



**LAFCO MEETING AGENDA**  
Board Meeting Chambers, 70 West Hedding Street, First Floor  
San Jose, CA 95110  
June 4, 2014  
1:15 PM

**CHAIRPERSON: Susan Vicklund Wilson • VICE-CHAIRPERSON: Linda J. LeZotte**  
**COMMISSIONERS: Cindy Chavez, Sequoia Hall, Johnny Khamis, Margaret Abe-Koga, Mike Wasserman**  
**ALTERNATES: Pete Constant, Yoriko Kishimoto, Terry Trumbull, Cat Tucker, Ken Yeager**

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**NOTICE TO THE PUBLIC**

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1. Pursuant to Government Code §84308, no LAFCO commissioner shall accept, solicit, or direct a contribution of more than \$250 from any party, or his/her agent; or any participant or his /or her agent, while a LAFCO proceeding is pending, and for three months following the date a final decision is rendered by LAFCO. Prior to rendering a decision on a LAFCO proceeding, any LAFCO commissioner who received a contribution of more than \$250 within the preceding 12 months from a party or participant shall disclose that fact on the record of the proceeding. If a commissioner receives a contribution which would otherwise require disqualification returns the contribution within 30 days of knowing about the contribution and the proceeding, the commissioner shall be permitted to participate in the proceeding. A party to a LAFCO proceeding shall disclose on the record of the proceeding any contribution of more than \$250 within the preceding 12 months by the party, or his or her agent, to a LAFCO commissioner. For forms, visit the LAFCO website at [www.santaclara.lafco.ca.gov](http://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](http://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](http://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.

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

COMMISSIONERS: Cindy Chavez, Sequoia Hall, Johnny Khamis, Margaret Abe-Koga, Linda J. LeZotte, Mike Wasserman, Susan Vicklund Wilson  
ALTERNATE COMMISSIONERS: Pete Constant, 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 APRIL 4, 2014 LAFCO MEETING**

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**PUBLIC HEARING**

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**4. SARATOGA FIRE PROTECTION DISTRICT SPECIAL STUDY REVISED DRAFT REPORT AND OPTIONS FOR NEXT STEPS**

**Recommended Action:**

CEQA Action

1. Determine that the Saratoga Fire Protection District Special Study is not a “project” for purposes of the California Environmental Quality Act (CEQA) under §15061(b)(3) [General Rule] and is exempt from the requirements of CEQA under §15306, Class 6.
2. No CEQA action is necessary if the Commission does not initiate any changes in the governance of Saratoga Fire Protection District (SFD). In order to declare intent to initiate consolidation of SFD with the Santa Clara County Central Fire Protection (CCFD), LAFCO as Lead Agency under CEQA, must find that the consolidation of SFD with CCFD is not a “project” for purposes of the CEQA pursuant to §15378(b)(5) and §15061(b)(3) [General Rule] and is exempt from the requirements of CEQA under §15320, Class 20.

Project Action

3. Accept the Saratoga Fire Protection District Special Study Report.
4. Discuss the two options and direct staff as necessary:  
**Option 1:** Declare intent to not initiate any changes in the governance of SFD.  
**OR**  
**Option 2:** Declare intent to initiate consolidation of SFD with CCFD; and direct staff to seek concurrence from the CCFD, and prepare appropriate terms and conditions.

**5. FINAL LAFCO BUDGET FOR FISCAL YEAR 2015**

**Recommended Action:**

1. Adopt the Final LAFCO Budget for Fiscal Year 2014-2015.
2. Find that the Final LAFCO Budget for Fiscal Year 2015 is expected to be adequate to allow the Commission to fulfill its statutory responsibilities.

3. Authorize staff to transmit the Final LAFCO Budget adopted by the Commission including the estimated agency costs to the cities, the special districts, the County, the Cities Association and the Special Districts Association.
4. Direct the County Auditor–Controller to apportion LAFCO costs to the cities; to the special districts; and to the County; and to collect payment pursuant to Government Code §56381.

