



**LAFCO MEETING  
AGENDA  
Wednesday, February 6, 2013  
1:15 PM**

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

**CHAIRPERSON: Mike Wasserman • VICE-CHAIRPERSON: Susan Vicklund Wilson  
COMMISSIONERS: Pete Constant, Sequoia Hall, Margaret Abe-Koga, Linda LeZotte, Joe Simitian  
ALTERNATES: Johnny Khamis, Yoriko Kishimoto, George Shirakawa, Terry Trumbull, Cat Tucker**

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**NOTICE TO THE PUBLIC**

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- If you wish to participate in the following proceedings, you are prohibited from making a campaign contribution of more than \$250 to any commissioner or alternate. This prohibition begins on the date you begin to actively support or oppose an application before LAFCO and continues until three months after a final decision is rendered by LAFCO. No commissioner or alternate may solicit or accept a campaign contribution of more than \$250 from you or your agent during this period if the commissioner or alternate knows, or has reason to know, that you will participate in the proceedings.
- If you or your agent have made a contribution of more than \$250 to any commissioner or alternate during the twelve (12) months preceding the decision, that commissioner or alternate must disqualify himself or herself from the decision. However, disqualification is not required if the commissioner or alternate returns the campaign contribution within thirty (30) days of learning both about the contribution and the fact that you are a participant in the proceedings. For forms and information:  
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- Any person or group lobbying the Commission or the Executive Officer in regard to an application before LAFCO must file a declaration prior to the hearing on the LAFCO application or at the time of the hearing if that is the initial contact. Any lobbyist speaking at the LAFCO hearing must so identify themselves as lobbyists and identify on the record the name of the person or entity making payment to them. For forms and information:  
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[http://www.santaclara.lafco.ca.gov/sclafcopolicies\\_annex&reorg\\_home.html](http://www.santaclara.lafco.ca.gov/sclafcopolicies_annex&reorg_home.html)
- Any disclosable public records related to an open session item on the agenda and distributed to all or a majority of the Commissioners less than 72 hours prior to that meeting are available for public inspection at the LAFCO Office, 70 W. Hedding Street, 11<sup>th</sup> Floor, San Jose, California, during normal business hours.
- In compliance with the Americans with Disabilities Act, those requiring accommodation for this meeting should notify the LAFCO Clerk 24 hours prior to the meeting at (408) 299-6415, TDD (408) 993-8272.

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COMMISSIONERS: Pete Constant, Sequoia Hall, Margaret Abe-Koga, Linda LeZotte, Joe Simitian, Mike Wasserman, Susan Vicklund Wilson  
ALTERNATE COMMISSIONERS: Johnny Khamis, Yoriko Kishimoto, George Shirakawa, Terry Trumbull, Cat Tucker  
EXECUTIVE OFFICER: Neelima Palacherla

1. **ROLL CALL**
2. **INDEPENDENT SPECIAL DISTRICTS REPRESENTATION ON LAFCO**
3. **WELCOME NEW LAFCO COMMISSIONERS**
4. **PUBLIC COMMENTS**

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

5. **APPROVE MINUTES OF DECEMBER 12, 2012 LAFCO MEETING**

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## **PUBLIC HEARING**

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6. **SARATOGA URBAN SERVICE AREA AMENDMENT 2013**

**Possible Action:**

1. Open public hearing and receive public comments.
2. Close public hearing.
3. Consider the request for USA amendment and the staff recommendation.

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## **ITEMS FOR ACTION / DISCUSSION**

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7. **UPDATE ON GUADALUPE COYOTE RESOURCE CONSERVATION DISTRICT'S IMPLEMENTATION OF THE RECOMMENDATIONS OF LAFCO'S 2011 COUNTYWIDE WATER SERVICE REVIEW REPORT**

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

8. **EXECUTIVE OFFICER'S REPORT**

- 8.1 **UPDATE ON SPECIAL DISTRICTS SERVICE REVIEW**

**Possible Action:**

1. Accept report and provide direction to staff, as necessary.
2. Consider whether to appoint an additional commissioner to serve on the Special Districts Service Review Technical Advisory Committee.

**8.2 FINANCE COMMITTEE FOR FISCAL YEAR 2013-2014 LAFCO BUDGET**

**Possible Action:** Establish a committee composed of three commissioners to work with staff to develop and recommend the proposed FY 2013-2014 LAFCO budget for consideration by the full Commission.

**8.3 UPDATE ON LAFCO'S REQUEST TO MUTUAL WATER COMPANIES  
For Information Only.**

**8.4 2013 CALAFCO STAFF WORKSHOP**

**Possible Action:** Authorize staff to attend the 2013 CALAFCO Staff Workshop and authorize travel expenses funded by the LAFCO budget.

**9. PENDING APPLICATIONS / UPCOMING PROJECTS**

**9.1 Morgan Hill USA Amendment 2012 (Monterey-South of Watsonville)**

**9.2 West Bay Sanitary District SOI Amendment and Annexation**

**10. COMMISSIONER REPORTS**

**11. NEWSPAPER ARTICLES / NEWSLETTERS**

**12. WRITTEN CORRESPONDENCE**

**13. ADJOURN**

Adjourn to regular LAFCO meeting on Wednesday, April 3, 2013, at 1:15 PM in the Board Meeting Chambers, 70 West Hedding Street, San Jose.



**LAFCO MEETING: February 6, 2013**  
**TO: LAFCO**  
**FROM: Neelima Palacherla, Executive Officer**  
**Dunia Noel, Assistant Executive Officer**  
**SUBJECT: INDEPENDENT SPECIAL DISTRICTS REPRESENTATION ON LAFCO**

### **For Information Only**

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In January 2013, independent special districts became represented on LAFCO. LAFCO will now include two regular commissioners and one alternate commissioner from independent special districts.

Prior to this, the 15 cities and the County were the only public agencies serving on LAFCO. This change not only expands the size of the Commission to seven members, but also brings additional expertise and perspectives to the Commission. As members of LAFCO, they will help make decisions on city and special district boundary changes that affect growth and development in the county and will help guide LAFCO's service reviews which promote efficiency, accountability, and transparency of local agencies. Independent special districts will also share in the cost of funding LAFCO along with the cities and the County.

Independent special districts now have two designated seats on LAFCO. By special agreement, one seat is held by a member of the Santa Clara Valley Water District Board of Directors and the other seat is appointed by the Independent Special District Selection Committee (ISDSC). The ISDSC also appoints a member to serve in place of either one of the two independent special district members.

The ISDSC selected Sequoia Hall, Director, Santa Clara County Open Space Authority, to serve as the regular LAFCO commissioner and Yoriko Kishimoto, Director, Midpeninsula Regional Open Space District, to serve as alternate LAFCO commissioner. The Santa Clara Valley Water District appointed Linda LeZotte, Director, Santa Clara Valley Water District, to serve as the regular member on LAFCO.

As LAFCO of Santa Clara County enters its 50<sup>th</sup> year of existence, the expansion of LAFCO's membership recognizes the important role that LAFCO continues to play in the county.



**LAFCO MEETING: February 6, 2013**  
**TO: LAFCO**  
**FROM: Neelima Palacherla, Executive Officer**  
**Dunia Noel, Analyst**  
**SUBJECT: WELCOME NEW LAFCO COMMISSIONERS**

**For Information Only**

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In December 2012, the San Jose City Council appointed Johnny Khamis as the City of San Jose's alternate commissioner on LAFCO. Councilmember Khamis replaces Alternate Commissioner Sam Liccardo. Commissioner Khamis' term on LAFCO will expire May 2016.

In January 2013, the Santa Clara County Board of Supervisors appointed County Supervisor Joe Simitian to serve on LAFCO. Supervisor Simitian replaces Commissioner Liz Kniss, whose term on the County Board of Supervisors ended in December 2012. Commissioner Simitian will complete Commissioner Kniss' remaining term on LAFCO which is set to expire in May 2014.

In January 2013, LAFCO was expanded to include members from independent special districts. LAFCO will now include two regular commissioners and one alternate commissioner from independent special districts. Sequoia Hall, Director, Santa Clara County Open Space Authority, was appointed by the Independent Special Districts Selection Committee (ISDSC) to serve as a regular LAFCO commissioner for a four year term (January 2013 to May 2017). Linda LeZotte, Director, Santa Clara Valley Water District (SCVWD), was appointed by the SCVWD to serve as a regular LAFCO commissioner for a two year term (January 2013 to May 2015). Yoriko Kishimoto, Director, Midpeninsula Regional Open Space District, was appointed by the ISDSC to serve as alternate LAFCO commissioner for a four year term (January 2013 to May 2017).





LOCAL AGENCY FORMATION COMMISSION OF  
SANTA CLARA COUNTY  
MINUTES  
WEDNESDAY, DECEMBER 12, 2012

**CALL TO ORDER**

Chairperson Pete Constant called the meeting to order at 1:15 p.m.

**1. ROLL CALL**

The following Commissioners were present:

- Chairperson Pete Constant
- Commissioner Margaret Abe-Koga
- Commissioner Liz Kniss
- Commissioner Mike Wasserman
- Commissioner Susan Vicklund-Wilson
- Alternate Commissioner Terry Trumbull
- Alternate Commissioner Cat Tucker

The following were absent:

- Alternate Commissioner George Shirakawa
- Alternate Commissioner Sam Liccardo

The following staff members were present:

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

**2. PUBLIC COMMENT**

There was no public comment.

**3. APPROVE MINUTES OF AUGUST 1, 2012 LAFCO MEETING**

The Commission approved the minutes of August 1, 2012 LAFCO meeting.

**Motion:** Mike Wasserman

**Second:** Margaret Abe-Koga

**MOTION PASSED**

**AYES:** Pete Constant, Margaret Abe-Koga, Liz Kniss, Mike Wasserman, Susan Vicklund Wilson

**NOES:** None

**ABSTAIN:** None

**ABSENT:** None

4. **AMENDMENT OF LAFCO'S CONFLICT OF INTEREST CODE**

Ms. Palacherla presented the staff report.

The Commission adopted the proposed revisions to LAFCO's Conflict of Interest Code and directed staff to submit LAFCO's Amended Conflict of Interest Code to the County Clerk.

**MOTION PASSED**

**Motion:** Mike Wasserman

**Second:** Liz Kniss

**AYES:** Pete Constant, Margaret Abe-Koga, Liz Kniss, Mike Wasserman, Susan Vicklund Wilson

**NOES:** None

**ABSTAIN:** None

**ABSENT:** None

5. **INDEPENDENT SPECIAL DISTRICTS MEMBERSHIP ON LAFCO**

Ms. Palacherla presented the staff report.

In response to an inquiry by **Commissioner Kniss**, Ms. Palacherla informed that staff has provided the Commission with periodic updates and that special districts representation is provided for in the CKH Act. **Commissioner Wilson** expressed support for special districts representation on LAFCO and stated that more than half of the LAFCOs in the state have special district representatives. **Commissioner Wasserman** noted that one of the two special districts commissioners will be appointed by the Santa Clara Valley Water District and inquired how the other commissioner would be selected. In response, Ms. Palacherla informed that the second commissioner and an alternate commissioner would be appointed by the Independent Special Districts Selection Committee (ISDSC) which is composed of presiding officers from the 17 independent special districts in the County, including the nine that adopted resolutions in support of representation on LAFCO. In response to an inquiry by **Commissioner Abe-Koga**, Ms. Palacherla advised that all independent special districts would be required to pay a share of the LAFCO cost, including those that did not adopt resolutions in support of representation. In response to an inquiry by **Commissioner Abe-Koga**, Ms. Palacherla explained that the law empowers the appointing authority to disqualify members from taking action on proposals submitted by their agency. In response to a follow-up inquiry by **Commissioner Abe-Koga**, Ms. Palacherla informed that each of the special districts will have one vote at the ISDSC.

A brief discussion ensued regarding whether a small district paying a small portion of the LAFCO cost should have the same ability to have a member on LAFCO as a larger district or a city. Ms. Palacherla advised that the Commission does not have the discretion over which districts may serve on LAFCO and that the CKH Act requires all commissioners, regardless of their appointing authority, to exercise independent judgment and uphold the interest of LAFCO.

**Commissioner Constant** noted that, nonetheless, commissioners feel that it would be preferable that a member from one of the larger districts be appointed to LAFCO because they represent more people. **Commissioner Wilson** explained that her

perspective as a public member is to leave the appointment to the special districts and allow them to choose the best representative based on the candidate's experience and not necessarily on the portion of their payment.

The Commission: (1) adopted a Resolution of Intention to seat independent special districts on LAFCO of Santa Clara County; (2) directed the LAFCO Executive Officer to call and give notice of a meeting of the Independent Special District Selection Committee to select independent special district members to serve on the Commission; and, (3) directed that the independent special districts' pro-rated costs for the current fiscal year be added to the districts' costs for the next fiscal year and the corresponding amount for the cities and the County be reduced from their payments in the next fiscal year.

**Motion:** Liz Kniss

**Second:** Susan Vicklund Wilson

**MOTION PASSED**

AYES: Pete Constant, Margaret Abe-Koga, Liz Kniss, Mike Wasserman, Susan Vicklund Wilson

NOES: None

ABSTAIN: None

ABSENT: None

**6. APPROVAL OF RESPONSE TO THE 2011-2012 CIVIL GRAND JURY REPORT ENTITLED, "THE SOUTH SANTA CLARA VALLEY MEMORIAL SPECIAL DISTRICT CONTINUES TO FALL SHORT OF GOOD GOVERNANCE"**

Ms. Noel presented the staff report.

**Commissioner Wasserman** expressed his appreciation to the Santa Clara Valley Memorial District board member who raised this issue, to LAFCO staff, to the Civil Grand Jury and to the various County agencies. He added that LAFCO has a major responsibility in its review of special districts.

The Commission: (1) considered and approved, with revisions as necessary, the attached response to the 2011-2012 Santa Clara County Civil Grand Jury Report of June 20, 2012 entitled "The South Santa Clara Valley Memorial Special District Continues to Fall Short of Good Governance;" and, (2) directed staff to forward the response to the Presiding Judge of the Santa Clara County Superior Court and the Foreperson of the Civil Grand Jury.

**Motion:** Mike Wasserman

**Second:** Margaret Abe-Koga

**MOTION PASSED**

AYES: Pete Constant, Margaret Abe-Koga, Liz Kniss, Mike Wasserman, Susan Vicklund Wilson

NOES: None

ABSTAIN: None

ABSENT: None

**7. EXECUTIVE OFFICER'S REPORT**

Ms. Noel presented the staff report.

With regard to Item 7.2, **Commissioner Wasserman** noted that LAFCO provides a very important oversight role through its service reviews. He stated that the 50<sup>th</sup> Anniversary Celebration would be an opportunity for LAFCO to inform the community about its mandate and the work it does.

The Commission noted items 7.1 through 7.6.

**Motion:** Mike Wasserman

**Second:** Liz Kniss

**MOTION PASSED**

AYES: Pete Constant, Margaret Abe-Koga, Liz Kniss, Mike Wasserman, Susan Vicklund Wilson

NOES: None

ABSTAIN: None

ABSENT: None

**8. RESOLUTION COMMENDING COMMISSIONER LIZ KNISS**

**Commissioner Kniss** stated that LAFCO's mandate is diverse and interesting, and proposed that LAFCO should do more to educate the public on the work it does.

The Commission adopted and presented a Resolution commending Commissioner Liz Kniss for her services to LAFCO.

**Motion:** Mike Wasserman

**Second:** Susan Vicklund Wilson

**MOTION PASSED**

AYES: Pete Constant, Margaret Abe-Koga, Mike Wasserman, Susan Vicklund Wilson

NOES: None

ABSTAIN: Liz Kniss

ABSENT: None

**9. 2013 SCHEDULE OF LAFCO MEETINGS**

**Commissioner Kniss** encouraged LAFCO commissioners to attend the CALAFCO annual conference since it has very good speakers and informative sessions. Ms. Palacherla advised that staff would provide additional information, when it becomes available, on the next CALAFCO annual conference scheduled for August 2013.

The Commission adopted the schedule of LAFCO meetings and application filing deadlines for 2013.

**Motion:** Susan Vicklund Wilson

**Second:** Margaret Abe-Koga

**MOTION PASSED**

AYES: Pete Constant, Margaret Abe-Koga, Liz Kniss, Mike Wasserman, Susan Vicklund Wilson

NOES: None

ABSTAIN: None

ABSENT: None

**10. APPOINTMENT OF CHAIRPERSON AND VICE-CHAIRPERSON FOR 2013**

The Commission appointed Mike Wasserman as Chairperson for 2013 and Susan Vicklund Wilson as Vice-Chairperson.

**Motion:** Margaret Abe-Koga

**Second:** Susan Vicklund-Wilson

**MOTION PASSED**

AYES: Pete Constant, Margaret Abe-Koga, Mike Wasserman, Susan Vicklund-Wilson

NOES: None

ABSTAIN: None

ABSENT: Liz Kniss

**11. PENDING APPLICATIONS / UPCOMING PROJECTS**

The Commission noted the upcoming projects.

**12. COMMISSIONER REPORTS**

There were none.

**13. NEWSPAPER ARTICLES / NEWSLETTERS**

CALAFCO Newsletter: The Sphere

**14. WRITTEN CORRESPONDENCE**

There were none.

**15. ADJOURN**

The meeting was adjourned at 2:09 p.m. to the next meeting on Wednesday, February 6, 2013 in Board Meeting Chambers, County Government Center, 70 West Hedding Street, San Jose, California.

Approved:

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Pete Constant, Chairperson  
Local Agency Formation Commission of Santa Clara County

By: \_\_\_\_\_  
Emmanuel Abello, LAFCO Clerk



**LAFCO MEETING: February 6, 2013**  
**TO: LAFCO**  
**FROM: Neelima Palacherla, Executive Officer**  
**Dunia Noel, Assistant Executive Officer**  
**SUBJECT: SARATOGA URBAN SERVICE AREA (USA) AMENDMENT 2013**

**STAFF RECOMMENDATION**

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**1. CEQA Action**

- a. As a Responsible Agency under CEQA, determine that the proposal is exempt from the provisions of CEQA pursuant to State CEQA Guidelines Section 15319(a) & (b) and Section 15303.

**2. Proposal**

- a. Approve expansion of the City of Saratoga's urban service area (USA) boundary to include the Congress Springs Quarry properties as depicted in Sheet 5 of Attachment A conditioned on the City complying with LAFCO's prior condition of approval. (i.e., pursuant to LAFCO Resolution # 2012-01 adopted on February 8, 2012, the City must prepare a plan and timeline for annexation of its island STG 05)
- b. Approve retraction of the City of Saratoga's urban service area (USA) boundary to exclude the three areas as depicted in Sheets 2, 3 and 4 of Attachment A. The retraction of the USA boundary will become effective on June 30, 2013, in order to allow the County of Santa Clara sufficient time to apply appropriate General Plan and Zoning designations to the properties.
- c. Direct LAFCO staff to review LAFCO's policies regarding city annexations of open space lands and propose revisions as necessary, for Commission consideration.

**PROJECT DESCRIPTION**

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The City of Saratoga is proposing several amendments to its urban service area (USA).  
**See Attachment A for maps of the proposed USA amendments.**

The City is proposing to expand its USA to include approximately 69 acres of open space lands recently acquired by the City of Saratoga from the County of Santa Clara, with joint funding from the Midpeninsula Regional Open Space District (MROSD) and the County of Santa Clara Parks and Recreation Department. These lands are known as the Congress Springs Quarry property and are located south of Congress Springs Road and north of Archibald Drive. **See Sheet 5 of Attachment A for a map of the area.** The City of Saratoga has granted a conservation easement over the property to the County of Santa Clara and to the MROSD for the purpose of retaining in perpetuity, the natural scenic and open space condition of the property. The City is seeking to include the property in its USA and eventually annex it in order to develop a park on the property within the City limits and to develop trail segments for the City's Saratoga-to-the-Sea Trail.

The City is also proposing a retraction of its USA in three areas to exclude:

- Approximately 92 acres of hillside-residential lands located in the vicinity of On Orbit Drive. **See Sheet 3 of Attachment A for a map of the area.** The City has indicated that these properties are not appropriate for annexation to the City as they have been developed with infrastructure (i.e., roads) that would be difficult for the City to maintain given the steep terrain, geologic instability and remoteness of the area.
- Approximately 37 acres of a residential subdivision located along Orchard Meadows Drive. **See Sheet 2 of Attachment A for a map of the area.** Severe geologic conditions have affected the structural integrity of roads in this subdivision and the resultant condition of the roads is inconsistent with City standards. Therefore the City has indicated that these lands are inappropriate for annexation and should be removed from its USA.
- Approximately 0.4 acre portion of a parcel located at 15745 West Road. **See Sheet 4 of Attachment A for a map of the area.** The remaining portion of the parcel is located outside the City's USA. In order to ensure that the entire parcel is located within a single jurisdiction, the City has indicated that the entire parcel should be excluded from, rather than included in the City's USA because none of the other properties along West Road are within the City limits.

## **BACKGROUND**

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In May 2011, LAFCO sent letters to cities encouraging them to annex the remaining unincorporated islands within their USAs. In those cases where a city does not intend to annex the lands within its USA, LAFCO requested that the city consider whether it is appropriate for such lands to be excluded from the city's USA. The City of Saratoga reviewed its USA and in its response letter dated January 4, 2012, outlined its intentions for its islands. The City indicated that it would initiate annexation of a few islands and would seek to remove certain lands from its USA as the City did not intend to annex those lands. On August 15, 2012, the Saratoga City Council adopted a resolution (#12-051) to seek LAFCO approval for amendment of its USA and a resolution (#12-050) to



initiate annexation of certain islands. The City submitted its USA amendment application to LAFCO in November 2012.

**EXISTING AND PROPOSED LAND USES AND DESIGNATIONS**

**Congress Springs Quarry Property: USA Expansion Proposal**

The proposed USA expansion area known as the Congress Springs Quarry property, consists of three parcels of undeveloped open space lands located in the unincorporated county. In 2011, the City of Saratoga purchased the property from the County of Santa Clara with joint funding from the County of Santa Clara Parks and Recreation Department, and the Midpeninsula Regional Open Space District (MROSD) for open space and trail use. The City placed a conservation easement over the entire property and deeded it to the County and to the MROSD for the purpose of retaining in perpetuity the natural, scenic and open space conditions, preventing any use of the property that would significantly interfere with open space values, promoting public access for hiking and other recreation and for implementing restoration and erosion control measures on the property. The easement requires the City to prepare a Final Management Plan (FMP) for the property within 5 years of the funding agreement subject to review and input from the County and MROSD. Furthermore, the easement requires that the FMP must provide for the development of a Saratoga to Sea Trail and allows the City to construct and maintain public use trails and reasonable public amenities related to trail use and, in the vicinity of the staging area, picnicking and related low intensity use such as by way of example only, restrooms, a tot lot and dog park. The conservation easement expressly prohibits subdivision of the property and limits the use of the property to activities involving recreation (hiking, picnicking, nature research and study), enjoyment of views, open space, natural habitat and environmental protection, restoration and related uses consistent with the easement. **See Attachment B for Grant Deed of Conservation Easement.**

TABLE 1: PARCELS PROPOSED FOR INCLUSION IN THE CITY’S USA CONGRESS SPRINGS QUARRY PROPERTIES

APN	EXISTING LAND USE	COUNTY GP DESIGNATION	COUNTY ZONING DESIGNATION	CURRENT CITY GP DESIGNATION	CURRENT CITY PRE-ZONING DESIGNATION
503-48-044	Open Space	Regional Parks – Existing	HS-d1	Hillside Open Space	Residential Open Space
503-48-045	Open Space	Regional Parks – Existing	HS-d1	Hillside Open Space	Residential Open Space
517-32-001	Open Space	Regional Parks – Existing	HS-d1	Hillside Open Space	Residential Open Space

Table 1 summarizes the land use information for the Congress Springs Quarry property. The County’s General Plan designation for these lands is “Existing Regional Park” and the Zoning designation is HS-d1 (Hillsides –design review). The property is in the area identified in the City’s existing plans for a future trail corridor. This trail corridor is

referred to as the Saratoga-to-the-Sea Trail and would connect to the Skyline-to-the Sea Trail. The City of Saratoga has applied a General Plan designation of “Hillside Open Space” to these lands. The City has indicated that it would in the future, change the General Plan designation to “Open Space–Outdoor Recreation” which is generally applied to City or County parks or lands designated for those uses. Permitted uses in this designation include recreation facilities (i.e., playground equipment, recreational courts etc.) and structures necessary to support the parks. The City has applied a pre-zoning designation of Residential Open Space to the proposal lands. The City intends to apply an overlay zoning designation of Agriculture Reserve / Open Space to the property. Upon LAFCO approval of the USA expansion and city annexation of these lands, the City General Plan designation and zoning would apply to the properties.

