

SANTA CLARA LAFCO's METHODOLOGY FOR PREPARING A VACANT LANDS INVENTORY

Policy objective that LAFCO seeks to achieve through the Vacant Lands Inventory

LAFCO will use the information contained in a Vacant Lands Inventory to promote efficient use of land within a city's current boundaries prior to expanding its boundaries.

What should a Vacant Lands Inventory Include?

A vacant lands inventory provides information on the rate of development within the city and the amount of vacant land located within the city's USA.

The vacant lands inventory is a one-time snapshot of vacant and underutilized lands for the same or similar land uses within the city's urban service area and it must include the following:

- A map showing the location of vacant lands. In terms of scale, a city's general plan land-use diagram or map is appropriate.
- A corresponding table listing the vacant lands with APNs, parcel sizes, current general plan designation, allowed density etc.

Methodology for Preparing the Inventory

The following definitions and methodology shall apply for the preparation of a vacant lands inventory:

- Vacant lands are undeveloped and/or underutilized lands (i.e., lands developed to less than their minimum development potential as identified in the city's current general plan and zoning ordinance) located within the city's Urban Service Area, that have no active building permit.
- The city's current general plan/zoning designations shall define the maximum development potential for the vacant lands.
- The calculation of the rate of absorption of vacant lands within a city shall be based on the average number of building permits issued by the city in the previous 10 years.

Sample Table of Residential Vacant lands Inventory for City XYZ

| RESIDENTIAL LAND USES | VACANT LANDS (ACRES) | ALLOWED DENSITY (UNITS/ACRE) | MAX. POTENTIAL UNITS |
|----------------------------|----------------------|------------------------------|----------------------|
| Rural Residential | 150 | 1-2 | 300 |
| Residential Neighborhood | 115 | 3-8 | 920 |
| Medium Density Residential | 30 | 8-20 | 600 |
| High Density Residential | 25 | 21-40 | 1,000 |
| Mixed Use Neighborhood | 12 | 30-50 | 600 |
| Specific Plan | 52 | 500 units | 500 |
| TOTALS | 384 | | 3,920 (A) |

Sample Table of # of Residential Building permits issued by City XYZ in the last 10 years

| Years | # of Building Permits |
|-------------------------------|-----------------------|
| Year 1 | 290 |
| Year 2 | 277 |
| Year 3 | 301 |
| Year 4 | 329 |
| Year 5 | 297 |
| Year 6 | 318 |
| Year 7 | 320 |
| Year 8 | 412 |
| Year 9 | 422 |
| Year 10 | 450 |
| Average # of Building Permits | 341.6 (B) |

Sample Calculation of the Rate of Absorption of Vacant Land

Years of residential development that City XYZ

can accommodate within its existing vacant land = A/B

$$= 3,920/341.6$$

$$= \underline{\underline{11.5 \text{ years}}}$$

Exhibit B

SANTA CLARA LAFCO's GUIDE FOR PREPARING A PLAN FOR SERVICES

Policy objective that LAFCO seeks to achieve through the Plan for Services

LAFCO will use the information contained in a Plan for Services to ensure that the proposed service provider is able to adequately provide services to the proposal area without detracting from current service levels within the service providers' current service area or in the areas the service provider has already committed to serve.

What should a Plan for Service Contain?

A Plan for Service describes the services that would be provided to the proposal area upon LAFCO approval of the proposal. It explains how and when the service provider would provide the services, how much the services would cost and how those costs would be financed and whether the services and costs are considered in the service providers' long range master plans, Capital Improvement Plans, and budgets. The Plan for Service should also include information on whether the service provider is able to meet its current service demand and describe any ongoing service or infrastructure deficiencies and the service provider's plan for addressing the deficiencies as specified in its master plans, Capital Improvement Plans, and budgets.

GC §56653 outlines the information that a Plan for Service must contain. Further clarification of the specific requirements is provided below:

1. An enumeration of current and proposed services (including but not limited to water, sewer, storm drainage, solid waste collection, fire, police, lighting, parks, library services, roads and schools) in the proposal area. A description of who currently provides the service and who would provide the service to the proposal area upon LAFCO's approval.
2. The level and range of the service provider's existing services/facilities/ infrastructure that will be used to provide the desired services to the proposal area including detailed information on the extent, size, location and capacity of existing facilities and infrastructure that will be used to provide desired services to the proposal area.
 - 2.a. For each service, the capacity analysis should include:
 - The total capacity / service units of the current system
 - Number of service units already allocated
 - Number of service units within current boundaries anticipating future service
 - Number of service units within the system available after providing service to areas within current boundaries that anticipate future service
 - Number of service units required to serve the proposed project and whether there is enough capacity within the current system
 - Number of service units proposed to be added to meet the demand

- 2.b. In the event there is a need to add service units to serve the proposed project, the applicant shall provide a plan for obtaining the capacity necessary to provide the service which must include the following information:
- Number of service units proposed to be added to meet the demand from the proposal area
 - A description of the required facility or infrastructure (new or expansions), or additional personnel or equipment
 - The viability and likely schedule for completion of the expanded capacity project, its viability, and its relation to the proposal and the proposal timeline
 - A list of required administrative and legislated processes, such as CEQA review or State Water Resources Board allocation permits, including assessment of likelihood of approval of any permits and existence of pending or threatened legal or administrative challenges if known
 - The planned total additional capacity
 - The size and location of needed capital improvements
 - The proposed project cost, financing plan and financing mechanisms including a description of the persons or properties who will be expected to bear project costs, and how much the costs will be
 - Any proposed alternative projects if the preferred project cannot be completed.
3. The estimated time frame for service delivery to the proposal area
4. A statement indicating any capital improvements, or upgrading of structures, roads, sewer or water treatment facilities or other conditions the agency would impose or require within the affected territory prior to providing service if proposal is approved
5. A description of the cost of services and how the services will be financed
6. Agency's general statement of intent to provide services to the affected territory, indicating the agency's capability of providing the necessary services in a timely manner to the affected territory while being able to serve all areas within its current boundaries and without lowering the level of service provided to areas currently being served by the agency

CHAPTER 4. ANNEXATION, DETACHMENT, AND REORGANIZATION POLICIES

4.1 INTRODUCTION

Under generally applicable provisions of state law, Local Agency Formation Commissions (LAFCOs) for each county are designated as the sole approval authority for annexations, detachments, other changes of organization, and reorganizations of local agencies. However, in Santa Clara County, a city annexation or reorganization (e.g., annexation to a city and detachment from one or more special districts) proposed within a city's Urban Service Area (USA) may qualify for a "city-conducted" process, pursuant to Government Code (GC) §56757. Such proposals are not heard by LAFCO, but by the City Council of the appropriate city as described further below.

The policies and procedures for annexation to cities are thus differentiated from those applicable to special districts in Santa Clara County.