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**ITEMS FOR ACTION / DISCUSSION**

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**6. UPDATE ON THE SOUTH SANTA CLARA VALLEY MEMORIAL DISTRICT'S IMPLEMENTATION OF LAFCO RECOMMENDATIONS**

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

**7. WORK PLAN FOR CITIES SERVICE REVIEW**

**Recommended Action:**

1. Approve the proposed work plan for conducting the Cities Service Review.
2. Authorize staff to prepare a Draft Request for Proposals (RFP) for professional firms to conduct the Cities Service Review and authorize staff to provide the Draft RFP to affected agencies and interested parties for their review and comment.
3. Appoint two LAFCO Commissioners to serve on the Cities Service Review Technical Advisory Committee.

**8. UPDATE ON LAFCO BYLAWS**

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

**9. AB 2156 (ACHADJIAN) LOCAL AGENCY FORMATION COMMISSIONS: STUDIES**

**Recommended Action:** Take a support position on AB 2156 and authorize staff to send a letter to the Governor requesting that he sign AB 2156.

**10. EXECUTIVE OFFICER'S REPORT**

**10.1 REPORT ON THE ANNEXATION WORKSHOP FOR CITIES' STAFF**

For information only.

**10.2 REPORT ON THE 2014 CALAFCO STAFF WORKSHOP**

For information only.

**10.3 UPDATE ON THE CITY OF MORGAN HILL'S SOUTHEAST QUADRANT PROPOSAL**

For information only.

**10.4 UPDATE ON THE AMERICAN FARMLAND TRUST WORKSHOP ON THE FUTURE OF AGRICULTURE IN SANTA CLARA COUNTY**

For information only.

- 10.5 **UPDATE ON THE BURBANK SANITARY DISTRICT/SAN JOSE MEETING**  
For information only.
- 10.6 **REPORT ON THE SANTA CLARA COUNTY ASSOCIATION OF PLANNING OFFICIALS MEETING**  
For information only.
- 10.7 **REPORT ON THE CALAFCO LEGISLATIVE COMMITTEE MEETING**  
For information only.
- 10.8 **REPORT ON THE INTER-JURISDICTIONAL GIS WORKING GROUP MEETING**  
For information only.
- 10.9 **REPORT ON THE LAFCO WEBSITE REDESIGN**  
For information only.
- 11. **PENDING APPLICATIONS / UPCOMING PROJECTS**
- 12. **COMMISSIONER REPORTS**
- 13. **NEWSPAPER ARTICLES / NEWSLETTERS**
- 14. **WRITTEN CORRESPONDENCE**

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**CLOSED SESSION**

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- 15. **CLOSED SESSION**  
Public Employee Performance Evaluation (Government Code §54957)  
Title: LAFCO Executive Officer
- 16. **ADJOURN**  
Adjourn to the regular LAFCO meeting on Wednesday, August 6, 2014, at 1:15 PM in the Board Meeting Chambers, 70 West Hedding Street, San Jose.

**LAFCO MEETING MINUTES  
WEDNESDAY, APRIL 2, 2014**

**CALL TO ORDER**

Chairperson Susan Vicklund Wilson called the meeting to order at 1:23 p.m.

**1. ROLL CALL**

The following commissioners were present:

- **Chairperson Susan Vicklund Wilson**
- **Commissioner Cindy Chavez**
- **Commissioner Margaret Abe-Koga**
- **Commissioner Mike Wasserman**
- **Commissioner Johnny Khamis**
- **Alternate Commissioner Yoriko Kishimoto** (voted in place of Commissioner Linda LeZotte)
- **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. PUBLIC COMMENTS**

There were no public comments.

**3. APPROVE MINUTES OF FEBRUARY 5, 2014 LAFCO MEETING**

The Commission approved the minutes of February 5, 2014 LAFCO meeting.

