



LAFCO MEETING AGENDA

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

December 4, 2013

1:15 PM

CHAIRPERSON: Mike Wasserman • VICE-CHAIRPERSON: Susan Vicklund Wilson

COMMISSIONERS: Pete Constant, Cindy Chavez, Sequoia Hall, Margaret Abe-Koga, Linda J. LeZotte

ALTERNATES: Johnny Khamis, Yoriko Kishimoto, Terry Trumbull, Cat Tucker, Ken Yeager

NOTICE TO THE PUBLIC

1. Pursuant to Government Code §84308, and the Regulations of the Fair Political Practices Commission (FPPC), §18438, no LAFCO commissioner shall accept, solicit, or direct a contribution of more than \$250 from any party, or his/her agent; or any participant or his /or her agent, while a LAFCO proceeding is pending, and for three months following the date a final decision is rendered by LAFCO. Prior to rendering a decision on a LAFCO proceeding, any LAFCO commissioner who received a contribution of more than \$250 within the preceding 12 months from a party or participant shall disclose that fact on the record of the proceeding. If a commissioner receives a contribution which would otherwise require disqualification returns the contribution within 30 days of knowing about the contribution and the proceeding, the commissioner shall be permitted to participate in the proceeding. A party to a LAFCO proceeding shall disclose on the record of the proceeding any contribution of more than \$250 within the preceding 12 months by the party, or his or her agent, to a LAFCO commissioner. For forms, visit the LAFCO website at www.santaclara.lafco.ca.gov. No party, or his or her agent and no participant, or his or her agent, shall make a contribution of more than \$250 to any LAFCO commissioner during the proceeding or for 3 months following the date a final decision is rendered by LAFCO.
2. Pursuant to Government Code Sections 56100.1, 56300, 56700.1, 57009 and 81000 et seq., any person or combination of persons who directly or indirectly contribute(s) a total of \$1,000 or more or expend(s) a total of \$1,000 or more in support of or in opposition to specified LAFCO proposals or proceedings, which generally include proposed reorganizations or changes of organization, may be required to comply with the disclosure requirements of the Political Reform Act (See also, Section 84250 et seq.). These requirements contain provisions for making disclosures of contributions and expenditures at specified intervals. More information on the scope of the required disclosures is available at the web site of the FPPC: www.fppc.ca.gov. Questions regarding FPPC material, including FPPC forms, should be directed to the FPPC's advice line at 1-866-ASK-FPPC (1-866-275-3772).
3. Pursuant to Government Code §56300(c), LAFCO adopted lobbying disclosure requirements which require that any person or entity lobbying the Commission or Executive Officer in regard to an application before LAFCO must file a declaration prior to the hearing on the LAFCO application or at the time of the hearing if that is the initial contact. In addition to submitting a declaration, any lobbyist speaking at the LAFCO hearing must so identify themselves as lobbyists and identify on the record the name of the person or entity making payment to them. Additionally every applicant shall file a declaration under penalty of perjury listing all lobbyists that they have hired to influence the action taken by LAFCO on their application. For forms, visit the LAFCO website at www.santaclara.lafco.ca.gov.
4. Any disclosable public records related to an open session item on the agenda and distributed to all or a majority of the Commissioners less than 72 hours prior to that meeting are available for public inspection at the LAFCO Office, 70 W. Hedding Street, 11th Floor, San Jose, California, during normal business hours. (Government Code § 54957.5.)
5. In compliance with the Americans with Disabilities Act, those requiring accommodation for this meeting should notify the LAFCO Clerk 24 hours prior to the meeting at (408)299-6415.

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

COMMISSIONERS: Pete Constant, Cindy Chavez, Sequoia Hall, Margaret Abe-Koga, Linda J. LeZotte, Mike Wasserman, Susan Vicklund Wilson

ALTERNATE COMMISSIONERS: Johnny Khamis, Yoriko Kishimoto, Terry Trumbull, Cat Tucker, Ken Yeager

EXECUTIVE OFFICER: Neelima Palacherla

1. ROLL CALL

2. 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.

3. APPROVE MINUTES OF OCTOBER 2, 2013 LAFCO MEETING

PUBLIC HEARING

4. REQUEST FOR RECONSIDERATION OF OCTOBER 2, 2013 LAFCO ACTION TO DENY CITY OF MORGAN HILL URBAN SERVICE AREA AMENDMENT 2012

Recommended Action:

CEQA Action

1. Reconsideration and denial of the project does not require a CEQA action. In order to approve the project, LAFCO as a Responsible Agency under CEQA, must take the following actions regarding the Mitigated Negative Declaration for this project:
 - a. Find that the Initial Study and Mitigated Negative Declaration approved by the City of Morgan Hill on December 7, 2011 were completed in compliance with CEQA and are an adequate discussion of the environmental impacts of the project.
 - b. Find that prior to making a decision on this project, LAFCO reviewed and considered the environmental effects of the project as outlined in the Initial Study and Mitigated Negative Declaration.
 - c. Find that a monitoring program was approved by the City of Morgan Hill as Lead Agency and that the monitoring program ensures compliance with the mitigation measures identified in the Mitigated Negative Declaration that would mitigate or avoid significant impacts associated with the urban service area amendment, over which LAFCO has responsibility.

Project Action

2. Deny the request for reconsideration.
 3. If the Commission votes in favor of granting the reconsideration, staff recommends denial of the proposed inclusion of APNs 779-04-052 and 779-04-067 into the Morgan Hill Urban Service Area (USA).
- 5. MONTE SERENO URBAN SERVICE AREA (USA) AMENDMENT AND SPHERE OF INFLUENCE (SOI) AMENDMENT 2013 (LUCKY ROAD)**

Recommended Action:

CEQA Action

1. Denial of the project does not require a CEQA action. In order to approve the project, LAFCO as a Responsible Agency under CEQA, must take the

following actions regarding the Mitigated Negative Declaration for this project:

- a. Find that the Initial Study and Mitigated Negative Declaration approved by the City of Monte Sereno on September 3, 2013 were completed in compliance with CEQA and are an adequate discussion of the environmental impacts of the project.
- b. Find that prior to making a decision on this project, LAFCO reviewed and considered the environmental effects of the project as outlined in the Initial Study and Mitigated Negative Declaration.

Project Action

2. Deny the proposed Monte Sereno Urban Service Area Amendment and Sphere of Influence Amendment.

6. SPECIAL DISTRICTS SERVICE REVIEW DRAFT REPORT: PHASE 2

Recommended Action:

CEQA Action

1. Determine that the Special Districts Service Review Report: Phase 2 which includes sphere of influence updates for nine special districts and the recommendations of this staff report are exempt from the requirements of the California Environmental Quality Act (CEQA) under State CEQA Guidelines: §15306 Class 6; §15061(b)(3) General Rule; §15378(b)(5); and §15320 Class 20.

Project Action

2. Accept public comments.
3. Consider the Special Districts Service Review Revised Draft Report: Phase 2 and staff recommendation.

ITEMS FOR ACTION / DISCUSSION

7. 2014 SCHEDULE OF LAFCO MEETINGS

Recommended Action: Adopt the schedule of LAFCO meetings and application filing deadlines for 2014.

8. APPOINTMENT OF CHAIRPERSON AND VICE-CHAIRPERSON FOR 2014

Recommended Action: Appoint the Chairperson and Vice-Chairperson for 2014.

9. PENDING APPLICATIONS / UPCOMING PROJECTS

- Proposed Annexation of 830 Los Trancos Road to West Bay Sanitary District
- Proposed Annexation of APN 182-34-011 to the West Bay Sanitary District

10. COMMISSIONER REPORTS

11. NEWSPAPER ARTICLES / NEWSLETTERS

- CALAFCO Quarterly (November 2013)

12. WRITTEN CORRESPONDENCE

CLOSED SESSION

13. CONFERENCE WITH LEGAL COUNSEL

Conference with Legal Counsel - Anticipated Litigation. Significant exposure to litigation pursuant to Government Code §54956.9(b) (1 case)

14. ADJOURN

Adjourn to the regular LAFCO meeting on Wednesday, February 5, 2014, at 1:15 PM in the Board Meeting Chambers, 70 West Hedding Street, San Jose.

**LAFCO MEETING MINUTES
WEDNESDAY, OCTOBER 2, 2013**

CALL TO ORDER

Chairperson Mike Wasserman called the meeting to order at 1:20 p.m.

1. ROLL CALL

The following commissioners were present:

- **Chairperson Mike Wasserman**
- **Commissioner Cindy Chavez**
- **Commissioner Pete Constant** (left at 4:01 p.m.)
- **Commissioner Sequoia Hall**
- **Commissioner Margaret Abe-Koga** (left at 2:30 p.m.)
- **Commissioner Linda J. LeZotte** (left at 3:03 p.m.)
- **Commissioner Susan Vicklund Wilson**
- **Alternate Commissioner Yoriko Kishimoto**
- **Alternate Commissioner Terry Trumbull** (left at 1:45 p.m.)
- **Alternate Commissioner Cat Tucker**

The following staff members were present:

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

2. WELCOME NEW LAFCO COMMISSIONERS CINDY CHAVEZ AND ALTERNATE COMMISSIONER KEN YEAGER

Chairperson Wasserman welcomed Commissioner Cindy Chavez and Alternate Commissioner Ken Yeager.

3. *TAKEN OUT OF ORDER**

4. PUBLIC COMMENTS

There were no public comments.

5. APPROVE MINUTES OF AUGUST 7, 2013 LAFCO MEETING

The Commission approved the minutes of August 7, 2013 LAFCO meeting.

Motion: Wilson

Second: LeZotte

AYES: Chavez, Constant, Hall, Abe-Koga, LeZotte, Wasserman, Wilson

NOES: None

ABSTAIN: None

ABSENT: None

MOTION PASSED

6. MORGAN HILL URBAN SERVICE AREA (USA) AMENDMENT 2012 MONTEREY – SOUTH OF WATSONVILLE

Ms. Palacherla presented the staff report. She informed that the City of Morgan Hill has 33 years supply of vacant residential land based on the information provided by the City in April 2013. However, the City submitted a letter on October 1, 2013 stating that there is only 6 years vacant land supply. This indicates a 530-acre reduction in vacant residential land from the inventory provided by the City in April 2013. She further informed that the City attributed the reduction in vacant land inventory to 1) recently allotted projects under the Residential Development Control System (RDCS); 2) previous inventory included streets and development projects; and 3) adoption of a new methodology for calculating vacant lands. She indicated that the City's new methodology, which reduced vacant land inventory significantly, does not consider land as vacant if 1) it has received RDCS allotment; 2) it has received zoning, development agreement or subdivision approval; or 3) its owner has indicated no intention to sell or develop. She expressed disagreement with the City's new methodology since RCDS allocation is an uncertain indication of development and the property owner's personal desire not to sell or develop the land is not objective criteria. Ms. Palacherla continued her report and stated that staff has not received a written plan or an agreement for agricultural mitigation from the City or property owner.

In response to inquiries by **Commissioners Chavez and Constant**, Ms. Palacherla informed that APNs 779-04-005, 030, 032, 033, 072, 073 and 074 are already within the city limits and the City has full jurisdiction over the area, and including these in the USA boundary may allow further expansion to the east and south of the project area. In response to an inquiry by **Commissioner Abe-Koga**, Ms. Palacherla stated that the City can annex lands that are within its USA boundary without LAFCO approval.

This being the time and place for the public hearing, **Chairperson Wasserman** declared the public hearing open.

Leslie Little, Assistant City Manager for Community Development, City of Morgan Hill, made a presentation in support of the application, explained the reasons for a reduced vacant lands inventory, and outlined the goals and unique context of the proposal. She described the City's RDCS and its voter initiative to limit population growth.

Mark Grzan, former Morgan Hill Vice Mayor and current member of the General Plan Advisory Committee (GPAC), stated that the GPAC has been informed that the City has excess vacant lands. He recommended that the GPAC and the residents review the inventory. He advised that the proposal violates the City's General Plan goals to preserve agricultural lands and build the city core. He warned that there are other areas in the City that deserve similar consideration and that the City cannot afford to serve additional territory due to its deferred maintenance costs and unfunded pension obligations.

Julie Hutcheson, Committee for Green Foothills, indicated understanding of the mushroom farm's unique situation and expressed support for Option 2. She expressed opposition against including the other parcels since it violates the General Plan policy that discourages commercial activities along Monterey Road, south of Watsonville Road, and adds development pressure on agricultural lands to the south and west. She stated that the GPAC has not been informed about any shortage in residential lands inventory supply and requested that this issue be first addressed through the General Plan update process that is underway.

Michele Beasley, Greenbelt Alliance, informed that the proposal will open up new farmlands to development and does not qualify as infill. She questioned the recent reduction in the City's vacant lands inventory. She suggested that this proposal should be discussed by GPAC and the residents before it comes to LAFCO.

Jim Conklin, Executive Director, South County Business Council (SCBC), enumerated SCBC's member organizations and expressed concerns about the City's tax revenues. He stated that local entities understand the land use issues better and that the city would provide good stewardship of the lands. He questioned the original vacant lands inventory and referenced examples of flaws documented by his organization. He requested the Commission to approve the proposal.

David Whitaker, Lead Pastor, Morgan Hill Bible Church (MHBC), requested support for the proposal and stated that the facility is being used by many community organizations. He indicated that LAFCO's decision would have a huge bearing on how the church serves the community.

Mark Rauser, Director for Administration, MHBC, indicated that this proposal was made since the application for an out-of-agency water and sewer services was denied by LAFCO over 10 years ago. He stated that they have worked with the City on its commitment for smart growth. He indicated that the church provides a buffer between urban and agricultural lands, and requested support for the proposal.

Bob Isaacs, a retired police officer and member of MHBC, expressed concern that the facility has no fire hydrant and delayed police response time. He read a letter from the Morgan Hill Police Chief indicating a faster response time from that agency, and a letter from South Santa Clara County Fire District Fire Chief stating that a USA amendment has no impact on that agency.

Gordon Jacoby, SCBC member, indicated that the April 2013 vacant land inventory was flawed and he stated that while there are properties zoned for mixed use in the downtown area, they are expensive to develop and the market is not ready. He stated that other desirable properties are not zoned for a density that is affordable to build. He expressed concerns about the city's ability to meet its housing element requirements without the added lands.

Gloria Ballard, MH Engineering, stated that the area is an urban pocket and noted the difficulty in operating a mushroom farm near a school and residential area. She informed that the mushroom farm employs 104 people and Mr. Hordness wants to relocate his farm. She informed that the water well was condemned by the State and that another well must be developed in order to stay in operation.

Don Hordness, owner, Royal Oaks Mushrooms, stated that his farm has been zoned out of agriculture due to the surrounding urban development and that he cannot comply with new regulations in his current location. He reiterated his interest in farming and requested approval of the proposal so that he can continue to farm.

Chairperson Wasserman determined that there are no members of the public who wished to speak on the item and ordered the public hearing closed.

Commissioner Wilson moved to deny the request for USA amendment and accept staff recommendations #2 through #6. She expressed concern that the expansion would result in premature conversion of agricultural lands. She stated that the project has been pending for a long time, and that she is concerned about the last-minute vacant lands document from Morgan Hill and questioned its consistency with LAFCO criteria. She stated that the City, by allowing development nearby, is responsible for the difficulties of the mushroom farm. **Commissioner LeZotte** expressed agreement and seconded the motion. She also agreed with Mr. Grzan and Ms. Hutchison that the proposal should be discussed through the General Plan update process. She noted that land that has received entitlements through RDCS should not be removed from the inventory and stated that the project is premature given the amount of vacant land within the City.

Alternate Commissioner Tucker stated that she is not in support of the motion as she believes that this area is a logical place to grow given the development along Watsonville Road and Santa Teresa Boulevard. Additionally, she noted that the grants provided for expansion of Butterfield Boulevard are indication that growth is anticipated in this area.

Commissioner Hall proposed to amend the motion by approving staff recommended Option 2 which adds APNs 779-040-056, 001, 003 and 004 to the City's USA boundary, in recognition of Royal Oaks Mushroom Farm's unique situation. He stated his understanding for the needs of the MHBC but noted the potential for sprawl and impacts to surrounding agricultural lands, which if converted can never be recovered.

Commissioners Wilson and LeZotte accepted the amended motion.

In response to an inquiry by **Commissioner Chavez**, Ms. Palacherla advised that recommendations #2 through #5 do not stop Morgan Hill from seeking future USA expansions; however, the City should address these issues before coming back to LAFCO. In response to a follow-up inquiry by **Commissioner Chavez**, Ms. Palacherla informed that the purpose of recommendation #6 is to strengthen the USA policies and to reflect recent changes in State law. She advised that stakeholders, including the City of Morgan Hill, will have opportunity to provide input. In response to another inquiry by **Commissioner Chavez**, Ms. Palacherla explained that cities can annex lands within their USA boundary without LAFCO approval once the lands are within their USA boundaries and that extending boundaries will make more lands contiguous to the city and its USA boundaries. She noted that there are areas in the county that are within the city limits but are outside of USA boundaries.

Commissioner Constant stated that this proposal is an opportunity for LAFCO to correct illogical boundaries created in the past. He suggested that Morgan Hill be allowed to clean its boundaries by keeping large agricultural lands and allowing development in small areas like the mushroom farm. He recognized the City's efforts to manage growth

proactively. He expressed concerns that recommendations #2 through #5 could become mandates when approved, suggested that the review of USA policies be taken up as a separate agenda item at the next meeting, and expressed opposition to the motion. **Commissioner Wilson** proposed to vote on recommendations #2 through #6 one item at a time and **Commissioner LeZotte** expressed agreement to vote separately on each recommendation.

Chairperson Wasserman suggested that the report include an option for the Commission to approve the project. He commended the service reviews that LAFCO has recently completed. He expressed agreement with Commissioner Constant that the recommendations could become mandates in the future. He commended Morgan Hill for its RDCS and indicated that the proposal is a logical extension of the city boundary. He stated that he is not in support of the motion.

The Commission adopted **Resolution No. 2013-04** approving the expansion of the Urban Service Area of Morgan Hill to include APNs 779-040-056, 001, 003 and 004, and to exclude the Santa Clara Valley Water District Parcel (APN 779-04-067) from the City limits and USA so it will serve as a natural buffer to limit impacts to adjacent agricultural lands and to limit growth inducing impacts on adjacent unincorporated lands. Said Resolution, by reference hereto, is made part of these minutes.

Motion: Wilson

Second: LeZotte

AYES: Chavez, Hall, LeZotte, Wilson

NOES: Constant, Tucker, Wasserman

ABSTAIN: None

ABSENT: None

MOTION PASSED

Commissioner Hall inquired on the status of agricultural mitigation for the parcels that were excluded. Ms. Palacherla informed that staff has not received an agreement or written commitment from the City or the applicant. Ms. Little informed that the City is working with the property owner to provide mitigation. In response to an inquiry by **Chairperson Wasserman**, Ms. Subramanian advised that the City could bring back the excluded parcels along with proposed mitigation to LAFCO in a separate application. In response to an inquiry by **Commissioner Hall**, Mr. Hordness stated that the farming community must be involved in deciding how the mitigation will occur. He observed that there will be no mitigation any time soon since Morgan Hill has no mitigation policy and since it may take between five to seven years to develop the land vacated by the mushroom farm. **Commissioner Hall** expressed agreement to vote on recommendations #2 through #6 separately.

A motion for the Commission to request that the City of Morgan Hill, through its current General Plan Update process, consider the vast availability of vacant lands within its existing boundary and address comprehensively the necessity, timing and location of future expansions such that an expansion does not adversely impact surrounding agricultural lands or open space lands, and such that it results in orderly growth that facilitates efficient service delivery.

Motion: Wilson

Second: Hall

AYES: Hall, Kishimoto, Wilson

NOES: Chavez, Constant, Tucker, Wasserman

ABSTAIN: None

ABSENT: None

MOTION FAILED

The Commission requested that the City of Morgan Hill, through its General Plan Update process, examine its inventory of vacant land and develop targeted strategies that encourage better utilization of vacant lands within its boundary.

Motion: Wilson

Second: Hall

AYES: Chavez, Hall, Kishimoto, Wilson

NOES: Constant, Tucker, Wasserman ABSTAIN: None ABSENT: None

MOTION PASSED

A motion to request that the City of Morgan Hill submit a report to LAFCO on the progress it has achieved with regard to Recommendations #2 and #3, prior to submitting the next USA expansion proposal to LAFCO.

Motion: Wilson

Second: Hall

AYES: Hall, Kishimoto, Wilson NOES: Chavez, Constant, Tucker, Wasserman

ABSTAIN: None

ABSENT: None

MOTION FAILED

A motion to request that the City of Morgan Hill withhold submitting applications for USA expansion proposals to LAFCO until after the completion of its General Plan Update process and until it has significantly reduced its vacant land inventory to five or fewer years.

Motion: Wilson

Second: Hall

AYES: Hall, Kishimoto, Wilson NOES: Chavez, Constant, Tucker, Wasserman

ABSTAIN: None

ABSENT: None

MOTION FAILED

Chairperson Wasserman noted Morgan Hill's request to participate in the review of LAFCO USA policies. **Commissioner Constant** proposed to amend the motion to allow the Commission to provide specific direction on revisions to staff. **Commissioners Wilson** and **Hall** decided to go forward with the original motion.

The Commission directed LAFCO staff to review LAFCO's Urban Service Area Policies and propose revisions as necessary, for Commission consideration.

Motion: Wilson

Second: Hall

AYES: Chavez, Hall, Kishimoto, Tucker, Wilson

NOES: Constant, Wasserman

ABSTAIN: None

ABSENT: None

MOTION PASSED

In response to an inquiry by **Commissioner Wilson**, Ms. Subramanian noted that since there is no formal policy in place for reconsideration of a motion, the maker of the motion and the second could request for reconsideration. She added that

reconsideration is allowed when new information is presented that was not possible to be presented at the time of the Commission decision. **Commissioner Constant** informed that Robert's Rule of Order provides that any member of the prevailing side can request reconsideration. Ms. Subramanian advised that the Commission may have to decide whether or not to follow Robert's Rule of Order. In response to an inquiry by **Chairperson Wasserman**, Ms. Subramanian advised that the Commission may determine what is new information. **Commissioner Hall** informed that he is not requesting for reconsideration and explained that he made the inquiry to encourage Morgan Hill to develop its agricultural mitigation policy consistent with LAFCO policies.

At the request of **Chairperson Wasserman**, Commissioners Chavez, Constant, Hall, Wasserman and Wilson, and Alternate Commissioner Tucker disclosed the names of individuals that they met with regard to this proposal and indicated whether or not they visited the site. Alternate Commissioner Kishimoto did not meet with any stakeholder.

***3. TAKEN OUT OF ORDER - COMMISSIONER SUSAN VICKLUND WILSON: RECIPIENT OF THE 2013 CALAFCO LIFETIME ACHIEVEMENT AWARD**

Commissioner Constant, voting delegate to the CALAFCO Annual Conference, informed that he accepted the 2013 CALAFCO Lifetime Achievement Award on behalf of Commissioner Wilson. He informed that Commissioner Wilson has served LAFCO for over 18 years and served on CALAFCO Executive Board and Legislative Committee.

7. SPECIAL DISTRICTS SERVICE REVIEW DRAFT REPORT: PHASE 2

Dunia Noel, LAFCO Analyst, provided a brief update on the project. Jennifer Stephenson and Oxana Wolfson, Policy Consulting Associates, consultants for the project, presented the summary of the Draft Report, including the key findings, governance options and sphere of influence recommendations for each of the nine districts.

This being the time and place for the public hearing, **Chairperson Wasserman** declared the public hearing open, determined that there are no members of the public who wished to speak on the item and ordered the public hearing closed.

The Commission directed staff to revise the Report as necessary to address comments received through October 9th and set December 4, 2013 as the date for the public hearing to consider adoption of the Final Report.

Motion: Wilson

Second: Kishimoto

AYES: Chavez, Constant, Hall, Kishimoto, Tucker, Wasserman, Wilson

NOES: None

ABSTAIN: None

ABSENT: None

MOTION PASSED

8. REVISIONS OF THE AMENDED AND RESTATED MEMORANDUM OF UNDERSTANDING BETWEEN LAFCO OF SANTA CLARA COUNTY AND THE COUNTY OF SANTA CLARA

Ms. Subramanian presented the staff report.

Alternate Commissioner Kishimoto proposed that, in addition to the Finance Committee, the other members of the Commission be polled on the performance evaluation of LAFCO Executive Officer. Ms. Subramanian indicated that a plan, timeline and process for evaluation could include that. In response to a follow up inquiry by **Alternate Commissioner Kishimoto**, Ms. Subramanian advised that this may be made part of the motion.

The Commission approved revisions to the Amended and Restated Memorandum of Understanding between LAFCO of Santa Clara County and the County of Santa Clara and directed staff to prepare a plan and timeline for conducting performance evaluation of the LAFCO Executive Officer, in coordination with the County Executive's Office, and the process include a poll of the full Commission.

Motion: Kishimoto

Second: Wilson

MOTION PASSED

AYES: Chavez, Constant, Hall, Kishimoto, Tucker, Wasserman, Wilson

NOES: None

ABSTAIN: None

ABSENT: None

9. AGENCY RESPONSES TO RECOMMENDATION IN LAFCO'S SPECIAL DISTRICTS SERVICE REVIEW REPORT: PHASE 1

The Commission accepted the report.

10. UPDATE ON SPECIAL STUDY ON THE IMPACTS OF THE POTENTIAL DISSOLUTION OF THE SARATOGA FIRE PROTECTION DISTRICT AND ANNEXATION OF ITS TERRITORY TO SANTA CLARA COUNTY CENTRAL FIRE PROTECTION DISTRICT

In response to an inquiry by **Alternate Commissioner Kishimoto**, Ms. Palacherla advised that the residents of the District are not taxed specifically for the Saratoga Fire Protection District. She informed that the District revenue is from a percentage of the property tax.

On Commission consensus, there being no objection, the report was accepted.

11. EXECUTIVE OFFICER'S REPORT

The Commission noted the report.

12. PENDING APPLICATIONS / UPCOMING PROJECTS

The Commission noted the report.

13. COMMISSIONER REPORTS

There was no report.

14. NEWSPAPER ARTICLES / NEWSLETTERS

The Commission noted the CALAFCO Newsletter.

15. WRITTEN CORRESPONDENCE

There was none.

16. CONFERENCE WITH THE LEGAL COUNSEL

On Commission consensus, there being no objection, it was ordered that the item be continued to the next Commission meeting on December 4, 2013.

17. ADJOURN

The meeting was adjourned at 4:03 p.m. to the next meeting on Wednesday, December 4, 2013 in the Board Meeting Chambers, County Government Center, 70 West Hedding Street, San Jose, California.

Approved:

Mike Wasserman, Chairperson
Local Agency Formation Commission of Santa Clara County

By: _____
Emmanuel Abello, LAFCO Clerk

LAFCO MEETING: December 4, 2013
TO: LAFCO
FROM: Neelima Palacherla, Executive Officer
Dunia Noel, Analyst
SUBJECT: REQUEST FOR RECONSIDERATION OF OCTOBER 2, 2013 LAFCO
ACTION TO DENY CITY OF MORGAN HILL URBAN SERVICE AREA
AMENDMENT 2012

TWO ACTIONS REQUIRED BY COMMISSION

1. The Commission is first required to vote on whether or not to grant the reconsideration of the proposal based on Section 56895 of the Cortese Knox Hertzberg Act (Attachment A).
2. If the Commission grants the reconsideration, the Commission may consider the request by property owner to amend the Urban Service Area of Morgan Hill to include APNs 779-04-067 and 779-04-052 and provide agricultural mitigation as indicated by applicant in Attachment B.

STAFF RECOMMENDATION

CEQA ACTION

1. Reconsideration and denial of the project does not require a CEQA action. In order to approve the project, LAFCO as a Responsible Agency under CEQA, must take the following actions regarding the Mitigated Negative Declaration for this project:
 - a. Find that the *Initial Study* and *Mitigated Negative Declaration* approved by the City of Morgan Hill on December 7, 2011 were completed in compliance with CEQA and are an adequate discussion of the environmental impacts of the project.
 - b. Find that prior to making a decision on this project, LAFCO reviewed and considered the environmental effects of the project as outlined in the *Initial Study* and *Mitigated Negative Declaration*.
 - c. Find that a monitoring program was approved by the City of Morgan Hill as Lead Agency and that the monitoring program ensures compliance with the mitigation measures identified in the *Mitigated Negative Declaration* that would mitigate or avoid significant impacts associated with the urban service area amendment, over which LAFCO has responsibility.

PROJECT ACTION

2. Deny the request for reconsideration.

3. If the Commission votes in favor of granting the reconsideration, staff recommends denial of the proposed inclusion of APNs 779-04-052 and 779-04-067 into the Morgan Hill Urban Service Area (USA).

PROJECT DESCRIPTION

Mr. Don Hordness, owner of assessor parcel number (APN) 779-04-052, is requesting reconsideration of the October 2, 2013 LAFCO action to deny the inclusion of APNs 779-04-052 and 779-04-067 with a combined area of approximately 10.7 acres, located on Watsonville Road, into the urban service area of the City of Morgan Hill. Attached is a letter (Attachment B) from Mr. Don Hordness requesting reconsideration and stating the reasons for requesting reconsideration.

The two subject parcels consist of unincorporated lands and are currently undeveloped. APN 779-04-067 is owned by the Santa Clara Valley Water District (SCVWD) for future flood control purposes. APN 779-04-052, which is owned by Mr. Hordness, has a City General Plan Designation of Multi-Family and City pre-zoning designation of R3/Planned Development, as listed in **Table 1**. Upon LAFCO approval of the proposed USA expansion and city annexation of these lands, the City General Plan and Zoning designations would apply to the properties.

Table 1:

APN	ACRES	EXISTING LAND USE	COUNTY GENERAL PLAN	COUNTY ZONING	CITY GENERAL PLAN	CITY PRE-ZONING
779-04-052	7.38	Undeveloped	Agriculture Medium Scale	A-20 Acre	Multi-Family	R3 / Planned Development
779-04-067	3.32	Undeveloped	Agriculture Medium Scale	A-20 Acre	Open Space	Open Space
Total	10.70					

The City has stated that anticipated future development of this area would include a 180-unit senior assisted living facility.

BACKGROUND

Section 56895 of the Cortese Knox Hertzberg Act (Attachment A) allows any person/agency to file a written request for reconsideration of a LAFCO resolution within 30 days of the adoption of the resolution. The law also requires that to allow reconsideration by the Commission, the written request must state any new or different facts that could not have been presented previously.

Reconsideration and Commission Participation

On November 18th, LAFCO staff received an inquiry from Ms. Gloria Ballard, applicant’s representative, as to which LAFCO Commissioners could participate in the reconsideration and whether Commissioners who did not originally vote on the application, can participate in the reconsideration. When the Commission heard the

Original application on October 2, 2013, various Alternate Commissioners participated in the final decision. Staff referred this question to LAFCO Legal Counsel for a response. Per LAFCO Legal Counsel, any Commissioner who did not consider the entirety of the Original Application may participate and vote on the reconsideration. However, for due process they should review the minutes and audio tape of the Original Application and disclose such prior to participating in the reconsideration. An audio of the Original Application heard by LAFCO on October 2, 2013 was provided electronically to all Commissioners and compact discs of the audio were also provided to Commissioners Khamis, Abe-Koga, LeZotte, Trumbull, and Yeager. **See Attachment C for LAFCO Legal Counsel's Response.**

DENY RECONSIDERATION: NO NEW OR DIFFERENT FACTS THAT COULD NOT HAVE BEEN PRESENTED PREVIOUSLY

As mentioned above, state law requires that the applicant include in their written request any new or different facts that could not have been presented previously. The new information provided by Mr. Hordness in his letter (Attachment B) is his intent to provide agricultural mitigation for Class II soils on his property by paying in-lieu fees to the City of Gilroy. No further details or plan for mitigation are provided.

Staff has reviewed this information and believes that it does not meet the legal requirements for reconsideration because this information could have been presented previously to the Commission. LAFCO staff advised Mr. Hordness and City staff over the years that the site included lands that are considered prime agricultural land as defined by the Cortese Knox Hertzberg Act and would be subject to LAFCO's Agricultural Mitigation Policies. LAFCO Legal Counsel also conveyed this information to the City of Morgan Hill on March 6, 2013 in response to the February 4, 2013 letter that the City received from Mr. Bart Hechtman (Mr. Hordness' Attorney). **See Attachment D for both letters.**

In addition, LAFCO staff released a staff report for the proposed Morgan Hill USA Amendment in late March 2013 noting that LAFCO's Agricultural Mitigation Policies recommend the provision of mitigation for applications that impact agricultural lands or result in a loss of prime agricultural lands and that no mitigation is proposed for impacts from loss/conversion of prime agricultural lands or for potential impacts to adjacent prime agricultural lands associated with the proposal. Furthermore, at the request of the City of Morgan Hill, LAFCO postponed hearing the City's proposal until October 2, 2013. During this six month waiting period, neither the City nor Mr. Hordness provided any information to LAFCO staff indicating that agricultural mitigation would be provided.

Staff believes that the City and Mr. Hordness were well informed and provided more than adequate time to provide this information to LAFCO prior to the Commission's October 2, 2013 action. Staff therefore, recommends denial of the request for reconsideration.

DENY PROPOSED URBAN SERVICE AREA AMENDMENT

At the October 2, 2013 meeting, LAFCO denied the Morgan Hill Urban Service Area Amendment 2012 as submitted and instead approved the inclusion of a smaller area consisting of APNs 779-04-056, 001, 003, and 004 within the City's USA, as depicted in **Attachments E1 and E2**, leaving the Santa Clara Valley Water District Parcel (APN 779-04-067) outside of the City limits and USA so that it will serve as a natural buffer to limit impacts to adjacent agricultural lands and limit growth inducing impacts on adjacent unincorporated lands.

The two subject parcels (APNs 779-04-052 and 779-04-067) are located in an area that is adjacent to agricultural lands. Lands immediately south/west of the area are in agricultural use and/or identified as prime farmland by the State Department of Conservation. A portion of APN 779-04-052 consists of Class II soils and is considered prime agricultural land as per the definition in the Cortese Knox Hertzberg Act and the LAFCO policies. **See Attachment E1 for Map of Important Farmlands.**

The City of Morgan Hill has enough residentially designated vacant land within its existing boundaries to accommodate its growth needs for the next 18 to 33 years. Approximately 20 to 25% (1,923 to 1,569 acres) of all land within the City of Morgan Hill (7,680 acres) is currently vacant. Given the large inventory of vacant land within the City's boundary, expansion of the City's USA boundary is premature. The proposed USA expansion would result in the unnecessary conversion of prime agricultural lands and would create further land use conflicts within surrounding agricultural lands.

Staff has reviewed and considered the information provided by Mr. Hordness and believes that the provision of agricultural mitigation would not alleviate or lessen these issues, which were discussed in greater detail in the April 3, 2013 Staff Report (**Attachment F**). While agricultural mitigation is a very important consideration in LAFCO's review of proposals that impact or result in a loss of prime agricultural lands, LAFCO staff recommendations and the Commission's decisions are made based on the consideration of all applicable LAFCO policies and mandates.

Staff recommends denial of the proposed inclusion of APNs 779-04-052 and 779-04-067 into the Morgan Hill Urban Service Area (USA) because the proposal is not consistent with LAFCO's Urban Service Area Policies which discourage the premature conversion of agricultural lands, guide development away from existing agricultural lands and require the development of existing vacant lands within city boundaries prior to conversion of additional agricultural lands.

ATTACHMENTS

- Attachment A: Section 56895 of the Cortese Knox Hertzberg Act
- Attachment B: Letter from Mr. Don Hordness requesting reconsideration of LAFCO action regarding Morgan Hill Urban Service Area Amendment 2012 (dated October 31, 2013)

- Attachment C: Memo from LAFCO Legal Counsel Re: Reconsideration and Commission Participation (dated November 21, 2013)
- Attachment D: Letter from LAFCO Legal Counsel to City of Morgan Hill (dated March 6, 2013) & Letter from Barton Hechtman to City of Morgan Hill (dated February 4, 2013)
- Attachment E: Maps of Morgan Hill Urban Service Area Amendment 2012 (Request for Reconsideration) and Important Farmlands
- Attachment F: April 3, 2013 LAFCO Staff Report for Morgan Hill Urban Service Area Amendment 2012 Monterey-South of Watsonville

CORTESE-KNOX-HERTZBERG ACT
Government Code Section 56895

56895. (a) When a commission has adopted a resolution making determinations, any person or affected agency may file a written request with the executive officer requesting amendments to or reconsideration of the resolution. The request shall state the specific modification to the resolution being requested and shall state what new or different facts that could not have been presented previously are claimed to warrant the reconsideration. If the request is filed by a school district that received notification pursuant to Section 56658, the commission shall consider that request at a public hearing.

(b) Notwithstanding Section 56106, the deadlines set by this section are mandatory. The person or agency shall file the written request within 30 days of the adoption of the initial or superseding resolution by the commission making determinations. If no person or agency files a timely request, the commission shall not take any action pursuant to this section.

(c) Upon receipt of a timely request, the executive officer shall not take any further action until the commission acts on the request.

(d) Upon receipt of a timely request by the executive officer, the time to file any action, including, but not limited to, an action pursuant to Section 21167 of the Public Resources Code and any provisions of Part 4 (commencing with Section 57000) governing the time within which the commission is to act shall be tolled for the time that the commission takes to act on the request.

(e) The executive officer shall place the request on the agenda of the next meeting of the commission for which notice can be given pursuant to this subdivision. The executive officer shall give notice of the consideration of the request by the commission in the same manner as for the original proposal. The executive officer may give notice in any other manner as he or she deems necessary or desirable.

(f) At that meeting, the commission shall consider the request and receive any oral or written testimony. The consideration may be continued from time to time but not to exceed 35 days from the date specified in the notice. The person or agency that filed the request may withdraw it at any time prior to the conclusion of the consideration by the commission.

(g) At the conclusion of its consideration, the commission may approve with or without amendment, wholly, partially, or conditionally, or disapprove the request. If the commission disapproves the request, it shall not adopt a new resolution making determinations. If the commission approves the request, with or without amendment, wholly, partially, or conditionally, the commission shall adopt a resolution making determinations that shall supersede the resolution previously issued.

(h) The determinations of the commission shall be final and conclusive. No person or agency shall make any further request for the same change or a substantially similar change, as determined by the commission.

(i) Notwithstanding subdivision (h), clerical errors or mistakes may be corrected pursuant to Section 56883.



AGENDA ITEM # 4
Attachment B

October 31, 2013

LAFCO Board
Santa Clara County
Honorable Mike Wasserman Chair

Dear Mr Wasserman

I am applying for reconsideration on my application for inclusion into Morgan Hill's urban service area that came before you on October 2, 2013. At the meeting it appeared that my intentions of mitigation of a portion of my property were not properly addressed by the presentation. I thought that under the LAFCO rules that mitigation would take place at the time of permitting and it would fall under Morgan Hill's mitigation plan.

I have since been made aware that a mitigating agency needed to be chosen prior to the application for urban service area inclusion. It now appears that Gilroy's mitigation plan is at a point where their mitigation bank could accept moneys. Therefore my plan would be to pay into Gilroy's mitigation bank for the four acres of class II soil that have been deemed to be the portion of the property which needs to be mitigated by LAFCO staff.

Please find enclosed my check for \$2619.00. and thank you in advance for your consideration.



Don Hordness
Royal Oaks Mushroom

LOCAL AGENCY FORMATION COMMISSION OF SANTA CLARA COUNTY
County Government Center, 11th Floor, East Wing
70 West Hedding Street, San Jose, California 95110
(408) 299-5127 (408) 295-1613 Fax

APPLICATION FORM — Reconsideration

**URBAN SERVICE AREA (USA) & SPHERE OF INFLUENCE (SOI)
AMENDMENTS**

APPLICANT INFORMATION

Agency seeking USA / SOI amendment: _____

Contact Person: _____ Phone: _____

Address: _____

Private Citizen seeking SOI amendment: _____

Phone: _____

Assessor's Parcel Number: ^① 779-04-052 ^② 779-04-067 (SCVWD)

Property Address: 15480 Watsonville Road, Morgan Hill 95037

Mailing Address: P.O. Box 447, Morgan Hill, Ca 95037

PROJECT INFORMATION

Please provide the following information. You may attach additional sheets as needed and indicate so.

1. Project Description: Request for inclusion to / exclusion from USA / SOI of the City / District of Morgan Hill for year _____.

3. Number of application areas: one

4. Number of acres and parcels in each application area: ^① 7.38 Ac ^② 3.32 Ac.

5. For USA amendment, is proposal contiguous to existing USA and agency boundaries? yes

6. What is the relationship of the proposed boundaries to any adopted urban growth boundaries, or greenlines?

7. Please explain agency's plans, policies or guidelines relating to USA and / or SOI amendments.

Request is for reconsideration of LAFCO Action on Oct. 2 2013 on lands in Morgan Hill. Lands of Ronal Oaks and Santa Clara Valley Water District

ENVIRONMENTAL STATUS OF APPLICATION

Check the appropriate section to indicate the status of compliance with CEQA.

1. _____ (name of City / District), as Lead Agency for environmental review of the project, in compliance with CEQA has:

_____ determined that the proposal is statutorily exempt from the provisions of CEQA pursuant to CEQA Guidelines Section _____ (cite class exemption section) because _____.

_____ determined that the proposal is categorically exempt from provisions of CEQA pursuant to CEQA Guidelines Section _____.

_____ completed an Initial Study and Negative Declaration for the annexation, 10 copies of which are attached to this application

_____ completed a final EIR for the project , 10 copies of which are attached to this application.

2. _____ LAFCO is to be Lead Agency for the environmental review of the project as indicated in attached confirmation from LAFCO Executive Director.

I hereby certify that all LAFCO filing requirements will be met and that the statements made in this application are to the best of my knowledge accurate.
Don Hordness _____ 10-31-13
(PRINT name of person completing this application) (Date)
[Signature]
(Signature)
15480 Watsonville Road, M.H. 95037 408)968-9404
(Address and phone number)

MEMORANDUM

TO: Neelima Palacherla, Executive Officer
FROM: Mala Subramanian, General Counsel
DATE WRITTEN: November 21, 2013
RE: Reconsideration and Commission Participation

Background

At its October 2, 2013 meeting, LAFCO Commissioners approved Resolution No. 2013-04 approving the expansion of the Urban Service Area (“USA”) of Morgan Hill to include APNs 779-040-056, 001, 003 and 004, and to exclude the Santa Clara Valley Water District Parcel (APN 779-04-067) from the City limits and USA so it will serve as a natural buffer to limit impacts to adjacent agricultural lands and to limit growth inducing impacts on adjacent unincorporated lands (“Original Application”).

On October 31, 2013, LAFCO received a timely request for reconsideration from Royal Oaks Mushroom requesting inclusion into the USA. A question has been raised as to which LAFCO Commissioners should participate in the reconsideration and whether Commissioners who did not originally vote on the application, can participate in the reconsideration.

Analysis

When the Commission has adopted a resolution, any person or affected agency may request amendments to or reconsideration of the resolution. (Gov. Code 56895(a).) The Executive Officer shall place the request on the agenda of the next meeting of the Commission and at that meeting, the Commission shall consider the request and receive any oral or written testimony. (Gov. Code 56895(f).) At the conclusion of the consideration, the Commission may approve with or without amendment, wholly, partially, or conditionally, or disapprove the request. (Gov. Code 56895(g).)