The State law definitions of the types of boundary changes addressed in this chapter include the following:

- **Annexation** is a change of organization involving "the inclusion, attachment, or addition of territory to a city or special district." [GC §56017]
- **Detachment** is a change of organization involving "the exclusion, deletion, or removal from a city or district of any portion of the territory of that city or special district." [GC §56033]
- **Reorganization** is the term used for two or more concurrent changes of organizations (e.g. annexation/detachment from a city, and annexation/detachment from a special district) contained in a single proposal. [GC §56073]

4.2 CITY ANNEXATIONS, DETACHMENTS AND REORGANIZATIONS

The Countywide Urban Development Policies (CUDPs), jointly adopted by LAFCO, the County and the 15 cities, stipulate that urban development is to occur within cities, rather than in the unincorporated areas; and that development that requires urban services should annex to cities. LAFCO has adopted USAs for each of the cities that include lands currently urbanized and annexed to cities and provided with urban services, as well as unincorporated lands that a city intends to annex in order to develop those lands and provide them with urban services within five years. Therefore, lands that a city intends to annex must first be located within the city's USA, as approved by LAFCO.

Historically, some cities have areas within their city limits that lie outside their USAs. Even though these areas are outside the USA, the city is not required to seek LAFCO approval to provide services to them, as long as the areas are within the city limits.

Annexation of any remaining unincorporated lands within adopted USAs (i.e. islands) has been a shared goal for the cities, County, and LAFCO. LAFCO policy encourages cities to annex such unincorporated lands in order to accommodate needed growth. (Chapter 6: Island Annexation Policies). The special allowance for "city-conducted" annexations as defined below is also intended to encourage and facilitate annexation of unincorporated lands within USAs.

The following are policies, and evaluative criteria and/or requirements for city annexations.

1. **City-Conducted Annexation.** Pursuant to GC §56757, in Santa Clara County, an annexation or a reorganization proposal that includes city annexation of unincorporated lands located within the USA of a city is not reviewed by LAFCO if the annexation or reorganization proposal is initiated by city council resolution. Further, the city council is required to conduct and approve the annexation or reorganization proposal after making all the following findings:
 - a. The unincorporated territory is located within the USA of the city as adopted by LAFCO.
 - b. The County Surveyor has determined the boundaries of the proposal to be definite and certain, and in compliance with LAFCO's Road Annexation Policies as listed in Policy #4.2.4. The city shall reimburse the county for the actual costs incurred by the County Surveyor in making this determination.
 - c. The proposal does not split lines of assessment or ownership.
 - d. The proposal does not create islands or areas in which it would be difficult to provide municipal services.
 - e. The proposal is consistent with the adopted general plan of the city.
 - f. The territory is contiguous to existing city limits
 - g. The city has complied with all conditions imposed by LAFCO for inclusion of the territory in the USA of the city.
2. **Pre-Zoning.** Consistent with GC §56375(a)(7), Santa Clara LAFCO requires pre-zoning of lands proposed for city annexation. Pre-zoning must be consistent with the city general plan designation for the lands. Both the pre-zoning and the general plan designation shall be considered in reviewing a city annexation proposal.
3. **Change of Pre-Zoning Limitation.** Pursuant to GC §56375(e), no subsequent change may be made to the city general plan or the zoning designations of the annexed territory that is not in conformance to the pre-zoning designations for a period of two years after the completion of the annexation, unless the city council makes a finding at a public hearing that a substantial change has occurred in the circumstances that necessitate the change.
4. **Annexation of Roads.** Cities shall annex appropriate segments of roads, freeways, highways, expressways, private roads or railroad rights-of-way, adjacent to or within the proposed annexation boundaries to ensure logical boundaries and efficient provision of public services. A city annexation proposal shall be designed to include:
 - a. A continuous section of roadway sufficient in length to allow road maintenance, and provision of other services such as policing of the street, fire protection, street maintenance, solid waste collection/disposal, by a single jurisdiction in an efficient manner without service duplication.

- b. Full-width sections of the street right-of-way to provide single-agency oversight, except that when a street is the boundary line between two cities, the centerline of the street may be used as the boundary.
 - c. Full-width street sections in increments of not less than one thousand linear feet, or the distance between two consecutive intersections, where 50 percent or more of the frontage on both sides of the street in said increment has been or is to be included in the city.
 - d. Existing short segments of county-maintained road to provide single-agency oversight of a full-width section of the road.
- 5. **Ability to Provide Public Services / Infrastructure.** Cities shall assume responsibility for ensuring that the annexed territory receives a full range of city services, and the city must clearly demonstrate its ability to provide services to the area proposed for annexation without detracting from current service levels within the city.
- 6. **Concurrent Detachment from Special Districts.** Cities shall concurrently detach the affected territory from special districts that will no longer provide service upon annexation to the city.
- 7. **Annexation to Special Districts for Services.** Where city annexations necessitate annexation to a special district in order to meet service needs, annexation of territory to the special district is required with consent from the special district. If the annexation territory is located outside the sphere of influence of the special district, LAFCO approval for an amendment of the special district sphere of influence and for annexation must be obtained.
- 8. **Annexation of Lands Under Williamson Act.** Pursuant to GC §56856.5, annexation of territory under Williamson Act Contract to a city or special district that would provide facilities or services related to sewers, nonagricultural water, or streets or roads shall be prohibited unless these facilities and services benefit land uses that are allowed under the Williamson Act Contract.
 - a. In evaluating such annexation proposals that involve Williamson Act lands, LAFCO will consider:
 - i. Whether the city or special district will limit the provision of urban services or facilities related to sewer, non-agricultural water or streets and roads to the proposal area
 - ii. Whether the city that would administer the contract after annexation has adopted policies and feasible implementation measures applicable to the affected territory ensuring the continuation of agricultural use and other uses allowable under the contract on a long-term basis
 - iii. Whether the proposal encourages or is necessary to provide planned, well-ordered, and efficient urban development patterns that include appropriate consideration of the preservation of open-space lands within those urban development patterns

- b. In approving city annexation of land subject to a Williamson Act Contract, pursuant to GC §56754, LAFCO shall, based on substantial evidence, determine one of the following:
 - i. That the city shall succeed to the rights, duties, and powers of the county pursuant to GC §51243; or
 - ii. That the city may exercise its options to not succeed to the rights, duties, and powers of the county pursuant to GC §51243.5.
9. **Conformance with Service Reviews and Spheres of Influence.** City annexations shall be consistent with city Spheres of Influence (SOI) and shall not undermine adopted service review determinations or recommendations.
10. **Annexation of Lands Outside a City's USA for Permanent Preservation of Open Space.** In general, cities are precluded from annexing lands outside adopted USA boundaries. If such annexation is to be considered, LAFCO is the approval authority. LAFCO strongly discourages city annexation of territory located outside a city's USA, unless consistent with the mission and policies of LAFCO.

LAFCO recognizes that in some limited circumstances, city annexations outside USAs may be appropriate, such as annexations that help promote permanent preservation of open space lands. Such annexation proposals outside city USAs will be considered on their merits on a case-by-case basis, and LAFCO shall reconsider allowance of exceptions to the general rule if it appears a pattern of such requests is developing.