Motion: Chavez

Second: Khamis

AYES: Chavez, Khamis, Kishimoto, Abe-Koga, Wasserman, Wilson

NOES: None

ABSTAIN: None

ABSENT: Hall

**MOTION PASSED**

**4. CONSENT CALENDAR: WEST BAY SANITARY DISTRICT SPHERE OF INFLUENCE (SOI) AMENDMENT AND ANNEXATION (830 LOS TRANCOS ROAD)**

The Commission adopted **Resolution No. 2014-02**, providing a favorable recommendation to the Local Agency Formation Commission of San Mateo County

relating to West Bay Sanitary District's Sphere of Influence amendment and annexation of a 9.43 acre parcel (APN: 182-36-031) located at 830 Los Trancos Road to the District.

Motion: Wasserman

Second: Abe-Koga

AYES: Chavez, Khamis, Kishimoto, Abe-Koga, Wasserman, Wilson

NOES: None

ABSTAIN: None

ABSENT: Hall

**MOTION PASSED**

**5. SAN JOSE URBAN SERVICE AREA (USA) AMENDMENT 2014 AND EVERGREEN NO. 202 REORGANIZATION**

Ms. Palacherla presented the staff report.

This being the time and place for the public hearing, **Chairperson Wilson** 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.

In response to an inquiry by **Commissioner Chavez**, Ms. Palacherla informed that the USA amendment proposal will establish the USA boundary based on new information about the correct slope line. **Alternate Commissioner Kishimoto** suggested that the large trees located in the area be considered when amending the USA boundary.

**Commissioner Khamis** stated that San Jose's ordinances will protect these trees once the area becomes part of the city and **Commissioner Wasserman** expressed agreement.

**Commissioner Khamis** moved for approval of San Jose's request and **Commissioner Chavez** seconded.

**Alternate Commissioner Kishimoto** moved for a substitute motion to direct San Jose to modify the proposal and keep Tree #16 outside of the proposed USA boundary. The substitute motion failed as there was no second.

The Commission adopted **Resolution No. 2014-03** conditionally approving the San Jose USA Amendment 2014 and Evergreen No. 202 reorganization.

Motion: Khamis

Second: Chavez

AYES: Chavez, Khamis, Abe-Koga, Wasserman, Wilson

NOES: Kishimoto

ABSTAIN: None

ABSENT: Hall

**MOTION PASSED**

**6. PROPOSED LAFCO BUDGET FOR FISCAL YEAR 2015**

Ms. Palacherla presented the staff report.

This being the time and place for the public hearing, **Chairperson Wilson** 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.

In response to an inquiry by **Commissioner Wasserman**, Ms. Palacherla advised that the FY2015 budget is three percent higher than the FY2014 adopted budget due to the increase in staff cost. She clarified that the proposed budget is \$100,000 more than the actual FY2014 expenses because some anticipated expenses, such as consultant costs, did

not occur in FY2014 and are now transferred to FY2015. **Commissioner Wasserman** moved for adoption of the proposed LAFCO budget.

In response to an inquiry by **Commissioner Chavez**, Ms. Palacherla reported that the majority of LAFCO fees are based on actual staff time and cost. She informed that LAFCO's cost to agencies takes into account the revenues from fees, carryover funds and interest earnings. In response to a follow-up inquiry by **Commissioner Chavez**, Ms. Palacherla advised that the State law stipulates that the allocation of cost to cities, the county and districts be proportional to their representation on LAFCO. She stated that the special districts in Santa Clara County have agreed to an alternative method of allocating LAFCO costs amongst themselves.

The Commission: (1) adopted the Proposed LAFCO Budget for Fiscal Year 2014-2015; (2) found that the Proposed LAFCO Budget for Fiscal Year 2015 is expected to be adequate to allow the Commission to fulfill its statutory responsibilities; and (3) authorized staff to transmit the Proposed LAFCO Budget adopted by the Commission including the estimated agency costs as well as the LAFCO public hearing notice on the adoption of the Fiscal Year 2015 Final Budget to the cities, the special districts, the County, the Cities Association and the Special Districts Association.