### **On Orbit Drive, Orchard Meadows Drive, West Road Properties: USA Retraction Areas**

The City of Saratoga is proposing to retract its USA in three areas. All of these areas currently include unincorporated lands under the County’s land use jurisdiction located within the City of Saratoga’s USA. The County’s current General Plan designation for these areas is “Urban Service Area” which requires that development within these areas, even though unincorporated, should be generally compatible with uses and densities allowed by the city’s General Plan. Therefore, the proposal lands are governed by the Saratoga General Plan because they are within the City’s USA. Upon retraction of the USA by LAFCO, the County must assign a General Plan land use designation and a zoning designation to the lands that are excluded from the City’s USA. The County is proposing to apply Hillside General Plan and Hillside (HS) Zoning designation to these areas. The County’s General Plan and Zoning amendment process will begin after LAFCO approval of the USA retraction and will involve public hearings during which the Board of Supervisors will consider recommendations from the County Planning Commission and approve a general plan amendment and rezoning.

The On Orbit Drive Area consists of 37 parcels located in the vicinity of On Orbit Drive. The majority of these parcels are developed with single family homes. Table 2 summarizes the land use information for the On Orbit Drive Area. The current City General Plan designation for this area is Hillside Open Space.

The Orchard Meadows Drive Area consists of 23 parcels located around Orchard Meadows Drive and south of Mount Eden Road. The majority of the parcels in this subdivision are developed with single family homes. Table 3 summarizes the land use information for the Orchard Meadows Drive Area. The City’s current General Plan designation for this area is Hillside Open Space.

The third area consists of a portion of a single parcel located at 15748 West Road. The entire parcel is in the unincorporated county and only a portion of the parcel is located within the City of Saratoga’s USA and sphere of influence boundary. The remaining portion is within the sphere of influence of the City of Monte Sereno but outside Monte Sereno’s Urban Service Area. The parcel is developed with a single family home. Table 4 summarizes the land use information for the parcel. The City’s current General Plan designation for this property is Hillside Open Space.

TABLE 2: PARCELS PROPOSED FOR EXCLUSION FROM THE CITY'S USA ON ORBIT DRIVE

APN	EXISTING LAND USE	CITY GP DESIGNATION	PROPOSED COUNTY GP	PROPOSED COUNTY ZONING
51726015	Vacant	Hillside Open Space	Hillsides	Hillsides
51725011	Vacant	Hillside Open Space	Hillsides	Hillsides
51726012	Single Family Residential	Hillside Open Space	Hillsides	Hillsides
51726011	Single Family Residential	Hillside Open Space	Hillsides	Hillsides
51725045	Single Family Residential	Hillside Open Space	Hillsides	Hillsides
51726005	Single Family Residential	Hillside Open Space	Hillsides	Hillsides
51726001	Single Family Residential	Hillside Open Space	Hillsides	Hillsides
51725060	Single Family Residential	Hillside Open Space	Hillsides	Hillsides
51726009	Single Family Residential	Hillside Open Space	Hillsides	Hillsides
51725003	Single Family Residential	Hillside Open Space	Hillsides	Hillsides
51725002	Single Family Residential	Hillside Open Space	Hillsides	Hillsides
51725036	Single Family Residential	Hillside Open Space	Hillsides	Hillsides
51725043	Single Family Residential	Hillside Open Space	Hillsides	Hillsides
51726013	Single Family Residential	Hillside Open Space	Hillsides	Hillsides
51726006	Single Family Residential	Hillside Open Space	Hillsides	Hillsides
51725046	Single Family Residential	Hillside Open Space	Hillsides	Hillsides
51726002	Single Family Residential	Hillside Open Space	Hillsides	Hillsides
51725024	Single Family Residential	Hillside Open Space	Hillsides	Hillsides
51726010	Vacant	Hillside Open Space	Hillsides	Hillsides
51726016	Single Family Residential	Hillside Open Space	Hillsides	Hillsides
51725005	Single Family Residential	Hillside Open Space	Hillsides	Hillsides
51725042	Single Family Residential	Hillside Open Space	Hillsides	Hillsides
51725053	Single Family Residential	Hillside Open Space	Hillsides	Hillsides
51726003	Single Family Residential	Hillside Open Space	Hillsides	Hillsides
51725033	Single Family Residential	Hillside Open Space	Hillsides	Hillsides
51725059	Single Family Residential	Hillside Open Space	Hillsides	Hillsides
51725037	Vacant	Hillside Open Space	Hillsides	Hillsides
51725027	Vacant	Hillside Open Space	Hillsides	Hillsides
51725004	Single Family Residential	Hillside Open Space	Hillsides	Hillsides
51725051	Single Family Residential	Hillside Open Space	Hillsides	Hillsides
51725052	Vacant	Hillside Open Space	Hillsides	Hillsides
51726007	Single Family Residential	Hillside Open Space	Hillsides	Hillsides
51725050	Single Family Residential	Hillside Open Space	Hillsides	Hillsides
51725044	Single Family Residential	Hillside Open Space	Hillsides	Hillsides
51726008	Single Family Residential	Hillside Open Space	Hillsides	Hillsides
51725039	Vacant	Hillside Open Space	Hillsides	Hillsides
*51725069	(*Portion) Vacant	Hillside Open Space	Hillsides	Hillsides

TABLE 3: PARCELS PROPOSED FOR EXCLUSION FROM THE CITY'S USA  
ORCHARD MEADOWS DRIVE

APN	EXISTING LAND USE	CITY GP DESIGNATION	PROPOSED COUNTY GP	PROPOSED COUNTY ZONING
50310063	Single Family Residential	Hillside Open Space	Hillsides	Hillsides
50310056	Single Family Residential	Hillside Open Space	Hillsides	Hillsides
50310036	Single Family Residential	Hillside Open Space	Hillsides	Hillsides
50310070	Vacant	Hillside Open Space	Hillsides	Hillsides
50310071	Vacant	Hillside Open Space	Hillsides	Hillsides
50310069	Single Family Residential	Hillside Open Space	Hillsides	Hillsides
50310053	Single Family Residential	Hillside Open Space	Hillsides	Hillsides
50310026	Single Family Residential	Hillside Open Space	Hillsides	Hillsides
50310061	Single Family Residential	Hillside Open Space	Hillsides	Hillsides
50310048	Single Family Residential	Hillside Open Space	Hillsides	Hillsides
50310052	Single Family Residential	Hillside Open Space	Hillsides	Hillsides
50310059	Single Family Residential	Hillside Open Space	Hillsides	Hillsides
50310054	Single Family Residential	Hillside Open Space	Hillsides	Hillsides
50310050	Single Family Residential	Hillside Open Space	Hillsides	Hillsides
50310051	Single Family Residential	Hillside Open Space	Hillsides	Hillsides
50310055	Single Family Residential	Hillside Open Space	Hillsides	Hillsides
50310058	Single Family Residential	Hillside Open Space	Hillsides	Hillsides
50310035	Vacant	Hillside Open Space	Hillsides	Hillsides
50310042	Vacant	Hillside Open Space	Hillsides	Hillsides
50310062	Single Family Residential	Hillside Open Space	Hillsides	Hillsides
50310057	Single Family Residential	Hillside Open Space	Hillsides	Hillsides
50310060	Single Family Residential	Hillside Open Space	Hillsides	Hillsides
50310039	Vacant	Hillside Open Space	Hillsides	Hillsides

TABLE 4: PARCELS PROPOSED FOR EXCLUSION FROM THE CITY'S USA  
WEST ROAD

APN	EXISTING LAND USE	CITY GP DESIGNATION	PROPOSED COUNTY GP	PROPOSED COUNTY ZONING
51007007	Single Family Residential	Hillside Open Space	Hillsides	Hillsides

**ENVIRONMENTAL ASSESSMENT**

The City of Saratoga is the Lead Agency under CEQA for the proposed Saratoga Urban Service Area Amendments. Per Resolution No. 12-051, adopted by the City of Saratoga on August 23, 2012, the City determined that the proposed project is entitled to an exemption under CEQA Guidelines Section 15319 because the boundary adjustments

would apply to existing structures developed to the density allowed by the General Plan Designation of either the City of Saratoga or the County of Santa Clara.

LAFCO is a Responsible Agency under CEQA for the proposal and has determined that LAFCO's approval of the proposal is exempt from the provisions of CEQA pursuant to State CEQA Guidelines Section 15319(a) & (b) and Section 15303.

Section 15319, Class 19 consists of only the following annexations:

- (a) Annexations to a city or special district of areas containing existing public or private structures developed to the density allowed by the current zoning or pre-zoning of either the gaining or losing governmental agency whichever is more restrictive, provided, however, that the extension of utility services to the existing facilities would have a capacity to serve only the existing facilities
- (b) Annexations of individual small parcels of the minimum size for facilities exempted by Section 15303, New Constructions or Conversion of Small Structures.

Section 15303, Class 3 consists of construction and location of limited numbers of new, small facilities or structures, installation of small new equipment and facilities in structures....The number of structures described in this section are the maximum allowable on any legal parcel.

### **USA Expansion Proposal**

The City of Saratoga acquired the Congress Springs Quarry property from the County of Santa Clara (with joint funding from the MROSD and the County of Santa Clara Parks and Recreation Department) for open space and trail use subject to a conservation easement over the property. A conservation easement has been placed on the property and dedicated to the County of Santa Clara and MROSD limiting the use of the property to activities involving recreation (hiking, picnicking, nature research and study), enjoyment of views, open space, natural habitat and environmental protection, restoration and related uses that are consistent with the easement. The conservation easement includes language on permitted uses including but not limited to "uses and practices....to implement the Final Management Plan including the construction and maintenance of public use trails and reasonable public amenities related to trail use and, in the vicinity of the staging area, picnicking and related low-intensity uses such as, by way of example only, restrooms, a tot lot, and dog park." The City's purchase of the property, granting of the conservation easement and proposed General Plan and Zoning amendments were analyzed in the City's Initial Study / Negative Declaration and adopted by the City Council on August 17, 2011. Development and implementation of the FMP will be subject to further environmental review under CEQA.

### **USA Retraction Proposal**

The three areas proposed for USA retraction are currently unincorporated and will remain unincorporated upon LAFCO approval. The vast majority of these lands are developed and no new development or extension of new services is proposed.

Furthermore, there is no potential for further subdivision of any of the lands due to their existing parcel sizes and the maximum density requirements of the County General Plan and the City General Plan which are both one dwelling unit per 20 acres to 160 acres (based on a slope density formula). Lastly, further development of any of these lands would be subject to the rules and regulations of the County of Santa Clara.

## **CONSISTENCY WITH LAFCO POLICIES**

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### **Conversion of / Impacts to Prime Agricultural Lands and Open Space**

The proposed USA amendment areas do not contain prime agricultural lands and are not under the Williamson Act Contract. However, the Congress Springs Quarry property proposed for inclusion in the City 's USA includes open space lands. LAFCO policies and the long standing urban development policies (jointly adopted by the cities, county and LAFCO) generally discourage the addition of open space lands or lands unsuitable for urban development to a city's USA. Under a narrow exception to this provision, such lands may be included in a city's USA if the land is preserved as a non-urban open space use and the city has demonstrated to LAFCO that effective measures have been adopted for protecting the open space status of the lands.

The City of Saratoga owns the Congress Springs Quarry property and has granted a conservation easement over the entire property to the County of Santa Clara and to the MROSD for the retention in perpetuity of the open space condition of the lands. The easement allows the City to construct and maintain public use trails and reasonable public amenities related to trail use and, in the vicinity of the staging area, picnicking and related low intensity use such as by way of example only, restrooms, a tot lot and dog park on the property.

### **Logical, Orderly and Efficient Boundaries**

The Congress Springs Quarry property which is proposed for inclusion in the City's USA is located adjacent to the current City limits and USA. Specifically, the City has initiated annexation of lands to the east of these properties as they are currently located within the City's USA.

The three areas proposed for exclusion from the City's USA are, for the most part, located more remotely. The City has determined that these areas include lands that are not suitable for annexation and is seeking to remove them from its USA.

### **Ability of City to Provide Urban Services**

The Congress Springs Quarry property is currently undeveloped and not serviced by utilities. The area is located within the service area of the Saratoga Fire Protection District. Parts of the property are located within the service area of the San Jose Water Company and the West Valley Sanitation District. Police services are provided by the County Sheriff's office. The City has indicated that there would be no change in service providers or in the level of services upon annexation.

All three of the areas that the City is proposing to exclude from its USA are currently unincorporated. These areas would continue to remain unincorporated and there would

be no change in the service providers or the level of services that are provided to these areas following the USA amendment.

The property on West Road is within the service area of the West Valley Sanitation District, the San Jose Water Company and the Santa Clara County Central Fire Protection District. The properties near On Orbit Drive are in the Saratoga Fire Protection District service area. These properties are not served by a water or sewer service provider (except for one property which is in the West Valley Sanitation District service area). The properties along Orchard Meadows Drive are within the service area of the Cupertino Sanitary District and the Santa Clara County Central Fire Protection District.

### **Growth Inducing Impacts**

Removal of the three areas from the City's USA indicates that the City will not annex these areas and will not provide urban services. The properties removed from the City's USA will remain unincorporated. Land use in the unincorporated areas is governed by the County General Plan. The County proposes to apply a General Plan land use designation of Hillside and a Zoning designation of HS or Hillside, to these properties. The proposed designations will maintain the area in low density residential uses and regulate the intensity of permitted non-residential uses. There is no potential for further subdivision of properties in these areas under the City's current General Plan designation. Similarly, the County's proposed designations would not allow for further subdivision of the properties.

A conservation easement granted by the City of Saratoga to the County and to the MROSD prohibits further subdivision of the Congress Springs Quarry property for any purpose. Expansion of the USA to include the Congress Springs Quarry properties would allow the City of Saratoga to eventually annex the lands. Once annexed, the lands would become subject to the City's zoning and other regulations.

### **Annexation of Unincorporated Islands**

LAFCO identified six unincorporated islands within the USA of Saratoga as indicated in LAFCO's letter dated May 2, 2011, to the City. **See Attachment C for the LAFCO letter and maps of the islands.**

LAFCO approval of the City's proposed USA retraction would eliminate two of these islands, namely:

- The 92 acre island located in the vicinity of On Orbit Drive (referred to as STG 04 in the LAFCO letter)
- The 0.4 acre island located on West Road (referred to as STG 06)

The Saratoga City Council adopted a resolution on August 15, 2012, to initiate annexation of three other islands, namely:

- The 53 acre island located south west of Mount Eden Road (referred to as STG 01). This island was originally 89.5 acres. LAFCO approval of the

City's USA retraction would reduce the size of this island to approximately 53 acres.

- The 103 acre island located to the west of Mount Eden Road (referred to as STG 07)
- The 8.5 acre island located to the south of Big Basin Way (referred to as STG 02). LAFCO approval of the City's USA expansion for Congress Springs Quarry will increase the size of this island to approximately 78 acres.

With regard to the remaining island, which is approximately 207 acres (referred to as STG 05) the City indicated in its letter dated January 4, 2012 that it intends to gather additional information in the interest of annexing the island. The City has not reported any further progress regarding annexation of this island.

In February 2012, LAFCO considered and conditionally approved an USA expansion request by the City of Saratoga. One of the conditions of LAFCO's approval was that LAFCO would not consider any further USA expansions for the City until the City initiates annexation of the remaining islands and / or seeks amendment of its USA to eliminate the islands. **See Attachment D for LAFCO Resolution #2012-01 adopted on February 8, 2012.** Specifically, with regard to the largest island (STG 05), which does not qualify for the streamlined island annexation proceedings, LAFCO required that the City prepare a plan and timeline for its annexation prior to any further City USA expansions.

### **Fiscal Impact to the City of Saratoga and Affected Agencies**

The City is not proposing to provide any additional or new services to the USA expansion area. However, the City is proposing to develop a new park and trails on the property. The City has indicated that since the property is currently under public ownership, no property taxes are assessed on it. The easement calls for an FMP to be prepared within 5 years of the funding agreement dated September 27, 2011. The City has not provided any further information on fiscal impacts.

### **CONCLUSION**

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A city's urban service area delineates those lands that the city intends to annex and provide with urban services in order to facilitate urban uses or development. LAFCO policies generally discourage the addition of lands such as open space or agricultural lands or lands otherwise unsuited for development, to the city's urban service area. This concept of urban development occurring in the cities and non-urban uses remaining outside cities and their urban service areas is the key concept for the urban development policies adopted jointly by LAFCO, the county and the 15 cities.

Even though LAFCO policies allow exceptions that allow open space lands to be included in a city's USA if the city has effective measures in place for protecting the open space status of the lands, such actions are not intended to occur often or as a common practice because they could potentially dilute or undermine the meaning of an urban



service area boundary and are counter to the long standing growth and development policies in Santa Clara County.

The City of Saratoga is requesting expansion of its USA in order to include open space lands owned by the City and protected in perpetuity under a conservation easement granted to the County of Santa Clara and to the MROSD. The City is seeking to include the lands within its USA in order to develop within the City, a trail and park on the property. Although the City has adequately demonstrated its intention of maintaining these lands as open space, this is the second consecutive USA amendment request where the City of Saratoga is proposing to add open space or agricultural lands to its USA. Staff recommends that LAFCO review and revise its policies regarding this matter in order to better address such situations in the future.

Additionally, the City has not complied with one of LAFCO's conditions of approval for a prior USA expansion request. LAFCO had required the City to prepare a plan and timeline for annexation of its largest island prior to bringing forward additional USA expansion requests. Staff recommends approval of the City's current USA expansion request provided that the City complies with LAFCO's previous condition which required the City to prepare a plan and timeline for annexation of its remaining island (STG 05).

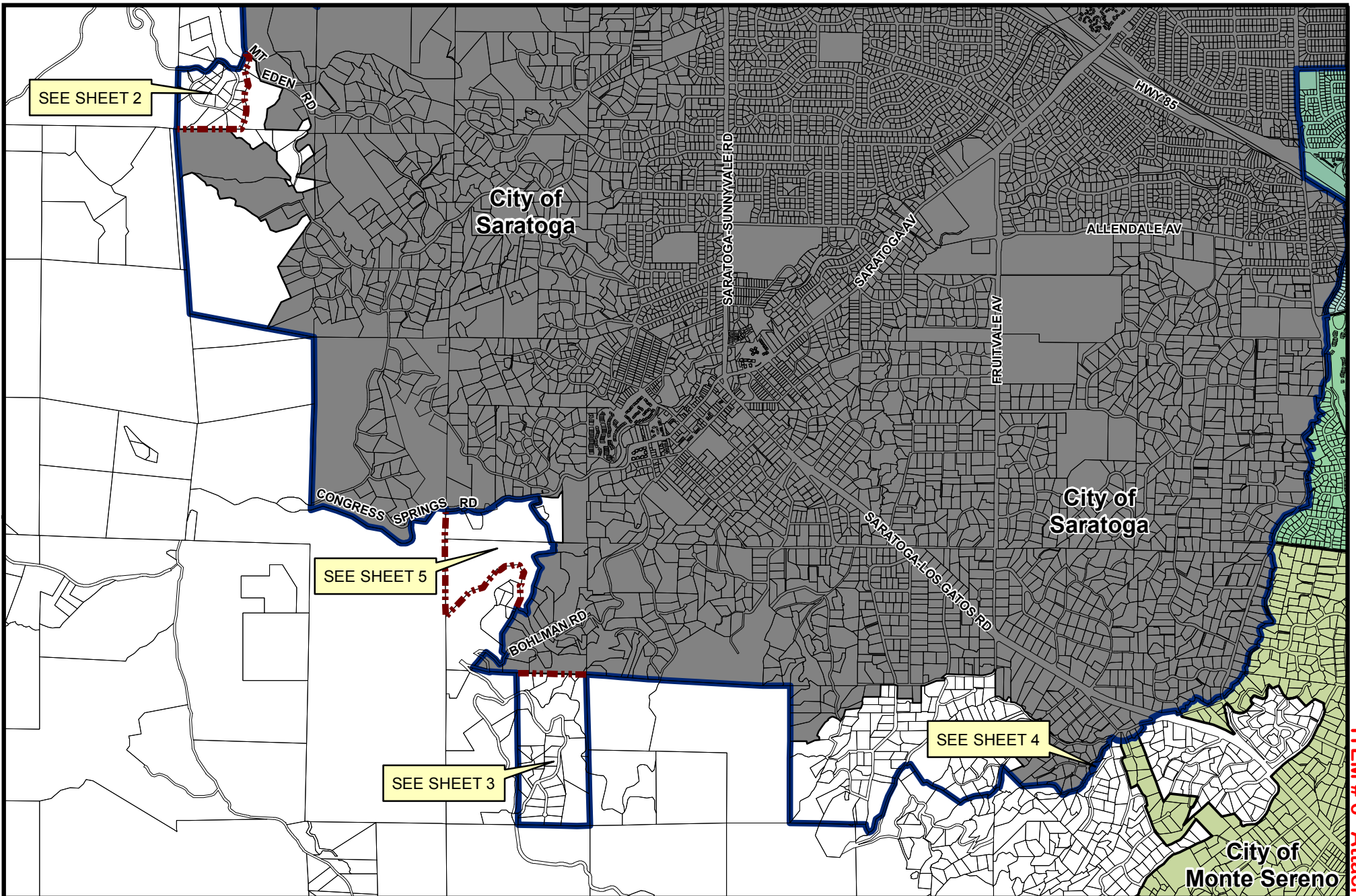
Staff recommends approval of the City's request for USA retraction for the three areas as it would eliminate islands. The City has indicated that it is not reasonable for the city to annex any of these areas. Retraction of the USA in these instances will make the city's intentions clear to the community and to all affected agencies.