In evaluating such annexation proposals, LAFCO shall consider, among other things, the following:

 - a. The city's explanation for why the annexation is necessary, why an USA expansion is not appropriate prior to annexation, and how the annexation will result in the permanent preservation of open space.
 - b. Whether effective measures have been adopted for permanently protecting the open space status of the affected territory. Such measures may include acquisition and transfer of ownership of open space or transfer of open space conservation easements to a conservation entity for permanent preservation of the open space.
 - c. Whether the city has applied an appropriate general plan and pre-zoning designation to the proposal area indicating the open space status of the lands.
11. **City Detachments subject to City Support.** Detachment of territory from a city requires LAFCO approval and pursuant to GC §56751, LAFCO may not approve a city detachment proposal if the city adopts and transmits a resolution seeking termination of the proposal.

4.3 SPECIAL DISTRICT ANNEXATIONS, DETACHMENTS, AND REORGANIZATIONS

LAFCO is the approval authority for all boundary changes for special districts. State law precludes LAFCO from approving a proposal to annex territory located outside the SOI of the affected special district. Therefore, territory proposed for annexation to a special district must first be located within the affected special district's SOI as approved by LAFCO.

If an annexation proposal includes territory that is located outside the affected special district's SOI, the proposal must include a request to LAFCO for an amendment to the SOI. LAFCO has adopted policies to help guide its consideration of SOI amendment proposals. Please see "Chapter 2. Sphere of Influence Policies" for further information.

In accordance with GC §56668, LAFCO must take into account many factors when considering special district annexation/detachment proposals. Certain factors may be more applicable or relevant than others, depending on the specific proposal and circumstances. The following are LAFCO's policies and evaluative criteria for special district annexation, detachment, and reorganization proposals:

1. **Consistency with Spheres of Influence** In order to promote orderly growth and development, and efficient service provision, and pursuant to GC §56375.5, LAFCO shall not approve a special district annexation proposal located outside of the affected special district's SOI.
2. **Conformance with Service Reviews.** LAFCO shall consider the applicable service reviews and shall discourage proposals that undermine adopted service review determinations or recommendations.
3. **Impacts to Agricultural and Open Space Lands.** In order to preserve agricultural lands and open space, LAFCO shall discourage proposals that include or adversely impact agricultural lands and open space, consistent with GC §56377(a) and GC §56668(e).
4. **Logical, Orderly Boundaries.** LAFCO shall discourage proposals that will not result in logical and orderly boundaries. LAFCO will consider:
 - a. Whether the boundaries of the proposal are contiguous with the existing district boundary [GC §56668(d) & (f)]
 - b. Whether the boundaries of the proposal are definite and certain, and whether the boundaries conform with lines of assessment or ownership [§56668(f)]
 - c. Whether the proposal will result in islands, flags, peninsulas, corridors or other irregular boundary configurations which are illogical and/or difficult to serve [GC §56668(f)]
 - d. Whether the boundaries of the proposal follow natural and man-made features, such as ridge lines, drainage areas, watercourses, and edges of right-of-way [GC §56668(a)]
5. **Special District Annexations to Provide Urban Services outside City USAs.** Consistent with the intent of the Countywide Urban Development Policies (CUDPs) and the County General Plan that prohibit urban development and the provision of

urban services in unincorporated areas outside city USAs; and in order to promote efficient development patterns, and prevent the conversion of agricultural land, LAFCO shall discourage special district annexation proposals that would extend urban services such as sewer and water to unincorporated lands outside existing city USAs.

However, LAFCO recognizes that in some limited circumstances, a special district annexation proposal may be in response to an existing threat to public health and safety (e.g., existing septic system failures, well contaminations, or well failures) in the rural unincorporated area, outside city USAs. LAFCO shall consider the following criteria in evaluating such proposals on a case-by-case basis:

- a. Whether the property is currently developed
- b. Whether the threat to public health and safety is substantial and immediate as documented by the County Department of Environmental Health and whether there are no other feasible means of addressing the situation
- c. Whether the proposed boundaries would result in an intrusion of urbanization into a predominantly agricultural or rural area
- d. Whether public facilities or infrastructure related to the proposal would be sized to exceed the capacity needed to address the situation and/or the development
- e. Whether a pattern of such requests is developing, and if so, the cumulative impact of such requests. If a pattern of such requests is developing, LAFCO shall encourage affected agencies to develop and successfully implement measures/plans to first avoid and minimize such requests which may be growth inducing

6. **Ability to Provide and Fund Public Services and Infrastructure.** In order to ensure efficient service provision, LAFCO shall discourage proposals that do not clearly demonstrate that the special district has the ability to provide services to the proposal area without detracting from current service levels within the special district, and in areas that the special district has already committed to serve. Consistent with GC §56668(b) and (k), LAFCO will consider:

- a. The special district's plan for providing services within the proposal area prepared in accordance with LAFCO's Guide for preparing a Plan for Services included as Exhibit B, and which pursuant to GC §56653, shall include:
 - i. An enumeration and description of services currently provided and/or to be provided and the corresponding service provider
 - ii. The level and range of those services as well as detailed information on the size, location, and capacity of infrastructure both existing and required
 - iii. Estimated time frame for service delivery
 - iv. A statement indicating capital improvements, or upgrading of structures, roads, sewers, water facilities or other conditions that the

special district would require in the affected territory prior to providing service

- v. A description of how the services will be financed
- b. Whether the proposal is expected to result in any significant increase in service needs and/or new facilities, personnel, apparatus or equipment as a result of adding the proposal area
- c. Whether the anticipated increase in service needs (e.g. increase in calls for fire and police services) and/or new facilities are likely to result in an increase in service costs and how the special district plans to finance the anticipated increase in service costs
- d. Whether the proposal will require the construction of new infrastructure and/or expansion of existing infrastructure and how the special district plans to address the associated fiscal impacts

Exhibit B

SANTA CLARA LAFCO's GUIDE FOR PREPARING A PLAN FOR SERVICES

Policy objective that LAFCO seeks to achieve through the Plan for Services

LAFCO will use the information contained in a Plan for Services to ensure that the proposed service provider is able to adequately provide services to the proposal area without detracting from current service levels within the service providers' current service area or in the areas the service provider has already committed to serve.

What should a Plan for Service Contain?

A Plan for Service describes the services that would be provided to the proposal area upon LAFCO approval of the proposal. It explains how and when the service provider would provide the services, how much the services would cost and how those costs would be financed and whether the services and costs are considered in the service providers' long range master plans, Capital Improvement Plans, and budgets. The Plan for Service should also include information on whether the service provider is able to meet its current service demand and describe any ongoing service or infrastructure deficiencies and the service provider's plan for addressing the deficiencies as specified in its master plans, Capital Improvement Plans, and budgets.