Motion: Wasserman

Second: Abe-Koga

AYES: Chavez, Khamis, Kishimoto, Abe-Koga, Wasserman, Wilson

NOES: None

ABSTAIN: None

ABSENT: Hall

**MOTION PASSED**

## 7. **PROPOSED LAFCO BYLAWS**

Ms. Noel presented the staff report.

**Commissioners Wasserman** and **Khamis** welcomed the proposed use of Rosenberg's Rules of Order. **Alternate Commissioner Kishimoto** suggested that the Bylaws include a provision to discourage members from abstaining to vote unless there is a conflict of interest. At the request of the **Chairperson**, Ms. Subramanian stated that the Commission cannot prohibit its members from abstaining to vote; however, as a policy decision, abstentions can be discouraged except when there is a conflict of interest.

**Commissioners Chavez** and **Khamis** informed that the San Jose City Council discourages abstentions. A brief discussion ensued between **Commissioner Chavez** and Ms. Subramanian and the Commission directed staff to review how San Jose and other cities address this issue. **Commissioner Wasserman** expressed concerns about requiring that members not abstain from voting and noted that he would not like to digress from the simplicity of the Rosenberg's Rules. **Alternate Commissioner Kishimoto** suggested that as a compromise, the policy could indicate that the Commission "strongly discourage" its members from abstaining to vote. **Commissioner Wasserman** accepted the amendment to the motion. **Commissioner Khamis** expressed support for the amended motion provided that staff bring back a proposed policy at the next meeting.

The Commission adopted the Bylaws and directed staff to bring back a policy to discourage members from abstaining to vote.

Motion: Wasserman

Second: Khamis

AYES: Chavez, Khamis, Kishimoto, Abe-Koga, Wasserman, Wilson

NOES: None

ABSTAIN: None

ABSENT: Hall

**MOTION PASSED**

**8. SARATOGA FIRE PROTECTION DISTRICT SPECIAL STUDY DRAFT REPORT**

Ms. Palacherla provided a brief background on the Saratoga Fire Protection District (SFD) Special Study Draft Report and introduced the consultant for the project, Richard Berkson, Principal, Economic Planning Systems. Mr. Berkson provided a PowerPoint presentation on the Draft Report.

In response to an inquiry by **Commissioner Wasserman**, Ms. Subramanian advised that LAFCO may initiate the dissolution of SFD; however, the voters within the district may eventually decide whether or not to dissolve it. **Commissioners Khamis and Wasserman** requested that the Commission receive copies of the PowerPoint presentation in advance.

In response to an inquiry by **Commissioner Khamis**, Mr. Berkson informed that annual savings of about \$80,000 to \$150,000 may be realized by eliminating the business manager position, benefits for board members and overhead expenses. In response to another inquiry by **Commissioner Khamis**, Ms. Palacherla informed that staff provided a presentation to the Saratoga City Council in 2012.

In response to an inquiry by **Commissioner Abe-Koga**, Mr. Berkson informed that he had several conversations with Santa Clara County Central Fire Protection District (CCFD). He stated that CCFD has not taken a position on the issue but indicated that they are able to proceed with the reorganization if directed. He noted that the information in the report about staffing and resources is based on his discussions with CCFD. In response to another inquiry by **Commissioner Abe-Koga**, Mr. Berkson indicated that the Draft Report did not study the option of SFD serving the entire City of Saratoga. **Commissioner Wasserman** noted that SFD representatives have indicated no interest in serving the entire Saratoga. In response to an inquiry by **Commissioner Wasserman**, Ms. Palacherla informed that the Draft Report is available on the LAFCO website.

In response to an inquiry by **Alternate Commissioner Kishimoto**, Mr. Berkson reported that CCFD is committed to maintaining the existing fire station regardless of reorganization because its location is critical to the delivery of service in that region. In response to succeeding inquiries by **Alternate Commissioner Kishimoto**, Mr. Berkson indicated that there may be opportunities for local representation by creating an advisory committee to the CCFD governing board. He stated that, in addition to the one percent property tax, the residents also pay for the bond measure and the EWAS fees. Mr. Berkson indicated that other than LAFCO's terms and conditions, there is no guarantee that SFD savings will be spent in the area. **Alternate Commissioner Kishimoto** noted that the use of \$1.8 million should be negotiated.