## **ATTACHMENTS**

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- Attachment A:      Maps of Proposed Saratoga Urban Service Area Amendment
- Sheet 1 -      Location map for USA amendments
  - Sheet 2 -      Orchard Meadows Drive Area
  - Sheet 3 -      On Orbit Drive Area
  - Sheet 4 -      West Road
  - Sheet 5 -      Congress Springs Quarry Property
- Attachment B:      Grant Deed of Conservation Easement
- Attachment C:      LAFCO letter and maps for City of Saratoga's Islands
- Attachment D:      LAFCO Resolution # 2012-01





**County of Santa Clara**  
 Department of Planning and Development  
 Office of the County Surveyor  
 County Government Center, East Wing  
 70 West Hedding Street, 7th Floor  
 San Jose, California 95110

TITLE:

**Saratoga Urban Service Area  
 Amendment 2013**

**Location Map**

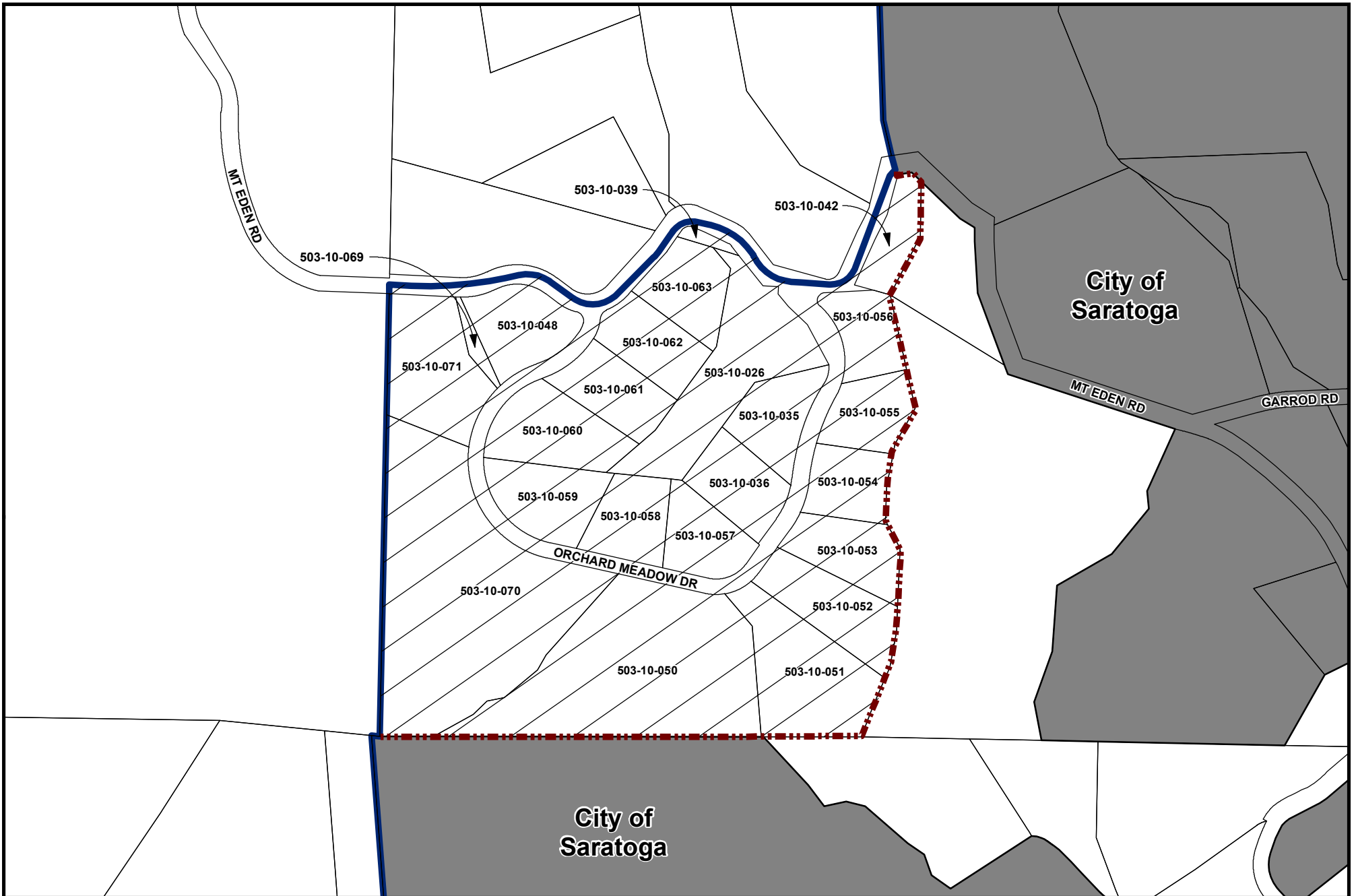
Prepared by the Office of the County Surveyor  
 January 9, 2013  
 Gwendolyn Gee, County Surveyor

LEGEND:

-  Existing Saratoga U.S.A. Boundary
-  Proposed Saratoga U.S.A. Boundary
-  City of Saratoga
-  Unincorporated Lands
-  U.S.A. Urban Service Area



0 5001,000 2,000 Feet








**County of Santa Clara**  
 Department of Planning and Development  
 Office of the County Surveyor  
 County Government Center, East Wing  
 70 West Hedding Street, 7th Floor  
 San Jose, California 95110

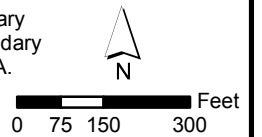
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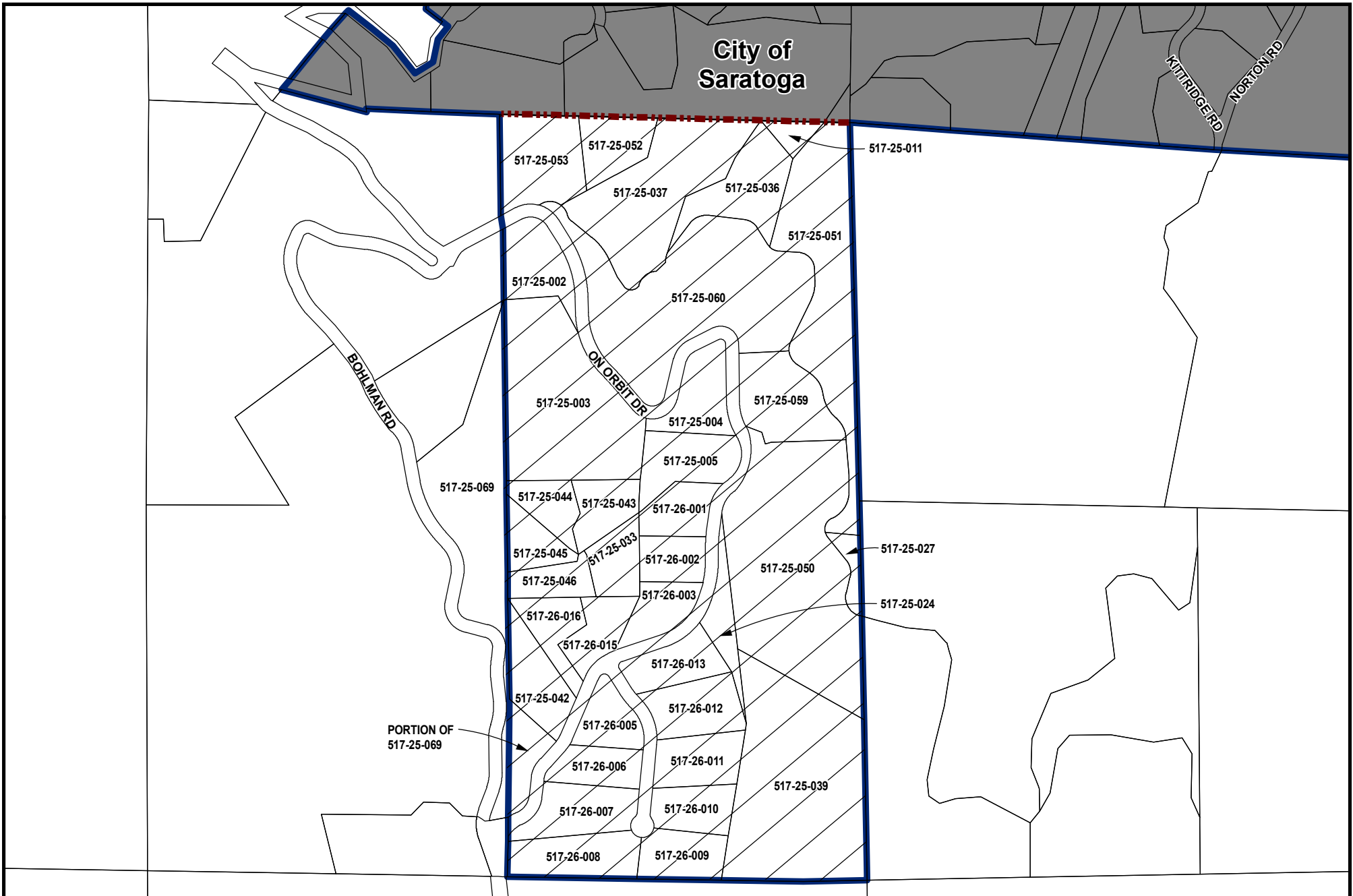
**Saratoga Urban Service Area  
 Amendment 2013  
 (STG01)**

**36.8 Acres ±**  
 Prepared by the Office of the County Surveyor  
 January 9, 2013  
 Gwendolyn Gee, County Surveyor

LEGEND:

-  Existing Saratoga U.S.A. Boundary
-  Proposed Saratoga U.S.A. Boundary
-  Area to be Removed From U.S.A.
-  City of Saratoga
-  Unincorporated Lands
- 123-45-678** Assessor's Parcel Number
- U.S.A. Urban Service Area












**County of Santa Clara**  
 Department of Planning and Development  
 Office of the County Surveyor  
 County Government Center, East Wing  
 70 West Hedding Street, 7th Floor  
 San Jose, California 95110

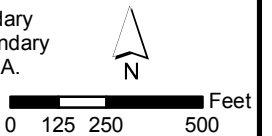
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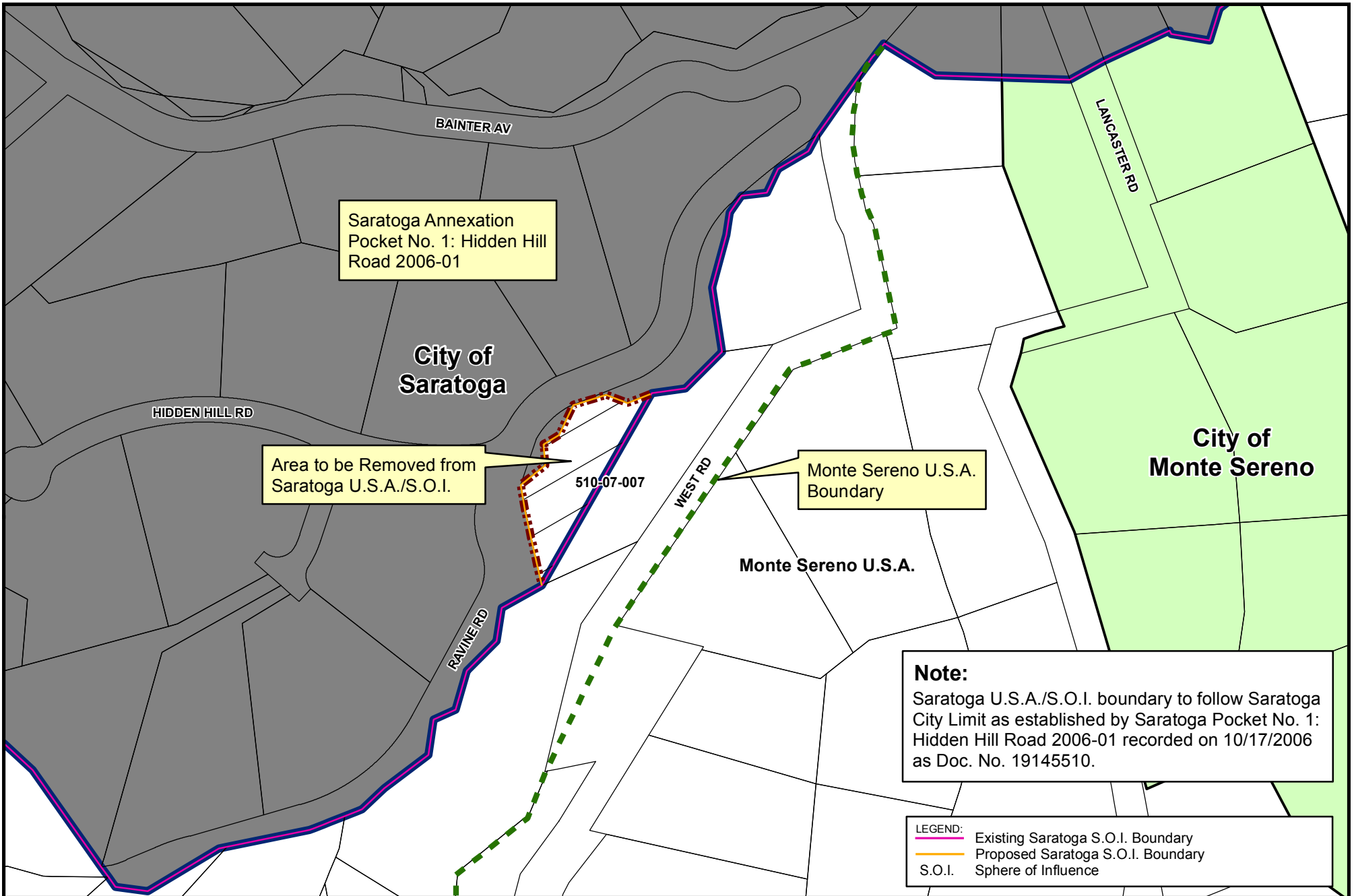
**Saratoga Urban Service Area  
 Amendment 2013  
 (STG04)**

**92.4 Acres ±**  
 Prepared by the Office of the County Surveyor  
 January 9, 2013  
 Gwendolyn Gee, County Surveyor

LEGEND:

-  Existing Saratoga U.S.A. Boundary
-  Proposed Saratoga U.S.A. Boundary
-  Area to be Removed From U.S.A.
-  City of Saratoga
-  Unincorporated Lands
-  123-45-678 Assessor's Parcel Number
-  U.S.A. Urban Service Area







Saratoga Annexation  
Pocket No. 1: Hidden Hill  
Road 2006-01

Area to be Removed from  
Saratoga U.S.A./S.O.I.

Monte Sereno U.S.A.  
Boundary






**Note:**  
Saratoga U.S.A./S.O.I. boundary to follow Saratoga  
City Limit as established by Saratoga Pocket No. 1:  
Hidden Hill Road 2006-01 recorded on 10/17/2006  
as Doc. No. 19145510.


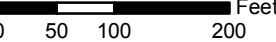
**LEGEND:**  
 Existing Saratoga S.O.I. Boundary  
 Proposed Saratoga S.O.I. Boundary  
 S.O.I. Sphere of Influence

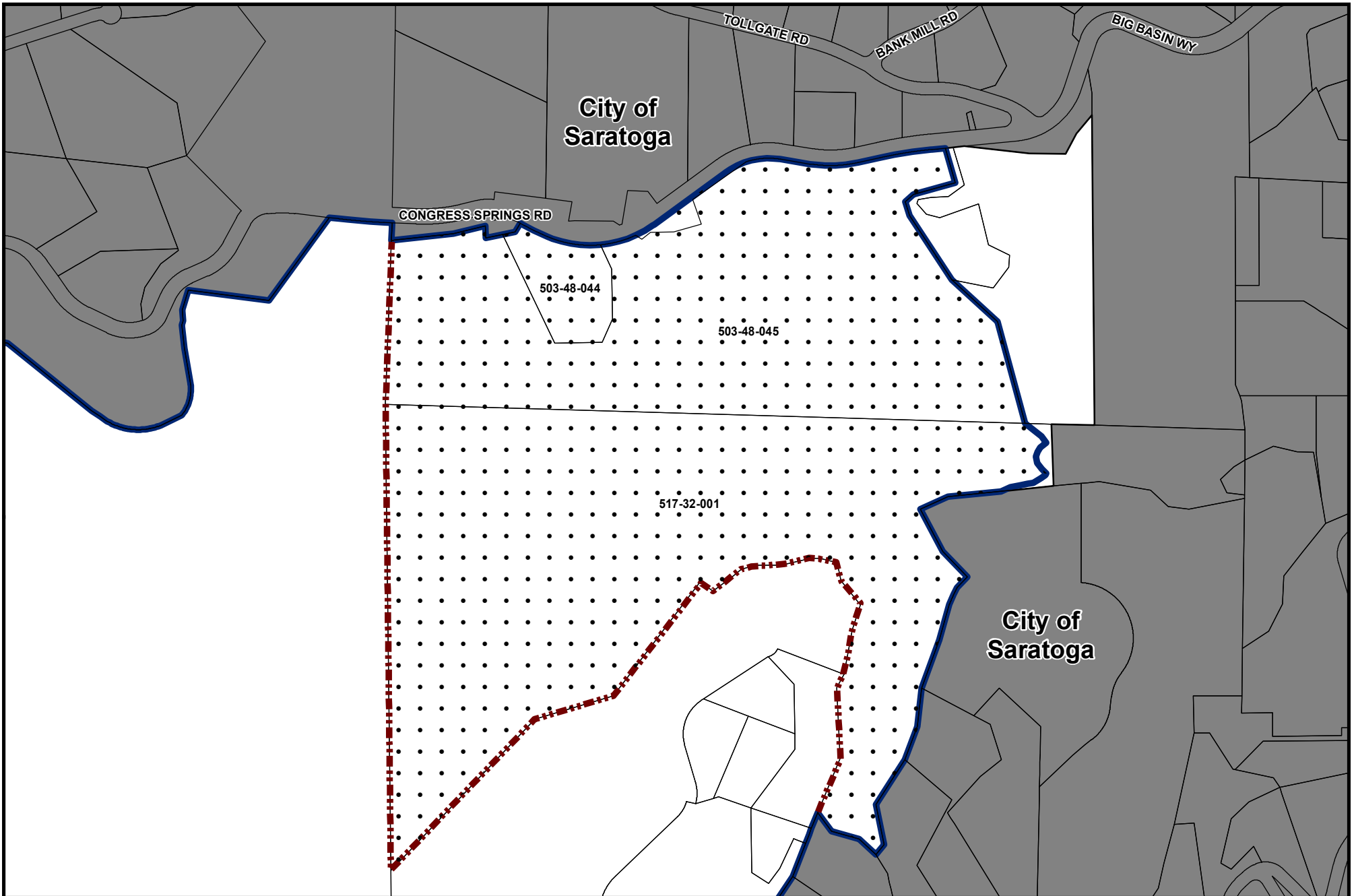


**County of Santa Clara**  
 Department of Planning and Development  
 Office of the County Surveyor  
 County Government Center, East Wing  
 70 West Hedding Street, 7th Floor  
 San Jose, California 95110

TITLE: **Saratoga Urban Service Area  
 Amendment 2013  
 (STG06)**  
**0.4 Acres ±**  
 Prepared by the Office of the County Surveyor  
 January 9, 2013  
 Gwendolyn Gee, County Surveyor

**LEGEND:**  
 Existing Saratoga U.S.A. Boundary  
 Proposed Saratoga U.S.A. Boundary  
 Area to be Removed From U.S.A.  
 City of Saratoga  
 Unincorporated Lands  
 123-45-678 Assessor's Parcel Number  
 U.S.A. Urban Service Area

  
  
**Sheet 4 of 5**








**County of Santa Clara**  
 Department of Planning and Development  
 Office of the County Surveyor  
 County Government Center, East Wing  
 70 West Hedding Street, 7th Floor  
 San Jose, California 95110

TITLE:

**Saratoga Urban Service Area  
 Amendment 2013  
 (Quarry Property)**

**68.7 Acres ±**  
 Prepared by the Office of the County Surveyor  
 January 9, 2013  
 Gwendolyn Gee, County Surveyor

LEGEND:

-  Existing Saratoga U.S.A. Boundary
-  Proposed Saratoga U.S.A. Boundary
-  Area to be Included in U.S.A.
-  City of Saratoga
-  Unincorporated Lands
- 123-45-678** Assessor's Parcel Number
- U.S.A. Urban Service Area



0 100 200 400 Feet







Fees . . . - No Fees  
Taxes . . .  
Copies . . .  
AMT PAID

RECORDING WITHOUT FEE  
UNDER SECTION 6103  
CALIFORNIA GOVERNMENT CODE

When Recorded Return to:

County of Santa Clara  
Parks and Recreation Dept.  
Attn: Real Estate Div.  
298 Garden Hill Drive  
Los Gatos, CA 95032

And to:

Midpeninsula Regional  
Open Space District  
330 Distel Circle  
Los Altos, CA 94022

REGINA ALCOMENDRAS  
SANTA CLARA COUNTY RECORDER  
Recorded at the request of  
First American Title Company

RDE # 009  
10/31/2011  
8:00 AM

GRANT DEED OF CONSERVATION EASEMENT

WHEREAS, City of Saratoga, hereinafter called "Grantor", is the owner of certain real property located within the County of Santa Clara, State of California, and consisting of approximately sixty-four (64) acres in two parcels. The legal description of the real property is attached hereto as Exhibit A and incorporated by this reference (hereafter "Property").

WHEREAS, THE COUNTY OF SANTA CLARA, hereinafter called "County", is a political subdivision of the State of California, with a Parks and Recreation Department with a mission to "provide, protect and preserve regional parklands for the enjoyment, education and inspiration of this and future generations"; and

WHEREAS, MIDPENINSULA REGIONAL OPEN SPACE DISTRICT, a Public District, hereinafter called "District" (with County, collectively "Grantees"), was formed by voter initiative to solicit, receive, and hold conveyances of real property and interests therein by purchase, exchange, gift, or bargain purchase for public park, recreation, scenic, and open space purposes; and

WHEREAS, Grantor desires to deed to Grantees and Grantees desire to obtain a conservation easement over the Property to preserve and protect in perpetuity the natural, scenic and recreational values of the Property, subject to the restrictions contained herein.

WHEREAS, Grantor and Grantees further desire to support development of the "Saratoga to the Sea" Trail that would connect Saratoga from the Hakone Gardens to Sanborn County Park and then to the Skyline-to-the-Sea Trail as contemplated by the Circulation Element and the Open Space and Conservation Element Implementation Program OSC 5.a of the Saratoga General Plan by protecting the Property which is a linchpin for the Saratoga to the Sea trail and for providing

regional park connections through the Tollgate area to the Parker Ranch Open Space and the Fremont Older Open Space Preserve.

WHEREAS, Grantor and Grantees have entered into a Funding Agreement dated 9-27-11 whereby Grantor has contributed funds for Grantees' acquisition of the Property as consideration for this Easement.

NOW, THEREFORE, in consideration of the above recitals, and the mutual covenants, terms, conditions, and restrictions contained herein, and pursuant to the laws of California and in particular, inter alia, Sections 815 through 816 of the California Civil Code, Grantor hereby grants to Grantees a Conservation Easement in perpetuity over the Property, subject to the following terms and conditions:

1. Purpose. The purpose of this Easement is to assure that the Property will be retained in perpetuity in its natural scenic and open space condition, to prevent any use of the Property that will significantly impair or interfere with its open space values, to promote public access for hiking and other recreation, and implement restoration and erosion control measures on the Property. Accordingly, this Easement restricts the use of the Property to activities involving recreation (hiking, picnicking, nature research and study), enjoyment of views, open space, natural habitat and environmental protection, restoration and related uses which are consistent with this Easement.
2. Management Plan. To accomplish the purposes of this Easement, Grantor shall, within five (5) years of the date of this Agreement, develop a Final Management Plan (FMP) for the Property. The development and implementation of the FMP will be subject to County and District review and input and all necessary regulatory approvals. The FMP shall include, but not be limited to, the following:
  - 2.1 Provisions that promote the protection of public resources;
  - 2.2 Provisions for the implementation of an erosion control program;
  - 2.3 Provisions that promote public access for recreation;
  - 2.4 Provisions for the development of the Saratoga-to-the-Sea Trail described in section 3.
  - 2.5 A program for obtaining any regulatory approvals necessary to allow implementation of the FMP.
3. Trail Easement and Development. The FMP shall provide for the development and maintenance of a "Saratoga to the Sea" trail ("Trail") through the Property as contemplated by the City of Saratoga General Plan Open Space and Conservation Element and Circulation and Scenic Highways Element, subject to all necessary regulatory approvals.
  - 3.1 The Trail alignment shall be planned in consultation with Grantees and shall be from Hakone Gardens through Property to a point on the western boundary of the

Property that will allow for a reasonable alignment for a trail continuing to Sanborn County Park.