GC §56653 outlines the information that a Plan for Service must contain. Further clarification of the specific requirements is provided below:

1. An enumeration of current and proposed services (including but not limited to water, sewer, storm drainage, solid waste collection, fire, police, lighting, parks, library services, roads and schools) in the proposal area. A description of who currently provides the service and who would provide the service to the proposal area upon LAFCO's approval.
2. The level and range of the service provider's existing services/facilities/ infrastructure that will be used to provide the desired services to the proposal area including detailed information on the extent, size, location and capacity of existing facilities and infrastructure that will be used to provide desired services to the proposal area.
 - 2.a. For each service, the capacity analysis should include:
 - The total capacity / service units of the current system
 - Number of service units already allocated
 - Number of service units within current boundaries anticipating future service
 - Number of service units within the system available after providing service to areas within current boundaries that anticipate future service
 - Number of service units required to serve the proposed project and whether there is enough capacity within the current system
 - Number of service units proposed to be added to meet the demand

- 2.b. In the event there is a need to add service units to serve the proposed project, the applicant shall provide a plan for obtaining the capacity necessary to provide the service which must include the following information:
- Number of service units proposed to be added to meet the demand from the proposal area
 - A description of the required facility or infrastructure (new or expansions), or additional personnel or equipment
 - The viability and likely schedule for completion of the expanded capacity project, its viability, and its relation to the proposal and the proposal timeline
 - A list of required administrative and legislated processes, such as CEQA review or State Water Resources Board allocation permits, including assessment of likelihood of approval of any permits and existence of pending or threatened legal or administrative challenges if known
 - The planned total additional capacity
 - The size and location of needed capital improvements
 - The proposed project cost, financing plan and financing mechanisms including a description of the persons or properties who will be expected to bear project costs, and how much the costs will be
 - Any proposed alternative projects if the preferred project cannot be completed.
3. The estimated time frame for service delivery to the proposal area
4. A statement indicating any capital improvements, or upgrading of structures, roads, sewer or water treatment facilities or other conditions the agency would impose or require within the affected territory prior to providing service if proposal is approved
5. A description of the cost of services and how the services will be financed
6. Agency's general statement of intent to provide services to the affected territory, indicating the agency's capability of providing the necessary services in a timely manner to the affected territory while being able to serve all areas within its current boundaries and without lowering the level of service provided to areas currently being served by the agency

CHAPTER 5. OUT-OF-AGENCY SERVICE BY CONTRACT POLICIES

5.1 INTRODUCTION

The term “out-of-agency service by contract” (OASC) refers to an agency such as a city or special district providing new or extended services by contract or agreement outside its jurisdictional boundaries.

Prior to 1994, cities and special districts in California could avoid a LAFCO’s review process for annexation and provide services by contract outside their boundaries without obtaining LAFCO approval. This circumvented the Legislature’s intent for LAFCOs to regulate city and special district boundaries which generally determine where a city or special district provides services; furthermore, it undermined a LAFCO’s ability to guide growth, and ensure orderly development and good planning of infrastructure and services.

To prevent such circumvention and strengthen LAFCO’s position to better address issues concerning growth and sprawl, the Legislature added Government Code (GC) §56133 which requires cities and special districts to first request and receive written approval from LAFCO before providing new or extended services by contract outside their jurisdictional boundaries. GC §56133 was enacted in 1993 as part of Assembly Bill No. 1335 and became effective on January 1, 1994. Over subsequent years, GC §56133 has been amended several times to clarify a LAFCO’s role in regulating service provision outside jurisdictional boundaries. In 2003, the law was revised to state that GC §56133 does not apply to service extensions that occurred on or before January 1, 2001.

5.2 PROCEDURAL POLICIES FOR OUT-OF-AGENCY SERVICE BY CONTRACT PROPOSALS

The following procedures apply for processing of OASC proposals:

1. **LAFCO approval.** Government Code §56133 requires that a city or special district must apply for and obtain LAFCO approval before providing new or extended services by contract or agreement outside its jurisdictional boundaries, unless exempt pursuant to GC §56133(e).
2. **Initiation.** An OASC application to Santa Clara LAFCO must be initiated by resolution of the city or special district that is proposing to provide the service beyond its jurisdictional boundaries.
3. **Pre-Application Meeting.** A city or special district that seeks to or receives a request to provide service outside its jurisdictional boundaries must first evaluate whether the OASC request is consistent with applicable local and Santa Clara LAFCO policies and determine whether it supports the request. In order to aid such evaluation, Santa Clara LAFCO encourages a city/special district to schedule a pre-application meeting with LAFCO staff as early as possible to discuss their OASC plans and obtain more information on the policies and procedures that may apply to the specific proposal. LAFCO staff shall also assist the city/special district in investigating annexation as an alternative to submitting a formal OASC application.

4. **LAFCO Determination of Exemptions.** It is Santa Clara LAFCO's policy to encourage local agencies to engage in cost sharing and pursue innovative partnerships while also ensuring that OASC activities do not undermine jurisdictional boundaries, reduce local agency accountability and transparency, or lead to unintended growth-inducing impacts. In order to appropriately balance these interests, Santa Clara LAFCO, and not the city or special district that would provide the service, shall determine if a proposed OASC is exempt from the requirement for LAFCO approval pursuant to exemptions in GC §56133(e). The following procedures apply:
 - a. The city or special district shall contact LAFCO staff for a determination on whether an OASC proposal would be eligible for an exemption under GC §56133(e). Such consultations may occur via phone or email communication. LAFCO encourages the city or district to contact LAFCO staff as early as possible to discuss its OASC plans and obtain information on the LAFCO policies and procedures that may apply to the specific proposal.
 - b. The Executive Officer in consultation with LAFCO Counsel, shall provide a determination on whether or not the OASC proposal is exempt, such determination shall be appealable to LAFCO as described below in (d).
 - c. The Executive Officer shall inform the Commission of the determination at the next available meeting, unless it is an exploratory and not a formal inquiry.
 - d. The city or special district, at no cost, may appeal the Executive Officer's determination on the exemption to LAFCO. The appeal must include specific substantiation for the exemption and must be made within 10 business days of receiving the EO determination.
 - e. The appeal shall be heard by LAFCO at its next available meeting that permits adequate public notification. If LAFCO determines that the exemption does not apply, the city or special district must apply for and obtain LAFCO approval before providing services by contract outside boundaries.
5. **Administrative Approval.** An administrative approval of an OASC, without consideration by LAFCO, may be allowed in situations that pose an urgent public health or safety concern. The administrative approval shall be made jointly by the LAFCO Chairperson (or Vice Chairperson if the Chair is not available) and the Executive Officer. Both must agree that an administrative approval of the OASC proposal is appropriate, based upon the following criteria:
 - a. The lack of service being requested constitutes an immediate threat to public health and safety as documented by the County Department of Environmental Health.
 - b. The property is currently developed.
 - c. There are physical constraints on the property that prohibit a conventional service delivery method typically suited to the unincorporated area (e.g., septic system, private well, etc.), and there are no other feasible means or solutions available for addressing the situation.

The Executive Officer shall inform the Commission on the administrative approval of a OASC proposal at the next regularly scheduled LAFCO meeting.