Here, when the Commission heard the Original Application, various alternates participated in the final decision. The question has been raised as to who should vote on the reconsideration. The Cortese Knox Hertzberg Act (“Act”) provides that each Commission may adopt regulations with respect to disqualification of members or alternates from participating in review of a proposal. (Gov. Code 56336.) In the absence of such regulations, Section 56332 or 56335 shall apply. Here, the Commission does not have any applicable regulations regarding the disqualification of members. Furthermore, in both the case of the City and Special District members, neither selection committee imposed a requirement that a member or alternate is disqualified from voting on proposals affecting the city/district of which the member is a representative as found in Sections 56332 or 56335. Therefore, there are no special requirements under the Act that are applicable to the reconsideration. However, for due process we do recommend that any Commissioner who did not consider the entirety of the Original Application and wishes to participate in the reconsideration should review the minutes and audio tape of the Original Application.

Conclusion

Any Commissioner who did not consider the entirety of the Original Application may participate and vote on the reconsideration. However, for due process they should review the minutes and audio tape of the Original Application and disclose such prior to participating in the reconsideration.



BEST BEST & KRIEGER
ATTORNEYS AT LAW

Indian Wells
(760) 568-2611

Irvine
(949) 263-2600

Los Angeles
(213) 617-8100

Ontario
(909) 989-8584

2001 N. Main Street, Suite 390, Walnut Creek, CA 94596
Phone: (925) 977-3300 | Fax: (925) 977-1870 | www.bbklaw.com

AGENDA ITEM # 4
Attachment D

Riverside
(951) 686-1450

Sacramento
(916) 325-4000

San Diego
(619) 525-1300

Washington, DC
(202) 785-0600

Malathy Subramanian
(925) 977-3303
msubramanian@bbklaw.com

March 6, 2013

VIA EMAIL [LESLIE.LITTLE@MORGANHILL.CA.GOV]

Leslie Little
Assistant City Manager
City of Morgan Hill
17555 Peak Avenue
Morgan Hill, California 95037-4128

Re: Annexation of Royal Oaks Property and Prime Agricultural Land

Dear Ms. Little:

Best Best & Krieger serves as General Counsel to the Local Agency Formation Commission of Santa Clara County ("LAFCO"). This letter is in response to the letter dated February 4, 2013, from Mr. Hechtman regarding whether the Royal Oaks property qualifies as prime agricultural land.

LAFCO adopted Agricultural Mitigation Policies on April 4, 2007 ("Policies"). Section 6 of the Policies provides for a definition of "prime agricultural land" that has been taken directly from the Cortese Knox Herzberg Act ("Act"), specifically Government Code section 56064. This definition includes 5 distinct ways for land to qualify as prime agricultural land. Here, the qualification most relevant is the first, which states: "Land that qualifies, if irrigated, for rating as class I or class II in the USDA Natural Resources Conservation Service land use capability classification, whether or not land is actually irrigated, provided that irrigation is feasible."

We concur that 4.275 acres of the property that is the subject of the application has been rated as Class II. There is no definition in either the Act nor the Policies of the feasibility of irrigation. Therefore, we interpret the law strictly and do not read words that are neither in the Policies nor the Act such as "economic feasibility" into the law. Therefore, we do not agree with the insertion of "economic feasibility" into the definition of prime agricultural land.

Based upon the letter, it is clear that the property can be irrigated and therefore, Staff will recommend that 4.275 acres be considered as prime agricultural land and that its conversion be subject to LAFCO's agricultural mitigation policies.

Leslie Little
March 6, 2013
Page 2

Should you have any questions please do not hesitate to contact Neelima Palacherla at 408.299.5127.

Very truly yours,

A handwritten signature in black ink, appearing to read 'M. Subramanian', with a long horizontal line extending to the right.

Malathy Subramanian
Best Best & Krieger LLP
General Counsel
LAFCO of Santa Clara County

cc: Neelima Palacherla, Executive Officer

38030.00000\7836827.2

February 4, 2013

Norman E. Matteoni
Peggy M. O'Laughlin
Bradley M. Matteoni
Barton G. Hechtman
Gerry Houlihan

Leslie Little
Assistant City Manager
City of Morgan Hill
17555 Peak Avenue
Morgan Hill, CA 95037-4128

**Re: *Annexation of Royal Oaks Property;
 Watsonville Road & Monterey Road***

Dear Leslie,

The Royal Oaks property will be considered for annexation by LAFCO at its April 2013 meeting. It is my understanding that the LAFCO staff is suggesting that mitigation for loss of agricultural lands is required regarding Royal Oaks' southerly 7.5 acre parcel, and has requested that the City address that issue. This letter is intended to provide the City with information to utilize in responding to LAFCO's inquiry.

Legal Overview

Annexation is a type of land-use approval, and like most land use approvals, conditions can be imposed on an annexation. However, both federal and state constitutional law impose limitations on the nature and extent of the conditions that can lawfully be imposed: the conditions must be rationally related to an impact caused by the proposed project, and must be roughly proportional to that impact. The California Environmental Quality Act (CEQA) has parallel provisions whereby mitigation measures are required to be imposed to address project impacts, but only where those impacts are determined to be "significant". These state and federal laws apply to the question of whether or not mitigation is required under the theory of loss of agricultural lands for Royal Oaks' 7.5 acre parcel to be annexed into the City of Morgan Hill.

The Property

The 7.5 acre parcel (the "Property") has not been farmed in more than 10 years and has not been irrigated in that time. It does not have a currently available source of water. There is a residential subdivision directly across Watsonville Road to the northwest, a single family home to



the southwest, a water district drainage channel which soon will be constructed along its northeast border, and the Oakwood School across that drainage channel to the northeast. For many years, the Property has been used for storage of spent mushroom substrate from the mushroom operation occurring on Royal Oaks' northerly parcel.

Application of LAFCO Agricultural Mitigation Policies

LAFCO's Agricultural Mitigation Policies, adopted April 4, 2007, require agricultural mitigation when an annexation application would result in a loss of "prime agricultural lands". Policy 6 defines "prime agricultural lands" as those lands which meet any of five different qualifications. As described below, the Property does not meet any one of those five qualifications.

a. Class I or II Land that is Feasibly Irrigateable.

The LESA determined that 4.275 acres of the Property were rated Class II with the remainder being Class III. As the land is not irrigated, it would be necessary to install a well and irrigation piping to make the land farmable.

Attached are estimates from Maier & Dougherty for a 200 foot deep well and pump for \$24,975.00. Costs to bring electricity to the pump, including the PG&E fees, would add another \$5,000.00. So Royal Oaks' cost to provide irrigation to the Property would be \$30,000.00 plus the cost of the irrigation piping, assuming that sufficient water could be found at a depth of 200 feet.

Also attached find a letter from Joseph Aiello of Uesugi Farms, Inc., which currently farms the land to the south of the Property, stating that the rent he pays to farm that land is \$235.00 per acre per year ($4,000 \div 17$). Applying that figure to the Property, Royal Oaks would receive \$1000.00 per year in rent for the Class II soil area, or \$1,750.00 per year if the farmer were willing to rent the entire 7.5 acre property. At \$1,750.00 per year, it would take Royal Oaks 17 years just to recover its \$30,000.00 investment in the well and pump. That does not provide a reasonable return on investment in any kind of business even without considering annual property taxes or the cost of the irrigation piping. Consequently, it is clear that it is not economically feasible to provide irrigation for the Property.¹ Therefore the Property does not constitute "prime agricultural land" under this LAFCO definition.

¹ The "feasibility" of irrigation clearly refers to economic feasibility. Irrigation will virtually always be physically feasible even in the most remote and driest places. The question is always whether the

b. Storie Index Rating of 80-100

As recognized on page 6 of the LESA, Storie Index Ratings are prepared only by the USDA, and the USDA has not completed a Storie Index Rating for the Property. In the absence of this rating by the USDA, there is no evidence that the land qualifies for a rating of 80-100.²

c. Land Supporting Livestock.

The Property does not and has not supported livestock, so it does not qualify as prime agricultural land under this LAFCO definition.

d. Land Planted with Fruit, Nut-Bearing Trees, etc. with a Non-Bearing Period of Less Than Five Years.

The land is not planted with any crop, and hence does not meet this definition.

e. Land That Has Generated \$400 Per Acre from Plant Products in Three of the Last Five Years.

As the Property has not been planted in the last 10 years, it does not meet this definition of prime agricultural land.

Thus, the Property does not meet any of the five LAFCO definitions of prime agricultural land. That being the case, no mitigation under the LAFCO policies is required because LAFCO's mitigation requirements only apply to the conversion of prime agricultural lands.

Morgan Hill's Agricultural Mitigation Policies

Morgan Hill does not have adopted agricultural policies, though it has prepared a public review draft of its Agricultural Policies and Implementation Program, last revised 12/22/11. Though technically not required in order to address LAFCO's inquiry, the Property would not meet the definition of prime farmland stated

revenue generated by the irrigated plants will be sufficient to provide a reasonable return for the cost invested in the irrigation system. That is an economic feasibility analysis.

² The LESA suggests that it would not qualify if the Storie Index were performed. As indicated in the LESA at page 6, the USDA has provided Land Capability Classification (LCC) information which determined that the LCC rating for the Class II portion of the Property is 80 and for the Class III portion of the Property is 60. This results in an overall LCC rating for the 7.5 acre Property of just over 70.

in Morgan Hill's draft Agricultural Policies. "Prime farmland" is defined on page three of the draft document. In order to qualify, the land "must have been used for irrigated agricultural production at some time during the four years prior to the mapping date." Here, because the Property has not been used for irrigated farming, it does not qualify as "prime farmland" under Morgan Hill's draft policies.³

Other Considerations

Though not specifically identified in the LAFCO Agricultural Mitigation Policies, the LESA format is widely used and accepted throughout California, and the LESA prepared for the Property cannot reasonably be ignored by LAFCO. That LESA concluded that the loss of the Property as farmland is "less than significant," and would still be less than significant if a Storie Index rating was available (LESA at page 11). As stated above, where the impact of a project is less than significant, it would violate constitutional law and CEQA to require mitigation.

Also missing from the LAFCO Agricultural Mitigation Policies is any consideration of practical limitations associated with farming a particular piece of land. For example there is no place in the LAFCO analysis to factor in the amount of land that is realistically farmable. The Property has less than 4.3 acres of farmable Class II soil. A portion of that land cannot practically be farmed in order to provide a setback to the adjacent canal that the Water District will be constructing, and an additional portion of that land would be needed for interior farm roads. Thus the actual farmable area may be closer to 3.5 acres. As recognized in the LESA, as the area that can be devoted to farming gets smaller, farming becomes less feasible. Another factor that LAFCO Policies do not consider is conflicting adjacent uses of property. The Property has residential uses on two sides and a school in close proximity. These uses have obvious effects on application of pesticide, soil amendments and a variety of farming activities that are frequently found to be nuisances by non-farming neighbors.

Conclusion

The 7.5 acre Property does not meet any of the five definitions for "prime agricultural land" contained in the LAFCO Agricultural Mitigation Policies. Nor would it qualify as "prime farmland" under Morgan Hill's draft Agricultural Policies. Because the Property does not constitute prime farmland, the loss of that property for future farming does not and cannot constitute a significant impact. In the absence of a significant impact, any requirement to mitigate that loss would violate

³ For similar reasons, the Property would not qualify as "unique farmland" or "farmland of statewide importance" under Morgan Hill's draft policies.

constitutional law and CEQA. Here, Royal Oaks cannot legally be required to provide mitigation for the loss of this non-prime farmland.

Please let us know if you require any additional information in order to respond to LAFCO's inquiry.

Very truly yours,



BARTON G. HECHTMAN

BGH:cab
Attachments

cc: Don Hordness
Rocke Garcia

MAIER & DOUGHERTY

Pump Service

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License #C61/C-57-733914

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- * Submersible Pumps * Jet Pumps * Centrifugal Pumps * Booster Pumps * Turbines *
*Pressure Systems * Storage Systems * Well Tests*

P.O. Box 1519 * San Martin, California 95046 * 13505 Monterey Road * San Martin California * (408) 686-0988 * Fax (408) 686-0583

Royal Oaks Annex

South Morgan Hill

408-968-9409

1-25-13

PROPOSAL

Proposal submitted to: Robert at Royal Oaks Mushroom

Jobsite: South Morgan Hill

Estimate for 200 foot 8 inch P.V.C. Well

Move in and set up	\$ 1,875.00
Drill Test hole to 200'	4,400.00
Finish well 200' with 8" PVC casing, sand or gravel pack, and develop with air	5,400.00
Estimated sanitary seal to 100'	3,300.00

TOTAL: \$ 14,975.00

Permit Fee to be paid by customer (\$986.00) S.C.V.W.D. Permit \$330.00

E-Logg (if required or requested is \$1,500.00)

If a registered Geologist is required, customer is responsible for all costs

If water haul is needed, \$1,000.00 plus cost of water if bought

Contractor is not responsible for site clean up or damages to property(s)

Contractor does not guarantee quality or quantity of water

***If surface pipe is needed \$185.00 per foot (depth varies)**

Customer responsible for well closing costs in the event of a dry hole.

WE PROPOSE hereby to furnish material and labor-complete in accordance with above

Specifications for the sum of: Fourteen Thousand Nine Hundred Seventy Five dollars and

**no cents. \$14,975.00. Payment to be made as follows: 1/3 down \$5,000.00 Balance due upon
completion.**

Authorized Signature and Acceptance of Proposal _____

Date _____

**This Estimate is valid for 30 days. Prices subject to change due to unforeseen conditions or changes.
Customer will be promptly notified if any such event occurs.**

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P.O. Box 1519 * San Martin, California 95046 * 13505 Monterey Road * San Martin California * (408) 686-0988 * Fax (408) 686-0583

**Royal Oaks Annex
South Morgan Hill
Robert: 408-968-9409
1-25-13**

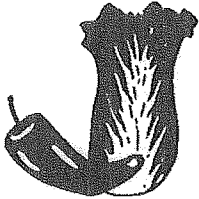
*******THIS IS AN ESTIMATE ONLY*******

ESTIMATE SHEET

1-	6T10-155 230 volt Berkeley Submersible turbine outfitted with Hitachi motor	\$ 3,312.00
168'-	3" Black T&C pipe and down hole check valve	\$ 1,414.00
168'-	#8 Flat jacketed submersible cable	\$ 400.00
	Well head assembly	\$ 150.00
1-	Siemens Size 1 ¼ 10 H.P. Pump panel	\$ 740.00
	Splice kit, tape and flow inducing sleeve	\$ 120.00
	25 foot service pole and electrical hardware for 100 amp 3 phase service	\$ 920.00
	Concrete and material for 3x3 slab around well	\$ 75.00
	Misc. installation material	\$ 200.00
		Estimated Sub-Total \$ 7,331.00
		Estimated 3% Sales Tax \$ 219.93
		Estimated Sub-Total \$7,550.93
	Estimated labor to install well pump, 100 amp 4 wire three phase	
	240 volt service and form and pour 3x3 cement pad around well.	\$2,450.00
		Estimated Total \$10,000.93

*****Wiring service permit by owner*****

This Estimate is valid for 30 days. Prices subject to change due to unforeseen conditions or changes.
Customer will be promptly notified if any such event occurs.



Uesugi Farms, Inc.

1020 State Highway 25
Gilroy, CA 95020-8074

OFFICE
(408) 842-1294

FAX
(408) 842-1326

Grower • Packer • Shipper

January 30, 2013

City of Morgan Hill
Morgan Hill, Ca.

Re: Annexation of Royal Oaks Mushrooms

To Whom It May Concern:

We support the annexation of the Royal Oaks Mushroom plant into the City of Morgan Hill.

We are a local grower that farms in five different areas to include Mexico and southern California areas and up north as far as Brentwood. We grow a variety of crops which include peppers, strawberries sweet corn, cherries, Chinese cabbage, pumpkins and dry beans.

Almost all of our farming takes place out of the Morgan Hill area. We farm 17 acres at the Mosegard property to the west of the proposed annexation. It is only from a long time relationship that we continue to farm and maintain that property.

The total land rent we pay is less than \$4,000.00, which is less than the property taxes incurred on the parcel. Land rent in a prominent farming area in south Gilroy would go for twice or three times that amount due to being more suitable to agricultural operations.

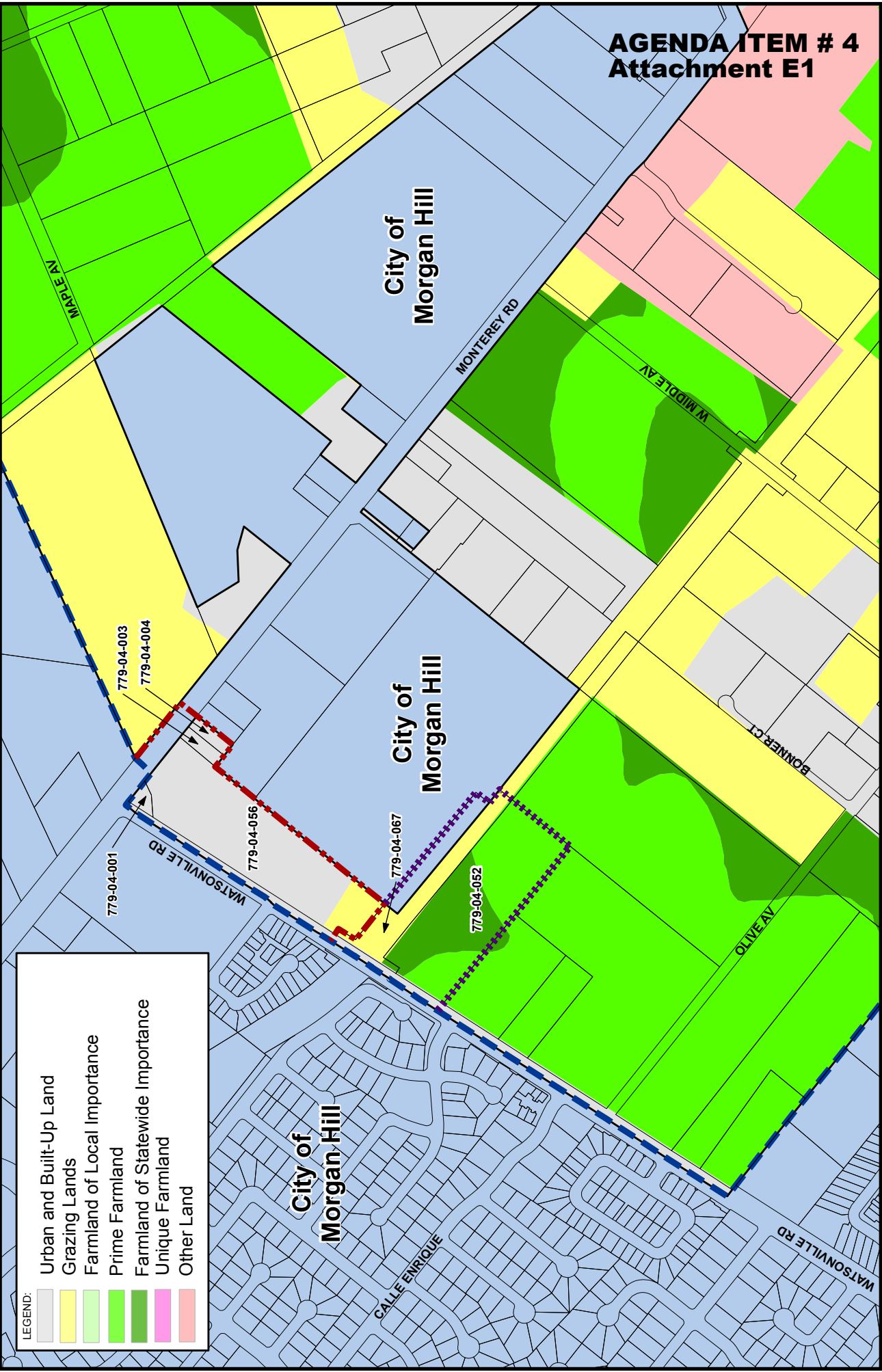
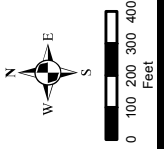
Additionally, farming operations in an area adjacent to residential development do not mix very well. We have had to modify our normal cultural practices that are adjacent to residential areas with pesticide applications, noise and dust control, which have all added costs to our operation that result in a loss in profitability.

Sincerely,

Joseph Aiello
President

JA/dz

**AGENDA ITEM # 4
Attachment E1**



LEGEND:

- Urban and Built-Up Land
- Grazing Lands
- Farmland of Local Importance
- Prime Farmland
- Farmland of Statewide Importance
- Unique Farmland
- Other Land

LEGEND:

Morgan Hill Urban Service Area Boundary:

- Original
- Approved October 2, 2013
- Proposed for Reconsideration

City of Morgan Hill
123-45-678 Assessor's Parcel Number

TITLE:

**Morgan Hill Urban Service Area Amendment 2012
(Monterey - South of Watsonville)
(Request for Reconsideration)**

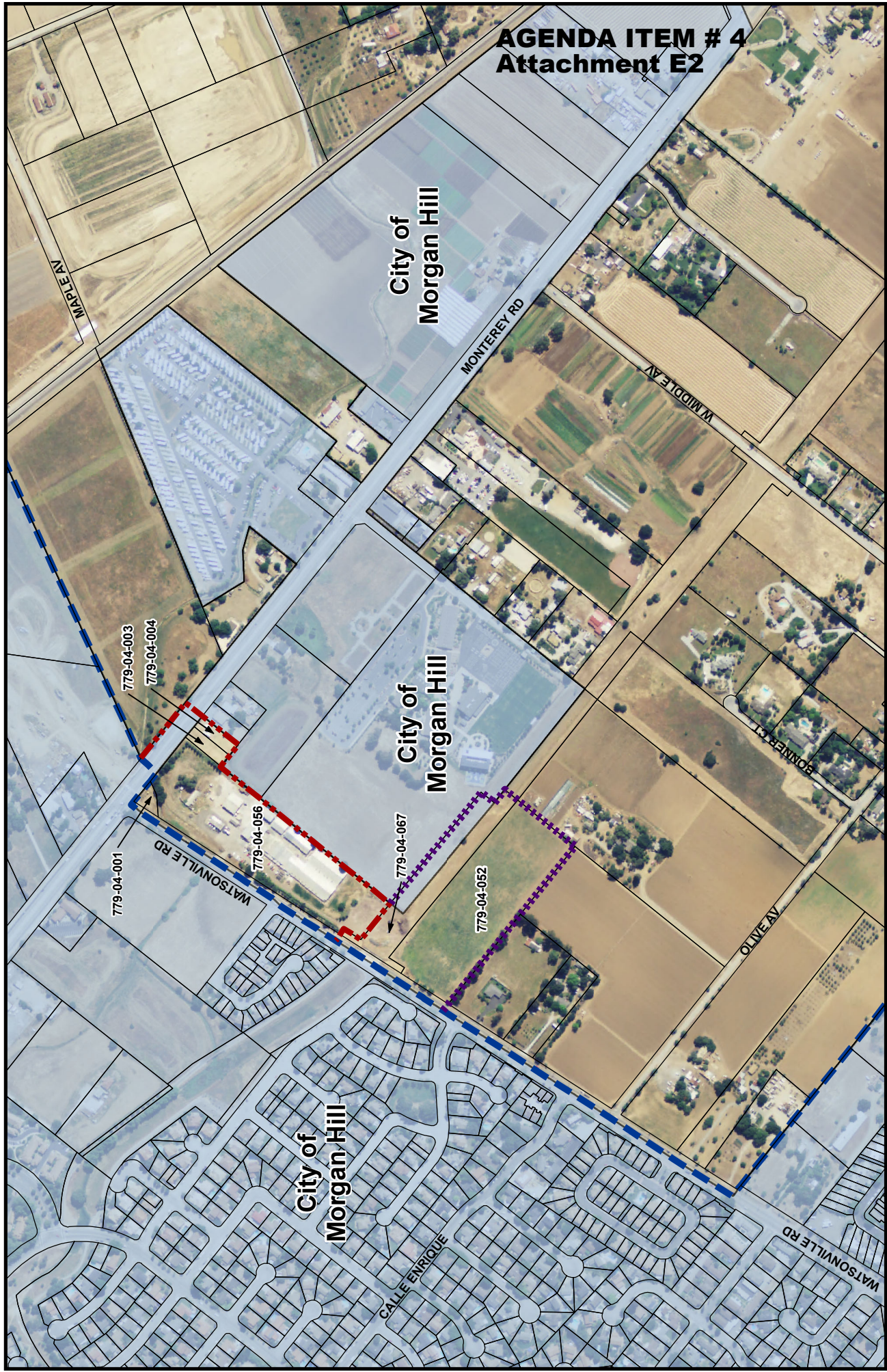
10.7 Acres ± Total

Prepared by the Office of the County Surveyor
November 18, 2013
Gwendolyn Gee, County Surveyor

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

**AGENDA ITEM # 4
Attachment E2**



LEGEND:

- Morgan Hill Urban Service Area Boundary:
- Original
- Approved October 2, 2013
- Proposed for Reconsideration
- City of Morgan Hill
- 123-45-678 Assessor's Parcel Number

TITLE:

**Morgan Hill Urban Service Area Amendment 2012
(Monterey - South of Watsonville)
(Request for Reconsideration)**

10.7 Acres ± Total

Prepared by the Office of the County Surveyor
November 18, 2013
Gwendolyn Gee, County Surveyor

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

Scale:

0 100 200 300 400
Feet

Sheet 1 of 1

AGENDA ITEM # 4
Attachment F

REQUEST FOR RECONSIDERATION OF OCTOBER 2, 2013 LAFCO ACTION TO DENY
CITY OF MORGAN HILL URBAN SERVICE AREA AMENDMENT 2012

April 3, 2013 Staff Report:

http://www.santaclara.lafco.ca.gov/agenda/Full_Packets/2013Packets/2013Oct/2013Apr03MH.pdf

LAFCO MEETING: December 4, 2013
TO: LAFCO
FROM: Neelima Palacherla, Executive Officer
Dunia Noel, Analyst
SUBJECT: MONTE SERENO URBAN SERVICE AREA (USA) AND SPHERE OF INFLUENCE (SOI) AMENDMENT 2013 (LUCKY ROAD)

STAFF RECOMMENDATION

CEQA ACTION

1. Denial of the project does not require a CEQA action. In order to approve the project, LAFCO as a Responsible Agency under CEQA, must take the following actions regarding the Mitigated Negative Declaration for this project:
 - a. Find that the Initial Study and Mitigated Negative Declaration approved by the City of Monte Sereno on September 3, 2013 were completed in compliance with CEQA and are an adequate discussion of the environmental impacts of the project.
 - b. Find that prior to making a decision on this project, LAFCO reviewed and considered the environmental effects of the project as outlined in the Initial Study and Mitigated Negative Declaration.

PROJECT ACTION

2. Deny the proposed Monte Sereno Urban Service Area (USA) Amendment and Sphere of Influence (SOI) Amendment.

PROJECT DESCRIPTION

The City of Monte Sereno is proposing an amendment to its Urban Service Area (USA) and Sphere of Influence (SOI) in order to include approximately 7.4 acres of unincorporated land comprising three parcels (APNs 510-31-023, 065, and 066) located at 16290 Lucky Road. **Attachment A** includes a map of the existing and proposed USA and SOI boundaries.

The City has stated that the USA and SOI amendment would facilitate the reorganization of the subject territory, including the City's eventual annexation of the subject parcels. The City also indicated that the property owners want to eventually receive sewer service from the West Valley Sanitation District (WVSD). The subject

parcels are currently located outside of the WVSD's boundary and rely on a septic system for management of onsite wastewater. WVSD has stated that the parcels must be annexed into the District in order to receive service. Per WVSD policy, the properties should be within a City or City's USA, before seeking to annex into the District.

BACKGROUND

The City Council, on September 3, 2013, voted unanimously to approve City general plan and zoning amendments for the proposed project and adopted City Resolution No. 3537 to seek LAFCO approval for the proposed USA and SOI amendment.

The City of Monte Sereno submitted its USA and SOI amendment application to LAFCO in late September 2013. It should be noted that several months prior to the City's submittal of this proposal to LAFCO, LAFCO staff had several discussions with City staff regarding the potential proposal and its inconsistency with LAFCO's Island Annexation Policies. LAFCO staff also had similar discussions with one of the property owners and their representative.

The City has three unincorporated islands (see **Attachment B**). LAFCO's Island Annexation Policies #5 and #6 state that "cities should annex urban unincorporated islands existing within their current USAs, before seeking to add new lands to their USAs." The Policies provide an exception "if the USA amendment is to resolve a significant, demonstrable public health and safety issue or if the USA amendment is a minor corrective action." According to City staff, the septic system that serves the existing residences is new and there are no existing public health and safety issues associated with this proposal.

EXISTING AND PROPOSED LAND USES AND DESIGNATIONS

The proposed USA and SOI amendment application consists of 7.4 acres of unincorporated lands, southwest of the City of Monte Sereno. **Table 1** summarizes the land use information for the proposal area.

APNs 510-31-065 and 066 are developed with a main house, guesthouse, garage, private road, and associated landscaping. APN 510-31-023 consists of .10 acres of unincorporated lands that are undeveloped and are part of a larger residential estate that is already located within the City of Monte Sereno.

In October 2013, the City Council adopted a pre-zoning designation of R-1-44 for the three subject parcels (see Table 1). The City General Plan land use designation is "Single Family Residential, 1 D.U./Acre." Upon LAFCO approval of the USA expansion and SOI expansion and the City's annexation of these lands, the City General Plan land use and Zoning designations would apply to the subject parcels.

Table 1: Parcels Proposed for Inclusion in the City’s USA and SOI

APN	APPROX. ACRES	EXISTING LAND USE	COUNTY GENERAL PLAN	COUNTY ZONING	CITY GENERAL PLAN	CITY PRE-ZONING
510-31-023	0.10	Residential	Hillsides	HS-d1	Single Family Residential, 1 D.U./Acre	R-1-44
510-31-065	2.80	Residential	Hillsides	HS-d1	Single Family Residential, 1 D.U./Acre	R-1-44
510-31-066	4.50	Residential	Hillsides	HS-d1	Single Family Residential, 1 D.U./Acre	R-1-44
TOTAL	7.40					

The City has stated that no additional development is proposed at this time and that under the City’s current zoning regulations the two large parcels could be subdivided into a total of 3 to 4 lots.

Surrounding Land Uses

The proposed USA and SOI amendment area is surrounded by incorporated and unincorporated lands, which are developed with single-family homes and estates.

ENVIRONMENTAL ASSESSMENT

Initial Study and Mitigated Negative Declaration

The City of Monte Sereno is the Lead Agency under the California Environmental Quality Act (CEQA) for the proposed Monte Sereno Urban Service Area and Sphere of Influence Amendment. Per City Resolution No. 3535, the City approved a Mitigated Negative Declaration for the proposal on September 3, 2013. The City is requiring mitigation measures to reduce potential significant environmental effects to a less than significant level for utilities and service systems. The West Valley Sanitation District provided the City of Monte Sereno with comments that the District cannot provide sanitary sewer services to the project site because the project site is located outside of the District’s boundary. The City stated in its Initial Study and Mitigated Negative Declaration that “the applicant shall be required to annex into the Sewer District in order to receive service and mitigate any significant impact that could result from any future development.” See **Attachment C** for City’s environmental documents.

LAFCO is a Responsible Agency under CEQA for the proposal.

CONSISTENCY WITH CITY POLICIES

The City completed a comprehensive General Plan Update in 2009 and Housing Element Update in 2010 which identified potential areas that the City may annex and efficiently provide services to during the planning period of its General Plan (2009-2025), including its three remaining unincorporated islands (see more detailed discussion under “Annexation of Unincorporated Islands”). However, the three subject parcels were not included in those potential areas. In October 2013, the Monte Sereno City Council

adopted a General Plan map amendment in order to indicate that the proposed USA and SOI amendment and anticipated annexation of the subject parcels are consistent with the City's General Plan.

CONSISTENCY WITH COUNTY POLICIES

In the mid-1990s the City of Monte Sereno and the other three remaining West Valley Cities each adopted an Urban Growth Boundary (UGB) in order to delineate areas intended for future urbanization and to minimize further urban encroachment into the hillsides. In return, the County adopted and implemented policies to assure the cities that the development the County allows outside of City urban service areas will be appropriate for rural hillside areas and will have minimal visual impacts when viewed from the valley floor. However, Monte Sereno staff recently reported that the City no longer has an UGB to delineate these areas. According to City staff, references to its UGB were removed during the City's recent General Plan Update. It is not clear why the UGB was removed. The County continues to implement its associated policies and was unaware of this major change in the City's General Plan until LAFCO staff informed them.

The proposal is inconsistent with County General Plan Policy R-LU 200, which states that urban development and the extension of urban services should be limited to those areas most suitable for urban development and that further substantial expansion of the urban area into the West Valley hillsides should be discouraged.

The proposal is partially inconsistent with County General Plan Policy C-GD 3, which states that urban service areas should include only those areas suitable for urban development by being: reasonably serviceable with public services, relatively free from risks associated with natural hazards, that do not create substantial adverse environmental impacts, and that are not likely to create severe off-site impacts on the surrounding areas or to any natural resource. The subject parcels are all located within a Very High Fire Hazed Severity Zone within the Santa Clara County Wildland Urban Interface Fire Area as declared by the California Department of Forestry and Fire Protection. The proposal would facilitate the eventual annexation of the area and thus allow for the further subdivision of the two large parcels and additional development. More intense development is discouraged in this Zone.

The proposal is consistent with County General Plan Policy C-GD 8. The subject parcels are contiguous to the existing urbanized area and the City and the affected service providers are all able to provide public services and facilities within 5 years without lessening existing levels of service.

CONSISTENCY WITH LAFCO POLICIES

Consistency of Proposed SOI with the Service Review for the City of Monte Sereno

The Cortese Knox Hertzberg Act (CKH Act) requires that LAFCO conduct a service review prior to amending a sphere of influence. LAFCO conducted a service review for the City of Monte Sereno in 2007 as part of "LAFCO's Northwest Santa Clara County

Service Review and Sphere of Influence Recommendations.” However, the Service Review did not identify a need for the City to expand its Urban Service Area (USA) or Sphere of Influence (SOI). Therefore, the proposed SOI amendment is not consistent with LAFCO’s service review for the City. Furthermore, it has been over five years since this Service Review was conducted and much of the information in the Service Review Report is now out of date. LAFCO’s next round of service reviews will focus on cities and will be conducted in 2014.

Availability of Vacant Land within Existing Boundaries

According to City staff, the City has 8 acres of vacant residential land within its USA and this represents about a one year supply of vacant residential lands. State law and LAFCO policies encourage the use of vacant lands within existing boundaries in order to prevent inefficient growth patterns and service responsibilities. LAFCO policies discourage USA expansions when a City has more than a 5 years supply of vacant land within its USA.

Logical, Orderly and Efficient Boundaries

The subject parcels proposed for inclusion in the City’s USA and SOI are located adjacent to the current City limits, USA and SOI boundaries. The subject parcels are located adjacent to the southwestern edge of the city and are part of a large unincorporated rural hillside area containing single family residences on large lots.

Growth Inducing Impacts

Including the three subject parcels within the City’s USA and SOI would allow the City to annex the parcels. Of the three parcels, APNs 510-31-065 and 066 are currently developed with a main house and guesthouse (the main house appears to straddle the joint property line of both of these parcels). The three subject parcels have a County General Plan land use designation of Hillsides and a County Zoning designation of HS-d1 (Hillsides with a design review combining district). The HS-d1 County Zoning designation allows one dwelling unit per 20 to 160 acres based on the slope of the property. The subject parcels cannot be subdivided further under the County’s Zoning Ordinance.

The City’s pre-zoning designation for the three subject parcels is R-1-44 (Residential Single Family). The R-1-44 City Zoning designation requires a minimum net lot area of 43,560 sq. ft. on lots with a slope of less than 10%. On lots with a slope of 10% or greater, the minimum net lot size will be increased based on the City’s Slope Density Formula. Under the City’s Zoning Ordinance, the two large parcels could be subdivided into a total of three to four lots. However, it is unlikely that these lots could be developed with new single family residences without first annexing into the West Valley Sanitation District and then receiving a sewer connection from District.

Directly to the south of the subject parcels are unincorporated lands that could potentially seek inclusion in the City’s USA and SOI and then annexation to the City given that they face similar conditions, including being adjacent to the city limits,

potential ability to further subdivide under the City's Zoning Ordinance but not under the County's Ordinance, and potential ability to annex into the West Valley Sanitation District in order to receive sewer service.

Impacts to Prime Agricultural Lands and Open Space

The subject parcels are not under a Williamson Act Contract and do not contain open space or prime agricultural lands as defined in the Cortese Knox Hertzberg Act. Therefore the proposed USA and SOI amendment will not impact agricultural or open space lands.

Ability of City to Provide Urban Services

Fire Protection Services

The Santa Clara County Central Fire Protection District provides fire protection services to the three subject parcels. The District would continue to provide these services to the subject parcels upon annexation. The District is headquartered in Los Gatos and manages a total of 16 stations. Although none of the stations are located in Monte Sereno, the closest stations to the city are the Quito Fire Station at 18870 Saratoga-Los Gatos Road in the unincorporated area on the western border of Monte Sereno and the Los Gatos Fire Station at 306 University Avenue in Los Gatos on the eastern border of Monte Sereno. The District does not anticipate the need for additional personnel or new facilities to service the subject parcels.

The subject parcels are all located within a Very High Fire Hazard Severity Zone within the Santa Clara County Wildland Urban Interface Fire Area as declared by the California Department of Forestry and Fire Protection, due to the slope, aspect (south or west-facing slope), topography, vegetation type and fire history of the subject area. More intensive development is discouraged in this Zone.

Police Services

The subject parcels currently receive police services from the County Sheriff. The Los Gatos-Monte Sereno Police Department serves the City of Monte Sereno under a long-term contract, which the City put into effect July 28, 1995. The Department would provide services to the subject parcels upon annexation. At present, the Department has 64 sworn officers and 150 regular employees. The nearest station is located at 110 East Main Street in the City of Los Gatos. The Department does not anticipate the need for additional personnel or new facilities to serve the subject parcels.

Sanitary Sewer Service

The residential development on subject parcels is currently served by a septic system and the subject parcels are all located outside of the West Valley Sanitation District. In order to receive sewer service from WVSD, the subject parcels must be annexed into the District. However, per WVSD policy, the subject parcels must first be included in the City's USA or City before WVSD can serve them.

According to the WVSD, the property owners will have to install a new privately maintained sewer system within Lucky Road. The District will not provide maintenance service to this sewer main because this section of Lucky Road is a private road. The future sewer main will connect to the terminus of an existing sewer main at the intersection of Greenwood Lane and Ojai Drive. The District will require that the future sewer be designed and constructed in accordance with the District's "Sanitary Sewerage System Design Standards." Furthermore, the property owners must also demonstrate to the WVSD that the necessary rights and easements for the required sewer services have been obtained.

Water Service

The subject parcels currently receive water service from the San Jose Water Company (SJWC), which also serves all of Monte Sereno.

Storm Drain

The City of Monte Sereno uses a stormwater collection system, in conjunction with a natural creek drainage system, to manage runoff. Stormwater collected through this system ultimately drains into the San Francisco Bay. The subject parcels are not located within a 100-year flood hazard zone as identified by the Federal Emergency Management Agency's Flood Insurance Rate Maps.

Schools

The subject parcels are within the boundaries of the Los Gatos Union School District and the Los Gatos-Saratoga Joint Union High School District. City staff has indicated that further subdivision and new residential development on the subject parcels would typically generate less than 1 public school student per a housing unit according to the Los Gatos Union School District. This translates into a total of 2 students attributable to the 1 to 2 potential new residential lots that could be created under the City's Zoning Ordinance. According to the Districts, the Districts' existing facilities are adequate to accommodate this very small increase in student enrollment. Furthermore, the City applies a school impact fee of \$2.97 per a sq. ft. to all additions to existing homes and new residential development.

Annexation of Unincorporated Islands

LAFCO's policies require cities to annex unincorporated islands prior to requesting USA expansions. The City of Monte Sereno has three remaining unincorporated islands (see **Attachment B**) that are primarily developed with single family homes and estates:

- 9.3 acre island located in the vicinity of Karl Road (referred to as MS01 in **Attachment B**)
- 127 acre island located in the vicinity Highway 9 (referred to as MS02 in **Attachment B**)
- 68 acre island (referred to as MS03 in **Attachment B**)

The Monte Sereno City Council has considered annexation of these islands on two separate occasions and has not had the sufficient votes to approve the annexations. In 2009, the City Council adopted a policy requiring the City to have the support of a majority of affected landowners before annexing these islands. Please see City's letter dated July 26, 2011 (**Attachment D**) regarding City's island annexation plans. Per City staff, this letter represents the City Council's current position on this issue.

Fiscal Impact to the City of Monte Sereno and Affected Agencies

The City of Monte Sereno anticipates that the USA and SOI amendment and potential annexation and subdivision of the project area could result in the development three to four new residences and generate a population of 11 persons at build-out. The City of Monte Sereno prepared a Fiscal Impact Analysis which concluded that the proposal would have a positive fiscal impact on the City and a negative fiscal impact on the County.

The project is expected to have a positive fiscal impact on the City of Monte Sereno's General Fund and generate annual surpluses of \$528 in Years One and Five, and \$2,072 in Year Ten, at which time it would be built-out.

For the County of Santa Clara, the analyses indicated that the proposed project would have a negative annual fiscal impact on the County's General Fund and generate annual deficits of \$151 in Years One and Five, and \$594 in Year Ten.

The Los Gatos Union School District and the Los Gatos-Saratoga Joint Union High School District are both "basic aid" school districts, where local property tax revenues collected by the Districts exceed their entitlement and therefore the Districts do not receive additional money from the State to meet their revenue limit guarantee. Basic Aid districts are also allowed to keep these excess property taxes. The anticipated development and additional population as a result of the proposed project is not expected to significantly impact either District with respect to ongoing operating or instructional costs.

CONCLUSION

The proposed USA and SOI amendment would facilitate annexation of the three subject parcels, which would allow for the further subdivision of the two larger parcels into a total of 3 to 4 lots.

The City's General Plan (adopted in 2009) did not contemplate the City expanding into the hillsides. Similarly, the County General Plan does not anticipate such an expansion. The County and City have agreed that further urbanization of the West Valley hillsides should be discouraged and that the City would adopt a long-term growth boundary indicating lands to which they are willing to provide urban services within approximately the next 20-30 years. In exchange, the County has maintained the current General Plan land use designations and prohibited uses of an urban density, intensity or nature outside of the long-term growth boundary and in lands within the long term growth boundary that are outside of the City's Urban Service Area. The City's current

proposal seems contrary to the City and County agreement to keep development from encroaching into the hillsides.

The City of Monte Sereno has three unincorporated islands that it has not annexed (see **Attachment B**). LAFCO's Island Annexation Policies state that cities should annex unincorporated islands existing within their USAs before seeking to add new lands to their USAs, except if the USA amendment is to resolve a significant, demonstrable public health and safety issue or if the USA amendment is a minor corrective action. Neither of these exceptions applies in the case of the proposed USA amendment. Therefore, the City should prioritize the annexation of these islands prior to expanding outwards. Moreover, the proposal could set a precedent for similar requests from the owners of lands adjacent to and in the vicinity of the subject area and thus induce further encroachment of development into the hillsides.

Lastly, there does not appear to be an immediate need for the proposed USA and SOI amendment as the existing residential development on the subject parcels is served by a new septic system and there does not appear to be an existing health or safety issue present.