- 3.2 The Trail will be developed by the City, no later than five (5) years after the City obtains the rights for a trail connecting the Property with Hakone Gardens and shall be operated and maintained by the City thereafter.

4. Rights of Grantees. To accomplish the purposes of this Easement, Grantor conveys to Grantees the right:

- 4.1 To preserve and protect the open space values of the Property.
- 4.2 To enter upon the Property at reasonable times, in order to monitor Grantor's compliance with the terms of this Easement and to enforce such terms; provided that such entry shall be upon reasonable prior notice to Grantor or its successors in interest of the Property.
- 4.3 To enter upon the Property at any time in order to monitor potential violation of compliance with the terms of this Easement and to enforce such terms.
- 4.4 Pursuant to Section 7 hereof ("Disputes and Remedies"), to prevent any activity on or use of the Property which is inconsistent with the purposes of this Easement and to require the restoration of such areas or features of the Property that may be damaged by any inconsistent activity or use.
- 4.5 To prepare baseline data. In order to establish the condition of the Property, Grantees may examine the Easement Property and prepare a report (the "Baseline Documentation Report") containing an inventory of the Easement Property's relevant features and conditions, its improvements and its natural resources (the "Baseline Data"). A copy of the Baseline Documentation Report shall be provided to Grantor, and another shall be placed and remain on file with Grantees. The Baseline Documentation Report shall be signed by the Grantor and Grantees to acknowledge that it accurately represents the condition of the Easement Property at the time it is prepared. The parties intend that the Baseline Data shall be used by Grantees to monitor Grantor's future uses of the Easement Property, condition thereof, and practices thereon. The parties further agree that, in the event of a controversy arises with respect to the condition of the Easement Property or a particular resource thereof, the parties shall not be foreclosed from utilizing any other relevant document, survey, or report to assist in the resolution of the controversy.

5. Prohibited Uses. Any activity on or use of the Property which is inconsistent with the purposes of this Easement is prohibited. Without limiting the generality of the foregoing, the following activities and uses are expressly prohibited:

- 5.1 Subdivision. The legal or defacto subdivision of the Property for any purposes. (Lot line adjustments in excess of one hundred square feet are subject to the prior written approval of Grantees.) Any land transferred by lot line adjustment shall

remain subject to the terms of this Easement, and shall not carry with it any rights to development density. The term subdivision shall include, but not be limited to, the creation of a life or future estate in a portion of the Property, the conveyance of a portion of the Property, or any subdivision as defined by the Subdivision Map Act, California Government Code Section 66000 *et seq.*

- 5.2 Transfer Density Rights. Development rights within the Easement area may not be transferred or otherwise used within or outside of the Easement area.
- 5.3 Commercial or Industrial Use. Any commercial or industrial development, use of, or activity on the Property, including commercial agriculture.
- 5.4 Building. The placement or construction of any buildings, structures or other improvements of any kind on the Property (including without limitation, fences, roads, signs and parking lots) except as part of the Final Management Plan or as otherwise described as a permitted use in section 6.
- 5.5 Soil Erosion or Degradation. Any use or activity which causes, or is likely to cause, significant soil degradation or erosion or significant pollution of any surface or subsurface waters is prohibited, except where Grantor determines it reasonably necessary for the construction of trails.
- 5.6 Tree Cutting. The cutting down, or other removal of live trees, except when required for safety or fire protection and subject to the prior written approval of Grantees, which approval shall not be unreasonably withheld.
- 5.7 Dumping. The dumping or other disposal of wastes, refuse, or debris on the Property.
- 5.8 New Utilities. The installation of new utility systems or extensions of existing utility systems, including, without limitation, water, sewer, power, fuel, and communication lines and related facilities except as part of the Final Management Plan or otherwise described as a permitted use in section 6, provided, however that such new utility systems or extensions must be installed underground.
- 5.9 Mineral Rights. The exploration for, or development and extraction of, minerals and hydrocarbons by any mining method.
- 5.10 Grazing. The grazing of livestock except as part of a resource management plan implemented in accordance with the Final Management Plan.
- 5.11 Off Road Vehicles. Use of off-road or all-terrain vehicles or motorcycles.
- 5.12 Hunting or Shooting. Hunting or trapping of wildlife, or the shooting of guns.
- 5.13 Noise Limits. Activities (such as concerts) which produce noise levels in excess of 65 decibels as measured on trails surrounding the Property. Agricultural and

landscaping equipment such as tractors, chainsaws, and leaf blowers are specifically excluded from this provision.

- 5.14 Junk Yards. Storage or disassembly of inoperable automobiles and trucks for purposes of sale or rental of space for that purpose.
  - 5.15 Excavation. Alteration of land forms by grading or excavation of topsoil, earth, or rock is prohibited, except where Grantor determines it reasonably necessary for trails or other public access in accordance with the Final Management Plan.
  - 5.16 Scenic and Natural Character. Activities such as clearing, stripping of native vegetation, grading, or storage of materials that would clearly degrade the scenic and natural character of the Property, except where Grantor determines it reasonably necessary for trails or other public access in accordance with the Final Management Plan.
  - 5.17 Archeological Resources. The excavation, removal, destruction, or sale of any archeological artifacts or remains found on the property, except as part of an archeological investigation approved by Grantor. All excavation plans shall be reviewed by an archeologist prior to the start of, and during, the excavation.
  - 5.18 No limitation of Grantor's rights to construct and maintain trails and public amenities. Nothing contained in this section shall be interpreted to limit Grantor's right to construct and maintain trails and reasonable public amenities as described herein or in the Final Management Plan.
  - 5.19 Conveyance of Rights to Prohibited Uses. The rights to any use prohibited by this Easement may not be conveyed in any manner to any person or other legal entity.
6. Permitted Uses. The Grantor may use the property for any purpose not prohibited by Section 5 and which is consistent with the purpose of this Easement. The following uses and practices, though not an exhaustive recital of consistent uses, are consistent with the purpose and intent of this Easement and are not precluded by it:
- 6.1 To take reasonable measures necessary and appropriate for fire safety and erosion control as approved by the County of Santa Clara Fire Marshal.
  - 6.2 To remove exotic non-native invasive vegetation and restore the area with native vegetation.
  - 6.3 To implement the Final Management Plan including the construction and maintenance of public use trails and reasonable public amenities related to trail use and, in the vicinity of the staging area, picnicking and related low-intensity uses such as, by way of example only, restrooms, a tot lot, and dog park. It is understood and agreed by the parties that site constraints may require alterations to topography and vegetation on or near trails.

7. Disputes and Remedies. If Grantees determine that Grantor, or Grantor's successors in interest, or any occupant of the Property is conducting or allowing a use, activity, or condition on the Property which is prohibited by the terms of this Easement, or that a violation is threatened, Grantees shall give written notice to Grantor as described in this section.

7.1 Consultations Regarding Interpretation and Enforcement of Easement. When any disagreement, conflict, need for interpretation, or need for enforcement arises between the parties to this Easement, each party shall first consult with the other party in good faith about the issue and attempt to resolve the issue without resorting to legal action.

7.2 Notice of Violation; Corrective Action. If either Grantee, or Grantees together, determines that a violation of the terms of this Easement has occurred or is threatened, Grantee(s) shall give written notice to Grantor of such violation and request corrective action sufficient to cure the violation and, where the violation involves injury to the Property resulting from any use or activity inconsistent with the purpose of this Easement, to request restoration of the portion of the Property so injured to its prior condition. Such written notice is not required in the event of any actual or imminent physical harm to the property.

If Grantees disagree whether an alleged action of the Grantor is a violation of the terms of the Easement, Grantees shall issue a Notice of Entry into Mediation ("Meet and Confer Notice") to Grantor. The Meet and Confer Notice shall be issued not more than ten (10) days after the dispute becomes apparent, and Grantees shall enter into mediation not more than thirty (30) days after issuing the Meet and Confer Notice. Upon receipt of the Meet and Confer Notice, Grantor shall take reasonable measures to suspend the activity that is the subject of the notice until an agreement is reached between Grantees. Any agreement shall be in writing and signed by all the parties to this Easement.

7.3 Injunctive Relief. If Grantor fails to cure the violation within thirty (30) days after receipt of notice thereof from Grantees, or under circumstances where the violation cannot reasonably be cured within a thirty (30) day period, fail to begin curing such violation within the thirty (30) day period, or fail to continue diligently to cure such violation until finally cured, Grantees may bring an action at law or in equity in a court of competent jurisdiction which seeks to enforce the terms of this Easement, to enjoin the violation, by temporary or permanent injunction, and seeks to require the restoration of the Property to the condition that existed prior to any such injury.

7.4 Forbearance. Enforcement of the terms of this Easement shall be at the discretion of the Grantees, and any forbearance by Grantees to exercise their rights under this Easement in the event of any breach of any term of this Easement by Grantor shall not be deemed or construed to be a waiver by Grantees of such term or of any subsequent breach of the same or any other term of this Easement or of any of Grantees' rights under this Easement. No delay or omission by Grantees in the

exercise of any right or remedy upon any breach by Grantor shall impair such right or remedy or be construed as a waiver.

- 7.5 Acts Beyond the Grantor's Control. Nothing contained in this Easement shall be construed to entitle Grantees to bring any action against Grantor for any injury to or change in the Property resulting from causes not involving any affirmative acts or omissions by Grantor, or causes beyond Grantor's control, including without limitation, trespassers, fire, flood, storm, and earth movement, or from any prudent action taken by Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Property resulting from such causes.
- 7.6 Attorneys' Fees. Except as otherwise provided by law, if any litigation is commenced between any parties to this easement concerning any provision hereof or the rights and duties of any person in relation thereto, each party shall bear its own attorneys' fees and costs.
8. Access. No right of access by the general public or to any third parties to any portion of the Property is conveyed or granted by this Easement.
9. Costs and Responsibilities. Grantor shall have the sole responsibility for the ownership, liability, operation, upkeep, and maintenance of the Property. Grantor shall be responsible for, indemnify, and save harmless Grantees, their officers, agents, and employees from any and all liabilities, claims, demands, damages, or costs resulting from, growing out of, or in any way connected with or incident to this Easement, except for active negligence of Grantees, their officers, agents, or employees. The duty of Grantor to indemnify and save harmless includes the duty to defend as set forth in Civil Code Section 2778. Grantor waives any and all rights to any type of express or implied indemnity or right of contribution from Grantees, their officers, agents or employees, from any liability resulting from, growing out of, or in any way connected with or incident to this Easement.
10. Subsequent Conveyance of the Property. Grantor shall incorporate by reference hereto the terms of this Easement in any deed or other legal instrument by which Grantor divests itself of any interest in all or a portion of the Property, including, without limitation, a leasehold interest. Concurrent with the full execution of this Easement, Grantor shall grant Grantees a right of first refusal to purchase the Property or portion thereof and, pursuant to such grant, shall give written notice to Grantees of the transfer of any interest in the Property at least 30 days prior to the date of such proposed transfer. If Grantees do not elect to exercise the right of first refusal, any proposed transfer of any interest in the Property must be approved by Grantees and may be subject to reimbursement to County and/or District for any contributions made toward Property improvements. Such reimbursements shall be made in a manner to be agreed upon between Grantor and Grantees prior to such proposed transfer. Grantor shall provide a complete copy of this Easement to its transferee prior to any such transfer. The failure of Grantor to perform any act required by this paragraph shall not impair the validity of this Easement or limit its enforceability in any way.

11. Notices. Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other shall be in writing and either served personally or sent by first class mail, postage prepaid, addressed as follows:

To Grantor:           City Clerk  
                          13777 Fruitvale Ave.  
                          Saratoga, CA 95070  
                          408.868.1269 (Telephone)  
                          408.867.8559(Fax)

To Grantees:

County	County of Santa Clara Parks & Recreation Department 298 Garden Hill Drive Los Gatos, CA 95032-7669 (408) 355-2200 (Telephone) (408) 355-2290 (Fax)
MROSD	Midpeninsula Regional Open Space District Administrative Office 330 Distel Circle Los Altos, CA 94022-1404 (650) 691-1200 (Telephone) (650) 691-0485 (Fax)

or to such other address as either party from time to time shall designate by written notice to the other.

12. Recordation. This instrument shall be recorded by Grantees in the Official Records of the County of Santa Clara, California. Grantees may re-record this Easement whenever re-recording is required to preserve Grantees' rights in this Easement.
13. General Provisions.
- 13.1 Controlling Law. The interpretation and performance of this Easement shall be governed by the laws of the State of California.
- 13.2 Liberal Construction. Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed in favor of Grantees to affect the purpose of this Easement. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purpose of this Easement that would render the provision valid shall be favored over any interpretation that would render it invalid. This instrument shall be construed in accordance with its fair meaning, and it shall not be construed against either party on the basis that such party prepared this instrument.



- 13.3 **Severability.** If any provision of this Easement, or the application thereof to any person or circumstance, is found to be invalid, the remainder of the provisions of this Easement, or the application of such provision to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected thereby, so long as the purposes of this Easement can still be carried out.
- 13.4 **No Third-Party Rights.** This instrument is made and entered into for the sole benefit and protection of Grantor and Grantees and their respective heirs, grantees, successors, and assigns. No person or entity other than the parties hereto and their respective heirs, grantees, successors, and assigns shall have any right of action under this Easement or any right to enforce the terms and provisions hereof.
- 13.5 **No Forfeiture.** Nothing contained herein is intended to result in a forfeiture or reversion of Grantor's fee title in any respect. Grantor specifically reserves the right to convey fee title to the Property subject to this Easement.
- 13.6 **Successors.** The covenants, terms, conditions, and restrictions of this Easement shall be binding upon, and inure to the benefit of, the parties hereto and their respective heirs, grantees, successors, and assigns, and shall continue as a servitude running in perpetuity with the Property.
- 13.7 **Cooperation.** In light of (a) the regional benefits provided by the Property and the connections between the Saratoga to the Sea trail and other trails that may be developed by Grantees and (b) this Easement's protection of the natural values of the Property, the parties shall cooperate as reasonably necessary to facilitate use of the Property to satisfy mitigation and similar resource protection requirements that may be imposed in connection with obtaining regulatory approvals of trails with connections to the Property.
- 13.8 **Captions.** The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretation.
- 13.9 **Consent not to be Unreasonably Withheld.** In the event Grantor, as required by the terms hereof, seeks consent of Grantees, Grantees agree in all such

circumstances not to unreasonably withhold consent, regardless whether the paragraph hereunder requiring grantees' consent so provides.


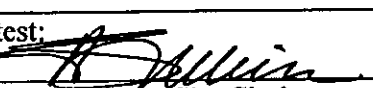
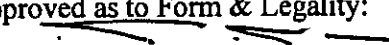
Grantor	
City of Saratoga	
By:	 Howard A. Miller Mayor
Date:	10/24/2011
Attest:	 Ann Sullivan, City Clerk
Date:	10/24/2011
Approved as to Form & Legality:	
 Richard Taylor, City Attorney	
Date:	9/30/11

Exhibit List:

Exhibit A - Property Description

State of California

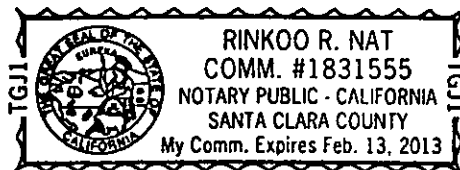
County of Santa Clara:

On OCT 24 2011, 2011 before me, Rinkoo R. Nat, notary public, personally appeared ~~Ann Sullivan & Howard Miller~~ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity (ies), and that by his/her/their signature(s) on the instrument the person(s), or entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my official seal.

  
SIGNATURE OF NOTARY



**Grant Deed of Conservation Easement - Exhibit A**

**Property Description consisting of Exhibits A-1, B-1, A-2, and B-2, attached**

**EXHIBIT "A1"**  
**LEGAL DESCRIPTION**

AUGUST 5, 2011

All that certain real property in the unincorporated area of the County of Santa Clara, State of California, being a portion of Section 11, Township 8 South, Range 2 West, Mount Diablo Base & Meridian, described as follows:

All that certain real property shown as Parcel "A" on that certain Record of Survey filed for record in Book 394 of Maps, Pages 29 and 30, Santa Clara County Records, Santa Clara County, California.

Excepting therefrom a portion more particularly described as follows:

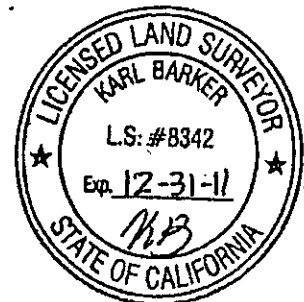
Commencing at the northwest corner of said Parcel "A", thence along the northerly line of said parcel the following four courses: 1) North 84°56' 57" East 199.98 feet; 2) North 75°01'57" East 113.78 feet; 3) South 00°06'37" West 54.01 feet; 4) North 75°12' 38" East 45.00 feet to the **TRUE POINT OF BEGINNING**; thence leaving said northerly line South 25° 00'00" East 375.00 feet; thence North 90°00'00" East 150.00 feet; thence North 25°00'00" East 80.00 feet; thence North 00°00'00" East 157.97 feet; thence North 24°24'18" West 85.68 feet to said northerly line of said Parcel "A" and also to the southerly right of way line of Congress Springs Road as said road is shown on said Record of Survey; thence along said northerly line and also along said southerly right of way line South 85°31'57" West 33.77 feet to the beginning of a curve concave northeasterly having a radius of 220.65 feet; thence northerly and westerly along said curve through a central angle of 14°44'20" for an arc length of 56.76 feet to the beginning of a compound curve concave northeasterly having a radius of 355.00 feet; thence northerly and westerly along last said curve through a central angle of 14°32'21" for an arc length of 90.08 feet; thence North 65°11'22" West 77.84 feet; thence leaving said southerly right of way line South 24°57'46" West 15.94 feet; thence South 75°12'38" West 55.48 feet to the **TRUE POINT OF BEGINNING**, containing 1.89 acres more or less.

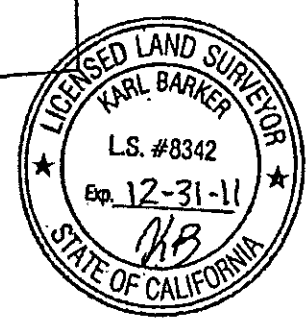
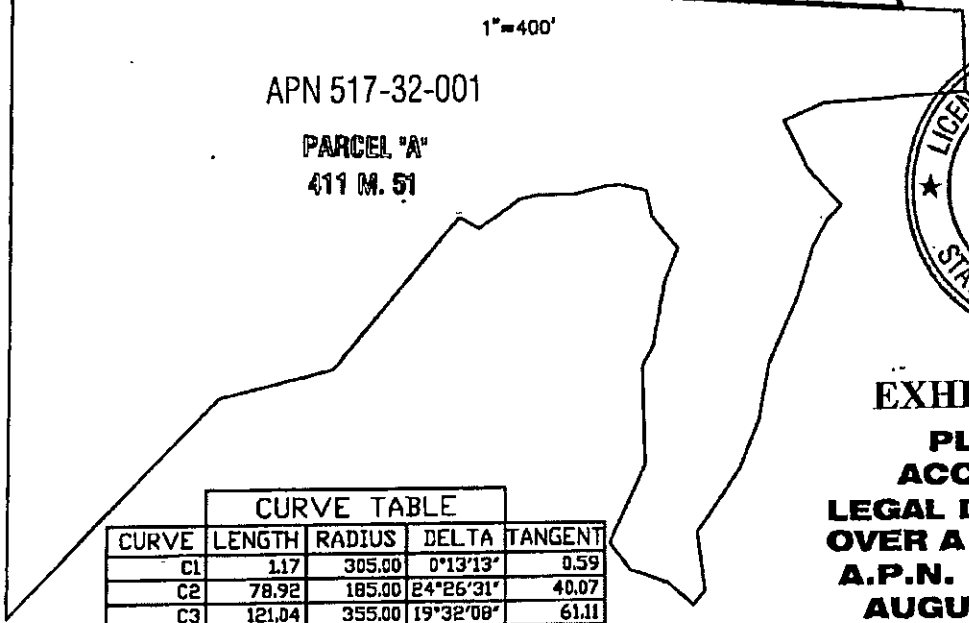
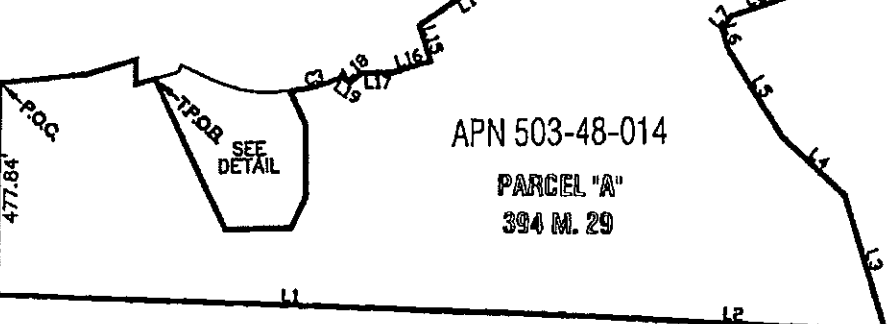
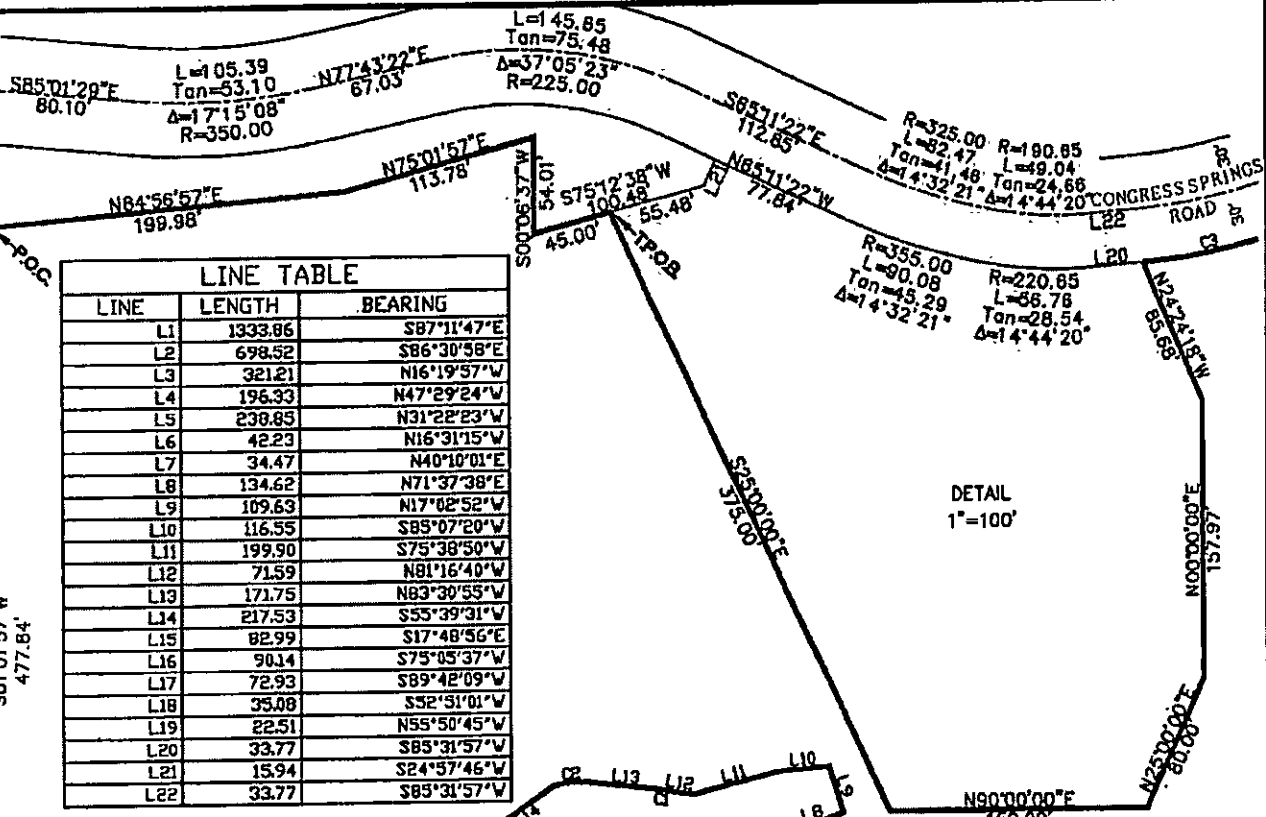
**SEE EXHIBIT "B1" ATTACHED HERETO AND MADE A PART HEREOF.**

This description was prepared by me or under my direction in conformance with the requirements of the Professional Land Surveyors' Act.