6. **CEQA.** An OASC proposal is considered a project under the California Environmental Quality Act (CEQA). The Lead Agency for an OASC proposal shall be either 1.) the city or the county with the land use approval authority for the development that would receive the service; or 2.) the city or the special district that would provide the service. Santa Clara LAFCO would be a Responsible Agency and is required to rely on the lead agency's CEQA documentation. The Lead Agencies must consult with LAFCO on the scoping of CEQA documentation for the potential proposal.
7. **Recordation of Agreement for Services.** OASC applications shall include a service agreement signed by all relevant parties including the agency that would provide the service and the property owner. Upon Santa Clara LAFCO approval of an OASC proposal and within 3 months of the date of approval, the signed service agreement must be recorded with the Santa Clara County Recorder and submitted to LAFCO staff.

5.3 **POLICIES AND EVALUATION CRITERIA FOR OUT OF AGENCY SERVICE BY CONTRACT PROPOSALS**

Consistent with State law and the Countywide Urban Development policies (CUDPs) jointly adopted by LAFCO, the County and the 15 cities, it is Santa Clara LAFCO's goal that local agencies provide services within their jurisdictional boundaries and not extend services outside jurisdictional boundaries if annexation is a feasible alternative, unless it is in response to an existing public health and safety threat. Furthermore, in order to prevent sprawl, ensure efficient delivery of services, promote more efficient use of existing urbanized areas, and preserve open space and agricultural lands, LAFCO discourages OACS proposals that support new development in the unincorporated areas, outside city Urban Service Areas (USAs).

To further these goals, Santa Clara LAFCO shall carefully consider and evaluate OASC proposals consistent with its policies and the CKH Act. In addition to any other applicable factors enumerated in GC §56668, Santa Clara LAFCO shall consider the following policies and factors in evaluating the impacts of an OASC proposal:

1. **Conformance with Spheres of Influence.**
 - a. Pursuant to GC §56133(b), Santa Clara LAFCO may authorize a city or district to provide new or extended services outside its jurisdictional boundaries but within its sphere of influence, in anticipation of a later annexation.
 - b. Santa Clara LAFCO may authorize a city or district to provide new or extended services outside its SOI to respond to an existing or impending threat to public health and safety (as documented by the County Environmental Health Department) in accordance with GC §56133(c)(1), and after notification to any alternate service provider in accordance with GC §56133(c)(2).
2. **Annexation as Alternative to OASC.** Where feasible and within Santa Clara LAFCO policy, annexation to the city or the special district that would provide the

service is generally preferred to service extension outside its jurisdictional boundaries. Santa Clara LAFCO will consider whether annexation is a logical alternative to extending services beyond the jurisdictional boundaries of a local agency. An OASC proposal may be appropriate in certain limited cases where immediate annexation is not a feasible alternative due to lack of contiguity or other unique local circumstances.

In accordance with GC § 56133(b), Santa Clara LAFCO may approve a OASC proposal in anticipation of a future annexation if the agency is able to provide LAFCO with a resolution of intent to annex and with appropriate assurances which demonstrate that the OASC is an intermediate step toward eventual annexation. Such assurances will be evaluated on a case-by-case basis and should include all appropriate actions including and not limited to application of a pre-zoning designation, preparation of a plan for annexation, a provision in the service contract for the property owner to consent-to-a future annexation and/or to waive protest rights.

3. **Service Extensions into Unincorporated Area.** Consistent with the CUDPs and the County General Plan that prohibit urban development and the provision of urban services in unincorporated rural areas outside city USAs, Santa Clara LAFCO shall discourage OASC proposals that are intended to support new development in the unincorporated county, with the following two exceptions.

- a. **Extensions to Address Existing Public Health and Safety Threat.** Santa Clara LAFCO recognizes that in some limited circumstances, an OASC proposal into the rural unincorporated area may be appropriate if it is the only way to resolve an existing threat to public health and safety (e.g., existing septic system failures, well contaminations, or well failures). Consistent with §56133(c), Santa Clara LAFCO shall consider the following criteria in evaluating such proposals on a case-by-case basis:

- i. Whether the property is currently developed
- ii. Whether the threat to public health and safety is substantial and immediate, as documented by the County Department of Environmental Health and whether there are any other feasible means of addressing the situation
- iii. Whether the proposal would result in an intrusion of urbanization into a predominantly agricultural or rural area [GC §56668(d)]
- iv. Whether a pattern of such requests is developing, and if so, the cumulative impact of such requests. If a pattern of such requests is developing, LAFCO shall encourage affected agencies to develop and successfully implement measures/plans to first avoid and minimize such requests which may be growth inducing

- b. **Service Extensions to Agricultural Worker Housing.**

- i. Agricultural workers are an essential component of Santa Clara County's agricultural industry, and agricultural worker housing supports the preservation of open space and agricultural lands,

continued sustainability of agriculture, delivery of agricultural produce, and continued viability of Santa Clara County's food system. Santa Clara LAFCO will give special consideration to OASC proposals that consist solely of agricultural worker housing and that meet both the following requirements:

- A. The County has methods (e.g., requirements for recordation of deed restrictions and/or affordability covenants on the property) currently in place to ensure affordability and occupancy of the proposed agricultural worker housing for eligible agricultural workers over the long term and for not less than 55 years or for the duration of the approved use.
 - B. The proposed agricultural worker housing will be maintained and operated by a qualified affordable housing organization that has been certified pursuant to Health & Safety Code §17030.10, a public agency, or an employer providing housing.
- ii. Santa Clara LAFCO shall consider the following in evaluating such proposals, in accordance with OASC Policy #5.3.2:
 - A. Whether the proposed housing is consistent with the County General Plan, Zoning ordinance and its policies/plans for agricultural land preservation
 - B. Whether the proposal fulfills the established need for agricultural worker housing and whether it is consistent with the city and /or County's long-term agricultural land conservation plans
 - C. Whether the proposed agricultural worker housing development is imminent or is likely to occur with the next 5 years
 - D. Whether the proposal minimizes the conversion of and/or impacts to agricultural lands, for example, by designating building envelopes, siting on lands of lesser agricultural value, etc.
- 4. **Public Health and Safety.** Pursuant to GC § 56133(c)(1), Santa Clara LAFCO shall consider whether the OASC proposal is in response to an existing or impending threat to public health and safety as determined and documented by the County Environmental Health Department.
- 5. **Ability to provide Public Services.** Consistent with GC §56668(k), Santa Clara LAFCO shall require OASC proposals to clearly demonstrate that the city/special district has the ability to provide the proposed service without detracting from current service levels within its existing service area and shall consider criteria listed in Policies #3.4.5, #3.4.6, and #3.4.7, as applicable.
- 6. **Conformance with General Plans and Policies.** Consistent with GC §56668(h), Santa Clara LAFCO shall consider whether the OASC proposal is consistent with the policies and general plans of all affected local agencies, including cities, special districts and the county.
- 7. **Growth Inducing Impacts.** Consistent with GC §56668(d), Santa Clara, LAFCO shall consider the growth-inducing impacts of the OASC proposal and discourage

proposals that contribute to development of fringe areas or intrusion of urbanization into areas designated for non-urban uses. To limit growth inducing impacts, LAFCO shall consider whether public facilities or infrastructure related to the proposal would be sized to exceed the capacity needed for the proposed development and/or extended through agricultural, open space lands, or non-urban areas.