Harold Toppel, Counsel, SFD, informed that should LAFCO initiate dissolution, SFD will seek a restraining order to stop the process and have a judge make the findings



rather than try to secure signatures from registered voters or property owners to protest LAFCO's decision. He informed that if a sufficient protest is not filed against dissolution, no election will be required. Mr. Toppel urged the Commission to accept the Draft Report, make it available to the public and to end further action on SFD dissolution. In response to an inquiry by **Alternate Commissioner Kishimoto**, Mr. Toppel stated that the City of Saratoga is uninterested in having SFD provide fire services to the entire city since the whole area, both the portion within SFD boundaries and the rest of Saratoga, receives the same level of service from CCFD. He added that while SFD board makes policy decisions, fire services are implemented uniformly by CCFD and the residents do not know the difference.

In response to a follow-up inquiry by **Alternate Commissioner Kishimoto**, Mr. Toppel informed that the policy decisions that SFD makes are regarding fire service to the hillside area, capital improvements and equipment issues, and operation of the EWAS. He further stated that without the SFD, residents will not have accounting reports on the cost of fire services and will not be able to attend separate SFD Board meetings. Mr. Toppel noted that SFD Board members are well known in the community and they are able to communicate with residents in the local coffee shops and not just at meetings. He further stated that whether or not contested elections are held is not a measure of accountability especially when the district is not improperly operated. **Chairperson Wilson** determined that there are no members of the public who wished to speak on the item.

**Chairperson Wilson** provided a brief background on why the study on SFD was initiated. She noted that even though there is \$100,000 savings, it is not significant compared to the \$5 million budget. She informed that the Commission has not heard from Saratoga residents and expressed agreement in continuing the item to the August meeting. **Chairperson Wilson** proposed that staff present the final report and recommendations on the process and options at the June meeting. **Commissioners Wasserman** and **Abe-Koga** expressed no objection to the amended motion.

**Commissioner Khamis** cautioned that SFD may spend more on legal representation than the savings projected from dissolution of SFD. As an example of how local communities opt to pay more in taxes in order to enjoy certain services, **Commissioner Wasserman** noted that Monte Sereno residents chose to pay more for police services from a different provider.

The Commission accepted the report, directed staff to present the Final Report at the June meeting, along with staff recommendations on the process and options.

Motion: Wasserman

Second: Abe-Koga

AYES: Chavez, Khamis, Kishimoto, Abe-Koga, Wasserman, Wilson

NOES: None

ABSTAIN: None

ABSENT: Hall

**MOTION PASSED**









## FIRE DEPARTMENT SANTA CLARA COUNTY

14700 Winchester Blvd., Los Gatos, CA 95032-1818  
(408) 378-4010 • (408) 378-9342 (fax) • www.sccfd.org



June 2, 2014

**AGENDA ITEM # 4**  
**Supplemental Information # 3**

**Received on June 2, 2014**

Ms. Neelima Palacherla, Executive Officer  
Santa Clara LAFCO  
70 West Hedding Street  
San Jose, CA 95110

**Subject: Saratoga Fire Protection District Special Study**  
**Response to Letters Authored by Saratoga Fire District Counsel H. S. Toppel**

Dear Ms. Palacherla,

The Santa Clara County Central Fire Protection District, also known as the Santa Clara County Fire Department, respectfully submits this response following review of the April 15, 2014 and May 29, 2014 letters authored by Saratoga Fire District legal counsel Harold S. Toppel regarding the *Saratoga Fire Protection District Special Study - Revised Draft Report*.