  
Karl Barker, P.L.S. #8342

8/5/11  
Date





**EXHIBIT "B1"**  
**PLAT TO**  
**ACCOMPANY**  
**LEGAL DESCRIPTION**  
**OVER A PORTION OF**  
**A.P.N. 503-48-014**  
**AUGUST, 2010**

**EXHIBIT "A2"**  
**LEGAL DESCRIPTION**  
AUGUST 5, 2011

All that certain real property in the unincorporated area of the County of Santa Clara, State of California, being a portion of Section 11, Township 8 South, Range 2 West, Mount Diablo Base & Meridian, described as follows:

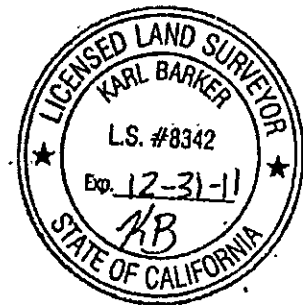
All of that certain real property shown as Parcel "A" on that certain Record of Survey filed for record in Book 411 of Maps, Page 51, Santa Clara County Records, Santa Clara County, California.

**SEE EXHIBIT "B2" ATTACHED HERETO AND MADE A PART  
HEREOF.**

This description was prepared by me or under my direction in conformance with the requirements of the Professional Land Surveyors' Act.

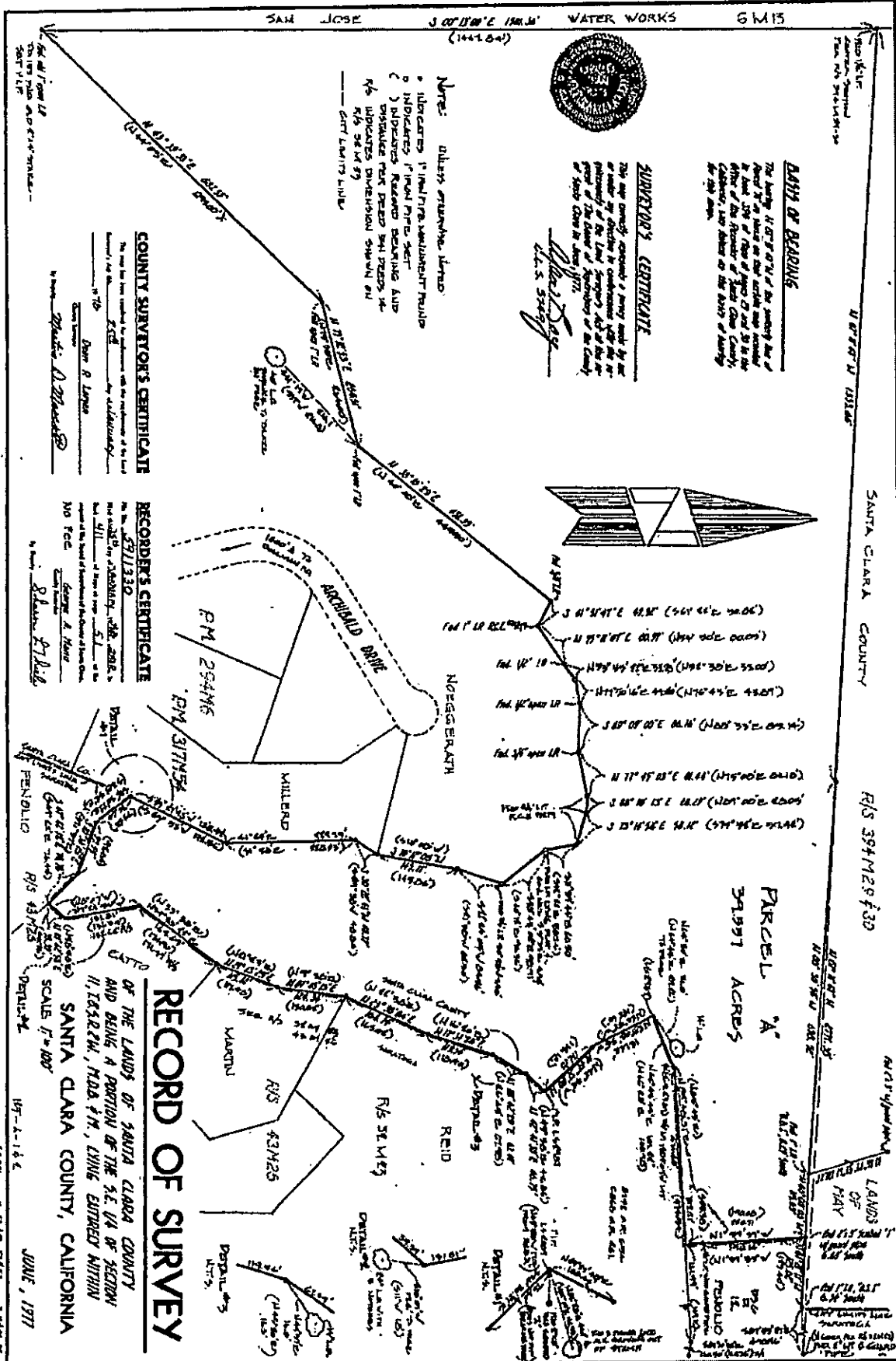
*Karl Barker*  
Karl Barker, P.L.S. #8342

8/5/11  
Date



# EXHIBIT "B2"

51



San Jose  
5 00' 13\"/>

WATER WORKS  
6 M15



**LIST OF BEARINGS**  
The bearings of the lines of the survey are as follows: ...

**SURVEYOR'S CERTIFICATE**  
I, the undersigned, being a duly qualified surveyor of the State of California, do hereby certify that the foregoing is a true and correct copy of the original survey as shown to me by the owner of the land surveyed.

- Notes:** Always examine letters:
- a) indicates final permanent results
  - b) indicates final pipe set
  - c) indicates known bearings and distances not used in this survey
  - d) indicates dimension shown on first survey only

**COUNTY SURVEYOR'S CERTIFICATE**  
I, the undersigned, County Surveyor of Santa Clara County, California, do hereby certify that the foregoing is a true and correct copy of the original survey as shown to me by the owner of the land surveyed.

**RECORDER'S CERTIFICATE**  
I, the undersigned, Recorder of Santa Clara County, California, do hereby certify that the foregoing is a true and correct copy of the original survey as shown to me by the owner of the land surveyed.

**RECORDER'S CERTIFICATE**  
I, the undersigned, Recorder of Santa Clara County, California, do hereby certify that the foregoing is a true and correct copy of the original survey as shown to me by the owner of the land surveyed.

## RECORD OF SURVEY

OF THE LANDS OF SANTA CLARA COUNTY AND BEING A PORTION OF THE S.E. 1/4 OF SECTION 11, T.33.2N., R.10.8E., 7th, KING CONVEYED WITHIN SANTA CLARA COUNTY, CALIFORNIA

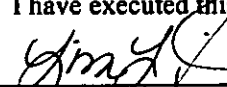
JUNE, 1977

51

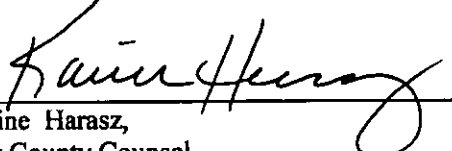
**CERTIFICATE OF ACCEPTANCE**  
(Government Code Section 27281)

This is to certify that the interest in real property conveyed by the foregoing GRANT DEED OF CONSERVATION EASEMENT, dated Oct 24<sup>th</sup> 2011 from the City of Saratoga to the County of Santa Clara is accepted by the undersigned officer on behalf of the Board of Supervisors of the County of Santa Clara as authorized by the resolution adopted 9/27/11\*, and the Grantee consents to the recording of the Grant Deed by the County's duly authorized officer. \*Resolution No. 2011-472

I have executed this certificate of acceptance on 10/26/2011.

By   
LISA KILLOUGH, Director, Parks and Recreation Department

APPROVED AS TO FORM AND LEGALITY:

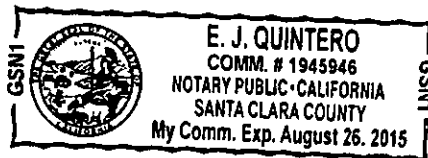
  
Katherine Harasz,  
Deputy County Counsel

\_\_\_\_\_  
State of California )  
County of Santa Clara ) ss.

On October 26<sup>th</sup>, 2011, 2011, before me, E J Quintero, a Notary Public in and for said State, personally appeared Lisa Lynn Killough who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to this instrument, and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the person or the entity upon behalf of which the person acted executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

  
Notary Public





**CERTIFICATE OF ACCEPTANCE  
(GOVERNMENT CODE SEC. 27281)**

This is to certify that the interest in real property conveyed by the foregoing GRANT DEED OF CONSERVATION EASEMENT dated 10-24-2011, from the **CITY OF SARATOGA**, a California Municipal Corporation to the **MIDPENINSULA REGIONAL OPEN SPACE DISTRICT**, a public district, is hereby accepted by the undersigned on behalf of the District pursuant to authority conferred by resolution of the Board of Directors of the Midpeninsula Regional Open Space District bearing No. 11-31, adopted on September 14, 2011, and said District consents to recordation thereof.

Dated September 14, 2011

**MIDPENINSULA REGIONAL OPEN SPACE DISTRICT**

By Larry Hassel  
President, Board of Directors

ATTEST:

Michelle Radcliffe  
Michelle Radcliffe, District Clerk



May 2, 2011

Christopher Riordan  
Acting Community Development Director  
City of Saratoga  
1377 Fruitvale Avenue  
Saratoga, CA 95070

**RE: Status of Unincorporated Lands within the City of Saratoga's Urban Service Area Boundary (i.e. Unincorporated Islands)**

Dear Mr. Riordan:

In late October 2010, the Local Agency Formation Commission (LAFCO) of Santa Clara County directed its staff to develop an inventory of the remaining unincorporated islands within each city's urban service area and to report back to the Commission on each city's plans regarding its islands.

**Six Unincorporated Islands Remain in the City of Saratoga**

The City has six unincorporated islands within its Urban Service Area (USA). See table below and attached maps.

SARATOGA	
Island ID #	No. of Acres
STG01	89.5
STG02	8.5
STG04	92.0
STG05	206.9
STG06	0.4
STG07	103.6
<b>Total</b>	<b>500.9</b>

### **Annex Islands that Qualify for the Streamlined Annexation Process**

Islands STG02 and STG04 consist primarily of private residential development and are eligible for annexation through the streamlined annexation process. Islands such as these are substantially developed and create inefficiencies / confusion in terms of provision of emergency and other municipal services. Furthermore, residents of such islands are politically disenfranchised from the city government that surrounds them.

Annexation of such islands is a high priority for LAFCO and the County. In order to encourage these annexations, LAFCO continues to waive its fees for island annexations and the County continues to provide financial incentives including covering the costs for preparing Assessor and Surveyor reports and maps, paying the State Board of Equalization filing fees, and budgeting for road improvements in islands approved for annexation. As you may be aware, the law streamlining the annexation process for qualified unincorporated islands sunsets on January 1, 2014.

We encourage the City to take advantage of this process and the incentives currently being offered by both the County and LAFCO for such annexations. Please provide us with an update on the City's plans and time-line for annexing islands STG02 and STG04.

### **Review Remaining Islands**

In terms of the City's four other remaining islands (i.e. STG01, STG05, STG06, and STG07), please review these islands that may or may not qualify for the streamlined annexation process, and determine whether the City intends to retain them within the City's USA boundary for eventual annexation.

For those islands that the City intends to retain in its USA boundary, please explain what the City's rationale is for retaining them in its USA and when the City plans to annex them.

For those areas not appropriate for eventual annexation, the City should consider whether to exclude these areas from its USA Boundary. Please contact LAFCO staff to discuss the USA amendment process and time-line for resolving these islands.

### **A Response from the City is Greatly Appreciated**

LAFCO staff is willing to work with and assist the City in resolving these island issues. We would appreciate knowing the City's annexation and/or urban service area amendment plans for these islands as soon as possible and no later than June 10, 2011. If you have any questions or concerns or would like to meet to discuss

the City's plans, I can be reached at (408) 299-5127 or at [neelima.palacherla@ceo.sccgov.org](mailto:neelima.palacherla@ceo.sccgov.org) or you may contact Dunia Noel, LAFCO Asst. Executive Officer, at (408) 299-5148 / [dunia.noel@ceo.sccgov.org](mailto:dunia.noel@ceo.sccgov.org). Thank for you for your time and consideration.

Sincerely,



Neelima Palacherla  
LAFCO Executive Officer

Attachment:

Maps of Unincorporated Islands in City's Urban Service Area prepared by the Santa Clara County Planning Office

Cc:


Dave Anderson, City Manager, City of Saratoga  
Saratoga City Council Members

Jody Hall Esser, Director, Dept. of Planning & Development, Santa Clara County  
LAFCO Members



SANTA CLARA COUNTY  
**Urban Islands 2011**

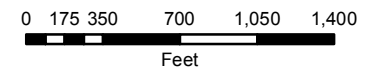
Maps depicting unincorporated lands located within the cities' Urban Service Areas (USAs)

 Urban Service Area

 Incorporated Areas

 Urban Island ≤ 150 Acres

 Urban Island > 150 Acres




This map created by the Santa Clara County Planning Office. The GIS data was compiled from various sources. While deemed reliable, the Planning Office assumes no liability.  
 3/9/2011 10:28:37 AM Y:\Projects\Urban Islands\Urban Islands 2011\UrbanIslands2011\_Saratoga\_enhanced.mxd



SANTA CLARA COUNTY  
**Urban Islands 2011**

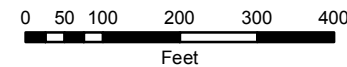
Maps depicting unincorporated lands located within the cities' Urban Service Areas (USAs)

 Urban Service Area

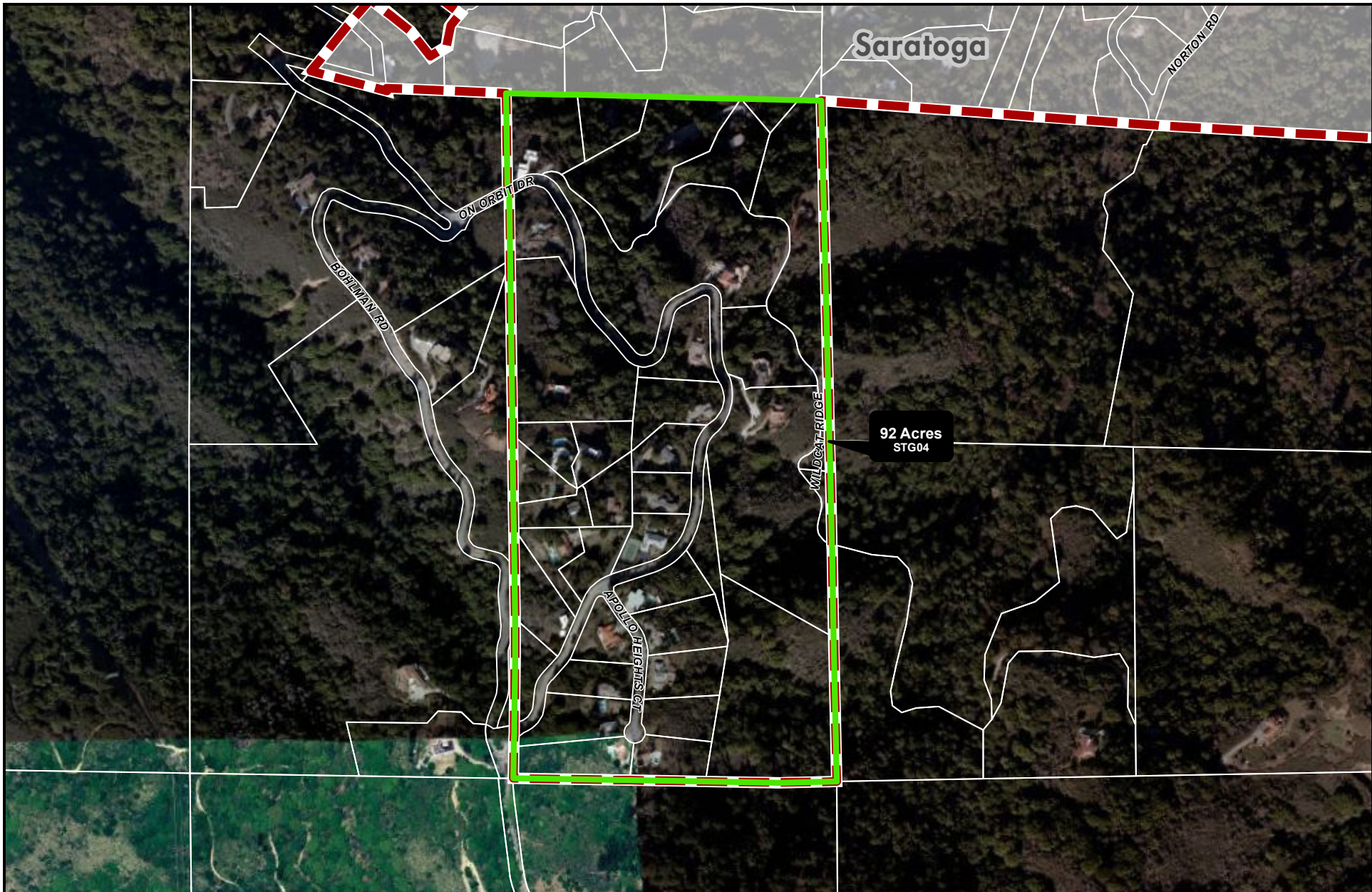
 Incorporated Areas

 Urban Island ≤ 150 Acres

 Urban Island > 150 Acres



This map created by the Santa Clara County Planning Office. The GIS data was compiled from various sources. While deemed reliable, the Planning Office assumes no liability.  
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Saratoga

NORTON RD

ON ORBIT DR

EOFFMAN RD


APOLLO HEIGHTS CT

WILDCAT RIDGE

92 Acres  
STG04

SANTA CLARA COUNTY  
**Urban Islands 2011**

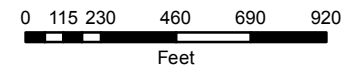
Maps depicting unincorporated lands located within the cities' Urban Service Areas (USAs)

 Urban Service Area

 Incorporated Areas

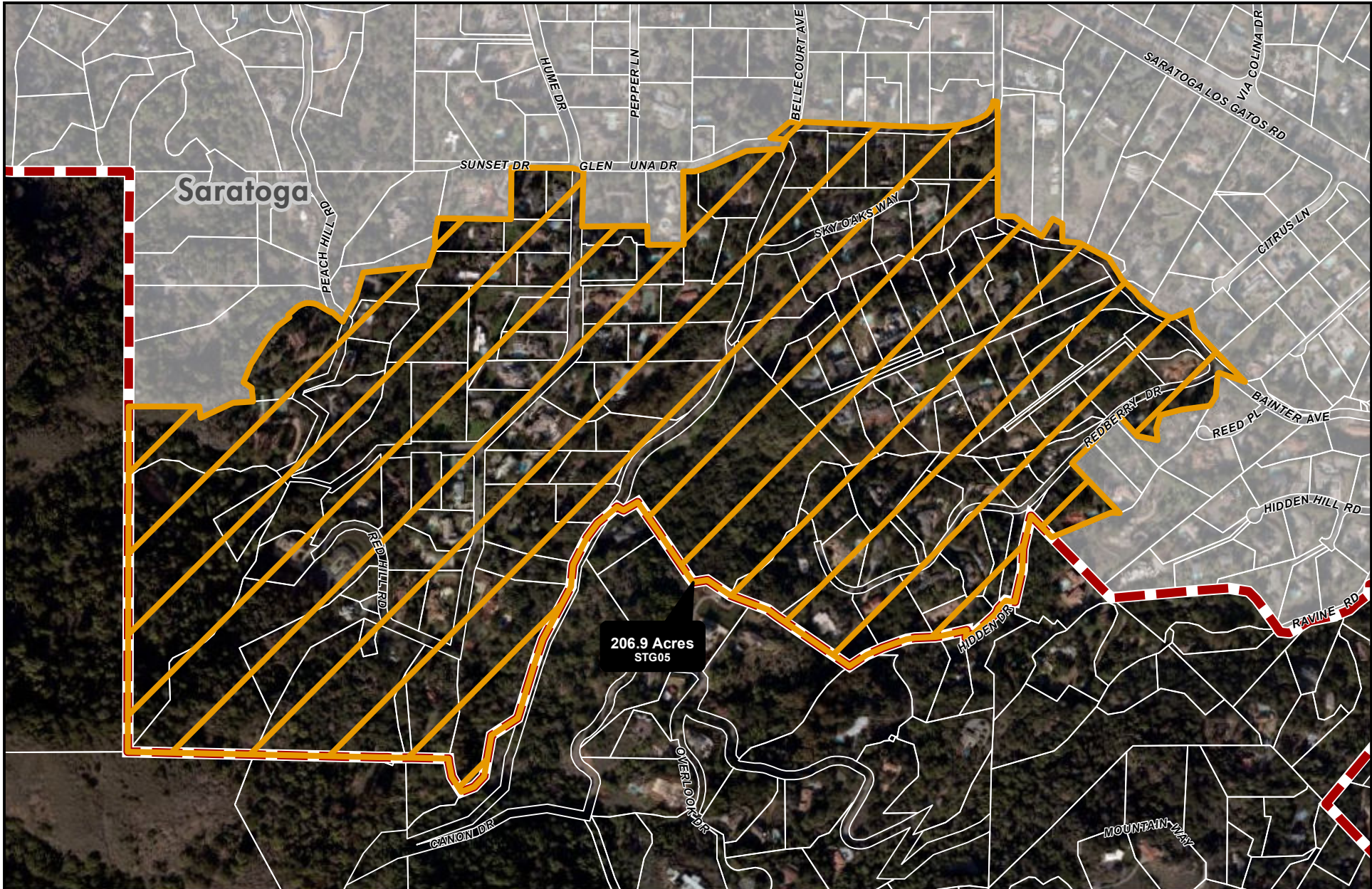
 Urban Island ≤ 150 Acres

 Urban Island > 150 Acres



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206.9 Acres  
STG05

SANTA CLARA COUNTY  
**Urban Islands 2011**

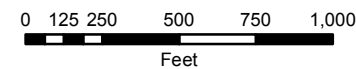
Maps depicting unincorporated lands located within the cities' Urban Service Areas (USAs)

 Urban Service Area

 Incorporated Areas

 Urban Island ≤ 150 Acres

 Urban Island > 150 Acres




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SANTA CLARA COUNTY  
**Urban Islands 2011**

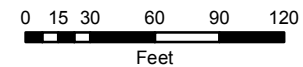
Maps depicting unincorporated lands located within the cities' Urban Service Areas (USAs)

 Urban Service Area

 Incorporated Areas

 Urban Island ≤ 150 Acres

 Urban Island > 150 Acres



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**RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION  
OF SANTA CLARA COUNTY APPROVING AN URBAN SERVICE AREA  
AMENDMENT FOR THE CITY OF SARATOGA**

**SARATOGA URBAN SERVICE AREA AMENDMENT 2011  
(LANDS OF GARROD TRUST)**

**WHEREAS**, a request by the City of Saratoga to amend the City's Urban Service Area (USA) boundary in order to include approximately 54 acres of land consisting of six parcels (APNs 503-11-008, 009, 503-74-001, 002, 003, 004) owned by the Garrod Trust and one parcel (APN 503-11-006) owned by Hoang/Nguyen in the City's USA boundary was heretofore filed with the Local Agency Formation Commission of Santa Clara County (LAFCO); and

**WHEREAS**, The City of Saratoga adopted Resolution No. 11-066 requesting the amendment of the City's USA boundary and LAFCO's approval of the USA amendment; and

**WHEREAS**, the Executive Officer has reviewed the proposal and prepared a report, including her recommendations, the proposal and report having been presented to and considered by LAFCO; and

**WHEREAS**, LAFCO as a Responsible Agency has complied with the California Environmental Quality Act (CEQA) incident to its consideration of this request, as described below; and

**NOW, THEREFORE**, the LAFCO of Santa Clara County, does hereby resolve, determine and order as follows:

**SECTION 1:**

1. As a Responsible Agency under CEQA, LAFCO finds that the Project is exempt from the provisions of CEQA pursuant to State CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the Project in question has the potential for causing a significant adverse effect on the environment.