8. **Impacts to Agricultural and Open Space Lands.** Consistent with GC §56377(a), Santa Clara LAFCO shall discourage proposals that result in conversion of or have adverse impacts on agricultural or open space land and shall consider criteria in Policy #3.4.2(a. through d.).
9. **Conformance with Service Reviews.** Consistent with GC §56668(i), Santa Clara LAFCO shall consider the applicable service reviews and shall discourage OASC proposals that undermine adopted service review determinations or recommendations.
10. **Fire Protection Contracts.** Effective January 1, 2016, GC §56134 requires LAFCO approval of a fire protection contract or agreement that provides new or extended fire protection services outside a public agency's jurisdictional boundaries and meets either of the following thresholds: (1) transfers responsibility for providing services in more than 25 percent of the area within the jurisdictional boundaries of any public agency affected by the contract; or (2) changes the employment status of more than 25 percent of the employees of any public agency affected by the contract. Santa Clara LAFCO shall consider such OASC proposals for fire protection contracts pursuant to GC §56134.

The Commission will review such proposals for consistency with the required findings of GC §56134(h)(2)(i) and (j), as well as the overall purposes of LAFCO that encourage the efficient provision of government services.

CHAPTER 6. ISLAND ANNEXATION POLICIES

6.1 INTRODUCTION

In Santa Clara County, unincorporated land that is located within a city's Urban Service Area (USA) is considered an island. Over time, the cities have largely annexed most of the lands now within the USAs, through a combination of resident-initiated efforts, County and city programmatic efforts to annex whole islands, or on a parcel-by-parcel basis as a pre-requisite to new development or new land uses. However, some islands persist, large and small, which continue to be the subject of ongoing policy matters and annexation efforts.

The Countywide Urban Development Policies (CUDPs) stipulate that urban unincorporated islands within USAs should ultimately be annexed into their surrounding cities, so that cities have responsibility for urban services and land use authority over all lands within their USA boundaries. LAFCO has adopted USAs for cities, that include lands currently urbanized and annexed to cities and provided with urban services, as well as unincorporated lands (i.e. unincorporated urban islands) that a city intends to annex in order to develop those lands and provide them with urban services within five years.

6.2 HISTORY OF UNINCORPORATED URBAN ISLANDS

The USAs of many cities contain unincorporated islands. These islands are largely a result of development that occurred in the County in the 1950s and 1960s (prior to the adoption of the CUDPs). Immediately after World War II, most of the North Valley was unincorporated, agricultural, and cities had just begun to expand and develop. During this time, rapid urban development was often scattered, discontinuous, and not necessarily required to be within cities. This resulted in some unincorporated areas being developed, while city boundaries became more sprawling and irregular. Furthermore, as urban development and city annexation continued outward, some unincorporated areas were leapfrogged over and left under County jurisdiction, some remaining agricultural, some partly developed.

Historically, it has not been the role of the County government to provide urban services and infrastructure. As a result, the County has few mechanisms or resources for providing and maintaining urban infrastructure and services. The issue is further complicated by the inefficiencies of having to ensure that services are provided for many small, widely scattered developed areas that are surrounded or substantially surrounded by cities.

Specific services in some unincorporated urban islands are provided by special districts. Residents of these areas generally receive urban levels of service for the specialized services that are provided by the districts. However, the districts do not provide a full range of services, and it is similarly inefficient to have multiple special districts providing one or two specific services to small, scattered areas.

In other cases, residents of urban unincorporated islands may utilize city-provided services for which they pay no property taxes to the city. To minimize the complexities and inequities of urban service provision and to provide more regular and logical city boundaries, the islands within USAs should be annexed to cities. In fulfillment of that fundamental policy, over the past 50 years, the vast majority of the urban unincorporated

islands that existed in the 1970s have been annexed into cities, with the assistance of LAFCO and the County.

Nonetheless, at present, there still remain many unincorporated islands in the county, the majority of which are 150 acres or smaller. They are scattered across the county, from Gilroy to Mountain View, and from Los Gatos to the eastern edges of San Jose.

6.3 LEGISLATIVE HISTORY

LAFCO law includes various provisions that encourage the annexation of existing islands and discourage the creation of new islands. Moreover, since the late 1970s, State law has been amended numerous times to create additional provisions to encourage and facilitate the annexation of unincorporated islands into cities. In so doing, the state legislature has progressively and increasingly recognized the importance of island annexation to well-functioning urban areas and the relationship of such policies to other related planning goals of the state, such as curbing sprawl and preserving farmland.

In 2001, the State Legislature enacted the Cortese Knox Hertzberg Local Government Reorganization Act. One of the provisions of the Act allowed island annexations to occur through a streamlined process that does not require protest proceedings or elections, provided that the island meets specific criteria. In 2001, this provision applied to unincorporated islands up to 75 acres in size. In 2004 this provision was further amended to apply to islands up to 150 acres in size. This provision was originally set to expire on December 31, 2014. However, effective January 1, 2014, the State legislature removed the sunset date and made the streamlined island annexation provision permanent.

Currently, State law requires LAFCO to approve island annexations and waive protest proceedings, after notice and hearing, if the island annexation meets all the criteria outlined in Government Code (GC) §56375.3. This provision is limited to islands that do not exceed 150 acres in size as of January 1, 2014 pursuant to GC §56375.4. However, in Santa Clara County, pursuant to GC §56757, city annexations, including island annexations, are not decided by LAFCO, but by the City Council of the applicable city, as explained in LAFCO Policy #4.2.1 (Annexation, Detachment, and Reorganization Policies).

6.4 ISLAND ANNEXATION POLICIES

In order to fulfill the intent of the State Legislature, implement the CUDPs, and encourage efficient service provision and orderly growth and development, LAFCO supports and encourages cities to annex unincorporated islands within their USAs.

LAFCO has adopted the following policies to encourage the timely annexation of islands:

1. **Encourage Island Annexation.** LAFCO will encourage island annexations to cities and collaborate with the cities and the County in facilitating annexation of islands.
2. **Annex Entire Islands.** Where feasible, and in furtherance of goals to support orderly growth and development, cities are encouraged to annex entire islands, rather than to conduct single parcel annexations.