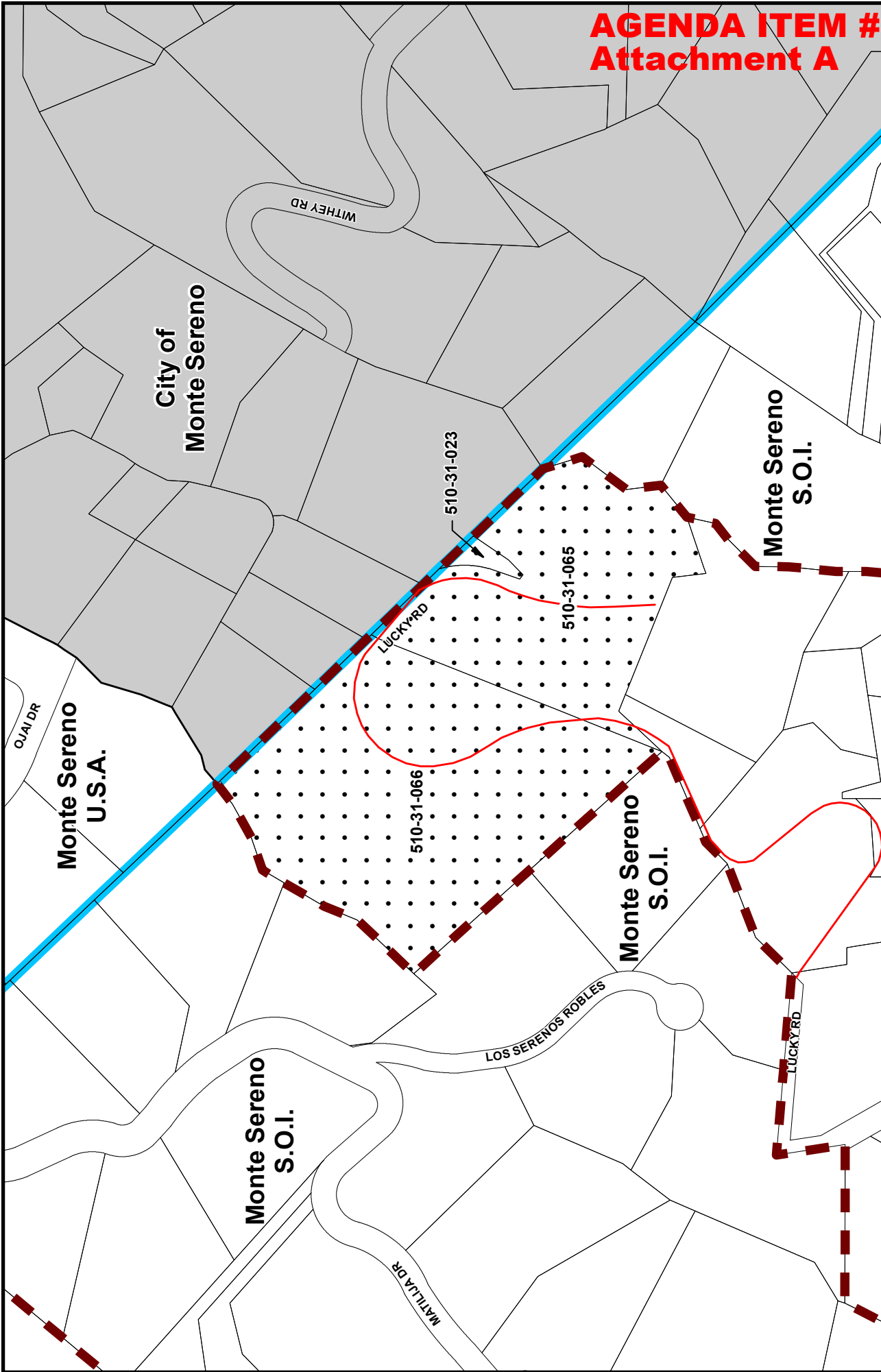
Staff recommends denial of the proposed USA and SOI amendment for all of the aforementioned reasons.

If the Commission wishes to approve the proposed USA and SOI Amendment, staff recommends that the Commission direct LAFCO staff to prepare SOI determinations for the Commission to consider and adopt at its February 2014 meeting, as required by the CKH Act. Pursuant to Government Code Section 56425, in amending a SOI for a city, LAFCO is required to make written findings/determinations regarding five specific factors. As was discussed earlier, the current Service Review for the City of Monte Sereno, that was prepared in 2007, contains information that is now out of date. LAFCO staff will work with City staff to collect the information needed to prepare the required SOI determinations.

ATTACHMENTS

- Attachment A: Map of Proposed Monte Sereno Urban Service Area and Sphere of Influence Amendment (Lucky Road)
- Attachment B: Map of Monte Sereno Unincorporated Islands
- Attachment C: City of Monte Sereno's Environmental Documents for the Proposed Monte Sereno USA and SOI Amendment (Lucky Road)
- Attachment D: Letter from the City of Monte Sereno Re: Annexation of Unincorporated Islands (dated July 26, 2011)

AGENDA ITEM # 5 Attachment A



LEGEND:

- Existing Monte Sereno U.S.A. Boundary
- Existing Monte Sereno S.O.I. Boundary
- Area Proposed for Inclusion in U.S.A./S.O.I.
- City of Monte Sereno
- Unincorporated Lands
- Centerline of Lucky Road (Not a County Maintained Road)

123-45-678 Assessor's Parcel Number


Feet
0 50 100 200

TITLE: Monte Sereno Urban Service Area and Sphere of Influence Amendment 2013

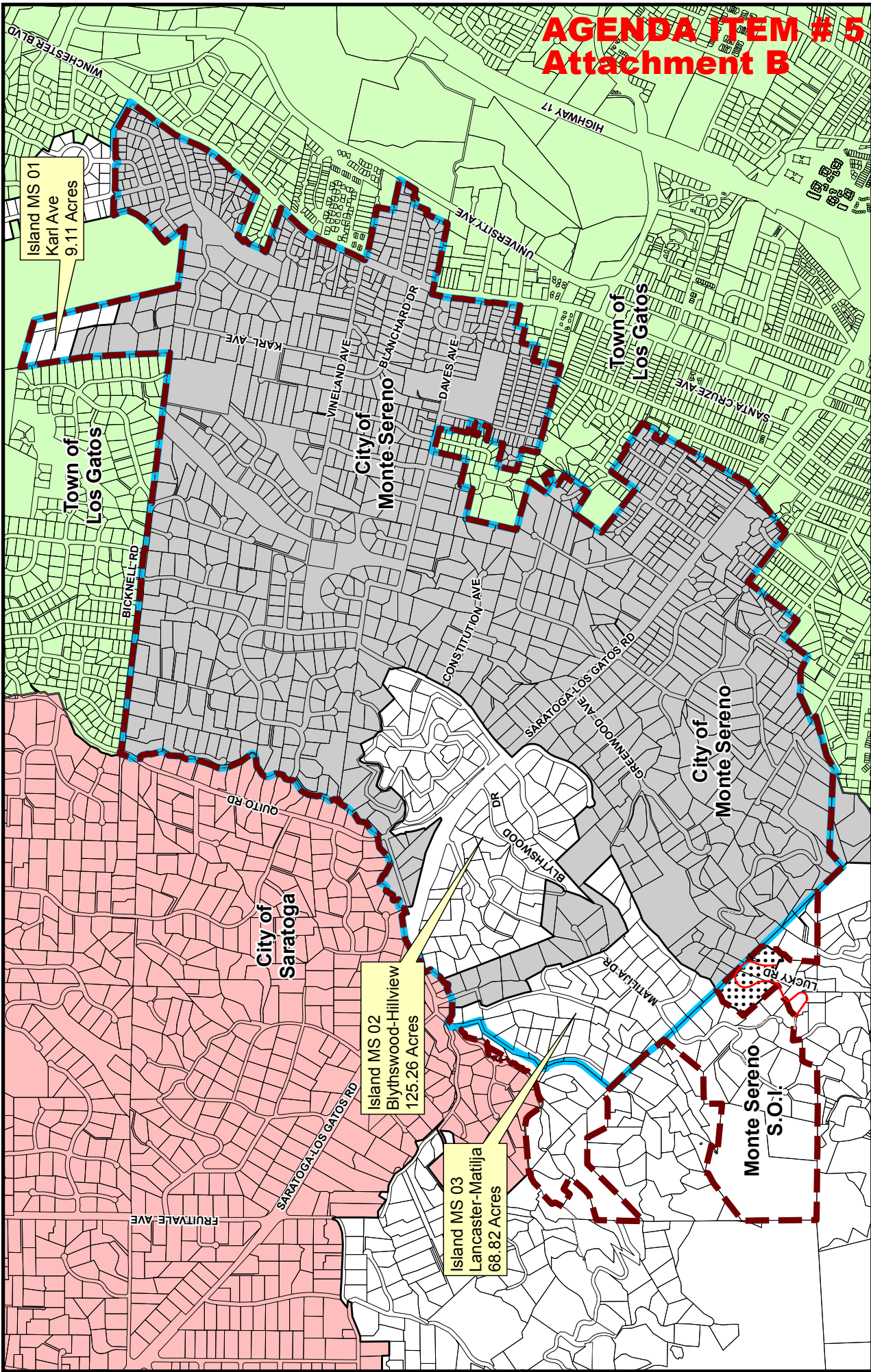
7.4 Acres ±
Prepared by the Office of the County Surveyor
October 10, 2013
Gwendolyn Gee, County Surveyor

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



AGENDA ITEM # 5 Attachment B



LEGEND:

- Existing Monte Sereno U.S.A. Boundary
- Existing Monte Sereno S.O.I. Boundary
- Area Proposed for Inclusion in U.S.A./S.O.I.
- City of Monte Sereno
- Town of Los Gatos
- City of Saratoga
- Unincorporated Lands
- Centerline of Lucky Road (Not a County Maintained Road)

N
 Feet
 0 375 750 1,500


TITLE:

Monte Sereno Unincorporated Islands

Prepared by the Office of the County Surveyor
 October 24, 2013
 Gwendolyn Gee, County Surveyor

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



**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTE SERENO
APPROVING A MITIGATED NEGATIVE DECLARATION FOR ANNEXATION OF
TERRITORY KNOWN AS LUCKY ROAD, AMENDMENT TO THE CITY'S GENERAL
PLAN, URBAN SERVICE AREA AND SPHERE OF INFLUENCE TO INCLUDE THE
LUCKY ROAD TERRITORY**

Whereas, Vladimir Rubashevsky applied to annex 3 parcels of land totaling approximately 7 acres (APN 510-31-023, 510-31-065 and 510-31-066) (collectively referred to as the "Properties") into the City limits; and

Whereas, in order to annex the Properties into the City, the City's General Plan, Urban Service Area and Sphere of Influence must be amended to include the Properties (the "Project"); and

Whereas, the annexation and amendment of the General Plan, Urban Service Area and Sphere of Influence are a "project" pursuant to the California Environmental Quality Act ("CEQA"); and

Whereas, a Mitigated Negative Declaration ("MND") has been prepared pursuant to Section 15070 et seq. of the California Environmental Quality Act ("CEQA") for use in conjunction with the General Plan amendment, Urban Service Area amendment, Sphere of Influence amendment and annexation; and

Whereas, the MND has been prepared and circulated for a 20-day review period and the MND was available for review as provided pursuant to the requirements of CEQA; and

Whereas, no comments were received on the MND; and

Whereas, the Project is determined to not have a significant impact on the environment based upon the results of an environmental assessment; and

WHEREAS, a public hearing on the Project was noticed pursuant to the requirements of the Monte Sereno Municipal Code and State Law and a duly noticed public hearing was held by the City Council on September 3, 2013.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MONTE SERENO AS FOLLOWS:

SECTION 1: The City Council of the City of Monte Sereno hereby specifically makes the following findings:

1. The MND for the Project has been completed in compliance with CEQA.

2. The Project as mitigated will not result in any significant impacts to the environment.
3. The MND represents the independent judgment of the City Council. The MND was prepared by the City. All reports and supporting information has been reviewed and approved by the City.
4. Documents and other materials constituting the record of the proceedings upon which the City's decision and its findings are based will be located at the Office of the City Clerk of the City of Monte Sereno.

SECTION 2: After careful consideration, the City Council hereby approves the MND.

SECTION 3: The approval of the MND does not, in any manner whatsoever, represent or reflect an approval of the Project which shall be considered at a later date.

REGULARLY PASSED AND ADOPTED this 3rd day of September, 2013, by the following vote:

AYES: Council Members Anstandig, Craig, Huff, Wiltshire and Mayor Rogers
NOES: None
ABSTAIN: None
ABSENT: None

By: _____

Curtis Rogers, Mayor

Attest: _____

Andrea Chelemengos, City Clerk

This is a true and correct copy
of the document on file in this office

Attest: Andrea M. Chelemengos
City Clerk, City of Monte Sereno

By: _____

Dated: 9/23/13

Notice of Completion & Environmental Document Transmittal

Mail to: State Clearinghouse, P.O. Box 3044, Sacramento, CA 95812-3044 (916) 445-0613
For Hand Delivery/Street Address: 1400 Tenth Street, Sacramento, CA 95814

SCH #

Project Title: Lucky Road General Plan, SOI, USA amendment, pre zoning and annexation

Lead Agency: City of Monte Sereno Contact Person: Brian Loventhal
Mailing Address: 18041 Saratoga Los Gatos Road Phone: 408-354-7635
City: Monte Sereno Zip: 95030 County: Santa Clara

Project Location: County: Santa Clara City/Nearest Community: Monte Sereno
Cross Streets: Lucky Road and Greenwood Lane Zip Code: 95030
Longitude/Latitude (degrees, minutes and seconds): 37 ° 13 ' 51.4 " N / -122 ° 0 ' 11.5 " W Total Acres: 7.12
Assessor's Parcel No.: 510-31-023,065 and 066 Section: Twp.: Range: Base:
Within 2 Miles: State Hwy #: 9 Waterways: None
Airports: None Railways: None Schools: None

Document Type:

- CEQA: NOP Draft EIR NEPA: NOI Other: Joint Document
 Early Cons Supplement/Subsequent EIR EA Final Document
 Neg Dec (Prior SCH No.) Draft EIS Other:
 Mit Neg Dec Other: FONSI

Local Action Type:

- General Plan Update Specific Plan Rezone Annexation
 General Plan Amendment Master Plan Prezone Redevelopment
 General Plan Element Planned Unit Development Use Permit Coastal Permit
 Community Plan Site Plan Land Division (Subdivision, etc.) Other: USA/SOI

Development Type:

- Residential: Units 1 Acres 7.12
 Office: Sq.ft. Acres Employees Transportation: Type
 Commercial: Sq.ft. Acres Employees Mining: Mineral
 Industrial: Sq.ft. Acres Employees Power: Type MW
 Educational: Waste Treatment: Type MGD
 Recreational: Hazardous Waste: Type
 Water Facilities: Type MGD Other:

Project Issues Discussed in Document:

- Aesthetic/Visual Fiscal Recreation/Parks Vegetation
 Agricultural Land Flood Plain/Flooding Schools/Universities Water Quality
 Air Quality Forest Land/Fire Hazard Septic Systems Water Supply/Groundwater
 Archeological/Historical Geologic/Seismic Sewer Capacity Wetland/Riparian
 Biological Resources Minerals Soil Erosion/Compaction/Grading Growth Inducement
 Coastal Zone Noise Solid Waste Land Use
 Drainage/Absorption Population/Housing Balance Toxic/Hazardous Cumulative Effects
 Economic/Jobs Public Services/Facilities Traffic/Circulation Other:

Present Land Use/Zoning/General Plan Designation:

Hillside/ HS-D1

Project Description: (please use a separate page if necessary)

The proposed project is an amendment to the Monte Sereno General Plan, Sphere of Influence, Urban Service Area, adoption of a pre zoning ordinance and annexation of 16290 Lucky Road (APN's 510-31-065, 510-31-066, 510-31-023. The Sphere of Influence (SOI) and Urban Service Area (USA) of the City of Monte Sereno is proposed to be expanded to include the subject properties. The subject properties are proposed to be pre-zoned with the City of Monte Sereno's existing R-1-44 designation. If the proposed SOI, USA and pre zoning are approved by the City of Monte Sereno and LAFCO then the proposed annexation would be categorically exempt from CEQA as a class 19 exemption.

Note: The State Clearinghouse will assign identification numbers for all new projects. If a SCH number already exists for a project (e.g. Notice of Preparation or previous draft document) please fill in.

Reviewing Agencies Checklist

Lead Agencies may recommend State Clearinghouse distribution by marking agencies below with and "X".
If you have already sent your document to the agency please denote that with an "S".

- | | |
|--|--|
| <input type="checkbox"/> Air Resources Board | <input type="checkbox"/> Office of Historic Preservation |
| <input type="checkbox"/> Boating & Waterways, Department of | <input type="checkbox"/> Office of Public School Construction |
| <input type="checkbox"/> California Emergency Management Agency | <input type="checkbox"/> Parks & Recreation, Department of |
| <input type="checkbox"/> California Highway Patrol | <input type="checkbox"/> Pesticide Regulation, Department of |
| <input type="checkbox"/> Caltrans District # _____ | <input type="checkbox"/> Public Utilities Commission |
| <input type="checkbox"/> Caltrans Division of Aeronautics | <input type="checkbox"/> Regional WQCB # _____ |
| <input type="checkbox"/> Caltrans Planning | <input type="checkbox"/> Resources Agency |
| <input type="checkbox"/> Central Valley Flood Protection Board | <input type="checkbox"/> Resources Recycling and Recovery, Department of |
| <input type="checkbox"/> Coachella Valley Mtns. Conservancy | <input type="checkbox"/> S.F. Bay Conservation & Development Comm. |
| <input type="checkbox"/> Coastal Commission | <input type="checkbox"/> San Gabriel & Lower L.A. Rivers & Mtns. Conservancy |
| <input type="checkbox"/> Colorado River Board | <input type="checkbox"/> San Joaquin River Conservancy |
| <input type="checkbox"/> Conservation, Department of | <input type="checkbox"/> Santa Monica Mtns. Conservancy |
| <input type="checkbox"/> Corrections, Department of | <input type="checkbox"/> State Lands Commission |
| <input type="checkbox"/> Delta Protection Commission | <input type="checkbox"/> SWRCB: Clean Water Grants |
| <input type="checkbox"/> Education, Department of | <input type="checkbox"/> SWRCB: Water Quality |
| <input type="checkbox"/> Energy Commission | <input type="checkbox"/> SWRCB: Water Rights |
| <input type="checkbox"/> Fish & Game Region # _____ | <input type="checkbox"/> Tahoe Regional Planning Agency |
| <input type="checkbox"/> Food & Agriculture, Department of | <input type="checkbox"/> Toxic Substances Control, Department of |
| <input type="checkbox"/> Forestry and Fire Protection, Department of | <input type="checkbox"/> Water Resources, Department of |
| <input type="checkbox"/> General Services, Department of | <input type="checkbox"/> Other: _____ |
| <input type="checkbox"/> Health Services, Department of | <input type="checkbox"/> Other: _____ |
| <input type="checkbox"/> Housing & Community Development | |
| <input type="checkbox"/> Native American Heritage Commission | |

Local Public Review Period (to be filled in by lead agency)

Starting Date July 29, 2013 Ending Date August 19, 2013

Lead Agency (Complete if applicable):

Consulting Firm: _____	Applicant: _____
Address: _____	Address: _____
City/State/Zip: _____	City/State/Zip: _____
Contact: _____	Phone: _____
Phone: _____	

Signature of Lead Agency Representative:  Date: 7/25/13

Authority cited: Section 21083, Public Resources Code. Reference: Section 21161, Public Resources Code.

A. BACKGROUND

Project Title	Lucky Road General Plan Amendment, SOI amendment, USA amendment, rezoning and annexation
Lead Agency Contact Person and Phone Number	Brian Loventhal, City Manager/City Planner (408) 354-7635
Date Prepared	July 26, 2013
Study Prepared by	City of Monte Sereno 18041 Saratoga Los Gatos Rd. Monte Sereno, CA 95030
Project Location	
Project Sponsor Name and Address	City Council, City of Monte Sereno 18041 Saratoga Los Gatos Rd. Monte Sereno, CA 95030
General Plan Designation	None- Proposed to be designated 1 DU/acre
Zoning	None-Proposed to be pre-zoned R-1-44

Setting

The total project site area is 7.12 acre and is located at 16290 Lucky Road in unincorporated Santa Clara County and contiguous to the existing Monte Sereno Sphere of Influence boundary, Urban Service Area boundary, and City boundary. The project site is comprised of three parcels, including Assessor's parcel numbers: 510-31-065, 510-31-066 and 510-31-023. The project site is surrounded by low density residential neighborhoods.

Description of Project

The proposed project is an amendment to the Monte Sereno General Plan, Sphere of Influence, Urban Service Area, adoption of a rezoning ordinance and annexation of 16290 Lucky Road (APN's 510-31-065, 510-31-066, 510-31-023). The General Plan amendment consists of amending the following figures: Figure 1-2, Figure LU-1 and Figure LU-2. The Sphere of Influence (SOI) and Urban Service Area (USA) of the City of Monte Sereno is proposed to be expanded to include the subject properties. The subject properties are proposed to be pre-zoned with the City of Monte Sereno's existing R-1-44 designation. The proposed project also includes an application for annexation into the City of Monte Sereno. If the proposed SOI, USA

and rezoning are approved by the City of Monte Sereno and LAFCO then the proposed annexation would be categorically exempt from CEQA as a class 19 exemption (annexation of existing facilities and lots for exempt facilities).

Other Public Agencies Whose Approval is Required

LAFCO of Santa Clara County

B. ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

- | | | |
|---|--|---|
| <input type="checkbox"/> Aesthetics | <input type="checkbox"/> Greenhouse Gas Emissions | <input type="checkbox"/> Population/Housing |
| <input type="checkbox"/> Agriculture and Forestry Resources | <input type="checkbox"/> Hazards & Hazardous Materials | <input type="checkbox"/> Public Services |
| <input type="checkbox"/> Air quality | <input type="checkbox"/> Hydrology/Water Quality | <input type="checkbox"/> Recreation |
| <input type="checkbox"/> Biological Resources | <input type="checkbox"/> Land Use/Planning | <input type="checkbox"/> Transportation/Traffic |
| <input type="checkbox"/> Cultural Resources | <input type="checkbox"/> Mineral Resources | <input checked="" type="checkbox"/> Utilities/Service Systems |
| <input type="checkbox"/> Geology/Soils | <input type="checkbox"/> Noise | <input type="checkbox"/> Mandatory Findings of Significance |

C. DETERMINATION

On the basis of this initial evaluation:

- I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
- I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
- I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
- I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect (1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and (2) has been addressed by mitigation measures based on the earlier

analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.

- I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (1) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (2) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Name and Title	July 26, 2013
	Date

D. EVALUATION OF ENVIRONMENTAL IMPACTS

Notes

1. A brief explanation is provided for all answers except "No Impact" answers that are adequately supported by the information sources cited in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A "No Impact" answer is explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).
2. All answers take account of the whole action involved, including off-site as well as on-site, cumulative as well as a project-level, indirect as well as direct, and construction as well as operational impacts.
3. Once it has been determined that a particular physical impact may occur, then the checklist answers indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect may be significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.
4. "Negative Declaration: Less-Than-Significant Impact with Mitigation Measures Incorporated" applies where the incorporation of mitigation measures has reduced an

effect from “Potentially Significant Impact” to a “Less-Than-Significant Impact.” The mitigation measures are described, along with a brief explanation of how they reduce the effect to a less-than-significant level (mitigation measures from section XVII, “Earlier Analyses,” may be cross-referenced).

5. Earlier analyses are used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier document or negative declaration. [Section 15063(c)(3)(D)] In this case, a brief discussion would identify the following:
 - a. “Earlier Analysis Used” identifies and states where such document is available for review.
 - b. “Impact Adequately Addressed” identifies which effects from the checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and states whether such effects were addressed by mitigation measures based on the earlier analysis.
 - c. “Mitigation Measures”—For effects that are “Less-Than-Significant Impact with Mitigation Measures Incorporated,” mitigation measures are described which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.
6. Checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances, etc.) are incorporated. Each reference to a previously prepared or outside document, where appropriate, includes a reference to the page or pages where the statement is substantiated.
7. “Supporting Information Sources”—A source list is attached, and other sources used or individuals contacted are cited in the discussion.
8. This is the format recommended in the CEQA Guidelines as amended October 1998.
9. The explanation of each issue identifies:
 - a. The significance criteria or threshold, if any, used to evaluate each question; and
 - b. The mitigation measure identified, if any to reduce the impact to less than significant.

1. AESTHETICS

Would the project:

	<i>Potentially Significant Impact</i>	<i>Less-than-Significant Impact with Mitigation Measures Incorporated</i>	<i>Less-Than-Significant Impact</i>	<i>No Impact</i>
a. Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Substantially damage scenic resources, including but not limited to trees, rock outcroppings, and historic buildings within a state scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Substantially degrade the existing visual character or quality of the site and its surroundings?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Create a new source of substantial light or glare, which would adversely affect day or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:

- a. The City’s general plan does not designate specific scenic vistas (signed and accessible to the public) within the City or in the immediate unincorporated areas adjacent to the City. The General Plan does state that the Loma Serena neighborhood have views and vistas (page 21), but this neighborhood is located at a distance from the project site. The general plan also emphasizes the value of scenic resources such as hillsides, natural resource areas and open space.
- b. The project site is not located within or near the scenic highway 9 corridor.
- c.-d. Due to the nature of the project, specific future development activities are not known yet, there is a lack of site specific development knowledge with which to conduct a site specific and development specific environmental review. Therefore, the environmental review is conducted at a “plan” level of analysis, rather than a more detailed site specific level. No, actual site specific development is proposed by the General Plan amendment, SOI amendment, USA amendment, rezoning and annexation..

Analysis which includes more detailed, site specific information about any potential development impacts is not possible at this time and would occur when the City prepares future environmental documents in connection with site specific projects.

Any potential visual impacts caused by a site specific project will be mitigated to a less than significant impact through the existing design review process (Site Development Permit) that is required for new development projects. In order for a Site Development Permit to be approved, the Monte Sereno Site and Architecture Commission must make several affirmative findings. Monte Sereno Municipal Code Section 10.08.050B2 requires an affirmative finding that "...the architectural design proposed to be employed will mitigate any significant visual impact which could result from the proposed improvement and/or use."

Any potential impacts resulting from increased light and glare that may be caused by a site specific project will be mitigated to a less than significant impact because any future development shall conform to the City of Monte Sereno design guidelines for residential development regarding exterior lighting. These guidelines are intended to reduce light and glare to a less than significant level in residential neighborhoods.

2. AGRICULTURE AND FOREST RESOURCES

In determining whether impacts on agricultural resources are significant environmental effects and in assessing impacts on agriculture and farmland, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. Would the project:

	<i>Potentially Significant Impact</i>	<i>Less-than-Significant Impact with Mitigation Measures Incorporated</i>	<i>Less-Than-Significant Impact</i>	<i>No Impact</i>
a. Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to nonagricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Conflict with existing zoning for agricultural use, or a Williamson Act contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	<i>Potentially Significant Impact</i>	<i>Less-than-Significant Impact with Mitigation Measures Incorporated</i>	<i>Less-Than-Significant Impact</i>	<i>No Impact</i>
c. Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Result in the loss of forest land or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e. Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to nonagricultural use or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

3. AIR QUALITY

Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:

	<i>Potentially Significant Impact</i>	<i>Less-than-Significant Impact with Mitigation Measures Incorporated</i>	<i>Less-Than-Significant Impact</i>	<i>No Impact</i>
a. Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is nonattainment under an applicable federal or state ambient air quality standard (including releasing emissions, which exceed quantitative thresholds for ozone precursors)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e. Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

4. BIOLOGICAL RESOURCES

Would the project:

	<i>Potentially Significant Impact</i>	<i>Less-than-Significant Impact with Mitigation Measures Incorporated</i>	<i>Less-Than-Significant Impact</i>	<i>No Impact</i>
a. Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, regulations, or by the California Department of Fish and Game or US Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or US Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Have a substantial adverse effect on federally protected wetlands, as defined by section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.), through direct removal, filling, hydrological interruption, or other means?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e. Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f. Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:

a-f. Due to the nature of the project, specific future development activities are not known yet, there is a lack of site specific development knowledge with which to conduct a site specific and development specific environmental review. Therefore, the environmental review is conducted at a “plan” level of analysis, rather than a more detailed site specific level. No, actual site specific development is proposed by the General Plan amendment, SOI amendment, USA amendment, rezoning and annexation.

Analysis which includes more detailed, site specific information about any potential development impacts is not possible at this time and would occur when the City prepares future environmental documents in connection with site specific projects.

The City’s general plan calls for preserving and rehabilitating natural habitat areas that support wildlife, encouraging the retention and re-establishment of native vegetation in all private development projects, and minimizing the disturbance of or removal of existing trees to the extent possible. All new development is required to obtain a Site development permit intended to ensure these measures are taken to preserve the natural habitat.

5. CULTURAL RESOURCES

Would the project:

	<i>Potentially Significant Impact</i>	<i>Less-than-Significant Impact with Mitigation Measures Incorporated</i>	<i>Less-Than-Significant Impact</i>	<i>No Impact</i>
a. Cause a substantial adverse change in the significance of a historical resource as defined in section 15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Cause a substantial adverse change in the significance of an archaeological resource pursuant to section 15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Disturb any human remains, including those interred outside of formal cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:

a-d. The proposed project does not propose any demolition of existing structures, or change to any historical, archaeological or paleontological resource.

6. GEOLOGY AND SOILS

Would the project:

	<i>Potentially Significant Impact</i>	<i>Less-than-Significant Impact with Mitigation Measures Incorporated</i>	<i>Less-Than-Significant Impact</i>	<i>No Impact</i>
a. Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(1) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(2) Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(3) Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(4) Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	<i>Potentially Significant Impact</i>	<i>Less-than-Significant Impact with Mitigation Measures Incorporated</i>	<i>Less-Than-Significant Impact</i>	<i>No Impact</i>
e. Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:

a.-e. Due to the nature of the project, specific future development activities are not known yet, there is a lack of site specific development knowledge with which to conduct a site specific and development specific environmental review. Therefore, the environmental review is conducted at a “plan” level of analysis, rather than a more detailed site specific level. No, actual site specific development is proposed by the General Plan amendment, SOI amendment, USA amendment, rezoning and annexation..

Analysis which includes more detailed, site specific information about any potential development impacts is not possible at this time and would occur when the City prepares future environmental documents in connection with site specific projects.

The Monte Sereno Municipal code regulates development that is located near active, or tract fault zones, or in areas that have expansive or other undesirable soil conditions. Special geological and/or soil reports are required to detail remedial measures necessary to reduce any significant impact to less than significant.

7. GREENHOUSE GAS EMISSIONS

Would the project:

	<i>Potentially Significant Impact</i>	<i>Less-than-Significant Impact with Mitigation Measures Incorporated</i>	<i>Less-Than-Significant Impact</i>	<i>No Impact</i>
a. Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:

a-b. Due to the nature of the project, specific future development activities are not known yet, there is a lack of site specific development knowledge with which to conduct a site specific and development specific environmental review. Therefore, the environmental review is conducted at a “plan” level of analysis, rather than a more detailed site specific level. No, actual site specific development is proposed by the General Plan amendment, SOI amendment, USA amendment, rezoning and annexation..

Analysis which includes more detailed, site specific information about any potential development impacts is not possible at this time and would occur when the City prepares future environmental documents in connection with site specific projects.

8. HAZARDS AND HAZARDOUS MATERIALS

Would the project:

	<i>Potentially Significant Impact</i>	<i>Less-than-Significant Impact with Mitigation Measures Incorporated</i>	<i>Less-Than-Significant Impact</i>	<i>No Impact</i>
a. Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code section 65962.5 and, as a result, create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less-than-Significant Impact with Mitigation Measures Incorporated	Less-Than-Significant Impact	No Impact
e. For a project located within an airport land-use plan or, where such a plan has not been adopted, within two miles of a public airport or a public-use airport, result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f. For a project within the vicinity of a private airstrip, result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g. Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h. Expose people or structures to a significant risk of loss, injury, or death involving wildland fires, including where wildlands area adjacent to urbanized areas or where residences are intermixed with wildlands?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:

a-h. Due to the nature of the project, specific future development activities are not known yet, there is a lack of site specific development knowledge with which to conduct a site specific and development specific environmental review. Therefore, the environmental review is conducted at a "plan" level of analysis, rather than a more detailed site specific level. No, actual site specific development is proposed by the General Plan amendment, SOI amendment, USA amendment, rezoning and annexation..

Analysis which includes more detailed, site specific information about any potential development impacts is not possible at this time and would occur when the City prepares future environmental documents in connection with site specific projects.

The project site is located in the State designated wildland-urban fire interface area. Any future development is required to comply with the California State Fire Marshall's requirements and the Monte Sereno Municipal Code requirements for the wildland fire urban interface area.

9. HYDROLOGY AND WATER QUALITY

Would the project:

	Potentially Significant Impact	Less-than-Significant Impact with Mitigation Measures Incorporated	Less-Than-Significant Impact	No Impact
a. Violate any water quality standards or waste discharge requirements?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., would the production rate of preexisting nearby wells drop to a level which would not support existing land uses or planned uses for which permits have been granted?)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in <i>substantial erosion or siltation on- or off-site?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface run-off in a manner which would result in <i>flooding on- or off-site?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e. Create or contribute run-off water, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted run-off?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f. Otherwise substantially degrade water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g. Place housing within a 100-year flood hazard area as mapped on Federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h. Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	<i>Potentially Significant Impact</i>	<i>Less-than-Significant Impact with Mitigation Measures Incorporated</i>	<i>Less-Than-Significant Impact</i>	<i>No Impact</i>
i. Expose people or structures to a significant risk of loss, injury, or death involving flooding, including flooding as a result of the failure of a levee or dam?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
j. Be subject to inundation by seiche, tsunami, or mudflow?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:

a.-j. Due to the nature of the project, specific future development activities are not known yet, there is a lack of site specific development knowledge with which to conduct a site specific and development specific environmental review. Therefore, the environmental review is conducted at a “plan” level of analysis, rather than a more detailed site specific level. No, actual site specific development is proposed by the General Plan amendment, SOI amendment, USA amendment, rezoning and annexation..

Analysis which includes more detailed, site specific information about any potential development impacts is not possible at this time and would occur when the City prepares future environmental documents in connection with site specific projects.

10. LAND USE AND PLANNING

Would the project:

	<i>Potentially Significant Impact</i>	<i>Less-than-Significant Impact with Mitigation Measures Incorporated</i>	<i>Less-Than-Significant Impact</i>	<i>No Impact</i>
a. Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Conflict with any applicable land-use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to, the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Conflict with any applicable habitat conservation plan or natural community conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:

- b. The proposed general plan amendment is intended to make the City's General Plan consistent with the application to amend the USA and SOI.

11. MINERAL RESOURCES

Would the project:

	<i>Potentially Significant Impact</i>	<i>Less-than-Significant Impact with Mitigation Measures Incorporated</i>	<i>Less-Than-Significant Impact</i>	<i>No Impact</i>
a. Result in loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Result in the loss of availability of a locally important mineral resource recovery site delineated in a local general plan, specific plan, or other land-use plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

12. NOISE

Would the project:

	<i>Potentially Significant Impact</i>	<i>Less-than-Significant Impact with Mitigation Measures Incorporated</i>	<i>Less-Than-Significant Impact</i>	<i>No Impact</i>
a. Result in exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or in applicable standards of other agencies?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Result in exposure of persons to or generation of excessive ground-borne vibration or ground borne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	<i>Potentially Significant Impact</i>	<i>Less-than-Significant Impact with Mitigation Measures Incorporated</i>	<i>Less-Than-Significant Impact</i>	<i>No Impact</i>
d. Result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e. For a project located within an airport land-use plan or, where such a plan has not been adopted, within two miles of a public airport or public-use airport, expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f. For a project located within the vicinity of a private airstrip, expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

13. POPULATION AND HOUSING

Would the project:

	<i>Potentially Significant Impact</i>	<i>Less-than-Significant Impact with Mitigation Measures Incorporated</i>	<i>Less-Than-Significant Impact</i>	<i>No Impact</i>
a. Induce substantial population growth in an area, either directly (e.g., by proposing new homes and businesses) or indirectly (e.g., through extension of roads or other infrastructure)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

14. PUBLIC SERVICES

Would the project result in substantial adverse physical impacts associated with the provision of or need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for any of the following public services:

	<i>Potentially Significant Impact</i>	<i>Less-than-Significant Impact with Mitigation Measures Incorporated</i>	<i>Less-Than-Significant Impact</i>	<i>No Impact</i>
a. Fire protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Police protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e. Other public facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

15. RECREATION

	<i>Potentially Significant Impact</i>	<i>Less-than-Significant Impact with Mitigation Measures Incorporated</i>	<i>Less-Than-Significant Impact</i>	<i>No Impact</i>
a. Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Does the project include recreational facilities or require the construction or expansion of recreational facilities, which might have an adverse physical effect on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

16. TRANSPORTATION/TRAFFIC

Would the project:

	<i>Potentially Significant Impact</i>	<i>Less-than-Significant Impact with Mitigation Measures Incorporated</i>	<i>Less-Than-Significant Impact</i>	<i>No Impact</i>
a. Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e. Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f. Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decreased the performance or safety of such facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

17. UTILITIES AND SERVICE SYSTEMS

Would the project:

	<i>Potentially Significant Impact</i>	<i>Less-than-Significant Impact with Mitigation Measures Incorporated</i>	<i>Less-Than-Significant Impact</i>	<i>No Impact</i>
a. Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e. Result in a determination by the wastewater treatment provider, which serves or may serve the project that it has inadequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f. Be served by a landfill with sufficient permitted capacity to accommodate the project's solid-waste disposal needs?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g. Comply with federal, state, and local statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:

- e. The West Valley Sanitation District provided the City of Monte Sereno with comments that the District cannot provide sanitary sewer services to the project site because the project site is located outside of the Sewer District boundary. The applicant shall be

required to annex in to Sewer District in order to receive service and mitigate any significant impact that could result from any future development.

For sanitary sewer service in the future, the property owner must install a new privately maintained sewer system within Lucky Drive. Because Lucky Drive is a private road, the Sanitation District will not provide maintenance service to this sewer main. This future sewer main will connect to the terminus of an existing sewer main at the intersection of Greenwood Lane and Ojai Drive. The District will require the future sewer be designed and constructed in accordance with the District's "Sanitary Sewerage System Design Standards."

The property owners must also demonstrate that the necessary rights and easements for the required sewer services have been obtained.

18. MANDATORY FINDINGS OF SIGNIFICANCE

	<i>Potentially Significant Impact</i>	<i>Less-than-Significant Impact with Mitigation Measures Incorporated</i>	<i>Less-Than-Significant Impact</i>	<i>No Impact</i>
a. Does the project have the potential to degrade the quality of the environment; substantially reduce the habitat of a fish or wildlife species; cause a fish or wildlife population to drop below self-sustaining levels; threaten to eliminate a plant or animal community; substantially reduce the number or restrict the range of an endangered, rare, or threatened species; or eliminate important examples of the major periods of California history or prehistory?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Does the project have environmental effects, which will cause substantial adverse effects on human beings, either directly or indirectly?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

E. SOURCES

All documents referenced above are available for review at 18041 Saratoga Los Gatos Road, Monte Sereno, CA 95030, during normal business hours.

A. BACKGROUND

Project Title	Lucky Road General Plan Amendment, SOI amendment, USA amendment, rezoning and annexation
Lead Agency Contact Person and Phone Number	Erin Ventura, Associate Planner (408) 354-7635
Date Prepared	July 26, 2013
Study Prepared by	City of Monte Sereno 18041 Saratoga Los Gatos Rd. Monte Sereno, CA 95030
Project Location	
Project Sponsor Name and Address	City Council, City of Monte Sereno 18041 Saratoga Los Gatos Rd. Monte Sereno, CA 95030
General Plan Designation	None- Proposed to be designated 1 DU/acre
Zoning	None-Proposed to be pre-zoned R-1-44

Setting

The total project site area is 7.12 acre and is located at 16290 Lucky Road in unincorporated Santa Clara County and contiguous to the existing Monte Sereno Sphere of Influence boundary, Urban Service Area boundary, and City boundary. The project site is comprised of three parcels, including Assessor's parcel numbers: 510-31-065, 510-31-066 and 510-31-023. The project site is surrounded by low density residential neighborhoods.

Description of Project

The proposed project is an amendment to the Monte Sereno General Plan, Sphere of Influence, Urban Service Area, adoption of a rezoning ordinance and annexation of 16290 Lucky Road (APN's 510-31-065, 510-31-066, 510-31-023). The General Plan amendment consists of amending the following figures: Figure 1-2, Figure LU-1 and Figure LU-2. The Sphere of Influence (SOI) and Urban Service Area (USA) of the City of Monte Sereno is proposed to be expanded to include the subject properties. The subject properties are proposed to be pre-zoned with the City of Monte Sereno's existing R-1-44 designation. The proposed project also includes an application for annexation into the City of Monte Sereno. If the proposed SOI, USA

and rezoning are approved by the City of Monte Sereno and LAFCO then the proposed annexation would be categorically exempt from CEQA as a class 19 exemption (annexation of existing facilities and lots for exempt facilities).

Other Public Agencies Whose Approval is Required

LAFCO of Santa Clara County

B. ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

- | | | |
|---|--|---|
| <input type="checkbox"/> Aesthetics | <input type="checkbox"/> Greenhouse Gas Emissions | <input type="checkbox"/> Population/Housing |
| <input type="checkbox"/> Agriculture and Forestry Resources | <input type="checkbox"/> Hazards & Hazardous Materials | <input type="checkbox"/> Public Services |
| <input type="checkbox"/> Air quality | <input type="checkbox"/> Hydrology/Water Quality | <input type="checkbox"/> Recreation |
| <input type="checkbox"/> Biological Resources | <input type="checkbox"/> Land Use/Planning | <input type="checkbox"/> Transportation/Traffic |
| <input type="checkbox"/> Cultural Resources | <input type="checkbox"/> Mineral Resources | <input checked="" type="checkbox"/> Utilities/Service Systems |
| <input checked="" type="checkbox"/> Geology/Soils | <input type="checkbox"/> Noise | <input type="checkbox"/> Mandatory Findings of Significance |

C. DETERMINATION

On the basis of this initial evaluation:

- I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
- I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
- I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
- I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect (1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and (2) has been addressed by mitigation measures based on the earlier

analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.

- I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (1) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (2) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Name and Title	July 26, 2013
	Date

D. EVALUATION OF ENVIRONMENTAL IMPACTS

Notes

1. A brief explanation is provided for all answers except "No Impact" answers that are adequately supported by the information sources cited in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A "No Impact" answer is explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).
2. All answers take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.
3. Once it has been determined that a particular physical impact may occur, then the checklist answers indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect may be significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.
4. "Negative Declaration: Less-Than-Significant Impact with Mitigation Measures Incorporated" applies where the incorporation of mitigation measures has reduced an

effect from “Potentially Significant Impact” to a “Less-Than-Significant Impact.” The mitigation measures are described, along with a brief explanation of how they reduce the effect to a less-than-significant level (mitigation measures from section XVII, “Earlier Analyses,” may be cross-referenced).

5. Earlier analyses are used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier document or negative declaration. [Section 15063(c)(3)(D)] In this case, a brief discussion would identify the following:
 - a. “Earlier Analysis Used” identifies and states where such document is available for review.
 - b. “Impact Adequately Addressed” identifies which effects from the checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and states whether such effects were addressed by mitigation measures based on the earlier analysis.
 - c. “Mitigation Measures”—For effects that are “Less-Than-Significant Impact with Mitigation Measures Incorporated,” mitigation measures are described which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.
6. Checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances, etc.) are incorporated. Each reference to a previously prepared or outside document, where appropriate, includes a reference to the page or pages where the statement is substantiated.
7. “Supporting Information Sources”—A source list is attached, and other sources used or individuals contacted are cited in the discussion.
8. This is the format recommended in the CEQA Guidelines as amended October 1998.
9. The explanation of each issue identifies:
 - a. The significance criteria or threshold, if any, used to evaluate each question; and
 - b. The mitigation measure identified, if any to reduce the impact to less than significant.