County Fire greatly values its relationship with the Saratoga Fire District (“SFD”), and provides 100% of fire and emergency response services to Saratoga Fire District residents and community members. It is important to note that we have taken no official position regarding, nor have we advocated for, dissolution of the SFD. Unfortunately, several of the comments raised by Mr. Toppel’s letters make incorrect assertions regarding County Fire that require a response.

The purpose of this response is to generally address the primary issues and assertions regarding County Fire raised by the two letters. We have organized our responses into four categories: transparency and accountability; regional approach; cost savings and services provided; and annexation.

### ***Transparency and Accountability***

County Fire takes pride in providing first rate service to all those it serves, including those residents served under contract, by providing timely and responsive service. The Fire Chief regularly provides reports to the cities served, including at local public meetings. County Fire has a longstanding commitment to preserving the heritage of all local fire departments that are integrated into our organization, including the prior (and completed) operational integration of the former Saratoga Fire Department.

Therefore, County Fire takes strong exception to the repeated assertions in both of Mr. Toppel's letters that County Fire is not a transparent and locally accountable organization. Led by the Board of Supervisors, sitting as the Board of Fire Commissioners, County Fire has a responsive, democratically-elected board. County Fire could easily meet the listed requirements of the "Transparency Certificate of Excellence," which includes such items as compliance with the Brown Act.

County Fire has a fully transparent budgeting process and prepares annual financial audits. County Fire's financial information is publicly available.

Finally, we note that County Fire is also the only fire department in Santa Clara County—and one of only 192 in the United States—to be accredited by the prestigious Commission on Fire Accreditation International (CFAI). The rigorous CFAI process includes the incorporation of in-depth input from widespread community stakeholders, with concrete deliverables.

### ***A Regional Approach***

Mr. Toppel's letters correctly note that County Fire is designed to provide services on a regional basis. County Fire does not allocate revenues or resources to the exclusive benefit of any political entity. Indeed, that is our strength. By deploying resources strategically throughout our service area, County Fire is able to provide better and more comprehensive service in a more efficient and effective manner.

County Fire uses the Saratoga Fire Station as a primary station because of its central location. Accordingly, additional resources are deployed to the Saratoga station to provide maximum benefit to the residents of *both* the SFD and those substantial portions of the City of Saratoga and unincorporated areas that lie within County Fire's own boundaries.

### ***Cost Savings and Services Provided***

Mr. Toppel notes that dissolution of the SFD would result in some cost savings, but expresses concern about the specific functions replaced. To clarify County Fire's responses provided in the LAFCO study: under a consolidation, SFD's executive officer/business manager would not be replaced by a "second-level clerk at CCFD." Many of the tasks now being performed by the SFD business manager are also being performed by the County Fire Director of Business Services.

County Fire was asked if we could assume the management of the Early Warning Alarm System. We responded that we could manage the system, given a half-time office assistant.

Mr. Toppel particularly notes that SFD provides “monthly emergency response reports; monthly reports on the condition and status of the District owned fire station; monthly reports on the fire protection measures being installed in new construction projects; or monthly reports on the status of special community activities conducted by the District.” These reports are routinely provided by County Fire to each of the entities served by County Fire. Indeed, the SFD reports referred to are, in fact, produced by County Fire staff.

***Annexation***

Mr. Toppel’s April 15<sup>th</sup> letter correctly notes that any decision to annex SFD lies with the Board of Supervisors, sitting as the County Fire Commissioners. As previously noted, County Fire has not advocated for the dissolution of the SFD. County Fire staff has not brought the question to the Commissioners because there is currently no proposal. If LAFCO decides to pursue a reorganization of the SFD, County Fire, through its governing body, will respond to that proposal.

Thank you for your consideration of County Fire’s comments. Please feel free to contact me for clarification to any of the responses.