3. **Streamlined Island Annexations.** State law provides a streamlined process for annexation of entire islands that do not exceed 150 acres in size (as of January 1, 2014) and that meet all of the criteria outlined in GC §56375.3.
4. **LAFCO Island Annexation Program.** In order to encourage cities to annex entire islands, LAFCO offers the following assistance:
 - a. LAFCO will provide a fee waiver for annexations that result in elimination of entire unincorporated islands. This fee waiver will remain effective until rescinded by the commission.
 - b. LAFCO will provide information and expertise on the island annexation procedures to cities. LAFCO will develop and provide process flow charts, and templates for public hearing notices and annexation resolutions to cities. LAFCO staff will conduct workshops for cities staff or meet with individual cities to provide information on the island annexation process.
 - c. LAFCO will work with the County, the cities and other interested parties / agencies to find ways to reduce or share the cost of processing island annexations.
5. **Island Annexations Before Seeking USA Expansion.** In the interest of orderly growth and development, cities should annex urban unincorporated islands existing within their current USAs, before seeking to add new lands to their USAs.

Prior to seeking any USA amendment, except if the USA amendment is to resolve a significant, demonstrable public health and safety issue or if the USA amendment is a minor corrective action, the city should:

 - a. Initiate and complete annexation proceedings pursuant to GC §56375.3(a)(1), for all unincorporated islands that meet the provisions of GC §56375.3, unless the island constitutes publicly owned land, and
 - b. For any city that has unincorporated islands larger than 150 acres, the city is strongly encouraged to adopt an annexation plan for each of the islands after holding community meetings, to apply pre-zoning designation(s); and to adopt resolutions to initiate annexation, as appropriate.
6. **Align Development Standards.** LAFCO encourages the cities and the County to ameliorate differences between major development standards that potentially affect or hinder island annexation efforts. The County should consider efforts to remove incentives for property owners in the unincorporated islands to remain in the County, by making development standards in the unincorporated islands comparable to development standards in the surrounding city.
7. **Status Report to Commission.** LAFCO staff will report to the Commission on the status of each city's island annexation efforts, as necessary.

CHAPTER 7. AGRICULTURAL LAND PRESERVATION AND MITIGATION POLICIES

7.1 INTRODUCTION

Government Code (GC) §56377 requires LAFCO to discourage premature conversion of agricultural lands, guide development away from existing agricultural lands and promote the development of existing vacant lands within city boundaries prior to conversion of additional agricultural lands.

Consistent with GC §56377 it is LAFCO's goal to avoid or substantially minimize potential impacts to agricultural lands. Mitigation of impacts to agricultural lands cannot be viewed as the equivalent of avoidance of impacts or as an acceptable means of facilitating urban encroachment into agricultural lands where viable alternatives are available that meet the overall objectives of state law and LAFCO's mission.

The hierarchy of agricultural land preservation strategies of 1) avoidance, 2) minimizing, and then 3) mitigating impacts to agricultural lands as a last resort where conversion or other impacts cannot be avoided has been reinforced in CALAFCO's 2018 White Paper "State of the Art on Agricultural Preservation [Feb. 2018] to address the need for more effective preservation strategies, particularly on the urban fringe where agricultural land is most at risk.

Pursuant to its Urban Service Area Policies in Chapter 2, LAFCO will consider whether a city has developed and successfully implemented measures to first avoid and minimize the conversion of agricultural lands or open space prior to bringing forward a proposal that involves conversion of agricultural lands or open space; and whether the proposal contains mitigation for the conversion of any such lands consistent with LAFCO policies.

The purpose of these policies is to provide guidance to property owners, potential applicants and cities on how to address agricultural mitigation for LAFCO proposals and to provide a framework for LAFCO to evaluate and process in a consistent manner, LAFCO proposals that involve or impact agricultural lands.

7.2 GENERAL POLICIES

1. LAFCO promotes the agricultural preservation strategies of avoiding and/or minimizing potential impacts to agricultural lands in preference to mitigation, consistent with GC §56377. In reviewing proposals involving potential impacts to agricultural lands, LAFCO will strongly weigh the feasibility of avoiding and minimizing impacts prior to considering the effectiveness and utility of mitigation.
2. Given that agricultural workers are an essential component of Santa Clara County's agricultural industry, Santa Clara LAFCO will give special consideration to proposals that are for agricultural worker housing as referenced in Urban Service Area Policy #3.4.15 and Out of Agency Service by Contract Policy #5.3.3(b).

3. LAFCO recommends provision of agricultural mitigation as specified herein for all LAFCO applications that impact or result in a loss of prime agricultural lands as defined in Policy #7.3.1. Variation from these policies should be accompanied by information explaining the adequacy of the proposed mitigation.
4. LAFCO encourages cities with potential LAFCO applications involving or impacting agricultural lands to adopt citywide agricultural preservation and mitigation policies and programs that are consistent with these policies.
5. When a LAFCO proposal impacts or involves a loss of prime agricultural lands, LAFCO encourages property owners, cities and agricultural conservation agencies to work together as early in the process as possible to initiate and execute agricultural mitigation plans, in a manner that is consistent with these policies.
6. LAFCO will work with agricultural entities, the County, cities and other stakeholders to develop a program and public education materials to improve the community's understanding of the importance of agriculture in creating sustainable communities within Santa Clara County.
7. LAFCO will review and revise these policies as necessary.

7.3 DEFINITION OF PRIME AGRICULTURAL LANDS

1. "Prime agricultural land" as defined in GC §56064 means an area of land, whether a single parcel or contiguous parcels, that has not been developed for a use other than an agricultural use and that meets any of the following qualifications:
 - a. Land that qualifies, if irrigated, for rating as class I or class II in the USDA Natural Resources Conservation Service land use capability classification, whether or not land is actually irrigated, provided that irrigation is feasible.
 - b. Land that qualifies for rating 80 through 100 Storie Index Rating.
 - c. Land that supports livestock used for the production of food and fiber and that has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture in the National Range and Pasture Handbook, Revision 1, December 2003.
 - d. Land planted with fruit or nut-bearing trees, vines, bushes, or crops that have a nonbearing period of less than five years and that will return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than four hundred dollars (\$400) per acre.
 - e. Land that has returned from the production of unprocessed agricultural plant products an annual gross value of not less than four hundred dollars (\$400) per acre for three of the previous five calendar years.