1. AESTHETICS

Would the project:

	<i>Potentially Significant Impact</i>	<i>Less-than-Significant Impact with Mitigation Measures Incorporated</i>	<i>Less-Than-Significant Impact</i>	<i>No Impact</i>
a. Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Substantially damage scenic resources, including but not limited to trees, rock outcroppings, and historic buildings within a state scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Substantially degrade the existing visual character or quality of the site and its surroundings?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Create a new source of substantial light or glare, which would adversely affect day or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:

- a. The City's general plan does not designate specific scenic vistas (signed and accessible to the public) within the City or in the immediate unincorporated areas adjacent to the City. The General Plan does state that the Loma Serena neighborhood have views and vistas (page 21), but this neighborhood is located at a distance from the project site. The general plan also emphasizes the value of scenic resources such as hillsides, natural resource areas and open space.
- b. The project site is not located within or near the scenic highway 9 corridor.
- c.-d. Due to the nature of the project, specific future development activities are not known yet, there is a lack of site specific development knowledge with which to conduct a site specific and development specific environmental review. Therefore, the environmental review is conducted at a "plan" level of analysis, rather than a more detailed site specific level. No, actual site specific development is proposed by the General Plan amendment, SOI amendment, USA amendment, rezoning and annexation..

Analysis which includes more detailed, site specific information about any potential development impacts is not possible at this time and would occur when the City prepares future environmental documents in connection with site specific projects.

Any potential visual impacts caused by a site specific project will be mitigated to a less than significant impact through the existing design review process (Site Development Permit) that is required for new development projects. In order for a Site Development Permit to be approved, the Monte Sereno Site and Architecture Commission must make several affirmative findings. Monte Sereno Municipal Code Section 10.08.050B2 requires an affirmative finding that "...the architectural design proposed to be employed will mitigate any significant visual impact which could result from the proposed improvement and/or use."

Any potential impacts resulting from increased light and glare that may be caused by a site specific project will be mitigated to a less than significant impact because any future development shall conform to the City of Monte Sereno design guidelines for residential development regarding exterior lighting. These guidelines are intended to reduce light and glare to a less than significant level in residential neighborhoods.

2. AGRICULTURE AND FOREST RESOURCES

In determining whether impacts on agricultural resources are significant environmental effects and in assessing impacts on agriculture and farmland, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. Would the project:

	<i>Potentially Significant Impact</i>	<i>Less-than-Significant Impact with Mitigation Measures Incorporated</i>	<i>Less-Than-Significant Impact</i>	<i>No Impact</i>
a. Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to nonagricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Conflict with existing zoning for agricultural use, or a Williamson Act contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	<i>Potentially Significant Impact</i>	<i>Less-than-Significant Impact with Mitigation Measures Incorporated</i>	<i>Less-Than-Significant Impact</i>	<i>No Impact</i>
c. Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Result in the loss of forest land or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e. Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to nonagricultural use or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

3. AIR QUALITY

Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:

	<i>Potentially Significant Impact</i>	<i>Less-than-Significant Impact with Mitigation Measures Incorporated</i>	<i>Less-Than-Significant Impact</i>	<i>No Impact</i>
a. Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is nonattainment under an applicable federal or state ambient air quality standard (including releasing emissions, which exceed quantitative thresholds for ozone precursors)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e. Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

4. BIOLOGICAL RESOURCES

Would the project:

	<i>Potentially Significant Impact</i>	<i>Less-than-Significant Impact with Mitigation Measures Incorporated</i>	<i>Less-Than-Significant Impact</i>	<i>No Impact</i>
a. Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, regulations, or by the California Department of Fish and Game or US Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or US Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Have a substantial adverse effect on federally protected wetlands, as defined by section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.), through direct removal, filing, hydrological interruption, or other means?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e. Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f. Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:

a-f. Due to the nature of the project, specific future development activities are not known yet, there is a lack of site specific development knowledge with which to conduct a site specific and development specific environmental review. Therefore, the environmental review is conducted at a "plan" level of analysis, rather than a more detailed site specific level. No, actual site specific development is proposed by the General Plan amendment, SOI amendment, USA amendment, rezoning and annexation.

Analysis which includes more detailed, site specific information about any potential development impacts is not possible at this time and would occur when the City prepares future environmental documents in connection with site specific projects.

The City's general plan calls for preserving and rehabilitating natural habitat areas that support wildlife, encouraging the retention and re-establishment of native vegetation in all private development projects, and minimizing the disturbance of or removal of existing trees to the extent possible. All new development is required to obtain a Site development permit intended to ensure these measures are taken to preserve the natural habitat.

5. CULTURAL RESOURCES

Would the project:

	<i>Potentially Significant Impact</i>	<i>Less-than-Significant Impact with Mitigation Measures Incorporated</i>	<i>Less-Than-Significant Impact</i>	<i>No Impact</i>
a. Cause a substantial adverse change in the significance of a historical resource as defined in section 15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Cause a substantial adverse change in the significance of an archaeological resource pursuant to section 15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Disturb any human remains, including those interred outside of formal cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:

a-d. The proposed project does not propose any demolition of existing structures, or change to any historical, archaeological or paleontological resource.

6. GEOLOGY AND SOILS

Would the project:

	<i>Potentially Significant Impact</i>	<i>Less-than-Significant Impact with Mitigation Measures Incorporated</i>	<i>Less-Than-Significant Impact</i>	<i>No Impact</i>
a. Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(1) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(2) Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(3) Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(4) Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	<i>Potentially Significant Impact</i>	<i>Less-than-Significant Impact with Mitigation Measures Incorporated</i>	<i>Less-Than-Significant Impact</i>	<i>No Impact</i>
e. Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:

a.-e. Due to the nature of the project, specific future development activities are not known yet, there is a lack of site specific development knowledge with which to conduct a site specific and development specific environmental review. Therefore, the environmental review is conducted at a “plan” level of analysis, rather than a more detailed site specific level. No, actual site specific development is proposed by the General Plan amendment, SOI amendment, USA amendment, rezoning and annexation..

Analysis which includes more detailed, site specific information about any potential development impacts is not possible at this time and would occur when the City prepares future environmental documents in connection with site specific projects.

The Monte Sereno Municipal code regulates development that is located near active, or tract fault zones, or in areas that have expansive or other undesirable soil conditions. Special geological and/or soil reports are required to detail remedial measures necessary to reduce any significant impact to less than significant.

7. GREENHOUSE GAS EMISSIONS

Would the project:

	<i>Potentially Significant Impact</i>	<i>Less-than-Significant Impact with Mitigation Measures Incorporated</i>	<i>Less-Than-Significant Impact</i>	<i>No Impact</i>
a. Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:

a-b. Due to the nature of the project, specific future development activities are not known yet, there is a lack of site specific development knowledge with which to conduct a site specific and development specific environmental review. Therefore, the environmental review is conducted at a “plan” level of analysis, rather than a more detailed site specific level. No, actual site specific development is proposed by the General Plan amendment, SOI amendment, USA amendment, rezoning and annexation..

Analysis which includes more detailed, site specific information about any potential development impacts is not possible at this time and would occur when the City prepares future environmental documents in connection with site specific projects.

8. HAZARDS AND HAZARDOUS MATERIALS

Would the project:

	<i>Potentially Significant Impact</i>	<i>Less-than-Significant Impact with Mitigation Measures Incorporated</i>	<i>Less-Than-Significant Impact</i>	<i>No Impact</i>
a. Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code section 65962.5 and, as a result, create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less-than-Significant Impact with Mitigation Measures Incorporated	Less-Than-Significant Impact	No Impact
e. For a project located within an airport land-use plan or, where such a plan has not been adopted, within two miles of a public airport or a public-use airport, result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f. For a project within the vicinity of a private airstrip, result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g. Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h. Expose people or structures to a significant risk of loss, injury, or death involving wildland fires, including where wildlands area adjacent to urbanized areas or where residences are intermixed with wildlands?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:

a-h. Due to the nature of the project, specific future development activities are not known yet, there is a lack of site specific development knowledge with which to conduct a site specific and development specific environmental review. Therefore, the environmental review is conducted at a "plan" level of analysis, rather than a more detailed site specific level. No, actual site specific development is proposed by the General Plan amendment, SOI amendment, USA amendment, rezoning and annexation..

Analysis which includes more detailed, site specific information about any potential development impacts is not possible at this time and would occur when the City prepares future environmental documents in connection with site specific projects.

The project site is located in the State designated wildland-urban fire interface area. Any future development is required to comply with the California State Fire Marshall's requirements and the Monte Sereno Municipal Code requirements for the wildland fire urban interface area.

9. HYDROLOGY AND WATER QUALITY

Would the project:

	Potentially Significant Impact	Less-than-Significant Impact with Mitigation Measures Incorporated	Less-Than-Significant Impact	No Impact
a. Violate any water quality standards or waste discharge requirements?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., would the production rate of preexisting nearby wells drop to a level which would not support existing land uses or planned uses for which permits have been granted?)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in <i>substantial erosion or siltation on- or off-site?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface run-off in a manner which would result in <i>flooding on- or off-site?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e. Create or contribute run-off water, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted run-off?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f. Otherwise substantially degrade water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g. Place housing within a 100-year flood hazard area as mapped on Federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h. Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	<i>Potentially Significant Impact</i>	<i>Less-than-Significant Impact with Mitigation Measures Incorporated</i>	<i>Less-Than-Significant Impact</i>	<i>No Impact</i>
i. Expose people or structures to a significant risk of loss, injury, or death involving flooding, including flooding as a result of the failure of a levee or dam?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
j. Be subject to inundation by seiche, tsunami, or mudflow?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:

a.-j. Due to the nature of the project, specific future development activities are not known yet, there is a lack of site specific development knowledge with which to conduct a site specific and development specific environmental review. Therefore, the environmental review is conducted at a “plan” level of analysis, rather than a more detailed site specific level. No, actual site specific development is proposed by the General Plan amendment, SOI amendment, USA amendment, rezoning and annexation..

Analysis which includes more detailed, site specific information about any potential development impacts is not possible at this time and would occur when the City prepares future environmental documents in connection with site specific projects.

10. LAND USE AND PLANNING

Would the project:

	<i>Potentially Significant Impact</i>	<i>Less-than-Significant Impact with Mitigation Measures Incorporated</i>	<i>Less-Than-Significant Impact</i>	<i>No Impact</i>
a. Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Conflict with any applicable land-use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to, the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Conflict with any applicable habitat conservation plan or natural community conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:

- b. The proposed general plan amendment is intended to make the City's General Plan consistent with the application to amend the USA and SOI.

11. MINERAL RESOURCES

Would the project:

	<i>Potentially Significant Impact</i>	<i>Less-than-Significant Impact with Mitigation Measures Incorporated</i>	<i>Less-Than-Significant Impact</i>	<i>No Impact</i>
a. Result in loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Result in the loss of availability of a locally important mineral resource recovery site delineated in a local general plan, specific plan, or other land-use plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

12. NOISE

Would the project:

	<i>Potentially Significant Impact</i>	<i>Less-than-Significant Impact with Mitigation Measures Incorporated</i>	<i>Less-Than-Significant Impact</i>	<i>No Impact</i>
a. Result in exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or in applicable standards of other agencies?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Result in exposure of persons to or generation of excessive ground-borne vibration or ground borne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	<i>Potentially Significant Impact</i>	<i>Less-than-Significant Impact with Mitigation Measures Incorporated</i>	<i>Less-Than-Significant Impact</i>	<i>No Impact</i>
d. Result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e. For a project located within an airport land-use plan or, where such a plan has not been adopted, within two miles of a public airport or public-use airport, expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f. For a project located within the vicinity of a private airstrip, expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

13. POPULATION AND HOUSING

Would the project:

	<i>Potentially Significant Impact</i>	<i>Less-than-Significant Impact with Mitigation Measures Incorporated</i>	<i>Less-Than-Significant Impact</i>	<i>No Impact</i>
a. Induce substantial population growth in an area, either directly (e.g., by proposing new homes and businesses) or indirectly (e.g., through extension of roads or other infrastructure)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

14. PUBLIC SERVICES

Would the project result in substantial adverse physical impacts associated with the provision of or need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for any of the following public services:

	<i>Potentially Significant Impact</i>	<i>Less-than-Significant Impact with Mitigation Measures Incorporated</i>	<i>Less-Than-Significant Impact</i>	<i>No Impact</i>
a. Fire protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Police protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e. Other public facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

15. RECREATION

	<i>Potentially Significant Impact</i>	<i>Less-than-Significant Impact with Mitigation Measures Incorporated</i>	<i>Less-Than-Significant Impact</i>	<i>No Impact</i>
a. Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Does the project include recreational facilities or require the construction or expansion of recreational facilities, which might have an adverse physical effect on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

16. TRANSPORTATION/TRAFFIC

Would the project:

	<i>Potentially Significant Impact</i>	<i>Less-than-Significant Impact with Mitigation Measures Incorporated</i>	<i>Less-Than-Significant Impact</i>	<i>No Impact</i>
a. Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e. Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f. Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decreased the performance or safety of such facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

17. UTILITIES AND SERVICE SYSTEMS

Would the project:

	<i>Potentially Significant Impact</i>	<i>Less-than-Significant Impact with Mitigation Measures Incorporated</i>	<i>Less-Than-Significant Impact</i>	<i>No Impact</i>
a. Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e. Result in a determination by the wastewater treatment provider, which serves or may serve the project that it has inadequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f. Be served by a landfill with sufficient permitted capacity to accommodate the project's solid-waste disposal needs?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g. Comply with federal, state, and local statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:

- e. The West Valley Sanitation District provided the City of Monte Sereno with comments that the District cannot provide sanitary sewer services to the project site because the project site is located outside of the Sewer District boundary. The applicant shall be

required to annex in to Sewer District in order to receive service and mitigate any significant impact that could result from any future development.

For sanitary sewer service in the future, the property owner must install a new privately maintained sewer system within Lucky Drive. Because Lucky Drive is a private road, the Sanitation District will not provide maintenance service to this sewer main. This future sewer main will connect to the terminus of an existing sewer main at the intersection of Greenwood Lane and Ojai Drive. The District will require the future sewer be designed and constructed in accordance with the District's "Sanitary Sewerage System Design Standards."

The property owners must also demonstrate that the necessary rights and easements for the required sewer services have been obtained.

18. MANDATORY FINDINGS OF SIGNIFICANCE

	<i>Potentially Significant Impact</i>	<i>Less-than-Significant Impact with Mitigation Measures Incorporated</i>	<i>Less-Than-Significant Impact</i>	<i>No Impact</i>
a. Does the project have the potential to degrade the quality of the environment; substantially reduce the habitat of a fish or wildlife species; cause a fish or wildlife population to drop below self-sustaining levels; threaten to eliminate a plant or animal community; substantially reduce the number or restrict the range of an endangered, rare, or threatened species; or eliminate important examples of the major periods of California history or prehistory?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Does the project have environmental effects, which will cause substantial adverse effects on human beings, either directly or indirectly?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

E. SOURCES

All documents referenced above are available for review at 18041 Saratoga Los Gatos Road, Monte Sereno, CA 95030, during normal business hours.



**AGENDA ITEM # 5
Attachment D**

Councilmember: Marshall Anstandig
Councilmember: Burton Craig
Councilmember: Susan Garner
Councilmember: Lana Malloy
Councilmember: Curtis Rogers

City Manager: Brian Loventhal
City Clerk: Andrea Chelemengos
Finance Officer: Sue L'Heureux
Building Official: Howard T. Bell

City of Monte Sereno

July 26, 2011

Ms. Neelima Palacherla
LAFCO Executive Officer
Santa Clara County
70 West Hedding Street, 11th floor, East Wing
San Jose, CA 95110

RE: Request for status of unincorporated islands within the City of Monte Sereno's
Urban Service Area

Dear Ms. Palacherla:

The City has received your letter dated May 2, 2011, requesting a status update of the unincorporated islands in the Monte Sereno Urban Service Area. Pursuant to your request, I am providing the following response.

Monte Sereno has three islands identified by LAFCO as MS01, MS02 and MS03. The City is aware that these unincorporated islands are eligible for a streamlined annexation process. The City is also aware that the County and LAFCO have provided financial incentives including payment of fees and costs to annex these islands.

Since 2005, the Monte Sereno City Council has formally considered annexation of the islands on two occasions. On October 19, 2006, the City conducted a public hearing and discussed annexation. Ultimately, the motion to annex these islands failed by a 2-3 vote of the City Council. On September 15, 2009, the City Council again conducted a public hearing and discussed annexation of the three islands. Based on opposition of the affected property owners the majority of the City Council indicated that they would not support the continuation of the annexation process for these islands.

The Land Use Element of the Monte Sereno General Plan identifies the potential annexation of islands MS01, MS02 and MS03. The Land Use Element also contains policy LU-4.5 that details the conditions that must exist for the City to continue annexation of areas within the City's Sphere of Influence in the future.

At this point in time, the City is considering annexation of individual parcels, on a case by case basis, as property owners voluntarily avail themselves of development projects that trigger the City right to annex their property. The City has conducted one such annexation in the last year.

If you have any additional questions please feel free to contact me at 354-7635.

Sincerely,

A handwritten signature in black ink, appearing to read "Brian Loventhal". The signature is fluid and cursive, with the first name "Brian" written in a larger, more prominent script than the last name "Loventhal".

Brian Loventhal
City Manager

CC: Monte Sereno City Council

Attachments: Monte Sereno City Council meeting minutes (10/19/06 and 9/15/09)
Monte Sereno General Plan, Land Use Policy, LU-4.5

LAFCO MEETING: December 4, 2013
TO: LAFCO
FROM: Neelima Palacherla, Executive Officer
Dunia Noel, Analyst
SUBJECT: SPECIAL DISTRICTS SERVICE REVIEW: PHASE 2 AND
SPHERE OF INFLUENCE UPDATES

STAFF RECOMMENDATION

CEQA ACTION

1. Determine that the Special Districts Service Review Report: Phase 2 which includes sphere of influence updates for nine special districts and the recommendations of this staff report are exempt from the requirements of the California Environmental Quality Act (CEQA) under State CEQA Guidelines: §15306 Class 6; §15061(b)(3) General Rule; §15378(b)(5); and §15320 Class 20.

SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATES

2. Accept comments and consider any further revisions to the Special Districts Service Review Revised Draft Report: Phase 2.
3. Adopt the Special Districts Service Review Report: Phase 2 (Service Review Report) including the revisions presented in **Attachment C**, and other revisions, as necessary.
4. Adopt service review determinations for each of the eight districts where LAFCO of Santa Clara County is the principal LAFCO and as included in the Service Review Report.
5. Adopt sphere of influence (SOI) updates along with the sphere of influence determinations for each of the eight special districts where LAFCO of Santa Clara County is the principal LAFCO and as included in the Service Review Report:
 - a. Reaffirm the existing zero SOI for the **Burbank Sanitary District (BSD)** as recommended in the Service Review Report. Direct staff to facilitate a meeting between BSD and the City of San Jose to discuss the service and governance structure alternatives identified in the Service Review Report, identify a preferred alternative, and outline how to proceed. Direct staff to report back to LAFCO on the outcome of this discussion.

- b. Reaffirm the existing zero SOI for the **County Sanitation District 2-3 (CSD 2-3)** as recommended in the Service Review Report.
 - c. Reaffirm the existing coterminous SOI for the **Lake Canyon Community Services District (LCCSD)** as recommended in the Service Review Report.
 - d. Reaffirm the existing coterminous SOI for the **Lion's Gate Community Services District (LGCSD)** as recommended in the Service Review Report.
 - e. Reaffirm the existing SOI for the **Midpeninsula Regional Open Space District (MROSD)** as recommended in the Service Review Report.
 - f. Reaffirm the existing SOI for the **Santa Clara County Open Space Authority (OSA)** as recommended in the Service Review Report.
 - g. Retract the existing SOI for the **Cupertino Sanitary District (CSD)** to include only territory within each city's Urban Service Area and lands outside of the Urban Service Areas that are already within the District's bounds. Additionally, expand the existing CSD SOI to include Area A and retract the existing CSD SOI to exclude Areas B, E, and K.
 - h. Retract the existing SOI for the **West Valley Sanitation District (WVSD)** to include only territory within each city's Urban Service Area and lands outside of the Urban Service Areas that are already within the District's bounds. Additionally, expand the existing WVSD SOI to include Areas G, J, K, M, and N and retract the existing WVSD SOI to exclude Areas H, I, and L.
6. Direct staff to prepare the Final Report for the Special Districts Service Review: Phase 2 and to distribute the Final Report to all the affected agencies.
 7. Direct staff to contact each affected agency and request a written response on how and when the agency plans to address the findings and/or implement the recommendations presented in the Final Report and to provide an explanation if the agency disagrees with a finding or does not plan to implement a recommendation.

BACKGROUND

SERVICE REVIEW AND SPHERE OF INFLUENCE REQUIREMENTS

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (California Government Code §56000 et seq.) requires that each LAFCO conduct service reviews prior to or in conjunction with the 5-year mandated sphere of influence (SOI) updates. A service review is a comprehensive review of municipal services in a designated geographic area in order to obtain information about services, evaluate provision of services, and recommend actions when necessary, to promote the efficient provision of those services.

As part of the service review, LAFCO must prepare an analysis and written statement of determinations regarding each of the following categories:

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

As part of the sphere of influence update, LAFCO must prepare an analysis and written statement of determinations for each agency regarding each of the following categories:

- Present and planned land uses in the area, including agricultural and open-space lands
- Present and probable need for public facilities and services in the area
- Present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide
- Existence of any social or economic communities of interest in the area if the commission determines that they are relevant to the agency
- Present and probable need for water, wastewater, and structural fire protection facilities and services of any disadvantaged unincorporated communities within the existing sphere of influence

The Special Districts Service Review Phase 2 Draft Report reviews seven districts that provide sanitary sewer or wastewater collection services (i.e. Lake Canyon Community Services District, Lion's Gate Community Services District, Burbank Sanitary District, County Sanitation District No. 2-3, Cupertino Sanitary District, West Valley Sanitation District, and West Bay Sanitary District) and two open space districts (i.e. Midpeninsula Regional Open Space District and Santa Clara County Open Space Authority). The Report provides recommendations to promote efficient service delivery and improvement in the transparency, accountability and governance of these districts. The Report also includes service review determinations and sphere of influence recommendations and determinations for each of the eight special districts where Santa

Clara LAFCO is the principal LAFCO (San Mateo LAFCO is the principal LAFCO for the West Bay Sanitary District).

SERVICE REVIEW PROCESS

A Technical Advisory Committee (TAC) consisting of LAFCO Commissioners Abe-Koga and LeZotte, appointed by LAFCO; and Saratoga Fire Protection District Fire Commissioner Eugene Zambetti, appointed by the Santa Clara County Special Districts Association; provided input and guidance during the review process. The TAC met on July 30th and received a status report on the project and discussed preliminary findings and next steps.

After completing Phase 1 of the Special Districts Service Review, Policy Consulting Associates (PCA), LAFCO's Consultant for the project, began working on Phase 2 of the Special Districts Service Review and collecting readily available information on the nine affected special districts. In early April, PCA sent a "Request for Information" to these districts. In late April, PCA, with LAFCO staff in attendance, interviewed representatives of eight of the nine affected districts in order to collect additional information. In late June, PCA interviewed a representative of the remaining district (i.e. Lake Canyon Community Services District).

Next, draft profiles of the districts were developed and provided to each agency for internal review and comment in order to ensure factual accuracy prior to the release of the Public Review Draft Report. The data was analyzed and an administrative draft of the Special Districts Service Review Report: Phase 2 was developed for LAFCO staff's review. The County Planning Department prepared GIS maps of Phase 2 special districts for the Draft Report.

A Public Review Draft Report (dated September 6, 2013), which included recommendations and determinations for the affected special districts, was developed and posted on the LAFCO website for public review and comment. LAFCO staff sent a Notice of Availability/Notice of LAFCO's October 2, 2013 Public Hearing to all affected agencies and other interested parties announcing the release of the Special Districts Service Review Phase 2 Draft Report for public review and comment.

Comments on the Draft Service Review Report and Release of Revised Draft Report

LAFCO held a public hearing on October 2, 2013, to accept public comments on the Special Districts Service Review Phase 2 Draft Report. LAFCO received written comments (see Attachment B) on the Draft Report from Patrick McCormick (Executive Officer, Santa Cruz LAFCO), Lauren Monack (Administrative Services Manager, Santa Clara County Open Space Authority), and Richard Tanaka (District Manager-Engineer, Mark Thomas & Company) on behalf of the Cupertino Sanitary District, County Sanitation District No. 2-3, and Burbank Sanitary District. The Draft Report was then revised to address these comments. A redline version of the Revised Draft Report (dated October 23, 2013) was released on the LAFCO website and a Notice of Availability for

the Revised Draft Report/Notice of December 4, 2013 Public Hearing (Attachment A) was provided to all affected agencies and interested parties.

Comments on the Revised Draft Report

For the most part, LAFCO staff and the Consultant's extensive efforts to fully engage affected agencies during the Draft Report phase and subsequent public comment period ending October 9th were successful.

On November 15th, LAFCO staff received an extensive comment letter (see Attachment B) on the Revised Draft Report from the City of San Jose on behalf of two city departments (i.e. Environmental Services, and Public Works). In the letter, the City of San Jose suggests that it was not consulted earlier in the process. However, LAFCO's Consultant made multiple attempts to contact various City staff beginning in mid-July (during the development of Draft Report) which ultimately resulted in the Consultant interviewing Kerrie Romanow (Director of the City of San Jose's Environmental Services Department) in early September (just prior to the release of the Public Review Draft Report) concerning all of the issues that were raised during the drafting process. Ms. Romanow recommended that additional City staff be consulted on certain issues. However, the Consultant's calls to additional City staff were not returned.

The City's comment letter includes corrections, clarifications, and the City's position on the Master Agreement and various other individual agreements that the City of San Jose has with other cities and special districts related to regional wastewater facility and the wastewater collection system. It appears that the issues relating to the agreements are complex and should be worked out between the parties of these agreements. LAFCO staff has forwarded the City's comment letter to BSD, CSD 2-3, CSD, and WVSD for their information. To date, LAFCO staff has received a comment letter from WVSD (Attachment D) in response to the San Jose's November 15th comment letter. Staff anticipates receiving additional comments from some of these affected agencies in response to the letter, prior to the December 4, 2013 LAFCO meeting. However, resolution of these issues will require further time and effort by the agencies.

Attachment C includes a table listing all of the comments received to date along with a response that has been reflected in the Revised Draft Report or will be reflected in the Final Report.

ENVIRONMENTAL ANALYSIS

The Special Districts Service Review Report: Phase 2 is intended to serve as an information gathering tool to help LAFCO, the public and other agencies better understand how services are provided within Santa Clara County and to update the spheres of influence of the eight special districts where LAFCO of Santa Clara County is the principal LAFCO.

The Service Review Report consists of the following items:

- Profiles of the nine affected special districts

- Any issues related to the nine affected districts and recommendations for addressing those issues, including measures to enhance the accountability and transparency of special districts and potential alternative government structures to achieve efficiencies in service provision and address governance, transparency and accountability issues
- Service review determinations for the eight affected special districts where LAFCO of Santa Clara County is the principal LAFCO.
- Sphere of influence recommendations and determinations for the eight affected special districts where LAFCO of Santa Clara County is the principal LAFCO.

LAFCO is not required to initiate boundary changes based on this service review. LAFCO, local agencies or the public may subsequently use the service review together with additional research and analysis where necessary, to pursue changes in jurisdictional boundaries. Any future changes in jurisdictional boundaries will be subject to CEQA review.

The Service Review Report recommends that the spheres of influence of the following special districts be reaffirmed and retained:

- Burbank Sanitary District (BSD),
- County Sanitation District No. 2-3 (CSD 2-3),
- Lake Canyon Community Services District (LCCSD),
- Lion’s Gate Community Services District (LGCSD),
- Midpeninsula Regional Open Space District (MROSD), and
- Santa Clara County Open Space Authority (OSA).

The Service Review Report recommends that the SOI of the Cupertino Sanitary District (CSD) be retracted to include only territory within each city’s Urban Service Area and areas outside of the Urban Service Areas that are already within the District’s bounds. The Report also recommends that the CSD’s SOI be expanded to include Area A which is already within the bounds of the District and retracted to exclude Areas B, E, and K which are not presently receiving services from the District and are not logical areas for the District to serve in the future. The Report also recommends the detachment of Area B which is not receiving services from the CSD. Detachment of Area B would have to be initiated by the CSD. The aforementioned boundary changes would have no effect on the services that are currently being provided by the CSD or the territory that the CSD currently serves.

The Service Review Report recommends that the SOI of the West Valley Sanitation District (WVSD) be retracted to include only territory within each city’s Urban Service Area and the areas outside of the Urban Service Areas that are already within the District’s bounds. The Service Review Report also recommends that WVSD’s SOI be expanded to include Areas G, J, K, M, and N which are already within the bounds of the

WVSD and/or would create a more logical SOI boundary; and retracted to exclude Areas H, I, and L which are not presently receiving services from the District and are not logical areas for the District to serve in the future. The Report also recommends the annexation of Area K that is currently receiving services from the WVSD. Annexation of Area K would have to be initiated by the WVSD. The aforementioned boundary changes would have no effect on the services that are currently being provided by the WVSD or the territory that the WVSD currently serves.

The Service Review Report recommends that MROSD annex the portion of the Sierra Azul Open Space Preserve located outside of the District's bounds and within its SOI to align the District's boundary with the District's SOI, as the District has initiated capital planning efforts within that portion of the preserve in the form of trails and amenities, is conducting regular maintenance, and offers park ranger services to the area. Annexation of this area would have to be initiated by the MROSD. This annexation, in and of itself, would have no effect on the services that are currently being provided by the MROSD or the territory that the MROSD currently serves. Upon annexation, MROSD could decide to construct trails and other amenities that would be subject to CEQA review.

This staff report also summarizes the Service Review Report's recommendations on how to improve the accountability and transparency of special districts and on alternative governance structures for efficient service provision. Implementation of these recommendations will not result in direct or indirect physical changes in the environment.

Therefore, the Service Review Report is exempt from the requirements of the California Environmental Quality Act (CEQA) under §15306 Class 6; §15061(b)(3) General Rule; §15378(b)(5); and §15320 Class 20 of the State CEQA Guidelines, as described below:

Class 6 consists of basic data collection, research, experimental management, and resource evaluation activities that do not result in a serious or major disturbance to an environmental resource. According to the CEQA Guidelines, these may be strictly for information gathering purposes, or as part of a study leading to an action that a public agency has not yet approved, adopted, or funded.

Section 15061(b)(3) states that the activity is covered by the general rule that CEQA applies only to projects, which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Furthermore, Section 15378(b)(5) states that a project does not include organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment.

Class 20 consists of changes in the organization or reorganization of local governmental agencies where the changes do not change the geographical area in which previously existing powers are exercised.

SERVICE REVIEW REPORT RECOMMENDATIONS

The Special Districts Service Review Report identifies several opportunities and includes several recommendations for improving the services provided by the affected special districts. The following recommendations / findings are extracted from the report in order to facilitate LAFCO's follow-up and monitoring of agencies' implementation efforts and/or to explore potential governance structure alternatives, where applicable.

LAKE CANYON COMMUNITY SERVICES DISTRICT (LCCSD)

The following are recommendations that the LCCSD should implement in order to bring the District into legal compliance and to improve the accountability and transparency of the District:

- Ensure all board members submit Form 700s as required by law.
- Conduct biennial ethics training as required by law.
- Adopt and/or make available appropriate bylaws and policies.
- Prepare a budget prior to the beginning of the fiscal year.
- Submit the budget to the County Auditor's Office within 60 days of the start of the new fiscal year.
- Conduct a five-year audit as required by law, and submit the audit to the County Auditor's Office.
- Prepare a capital improvement plan.
- Account for future capital improvement needs (i.e., depreciation) when determining rates.
- Monitor board terms and expiration dates, and fill the vacant board position.
- Make information and documents available to constituents through a website.
- Clearly define how public information requests are to be handled to ensure full and timely response.
- Evaluate its contract General Manager and the operations of the District as a whole.

LION'S GATE COMMUNITY SERVICES DISTRICT (LGCSO)

The following are recommendations that the LGCSO should implement in order to operate as a public agency, bring the District into legal compliance, and improve the accountability and transparency of the District:

- Ensure all board members submit Form 700s as required by law.
- Conduct biennial ethics training as required by law.

- Unlock District website in order to allow it to be accessible to the general population.
- Make meetings open and accessible to participants other than subdivision residents and disseminate agendas and minutes to the broader public.
- Increase outreach to its residents to attract interested candidates for its Board of Directors to ensure the Board is selected through an elected process as intended.

MIDPENINSULA REGIONAL OPEN SPACE DISTRICT (MROSD)

The following is a recommendation that the MROSD should implement in order to improve the accountability and transparency of the District:

- As a courtesy, MROSD should ensure that it submits copies of its Form 700s with each of the counties in which it has territory.

Recommendation on Governance Structure Options

Apply to LAFCO of Santa Clara County for annexation of the portion of the Sierra Azul Open Space Preserve located outside of the District's bounds and within its sphere of influence to align the District's boundary with the SOI, as the District has initiated capital planning efforts within that portion of the preserve in the form of trails and amenities, is conducting regular maintenance, and offers park ranger services to the area.

SANTA CLARA COUNTY OPEN SPACE AUTHORITY (OSA)

The following is a recommendation that the OSA should implement in order to improve the accountability and transparency of the District:

- Improve management practices by submitting budgets and audits to Santa Clara County on time as required by law.

BURBANK SANITARY DISTRICT (BSD)

The following are recommendations that the BSD should implement in order to improve the accountability and transparency of the District:

- Include budget and audited financial statement on its website.
- Adopt a policy on expense reimbursements.
- As a best management practice, adopt policies specific to Brown Act compliance, public requests for information, and code of ethics.
- Work with the Cities of San Jose and Santa Clara to update the master agreement with regard to the treatment plant in the near future to describe in detail the extent of the District's capital obligations with regard to master plan improvements. The District would also like the agreement to address District's debt payments when capacity is transferred to the City upon annexation.

- Negotiate a new joint-use agreement with the City of San Jose granting the District permission to discharge its sewage to the City's outfall sewer system and granting the City permission to transport its sewage through the District's collection system and outfall under rare occasions.
- Negotiate a new contract with Environmental Commercial Sweeping for the continuation of street sweeping services.

Recommendation on Governance Structure Options

LAFCO staff should facilitate a meeting between BSD and the City of San Jose to discuss the service and governance structure alternatives identified in the Service Review Report, identify a preferred alternative, and outline how to proceed. LAFCO staff will update LAFCO on the outcome of this discussion and LAFCO will then consider next steps associated with the preferred alternative, as necessary.

COUNTY SANITATION DISTRICT 2-3 (CSD 2-3)

The following are recommendations that the CSD 2-3 should implement in order to improve the services provided by the District and the accountability and transparency of the District:

- Address structural integrity issues that have resulted in a particularly high rate of sewer system overflows.
- Accelerate capital improvement schedule, based on settlement agreement with Northern California River Watch.
- Accelerate inspection plans in order to properly address the issues the system is facing.
- Include rates, budget and audited financial statement on website, as well as provide a link to the County Board of Supervisor's website where constituents can access board meeting agendas and minutes pertaining to the District.
- File a copy of annual budget with the County Auditor.
- Work with the cities of San Jose and Santa Clara to update the agreement with regard to the treatment plant in the near future to describe in detail the extent of the District's capital obligations with regard to master plan improvements.
- Expedite contract negotiations and adopt a new joint-use agreement with the City of San Jose defining how operations, maintenance and capital improvements will be funded, given that wastewater from both areas within CSD 2-3 is conveyed to the regional wastewater treatment facility through mains and interceptor lines shared with the City of San Jose.

CUPERTINO SANITARY DISTRICT (CSD)

The following are recommendations that the CSD should implement in order to improve the services provided by the District and the accountability and transparency of the District:

- File a copy of District's annual budget with the County Auditor.
- Adopt a policy on expense reimbursements.
- As a best management practice, adopt policies specific to Brown Act compliance, public requests for information, and code of ethics.
- Assess the number of parcels that presently rely on private septic systems within the District's bounds and in areas that are completely surrounded by CSD's bounds, in order to better quantify potential future demand.
- Update District's master plan to reflect the current conditions of the system, if District is utilizing master plan from 1964.
- Work with the cities of San Jose and Santa Clara to update the master agreement with regard to the treatment plant in the near future to describe in detail the extent of the District's capital obligations with regard to master plan improvements.
- Expedite contract negotiations and adopt a new joint-use agreement with the City of San Jose defining how operations, maintenance and capital improvements will be funded and which agency will be considered lead in various circumstances, given that District and the City of San Jose share a portion of their sewer systems and lines that lead to the regional wastewater treatment facility.

Recommendation on Governance Structure Options

Collaborate further with the West Valley Sanitation District on issues of joint-concern, such as negotiations with the Cities of San Jose and Santa Clara, as well as identify any potential for resource sharing.

Recommendation for Jurisdictional Boundary Change

Apply to LAFCO to detach Area B from the CSD, as Area B is currently within the City of Sunnyvale, which provides wastewater collection services to the area and will continue to serve the area.

WEST VALLEY SANITATION DISTRICT (WVSD)

The following are recommendations that the WVSD should implement in order to improve the services provided by the District and the accountability and transparency of the District:

- Assess the number of parcels that presently rely on private septic systems within the District's bounds, in order to better quantify potential future demand.

- Work with the cities of San Jose and Santa Clara to update the master agreement with regard to the treatment plant in the near future. The District would like the agreement to 1) define how debt payments are addressed as areas are annexed by the City of San Jose and detached from WVSD, 2) define how treatment capacity should be transferred if areas are reversely annexed into WVSD and detached from the cities, and 3) describe in detail the extent of the District's capital obligations with regard to master plan improvements.

Recommendation on Governance Structure Options

Collaborate further with the Cupertino Sanitary District on issues of joint-concern, such as negotiations with the Cities of San Jose and Santa Clara, as well as identify any potential for resource sharing.

Recommendation for Jurisdictional Boundary Change

Apply to LAFCO to annex Area K, as Area K is currently receiving services from the WVSD.

NEXT STEPS

Staff will make any necessary or directed changes to the Report. Upon adoption of the Final Service Review Report by the Commission, staff will post the Final Service Review Report on the LAFCO website and notify affected agencies and interested parties that the adopted Final Report is now available.

In addition, if directed by LAFCO, staff will contact each agency and request a written response from them on how they plan to address the findings and/or implement the recommendations in the Final Report, and if they disagree with any finding or do not plan to implement any recommendation, to provide an explanation. Staff will update LAFCO on each agency's response, monitor their implementation efforts, and seek further direction from the Commission, as necessary.

ATTACHMENTS

Attachment A: Notice of Availability for the Revised Draft Report dated October 23, 2013/Notice of the December 4, 2013 LAFCO Public Hearing

Attachment B: Comment letters received as of November 15, 2013 on the Service Review Report

Attachment C: Responses to comments received as of November 15, 2013

Attachment D: WVSD Letter (dated November 19, 2013) Re: City of San Jose Comment Letter (dated November 13, 2013)

Note: The redlined version of the Special Districts Service Review: Phase 2 Revised Public Review Report dated October 23, 2013 is available on the LAFCO website (www.santaclara.lafco.ca.gov). Please see Attachments C for information on further revisions of the Draft Service Review Report.

DATE: October 24, 2013

TO: Special District Board Members and Managers
City Managers and County Executive
City Council Members and County Board of Supervisors
LAFCO Members
Interested Parties

FROM: Neelima Palacherla, Executive Officer

SUBJECT: **LAFCO's SPECIAL DISTRICTS SERVICE REVIEW REVISED DRAFT REPORT: PHASE 2**
Notice of Availability & Public Hearing

The Special Districts Service Review Phase 2 Revised Draft Report (with tracked changes) is now available for public review and comment on the LAFCO website at www.santaclara.lafco.ca.gov. The Report reviews seven districts that provide sanitary sewer or wastewater collection services (i.e. Lake Canyon Community Services District, Lion's Gate Community Services District, West Valley Sanitary District, County Sanitation District No. 2-3, Cupertino Sanitary District, West Valley Sanitation District, and West Bay Sanitary District) and two open space districts (i.e. Midpeninsula Regional Open Space District and Santa Clara County Open Space Authority). The Report includes a service review and sphere of influence update for each of these agencies and recommends actions to promote efficient service delivery, and improvement in the transparency, accountability and governance of these districts.

LAFCO will hold a Public Hearing to accept comments and consider adoption of the Special Districts Service Review Phase 2 Revised Draft Report.

LAFCO Public Hearing: December 4, 2013
Time: 1:15 P.M. or soon thereafter
Location: Board Meeting Chambers
70 W. Hedding Street, San Jose, CA 95110

You may provide written comments on the Revised Draft Report by mail to: LAFCO of Santa Clara County, 70 West Hedding Street, 11th Floor, East Wing, San Jose, CA 95110 **OR** you may email your comments to: dunia.noel@ceo.sccgov.org.

Written comments received by November 13th will be included and addressed in the staff report that will be provided to the LAFCO Commission in advance of the December 4, 2013 Public Hearing. Written comments received after November 13th will be provided to the LAFCO Commission at the December 4, 2013 Public Hearing and addressed at that time.

Please contact Dunia Noel, LAFCO Analyst, at (408) 299-5148 if you have any questions. Thank you.

Members
Local Agency Formation Commission of Santa Clara County
Attn: Dunia Noel, LAFCO Analyst
70 W. Hedding St. 11th Floor, East Wing
San Jose, CA 95110

Via Email and Regular Mail
November 13, 2013

Re: Special Districts Service Review Phase 2

Dear LAFCO,

These comments on the Special Districts Service Review Phase 2 Revised Draft Report dated October 23, 2013 (Report) are being submitted by the City of San Jose as the Administering Agency of the San Jose/Santa Clara Water Pollution Control (Regional Wastewater Facility or RWF), which provides wastewater treatment services to four of the special districts reviewed in the Report. Comments by the City of San Jose Public Works Department related to the section of the Report dealing with the districts' collection system are also included. We appreciate the opportunity to review and comment on the Report and would like to learn more about the LAFCO service review process, as it appears that consultation with the City of San Jose earlier in the process may have assisted LAFCO staff in preparation of the Report. We look forward to providing additional information that LAFCO may need to complete the Report.

Unfortunately, several City of San Jose departments that have an interest in the Report did not have an opportunity to fully review the Report, due to time constraints, and the need for additional information as more specifically detailed below. The City of San Jose may, therefore, be submitting additional comments on the Report prior to or at the December 4th hearing.

COMMENTS

Regional Wastewater Facility Comments

The following comments focus on the sections of the Report dealing with the County entities of the Burbank Sanitation District (BSD), County Sanitation District 2-3(CSD-2-3), Cupertino Sanitary District (CuSD), and the West Valley Sanitation District (WVSD). All of these agencies receive wastewater treatment service from the RWF. Collectively, these agencies are referred to in this letter as Tributary Agencies.

Districts Discharging to San Jose/Santa Clara Regional Wastewater Facility (RWF) and other Facilities Page 3: (Paragraph 4) – The Report needs to be clarified to reflect that the West Bay Sanitary District does not discharge to the RWF (Paragraph 6). The Report also needs to be

clarified with respect to whether other facilities located in Santa Clara County that provide services to the agencies are included in this report, or only to jurisdictions outside the scope of this Report.

It would also be appropriate to briefly note that the Tributary Agencies discharge to the RWF in accordance with agreements developed in 1983 and 1985 (1983/85 Master Agreements), and that terms of the CSD 2-3 Master Agreements are different than the other 3 Master Agreements with respect to payment of capital costs.