**SECTION 2:**

1. LAFCO hereby approves a request by the City of Saratoga to amend the City's Urban Service Area (USA) boundary as depicted in Exhibit "A" conditioned on:
  1. Prior to annexation, the City shall apply an overlay designation of Agricultural Preserve / Open Space (AP/OS) on the Garrod Trust property as stipulated in the Pre-Annexation Agreement (Exhibit "B") between the Garrod Trust and the City of Saratoga.

## RESOLUTION NO. 2012-01

2. Prior to City annexation proceedings of the Garrod Trust property, the City shall submit a report to LAFCO that includes the following:
  - a. The City shall evaluate all proposed compatible uses listed in the proposed combined Williamson Act Contract for the Garrod Trust properties and shall ensure that the uses are consistent with the compatibility principles in Government Code Section 51238.1.
  - b. The City shall submit copies of the Development Agreement and Conditional Use Permit referenced in the Pre-Annexation Agreement to LAFCO.
3. Upon annexation, the City shall succeed to all rights, duties, and powers of the County under the Williamson Act Contract on the Garrod Trust properties.
4. Pursuant to Government Code Section 56856.5, upon annexation, no services or facilities related to sewers, non-agricultural water or streets and roads shall be provided to the Garrod Trust properties during the term of the Williamson Act Contract for land uses or activities not allowed under the Williamson Act Contract.
5. Pursuant to Government Code Section 56889, upon annexation, the City shall adopt the rules and procedures required by the Williamson Act, including but not limited to the rules and procedures required by Sections 51231, 51237, 51237.5.
6. The City shall initiate annexation of the remaining islands (Exhibit "C") and/or seek amendment of its USA in order to eliminate islands as described in the City's letter dated January 4, 2012 and outlined in this report. No further USA expansions for the City shall be considered by LAFCO until:
  - a. The City initiates annexation for STG 01 (along with a USA amendment to remove a portion of the island from the USA), STG 07 and STG 02
  - b. The City applies to LAFCO for USA amendment to exclude island STG 04 from the City's USA
  - c. LAFCO staff will work with the City of Saratoga on STG 06 to resolve whether the USA should be amended to include or exclude the entire parcel as the property is currently split by the USA
  - d. The City of Saratoga prepares a plan and timeline for annexation of STG 05
7. The City shall report annually to LAFCO on the status of its Williamson Act Contract with Garrod Trust for the next ten years following City annexation of the Garrod Trust property as well as at the time of any future City USA amendment proposals to LAFCO.

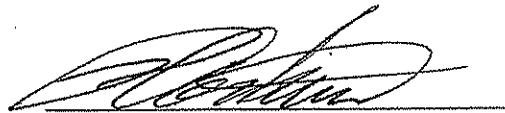
**RESOLUTION NO. 2012-01**

**PASSED AND ADOPTED** by the Local Agency Formation Commission of Santa Clara County, State of California, on February 8, 2012, by the following vote:

**AYES:** KNISS, ABE-KOGA, VICKLUND-WILSON

**NOES:** CONSTANT, WASSERMAN

**ABSTAIN:** None



Pete Constant, Chairperson  
LAFCO of Santa Clara County

**ATTEST:**

**APPROVED AS TO FORM:**

  
Emmanuel Abello, LAFCO Clerk  
Malathy Subramanian, LAFCO Counsel

Attachments to Resolution No. 2012-01

Exhibit "A" – Map of USA Amendment

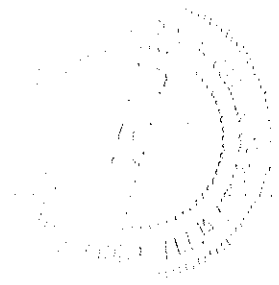
Exhibit "B" – Pre-Annexation Agreement between City of Saratoga & Garrod Trust

Exhibit "C" – Maps of Saratoga Unincorporated Islands

**CERTIFICATION**

This is to certify that the foregoing document is a true and correct copy of the original.

  
EMMANUEL ABELLO  
LAFCO Clerk March 22, 2012



**LAFCO MEETING: February 6, 2013**  
**TO: LAFCO**  
**FROM: Neelima Palacherla, Executive Officer**  
**Dunia Noel, Analyst**  
**SUBJECT: UPDATE ON GUADALUPE COYOTE RESOURCE CONSERVATION**  
**DISTRICT'S IMPLEMENTATION OF THE RECOMMENDATIONS OF**  
**LAFCO'S 2011 COUNTYWIDE WATER SERVICE REVIEW REPORT**

**STAFF RECOMMENDATION**

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Accept report and provide direction to staff, as necessary.

**BACKGROUND**

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On December 7, 2011, LAFCO adopted the 2011 Countywide Water Service Review Report. The Report included several recommendations for improving the services and governance of water and resource conservation districts in the county. The Commission specifically requested that the Guadalupe Coyote Resource Conservation District (GCRCD) return to LAFCO within a year with a plan for services which does not overlap with the Santa Clara Valley Water District's (SCVWD's) efforts and could not otherwise be provided by SCVWD through its enabling act. LAFCO would re-evaluate the District and its Sphere of Influence at that time considering the District's plan and application for providing new or different services per Government Code § 56654(b) and § 56824.12.

**GCRCD'S 2012-2017 DRAFT LONG RANGE PLAN**

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**GCRCD Scheduled to Formally Adopt Long Range Plan in March**

In late November of 2012, GCRCD staff submitted the District's 2012-2017 Draft Long Range Plan (Attachment A) for LAFCO staff's preliminary review and comment. The District's staff indicated that the Draft Plan had been prepared with the input of various partners and stakeholders and reviewed by the District's Board of Directors. District staff also indicated that the Draft Plan will be revised as necessary, based on comments received, and that GCRCD's Board of Directors will consider the Draft Plan for formal adoption at its March 13, 2013 meeting.

## **LAFCO Staff Finds Draft Long Range Plan Addresses LAFCO's Primary Concerns**

In December, LAFCO staff reviewed the Plan in light of the recommendations of LAFCO's 2011 Countywide Water Service Review.

Based on the District's Draft Plan and LAFCO staff's discussions with District staff, LAFCO staff understands that GCRCD is proposing to phase out its previous work on flood control and related main-stem river projects that overlap and or duplicate the work being carried out by SCVWD. Instead, GCRCD will focus its watershed efforts on lower order/headwater streams within the District, and will work with landowners and conservation partners to assist in the conservation of healthy working grasslands and the promotion of productive agriculture within the District while conserving natural resources. GCRCD will provide information to residents of the District in order to increase awareness of natural resource issues, and to connect landowners and natural resource managers to technical expertise and sources of project funding. LAFCO staff believes that these services are not new or different than the services presented in the District's prior Long Range Plan or LAFCO service reviews. The District has simply decided to prioritize these activities. Therefore, LAFCO staff finds that:

- GCRCD is proposing to provide services that are different than the services currently provided by the Santa Clara Valley Water District (SCVWD) or could be provided by SCVWD through its enabling act,
- GCRCD is not proposing new or different services through its 2012-2017 Long Range Plan that would require LAFCO consideration and approval, and
- GCRCD is proposing to focus on providing services within its current boundaries and therefore the District's current Sphere Influence should be retained.

## **LAFCO Staff Recommends Minor Additions to the Draft Long Range Plan Consistent with State law**

In January 2013, LAFCO staff met with Carson Cox, consultant to GCRCD, and Peter Townley, GCRCD's new Executive Director, in order to discuss the District's 2012-2017 Draft Long Range Plan and to provide the District with LAFCO staff's comments. LAFCO staff recommended that GCRCD add the following additional information to the Draft Plan in order to achieve consistency with Division 9 of the California Public Resource Code which is the enabling act for resource conservation districts and to provide greater transparency to the public:

- "Identification of resource issues within the district for purposes of local, state, and federal resource conservation planning," and
- "Participation of other agencies and organizations in the direct planning process in order to help ensure support in implementing district plan."

District staff indicated at the meeting that they will revise the Draft Plan accordingly and that GCRCD's Board of Directors will consider the Draft Plan for formal adoption at its March 13, 2013 meeting.



## **GCRCD Preparing Annual Work Plan to Implement Draft Long Range Plan and Address LAFCO's Remaining Recommendations**

LAFCO staff also received an update on the District's efforts to implement the remaining recommendations of the Service Review, such as updating the District's website. The District plans to overhaul its website by June 2013 and then continue to add content, including information on the District's current projects. Additionally, the District is in the process of developing an annual work plan which will implement components of its Draft Long Range Plan and address the various recommendations of LAFCO's 2011 Countywide Water Service Review.

### **NEXT STEPS**

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LAFCO staff will continue to monitor GCRCD's implementation efforts and provide updates to the LAFCO on this matter, as appropriate.

### **ATTACHMENT**

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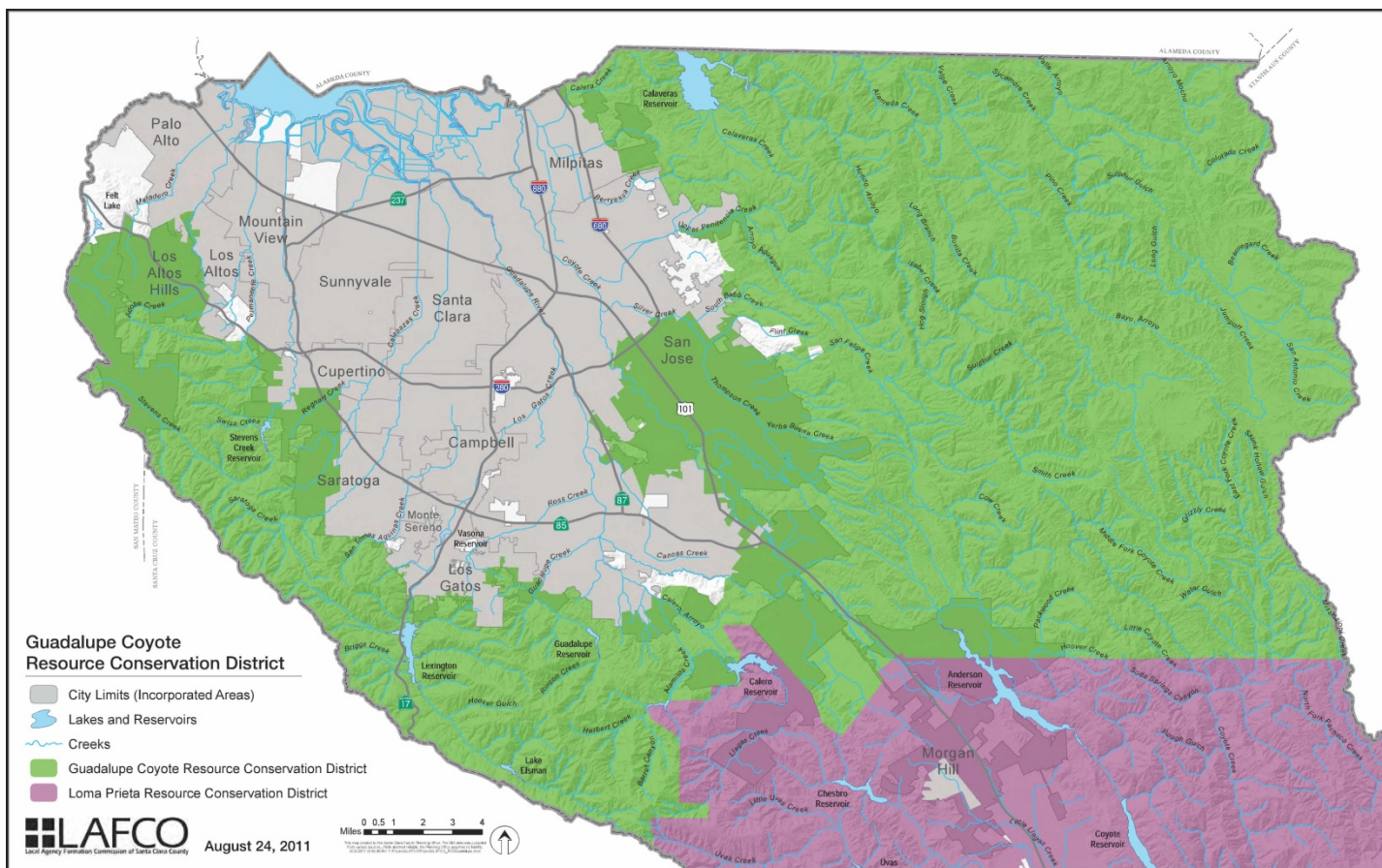
**Attachment A:** Guadalupe Coyote Resource Conservation District's 2012-2017 Draft Long Range Plan



# GUADALUPE-COYOTE RESOURCE CONSERVATION DISTRICT

## Long Range Plan

2012-2017



**North First Street, Room 204**  
**San Jose, CA 95112-6314**

**Adopted:**

Draft. Proposed for upcoming consideration based on feedback from LAFCO of Santa Clara County and other partners (as appropriate).

## Guadalupe-Coyote Resource Conservation District

### Long Range Plan 2012 - 2017

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#### **INTRODUCTION**

The Guadalupe- Coyote Resource Conservation District (GCRCD) is a public agency organized under Division 9 of the State of California Public Resources Code. It was originally called the Evergreen Soil Conservation District which was organized in 1944. Original District lands were in the north eastern portion of Santa Clara County.

The Evergreen Soil Conservation District was formed to conduct research in, and to advise and assist other agencies and private individuals in the field of land use planning, pollution control and the conservation of soil, water, woodlands, wildlife and other natural resources.

In 1977 the Evergreen District annexed the Black Mountain District which was organized in 1943. Black Mountain lands included the north western portion of Santa Clara County. It later expanded to include land south to Loma Prieta Mountain and the Loma Prieta Soil Conservation District boundary. Most urban areas at that time were excluded from the District as well Stanford University lands.

In 1995 the Evergreen Resource Conservation District was renamed as the Guadalupe-Coyote Resource Conservation District to: (1) avoid confusion with the Evergreen area of San Jose and enterprises using the name of Evergreen: (2) to reflect the names of the two largest waterways in the District, the Guadalupe River and Coyote Creek.

The purpose and goals of the GCRCD can best be attained by the development of a long-range work plan which will:

- Describe the District's purpose and function.
- Provide the District's history
- Define the District's Mission
- Describe the physical setting of the District's area
- List the District's long range goals
- Describe how these goals will be realized

#### **PURPOSE & FUNCTION**

The Soil Conservation Service was authorized by Federal Legislation in 1937 under the Standards Act. California adopted a compatible State provision in

1938 establishing Soil Conservation Districts which is expressed in Division 9 of the Public Resources Code (PRC) Sections 9001 et seq. These provisions have been amended through the years to reflect the changing needs of all those affected and changing environmental conditions. In 1971 the Districts were renamed " Resource Conservation Districts" (RCD's) and their powers were expanded to reflect a broader definition of interest including soil and water conservation projects, wildlife habitat enhancement and restoration, control of exotic plant species, watershed restoration, conservation planning, education and many other related resources including fish and wildlife habitat.

The purpose of the Public Resources Code Section 9001 (a) (1) is to secure the adoption in this state of conservation practices including but not limited to farm, range, open space, urban development, wildlife, recreation, watershed, water quality and woodland, best adapted to save the basic natural resources (soil, water, and air) of the state from unreasonable and economically preventable waste and destruction.

Section 9001 (a) (2) provides for the organization and operation of resource districts for the purposes of soil and water conservation, the control of runoff, the prevention and control of soil erosion, and erosion stabilization, including, but not limited to, these purposes in open areas, agricultural areas, urban development, wildlife areas, recreational developments, watershed management, the protection of water quality and water reclamation, the development of storage and distribution of water, and the treatment of each acre according to its needs.

Under PRC Section 9001 (b) (-1) the District has legal authority to cooperate with the United States, this state, counties, cities, public districts, other resource conservation districts, persons, associations and corporations.

Additionally, 9001 (b) (-2) with the consent of the owner authorizes RCD's to construct on private-or publicly-owned lands, "necessary works for the prevention and control of soil erosion and erosion stabilization." The California Legislature determined that the construction and maintenance of conservation projects on publicly or privately owned lands in or adjacent to District lands is in the public interest and for the general public benefit. And, the expenditure of state, county, city, district or other public funds for planning, designing or implementing conservation works constitutes expenditure for the general public benefit.

RCD's are not rule-making or regulatory agencies, but can advise individual members of the public and provide local leadership to foster interagency cooperation and coordination on natural resource projects on both public and private lands. Because the RCD is empowered under both federal and state legislation, agencies at all levels of government have a responsibility to provide expertise and to otherwise assist and cooperate with the RCD on natural resource projects. This is strengthened by additional inter-agency Memorandums of Understanding. Also, certain forms of federal assistance are available only through Resource Conservation Districts.

The primary duty of District Directors is to guide proper land use and management of natural resources within the District. In fulfilling this duty, Directors:

- Provide local leadership in the field of resource conservation to district landowners, local units of government and authorities, and district staff.
- Hold and attend regular meetings to determine local needs and to implement active conservation programs.
- Develop Long Range and Annual Resource Conservation Programs consistent with current trends and local needs.
- Establish program priorities for resource conservation tasks.
- Manage district finances, staff, facilities, and equipment.
- Enlist and coordinate help on conservation programs with other agencies, groups, interested persons, organizations, and units of Government.
- Sponsor information and education events, training sessions, meetings, and workshops to make people more aware of the need to protect natural resources and to help landowners correct conservation problems.
- Attend local, state, and national meetings to keep abreast with changing conservation techniques and resource issues.
- Serve as a community clearinghouse for information and services.

## **HISTORY**

The Evergreen Soil Conservation Service District was formed in 1944 and originally covered about 10,000 acres on the north east side of the Santa Clara Valley, largely the Silver Creek Watershed. It later expanded to include most of the land on the east side of Santa Clara Valley which included a large portion of the Coyote Creek Watershed just north of Morgan Hill. The District boundary extended to the Alameda and Stanislaus County lines excluding then-urban city lands.

In 1971 Soil Conservation Districts were renamed Resource Conservation Districts. In 1972 the Evergreen Soil Conservation District was renamed the Evergreen Resource Conservation District.

In 1977, the Evergreen District merged with the Black Mountain District. The Black Mountain Soil Conservation District had been organized in 1943 to cover some 5,500 acres of the Calabazas Watershed on the west side of Santa Clara Valley. It had later expanded to cover most of the hill and upper watershed land on the west side of the valley from just south of the San Mateo County line to Loma Prieta Mountain and the boundary of the Loma Prieta Soil Conservation District. Most urban land at the time was excluded, as was Stanford University land.

The combined Districts carried the name of the Evergreen Resource Conservation District until 1995, when its name was changed to the Guadalupe-Coyote Resource Conservation District to better reflect the District's boundaries. The Guadalupe and Coyote Watershed are the two largest watersheds in the District, bounding the District on the west and east sides of the Santa Clara Valley.

## **MISSION STATEMENT**

To achieve conservation of resources in accordance with Division 9 of the Public Resources Code, the Guadalupe-Coyote Resource Conservation District will promote sustainable agriculture.

The District supports well-defined urban boundaries for the preservation of open space and farmlands for the proper long-term redevelopment of our cities into sustainable partners in their bioregions.

We will promote proper rangeland management practices for the preservation of species diversity and proper watershed management of wetlands and riparian corridors for protection of wildlife, aquatic resources and water quality.

We believe that biodiversity and habitat preservation for other species is of crucial importance for future generations.

## **PHYSICAL SETTING**

The District boundaries include most of the hilly and mountainous upper watershed land surrounding the Santa Clara Valley on the eastern side. The narrow part of the valley north of Morgan Hill, and the southeast portion of the valley in the City of San Jose are included. Much of the urban area of the northwestern portion of the county, mostly lying within the low, flat land section of the Santa Clara Valley is not in the District.

The boundary on the western side of the valley lies just below the San Mateo County line in the Los Trancos Creek watershed extending to the Santa Cruz County line and southwest to Loma Prieta Mountain and the Loma Prieta Conservation District boundary. The middle urbanized portion of Santa Clara County is not included in District land.

The eastern part of the District includes the Diablo Mountain Range extending to the Stanislaus County line and the Alameda County line in Santa Clara County. The District lands then extend southeast from the Alameda County line by Calero Creek, through Upper Penitencia Creek and several others to the uppermost watershed of Coyote Creek ending just north of Anderson Reservoir. Great diversities of climate, vegetation, topography, geology, soils, population density and land use lie within the area.

The District area encompasses at least a portion of ten distinct watersheds that drain to the lower portion of San Francisco Bay. Seven of these watersheds drain the northeast and east facing slopes and one drains the

north facing slopes of the Santa Cruz Mountains. Two drain the west facing slopes of the Diablo Range.

### Santa Cruz Mountains

High rainfall, up to 60 inches per year, confined to the winter months, with considerable nighttime summer fog and generally moderate, but occasionally high daytime temperatures in the summer and freezing temperatures in the winter characterize the Santa Cruz Mountains.

Topography is generally steep sloped, with a maximum elevation of 3,791 feet on Loma Prieta Mountain on the southerly end. The San Andreas Fault zone lies along the Santa Cruz Mountains, generally parallel and approximately one-mile easterly of the Santa Cruz County line. Numerous related faults lie to the east of the San Andreas within the Santa Cruz Mountains block and are more or less parallel to the main fault.