Sincerely,



Ken Kehmna  
Fire Chief

KRK:jmt

- c: Honorable Board of Fire Commissioners (Board of Supervisors)
- Jeffrey V. Smith, County Executive
- James R. Williams, Deputy County Executive
- Mr. Harold S. Toppel, legal counsel, Saratoga Fire Protection District







**AGENDA ITEM #4:**  
**Supplemental  
Information**

**LAFCO MEETING: June 4, 2014**  
**TO: LAFCO**  
**FROM: Neelima Palacherla, Executive Officer**  
**Mala Subramanian, LAFCO Counsel**  
**Dunia Noel, Analyst**  
**SUBJECT: SARATOGA FIRE PROTECTION DISTRICT SPECIAL STUDY**  
**REVISED DRAFT REPORT AND OPTIONS FOR NEXT STEPS**

**Please see attached comment letters received since May 20, 2014:**

1. Letter from Reid Fickinger, SFD resident, dated May 23, 2014
2. Letter from Hal Toppel, Attorney for SFD, dated May 29, 2014



**AGENDA ITEM # 4**  
**Supplemental Information # 1**

**From:** [Velasco, Roland](mailto:roland.velasco@bos.sccgov.org)  
**To:** [Palacherla, Neelima](mailto:neelima.palacherla@bos.sccgov.org); [Wasserman, Mike](mailto:mike.wasserman@bos.sccgov.org)  
**Subject:** FW: Saratoga Fire District Dissolution Proposal  
**Date:** Tuesday, May 27, 2014 9:40:58 AM

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Mike,  
I'm forwarding this to Neelima since she wasn't copied.  
Roland

**Roland Velasco**

Land Use Policy Aide  
Office of Supervisor Mike Wasserman  
Santa Clara County Board of Supervisors  
70 West Hedding St., 10th Floor, East Wing  
San Jose, CA 95110  
(408) 299-5010 (office) | (408) 295-6993 (fax)  
[www.supervisorwasserman.org](http://www.supervisorwasserman.org) | [roland.velasco@bos.sccgov.org](mailto:roland.velasco@bos.sccgov.org)

Begin forwarded message:

**From:** Reid Flickinger <[reid@saleview.com](mailto:reid@saleview.com)>  
**Date:** May 23, 2014 at 3:46:09 PM PDT  
**To:** <[Mike.Wasserman@bos.sccgov.org](mailto:Mike.Wasserman@bos.sccgov.org)>, <[Susan@svwilsonlaw.com](mailto:Susan@svwilsonlaw.com)>, <[Cindy.Chavez@bos.sccgov.org](mailto:Cindy.Chavez@bos.sccgov.org)>, <[shall@openspaceauthority.org](mailto:shall@openspaceauthority.org)>, <[district10@sanjoseca.gov](mailto:district10@sanjoseca.gov)>, <[Margaret.Abe-Koga@mountainview.go](mailto:Margaret.Abe-Koga@mountainview.go)>, <[board@valleywater.org](mailto:board@valleywater.org)>  
**Cc:** david moyles <[davidmoyles@me.com](mailto:davidmoyles@me.com)>  
**Subject:** Re: Saratoga Fire District Dissolution Proposal

23, 2014

May

Re: Saratoga Fire District Dissolution Proposal

Good Afternoon,

I understand that LAFCO has undertaken an initiative to dissolve SFD and merge it into CCFD. As a resident in the SFD service area, I have outstanding respect & recommendation for the services delivered by CCFD for SFD. My initial reaction to the proposal was neutral to, if not favoring, the holistic aspect to the initiative.

However, I have read the 3<sup>rd</sup> party consultant published review and find the initiative lacking merit in a number of important ways and would like to address the following points made in the study:

Page 23, 3a: The identified potential annual cost savings expected from the consolidation are trivial compared to the overall budgetary extent of SFD. In essence,

it is a small margin that goes toward insuring a local voice, and control as required, for a very important service to our community.

Page 24, 3b bullet one: "The SFD is completely surrounded...". This posit, while accurate, is a rather emotional phrase which I think undermines the study. Perhaps the study should have also looked from the perspective that, with the fractured state of Saratoga's Fire services amid the "much large jurisdiction" of CCFD, SFD should consolidate representation for Saratoga and thus eliminate redundancy in that way.