City of Santa Clara Ownership in the RWF Page 3: It is incorrect to state that the City of Santa Clara owns a flat 20% of the RWF. Santa Clara's ownership in the RWF is based on a complex formula that is evaluated annually based on a ratio of assessed property value in the City of San Jose and Santa Clara. This percentage is updated every Fiscal Year, and for 2013, Santa Clara's current ownership in the RWF is 17.7%.

South Bay Water Recycling Project (SBWR) Page(s) 3, 22, 48, and 70: SBWR is incorrectly identified as a joint powers authority. SBWR is the name of a very large water recycling project and is a part of the RWF, and thus is covered by the 1983/85 Master Agreements. SBWR was established, built and maintained as a sewer discharge compliance required program. It was constructed to address excessive freshwater discharge to San Francisco Bay, not to provide recycled water, although that is an outcome of the project. An engineering study was performed during the planning stages of the SBWR project, per the provisions in the Master Agreements. The maintenance and operation of SBWR remain a component of the RWF operating permit. The agencies were not required to borrow to meet their financial obligations to fund SBWR. We note that Santa Clara and Milpitas did not borrow in order to fund SBWR construction.

Capacity Ownership and Measurement for the RWF, Page 5, Figure ES-4:

The Tributary Agencies measure available capacity as specified per the provisions of the 1983/85 Master Agreements. The annual measurement is based on a 5 day average during peak dry weather flow that is determined annually by the RWF. Furthermore, the capacity measurement includes all sewage parameters: Flow, BOD, SS, NH₃. It appears that this table in the LAFCO Service Review does not use the methodology specified in the 1983/85 Master Agreements and does not tie out to the figures that are used for the official report of available capacity for the RWF facility for the Tributary Agencies. See Attachment 1, 2013 Plant Capacity Report, which may provide information that LAFCO staff can use to correct the Table.

Annexations: Page (s) 21, 47, 209: This Report incorrectly states that the BSD, CSD-2-3 and CuSD Master Agreement address annexations. Only the WVSD Master Agreement deals with annexations. Further, the Report should more clearly acknowledge that San Jose and West Valley

have been following the annexation provision in the 1983 Master Agreement in dealing with annexations that are covered by the WVSD Master Agreement. Moreover, the suggestion in the Report that it is improper for debt service to continue to be paid by the agency after an annexation overlooks the fact that agencies could have paid cash for their contribution to SBWR and were not required to take in debt. In addition, annexations involve many issues other than sewage treatment, and these issues will vary from agency to agency. We note that the WVSD annexation provision was crafted using data unique to WVSD.

Plant Master Plan and other RWF Budget Issues, Page(s) 4, 29, 55, 77, 216, 217: The discussion in the LAFCO Report of the RWF capital improvement program (CIP) budget for the Plant Master Plan (PMP) is inaccurate. The total amount currently budgeted for PMP projects, which includes both all rehabilitation projects and all new projects is approximately \$2.2B, not \$3B as seems to be implied in the LAFCO Report. The \$680.9M amount mentioned in the Report for CIP projects to be constructed over the next five years is included in this \$2.2B amount. It is not a separate amount as implied in the Report. The confusing manner in which these figures are presented is repeated for each of the Tributary Agency sections, under Financial Adequacy.

In addition, the Report mischaracterizes the PMP renewable energy and open space/ habitat projects as "supplemental" to operation of the RWF. The renewable energy projects are still at a very conceptual stage and will be evaluated, if and when they are brought forward, for their ability to meet the power demand fluctuations of the RWF, in addition to undergoing further environmental review under CEQA. Habitat improvement projects, such as the area provided for the Western Burrowing Owl, have been supported by the efforts of NGO partnerships, volunteers, and other donated materials, and do not represent capital investment. In fact, habitat management can be achieved through adjustments to existing bufferland maintenance activities, such as mowing grasslands for fire control purposes. Other areas proposed to remain as open space require maintenance at a similar level, as they do not contain managed trails or developed parkland. Where permanent conservation easements might be considered, compensation for that land is being pursued through third parties, such as the Santa Clara Valley Habitat Plan.

We also note that the currently planned CIP projects have been under discussion at the RWF Treatment Plant Advisory Committee (TPAC) for seven years and received unanimous TPAC support from the master planning stages and all annual budget approvals to date. TPAC is comprised of elected officials representing the cities of San Jose, Santa Clara, Milpitas, CuSD and WVSD. TPAC holds public meetings once a month and staffs from these agencies frequently attend the meetings. Officials from BSD and CSD-2-3 may also participate in the TPAC meetings, although they are not voting members.

The Master Agreement, Financing and Amendments Page(s) 21, 41-42, 47, 64-65, 70, 86, 209, 236: The Report incorrectly states that the extent of the various districts' "capital obligations with regard to Master Plan improvements at the plant are not fully described [in the 1983/85 Master Agreements] and are outdated." Many, if not most of the PMP project costs are for the same type of capital projects that the districts have been paying for over many years under the formulas established in the 1983/85 Master Agreements. In addition, the districts' TPAC representatives have recommended approval of all projects in the five year CIP to the San Jose City Council.

Similarly, the Report inaccurately states that the cities of San Jose and Santa Clara are currently engaged in negotiations regarding the districts' financing needs related to PMP projects and recycled water. The City of San Jose acknowledges that the 1983/85 Master Agreements will need to be amended, or supplemental financing agreements will need to be developed, if the agencies desire to finance their share of PMP project costs. San Jose does not anticipate needing to finance its share of near term PMP project costs, but would be willing to discuss financing options for the near term projects with Santa Clara and the Tributary Agencies (including the City of Milpitas) if desired by those parties.

Current Outstanding Debt for SBWR, Page(s) 59, 81, 220, 221:
Sewer Revenue Bonds

For the paragraph on San Jose's Sewer Revenue Bond issuance, see Attachment 2, Note #5, on page 12 of the Financial Statements for the Clean Water Financing Authority for the official record for the description and disclosure of the bond issuance.

State Revolving Fund Loan (SRF)

The financing plan used to fund the SBWR Program includes loans and grants totaling approximately \$120,663,000, which have been incurred or received to date from federal and state agencies in reimbursement of capital costs associated with the SBWR program. About \$79,000,000, of this amount consists of eleven loans made to San Jose on behalf of the RWF by the State of California. The current outstanding principal on the state loans is \$24,123,428. The total annual payment on the state loans is \$4,463,882 through June 30, 2018, with a final payment of \$1,804,020 due in fiscal year 2018-2019.

Million Gallons per Day (MGD), Pg 81:
7.875 MGD should be 7.85 MGD

Wastewater Collection System Capital Facilities Comments

The following comments focus on the sections of the Report dealing with the County entities capital facilities for wastewater collection.

Burbank Sanitation District

Attachment 3 is San Jose Public Works CIP staff comments for the BSD portion of the report with copy of the agreement map (Attachment 4). The following additional information requested:

- Is there a district master plan for sanitary sewer mains?
- Connection fees collected?
- Other utilities within the BSD jurisdiction?
- Any outstanding bonds other than related to the RWF?

Attachment 5 is copy of BSD boundary map from the City of San Jose Sewer Master Plan. The map shows both sanitary and storm sewers serving the district, with diameters and project record drawing numbers for reference and research if needed. An MGE number represents that no plan can found from City records. Please note that the map shows different boundary from the LAFCO report.

Attachment 6 is a general map of City Master Plan identified deficiency within south boundary of BSD.

County Sanitation District 2-3

San Jose Public Works CIP staff suggests revisions as follows, based on San Jose Sewer Master Plan project recommendations and study conducted on the East Hills Drive and South White Road system:

- Revise page 58, paragraph #1 under “Capital Outlays”
 - The District has a five-year... with a large proportion of expenditures on capacity improvements ~~from six-inch main to eight-inch main~~ of several existing eight-inch district owned sanitary sewer mains in the Alum Rock area of the District...
- Revise Page 60, paragraph #2 under “Infrastructure Needs” to read:
 - The District’s facilities have existing infrastructure deficiencies which include several eight-inch mains that need to be upgraded ~~from six- to eight-inch mains~~ to larger pipe size. This increase in main size is needed ~~because the existing six-inch mains flow into the CSJ’s system which consists of eight-inch main~~ due to

a Capacity Assessment Study conducted by the City of San Jose's Sanitary Sewer Master Plan staff in the East Area of the City's sanitary sewer system that showed the existing mains to be deficient. The City of San Jose has proposed...

- Revise Page 65, paragraph #6 under "Present and Planned Capacity..."
 - The District's facilities have existing infrastructure deficiencies which include several eight-inch mains that need to be upgraded from six to eight inch mains to larger pipe size. This increase in main size is needed because the existing six inch mains flow into the CSJ's system which consists of eight inch main due to a Capacity Assessment Study conducted by the City of San Jose's Sanitary Sewer Master Plan staff in the East Area of the City's sanitary sewer system that showed the existing mains to be deficient.

Attachments 7 and 8 show the boundaries of CSD per City Master Plan map. The map shows Master Plan identified sanitary and storm sewers serving the district, with diameters and project record drawing numbers for reference. An MGE number represents no plan can found from City records.

Attachments 9 and 10 show City Sewer Master Plan identified deficiencies within CSD boundary.

West Valley Sanitation District

Attachment 11 is the City of San Jose's copy WVSD map. Encircled is the slight boundary difference from Report. Is this an annexed portion to the City?

REQUEST FOR MORE INFORMATION

In order for the City to provide more comprehensive comments where the Report recommends annexation to San Jose, or the provision of additional services by San Jose, it is requested that the following information be included in the Report, or separately provided:

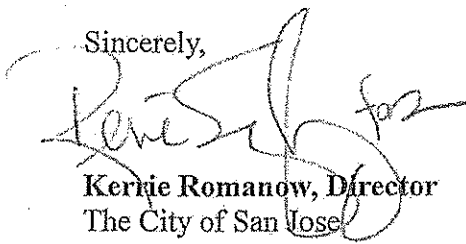
- Inventory of Assets
- Records indicating performance of the collection system
- Recent video inspections for both Sanitation Districts
- Record drawings and as builds
- Records showing repairs and rehabilitation projects for both Districts
- Records showing history of customer complaints
- Maintenance records
- Easements

- All pending litigation (if any)
- Known septic systems or unserved properties
- Lateral records
- Current fiscal status of invoices, current FY budgets payments to/from City.
- Storm/sanitary cross connects (if any)
- Creek channel liabilities due to fee title transfer

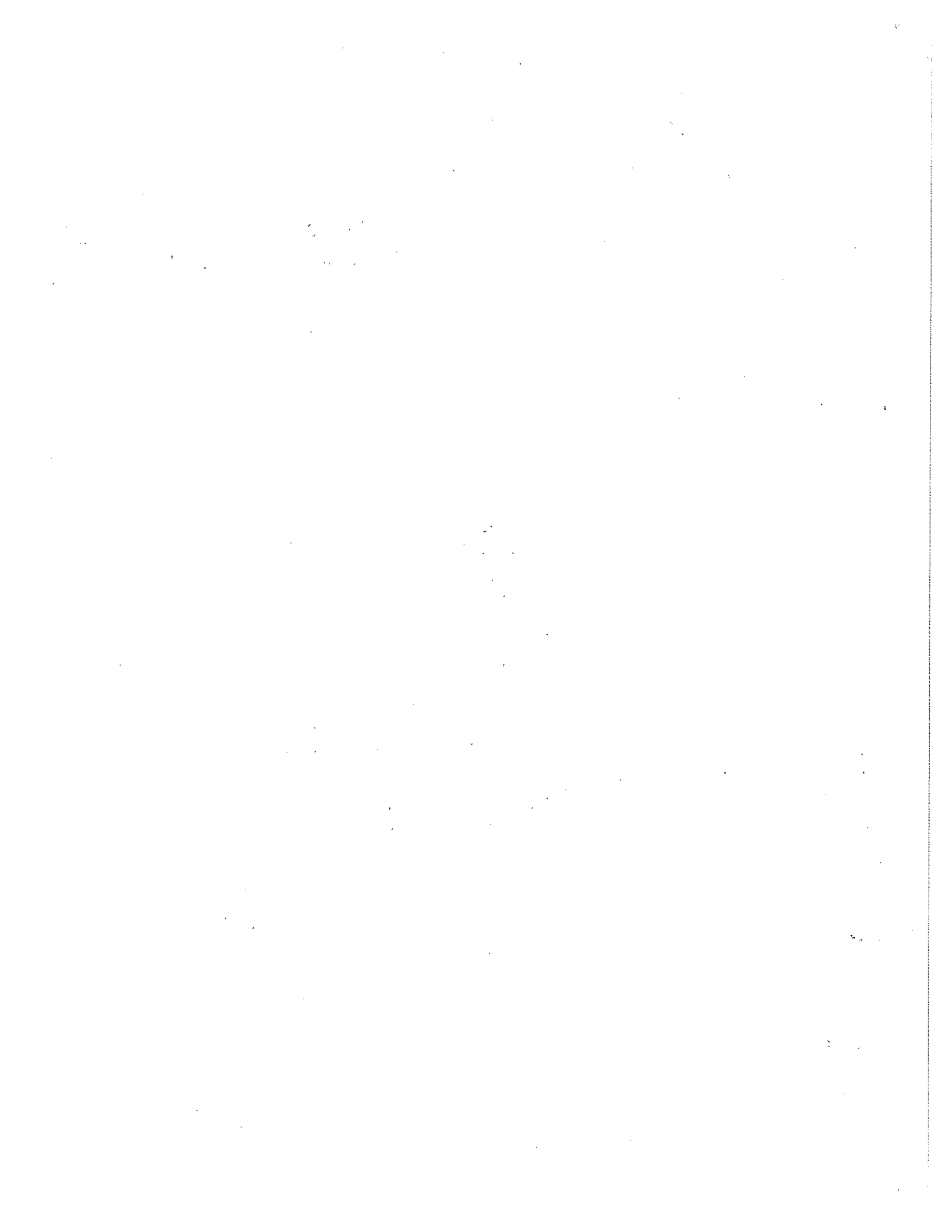
CONCLUSION

We appreciate the opportunity to review and comment on the Report and look forward to learning more about the LAFCO service review process and providing and receiving additional information. We hope our comments and continued participation in the LAFCO process will assist LAFCO staff in completing a thorough and accurate Report.

Sincerely,

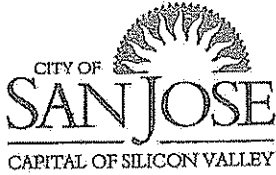

Kerrie Romanow, Director
The City of San Jose
Environmental Services Department
200 E. Santa Clara St.
San Jose, Ca. 95112

For questions, please contact Laura Burke, Fiscal Officer, Environmental Services Department, at (408)-975-2599.



Attachment 1





Environmental Services Department

SAN JOSE/SANTA CLARA WATER POLLUTION CONTROL PLANT

November 6, 2013

TO: Treatment Plant Advisory Committee

SJ: Tributary Agencies Available Plant Capacity - 2013

The Master Agreements require that the Treatment Plant Advisory Committee file annually with the legislative bodies of San Jose, Santa Clara and member agencies a report on plant capacity. The attached report, Tributary Agencies Available Plant Capacity - 2013, has been prepared to satisfy this requirement and to identify each agency's 2013 plant capacity as well as available (unused) capacity.

It is recommended that the Treatment Plant Advisory Committee approve the attached report.

Sincerely,

Kerrie Romanow
Director
Environmental Services Department

Attachment

**CITY OF SAN JOSE
ENVIRONMENTAL SERVICES DEPARTMENT**

SAN JOSE/SANTA CLARA WATER POLLUTION CONTROL PLANT

TRIBUTARY AGENCIES' AVAILABLE PLANT CAPACITY - 2013

November 2013

**CITY OF SAN JOSE
ENVIRONMENTAL SERVICES DEPARTMENT
SAN JOSE/SANTA CLARA WATER POLLUTION CONTROL PLANT**

TRIBUTARY AGENCIES' AVAILABLE PLANT CAPACITY - 2013

This analysis was prepared to comply with the terms of the Master Agreements which require that the operational capacity and productive use of the treatment plant be determined annually. Tables I through IV contain the Plant Capacity, the 2013 Peak Week (5-day average) Flow, and the Remaining Available Capacity for the entire plant and for each individual member for 2013.

2013 PLANT CAPACITY

The nominal capacity of the treatment plant during the 2013 peak week is 167 MGD. The agencies' capacity rights in the 167 MGD plant are shown on Tables I through IV and were determined in accordance with the provisions of the Master Agreements.

2013 PEAK WEEK FLOW

The 2013 peak dry weather flow of 110.24 MGD occurred during the week of September 16 - 20. Tables I through IV contain the agencies' flow and loadings for the 2013 peak week which were obtained from the following sources:

- WEST VALLEY SANITATION DISTRICT - Wastewater Flow Report dated 8/20/13, submitted by the District.
- CUPERTINO SANITARY DISTRICT - Metered Flow Reports.
- CITY OF MILPITAS - Metered Flow Reports.
- COUNTY SANITATION DISTRICT 2-3 - 2013-2014 Revenue Program.
- BURBANK SANITARY DISTRICT - 2013-2014 Revenue Program.
- CITY of SAN JOSE and CITY of SANTA CLARA - The 2013 Peak Week flow and loadings remaining after subtracting the other agencies' reported flows and loadings are attributed to San Jose and Santa Clara as joint owners of the facilities. These were allocated, in accordance with the 1959 Agreement, to the two cities based on current assessed valuation ratios of 82.223% for San Jose and 17.777% for Santa Clara.

2013 AVAILABLE CAPACITY

The Agencies' peak week flows and loadings were subtracted from their capacities in the 167 MGD plant to obtain their 2013 available capacities.

TABLE I

CITY OF SAN JOSE
 ENVIRONMENTAL SERVICES DEPARTMENT
 SAN JOSE/SANTA CLARA WATER POLLUTION PLANT
 TRIBUTARY AGENCIES' AVAILABLE PLANT CAPACITY - 2013

FLOW

Agency		2013 Plant Capacity MGD	2013 Peak Week Flow MGD	Available Capacity MGD
San Jose	82.223%	108.056	71.782	36.274
Santa Clara	17.777%	23.362	15.520	7.842
Subtotal	100.000%	131.418	87.302	44.116
West Valley Sanitation District	(1) (3)	12.052	9.941	2.111
Cupertino Sanitary District	(4)	7.850	4.369	3.481
City of Milpitas	(3) (4)	14.250	7.306	6.944
County Sanitation District 2-3	(2)	1.030	1.030	0.000
Burbank Sanitary District		0.400	0.292	0.108
Subtotal		35.582	22.938	12.644
Total		167.000	110.240	56.760

(1) Reflects transfer of capacity from West Valley Sanitation District to San Jose/Santa Clara resulting from annexations as of June 2013.

(2) In January 1985, County Sanitation District 2-3 entered into an agreement with the Cities of San Jose and Santa Clara, as joint owners of the plant, electing not to participate in a fixed capacity. Capacity is determined annually in accordance with the methods and restrictions prescribed in the agreement.

(3) Reflects transfer of capacity from West Valley Sanitation District to Milpitas in July 2006.

(4) Reflects transfer of capacity from Cupertino to Milpitas in January 2009.

TABLE II

CITY OF SAN JOSE				
ENVIRONMENTAL SERVICES DEPARTMENT				
SAN JOSE/SANTA CLARA WATER POLLUTION PLANT				
TRIBUTARY AGENCIES' AVAILABLE PLANT CAPACITY - 2013				
BOD				
Agency		2013 Plant Capacity KLBS/D	2013 Peak Week Flow KLBS/D	Available Capacity KLBS/D
San Jose	82.223%	382,431	174,864	207,567
Santa Clara	17.777%	82,683	37,807	44,876
Subtotal	100.000%	465,114	212,671	252,443
West Valley Sanitation District (1) (3)		29,283	21,690	7,593
Cupertino Sanitary District (4)		16,419	11,007	5,412
City of Milpitas (3) (4)		27,249	17,294	9,955
County Sanitation District 2-3 (2)		2,120	2,120	.000
Burbank Sanitary District		.815	.598	.217
Subtotal		75,886	52,709	23,177
Total		541,000	265,380	275,620
<p>(1) Reflects transfer of capacity from West Valley Sanitation District to San Jose/Santa Clara resulting from annexations as of June 2013.</p> <p>(2) In January 1985, County Sanitation District 2-3 entered into an agreement with the Cities of San Jose and Santa Clara, as joint owners of the plant, electing not to participate in a fixed capacity. Capacity is determined annually in accordance with the methods and restrictions prescribed in the agreement.</p> <p>(3) Reflects transfer of capacity from West Valley Sanitation District to Milpitas in July 2006.</p> <p>(4) Reflects transfer of capacity from Cupertino to Milpitas in January 2009.</p>				

TABLE III

CITY OF SAN JOSE ENVIRONMENTAL SERVICES DEPARTMENT SAN JOSE/SANTA CLARA WATER POLLUTION PLANT TRIBUTARY AGENCIES' AVAILABLE PLANT CAPACITY - 2013 SUSPENDED SOLIDS				
Agency		2013 Plant Capacity KLBS/D	2013 Peak Week Flow KLBS/D	Available Capacity KLBS/D
San Jose	82.223%	339,542	179,322	160,220
Santa Clara	17.777%	73,410	38,770	34,640
Subtotal	100.000%	412,952	218,092	194,860
West Valley Sanitation District (1) (3)		27,812	18,851	8,961
Cupertino Sanitary District (4)		16,299	8,789	7,510
City of Milpitas (3) (4)		25,990	12,375	13,615
County Sanitation District 2-3 (2)		2,094	2,094	.000
Burbank Sanitary District		.853	.589	.264
Subtotal		73,048	42,698	30,350
Total		486,000	260,790	225,210
<p>(1) Reflects transfer of capacity from West Valley Sanitation District to San Jose/Santa Clara resulting from annexations as of June 2013.</p> <p>(2) In January 1985, County Sanitation District 2-3 entered into an agreement with the Cities of San Jose and Santa Clara, as joint owners of the plant, electing not to participate in a fixed capacity. Capacity is determined annually in accordance with the methods and restrictions prescribed in the agreement.</p> <p>(3) Reflects transfer of capacity from West Valley Sanitation District to Milpitas in July 2006.</p> <p>(4) Reflects transfer of capacity from Cupertino to Milpitas in January 2009.</p>				

TABLE IV

CITY OF SAN JOSE
 ENVIRONMENTAL SERVICES DEPARTMENT
 SAN JOSE/SANTA CLARA WATER POLLUTION PLANT
 TRIBUTARY AGENCIES' AVAILABLE PLANT CAPACITY - 2013

AMMONIA

Agency		2013 Plant Capacity KLBS/D	2013 Peak Week Flow KLBS/D	Available Capacity KLBS/D
San Jose	82.223%	33.691	19.526	14.165
Santa Clara	17.777%	7.284	4.222	3.062
Subtotal	100.000%	40.975	23.748	17.227
West Valley Sanitation District (1) (3)		2.914	2.440	.474
Cupertino Sanitary District (4)		2.287	1.044	1.243
City of Milpitas (3) (4)		2.847	1.536	1.311
County Sanitation District 2-3 (2)		.280	.280	.000
Burbank Sanitary District		.297	.082	.215
Subtotal		8.625	5.382	3.243
Total		49.600	29.130	20.470

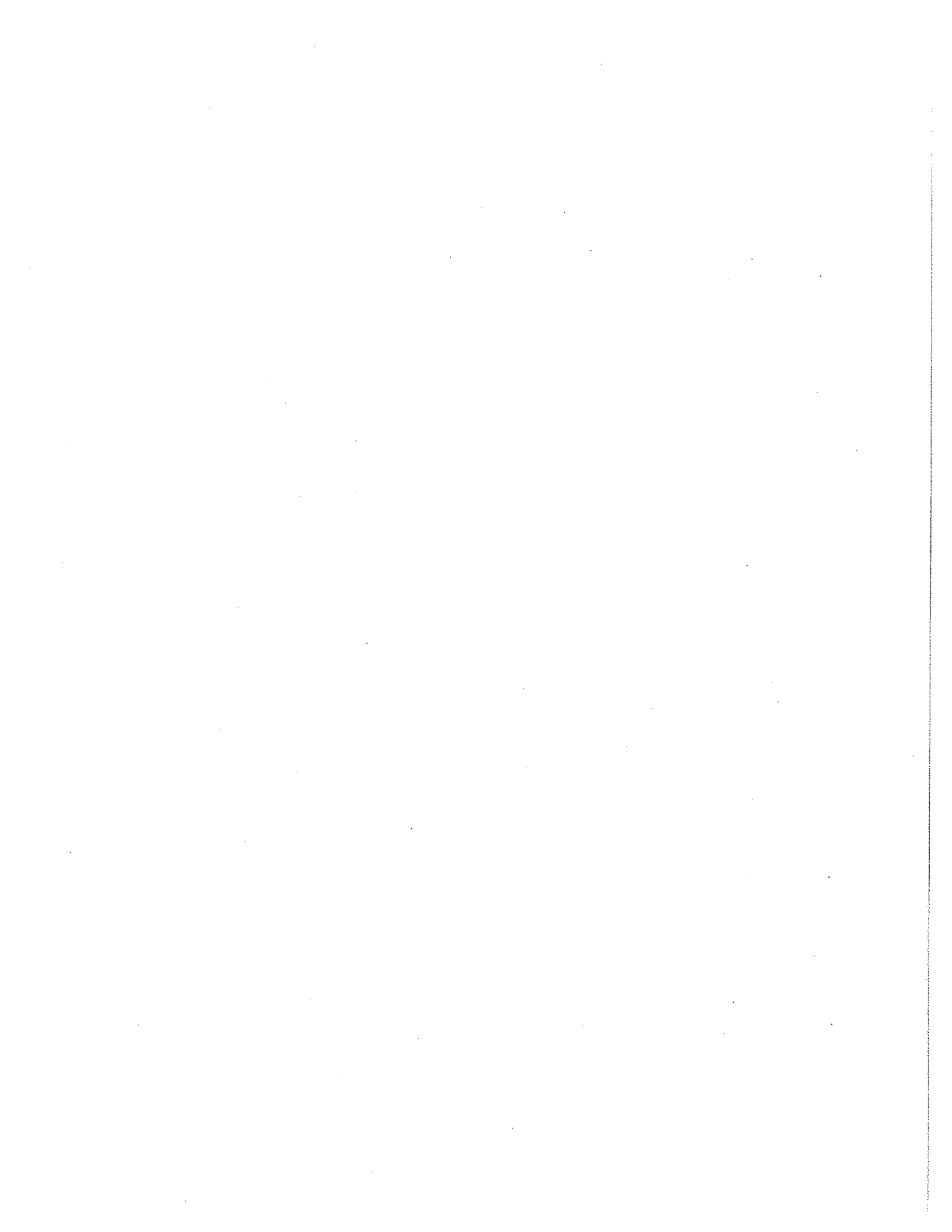
(1) Reflects transfer of capacity from West Valley Sanitation District to San Jose/Santa Clara resulting from annexations as of June 2013.

(2) In January 1985, County Sanitation District 2-3 entered into an agreement with the Cities of San Jose and Santa Clara, as joint owners of the plant, electing not to participate in a fixed capacity. Capacity is determined annually in accordance with the methods and restrictions prescribed in the agreement.

(3) Reflects transfer of capacity from West Valley Sanitation District to Milpitas in July 2006.

(4) Reflects transfer of capacity from Cupertino to Milpitas in January 2009.

Attachment 2



**SAN JOSE – SANTA CLARA
CLEAN WATER FINANCING AUTHORITY**
(A Component Unit of the City of San José, California)
Notes to Basic Financial Statements (Continued)
For the Year Ended June 30, 2013

NOTE 5 - BONDS PAYABLE

Series 2005A Bonds

On October 5, 2005, the Authority issued \$54,020,000 of Series 2005A sewer revenue refunding bonds. The proceeds of the Series 2005A bonds were used to refund the Authority's Series 1995A sewer revenue bonds. Debt service is payable from the Authority's revenue, which consists primarily of payments to the Authority from Net System Revenues of the sewer system operated by the City of San José. The Series 2005A bonds bear interest at fixed rates ranging from 3.25% to 5.00% and have a final maturity date of November 15, 2016.

Series 2009A Bonds

On January 29, 2009, the Authority issued \$21,420,000 of Series 2009A sewer revenue refunding bonds with fixed interest rates ranging from 3.00% to 5.00% maturing from November 15, 2016 through November 15, 2020. The proceeds of the Series 2009A bonds were used to refund the Authority's Series 2005B variable rate sewer revenue refunding bonds, which were used to refund the Authority's Series 1995B sewer revenue bonds. The 1995 Bonds were issued to pay for a project to recycle treated wastewater from the San José - Santa Clara Water Pollution Control Plant for irrigation and industrial uses in San José, Santa Clara and Milpitas. Debt service is payable from the Authority's revenue, which consists of payments to the Authority from Net System Revenues of the sewer system operated by the City of San José.

Changes in long-term debt during the year ended June 30, 2013, were as follows:

	Balance June 30, 2012 (as restated)	Retirements	Balance June 30, 2013	Balance due within one year
Sewer Revenue Bonds				
2005 Series A	\$ 26,890,000	\$ (5,125,000)	\$ 21,765,000	\$ 5,320,000
2009 Series A	21,420,000	-	21,420,000	-
Subtotal Sewer Revenue Bonds	48,310,000	(5,125,000)	43,185,000	5,320,000
Unamortized Premium	1,532,048	(236,162)	1,295,886	236,162
Total	<u>\$ 49,842,048</u>	<u>\$ (5,361,162)</u>	<u>\$ 44,480,886</u>	<u>\$ 5,556,162</u>

Annual future bond principal and interest repayments as of June 30, 2013, are as follows:

Year Ending June 30,	Principal	Interest	Total
2014	\$ 5,320,000	\$ 1,632,813	\$ 6,952,813
2015	5,320,000	1,395,063	6,915,063
2016	5,795,000	1,148,407	6,943,407
2017	5,855,000	932,688	6,787,688
2018	5,145,000	735,588	5,880,588
2019-2021	15,550,000	1,026,951	16,576,951
Total	<u>\$ 43,185,000</u>	<u>\$ 6,871,510</u>	<u>\$ 50,056,510</u>

**SAN JOSE – SANTA CLARA
CLEAN WATER FINANCING AUTHORITY**
(A Component Unit of the City of San José, California)
Notes to Basic Financial Statements (Continued)
For the Year Ended June 30, 2013

NOTE 5 - BONDS PAYABLE (Continued)

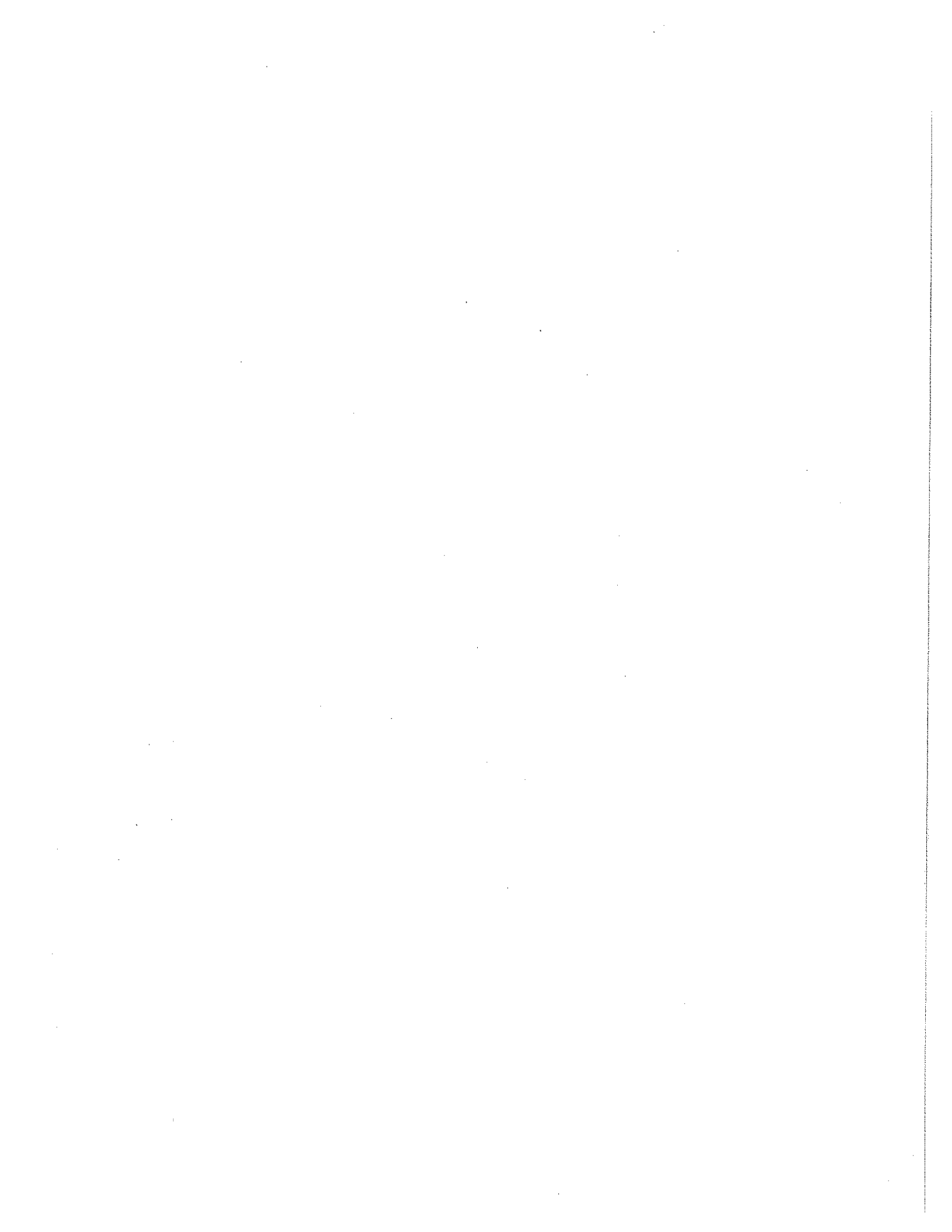
Revenues Pledged for Future Debt Service

The City has pledged, as security for bonds issued by the Authority, a portion of the Net System Revenues of the sewer system operated by the City of San José that is restricted for purposes of irrigation and industrial uses in San José, Santa Clara, and Milpitas in the recycle treated wastewater from the San José - Santa Clara Water Pollution Control Plant. The bonds, issued by the Authority in 2005 and 2009 in the amounts of \$54,020,000 and \$21,420,000, respectively, to provide financing for various capital projects of the Authority, are payable through 2021. The City has committed to appropriate each year, from the Net System Revenues, amounts sufficient to cover the principal and interest requirements on the Authority's debt. The Authority has pledged, as the sole security for the bonds, the annual appropriations from the City. Total principal and interest remaining on the debt is \$50,056,510 with annual requirements ranging from \$6,952,813 in 2014 to \$5,526,200 in 2021. For the year ended June 30, 2013, principal and interest paid by the Authority and the Base Payments made from Net System Revenues were \$5,125,000 and \$1,822,249, respectively.

NOTE 6 – ADVANCE FROM THE CITY OF SAN JOSE

During the year ended June 30, 2009, the City of San José's Wastewater Treatment System enterprise fund advanced \$6,249,375 to the Authority. The Authority deposited the funds received into the 2005A and 2009A Bonds reserve accounts in order to satisfy the Debt Service Reserve Requirement pursuant to the bond indenture. The advance bears no interest and will be repaid to the City of San José when the Debt Service Reserve Requirement is met through the surety policy issued by Financial Security Assurance, Inc. or when no bonds remain outstanding. At June 30, 2013, the balance from the advance from the City of San José is \$6,249,375.

Attachment 3



Overall comment - "BSD" or "District" is used interchangeably. Use BSD throughout the document for clarity.

URBANK SANITARY DISTRICT

AGENCY OVERVIEW

Burbank Sanitary District (BSD) provides sewer collection services for unincorporated islands within the City of San Jose. The District contracts with the San Jose-Santa Clara Regional Wastewater Facility for wastewater treatment and disposal. Additionally, BSD provides solid waste collection and street sweeping services through franchise agreements with private contractors. Santa Clara LAFCO last conducted a service review covering BSD in 2006.

BSD was established in 1940 to acquire, build, operate, and maintain a wastewater disposal system and provide solid waste and street sweeping services within an unincorporated area of Santa Clara County.

The principal act that governs the District is the Sanitary District Act of 1923.¹⁰ The principal act empowers the District to acquire, plan, construct, reconstruct, alter, enlarge, lay, renew, replace, maintain, and operate all of the following: garbage dumpsites, garbage collection and disposal systems; sewers, drains, septic tanks, sewage collection, outfall, treatment works and other sanitary disposal systems; stormwater drains, collection, outfall and disposal systems; and water recycling and distribution systems.¹¹ Districts must apply and obtain LAFCO approval to exercise services authorized by the principal act but not already provided (i.e., latent powers) by the district at the end of 2000.¹²

What does MSR mean?

Boundaries

BSD consists of two non-contiguous unincorporated areas that are surrounded by the City of San Jose and within San Jose's Urban Service Area (USA). Since the last MSR, two areas have been detached from the District, subsequent to the term San Jose. The District's bounds presently encompass 0.28 square miles.

This area is not clear if the boundaries are not defined (street names, etc.)

Sphere of Influence (SOI)

LAFCO adopted a zero SOI for the District in 1983, in order to recognize the long-term policy of LAFCO and the County that unincorporated islands within cities' USAs should annex to cities and receive city services.

As LAFCO and County policies regarding pocket areas and service provision remained the same since adoption of the existing SOI, LAFCO reaffirmed the zero SOI for BSD in 2006.

¹⁰ California Health & Safety Code, Div. 6, Pt. 1, §§ 6400-6830.

¹¹ California Health & Safety Code §6512.

¹² Government Code §56824.10.

Type and Extent of Services

Services Provided

San Jose

The District owns and maintains the sewer lines within the District's boundaries.

The District contracts with the San Jose-Santa Clara Regional Wastewater Facility (RWF) for wastewater treatment and disposal. Wastewater is conveyed from the areas within the District to the RWF in ~~Alviso~~ for treatment and then either used as recycled water or discharged through Artesian Slough into South San Francisco Bay.

Street sweeping services are provided through a service contract with Enviro-Commercial Sweeping, Inc. Streets within the District are cleaned once a week.

Solid waste collection services (including billing services) are currently provided through a service contract with ~~Green Waste Recovery~~ Waste Management Inc. Solid waste services include refuse, recyclable and yard trimmings collection.

Service Area

The District serves properties in an area mainly from Forest Avenue south to Moorpark Avenue and from Bascom Avenue east to Richmond Avenue.

BSD serves only areas within its bounds, and does not presently provide these services outside of its bounds. The District is not aware of any unserved areas that rely on private septic systems within its bounds.

Services to Other Agencies

The District does not provide services to other agencies.

According to the 3/28/80 agreement, City of San Jose conveys into BSD facilities.

Contracts for Services

The District receives contract services in the form of wastewater treatment and discharge from RWF, which is co-owned by the Cities of San Jose and Santa Clara. BSD entered into a master agreement with these cities for wastewater treatment in 1985. The agreement establishes capacity rights and obligations for the operation, maintenance and capital costs of the plant by member agencies.

It should be noted that the District identified certain deficiencies with regard to the master agreement with the Cities of San Jose and Santa Clara, which may warrant an engineering review and update in the near future to ensure consistency and clarity in the document. According to the agreement, as areas are annexed into San Jose, these areas are detached from BSD and the infrastructure and associated capacity at the treatment plant are transferred to the City. Currently, BSD reportedly continues to pay the debt payment to the cities for those annexed areas, even upon transfer of related capacity at the treatment plant, where improvements and expansion were financed by the debt in question. Finally, the extent of the District's capital obligations with regard to master plan improvements at the plant are not fully described and are outdated.

As previously mentioned, the District also contracts with Enviro-Commercial Sweeping for street sweeping services. The contract started in January 2001 and expired in 2004.

BURBANK SANITARY DISTRICT

The cost for Enviro-Commercial's services is based on the terms of the expired agreement. The District reported that a new contract will be negotiated this year.

Additionally, solid waste services are provided by franchise agreement with Waste Recovery Waste Management, Inc. Green Waste Recovery Waste Management conducts its own billing for these services directly to district residents. The agreement started in July 2007 and expires on June 30, 2017.

Collaboration

BSD collaborates and partners with other agencies in providing services. BSD is a member of the South Bay Water Recycling (SBWR) joint powers authority in collaboration with the Cities of San Jose, Milpitas and Santa Clara, and several other special districts. In 1998, the facility and pipeline was constructed to provide recycled water to water providers for irrigation, landscape and industrial uses. Wastewater treatment is provided by the RWF, while recycled water delivery is provided by SBWR. The City of San Jose manages and administers SBWR.

The 3/28/80 agreement states that City of San Jose conveys .104MGD and .190 MDG peak. City pays BSD biannually \$579.06 for its use, however this is deducted from \$2,668.72 that BSD pays to CSJ (hence the amount of \$2089.66 paid by BSD to CSJ.

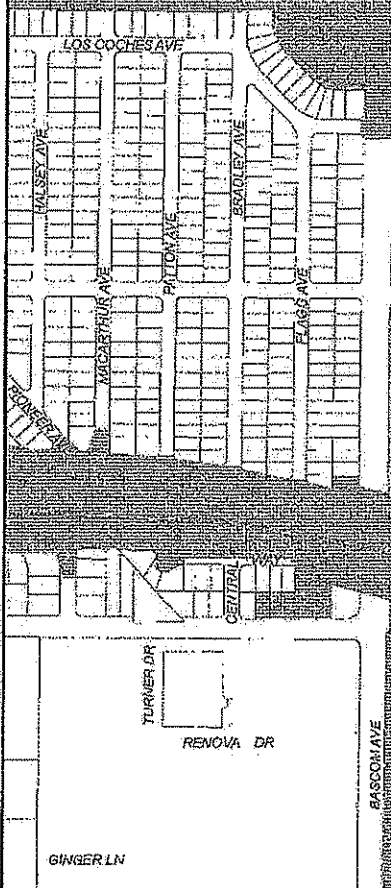
Similar to other special districts in the area, wastewater from within BSD flows through City of San Jose mains on its way to the treatment plant. City sewage also flows through the District's collection system. Consequently, the District and the City of San Jose were parties to an agreement, which granted the District permission to discharge its sewage to the City's outfall sewer system, and granted the City permission to transport its sewage through the District's collection system and outfall under rare occasions. Under this exchange of rights, the District was to pay the City \$2,668.72 per year, and the City was to pay the District \$579.06 per year, for a net payment of \$2,089.66 from the District to the City. After the expiration of the agreement on June 30, 1983, the District continued to make payments to the City until approximately 1997. Since that time, the District has used the City's outfall but has not made payments.

Additionally, the District is a member of the California Association of Sanitation Agencies (CASA).




Overlapping and Neighboring Service Providers

Services are not duplicated by other providers within BSD's bounds.

The 3/28/80 agreement indicates specific outfalls for the District and CSJ to utilize. This map does not correlate to the 1980 agreement. Has there been a revision to the agreement after expiration? It would be beneficial to include this information on the map and note annexed area over the year and sewer sheds (based on land use) to correlate to Figure 1-7, page 35.



Burbank Sanitary District

-  Burbank Sanitary District
 -  Parcels
 -  Incorporated Areas
- District has a zero Sphere of Influence*



June 2013

ACCOUNTABILITY AND GOVERNANCE

The District is governed by a five-member Board, which is to be elected to four-year terms. However, the District has not held a contested election since at least 2005, and board members have generally run unopposed or have been appointed by the County Board of Supervisors.