Vegetation is dense on the westerly side and less dense towards the Santa Clara Valley floor as precipitation diminishes. Redwood, Douglas fir, madrone, laurel, tanbark oak, black oak, live oak and bigleaf maple are the principal tree species with some areas of dense brush composed of ceanothus, chamise, manzanita, and poison oak. Southeast of Los Gatos Creek, redwood and Douglas fir are usually absent and knobcone pine appears in some isolated areas. Bush species are more wide spread to the southeast of Los Gatos Creek.

The more gentle slopes, usually ridge tops, were cleared and planted with fruit trees in the late 1800's and early 1900's. Apple and pear orchards were most prevalent, as were vineyards. Several areas, particularly near the Los Gatos-Santa Cruz Highway, were developed in the 1920's as summer home sites. On the lower slopes, next to the Santa Clara Valley floor, prune, apricot and some almond orchards were planted on the cleared land in the late 1800's and early 1900's. These plantings on the lower slopes were abandoned toward the middle part of the 1900's. In recent years the summer home areas have been converted to permanent housing and construction of new homes has increased, not only in the foothill areas, but also at higher elevations. Several vineyards continue to flourish on the eastern slope of the Santa Cruz Mountains, and open space preserves include small farms open to the public (e.g. Deer Hollow Farm or Hidden Villa).

San Francisquito Creek, Matadero/Barron Creeks, Adobe Creek, Permanente Creek, Stevens Creek, Calabazas Creek and San Tomas Aquino/Saratoga Creek watersheds drain the northeast and east facing slopes of the Santa Cruz Mountains, originating on the east side of Skyline Boulevard (State Highway 35). Each of these creeks flow across the western portion of Santa Clara Valley to the Baylands bordering the west and southwest sides of San Francisco Bay. The Guadalupe River watershed drains the north facing slopes of the Santa Cruz Mountains at the southern end of the Santa Clara Valley. The Guadalupe River flows north through the valley and into the south end of San Francisco Bay via Alviso Slough. It is the second largest watershed in the Santa Clara Basin.



### Santa Clara Valley

The Santa Clara Valley, lying between the Santa Cruz Mountains on the southwest and the Diablo Range on the northeast, has a climate greatly modified by San Francisco Bay. Precipitation varies from 12 inches at the middle of the widest portion of the valley in the northwest to 16 inches at the base of the Diablo Ranges. Approximately 18 inches of rain falls on the extreme southeast edge of the District and 21 inches along the southwesterly edge of the valley.

In the 19th century, the valley floor was mostly used for grain production. The advent of irrigation introduced orchard planting, resulting in the most concentrated prune, apricot, cherry, and pear growing areas in the world, with lesser orchards of walnuts, almonds, peaches, and apples. Grain production almost disappeared as much of the land that failed to be turned into orchards was used for vegetable production. Some small areas with poor drainage were used for dairies. After World War II, the incoming population rapidly increased, creating an ever-increasing demand for housing, replacing the orchards with homes. During the same period economic returns on orchards began to decrease in relation to vegetable crops, resulting in a further reduction in the number of the orchards.

At the present time, most of the valley floor is comprised of housing, businesses or industry with a few small orchards and a small amount of bare land remaining in the northwest portion of the County. Some vegetable production still continues in the narrow southeastern portion of the valley above Coyote Creek. Vegetables are still grown in limited areas west of Milpitas.

### Diablo Mountains

Precipitation over the Diablo Range varies from 20 to 30 inches with greater amounts over the higher elevations. Summer daytime temperatures at lower elevations (2,000 ft.) are high in the eastern portion of the area, while wintertime minimum temperatures are lower than in the Santa Clara Valley or Santa Cruz Mountain areas.

Calaveras, Hayward, Silver Creek and lesser faults, mostly parallel to one another, are located in the western portions of the Diablo Range. Faults in the eastern portions are not as numerous as in the western section. Ancient landslides are abundant on the slopes facing the Santa Clara Valley and slides continue to this day.

Grasslands or woodland areas prevail over most of the western portion of the range and brush is prevalent over much of the eastern portions. Both brush and woodland are denser over the northeastern slopes. At higher elevations (Mt. Hamilton at 4213 ft. is the highest peak) coulter pine, ponderosa pine and black oak form light stands with digger pine and blue oak comprising the main tree species elsewhere. Scattered juniper is found in the eastern areas.

Brush clearing, particularly in the more eastern portions of the Diablo Range, has been common to improve the pastureland for grazing. Large cattle ranches are the rule in this section except for the slopes near the valley floor on the southwest. Prune and apricot orchards were established in the late 1800's and early 1900's on the slopes adjacent to the Santa Clara Valley. These orchards were abandoned much more slowly than their counterparts on the southwestern side of the valley and a few still remain. Construction of homes has lagged considerably behind that on the southwestern side of the valley but is accelerating as the population expands to the southeast.

The west facing slopes of the Diablo Range in the southern and southeastern portions of the Basin are drained primarily by Coyote Creek. The Coyote Creek watershed is the largest in the Santa Clara Basin. Coyote Creek flows the full length of the valley from south to north at the base of the Diablo Range before entering the southeast side of San Francisco Bay. The Lower Penitencia Creek watershed drains the foothills of the Diablo Range in the northeastern portion of the Basin.

## **LONG RANGE GOALS**

The GCRCD will focus its efforts on achieving goals within the following four general program areas:

- Watersheds & Wildlife
- Grazing & Grasslands
- Crops and Communities
- Education & Outreach

General and specific objectives for each program area are as follows:

### Watersheds & Wildlife:

The GCRCD will phase out previous program work on flood control and related main-stem river projects that overlap and/or duplicate work being carried out by other agencies and/or special districts in Santa Clara County, including the Santa Clara Valley Water District (SCVWD), and are outside of District boundaries. Instead, the District will shift its focus to lower order/headwater streams within District boundaries. Watershed and Wildlife programming will focus on collaborative efforts that leverage organizational resources to provide cost efficient services for District ratepayers and ecologically effective approaches to protecting important watershed and wildlife resources within District boundaries. District activities will focus both on individual stream habitats and species, as well as the broader landscapes within District watersheds. Activities will include:

- Assisting revegetation and management of riparian areas through partnerships with local landowners and conservation partners.
- Supporting fire safety in the wildland-urban interface by working with fire safe councils and community groups.

- Providing technical and financial assistance to promote the use of native plants in hedgerows and landscaping.
- Assisting prevention of non-point source pollution through unique (i.e. non-duplicative) District programming and access to United States Department of Agriculture Farm Bill Program Grants available to the District through the Natural Resource Conservation Service (NRCS).
- Working with private land owners to support SCVWD, Santa Clara County Open Space Authority, and other districts/agency watershed programs. Programming will be coordinated to ensure that actions are complementary rather than competitive with other districts and/or agencies, and leverage District resources through cooperative district/agency partnership agreements.

#### Grazing & Grasslands:

The GCRCD will work with grassland managers, cattle ranchers, and open space landowners to assist in the conservation of healthy working grasslands in the District. Activities will include:

- Supporting and expanding activities of the Alameda County RCD and Livermore NRCS Service Center in providing technical and financial assistance to cattle operations in the District service area through the EQIP program.
- Working with UC Extension, NRCS, and rangeland organizations to promote improved grazing management practices for rangeland health, productivity, water quality, native species and other natural resource values.
- Assisting control of noxious weeds with local landowners, the Santa Clara County Weed Management Area, and open space districts.
- Holding informational meetings and workshops with small-acreage livestock owners to manage manure and minimize impacts to water quality.

#### Crops and Communities:

The GCRCD will work with local landowners and conservation partners to promote productive agriculture within the District while also conserving natural resources. Activities will include:

- Working with the Hollister NRCS Service Center to deliver EQIP and other financial and technical assistance programs to prime agricultural lands in the district, particularly the Coyote Valley.
- Supporting urban agriculture & food projects to increase productivity, reduce erosion, improve water quality and create hedgerow habitats for pollinators and native species dispersal/migration.

- Partnering with the Loma Prieta RCD and other partners to promote integrated pest management and improved air quality with intensive small-acreage vegetable growers.
- Supporting the adoption of improved food safety standards and food safety audits on farms within the District.

#### Education & Outreach:

The GCRCD will work to provide information to residents of the district, increase awareness of natural resource issues, and connect land owners and natural resource managers to technical expertise and sources of project funding. Activities will include:

- Promoting the use of native species in landscaping for homeowners by partnering with the California Native Plant Society and other groups to assist homeowners in selecting appropriate low-water use species for their property, and by providing technical support for “do-it-yourself” projects.
- Working with groups such as the California Farm Bureau, the Community Alliance with Family Farmers, California Native Plant Society and the California Cattleman’s Association to increase the presence of the GCRCD, expand into new program areas, and help target District programming on key natural resource issues.
- Co-sponsor workshops and symposia that promote innovative natural resources management and agricultural enterprises within the district.

### **GOAL REALIZATION**

To achieve program area goals, the GCRCD will need to build and refine its organizational and technical capacity to better serve landowners and natural resource managers within our District boundaries. Capacity building steps will include:

#### Revise/establish policy and management procedures for District staff and contract personnel:

- The District will review its existing policies and develop a comprehensive personnel policy. The District must have effective policies for hiring and managing employees, including policies for supervision, timekeeping, and performance review. These policies will ensure that tax funds are being responsibly spent, that employees are productive and well-trained, and that the District is a desirable employer that can attract qualified and effective personnel.
- The GCRCD will work with the California Dept. of Conservation, California Association of Resource Conservation Districts, California Special Districts Association, other RCD partners, and any other appropriate sources of advice and information for special districts in order to develop these policies. Personnel policies will address hiring,

timekeeping, performance review, supervision, benefits, and training. The District will also develop policies for procuring the services of contractors and consultants to ensure that services provided to the district by non-employees are similarly productive and accountable.

- The District will also develop a staffing plan that will identify immediate and perceived future staffing needs. This plan will be reviewed and updated as part of both the short and long-term strategic planning process.

Expand technical capacity of the District to address priority natural resource management needs:

In order to rapidly expand the technical capacity of the District in a cost effective and strategically flexible manner, the District will seek to partner with other organizations to bring new technical expertise to the District. The GCRCD will work with neighboring RCD's, open space organizations, and other appropriate stakeholders to share existing technical staff resources and/or cost-share on the hiring of new technical staff. This effort will include the development of cooperative staffing agreements with the NRCS to assist with the delivery of EQIP technical and financial conservation support. These partnerships will be used to support RCD programs and meet technical staffing needs as District programs expand, while protecting critical flexibility with respect to District budgets and strategic priorities.

Establish policies and guidelines for reviewing development projects to increase transparency and provide consistency

The GCRCD shall establish a policy for review of development projects, and ensure that the review of development projects shall be consistent with the role, vision, and goals of the GCRCD. Reviews of development projects should focus upon impacts as they relate to GCRCD efforts and programs, as established through the strategic planning process.

The GCRCD will also seek to partner with other organizations with similar/overlapping missions and/or authority to avoid duplication of project review efforts and the unnecessary expenditure of tax funds. In addition, the GCRCD will develop standards to determine which sorts of development projects shall be reviewed, which persons will be qualified to develop a review, and what technical criteria shall be followed by the reviewer. These standards will bring consistency to deciding which projects are reviewed, and to the content and structure of the reviews.

Update and populate the District's website with information on organizational structure and programming

In order to achieve its long range goals, the District needs to act as a clearing house for information on effective management of natural resources and to provide information on the range of services that the GCRCD provides. The District must also ensure that it fulfills its responsibility to be accountable to taxpayers by making information about its policies, services, and finances

accessible to the public. An updated and expanded website will allow the District to both share program information with landowners and natural resource managers, and to receive public feedback on District programs, budgeting priorities and policies.

The GCRCD will work with the California Dept. of Conservation, the California Association of Resource Conservation Districts, Local Area Formation Commission of Santa Clara County, the California Special Districts Association, and the NRCS to determine a procedure for deciding what information is to be shared on the website and what information is to be considered confidential. An information management policy will be developed to allow information necessary to foster greater transparency to be made accessible to the public while ensuring that private information (particularly as it relates to private landowners) is properly secured. The website of the GCRCD shall be redesigned and regularly updated to further this goal.

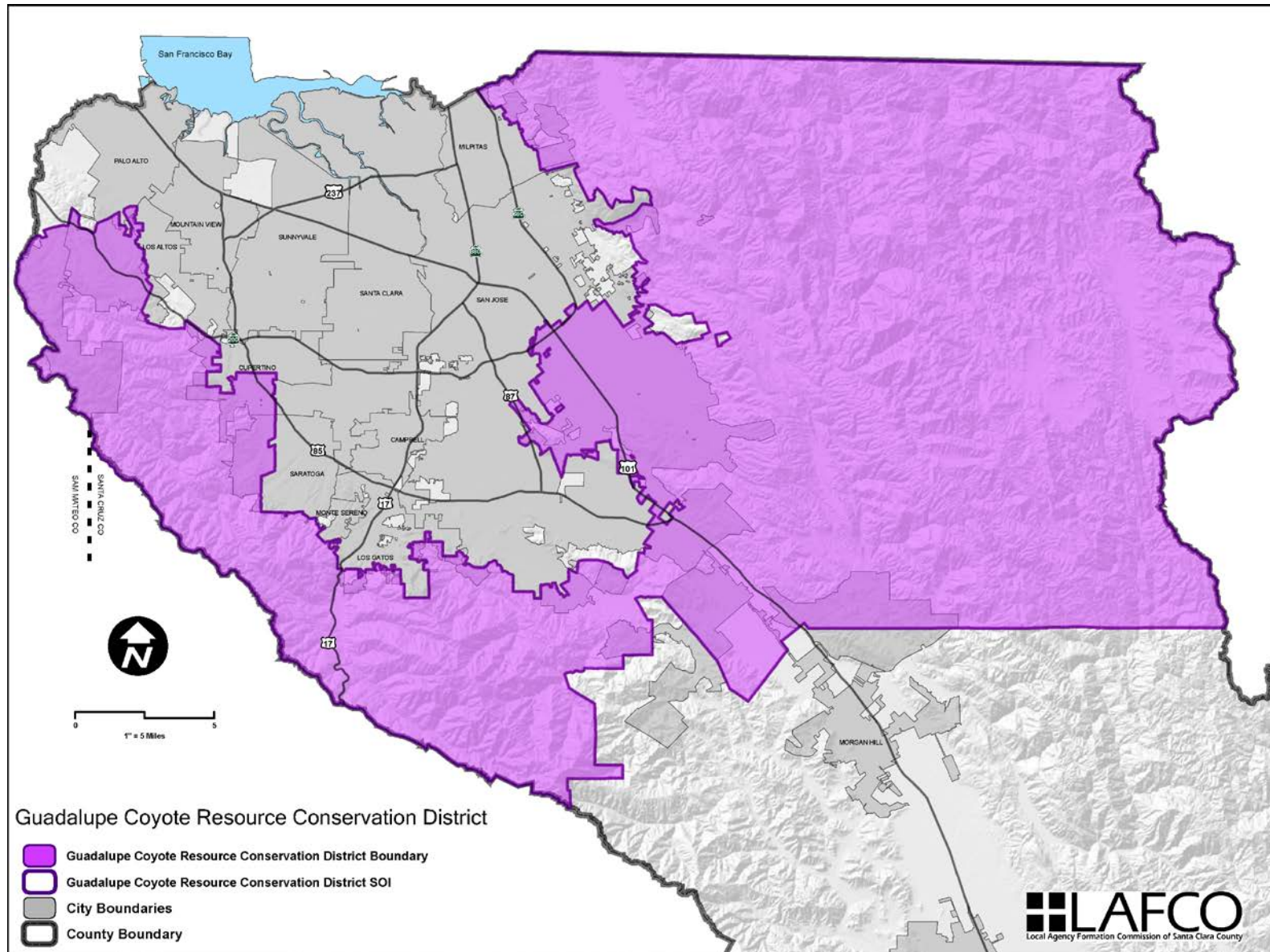
Information to be shared on the RCD website may include: District budgets, policies, project descriptions and other information that may help citizens within the District connect with the GCRCD and other appropriate conservation partners, meeting agendas and minutes, and contact information for staff members.

## **ANNUAL SUMMARY REPORT**

A report summarizing the District conservation activities and projects and their relationship to the Long Range Plan will be compiled annually. The Summary Report will be used in conjunction with the Long Range Plan as a decision making tool for selecting and prioritizing conservation activities for the next year.

Additionally, the Annual Summary Report may be used by the Directors to assess District progress towards conservation goals enumerated in the Long Range Plan, and to educate agencies and inform the general public about activities of the Guadalupe-Coyote Resource Conservation District. Report format (whether prepared as a newsletter, meeting minutes, standard report or multimedia publishing format) may vary from year to year, depending upon the will of the Directors.

### Appendix A: Location Map







## Appendix B – Collaboration and Partnerships

The GCRCD strives to work in partnership with other agencies, districts, local governments and organizations. The following is a partial listing of the agencies and organizations with which the District has developed collaborative partnerships:

- Acterra
- California Dept. of Fish & Game
- California Native Plant Society
- California Rangeland Conservation Coalition
- California Trout
- Children's Discovery Museum
- City of San Jose
- City of Sunnyvale
- City of Santa Clara
- Clean South Bay
- Friends of Calabazas Creek
- Hidden Villa
- Loma Prieta Resource Conservation District
- Los Gatos High School
- Natural Heritage Institute (NHI)
- National Marine Fishery Service (NMFS)
- Pacific Coast Federation of Fishermen (PCFFA)
- Pioneer High School
- Regional Water Quality Control Board (RWQCB)
- San Jose Conservation Corps
- San Jose Flycasters
- San Jose Police Department
- San Jose Parks Department
- San Francisco Estuary Institute (SFEI)
- Santa Clara Basin Watershed Management Initiative (SCBWMI)
- Santa Clara County Board of Supervisors
- Santa Clara County Environmental Resources Agency
- Santa Clara County Farm Bureau
- Santa Clara County Open Space Authority
- Santa Clara County Urban Runoff Pollution Prevention Program
- Santa Clara Valley Audubon Society
- Santa Clara Valley Manufacturer's Group
- Santa Clara Valley Water District (SCVWD)
- Silichip Chinook Salmon & Steelhead Restoration Group
- Stanford University, Hopkins Marine Station
- Streams for Tomorrow
- Sustainable Agriculture Education (SAGE)
- Technical Museum of Innovation
- Toxics Coalition
- Trout Unlimited
- United Anglers
- University of California Bodega Bay Marine Laboratory
- Urban Creeks Council, South Bay Chapter/Friends of the Guadalupe River
- U.S. Army Corps. of Engineers
- U.S. Environmental Protection Agency - Region 9 (EPA)
- U.S. Fish & Wildlife Service
- USDA Natural Resource Conservation Service
- Veggielution Community Farm
- Western Waters Canoe Club
- West Valley Clean Water Program
- Wildland Hydrology



**LAFCO MEETING:** February 6, 2013  
**TO:** LAFCO  
**FROM:** Neelima Palacherla, Executive Officer  
Dunia Noel, Analyst  
**SUBJECT:** EXECUTIVE OFFICER'S REPORT

## **8.1 UPDATE ON SPECIAL DISTRICTS SERVICE REVIEW**

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### **Recommendation**

1. Accept report and provide direction to staff, as necessary.
2. Appoint an additional commissioner to serve on the Special Districts Service Review Technical Advisory Committee.

### **Discussion**

As was discussed in December, the first phase of LAFCO's Special Districts Service Review is taking much longer to complete than anticipated and is involving more staff time than planned. Staff now anticipates that a Draft Report for the first phase of the Service Review will be released in early March for public review and comment and that LAFCO will hold its first public hearing on the Draft Report on April 3<sup>rd</sup>. Following the April public hearing, the Draft Report will be revised as necessary to address any comments and a Revised Draft Report will be released again for public review and comment. LAFCO will then hold a public hearing on the Revised Draft Report on June 5<sup>th</sup> in order to accept comments and consider adoption of the Revised Report and its recommendations. Staff will develop a revised schedule for the second phase of this Service Review.

With the expansion of LAFCO to include two members from independent special districts, the Commission may want to consider whether to appoint an additional commissioner to serve on the Special Districts Service Review Technical Advisory Committee (TAC). The Special Districts Service Review TAC currently includes Commissioner Abe-Koga.

LAFCO staff has requested that the Santa Clara County Special Districts Association appoint a new representative to replace Patrick Kwok on the TAC, as Mr. Kwok's term on the Santa Clara Valley Water District concluded at the end of 2012. We are awaiting a response from the Special Districts Association. The next TAC meeting will likely occur in February.

## **8.2 FINANCE COMMITTEE FOR FISCAL YEAR 2013-2014 LAFCO BUDGET**

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### **Recommendation**

Establish a committee composed of three commissioners to work with staff to develop and recommend the proposed FY 2013-2014 LAFCO budget for consideration by the full Commission.

### **Discussion**

Commissioners Wasserman and Constant have served on LAFCO's Finance Committee in prior years. Staff recommends that LAFCO appoint a third commissioner, preferably from the special districts, to serve on the Finance Committee. The time commitment for commissioners serving on this committee would be limited to 2-3 meetings, between the months of February and May.

## **8.3 UPDATE ON LAFCO'S REQUEST TO MUTUAL WATER COMPANIES**

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### **For Information Only**

A mutual water company (MWC) is defined as a "corporation organized for or engaged in the business of selling, distributing, supplying, or delivering water ... only to owners of its shares." The boundaries of MWCs are not regulated by LAFCO or the California Public Utilities Commission. However, MWCs are regulated by the State Department of Health and/or County Department of Environmental Health for water quality purposes.

Effective January 1, 2012, State law (Assembly Bill 54) imposed new requirements on mutual water companies (MWCs) that own and operate public water systems. The new law, among other things, requires each MWC to submit a map of its service area to LAFCO and to respond to requests from LAFCO for information in connection with LAFCO's preparation of municipal service reviews or spheres of influence. LAFCO staff obtained contact information for MWCs in Santa Clara County from the California Department of Public Health and the County Department of Environmental Health. The combined list from the two agencies included 180 MWCs in Santa Clara County. LAFCO staff then sent a memo (see Attachment A) to each of these MWCs in order to remind them of this requirement in State law and to assist them in complying with the map submittal requirement.

To date, LAFCO staff has received maps from 64 MWCs and has been in contact with several others that have indicated that they plan to submit a map to LAFCO staff as soon as they can prepare the necessary materials. Staff will make an additional effort to contact those MWCs that have failed to respond. Staff plans to digitize these maps and

include them in a geographic information system and use this information in LAFCO's next review of water services.

#### **8.4 2013 CALAFCO STAFF WORKSHOP**

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##### **Recommendation**

Authorize staff to attend 2013 CALAFCO Staff Workshop and authorize travel expenses funded by the LAFCO budget.

##### **Discussion**

The CALAFCO Annual Staff Workshop is scheduled for April 10-12 at Hallmark Inn in the City of Davis. Yolo County LAFCO is hosting the Workshop. The workshop provides an opportunity for staff to gain and share knowledge about some of the best practices used by LAFCOs to address the various issues facing local agencies across the state. The LAFCO Budget for Fiscal Year 2013 includes funds for staff to attend the Workshop.