7.4 MITIGATION RECOMMENDATIONS

1. Proposals involving the conversion of prime agricultural lands should provide one of the following mitigations at a not less than 1:1 ratio (1 acre preserved for

every acre converted) along with the payment of funds as determined by the city / agricultural conservation entity (whichever applies) to cover the costs of program administration, land management, monitoring, enforcement and maintenance of agriculture on the mitigation lands:

- a. The acquisition and transfer of ownership of agricultural land to an agricultural conservation entity for permanent protection of the agricultural land.
 - b. The acquisition and transfer of agricultural conservation easements to an agricultural conservation entity for permanent protection of the agricultural land.
 - c. The payment of in-lieu fees to an agricultural conservation entity that are sufficient to fully fund, with provisions for adjustment of in-lieu fees to reflect potential changes in land values at the time of actual payment
 - i. The cost of acquisition of agricultural lands or agricultural conservation easements for permanent protection, and
 - ii. The cost of administering, managing, monitoring and enforcing the agricultural lands or agricultural conservation easements, as well as the costs of maintaining agriculture on the mitigation lands.
2. Agricultural lands or conservation easements acquired and transferred to an agricultural conservation entity should be located in Santa Clara County and be lands deemed acceptable to the city and entity.
 - a. The agricultural mitigation should result in preservation of land that would be:
 - i. Prime agricultural land of substantially similar quality and character as measured by the Average Storie Index rating and the Land Capability Classification rating, and
 - ii. Located within cities' spheres of influence in an area planned/envisioned for agriculture, and
 - iii. That would preferably promote the definition and creation of a permanent urban/agricultural edge.
3. Because urban/non-agricultural uses affect adjacent agricultural practices and introduce development pressures on adjacent agricultural lands, LAFCO encourages cities with LAFCO proposals impacting agricultural lands to adopt measures to protect adjoining agricultural lands, to prevent their premature conversion to other uses, and to minimize potential conflicts between the proposed urban development and adjacent agricultural uses. Examples of such measures include, but are not limited to:
 - a. Establishment of an agricultural buffer on the land proposed for development. The buffer's size, location and allowed uses must be sufficient to minimize conflicts between the adjacent urban and agricultural uses.

- b. Adoption of protections such as a Right to Farm Ordinance, to ensure that the new urban residents shall recognize the rights of adjacent property owners conducting agricultural operations and practices in compliance with established standards.
- c. Development of programs to promote the continued viability of surrounding agricultural land.

7.5 AGRICULTURAL CONSERVATION ENTITY QUALIFICATIONS

1. The agricultural conservation entity should be a city or a public or non-profit agency. LAFCO encourages consideration of agricultural conservation entities that:
 - a. Are committed to preserving local agriculture and have a clear mission along with strategic goals or programs for promoting agriculture in the areas that would be preserved through mitigation,
 - b. Have the legal and technical ability to hold and administer agricultural lands and agricultural conservation easements and in-lieu fees for the purposes of conserving and maintaining lands in agricultural production and preferably have an established record for doing so, and
 - c. Have adopted written standards, policies and practices (such as the Land Trust Alliance's "Standards and Practices") for holding and administering agricultural lands, agricultural conservation easements and in-lieu fees and are operating in compliance with those standards.

7.6 TIMING AND FULFILLMENT OF MITIGATION

1. LAFCO prefers that agricultural mitigation be in place at the time of LAFCO approval or as soon as possible after LAFCO approval. The mitigation (as detailed in the Plan for Mitigation) should be fulfilled no later than at the time of city's approval of the final map, or issuance of a grading permit or building permit, whichever occurs first.
2. Cities should provide LAFCO with information on how the city will ensure that the agricultural mitigation is provided at the appropriate time.
3. Cities should provide LAFCO with a report on the status of agricultural mitigation fulfillment every year following LAFCO approval of the proposal until the agricultural mitigation commitments are fulfilled.
4. The agricultural conservation entity should report annually to LAFCO on the use of the in-lieu fees until the fees have been fully expended.

7.7 PLAN FOR MITIGATION

1. A plan for agricultural mitigation that is consistent with these policies should be submitted at the time that a proposal impacting agricultural lands is filed with LAFCO. The plan for mitigation should include all of the following:
 - a. An agreement between the property owner, city and agricultural conservation entity (if such an entity is involved) that commits the property

owner(s) to provide the mitigation for the loss of prime agricultural lands and establishes the specifics of the mitigation. Upon LAFCO approval of the proposal, the agreement should be recorded with the County Recorder's office against the property to be developed. The agreement should specify:

- i. The type of mitigation that will be provided in order to mitigate for conversion of agricultural lands. (purchase of fee title or easement or payment of in-lieu fees)
 - ii. The agricultural conservation entity that will be involved in holding the lands, easements, or in-lieu fees.
 - iii. The acreage that would be preserved through mitigation and /or the amount of in-lieu fees that would be paid (with provisions to adjust fees to reflect land values at time of payment) along with the methodology adopted by the entity for calculating the in-lieu fees.
 - iv. The location of the mitigation lands, when possible.
 - v. Information on the specific measures adopted by the city as encouraged in Policy #10 (mitigation for impacts to adjacent agricultural lands)
 - vi. The timeframe within which the mitigation will be fulfilled, which should be no later than at the time of city's approval of the final map, or issuance of the grading permit or building permit, whichever occurs first.
 - vii. The mitigation agreement is to be contingent on LAFCO approval of the proposal.
2. Applicant should provide all other supporting documents and information to demonstrate compliance with these policies.

CHAPTER 8. URBAN GROWTH BOUNDARIES POLICIES

8.1 INTRODUCTION

Urban Growth Boundaries (UGBs) are planning boundaries adopted to establish very long term or permanent limits on potential urban expansion. UGBs have a similar overall purpose as Urban Service Areas (USAs) in that they include lands intended for urban development and protect surrounding natural resource lands. In some cases, an UGB may be adopted solely by act of the legislative body such as a city council or by means of a voter initiative, and in some cases, by a combination of the two. UGBs are not adopted or regulated by LAFCO. UGBs are intended to be amended very infrequently, within the context of a comprehensive general plan update, or by vote of the public, if adopted in that manner.

UGBs have been adopted by some of the cities of Santa Clara County, in conjunction with the County or unilaterally. Some UGBs are essentially coterminous with existing city USAs, while others may include some additional lands deemed appropriate for future consideration of urban growth. Inclusion of additional lands outside a city's USA within an UGB is not meant to convey that such lands are necessarily to be urbanized within a particular time frame, only that such lands may be considered for a city's long-term growth needs if approved for inclusion in a city's USA by LAFCO, in accordance with established LAFCO policy.

UGBs could reduce speculation about the direction and extent of potential urban expansion, helping to promote certainty, urban infill, more stable growth expectations and land use patterns, and better preservation of agricultural and other natural resource lands. Cities such as San Jose and Milpitas, were early adopters of UGBs. Both cities adopted UGBs with a reduced urban footprint and requested corresponding USA retraction to prevent sprawl and curb hillside urban development, promote viewshed preservation, and conserve valley agricultural lands.

8.2 POLICIES

1. LAFCO supports adoption of UGBs that are consistent with LAFCO's goals to prevent sprawl, protect open space and agricultural lands and promote efficient delivery of services. However, an USA remains the definitive, Santa Clara LAFCO-adopted planning boundary indicating whether an area will be potentially annexed and provided with urban services.
2. LAFCO shall recognize any urban growth boundary, urban limit line, "greenline," greenbelt boundary, or other boundary adopted by a city and/or approved by voter initiative that defines the limits of a city's urban development on a long term or permanent basis.

3. LAFCO shall consider these boundaries when reviewing relevant proposals, including annexations or reorganizations over which LAFCO retains review and approval authority, urban service area amendment proposals, sphere of influence amendment proposals, and “out-of-agency service by contract” proposals.
4. LAFCO shall discourage proposals which are inconsistent with an adopted urban growth boundary.