Prior to an election (in an election year), the County Registrar of Voters publishes a legal notice in a local newspaper of the District's choice to announce any upcoming board terms that are expiring. Any persons interested in running for the position (incumbent or otherwise), must file with the County Registrar of Voters. If no more than one person is

Is this for the County or for BSD? If for the County, this should be deleted.

for each available position, then the Board of Supervisors can consolidate the and appoint individuals without conducting the election. If no one runs for a then the Board of Supervisors is empowered to appoint any person to the office qualified on the date when the election would have been held.¹³

process for appointment by the Board of Supervisors differs by district. There are no formal policies or standardized procedures on the part of the Board of Supervisors defining how openings are to be announced, how long the application period should be open, and the manner for interviews, etc. BSD reported that when filling a vacant position mid-term, any interested candidate's information is solicited and interviews are agendized and conducted as part of the Board's regular meeting. The district board then appoints someone to fill the position and the appointment is confirmed by the Board of Supervisors.

The current member names, positions, and term expiration dates are shown in Figure 1-2.

County?

Figure 1-2: BSD Governing Body

Burbank Sanitary District					
District Contact Information					
Contact:	Richard Tanaka/Steve Maehida, District Manager				
Address:	20863 Stevens Creek Boulevard #100, Cupertino, CA 95014				
Telephone:	(408) 255-2137				
Website:	http://www.burbanksanitary.org/				
Board of Directors					
Member Name	Position	Began Serving	Term Expires	Manner of Selection	Length of Term
Soren Spies	President	2006 9	12/2013	Elected	4 years
Michelle Kaelker-Boor	Secretary	2012	12/2015	Appointed	4 years
Michael Yoder	Director	2005 9	12/2013	Elected	4 years
Keri Russo	Director	2010 09	12/2013	Elected	4 years
Bruce Smith	Director	2008 11	12/2015	Elected	4 years

¹³ Elec. Code, § 10515(a).

Meetings	
Date/Time:	Every third Tuesday of each month at 7:00 pm
Location:	District Board Room, located at 20863 Stevens Creek Boulevard in Cupertino
Agenda Distribution:	Agendas are posted at the District office, Burbank Luther School District, and on the District's website.
Minutes Distribution:	Meeting minutes are part of the next meeting's agenda for board approval. The minutes are published on the District's website after approval.

The Board meets every third Tuesday of each month at 7:00 pm in the District Board Room, located at 20863 Stevens Creek Boulevard in Cupertino. Directors receive a \$115.50 stipend per meeting. Government Code §53235 requires that if a district provides compensation or reimbursement of expenses to its board members, the board members must receive two hours of training in ethics at least once every two years and the district must establish a written policy on reimbursements. As a member of CASA, district board members are eligible to receive ethics training annually through the association. All board members most recently completed ethics training in August 2012. The District does not have a policy regarding expense reimbursements. Additionally, the District is required to make available to the public a list of reimbursements over \$100 made to board members and employees over the last year.¹⁴ The District reported that there were no reimbursements over \$100 in 2012.

Agendas for board meetings are posted online and outside the front entrance of the district office, and at the Burbank Luther School District. Meeting minutes are a part of the next meeting's agenda for board approval. The minutes are published on the District's website after approval. The District conducts constituent outreach in addition to legally required agenda posting via its website and by sending flyers regarding the annual spring clean-up to district residents. BSD's website contains information on the District's services, Board of Directors, Board of Directors' meeting agendas and minutes, meeting schedule, and rates. It is recommended that the District also make available its budget and audited financial statement on its website.

Complaints to BSD are received in person or via phone, email, or letter. The District tracks all complaints to resolution. The district manager is responsible for ensuring all complaints are addressed. The District reported that it did not receive any formal complaints in 2012.

BSD?

BSD has operational regulations and several policy resolution framework for the District's operations. The District does not have Brown Act compliance, public requests for information, or code of ethics. If it is not legally required to have policies related to these specific topics, it is considered a best management practice for agencies to maintain such policies.

There is an every 2 year ethics training required stated in first paragraph?

The Political Reform Act (Government Code §81000, et seq.) requires state and local government agencies to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission has adopted a regulation (California Code of Regulations §18730)

¹⁴ Government Code 53065.5

which contains the terms of a standard conflict of interest code, which can be incorporated by reference in an agency's code. The District does have a policy regarding conflicts of interest.⁴³

Government Code §87203 requires persons who hold office to disclose their investments, interests in real property and incomes by filing appropriate forms with the Fair Political Practices Commission each year. All BSD directors have filed the required Form 700 Statement of Economic Interest forms in 2013, as reported by the County.

MANAGEMENT AND STAFFING

Are there records of these documents? Provide copies to CSJ.

The District does not have employees of its own. Management services are provided by Mark Thomas & Company, Inc. The district manager, provided by Mark Thomas & Company, is responsible for the day-to-day operations of the District. Operation of the District is overseen by the Board of Directors. Currently, Mark Thomas & Company, Inc. dedicates one full-time equivalents (FTEs) to administration, management, and inspection of the District. Maintenance is provided by contracting companies, including Able Construction, Rotor Rooter, and S&M Construction. The number of personnel dedicated to maintenance of the District's system through the contractors is dependent on the need at any given time; however, the District estimated that there were roughly one FTEs regularly maintaining the system.

All contract vendors, the field inspectors, and office accounting report to the head of administration. The head of administration and operations manager report to the district manager/engineer, who in turn reports to the Board of Directors.

BSD has retained a certified public accountant to audit the District's Comprehensive Annual Financial Report and prepare the annual financial transaction reports, which are required by the State Controller under Government Code §53891. BSD retains Ms. Jennifer Faught from Myers Nave as legal counsel.

BSD maintains several plans and documents to guide district efforts. The District adopts an annual budget, biennially audits its financial statements, and has developed a system management plan.

service goals, such as "Prevent sewer overflows and keep the environment clean."

The District reviews its operations completed and accomplished by benchmarking with other similar agencies, particularly with regard to rates. The District also regularly assesses the cause of any sewer system overflows in order to better target maintenance and repair services.

As the District does not have any staff, there are no formal staff evaluations. Administrative services are reviewed through invoices to the District's Board and regular reports at the monthly board meetings. District workload are tracked in

it is managed by Mark Thomas - state that it is contracted out to Mark Thomas.

dated October 17th, 2012.

SERVICE REVIEW

Mark Thomas makes the recommendations, so no work was proposed?

What are these rates? It should be noted in the financial section?

Are there records of SSO's? If so, need to indicate if any occurred and what measures/repairs have been done to correct the problem. Need to provide copies to CSJ.

If District has no staff, how is this managed? Documents should be provided to CSJ.

timesheets, which include the tasks completed for both administrative and maintenance activities. Inspectors are issued weekly duty lists to be completed. Maintenance services are also tracked in a daily maintenance log.

Government Code §53901 states that within 60 days after the beginning of the fiscal year each local agency must submit its budget to the county auditor. These budgets are to be filed and made available on request by the public at the county auditor's office. The County has reported that in recent years, it has not been the practice for special districts to file their budgets with the County. BSD has not yet submitted its budget to the County for

FY 14

Is BSD budget cycle the same as calendar year?

Special districts are required to submit annual audits to the County within 12 months of the completion of the fiscal year, unless the Board of Supervisors has approved a biennial or five-year schedule.¹⁶ In the case of BSD, the District must submit audits every two years.¹⁷ The most recent audit for BSD was completed for FYs 09 and 10. The District is in the process of completing its audit for FYs 11 and 12. As of the drafting of this report, the audit for FY 12 has not been submitted to the County.

Statement seems subjective. If there is relevance for it, indicate more facts.

State Controller of all financial transactions of the district during the preceding fiscal year within 90 days after the close of each fiscal year. The District has complied with this requirement.

POPULATION AND PROJECTED GROWTH

Land Uses

The district area is located within an unincorporated island of the City of San Jose. The District is generally built out and comprised of predominately single-family residential and some commercial uses. Planned land uses throughout the District area are generally similar to those of the existing uses.

are there industrial, institutional uses too? - see page 31.

Current Population

Based on 2010 Census data, the District's population as of 2010 was approximately 3,756.

Disadvantaged Unincorporated Communities

LAFCO is required to evaluate disadvantaged unincorporated communities as part of this service review, including the location and characteristics of any such communities. A disadvantaged unincorporated community is defined as any area with 12 or more

¹⁶ Government Code §26909.

¹⁷ BOS Resolution No. 2011-537.

peak usage mains in the system reached a maximum of 50 percent of available capacity of the pipeline.

is this in the collection system?

FINANCING

why does it need to be upgraded if BSD has 50% capacity available and 2013 video indicates pipes are fair to good condition?

Financial Adequacy

BSD reported that the current financing level was generally adequate and reportedly no impacts on the District's revenues from the recent recession. BSD anticipates that greater maintenance and capital improvement costs at the treatment plants, as well as pressure by the State to upgrade collection systems will create a need for enhanced revenues in the coming years.

how are these percentages calculated?

The City of San Jose is facing a major rebuild of the wastewater treatment plant during the next decade, which is projected to be \$680.9 million in capital improvement projects to be constructed over the next five years FYs 14-18. The District's share of capital costs of future improvements and operation and maintenance is 0.276 percent, respectively. As this project is implemented, the City's expenditures are anticipated to take up a significantly greater percentage of the total. The District recently completed three consecutive rate increases for FYs 12, 13, and 14 of four percent each. The District will review the rates again next year, to assess the need for a new rate increase schedule to cover anticipated RWF costs.

This statement contradicts page 30

percent and for the plant's annual

RWF

In addition, there are plans to make enhancements to the plant through the Master Plan Update to enhance use of renewable energy sources, and develop habitat and open space areas, among other improvements. These improvements are anticipated to cost approximately \$2.2 billion over a period of 30 years. As these improvements are supplemental to the operations of the sewer treatment plant, and not essential to the proper functioning of the plant, member agencies have sent letters to the City of San Jose in opposition of financing these improvements. Depending on the outcome of negotiations regarding these capital improvements, the District may need to further enhance its revenue sources to finance its obligations.

Over the past five fiscal years (FYs 08 to 12), district revenues have exceeded expenditures in two years, as shown in Figure 1-3. The District is reportedly spending down its reserves, as it anticipates the territory it is presently serving will be taken on by the City of San Jose, and the District will cease to exist.

It should be noted that in the previous service review, it was identified that as part of the District's FY 05 audit there certain deficiencies found in the operation of internal control that could adversely affect the District's ability to initiate, record, process, and report financial data. Since then, these deficiencies have been rectified, and no deficiencies were identified in the District's FY 10 audit.

registered voters, or as determined by commission policy, where the median household income is less than 80 percent of the statewide annual median.¹⁸

The California Department of Water Resources (DWR) has developed a mapping tool to assist in determining which communities meet the disadvantaged communities median household income definition.¹⁹ DWR did not identify any disadvantaged communities within Santa Clara County.²⁰

However, DWR is not bound by the same law as LAFCO to define communities with a minimum threshold of 12 or more registered voters. Because income information is not available for this level of analysis, disadvantaged unincorporated communities that meet LAFCO's definition cannot be identified at this time.

Projected Growth

Association of Bay Area Governments (ABAG) has projected a population growth of 41 percent from 2010 to 2035, or 1.4 percent annually, for the City of San Jose. As an unincorporated island within the City, this growth rate could be applied to the are developed as well. However, the territory within the District is generally built out, meaning no are developed and most future growth would be limited to infill development and redevelopment at greater densities, which can only occur following annexation to San Jose. Therefore, actual growth within the District is this report it is assumed that the population through 2035 with minimal growth.

add "with minimal vacant land available to be developed"

Does 1.4% suggest minimal growth on an annual basis? The first statement suggests that the District will grow at the same rate as CSJ.

Water conservation will likely offset (if not overcome) population growth as the primary factor affecting the amount of sewage coming from the District.

Additionally, the City of San Jose continues to annex bits and pieces of property, which will put small downward pressure on our population. The District encompasses unincorporated islands within the City of San Jose and will shrink in size as portions are annexed to the City. Hence, the maximum service area of the District is defined by its current boundaries. The District anticipates that eventually all territory will be annexed into San Jose, and the District will cease to exist.

The District forecasts service needs based on historical demand and growth data and current census information. The District has stated that the existing infrastructure has the ability to accommodate infill development within the District's service area. However, overall growth is expected to be minimal, as the District lands are generally built out with some potential for redevelopment or expansion on existing residences. In 2012, the District made use of 72.5 percent of its treatment plant capacity allocation of 0.4 million gallons per day. Additionally, a recent flow study conducted by the District showed that at

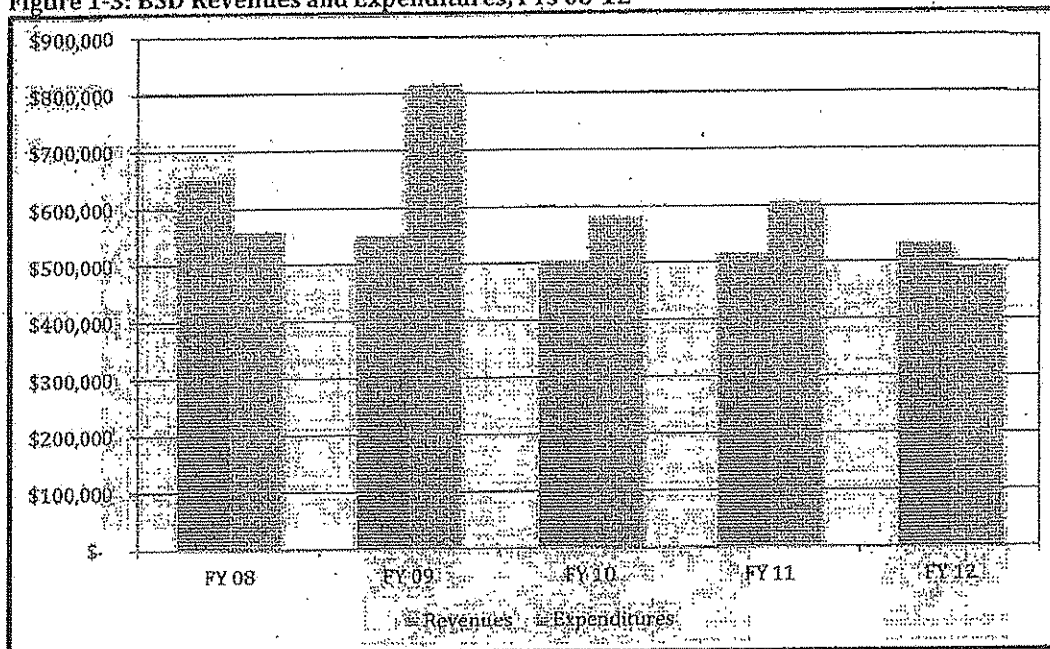
¹⁸ Government Code, §56033.5.

¹⁹ Based on census data, the median household income in the State of California in 2010 was \$57,708, and is \$46,166.

²⁰ DWR maps and GIS files are derived from the US Census Bureau's American Community Survey (ACS) for the five-year period 2006-2010.

BSD is allowed to discharge .4675 MGD and .841 MGD at peak flow into the collection system.

Figure 1-3: BSD Revenues and Expenditures, FYs 08-12



Source: BSD Financial Statements

Revenue Sources

In FY 12, the District received \$0.53 million in revenue. The District's revenues are derived principally from service charges, which consisted of 97.8 percent of revenue sources. Figure 1-4 below provides the District's sources of revenues in FY 12.

Figure 1-4: BSD Revenues, FY 12

Type of Revenue	Amount of Revenue	% of Total
Charges for Services	\$519,920.71	97.88%
Other fees	\$1,080.00	0.21%
Interest and Investment Income	\$10,281.30	1.94%
TOTAL	\$531,282.01	100%

Source: As reported by BSD.

Rates

The purpose of the sewer service revenues? are revenues to pay the costs of maintenance, operation, construction, and reconstruction of the District's wastewater facilities used for the collection, conveyance, treatment, and disposal of wastewater,

Sewer rates most recently changed for FY 14, and this is the last year of a three-year rate increase. Residential and non-residential rates changed by four percent between FYs 12 and 13 and by four percent between FYs 13 and 14. Rates are reviewed annually by the District. The District plans to review the rates again next year to assess the need for a new rate increase schedule.

Are there any industrial, institutional rates?

Residential customers are charged a set monthly rate for wastewater services, while commercial and industrial customers are charged rates that are based on the type of business and the amount of water used (hundred cubic feet of consumption). These rates are collected on the property tax bill. The current rates for FY 14 are shown in Figure 1-5.

Figure 1-5: BSD Wastewater Rates, FY 14

Rate Category	Rate
Residential (Monthly Rate)	
Single Family Connection	\$34.60
Multiple Family Connection (each dwelling)	\$19.67
Commercial (per hundred cubic feet)	
Garages and Service Stations	\$3.33
Restaurants and Bars	\$7.63
Retail, commercial, office, school, other	\$2.86

Charges for street sweeping services are levied and contained within property tax bills. The current charge for street sweeping services is \$13.08 annually per parcel.

The District's rates for solid waste services are dependent upon the size of the garbage cart used. The service includes recycling, and disposal of yard trimmings. The contract provider directly bills residents for these services and collects the revenues. The following are the residential curbside collection rates effective July 1, 2013.

- 20 gallons - \$18.33
- 35 gallons - \$22.53
- 65 gallons - \$35.30
- 95 gallons - \$48.08

Expenditures

In FY 12, the District's total expenditures amounted to \$0.5 million, as depicted in Figure 1-6. Payments to RWF for treatment and outfall maintenance constituted 52 percent of expenditures in that year. Other significant expenditures included management, accounting, and repairs and maintenance.

Figure 1-6: BSD Expenditures, FY 12

Type of Expenditure	Amount	% of Total
RWF	\$77,321.49	15.72%
Engineering	\$11,564.00	2.35%
Management/Engineering/Accounting	\$143,321.50	29.14%
Supplies	\$165.84	0.03%
Repairs and Maintenance	\$38,612.00	7.85%
Outfall Maintenance	\$177,634.00	36.12%
Depreciation	\$15,487.00	3.15%
Membership Fees	\$1,193.00	0.24%
Insurance	\$2,497.15	0.51%
Emergency Funds	\$2,385.00	0.49%
Miscellaneous	\$33,179.63	6.75%
TOTAL	\$491,796.61	100%

Source: As reported by BSD.

Capital Outlays

BSD does not have a formal multi-year capital improvement plan (CIP). Capital projects are identified on an annual basis during the budget process, as well as when needs are identified throughout the year. Additionally, the District has developed a repair and replacement program that is updated annually.

Reserves

At the end of FY 12, the District maintained \$1.7 million in unrestricted assets. As previously mentioned, the Board's goal is to have no reserves once the entire district is annexed into the City of San Jose. Consequently, BSD is spending down the reserves in anticipation of dissolution.

Debt

Should it be noted that payments to the City of San Jose for the collection system ceased after 1997?

The District does not hold title to any treatment plant assets, nor is it directly or legally responsible for any related outstanding long-term debt. However, as long as the District continues to be a part of agreements with RWF, it will be responsible for a predetermined share of the plant's annual debt service payments.

The District makes debt service payments on two bonds and a loan used to finance the SBWR projects. In September 2005, the District entered into a financing agreement with the Cities of San Jose and Santa Clara and the other tributary agencies of the RWF whereby \$81,150,000 of revenue bonds were issued. The Series A bonds have a fixed interest rate. The Series B bonds had a variable rate. The proceeds from the bonds were used to fully refund the 1995 Series A and B bond issue. The agreement calls for semi-annual payments to the City of San Jose.

In FY 99, the District entered into a financing agreement with the cities of San Jose and Santa Clara and the other tributary agencies of the RWF whereby \$73,566,018 in State

Are there any outstanding debts with BSD? Should be noted how much debt is remaining in a table format.

Revolving Fund (SRF) Loan program funds were received. These rate of 1.803 percent. The proceeds were used to additionally. The agreement calls for semi-annual payments in April and October.

what are the sizes of the pipes? Were the BSSO's repaired in 06-07? What methods of repair were implemented? Need to incorporate a table of existing inventory owned by BSD and show what needs to be repaired based on 2013 findings.

INFRASTRUCTURE AND FACILITIES

Wastewater Collection

The District owns and operates approximately 5.3 seven million lines and lateral sewers. The majority of the District's sewer lines are 1955 and are made out of vitrified clay pipe. The entire system is gravity fed with no pump stations. A system-wide videotape inspection of all sewer mains was conducted in 2006-07 and revealed that most of the lines were in fair to good condition. Deficient areas were identified and added to the capital improvement plan for repair and replacement program. All issues identified in 2006-07 have reportedly been repaired. In 2013 BSD completed another video inspection. The District has since prepared a map of defects and severities, which should guide repair and replacement efforts for the next several years.

The mains convey sewage from the District and eventually to the City of San Jose sewer system, ending up for treatment at the RWF in Alviso. The District contracts with RWF for wastewater treatment and disposal. The District's contract gives the District rights to a percentage of the capacity of their sewage treatment facilities. The contract requires the District to pay its share (based on its capacity ratio) of debt service, operation, maintenance, and improvement costs. The District has a fixed capacity allocation of the plant of 0.4 mgd, of which the District used 0.29 mgd or 72.5 percent in 2012.

Capitalize "BSD"

Infrastructure Needs

The District developed a repair and replacement GIP project. The District completed numerous repairs and pipe replacement since that time. During times of peak sewage flows, the pipes were less than half full. Average flows in the pipes were less than one quarter full at all five metered locations. Because no flow capacity issues have been identified within the system, all capital GIP projects focus on replacement or repair of existing pipes. Because the District is completely built out and no new developments are expected to significantly impact the sewer system, upsizing the system capacity has not been necessary. Additionally, inflow and infiltration does not play a major role in the District's system capacity. This can be attributed to the soil conditions, lack of trees, and flat elevations within the District. The replacement program GIP is updated each year as new projects are identified and the District has adequate reserve funds to complete at least \$100,000 in projects each fiscal year.

contradicts with statement in earlier sections.

As the District lands are expected to eventually become a part of the District should coordinate with San Jose regarding the financing of projects.

Video inspections were done in 2006-07 and 2013. So, new projects were identified each year?

The District reported that there is a challenge with multiple parcels having the same lateral, which causes access issues. As new houses are built a lateral extension is required. BSD has contracted with Pacific Underground Construction to build a new sewer line on Olive Avenue to allow each parcel to have its own lateral connection. Once the

SPECIAL DISTRICT

Was this within District's jurisdiction? CSJ required to be notified due to impact of connection?

It was stated earlier that other repairs were done, so it should be listed what BSD did to repair the collection system.

BURBANK SANITARY DISTRICT

separate Olive Avenue connections are made, the District will have eliminated all known lateral sharing amongst parcels.

The District also identified a particular challenge related to access to lower laterals. A minority of properties served by the District have property line clean outs. Those without cleanouts are hard to enter in order to perform maintenance and inspections. There are no plans to address this issue in the near future. As new buildings are constructed, clean outs are installed as a requirement.

Shared Facilities

CSJ shares some of BSD collection lines per 3/28/80 agreement.

As previously mentioned, BSD is receiving wastewater treatment from RWF and as a member of SBWR. Additionally, BSD shares some mains that lead to the treatment plant with the City of San Jose.

As the District's facilities are limited, no other opportunities for sharing facilities have been identified.

Street Sweeping

The District does not own any facilities and equipment with regard to street sweeping. This service is provided entirely by the contracting agency.

Infrastructure Needs

The contracting agency is responsible for any necessary infrastructure improvements. No infrastructure needs on the part of the District were identified with regard to street sweeping.

Shared Facilities

The District does not conduct facility sharing with regard to street sweeping.

Solid Waste Collection

The District does not own any facilities and equipment with regard to solid waste collection. This service is provided entirely by the contracting agency.

Infrastructure Needs

The contracting agency is responsible for any necessary infrastructure improvements. No infrastructure needs on the part of the District were identified with regard to solid waste collection.

Shared Facilities

The District does not directly conduct facility sharing with regard to solid waste collection; however all of the waste collected from within the District is disposed of at regional facilities that process waste from other areas as well.

What does this statement mean? How is it relevant? The connections should be shown on map (page 23).

DEMAND FOR SERVICE

Are there industrial, institutional users?

Wastewater Collection

The District provides sewer service to approximately 1,623 customers—1,574 residential customers and 49 commercial customers. The District maintains an inventory of connections throughout the service area, including each of the tributary cities as well as the unincorporated County areas.

The District reported that flow had slightly declined in recent years, due to annexations of territory by the City of San Jose. The District's average daily flow over the last four years is shown in Figure 1-7.

Figure 1-7: BSD Average Daily Flow (mgd), 2009-2012

Service Year	2009	2010	2011	2012
Average Daily Flow	0.33	0.303	0.29	0.29

Source: As reported by BSD.

Street Sweeping

The District is responsible for street sweeping on 14 miles of streets on both sides of seven major roads in the District. All streets are cleaned once a week to support the numbers shown here.

show the sewer sheds (based on land use) on the map on page 23 to support the numbers shown here.

street sweeping on 14 miles of streets in the District. All streets are cleaned once a week to support the numbers shown here.

It should be noted that the outfalls from the 3/28/80 agreement were annexed into CSJ therefore reducing the amount of BSD flow.

on both sides of seven major roads in the District.

Solid Waste

In 2012, Green Waste Recovery collected 8,741,295 tons of solid waste from within BSD.

Waste Management, Inc. collected 8,741,295 tons of solid waste from within BSD. Should state that measures were taken to reduce the waste to 55% of waste.

Spell out if first time being used.

SERVICE ADEQUACY

Wastewater Collection

This section reviews indicators of service adequacy, including regulatory compliance, sewer system overflows (SSOs), and collection system integrity. These service adequacy measures are outlined in Figure 1-8.

BSD has had no violations related to sewer services in the period from January 1, 2010 to July 7, 2013. Consequently, there have been no enforcement actions issued by the RWQCB during that time.

Wastewater agencies are required to report sewer system overflows (SSOs) to SWRCB. Overflows reflect the capacity and condition of collection system piping and the effectiveness of routine maintenance. One way of measuring collection system performance is to calculate an annualized sewer overflow rate. Some collection system agencies only have a responsibility to maintain sewer mains, while others are similar to the District and are responsible for both sewer mains and laterals. To provide a universally comparable sewer overflow rate, the sewer overflow rate is calculated as the number of overflows per 100 miles of mainline collection piping. BSD reported zero overflows during

BURBANK SANITARY DISTRICT

the period from January 1, 2010 to the present. What is the peak flow rate during this 3.5 year period?

are there any records in prior years? If so, what measures were done to eradicate the problem?

and consequently the amount of I/I in the system of BSD?

There are several measures of integrity of the wastewater collection system, including peaking factors, efforts to address infiltration and inflow (I/I), and inspection practices. Peaking factor is defined as the ratio of peak flow (peak wet weather flow of 0.61 mgd) to average dry weather flow (0.3 mgd). A peaking factor of about 3.0 is a generally accepted factor for the design of small diameter pipe. Based on a flow study conducted in 2009, the District has a peaking factor of 2, which is general within industry standards.

What is being done to keep this low?

it was stated earlier in this section that I/I was not an issue (page 33)?

Figure 1-8: BSD Wastewater Service Adequacy Indicators

Wastewater Service Adequacy and Efficiency	
<i>Regulatory Compliance Record, 2010-13</i>	
Formal Enforcement Actions	0
Informal Enforcement Actions	0
<i>Enforcement Action Type</i>	<i>Description of Violations</i>
None	N/A
<i>Total Violations, 2010-13</i>	
Total Violations	0
Priority Violations	0
<i>Service Adequacy Indicators</i>	
Total Employees (FTEs)	1.0
MGD Collected per FTE	0.290
Sewer Miles per FTE	7.0
Sewer Overflows 2010 - 2013 ²	
Sewer Overflow Rate ³	
Peaking Factor	
<i>Infiltration and Inflow</i>	
<p>BSD conducted a flow study in 2009 and 2010. During that time, there were a number of rain events, but it was determined by the contracting firm that conducted the study that the District's system did not exhibit symptoms of excessive infiltration and inflow. The findings from the CCTV should be included in this report.</p>	
<i>Practices</i>	
<p>conducting CCTV inspections of all pipes within the system. It was anticipated that implementation of the National Association of Sewer Service Companies (NASSCO) score, which ranks sewer mains between one (excellent condition) and five (worst condition).</p>	
Notes:	
(1) Order or Code Violations include sanitary sewer overflow violations.	
(2) Total number of overflows experienced (excluding those caused by customers) from January 1, 2010 to July 1, 2013 as reported by the agency.	
(3) Sewer overflows from January 1, 2010 to July 1, 2013 (excluding those caused by customers) per 100 miles of collection piping.	

Define excessive? On page 33 it states that I/I is not of concern, so be consistent in describing I/I in the BSD collection system. Basically, what is acceptable amount of I/I for peaking factor purposes?

Street Sweeping

Street sweeping service adequacy may be gauged based on customer satisfaction. For the purposes of this report, the number of complaints related to street sweeping is used as the indicator of resident contentment with services received. In 2012, BSD reported that it had received no complaints related to street sweeping.

Solid Waste Collection

The California Public Resources Code (PRC 41780) requires all jurisdictions to achieve 50 percent solid waste diversion after the year 2000. Diversion rates are defined as the percentage of total solid waste that a jurisdiction diverted from being disposed in landfills through reduction, reuse, recycling programs, and composting programs. Of the waste collected in 2012, approximately 55 percent was diverted. Based upon this information, the District was above this goal.

So, how does this percentage correlate to 874 tons being disposed (page 35)?

GOVERNANCE STRUCTURE OPTIONS

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

sewer mains?

At present, BSD faces a particular challenge in planning for its eventual dissolution. It has been the long-term goal of LAFCO and the County that unincorporated islands should be annexed to the cities. Likewise, the City of San Jose has a General Plan policy that states that unincorporated islands should be annexed. BSD is entirely surrounded by the City of San Jose and consists of territory that is anticipated to be eventually annexed by the City in its entirety. As areas are annexed into the City, they are concurrently detached from BSD. All infrastructure and related capacity is transferred to the City, and wastewater services are continued by the City of San Jose. This process poses three challenges to BSD—difficulties in coordinating maintenance of mains with San Jose, struggles in planning for eventual nonexistence in an unknown timeframe, and a declining number of connections that will eventually reach (or may already have reached) a level that lacks economies of scale for the District to provide services.

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

When/where has this been an issue?
How is this applicable?
Statement seems subjective. If necessary, indicate more facts.

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

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

In consideration of the challenges faced by BSD discussed here, two governance options were identified. First, BSD could continue to exist and provide services within its existing boundaries until all areas have been annexed to the City of San Jose. Under this option, the City could annex territory within the District, but BSD would continue to own the

infrastructure and provide services to and street sweeping. **BURBANK SANITARY DISTRICT** within the District as its boundaries exist now. Once all properties are annexed by the City, the District would be dissolved and the City would take on wastewater, solid waste collection, and street sweeping services. In this manner, the outcome would ultimately be the same with BSD dissolving and the City providing services, but it would allow the District to continue to provide services until that time, eliminating some of the challenges previously identified.

This alternative would have the following potential advantages and disadvantages, should conditions remain unchanged.

Figure 1-9: Advantages and Disadvantages of BSD Continuing Services

Advantages	Disadvantages
Issues revolving around future coordination of services and maintenance and operations of the systems between BSD and the City would be minimized, and the agencies would only have to address existing issues.	There is the potential that this option could cause confusion among residents as to whether they reside within the City of San Jose.
The option may eliminate the struggles that the District might face should its customer base become even smaller.	The District would continue to struggle with the timeframe for which it should plan for the conclusion of its business.

not sure if the City will continue services for solid waste collection and street sweeping. is the dissolution of BSD within a certain timeframe to allow for the plan for and complete its capital improvement plans and make use of the benefit of the District's customers. Upon dissolution, all district services are transferred to the City of San Jose and the City would take over the provision of wastewater, solid waste, and street sweeping services outside of the city limits. Given that eventual annexation of the territory in question is anticipated, services outside of the City's bounds would adhere with LAFCO's policies regarding extra-territorial service provision. While both alternatives would ultimately have the same outcome with the City taking on all wastewater services offered by the District, this option would clearly identify a schedule for dissolution, thus allowing the District to better plan for the conclusion of its business.

This alternative would have the following potential advantages and disadvantages, should conditions remain unchanged.

Figure 1-10: Advantages and Disadvantages of BSD Dissolution

Advantages	Disadvantages
Issues revolving around coordination of services and maintenance and operations of the systems between BSD and the City would be eliminated.	There is the potential that this option could cause confusion among residents as to whether they reside within the City of San Jose.
The option may eliminate the struggles that the District might face should its customer base become too small to	

Is 1.4% growth rate applicable to BSD? Conflicts with page 28. If so, is this considered nominal?

BURBANK SANITARY DISTRICT SERVICE REVIEW DETERMINATIONS

Growth and Population Projections

- ❖ Based on GIS analysis of 2010 Census data, Burbank Sanitary District (BSD) encompasses a population of approximately 3,756.
- ❖ As the area is entirely built-out, it is anticipated that the District will experience nominal inflow-zero to minimal growth over the next 25 years.
- ❖ BSD consists of an unincorporated island surrounded by the City of San Jose and will shrink in size as areas are annexed to the City. Hence, the maximum service area of the District is defined by its current boundaries.

which are?

Location and Characteristics of any Disadvantaged Unincorporated Communities Within or Contiguous to the Sphere of Influence

- ❖ There are no disadvantaged unincorporated communities within or adjacent to the District's service area based upon mapping information provided by the State of California Department of Water Resources. However, given the large size of the defined community in the census data used, it cannot be discounted that a smaller community that meets the required income definition and has 12 or more registered voters may exist within or adjacent to the District.

Present and Planned Capacity of Public Facilities and Adequacy of Public Services, Including Infrastructure Needs and Deficiencies

Need to identify the amount of debt owed by BSD

2012, the District used approximately 73 percent of its treatment capacity location. The District appears to have sufficient capacity at present and for the minimal anticipated growth well into the future.

- ❖ It is recommended that BSD and the City of San Jose enter into a master agreement with regard to the City's share of the District's improvements and address district payments owed by BSD since 1997 for using CSJ collection system. Also, an inventory of pipes within BSD indicating existing condition, repairs, material type (as built information) should be shown in this document.
- ❖ BSD and the City of San Jose share lead to the treatment plant. The District and the City should negotiate a new agreement with the City of San Jose.
- ❖ There are opportunities for enhanced collaboration and coordination with the City of San Jose, with respect to financing the upgrading of mains that flow into and

CSJ should receive back payments owed by BSD since 1997 for using CSJ collection system. Also, an inventory of pipes within BSD indicating existing condition, repairs, material type (as built information) should be shown in this document.

the describe planned to that der a strict

Is the rate for BSD the same as CSJ?

BURBANK SANITARY DISTRICT

efficiently provide services.	
Allows the District to better plan for the conclusion of its business.	
Customers may become accustomed to the City's services, which may expedite annexation.	
Cost savings may occur, which could be passed on to the rate payer, by reducing administrative and Board of Director costs.	

Given that there were more advantages to the dissolution of BSD identified, it is recommended that this option be the subject of additional study to determine the level of benefit in terms of services and anticipated costs and savings. It is also recommended that LAFCO facilitate a meeting between the two parties, BSD and the City of San Jose, to discuss these alternatives, identify a preferred option, and outline how to proceed with the collaboration. BSD has reported that it is amenable to meeting with the City to begin discussions of next actions.

- ❖ In three of the past five fiscal years the District's expenditures exceeded revenues.
- ❖ BSD maintains a high level of reserves equivalent to almost three years of district expenditures.

Status and Opportunities for Sh

what does this mean? Does this statement contradict the statement above?

- ❖ BSD practices extensive facility sharing by receiving wastewater treatment from the San Jose-Santa Clara Regional Wastewater Facility and as a member of South Bay Water Recycling. Additionally, BSD and the City of San Jose share a portion of their sewer systems and lines that lead to the treatment plant.
- ❖ No additional opportunities for facility sharing were identified.

Accountability for Community Services, Including Governmental Structure and Operational Efficiencies.

- ❖ BSD demonstrated accountability and transparency in its various aspects of operations. The governing body updates constituents, solicits constituent input, and posts public documents on its website. While BSD keeps its financial reporting and gets up-to-date, it is recommended that the District also make available its get and audited financial statement on its website. The District fully cooperated with LAFCO requests for information.

the Operation's internal controls that were deficient, did it establish new policies?

BSD has operational regulations and several policy resolutions that provide a framework for the District's operations. While not legally required, the District does not have policies specific to Brown Act compliance, public requests for information, nor code of ethics, which is considered a best management practice. Additionally, the District should adopt a policy on expense reimbursements as legally required.

staff was required to take a 2 year ethics course.

Improvements could be made to the District's operations in order to enhance accountability and transparency. The District should file a copy of its annual budget with the County Auditor as required by Government Code §53901 and adopt a policy on expense reimbursements as required by law.

- ❖ Two governance structure options were identified for BSD—1) continued existence and service within its existing boundaries until all areas have been annexed to the City of San Jose and 2) dissolution within a certain timeframe with services continued by the City of San Jose outside of city limits in anticipation of annexation.

affect the city system, as well as coordination of access and maintenance as small sections of the District's system are annexed and transferred into the City.

- ❖ Based on the District's regulatory compliance history, sewer system overflow rate, and collection system integrity, as indicated by comprehensive collection system inspection practices and infiltration and inflow rates within industry, BSD's wastewater services appear to be adequate.
- ❖ No significant infrastructure needs were identified related to the collection system's integrity or capacity. Capital needs are identified and addressed on an annual basis.
- ❖ BSD process of conducting CCTV inspections of all pipes within the sewer system will aid the District in prioritizing capital improvement projects.
- ❖ The particular challenge related to access to lower laterals. Approximately 10 percent of properties served by the District have property line clean outs. Those without cleanouts are hard to enter to perform maintenance and inspections. There are no plans to address this issue in the near future.
- ❖ No capacity concerns were identified regarding street sweeping and garbage collection services.
- ❖ BSD does not own any infrastructure related to street sweeping and solid waste collection services.
- ❖ The District continues to operate under an expired contract with Enviro-Sweep Commercial Sweeping. The District plans to negotiate a new contract in 2010.

where can this be found?

Are there assessments to be acquired if the BSD will be annexed into CSJ?

why is there a need to upgrade when the video indicated the pipes are ok (page 33)?

Financial Ability of Agency to Provide Services

- ❖ BSD reported that the current financing level was generally adequate. There have been reportedly no impacts on the District's revenues from the recent recession.
- ❖ There are certain anticipated challenges to ensuring adequate revenues in the future. Greater maintenance and capital improvement costs at the San Jose-Santa Clara Regional Wastewater Facility and pressure by the State to upgrade collection systems will create a need for enhanced revenues in the coming years.
- ❖ The District recently completed three consecutive rate increases for FYs 12, 13, and 14 of four percent each. The District will review the rates again next year, to assess the need for a new rate increase schedule to cover anticipated RWF costs.
- ❖ In the previous service review, it was identified as part of the District's FY 05 audit there were certain deficiencies found in the operation's internal controls. Since then, these deficiencies have been rectified, and no deficiencies were identified in the District's FY 10 audit.

be consistent

what does this mean? What are the deficiencies? How has it been rectified?

The District is negotiating with the Cities of San Jose and Santa Clara regarding the District's capital financing obligations for non-essential improvements to the plant and enhancements to recycled water production. Future revenue needs will be dependent on the outcome of these negotiations.

**BURBANK SANITARY DISTRICT
SPHERE OF INFLUENCE UPDATE**

Existing Sphere of Influence Boundary

Burbank Sanitary District has a zero SOL.

Recommended Sphere of Influence Boundary

Given that LAFCO and County policies regarding pocket areas and service provision have remained unchanged and continue to encourage the annexation of unincorporated islands to the surrounding cities, it is anticipated that the City of San Jose will eventually annex all territory within BSD. Consequently, regardless of the outcome of the governance structure options presented in this report, it is anticipated that BSD will ultimately cease to exist. It is recommended that in anticipation of the eventual dissolution of the District, that LAFCO reaffirm BSD's zero SOL.

Proposed Sphere of Influence Determinations

The nature, location, extent, functions, and classes of services provided

- ❖ Burbank Sanitary District (BSD) provides sewer collection services for unincorporated islands within the City of San Jose. The District contracts with the San Jose-Santa Clara Regional Wastewater Facility for wastewater treatment and disposal. Additionally, BSD provides solid waste collection and street sweeping services through franchise agreements with private contractors.

Present and planned land uses in the area Industrial, Institutional? Rural and open-space lands

- ❖ The district is located within an unincorporated island of the City of San Jose. The District is generally built out and comprised of predominately single-family residential and some commercial uses. Planned land uses throughout the District area are generally similar to those of the existing uses.
- ❖ There are no agricultural or open space lands within the District's bounds.

Present and probable need for public facilities and services in the area

- ❖ BSD encompasses an unincorporated island within the City of San Jose and will shrink in size as portions are annexed to the City. Hence, the maximum service area of the District is defined by its current boundaries.
- ❖ The District reported that growth has been minimal and is not affecting demand for services. The area within the District is largely built out, and most future growth would be limited to infill development and redevelopment. Therefore, actual growth within the District's boundaries is anticipated to be low.

Present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide

- ❖ In 2012, the District used approximately 73 per allocation. The District appears to have sufficient minimal anticipated growth well into the future.
- ❖ It is recommended that BSD and the cities of San J master agreement with regard to the treatment plan in detail the extent of the District's capital obligati improvements and address district debt payments the City upon annexation.
- ❖ BSD and the City of San Jose share a portion of their sewer systems and lines that lead to the treatment plant. The District and the City previously operated under a joint-use agreement that expired in 1983. It is recommended that the District negotiate a new agreement with the City.
- ❖ There are opportunities for enhanced collaboration and coordination with the City of San Jose, with respect to financing the upgrading of mains that flow into and affect the city system, as well as coordination of access and maintenance as small District's system are annexed and transferred into the City.
- ❖ No capacity concerns were identified regarding street sweeping and garbage collection services.
- ❖ The District continues to operate under an expired contract with Enviro-Commercial Sweeping. The District plans to negotiate a new contract in 2013.

not sure if it is warranted since BSD will be annexed. A table should be included based on 2013 video findings of existing system of BSD and show current status of pipe (existing, repaired, etc.) Excess funds should be used to fix pipes in need of repair.

why upgrade the main when video findings show the pipes are in good condition (page 33)?