#### **ATTACHMENT**

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Attachment A: LAFCO's Memo to Mutual Water Companies Operating a Public Water System (dated December 19, 2012) and copy of California State Assembly Bill No. 54 (Effective January 1, 2012)



## MEMO

**Date:** December 19, 2012  
**To:** **Mutual Water Companies Operating a Public Water System**  
**From:** Neelima Palacherla, Executive Officer  
**Subject:** **Requirement for Mutual Water Companies to Submit Boundary Maps to LAFCO and to Provide Information to LAFCO in Connection with LAFCO's Service Reviews**

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### **Changes in State Law Affecting Mutual Water Companies and Local Agency Formation Commissions**

Effective January 1, 2012, State law (Attachment A) imposes new requirements on mutual water companies that own and operate public water systems and requires greater coordination between them and the Local Agency Formation Commission (LAFCO) in each county. This memo addresses the requirement for greater coordination. For information on the various other new requirements, please see Attachment A.

### **Requirement for Mutual Water Companies to Submit Boundary Maps to LAFCO of Santa Clara County**

Effective January 1, 2012, each mutual water company must submit a map of its service area to their county's Local Agency Formation Commission by the end of this year, or soon thereafter.

The purpose of this letter is to remind you of this requirement and to assist you in complying with the map submittal. Please submit a map to clearly show the parcels that are served by your mutual water company and include a list of parcels (Assessor Parcel Numbers/APNs) served by your company. If you do not have an existing map, you can get parcel maps from the County Assessor and hand-draw a clear line around your service area identifying the parcels served.

Base Assessor maps can be viewed and printed at:

<https://www.sccassessor.org/index.php/online-services/property-search/real-property>.

Please send the map to LAFCO as soon as possible and no later than January 31, 2013. You may send the map by mail to:

LAFCO of Santa Clara County  
70 West Hedding Street, 11<sup>th</sup> Floor, East Wing  
San Jose, CA 95110

Or you may send the map by email to: [dunia.noel@ceo.sccgov.org](mailto:dunia.noel@ceo.sccgov.org)

Your map and parcel information will be filed in the LAFCO Office and will eventually be entered into LAFCO's electronic mapping system.

### **Requirement for Mutual Water Companies to Respond to Requests from LAFCO for Information in Connection with LAFCO's Preparation of Municipal Service Reviews or Spheres of Influence**

LAFCO of Santa Clara County is required to conduct comprehensive reviews of municipal services in a designated area in order to obtain information about services, evaluate the provision of services, and recommend actions when necessary, to promote the efficient provision of those services. Over the last eight years, LAFCO has conducted seven such reviews, that focused on various types of public services (e.g. fire protection and water) in different geographic areas of the County (e.g. southern Santa Clara County, northwestern Santa Clara County, and countywide). In 2011, LAFCO conducted a countywide review of water service providers in Santa Clara County. Although the 2011 review focused on larger water service providers (e.g. cities, water districts, and private water companies), it also included some very basic information on small community water systems (e.g. mutual water companies and privately-owned water systems) and discussed the water quality issues that specific small systems have experienced.

We anticipate that LAFCO will conduct its next review of water service providers in a couple years and that this review will include much more detailed information on the various small community water systems in the county. We look forward to working more closely with you at that time.

### **Please Direct Questions to the LAFCO Office**

If you have any questions, please contact Dunia Noel, LAFCO Analyst, at [dunia.noel@ceo.sccgov.org](mailto:dunia.noel@ceo.sccgov.org) or at (408) 299-5148.

## **Attachments**

**Attachment A: California State Assembly Bill No. 54 (Effective January 1, 2012)**



**Assembly Bill No. 54**

CHAPTER 512

An act to amend Section 14300 of, and to add Sections 14300.5, 14301.1, 14301.2, and 14301.3 to, the Corporations Code, to amend Sections 56375 and 56430 of the Government Code, and to add Section 116760.65 to, and to add Article 12 (commencing with Section 116755) to Chapter 4 of Part 12 of Division 104 of, the Health and Safety Code, relating to drinking water.

[Approved by Governor October 7, 2011. Filed with  
Secretary of State October 7, 2011.]

LEGISLATIVE COUNSEL'S DIGEST

AB 54, Solorio. Drinking water.

(1) Existing law authorizes any corporation organized for or engaged in the business of selling, distributing, supplying, or delivering water for irrigation purposes, and requires any corporation organized for or engaged in the business of selling, distributing, supplying, or delivering water for domestic use, to provide in its articles or bylaws that water shall be sold, distributed, supplied, or delivered only to owners of its shares and that those shares are appurtenant to certain lands, as specified.

This bill would specify that any corporation organized for or engaged in the business of selling, distributing, supplying, or delivering water for irrigation purposes, and any corporation organized for or engaged in the business of selling, distributing, supplying, or delivering water for domestic use that provides in its articles or bylaws that the water shall be sold, distributed, supplied, or delivered only to owners of its shares and that those shares are appurtenant to certain lands shall be known as a mutual water company.

The bill would also require each mutual water company that operates a public water system to, by December 31, 2012, submit a map depicting the approximate boundaries of the property that the municipal water company serves to the local agency commission within the county in which the mutual water company operates. The bill would prohibit a mutual water company from expanding its boundaries without approval from the appropriate local agency formation commission. The bill would require a mutual water company that operates a public water system to supply certain information to a local agency formation commission upon request, as specified. This bill would require a mutual water company that operates a public water system to maintain a financial reserve fund to be used for certain types of activities.

The bill would also require each board member of a mutual water company that operates a public water system to, within 6 months of taking office, complete a 2-hour course offered by a qualified trainer, as specified.

(2) Existing law, the California Safe Drinking Water Act, requires the State Department of Public Health to administer provisions relating to the regulation of drinking water to protect public health, including, but not limited to, conducting research, studies, and demonstration programs relating to the provision of a dependable, safe supply of drinking water, enforcing the federal Safe Drinking Water Act, adopting enforcement regulations, and conducting studies and investigations to assess the quality of water in domestic water supplies.

Existing law establishes the Safe Drinking Water State Revolving Fund, continuously appropriated to the department for the provision of grants and revolving fund loans to provide for the design and construction of projects for public water systems that will enable suppliers to meet safe drinking water standards. Existing law requires the department to establish criteria to be met for projects to be eligible for consideration for this funding.

This bill would provide that in considering an application for funding a project, the department shall not be prejudiced by the applicant initiating the project prior to the department approving the application for funding. This bill would also provide that preliminary project costs or construction costs that are otherwise eligible for funding shall not be ineligible because the costs were incurred by the applicant during certain time periods.

(3) Existing law, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, sets forth the powers and duties of a local agency formation commission, including, among others, the powers to review and approve or disapprove with or without amendment, wholly, partially, or conditionally, proposals for changes of organization or reorganization, consistent with written policies, procedures, and guidelines adopted by the commission.

This bill would additionally authorize the commission to approve, with or without amendment, wholly, partially, or conditionally, or disapprove the annexation of territory served by a mutual water company that operates a public water system into the jurisdiction of a city, a public utility, or a special district, with the consent of the respective public agency or public utility and mutual water company.

(4) Under the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, each local agency formation commission is required to develop and determine the sphere of influence of each local governmental agency within the county and enact policies designed to promote the logical and orderly development of areas within the sphere of influence. In order to prepare and update spheres of influence, the commission is required to conduct a service review, including the review of growth and population projections for the affected area, present and planned capacity of public facilities and adequacy of public services, financial ability of agencies to provide services, the status of, and opportunities for, shared facilities,

accountability for community service needs, and any other matter related to effective or efficient service delivery, as required by commission policy.

This bill would authorize the commission to include in the service review, a review of whether the agencies under review comply with safe drinking water standards. This bill would provide that a public water system may comply with that review by submitting certain documents.

(5) Existing law provides for the imposition of civil fines in amounts up to \$5,000 or \$25,000 for specified violations of the California Safe Drinking Water Act.

This bill would provide that a mutual water company is liable for any fines, penalties, costs, expenses, or other amounts that may be imposed upon the mutual water company under the California Safe Drinking Water Act. This bill would authorize a mutual water company to levy an assessment to pay those fines. This bill would provide that if the amount of those fines exceeds 5% of the annual budget of a mutual water company, then the mutual water company would be required to levy an assessment to pay those fines.

*The people of the State of California do enact as follows:*

SECTION 1. The Legislature finds and declares all of the following:

(a) Californians rely on a broad diversity of public and private organizations to deliver clean and safe drinking water to their home water taps. Regardless of the form of the organization that operates a public water system, these organizations provide a public service that remains one of the core duties of the people's government.

(b) While the state's goal is to ensure clean and safe drinking water, California's drinking water quality has deteriorated and some public water systems continue to suffer poor water quality that are inconsistent with safe drinking water standards.

(c) The state provides funding to public water systems to improve drinking water quality through the Safe Drinking Water Revolving Fund, but demand far exceeds the available funding. Based on the United States Environmental Protection Agency's Drinking Water Infrastructure Needs Survey and Assessment, which was performed in 2007, the State Department of Public Health estimates that the 20-year drinking water infrastructure need for California is \$39 billion. Funding for such projects, however, for 1997–2008 totaled only \$1.2 billion.

SEC. 2. Section 14300 of the Corporations Code is amended to read:

14300. (a) Any corporation organized for or engaged in the business of selling, distributing, supplying, or delivering water for irrigation purposes may provide, and any corporation organized for or engaged in the business of selling, distributing, supplying, or delivering water for domestic use shall provide, in its articles or bylaws that water shall be sold, distributed, supplied, or delivered only to owners of its shares and that the shares shall be appurtenant to certain lands when the same are described in the certificate

issued therefor; and when the certificate is so issued and a certified copy of the articles or bylaws recorded in the office of the county recorder in the county where the lands are situated the shares of stock shall become appurtenant to the lands and shall only be transferred therewith, except after sale or forfeiture for delinquent assessments thereon as provided in Section 14303. Notwithstanding this provision in its articles or bylaws, any such corporation may sell water to the state, or any department or agency thereof, or to any school district, or to any public agency, or, to any other mutual water company or, during any emergency resulting from fire or other disaster involving danger to public health or safety, to any person at the same rates as to holders of shares of the corporations; and provided further, that any corporation may enter into a contract with a county fire protection district to furnish water to fire hydrants and for fire suppression or fire prevention purposes at a flat rate per hydrant or other connection. In the event lands to which any stock is appurtenant are owned or purchased by the state, or any department or agency thereof, or any school district, or public agency, the stock shall be canceled by the secretary, but shall be reissued to any person later acquiring title to the land from the state department, agency, or school district, or public agency.

(b) A corporation described in subdivision (a) shall be known as a mutual water company.

SEC. 3. Section 14300.5 is added to the Corporations Code, to read:

14300.5. For purposes of this chapter, “public water system” shall have the same meaning as provided in Section 116275 of the Health and Safety Code.

SEC. 4. Section 14301.1 is added to the Corporations Code, to read:

14301.1. (a) No later than December 31, 2012, each mutual water company that operates a public water system shall submit to the local agency formation commission for its county a map depicting the approximate boundaries of the property that the mutual water company serves.

(b) A mutual water company that operates a public water system shall respond to a request from a local agency formation commission, located within a county that the mutual water company operates in, for information in connection with the preparation of municipal service reviews or spheres of influence pursuant to Chapter 4 (commencing with Section 56425) of Part 2 of Division 3 of Title 5 of the Government Code within 45 days of the request. The mutual water company shall provide all reasonably available nonconfidential information relating to the operation of the public water system. The mutual water company shall explain, in writing, why any requested information is not reasonably available. The mutual water company shall not be required to disclose any information pertaining to the names, addresses, or water usage of any specific shareholder. This subdivision shall not be interpreted to require a mutual water company to undertake any study or investigation. A mutual water company may comply with this section by submitting to the local agency formation commission the same information that the mutual water company submitted to the State Department of Public Health.

(c) A mutual water company that operates a public water system shall be subject to the requirements of, and has the powers granted by, subdivision (b) of Section 116755 of the Health and Safety Code.

SEC. 5. Section 14301.2 is added to the Corporations Code, to read:

14301.2. Each board member of a mutual water company that operates a public water system shall comply with the training requirements set out in subdivision (a) of Section 116755 of the Health and Safety Code.

SEC. 6. Section 14301.3 is added to the Corporations Code, to read:

14301.3. (a) All construction on public water systems operated by a mutual water company shall be designed and constructed to comply with the applicable California Waterworks standards, as provided in Chapter 16 of Title 22 of the California Code of Regulations.

(b) A mutual water company that operates a public water system shall maintain a financial reserve fund for repairs and replacements to its water production, transmission, and distribution facilities at a level sufficient for continuous operation of facilities in compliance with the federal Safe Drinking Water Act (42 U.S.C. Sec. 300f et seq.) and the California Safe Drinking Water Act (Chapter 4 (commencing with 116270) of Part 12 of Division 104 of the Health and Safety Code).

SEC. 7. Section 56375 of the Government Code is amended to read:

56375. The commission shall have all of the following powers and duties subject to any limitations upon its jurisdiction set forth in this part:

(a) (1) To review and approve with or without amendment, wholly, partially, or conditionally, or disapprove proposals for changes of organization or reorganization, consistent with written policies, procedures, and guidelines adopted by the commission.

(2) The commission may initiate proposals by resolution of application for any of the following:

(A) The consolidation of a district, as defined in Section 56036.

(B) The dissolution of a district.

(C) A merger.

(D) The establishment of a subsidiary district.

(E) The formation of a new district or districts.

(F) A reorganization that includes any of the changes specified in subparagraph (A), (B), (C), (D), or (E).

(3) A commission may initiate a proposal described in paragraph (2) only if that change of organization or reorganization is consistent with a recommendation or conclusion of a study prepared pursuant to Section 56378, 56425, or 56430, and the commission makes the determinations specified in subdivision (b) of Section 56881.

(4) A commission shall not disapprove an annexation to a city, initiated by resolution, of contiguous territory that the commission finds is any of the following:

(A) Surrounded or substantially surrounded by the city to which the annexation is proposed or by that city and a county boundary or the Pacific Ocean if the territory to be annexed is substantially developed or developing, is not prime agricultural land as defined in Section 56064, is designated for

urban growth by the general plan of the annexing city, and is not within the sphere of influence of another city.

(B) Located within an urban service area that has been delineated and adopted by a commission, which is not prime agricultural land, as defined by Section 56064, and is designated for urban growth by the general plan of the annexing city.

(C) An annexation or reorganization of unincorporated islands meeting the requirements of Section 56375.3.

(5) As a condition to the annexation of an area that is surrounded, or substantially surrounded, by the city to which the annexation is proposed, the commission may require, where consistent with the purposes of this division, that the annexation include the entire island of surrounded, or substantially surrounded, territory.

(6) A commission shall not impose any conditions that would directly regulate land use density or intensity, property development, or subdivision requirements.

(7) The decision of the commission with regard to a proposal to annex territory to a city shall be based upon the general plan and rezoning of the city. When the development purposes are not made known to the annexing city, the annexation shall be reviewed on the basis of the adopted plans and policies of the annexing city or county. A commission shall require, as a condition to annexation, that a city prezone the territory to be annexed or present evidence satisfactory to the commission that the existing development entitlements on the territory are vested or are already at build-out, and are consistent with the city's general plan. However, the commission shall not specify how, or in what manner, the territory shall be rezoned.

(b) With regard to a proposal for annexation or detachment of territory to, or from, a city or district or with regard to a proposal for reorganization that includes annexation or detachment, to determine whether territory proposed for annexation or detachment, as described in its resolution approving the annexation, detachment, or reorganization, is inhabited or uninhabited.

(c) With regard to a proposal for consolidation of two or more cities or districts, to determine which city or district shall be the consolidated successor city or district.

(d) To approve the annexation of unincorporated, noncontiguous territory, subject to the limitations of Section 56742, located in the same county as that in which the city is located, and that is owned by a city and used for municipal purposes and to authorize the annexation of the territory without notice and hearing.

(e) To approve the annexation of unincorporated territory consistent with the planned and probable use of the property based upon the review of general plan and rezoning designations. No subsequent change may be made to the general plan for the annexed territory or zoning that is not in conformance to the rezoning designations for a period of two years after the completion of the annexation, unless the legislative body for the city makes a finding at a public hearing that a substantial change has occurred

in circumstances that necessitate a departure from the rezoning in the application to the commission.

(f) With respect to the incorporation of a new city or the formation of a new special district, to determine the number of registered voters residing within the proposed city or special district or, for a landowner-voter special district, the number of owners of land and the assessed value of their land within the territory proposed to be included in the new special district. The number of registered voters shall be calculated as of the time of the last report of voter registration by the county elections official to the Secretary of State prior to the date the first signature was affixed to the petition. The executive officer shall notify the petitioners of the number of registered voters resulting from this calculation. The assessed value of the land within the territory proposed to be included in a new landowner-voter special district shall be calculated as shown on the last equalized assessment roll.

(g) To adopt written procedures for the evaluation of proposals, including written definitions consistent with existing state law. The commission may adopt standards for any of the factors enumerated in Section 56668. Any standards adopted by the commission shall be written.

(h) To adopt standards and procedures for the evaluation of service plans submitted pursuant to Section 56653 and the initiation of a change of organization or reorganization pursuant to subdivision (a).

(i) To make and enforce regulations for the orderly and fair conduct of hearings by the commission.

(j) To incur usual and necessary expenses for the accomplishment of its functions.

(k) To appoint and assign staff personnel and to employ or contract for professional or consulting services to carry out and effect the functions of the commission.

(l) To review the boundaries of the territory involved in any proposal with respect to the definiteness and certainty of those boundaries, the nonconformance of proposed boundaries with lines of assessment or ownership, and other similar matters affecting the proposed boundaries.

(m) To waive the restrictions of Section 56744 if it finds that the application of the restrictions would be detrimental to the orderly development of the community and that the area that would be enclosed by the annexation or incorporation is so located that it cannot reasonably be annexed to another city or incorporated as a new city.

(n) To waive the application of Section 22613 of the Streets and Highways Code if it finds the application would deprive an area of a service needed to ensure the health, safety, or welfare of the residents of the area and if it finds that the waiver would not affect the ability of a city to provide any service. However, within 60 days of the inclusion of the territory within the city, the legislative body may adopt a resolution nullifying the waiver.

(o) If the proposal includes the incorporation of a city, as defined in Section 56043, or the formation of a district, as defined in Section 2215 of the Revenue and Taxation Code, the commission shall determine the property

tax revenue to be exchanged by the affected local agencies pursuant to Section 56810.

(p) To authorize a city or district to provide new or extended services outside its jurisdictional boundaries pursuant to Section 56133.

(q) To enter into an agreement with the commission for an adjoining county for the purpose of determining procedures for the consideration of proposals that may affect the adjoining county or where the jurisdiction of an affected agency crosses the boundary of the adjoining county.

(r) To approve with or without amendment, wholly, partially, or conditionally, or disapprove pursuant to this section the annexation of territory served by a mutual water company formed pursuant to Part 7 (commencing with Section 14300) of Division 3 of Title 1 of the Corporations Code that operates a public water system to a city or special district. Any annexation approved in accordance with this subdivision shall be subject to the state and federal constitutional prohibitions against the taking of private property without the payment of just compensation. This subdivision shall not impair the authority of a public agency or public utility to exercise eminent domain authority.

SEC. 8. Section 56430 of the Government Code is amended to read:

56430. (a) In order to prepare and to update spheres of influence in accordance with Section 56425, the commission shall conduct a service review of the municipal services provided in the county or other appropriate area designated by the commission. The commission shall include in the area designated for service review the county, the region, the subregion, or any other geographic area as is appropriate for an analysis of the service or services to be reviewed, and shall prepare a written statement of its determinations with respect to each of the following:

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

(b) In conducting a service review, the commission shall comprehensively review all of the agencies that provide the identified service or services within the designated geographic area.

(c) In conducting a service review, the commission may include a review of whether the agencies under review, including any public water system as defined in Section 116275, are in compliance with the Safe Drinking Water Act. A public water system may satisfy any request for information as to compliance with the Safe Drinking Water Act by submission of the consumer confidence or water quality report prepared by the public water system as provided by Section 116470 of the Health and Safety Code.



(d) The commission may request information, as part of a service review under this section, from identified public or private entities that provide wholesale or retail supply of drinking water, including mutual water companies formed pursuant to Part 7 (commencing with Section 14300) of Division 3 of Title 1 of the Corporations Code, and private utilities, as defined in Section 1502 of the Public Utilities Code.

(e) The commission shall conduct a service review before, or in conjunction with, but no later than the time it is considering an action to establish a sphere of influence in accordance with Section 56425 or 56426.5 or to update a sphere of influence pursuant to Section 56425.

SEC. 9. Article 12 (commencing with Section 116755) of Chapter 4 of Part 12 of Division 104 is added to the Health and Safety Code, to read:

Article 12. Board Member Training

116755. (a) Each board member of a mutual water company that operates a public water system, as defined in Section 116275, shall, within six months of taking office, or by December 31, 2012, if that member was serving on the board on December 31, 2011, complete a two-hour course offered by a qualified trainer regarding the duties of board members of mutual water companies, including, but not limited to, the duty of a corporate director to avoid contractual conflicts of interest and fiduciary duties, the duties of public water systems to provide clean drinking water that complies with the federal Safe Drinking Water Act (42 U.S.C. Sec. 300f et seq.) and this chapter, and long-term management of a public water system. For the purposes of this subdivision, a trainer may be qualified in any of the following ways:

- (1) Membership in the California State Bar.
- (2) Accreditation by the International Association of Continuing Education and Training (IACET) ANSI/IACET 1-2007.
- (3) Sponsorship by either the Rural Community Assistance Corporation or the California Rural Water Association.

(b) A mutual water company formed pursuant to Part 7 (commencing with Section 14300) of Division 3 of Title 1 of the Corporations Code shall be liable for the payment of any fines, penalties, costs, expenses, and other amounts that may be imposed upon the mutual water company pursuant to this chapter. The mutual water company may levy an assessment, pursuant to Section 14303 of the Corporations Code, to pay these fines, penalties, costs, expenses, and other amounts so imposed. If the amount of outstanding fines, penalties, costs, expenses and other amounts imposed pursuant to this chapter exceed 5 percent of the annual budget of the mutual water company, then the mutual water company shall levy an assessment, pursuant to Section 14303 of the Corporations Code, to pay those fines, penalties, costs, expenses, and other amounts so imposed.

SEC. 10. Section 116760.90 of the Health and Safety Code is amended to read:

116760.90. (a) The department shall not approve an application for funding unless the department determines that the proposed study or project is necessary to enable the applicant to meet safe drinking water standards, and is consistent with an adopted countywide plan, if any. The department may refuse to fund a study or project if it determines that the purposes of this chapter may more economically and efficiently be met by means other than the proposed study or project. The department shall not approve an application for funding a project with a primary purpose to supply or attract future growth. The department may limit funding to costs necessary to enable suppliers to meet primary drinking water standards, as defined in Chapter 4 (commencing with Section 116270).

(b) With respect to applications for funding of project design and construction, the department shall also determine all of the following:

(1) Upon completion of the project, the applicant will be able to supply water that meets safe drinking water standards.

(2) The project is cost-effective.

(3) If the entire project is not to be funded under this chapter, the department shall specify which costs are eligible for funding.

(c) In considering an application for funding a project that meets all other requirements of this chapter and regulations, the department shall not be prejudiced by the applicant initiating the project prior to the department approving the application for funding. Preliminary project costs that are otherwise eligible for funding pursuant to the provisions of this chapter shall not be ineligible because the costs were incurred by the applicant prior to the department approving the application for funding. Construction costs that are otherwise eligible for funding pursuant to the provisions of this chapter shall not be ineligible because the costs were incurred after the approval of the application by the department but prior to the department entering into a contract with the applicant pursuant to Section 116761.50.