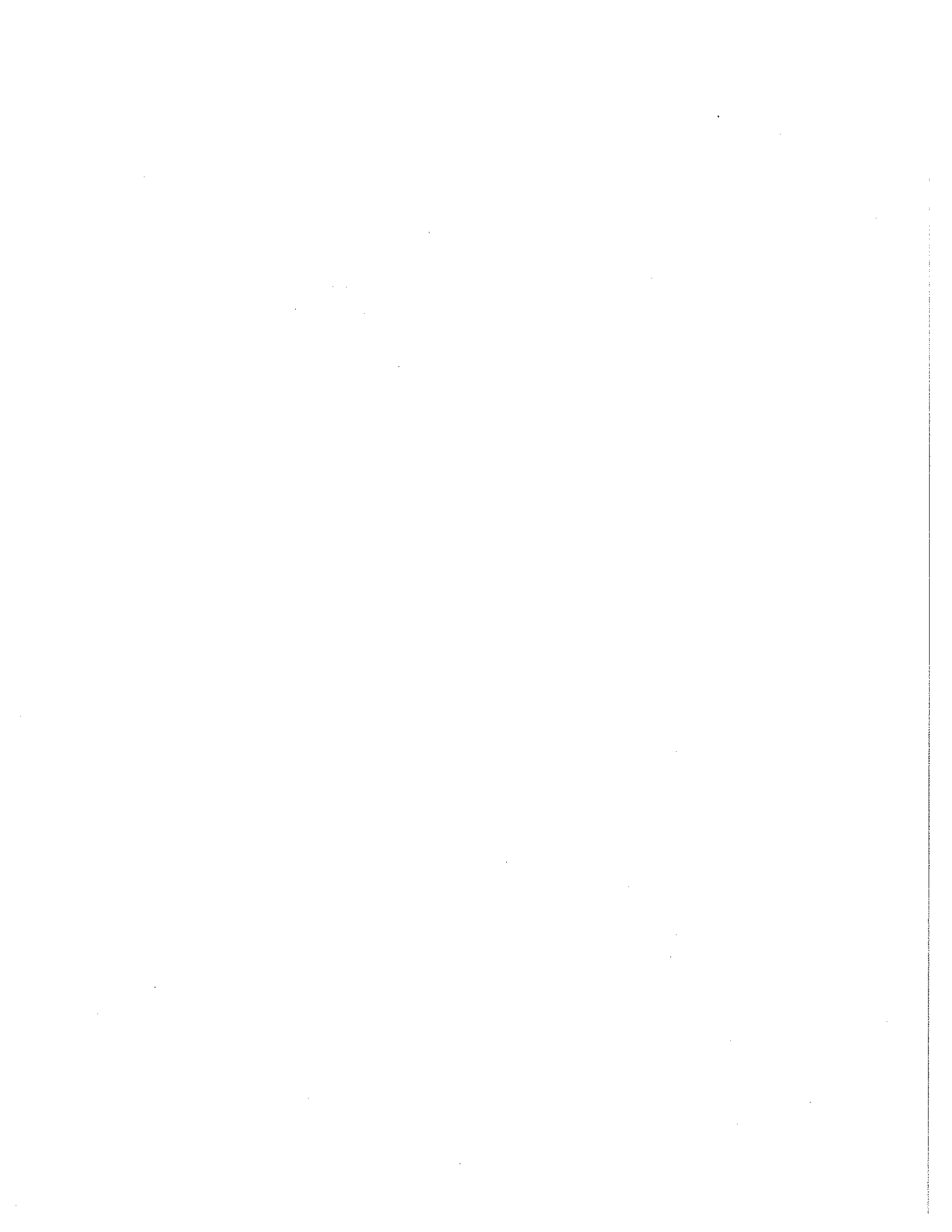
District's regulatory compliance history, sewer system overflow rate, system integrity, as indicated by comprehensive collection system practices and infiltration and inflow rates within industry standards, water services appear to be adequate.

Existence of any social or economic communities of interest in the area if the Commission determines that they are relevant to the agency

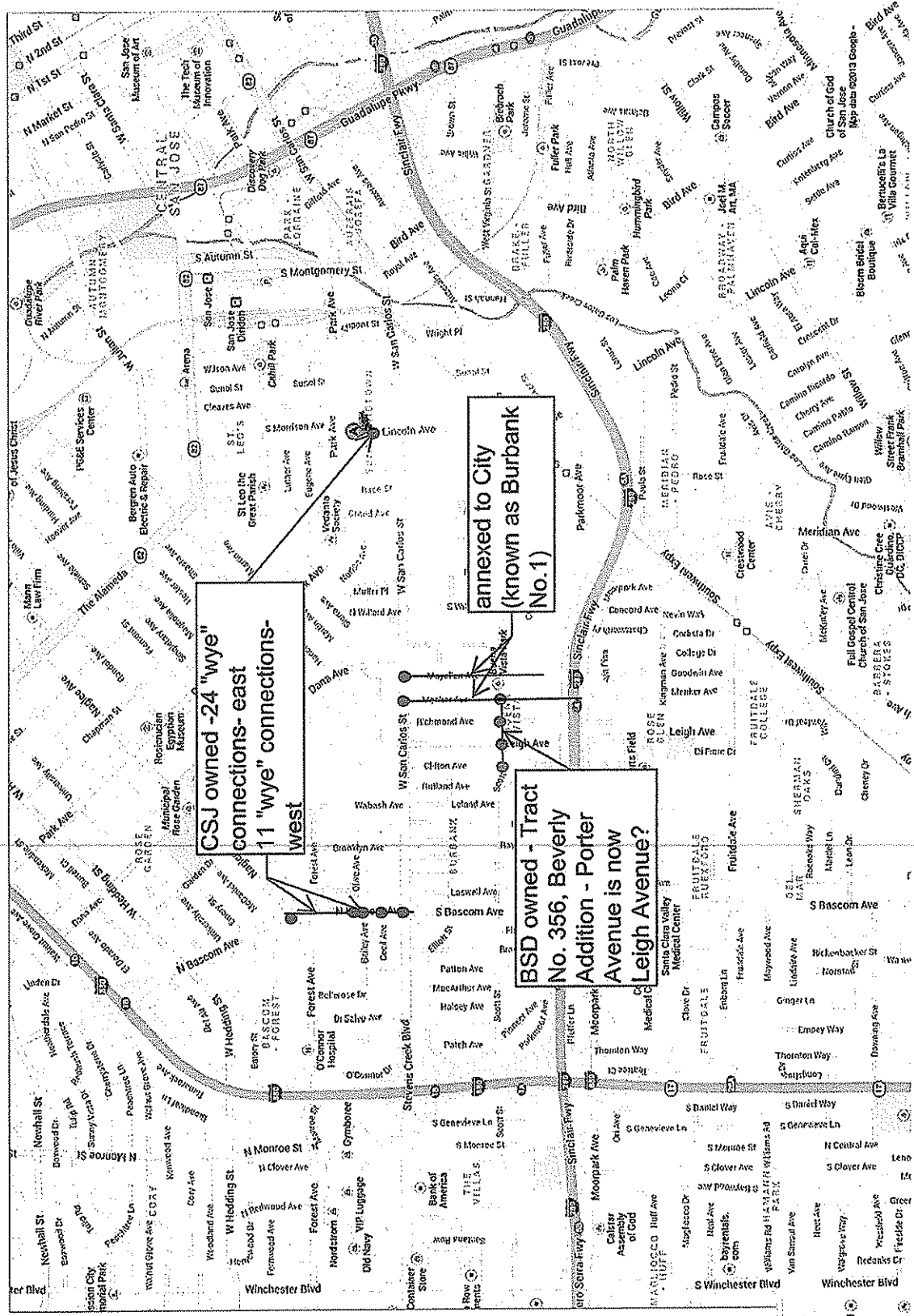
- ❖ The District encompasses an unincorporated island that is entirely surrounded by the City of San Jose. The District is part of the social and economic community of San Jose.

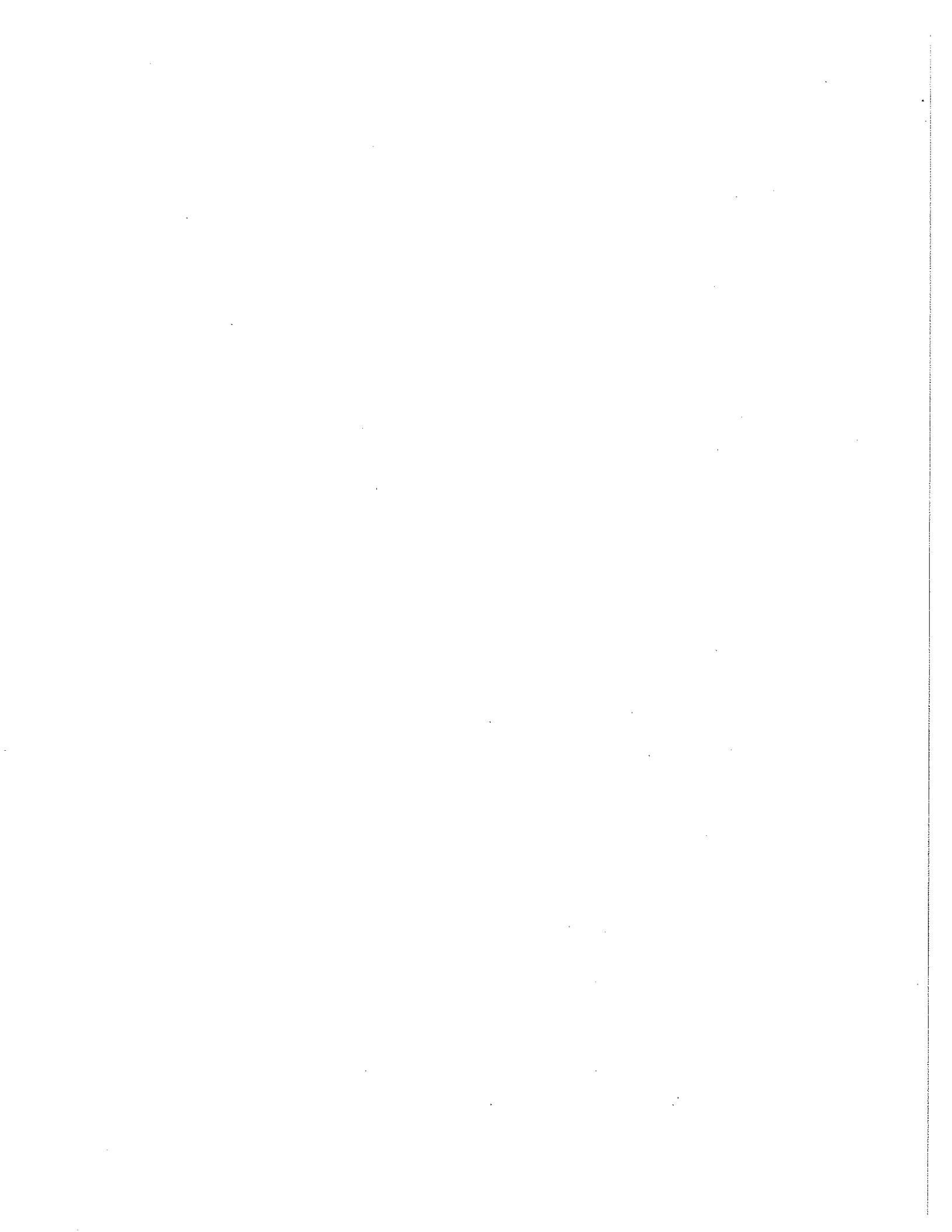
what does this mean? How is it a part of the community? expand.

Attachment 4

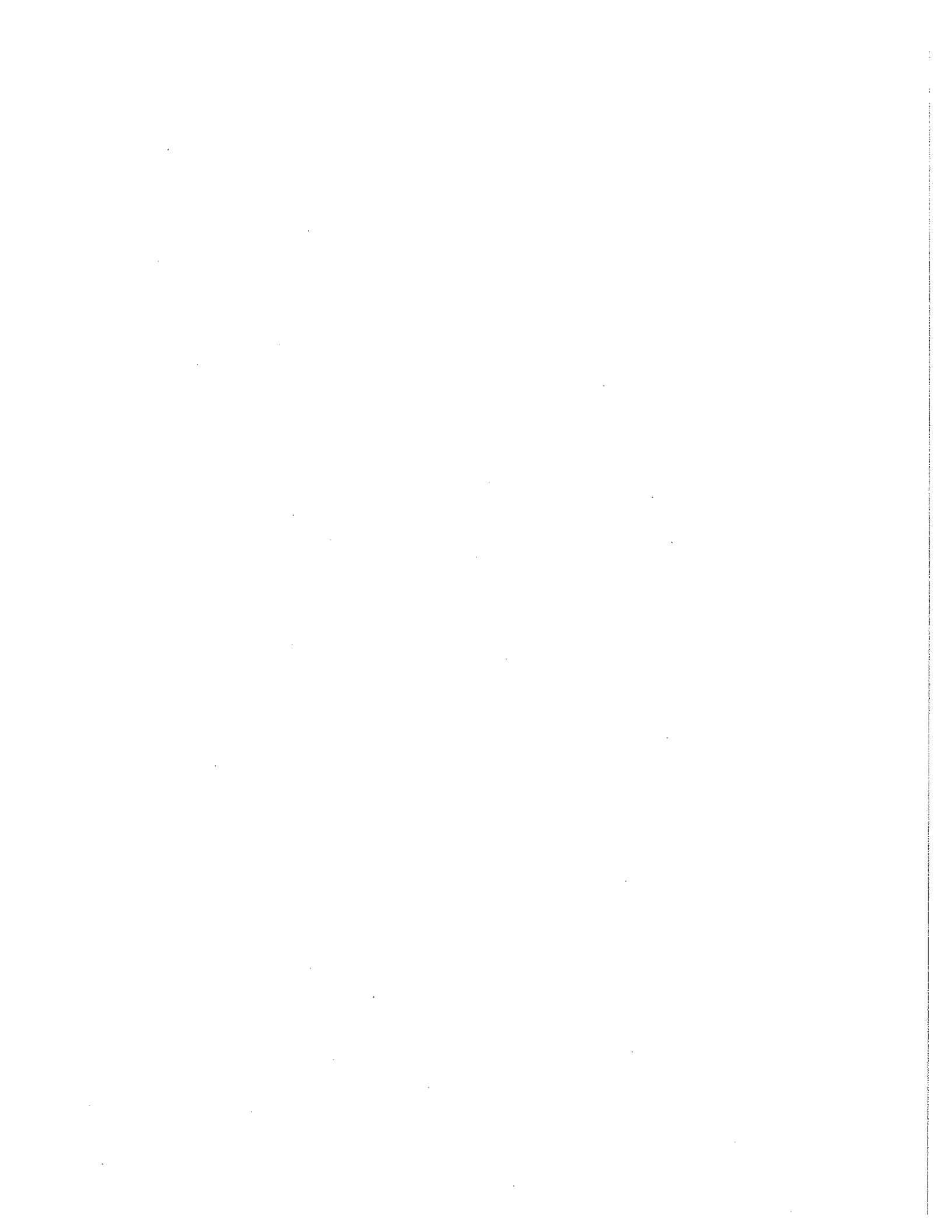


To see all the details that are visible on the screen, use the "Print" link next to the map.

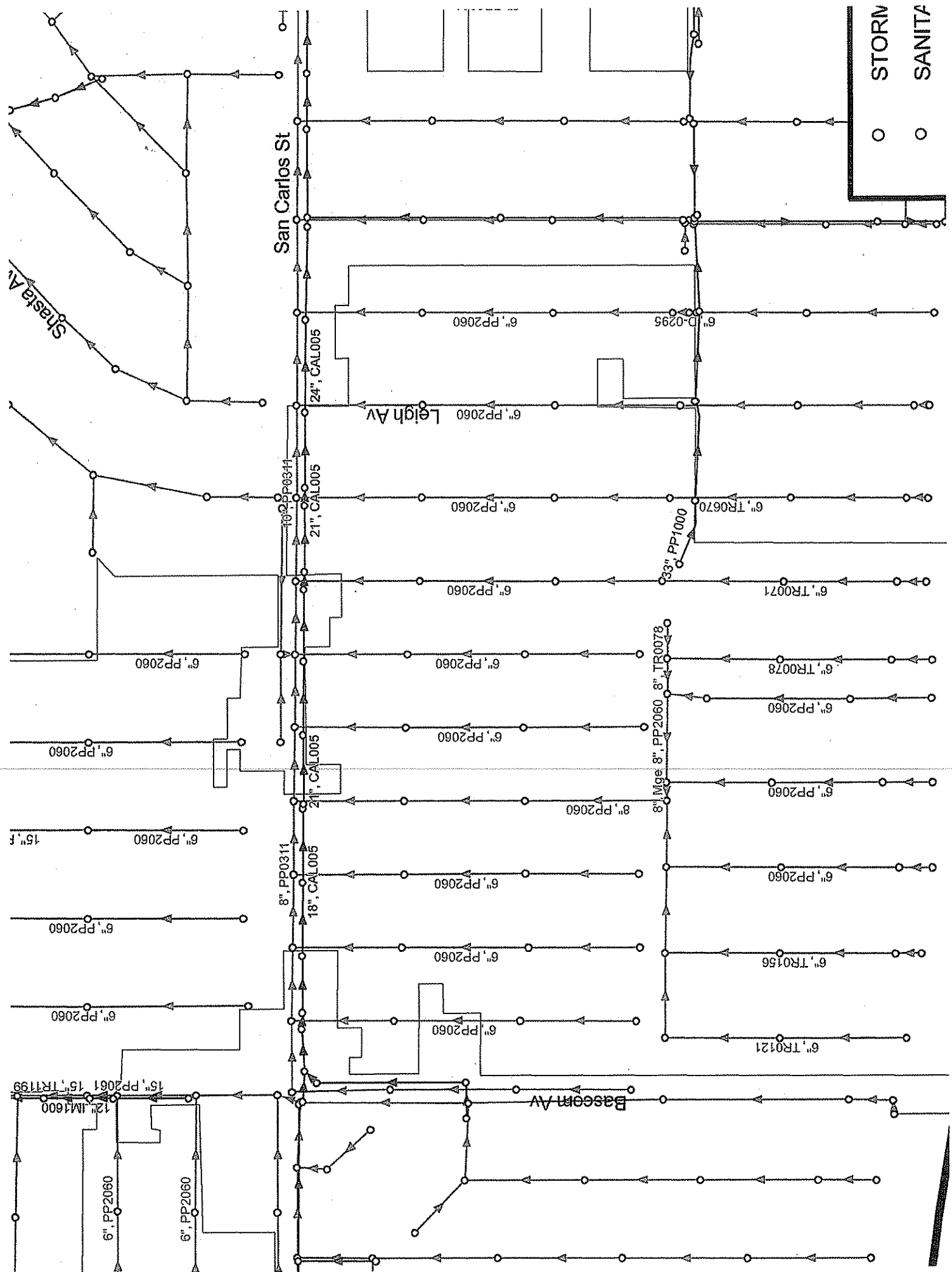




Attachment 5



○ STORM
○ SANIT

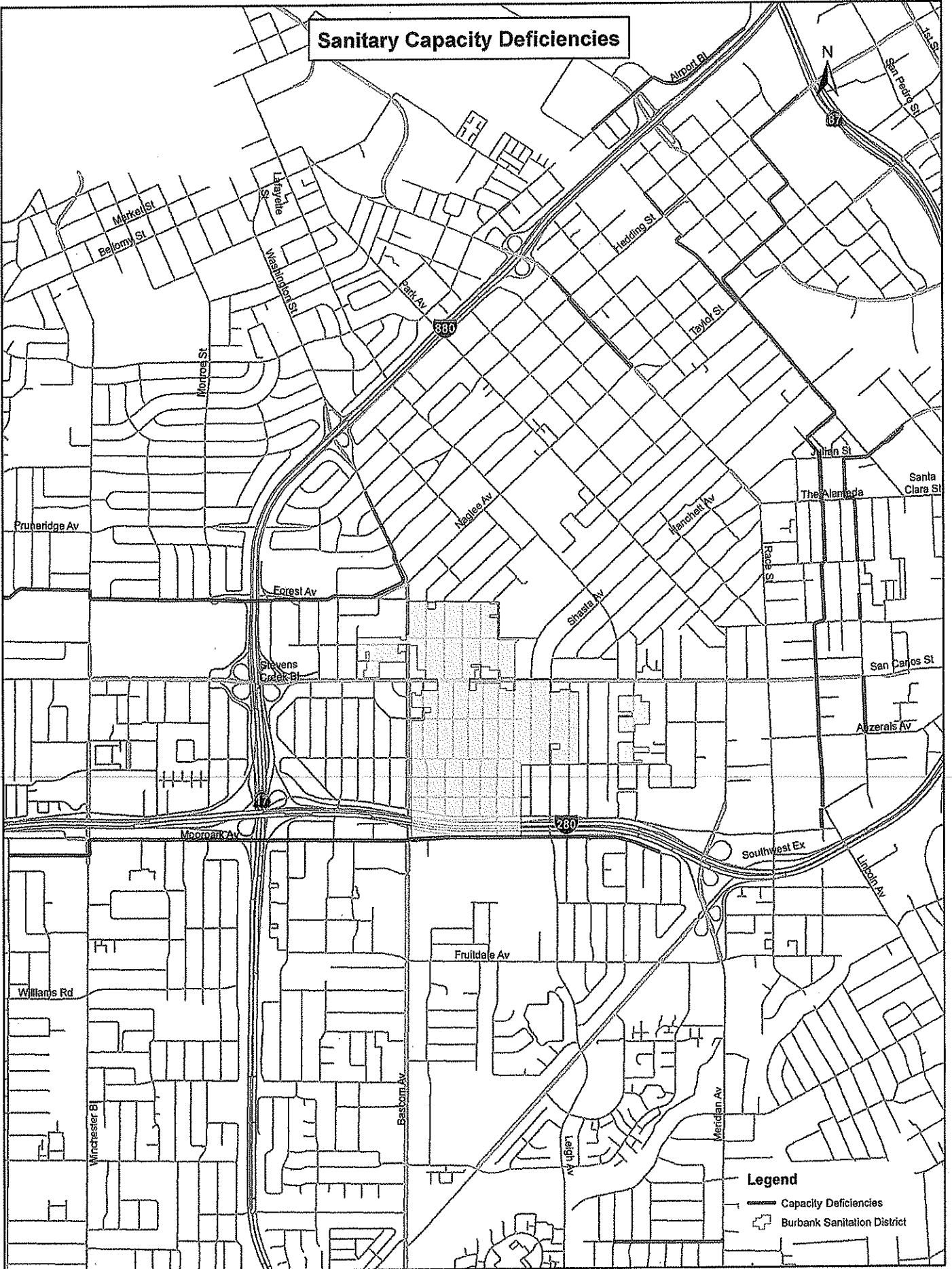




Attachment 6



Sanitary Capacity Deficiencies



Legend

- Capacity Deficiencies
- Burbank Sanitation District

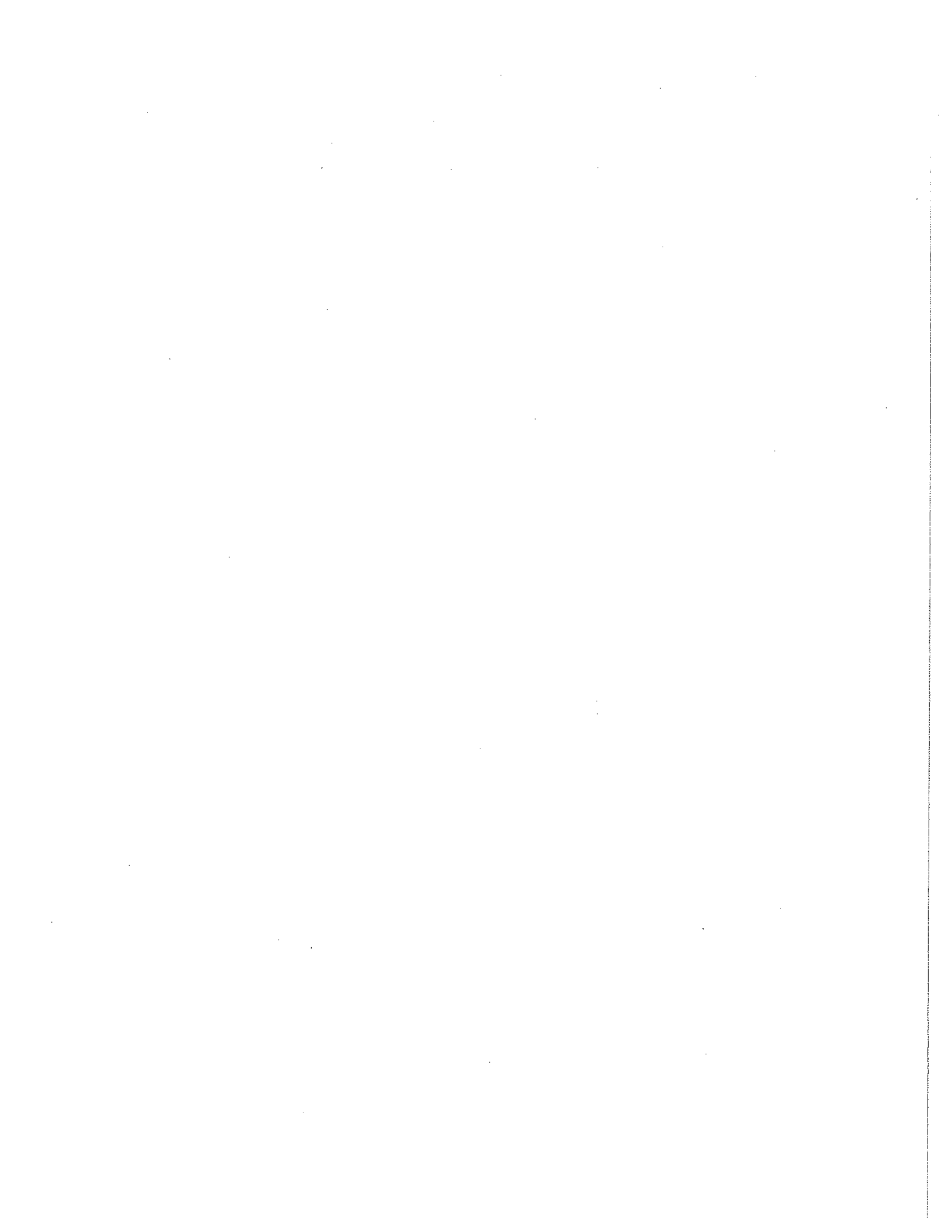


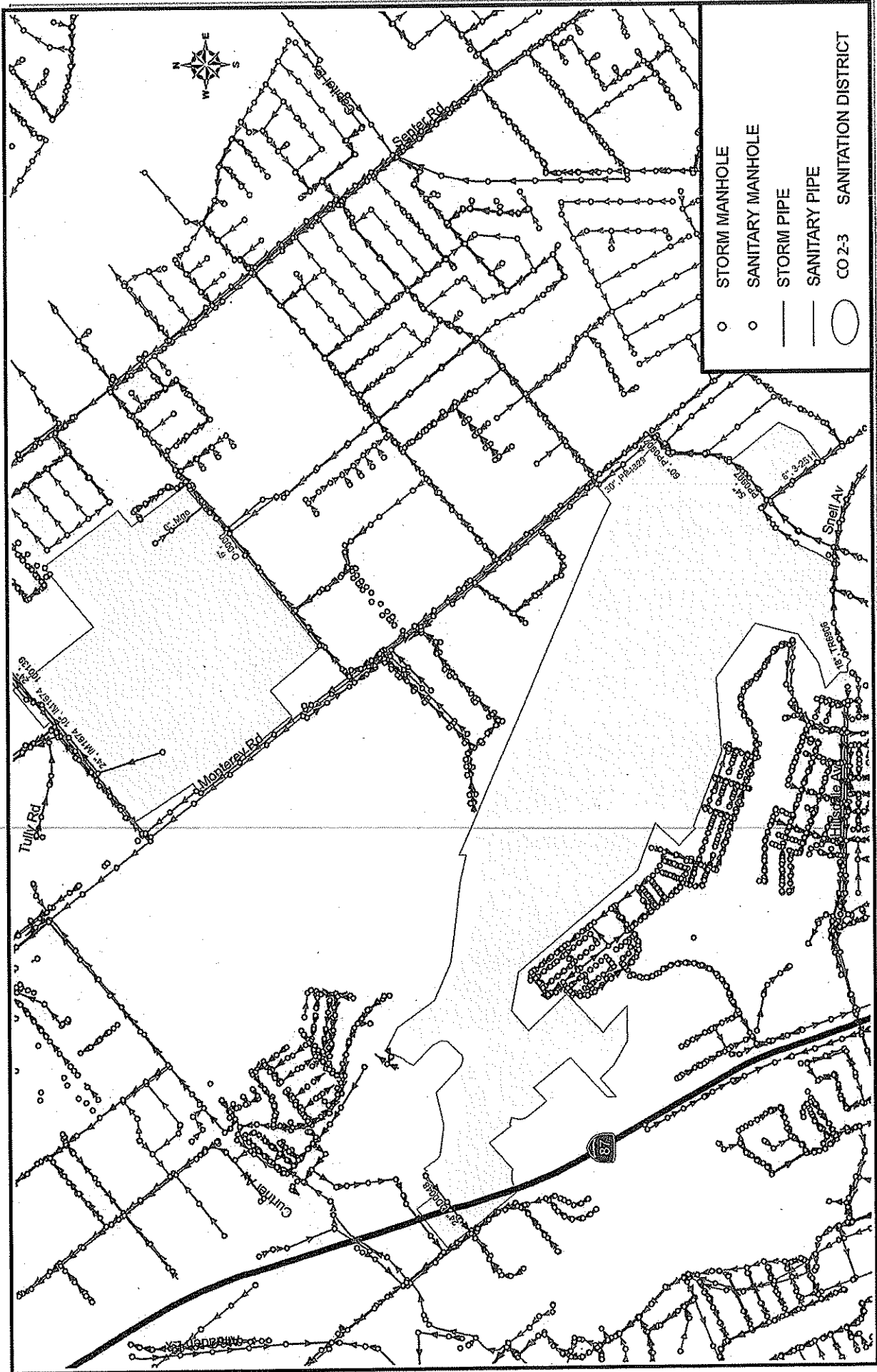
Attachment 7





Attachment 8





- STORM MANHOLE
- SANITARY MANHOLE
- STORM PIPE
- SANITARY PIPE
- CO 2-3 SANITATION DISTRICT

Tully Rd

Monterey Rd

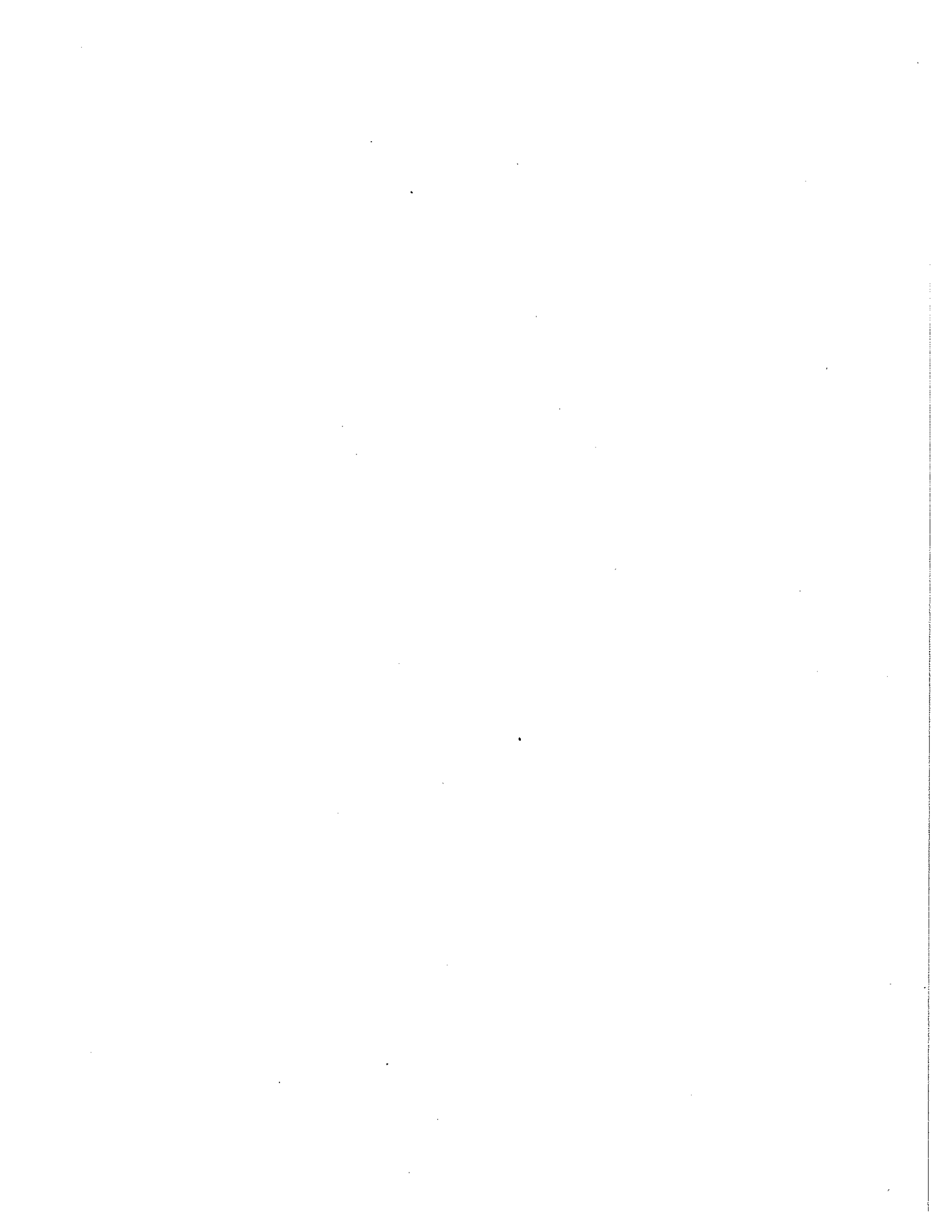
Currier Rd

Sprell Av

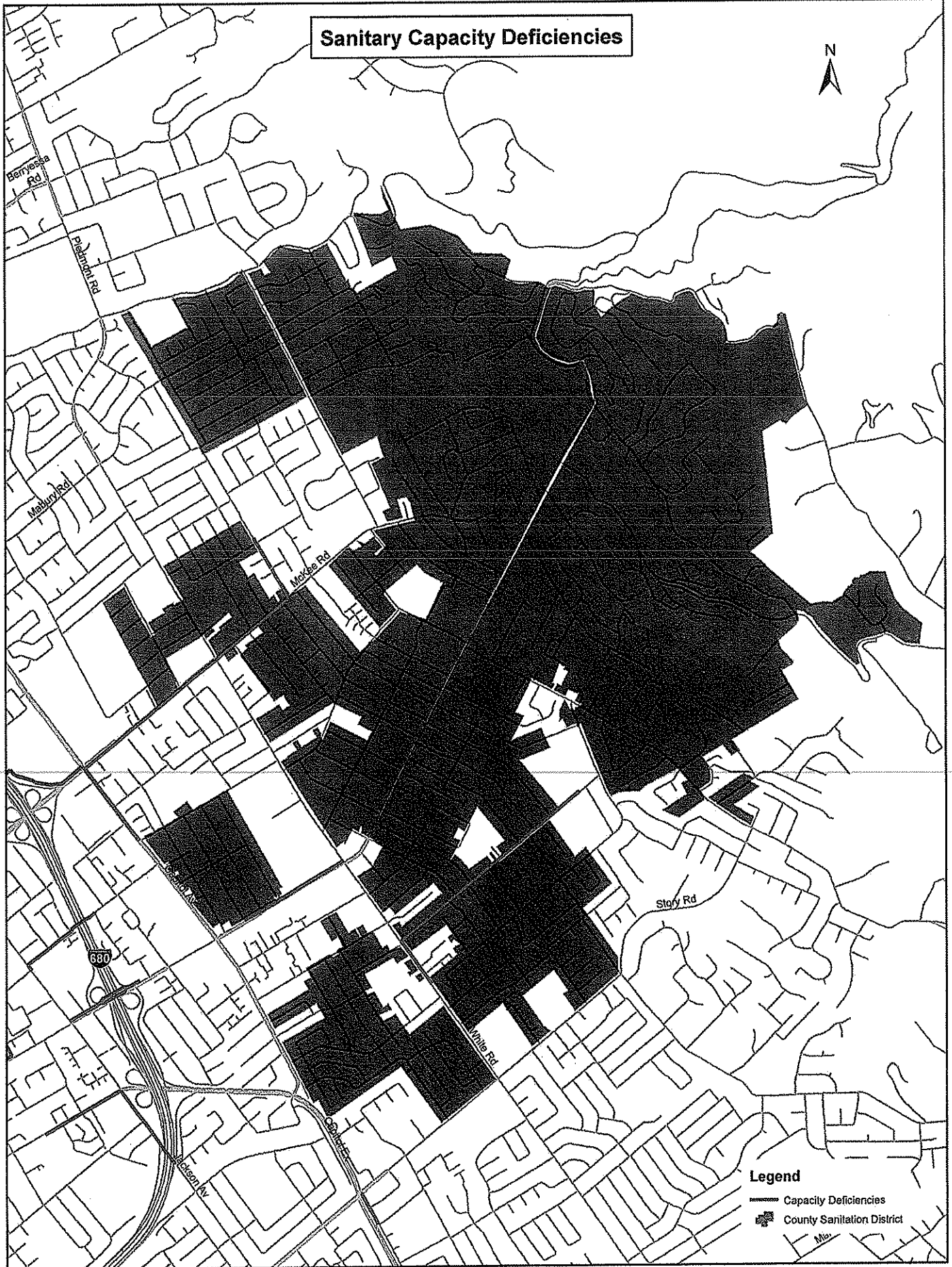




Attachment 9



Sanitary Capacity Deficiencies



Legend

- Capacity Deficiencies
- County Sanitation District

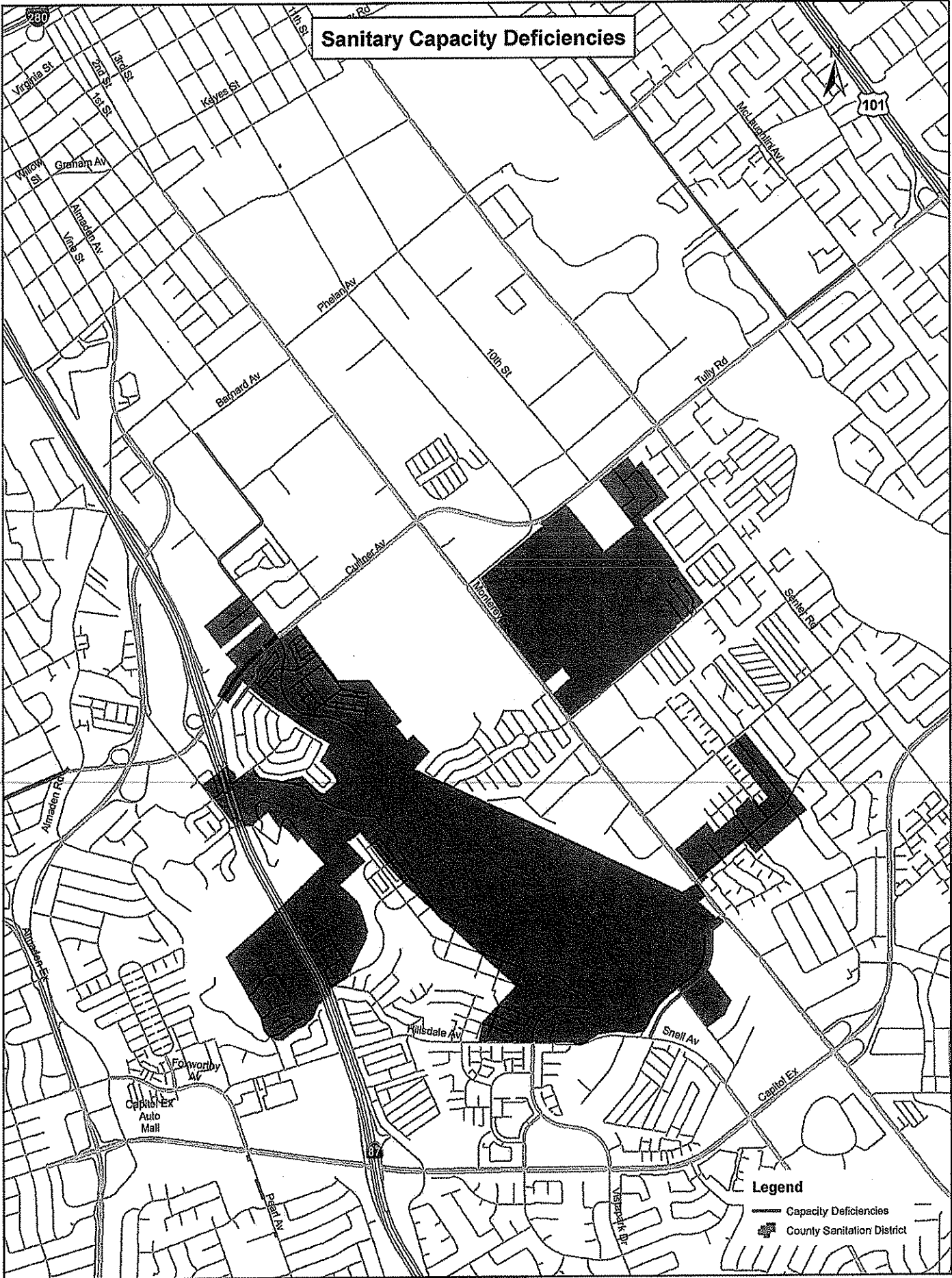
Miles



Attachment 10

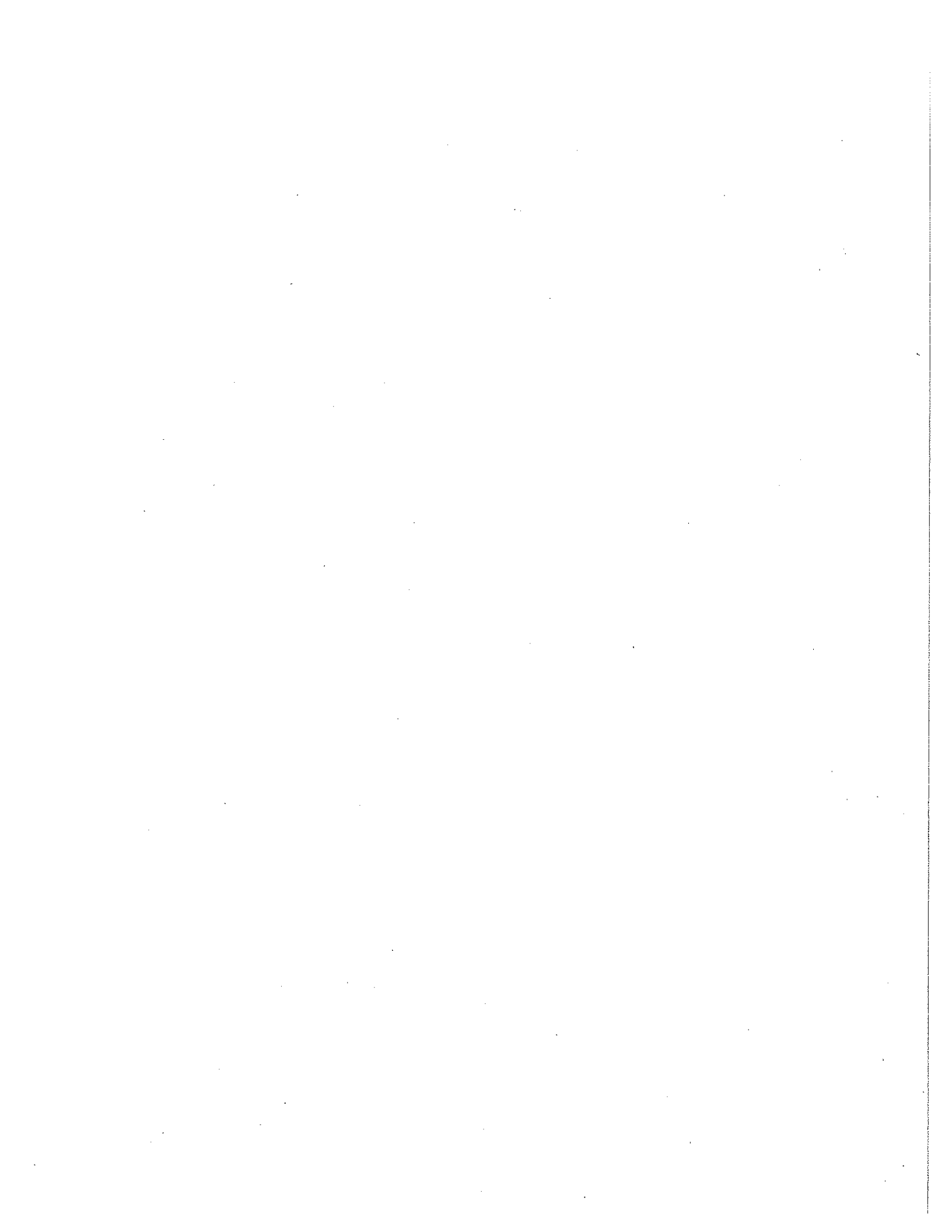


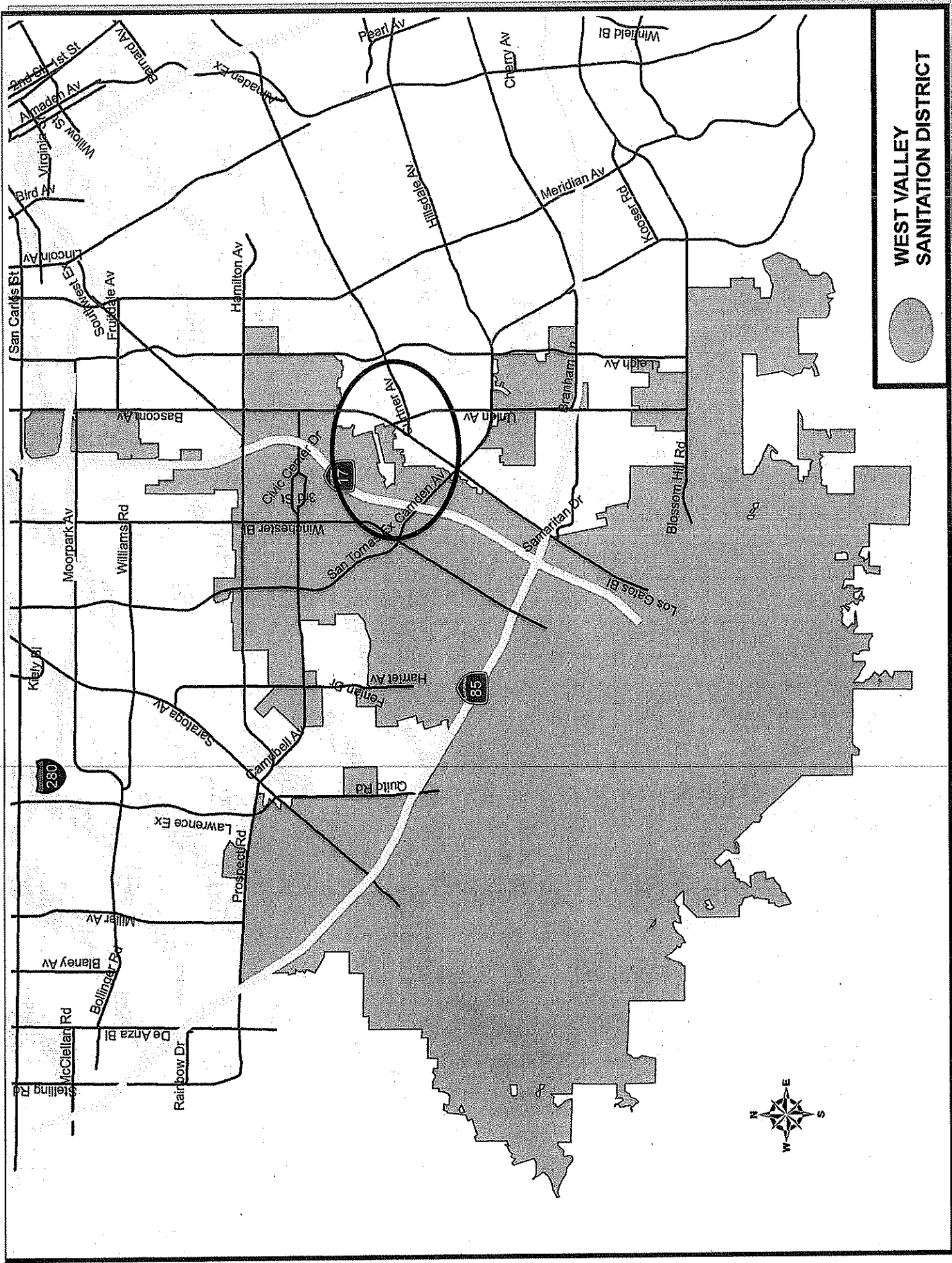
Sanitary Capacity Deficiencies





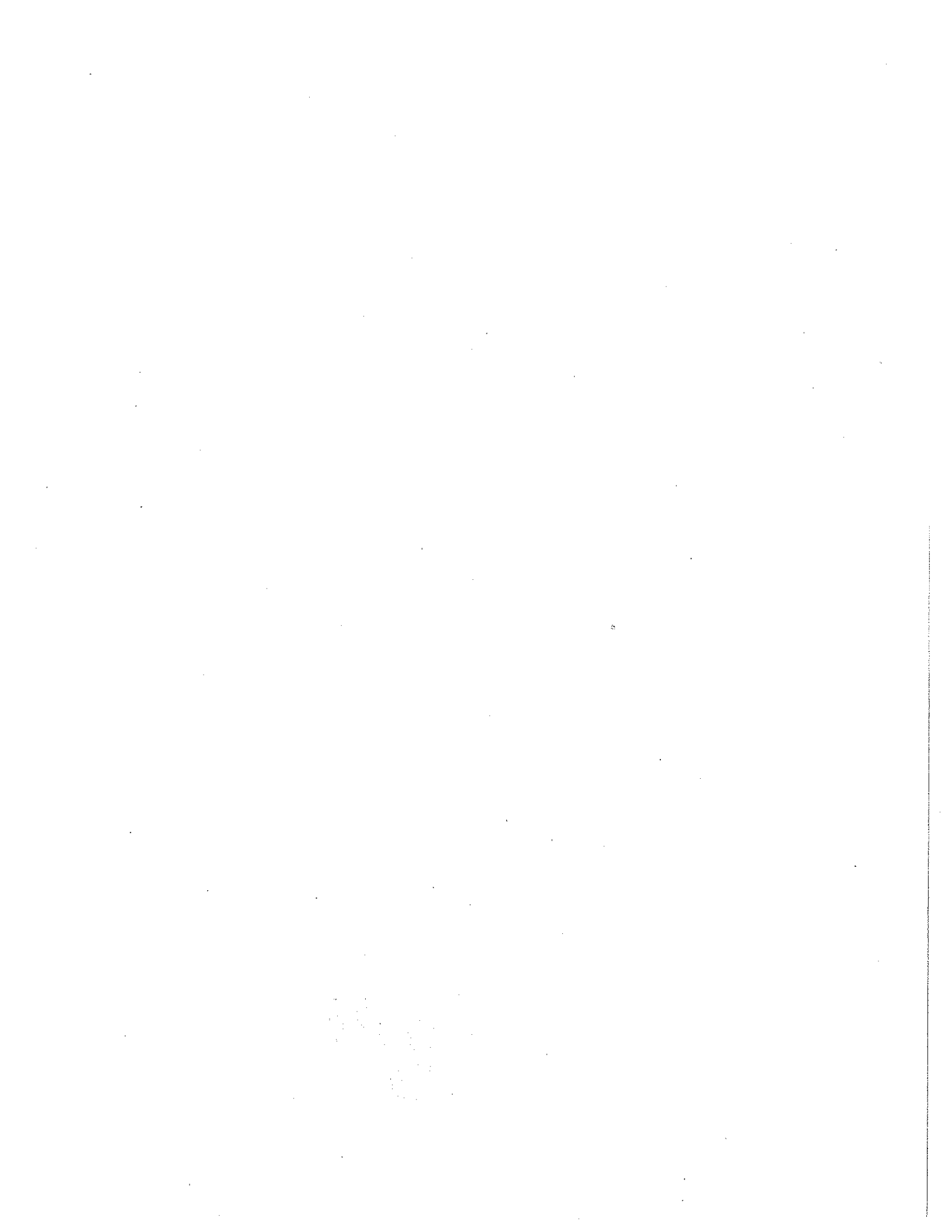
Attachment 11





**WEST VALLEY
SANITATION DISTRICT**





Log of Comments Special District Service Review: Phase 11 Revised Public Review Draft								
Commenter/Agency	Date	#	Page	Comment	Response			
1 Patrick McGormick, Santa Cruz LAFCO	9/24/2013	a.	Re: MROSD Chapter	It is important for Santa Cruz LAFCO to maintain jurisdiction of sphere amendments and annexations of territory within Santa Cruz County. Santa Cruz LAFCO Commission directed staff to send a letter to Santa Clara LAFCO: 1) Concurring with the status quo sphere recommendation for the MROSD, and 2) Indicating its intent to request jurisdiction to process any future MROSD sphere amendment or annexation that includes territory in Santa Cruz County.	Comment noted. No change made.			
		2	Lauren Monack, Santa Clara County Open Space Authority	10/9/2013	a.	p. 164	The acronym reference here and throughout the document should be changed from "SCOSA" to "OSA." (SCOSA is not the correct acronym for the Santa Clara County Open Space Authority, and if the acronym for the full name is desired it should be "SCCOSA," not "SCOSA")	All references to SCOSA changed to OSA.
		b.	p. 164	Paragraph 3 – Footnote 71, should come after the first reference to "the principal act" at the beginning of the first sentence. Please note that for greater clarity we suggest that "Santa Clara County Open Space Authority Enabling Act" be replaced with "Public Resources Code," where the OSA's enabling act is found.	Footnote edited as requested.			
		c.	p. 164	Paragraph 3 – A footnote should be added to the second sentence, referencing Public Resources Code § 35101.	Added.			
		d.	p. 164	Paragraph 3 – A footnote should be added at the end of the paragraph referring to Public Resources Code § 35152.	Added.			
		e.	p. 164	Under "Boundaries;" – We recommend that the 2nd to the last sentence be stricken since it is inaccurate--("There have been no boundary changes to the District since its creation.") (See also correction "k." re: Governance Structure Options).	Corrected.			
		f.	p. 165	First paragraph – we recommend that "owns and operates" be replaced with "provides public access to." The way it is currently written could be misconstrued since we own several properties, but two are now open to the public. The change will correct any misconception.	Changed.			
		g.	p. 166	Under "Service Area," second paragraph – the 2nd to last sentence should be stricken ("It must be demonstrated that areas and residents that pay benefit assessments receive direct benefit."). This is very complicated area of the law, and our District 1 assessment is pre-Proposition 218 and exempt from 218. The sentence does not use accurate language as to the state of the law with respect to OSA's District 1 Assessment. If you have questions regarding the law in this regard, you are welcome to contact OSA's Legal Counsel, Bill Parking, directly.	Sentence deleted.			
		h.	p. 174	Paragraph 2 – we recommend that the last sentence be stricken as it is inaccurate. The 2011/2012 Audit and 2013/2014 Budget have been submitted to the County.	On 10/23/13, the County's Auditor Office reported that it had not yet received the audit and budget for the fiscal years in question. No change.			
		i.	p. 177	Under "Rates;" second paragraph – the last sentence, "There is currently no developer dedication requirement, but the District is looking to establish one," should be stricken. The Authority has no land use authority and therefore cannot establish a developer dedication requirement.	Deleted.			

Log of Comments

Special District Service Review: Phase 11 Revised Public Review Draft

Commentary/Agency	Date	#	Page	Comment	Response
Lauren Monack, Santa Clara County Open Space Authority cont'd		j.	p. 178	Under "Reserves," second paragraph – we recommend that in the first sentence "to the benefit assessment reserve," be replaced with "from Benefit Assessment District 1" for accuracy and clarity.	Edited.
		k.	p. 184	Under "Governance Structure Options," second paragraph – we recommend rephrasing the first sentence to say, "When the OSA was originally formed in 1993, the City of Gilroy initially joined the OSA and then subsequently requested detachment from the OSA which was approved by LAFCO."	Changed.
		l.	p. 184	Under "Governance Structure Options," second paragraph – the second half of the last sentence should be stricken ("...and City residence are already benefitting from services offered by SCOSA outside of the City's limits.") This phrase is inaccurate since OSA provides no services within Gilroy's jurisdiction, nor can OSA do so.	Residents benefit from the general benefit imparted by OSA through its conservation efforts in the County, whether or not these efforts are conducted inside the City of Gilroy boundaries. Additionally, City residents are not precluded from visiting the open OSA preserves. No change.
		m.	p. 190	Under "Present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide," we request that the fifth bullet, "SCOSA has not yet submitted its budget for FY 14 or its audit for FY 12 to the County. SCOSA could improve its management practices by submitting budgets and audits to Santa Clara County on time as required by law," be stricken. This statement is inaccurate. The OSA has timely filed these documents with the County.	On 10/23/13, the County's Auditor Office reported that it had not yet received the audit and budget for the fiscal years in question. No change.
3 Richard Tanaka, CSD 2-3	10/9/2013	a.	p. 46	Contract for Services - CSD 2-3 has a different Master Agreement from the other tributary agencies. Please update this section to reflect CSD 2-3 specific agreement.	Clarified.
		b.	p. 52	Please correct bi-monthly to second Board of Supervisors meeting.	Clarified.
		c.	p. 57	Please consider rephrasing "Reserves" as follows for clarifications. At the end of FY 12, the District has a total of \$6 million in unrestricted net assets, which primarily represent cash adjusted by pre-paids and payables. Of the unrestricted net assets, the District needs approximately \$1.6 million to pay for operations and maintenance from July of each year to as late as January for the revenues to be received from tax collection. Therefore, the lowest cash available to District generally occurs in December-January time frame prior to the receipt of the revenues from tax collection. It is the District policy to maintain \$1 million minimum in cash account. This leaves a balance of \$3.4 million, which consists of capital improvement and emergency reserves. With an estimated emergency reserve in the amount of \$0.5 million, this leaves a balance of \$2.9 million for capital projects for both treatment plant upgrades and district's collection system upgrades. District finances collection system upgrades from this reserve fund. District plans to dedicate \$500,000 annually for district's infrastructure/collection system upgrades, estimated over next 5 years. In addition, infrastructure needs as identified in Page 58 will require additional \$2 million expenditure.	Nature of reserves clarified in text.

Log of Comments

Special District Service Review: Phase 11 Revised Public Review Draft

Commenter/Agency	Date	#	Page	Comment	Response
Richard Tanaka, CSD 2-3 cont'd		d.	p. 64	Please clarify "statement that District has high-level of reserves equivalent to almost three years of district expenses and significant portion will be used to address substantial capital needs". CSD 2-3 maintains sufficient reserves for its operation, maintenance and capital improvement projects. With the current capital needs of \$500,000 annually and the \$2 million for capacity improvements (per City of San Jose's request), District will need to increase rates to meet these needs in the future.	While these reserves will be used as described in the Reserve section of the chapter, the District maintains a high level of reserves compared to other similar service providers reviewed here. No change.
4 Richard Tanaka, Cupertino SD	10/8/2013	a.	p. 67	CuSD does not service any portion of the City of San Jose, but it does service a very small portion of the City of Los Altos (southernmost).	Based on LAFCO maps, there are a few parcels within Cupertino SD that are also within the City of San Jose. No change. Clarification added.
		b.	p. 69	The City of Santa Clara/CuSD Joint Use Agreement requires CuSD to reimburse the City of Santa Clara 25% of O&M and CIP costs for two major pump stations. This statement is true, but District also pays for our pro-rata expenses of joint use sewer trunk lines. This Agreement has expired and is currently being negotiated.	
		c.	p. 72	CuSD Expense and Revenue budgets as well as Annual Financial Audit Reports are available on the new website, www.cupellimosanitarydistrict.org .	Updated. Determinations also updated to reflect this change.
		d.	p. 72	CuSD has a Code of Ethics Resolution in place.	Waiting for requested documentation.
		e.	p. 72	Please revise 2.5 FTE to 6 FTE	Updated.
		f.	p. 76	Top of page, please consider rephrasing as follows: Revenues spiked in FY 09, primarily due to gains from sale of capacity rights to City of Milpitas, totaling \$3.47 million. Likewise, expenses spiked because District paid off the 2009 Series A Sewer Revenue Bonds (treatment plant bond financing obligation) in the amount of \$1.8 million. Therefore, by normalizing these two factors, expenditures have slightly declined over the last 5 fiscal years.	Clarified.
		g.	p. 78	Please consider rephrasing "Reserves" as follows for clarifications At the end of FY 12, the District has a total of \$17.8 million in unrestricted net asset, which primarily represent cash adjusted by pre-pays and payables. Of the unrestricted net asset, the District needs approximately \$5.5 million to pay for operations and maintenance from July of each year to as late as January for the revenues to be received from tax collection. Therefore, the lowest cash available to District generally occurs in December-January time frame prior to the receipt of the revenues from tax collection. It is the District policy to maintain \$1.5 million minimum in cash account. The balance is then separated into capital improvement and emergency reserves.	Clarified.
		h.	p. 83	Preliminary discussions with staff is ongoing for WYSD to provide emergency response services in the event of a catastrophic event. This would be in the form of a Mutual Aid Agreement.	Updated.
		i.	p. 92	Private septic systems are beyond the jurisdiction of CuSD. They are within the jurisdiction of Code Enforcement for the Cities of Cupertino, Saratoga, Los Altos, and County of Santa Clara.	While CSD does not have direct jurisdiction over private septic, quantifying the potential for additional demand in the future is considered a best management practice. No change.
5 Richard Tanaka, Burbank SD	10/9/2013	a.	p. 21	Except for incidental conveyance due to annexations at the edge or the district, BSD does not convey sewage for the City of San Jose.	Clarified.

Log of Comments

Special District Service Review: Phase 11 Revised Public Review Draft

Commenter/Agency	#	Date	Page	Comment	Response
Richard Tanaka, Burbank SD cont'd	b.	p. 22	p. 22	Add "a" before new contract.	Response Added.
	c.	p. 22	p. 22	Per the "Events" page and other documents on the District website, Green Waste Recovery took over from Waste Management, Inc. in July 2007. All "Waste Management" references should be replaced with "Green Waste Recovery".	Updated.
	d.	p. 24	p. 24	Per the minutes posted on the district website - Michael Yoder took office immediately prior to the December 1st, 2005 meeting. - Soren Spies took office prior to the January 5th, 2006 meeting - Bruce Smith took office immediately prior to the February 7th, 2008 meeting. - Keri Russo took office prior to the April 20th, 2010 meeting. - Michelle Kaelker-Boor took office at the June 19th, 2012 meeting.	Corrected.
	e.	p. 26	p. 26	BSD most recently adopted the County's recommended model conflict of interest code (based on the FPPC model) with Resolution No. 237 on October 16th, 2012. Resolution 233 had adopted the prior recommended code on October 19th, 2010.	Added a footnote with the resolution number and date of adoption.
	f.	p. 27	p. 27	This document (audit) was submitted to the County on July 16, 2013.	Updated.
	g.	p. 27	p. 27	This document (budget) was submitted to the County on September 24, 2013.	Updated.
	h.	p. 28	p. 28	This lack of data is unfortunate. Is DWR's mapping tool unable to detect relatively large disadvantaged communities such as East Palo Alto (or is it not as bad as its reputation)?	Because the statewide median income is weighed down by lower income levels often found in rural areas of the State, low income areas in urban areas often do not meet the threshold to meet the income requirements. No change.
	i.	p. 29	p. 29	There are several statements of expected population growth in our review. We believe that the 1.4% population growth may be appropriate for our area as infill development continues and regional housing costs increase. More people are likely to live together in the same amount of space. Also, "built out" is misleading: while there are houses on most lots, they are small and can be expanded. As is mentioned later, water conservation will probably offset (if not overcome) population growth as the primary factor affecting the amount of sewage coming from our district. That all said, the City of San Jose continues to annex bits and pieces of property (mostly commercial), which will put small downward pressure on our population.	Clarification of all factors that impact district demand added.
	j.	p. 30	p. 30	Clarify begin and end dates for fiscal years (i.e. FY08 ends 6/3/2008)	This is the standard style used for fiscal year notation. No change.
	k.	p. 30	p. 30	For Fiscal Year 09 and 10, please adjust expenditures to delete depreciation in the amount of \$43,342. The corrected amount should be \$772,393 for FY 09 and \$533,252 For FY 10. Depreciation is not included for the other three years.	Numbers for 08, 09, 10 are based on actuals with depreciation as reported in the District audited financials. Expenditures for 12 are based on actuals including depreciation as reported in an email on August 7th, 2013. The expenditures for FY are as reported by the district in an email on August 15th, 2013. Given that all other expenditures reported in other district chapters include depreciation, no change. Waiting for FY 11 costs with expenditures to ensure consistency.

Log of Comments

Special District Service Review: Phase 11 Revised Public Review Draft

Commenter/Agency	#	Page	Comment	Response
Richard Tanaka, Burbank SD cont'd	l.	p. 31	Our fiscal year runs July to June. It should be clear that this refers to 2013-20 14.	This is the standard style used for fiscal year notation. No change.
	m.	p. 31	We charge an annual fee covering both wastewater and street sweeping on the property tax bill.	Added.
	n.	p. 32	All of our "Engineering" is performed by our contract management company. It would be more accurate to assume "Accounting" is part of management, add in "Engineering," and then call it "Management & Engineering." What is referred to as "Emergency Funds" is for emergency repairs and stoppages.	Changed.
	o.	p. 32	Verify/confirm reference to "day" or "year".	Corrected.
	p.	p. 32	The statement "no formal, multi -year CIP" is an accurate characterization. Later on, however, the review mentions BSD's multi -year, video-based repair & replacement plan and refers to it as a CIP. Verify for consistency	Updated for consistency.
	q.	p. 33	Revise to 5.6 miles.	Revised.
	r.	p. 33	Replace with "Repair & Replacement program?"	Revised.
	s.	p. 33	This paragraph should reflect the fact that all the serious issues identified in 2006-07 have been repaired (it is mentioned in the first sentence of the next section). Also, as noted later under "Inspection," in 2013 BSD completed another video inspection. We have since prepared a map of defect and severities which should guide our repair and replacement efforts for the next several years.	Added.
	t.	p. 33	Confirm consistency in referencing CIP, Repairs and Maintenance.	Revised.
	u.	p. 33	BSD has been budgeting approximately \$100k in upgrade-oriented repairs each year and this amount has been above and beyond the District's income. However, the District will not have sufficient reserves to continue this effort indefinitely. A dissolution schedule needs to be in place to guide the District in the manner in which reserve funds are allocated to projects.	This is discussed under Government Structure Alternatives. No change.
	v.	p. 33	The District has not generally had problems with multiple units on the same property sharing laterals. Multiple "connections" means multiple parcels sharing a lateral.	Clarified.
	w.	p. 33	BSD has contracted with Pacific Underground Construction to build a new sewer line on Olive Ave. to allow each parcel to have its own lateral connection. Once the separate Olive Ave. connections are made, we will have eliminated all known lateral sharing amongst parcels.	Added.
	x.	p. 33	Lateral extensions (generally same property) are not a solution to this problem. Sewer extensions or entirely new laterals are required as parcels without independent connections are developed.	Removed.
	y.	p. 35	14 miles includes street gutters on both sides of the street.	Clarified.
	z.	p. 35	The number should be 874 tons which included 62 tons for clean-up day.	Revised.
	aa.	p. 36	Our 2013 video inspection should be reflected as in the earlier paragraphs.	See response to comment #46.

Log of Comments

Special District Service Review: Phase 11 Revised Public Review Draft

Commenter/Agency	Date	#	Page	Comment	Response	
Richard Tanaka, Burbank SD cont'd		bb.	p. 37	The District already lacks economies of scale as compared to other Districts with larger service areas. There are fixed overhead for management and the District has struggled to recruit Board members.	Clarified.	
		cc.	p. 38	The customer base is already quite small due to the small service area.	Clarified.	
		ddd.	p. 40	Zero population growth is unlikely as pressure for affordable housing continues. "Nominal infill growth" (or similar language about growth further down) can be expected as there are parcels zoned for more units than they currently have. It is also common for parcels currently zoned single-family to become multi-family.	Rephrased.	
		ee.	p. 42	BSD has purposely budgeted to spend more than sewer service charges collected, but has not regularly achieved that.	Noted.	
		ff.	p. 42	Budgets are submitted to the County at the beginning of each fiscal year.	Determination deleted.	
		gg.	p. 43	This is a better way to characterize our growth potential (than "zero" above). Due to ongoing conservation efforts, overall demand for sewage conveyance is unlikely to increase despite normal population growth.	Noted.	
		hh.	p. 44	Confirm if this is a summary or a redundant statement.	Some determinations are repeated in the service review and SOI update sections to comply with legal requirements. No change.	
		ii.	p. 44	BSD and the County will need to establish contact personnel in order to collaborate effectively.	Noted.	
		jj.	p. 24	Change contact to Richard Tanaka, District Manager in lieu of Steve Machida	Changed.	
		kk.	p. 26	Need to change audit to "Bi-Annual"	Biennial audits occur every two years. Biannual audits would be twice a year. No change.	
		ll.	p. 38	In reference to annexation, it should state that the City would take on wastewater services, street maintenance and garbage services. In discussion section for both alternatives, City would need to take over wastewater, garbage and street maintenance services, not just wastewater services.	Clarified.	
		mm.	p. 39	BSD is in agreement with setting up meeting with City of San Jose.	Added.	
	Kerrie Romanow, City of San Jose	11/13/2013	a.	p. 3	(Paragraph 4) - The Report needs to be clarified to reflect that the West Bay Sanitary District does not discharge to the RWF	Clarified.
			b.	p. 3	(Paragraph 6). The Report also needs to be clarified with respect to whether other facilities located in Santa Clara County that provide services to the agencies are included in this report, or only to jurisdictions outside the scope of this Report.	The report states "There are other wastewater treatment plants in Santa Clara County that provide services to the cities, but these facilities are not included as part of this review as they do not provide services to the special districts reviewed." No change made.
			c.	p. 3	It would also be appropriate to briefly note that the Tributary Agencies discharge to the RWF in accordance with agreements developed in 1983 and 1985 (1983/85 Master Agreements), and that terms of the CSD 2-3 Master Agreements are different that the other 3 Master Agreements with respect to payment of capital costs.	This is covered in the individual chapters. No change.

Log of Comments

Special District Service Review: Phase 11 Revised Public Review Draft

Commenter/Agency	Date	#	Page	Comment	Response
Kerrie Romanow, City of San Jose		d.	p. 3	It is incorrect to state that the City of Santa Clara owns a flat 20% of the RWF. Santa Clara's ownership in the RWF is based on a complex formula that is evaluated annually based on a ratio of assessed property value in the City of San Jose and Santa Clara. This percentage is updated every Fiscal Year, and for 2013, Santa Clara's current ownership in the RWF is 17.7%.	Clarified.
		e.	Pgs. 3, 22, 48, and 70	SBWR is incorrectly identified as a joint powers authority. SBWR is the name of a very large water recycling project and is a part of the RWF, and thus is covered by the 1983/85 Master Agreements. SBWR was established, built and maintained as a sewer discharge compliance required program. It was constructed to address excessive freshwater discharge to San Francisco Bay, not to provide recycled water, although that is an outcome of the project. An engineering study was performed during the planning stages of the SBWR project, per the provisions in the Master Agreements. The maintenance and operation of SBWR remain a component of the RWF operating permit. The agencies were not required to borrow to meet their financial obligations to fund SBWR. We note that Santa Clara and Milpitas did not borrow in order to fund SBWR construction.	Clarified.
		f.	Page 5, Figure ES-4	The Tributary Agencies measure available capacity as specified per the provisions of the 1983/85 Master Agreements. The annual measurement is based on a 5 day average during peak dry weather flow that is determined annually by the RWF. Furthermore, the capacity measurement includes all sewage parameters: Flow, BOD, SS, NH3. It appears that this table in the LAFCO Service Review does not use the methodology specified in the 1983/85 Master Agreements and does not tie out to the figures that are used for the official report of available capacity for the RWF facility for the Tributary Agencies. See Attachment 1, 2013 Plant Capacity Report, which may provide information that LAFCO staff can use to correct the Table.	Revised.
		g.	Pgs. 21, 47, 209	This Report incorrectly states that the BSD, CSD-2-3 and CUSD Master Agreement address annexations. Only the WYSD Master Agreement deals with annexations. Further, the Report should more clearly acknowledge that San Jose and West Valley have been following the annexation provision in the 1983 Master Agreement in dealing with annexations that are covered by the WYSD Master Agreement. Moreover, the suggestion in the Report that it is improper for debt service to continue to be paid by the agency after an annexation overlooks the fact that agencies could have paid cash for their contribution to SBWR and were not required to take in debt. In addition, annexations involve many issues other than sewage treatment, and these issues will vary from agency to agency. We note that the WYSD annexation provision was crafted using data unique to WYSD.	Added content to describe the City's opinion on this matter.
		h.	Page(s) 4, 29, 55, 77, 216, 217	The discussion in the LAFCO Report of the RWF capital improvement program (CIP) budget for the Plant Master Plan (PMP) is inaccurate. The total amount currently budgeted for PMP projects, which includes both all rehabilitation projects and all new projects is approximately \$2.2B, not \$3B as seems to be implied in the LAFCO Report. The \$680.9M amount mentioned in the Report for CIP projects to be constructed over the next five years is included in this \$2.2B amount. It is not a separate amount as implied in the Report. The confusing manner in which these figures are presented is repeated for each of the Tributary Agency sections, under Financial Adequacy.	Corrected.

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Special District Service Review: Phase 11 Revised Public Review Draft

Commenter/Agency	Date	#	Page	Comment	Response
<p>Keirrie Romanow, City of San Jose</p>		i.	<p>Page(s) 4, 29, 55, 77, 216, 217</p>	<p>In addition, the Report mischaracterizes the PMP renewable energy and open space/ habitat projects as "supplemental" to operation of the RWF. The renewable energy projects are still at a very conceptual stage and will be evaluated, if and when they are brought forward, for their ability to meet the power demand fluctuations of the RWF, in addition to undergoing further environmental review under CEQA. Habitat improvement projects, such as the area provided for the Western Burrowing Owl, have been supported by the efforts of NGO partnerships, volunteers, and other donated materials, and do not represent capital investment. In fact, habitat management can be achieved through adjustments to existing buffer land maintenance activities, such as mowing grasslands for fire control purposes. Other areas proposed to remain as open space require maintenance at a similar level, as they do not contain managed trails or developed parkland. Where permanent conservation easements might be considered, compensation for that land is being pursued through third parties, such as the Santa Clara Valley Habitat Plan.</p>	<p>Added that these are not the only planned improvements outlined in the Master Plan Update. Clarified that many of the planned improvements are considered supplemental to plant operations by the Districts. Added that the City is pursuing third party funding for the habitat projects.</p>
		j.	<p>Page(s) 4, 29, 55, 77, 216, 217</p>	<p>We also note that the currently planned CIP projects have been under discussion at the RWF Treatment Plant Advisory Committee (TPAC) for seven years and received unanimous TPAC support from the master planning stages and all annual budget approvals to date. TPAC is comprised of elected officials representing the cities of San Jose, Santa Clara, Milpitas, CuSD and WVSD. TPAC holds public meetings once a month and staffs from these agencies frequently attend the meetings. Officials from BSD and CSD-2-3 may also participate in the TPAC meetings, although they are not voting members.</p>	<p>No additional content added.</p>
		k.	<p>Page(s) 21, 41-42, 47, 64-65, 70, 86, 209, 236</p>	<p>The Report incorrectly states that the extent of the various districts' capital obligations with regard to Master Plan improvements at the plant are not fully described [in the 1983/85 Master Agreements] and are outdated." Many, if not most of the PMP project costs are for the same type of capital projects that the districts have been paying for over many years under the formulas established in the 1983/85 Master Agreements. In addition, the districts' TPAC representatives have recommended approval of all projects in the five year CIP to the San Jose City Council.</p>	<p>Added that the districts and City opinions differ with regard to the clarity of the master agreement.</p>
		l.	<p>Page(s) 21, 41-42, 47, 64-65, 70, 86, 209, 236</p>	<p>Similarly, the Report inaccurately states that the cities of San Jose and Santa Clara are currently engaged in negotiations regarding the districts' financing needs related to PMP projects and recycled water. The City of San Jose acknowledges that the 1983/85 Master Agreements will need to be amended, or supplemental financing agreements will need to be developed, if the agencies desire to finance their share of PMP project costs. San Jose does not anticipate needing to finance its share of near term PMP project costs, but would be willing to discuss financing options for the near term projects with Santa Clara and the Tributary Agencies (including the City of Milpitas) if desired by those parties.</p>	<p>Clarified that future district revenue needs are dependent on the final financing plan for the master plan improvements.</p>
		m.	<p>Page(s) 59, 81, 220, 221</p>	<p>For the paragraph on San Jose's Sewer Revenue Bond issuance, see Attachment 2, Note #5, on page 12 of the Financial Statements for the Clean Water Financing Authority for the official record for the description and disclosure of the bond issuance.</p>	<p>Clarified.</p>
		n.	<p>Page(s) 59, 81, 220, 221</p>	<p>State Revolving Fund Loan (SRF) The financing plan used to fund the SBWR Program includes loans and grants totaling approximately \$120,663,000, which have been incurred or received to date from federal and state agencies in reimbursement of capital costs associated with the SBWR program. About \$79,000,000 of this amount consists of eleven loans made to San Jose on behalf of the RWF by the State of California. The current outstanding principal on the state loans is \$24,123,428. The total annual payment on the state loans is \$4,463,882 through June 30, 2018, with a final payment of \$1,804,020 due in fiscal year 2018-2019.</p>	<p>Clarified that other funds in addition to the SRF funds were received to finance the SBWR program.</p>
		o.	<p>Pg. 81</p>	<p>7.875 MGD should be 7.85 MGD</p>	<p>Corrected.</p>

Log of Comments

Special District Service Review: Phase 11 Revised Public Review Draft

Commenter/Agency	Date	#	Page	Comment	Response
Kerrie Romanow, City of San Jose		p.	BSD Map	The City's map of BSD's bounds differs from that of LAFCO	LAFCO's map was determined to be correct, based on LAFCO records. No change made.
		q.	pg. 58	Revise to read "The District has a five-year...with a large proportion of expenditures on capacity improvements from six-inch main to eight-inch main of several existing eight-inch district owned sanitary sewer mains in the Alum Rock area of the District..."	Revised.
		r.	pg. 60	Revise to read "The District's facilities have existing infrastructure deficiencies which include several eight-inch mains that need to be upgraded from six to eight inch mains to larger pipe size. This increase in main size is needed because the existing six-inch mains flow into the CSJ's system which consists of eight-inch main due to a Capacity Assessment Study conducted by the City of San Jose's Sanitary Sewer Master Plan staff in the East Area of the City's sanitary sewer system that showed the existing mains to be deficient. The City of San Jose has proposed..."	Revised.
		s.	pg. 65	Revise to read "The District's facilities have existing infrastructure deficiencies which include several eight-inch mains that need to be upgraded from six to eight inch mains to larger pipe size. This increase in main size is needed because the existing six-inch mains flow into the CSJ's system which consists of eight-inch main due to a Capacity Assessment Study conducted by the City of San Jose's Sanitary Sewer Master Plan staff in the East Area of the City's sanitary sewer system that showed the existing mains to be deficient."	Revised.
		t.	WVSD Map	There is a difference between the LAFCO map and the City's map of WVSD	LAFCO's map was determined to be correct, based on LAFCO records. No change made.
		u.	BSD Chapter	Numerous comments on style, chapter content, etc.	Changes made to correct factual inaccuracies. No changes made to style of the document. No additional content added. Any additional document or informational needs on the part of the District will be addressed as San Jose and Burbank begin discussions about governance options.



AGENDA ITEM # 6
Attachment D

November 19, 2013

Via E-mail and U.S. Mail

Local Agency Formation Commission of Santa Clara County
Attn: Dunia Noel, LAFCO Analyst
70 W. Hedding Street, 11th Floor, East Wing
San Jose, CA 95110

Re: City of San Jose's Comments on Special Districts Service Review Phase 2 Revised Draft Report

Dear LAFCO:

On November 15, 2013, West Valley Sanitation District (the "District") received a copy of the above-referenced comment letter from Neelima Palacherla of your Executive Office. The District has reviewed the City of San Jose's ("City") comments on the Special Districts Service Review Phase 2 Revised Draft Report ("Report"), and appreciates that the City has updated LAFCO with the most current Plant Capacity Report and budget for Plant Master Plan projects. However, the District would like to briefly remark on some of the City's comments regarding the 1983 Master Agreement for Wastewater Treatment between the District and the Cities of San Jose and Santa Clara ("Master Agreement").

The District disagrees with the City's characterization of the annexation provision in the Master Agreement. The District believes that issues related to payment of debt service upon annexation remain largely unresolved and the Master Agreement should be updated to account for this and other matters related to annexation. In addition, the City correctly notes that the Master Agreement will need to be amended to address financing of Plant Master Plan projects. However, the District anticipates that these amendments will be significant given the substantial scope of the Plant Master Plan and the number of capital expansion projects that are contemplated. The LAFCO Report is therefore accurate in its assessment that the Master Agreement is outdated.

Please let me know if you have any questions.

Sincerely,

A handwritten signature in black ink that reads 'Jon Newby'.

Jon Newby
District Manager and Engineer
West Valley Sanitation District

**2014 SCHEDULE OF LAFCO MEETINGS AND
APPLICATION FILING DEADLINES**

LAFCO MEETING	DEADLINE TO FILE APPLICATION
Wednesday February 5, 2014 Board Meeting Chambers	December 5, 2013
Wednesday April 2, 2014 Board Meeting Chambers	February 6, 2014
Wednesday June 4, 2014 Board Meeting Chambers	April 3, 2014
Wednesday August 6, 2014 Board Meeting Chambers	June 5, 2014
Wednesday October 1, 2014 Board Meeting Chambers	August 7, 2014
Wednesday December 3, 2014 Board Meeting Chambers	October 2, 2014

TIME OF MEETINGS: 1:15 PM

LOCATION OF MEETINGS: County Government Center
70 West Hedding Street, 1st Floor
San Jose, CA 95110

FILING LOCATION: LAFCO Office
70 West Hedding Street, 11th Floor
San Jose, CA 95110
(408) 299-6415

LAFCO MEETING: December 4, 2013
TO: LAFCO
FROM: Neelima Palacherla, Executive Officer
SUBJECT: APPOINTMENT OF 2014 LAFCO CHAIRPERSON AND VICE-CHAIRPERSON

RECOMMENDATION

Per the rotation schedule, appoint Commissioner Susan Vicklund Wilson, the Public member, as Chairperson for 2014; and Commissioner Linda LeZotte, the Special Districts member, as the Vice-Chairperson for 2014.

BACKGROUND

Santa Clara LAFCO added special districts members in January 2013. To reflect this change in membership, the LAFCO chairperson rotation schedule is amended as follows:

- Cities member
- County member
- San Jose member
- Special Districts member
- County member
- Public member
- Special Districts member

The Chairperson for 2013 calendar year is Commissioner Mike Wasserman, County member; and the Vice-Chairperson is Commissioner Susan Vicklund Wilson, Public member. In accordance with the rotation schedule, the Public member is appointed as the 2014 Chairperson and Special Districts member as the 2014 Vice-Chairperson.

News from the Board of Directors

CALAFCO QUARTERLY

AGENDA ITEM # 11

November 2013



CALAFCO WELCOMES TEHAMA LAFCO TO THE ASSOCIATION

We are proud to welcome Tehama LAFCo as a member of the Association. Look for a full article on Tehama LAFCo in the next edition of *The Sphere*.

2014 Annual Conference Update

At their November 8 meeting, the CALAFCO Board decided to move the conference to the new dates of October 15 – 17 so as not to conflict with the California Special Districts Association (CSDA) annual conference, which is scheduled for the same dates as the September dates. We are still at the DoubleTree by Hilton in Ontario with our host San Bernardino LAFCo. We are looking forward to a great conference with lots of things to do and see in Ontario. More information about the conference will be available soon. For now, mark your calendars for **OCTOBER 15 – 17, 2014!**

2014 Staff Workshop

The 2014 Staff Workshop is scheduled for **April 23 – 25, 2014** at the DoubleTree by Hilton in the Berkeley Marina. Our host for the workshop is Alameda and the Bay area LAFCos. The Host and Program Committees have begun their planning and details will be made available soon.

CALAFCO Board 2014 Committees

The CALAFCO Board appointed members to the 2014 standing committees are as follows:

Legislative Committee

Gay Jones
William Kirby
John Leopold
Mike McGill
Eugene Montanez
Josh Susman
Robert Bergman (a)
James Curatalo (a)
Mary Jane Griego (a)
Juliana Inman (a)
Ted Novelli (a)

Nominations Committee

Julie Allen
Mary Jane Griego
Juliana Inman
Mike Kelley
Elliot Mulberg (Chair)

Awards Committee

Larry Duncan
Mary Jane Griego (Chair)
John Leopold
Ted Novelli
Stephen Tomanelli
Josh Susman
Roger Welt

2014 Annual Conference

James Curatalo (Chair)
Stephen Tomanelli

CALAFCO U Courses for 2014

CALAFCO staff is in the process of finalizing the schedule of sessions for the first half of 2014 with topics that include the Protest Process, in January in southern California; LAFCo Best Practices (content taken from the Projects of the Year nominations) in early spring in Sacramento, and another in June on LAFCo lawsuits and how to prepare for and deal with them successfully.

LAFCo Symposium – December 9, 2013

UC Davis Extension and CALAFCO are co-sponsoring a one day symposium in Sacramento to celebrate the 50th birthday of LAFCo. Mark your calendars to join us for lively panel discussions on hot issues facing LAFCos today, and hear our special keynote

speaker the Honorable Robert Hertzberg.

Details and registration information are available on the CALAFCO website.

2013 Annual Conference in Squaw Valley a Success

328 commissioners, staff, associate members and guest speakers attended the annual conference held in Squaw Valley this past August.

There was good representation of LAFCos, with 48 of the 57 member LAFCos represented. Evaluation results showed a positive overall rating of 5.1 on a 6.0 scale. Participants mentioned the quality of the session topics, the location and venue, the banquet dinner and program, and the value of networking opportunities as some of the highlights.

Financially the conference met the goals established by the Board. Our thanks to Placer, Nevada and El Dorado LAFCos for hosting, Josh Susman (Nevada LAFCo) as Committee Chair, and Sam Martinez (San Bernardino LAFCo) as Program Chair.

CALAFCO Board Actions

During their regular meeting on November 8, the Board addressed several administrative issues including:

- ◆ The quarterly financial reports were reviewed and the budget is on track for the year. All financial reports are located on the website.
- ◆ Approved recommended LAFCo staff appointments to the 2014 Legislative Committee.
- ◆ Directed the newly formed Recruitment and Nominations Committee to review the current absentee ballot voting policy and potential use of absentee ballots in the case of a run-off election, and report to the Board in February on any recommendations.
- ◆ Approved the contract renewal for Pamela Miller as the Association's Executive Director.
- ◆ Approved the contract renewal for Jeni Tickler as the Association's Administrator.

Legislative Activities

The 2013 legislative year saw 2,264 bills introduced, of which 805 were chaptered and 96 were vetoed. CALAFCO's bills included AB 1427 (Omnibus) and AB 743 (Logue), both of which were signed into law. The other CALAFCO bill, AB 453 (Mullin) died in Senate Appropriations. A full report on the 2013 legislative year is located on the CALAFCO website.

The legislature will reconvene on January 7, 2014. CALAFCO's Legislative Committee is scheduled to meet via conference call on November 25th, and in person on December 6th. During their November 8th meeting, the Board gave consensus for the Legislative Committee to consider legislation that would change the MSR/SOI cycle from every 5 years to every 8 years, to coincide with the housing element update cycle. The Board also gave direction to the Legislative Committee to conduct outreach to freshman legislators who have been a LAFCo Commissioner as a way to build relations and partner with them on potential future LAFCo legislation.