3b bullet two: The study states the additional layer of governance as "unnecessary" and re-iterates the fractured state of Saratoga's Fire Protection. The assumption appears to only be based on the low participation rate by the community in SFD. I propose that this could very well be because we have the additional local oversight that active participation by property owners are unnecessary because representation is currently local.

3b bullets 3-5: These items are only valuable to residents affected. It is not possible for a higher government body and a distant consulting firm to accurately speak to a local topic. Contracts, salaries and responsibilities for publication/documentation, if deficient, could easily be remedied by SFD as it stands without dissolution. The public forum and local elected/appointed representation is paramount and should not be so easily dismissed. Once lost, this will most likely not be regained.

Nowhere in the study do I find by what mechanism local voices and needs will be recognized let alone guaranteed after dissolution. Certainly, I think everyone can agree that consolidation of a group into a larger one dilutes the voice of those assimilated. Also, organizational size (e.g. CCFD) does not in itself imply efficiency. While I hold CCFD in high respect in the services it provides SFD, the potential negative outcome in the dissolution of SFD far outweigh the trivial hoped-for cost savings.

I appreciate your time and consideration and propose the initiative be abandoned.

Sincerely,

Reid Flickinger  
20261 Hill Ave – Saratoga, CA 95070  
408.741.1403

**AGENDA ITEM # 4**  
**Supplemental Information # 2**

**ATKINSON • FARASYN, LLP**

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REPLY TO:  
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J.M. ATKINSON (1892-1982)  
L.M. FARASYN (1915-1979)

May 29, 2014

Santa Clara County LAFCO  
70 West Hedding Street  
San Jose, CA 95110

Re: Saratoga Fire Protection District Special Study  
Draft Report Dated May 9, 2014 and Consultant Responses

Dear Commissioners:

The Saratoga Fire Protection District (“SFD”) has reviewed the revised Draft Report dated May 9, 2014, along with the LAFCO staff report and responses by the consultant to earlier comments submitted by SFD, and we offer the following additional comments:

Other than the statement that a dissolution of SFD would not result in loss of ERAF funds to the school districts, the revised report dated May 9, 2014 appears to be identical to the earlier draft report dated March 27, 2014. So all of the comments previously made by SFD to the March report (except ERAF) would apply equally to the May report. Moreover, nothing new can be found in the LAFCO staff report or the responses from the consultant. They have merely repeated the same flawed arguments but no additional evidence has been presented to support the required findings that a dissolution will result in cost savings and *promote* public access and accountability.

It is interesting to note that the LAFCO staff and the consultant have now conceded some of the points made by SFD in its prior comments – but they put a different spin on these conclusions. For example, they acknowledges that the potential cost savings from a dissolution will be small but “over a period of time” could amount to significant savings. Well, that is true if you keep track of the “small savings” and accumulate the funds for later use; just as any financial planner will tell you that if you save \$5.00 per week, after 30 years you will have accumulated \$7,800 plus compounded interest. Under this theory, *any* amount of savings can be viewed as “substantial” but this is not the type of analysis contemplated by the state law.

The consultant has found other cost savings, but from rather remarkable sources. He notes that elimination of the monthly financial reports and annual financial statements now being prepared for the SFD Board will save money. We concede that a state of ignorance is always cheaper to maintain, although how this lack of information *promotes* accountability and transparency still escapes us. After finding fault with the fact that no contested elections have occurred (which he mistakenly takes as proof of indifference on the part of District residents), the consultant then observes that not being able to elect its

governing board would “eliminate SFD election costs” and allow the savings to be used for other purposes. Again, we will concede that disenfranchisement of District voters may save money, but how the inability to elect or recall any member of the governing body *promotes* public access and accountability also escapes us.

The consultant now acknowledges that SFD revenues may be used outside the District following a dissolution but argues that CCFD already has the ability to use savings generated from SFD in other areas. That may be true, but the big difference is that there is an existing Board of Directors for the SFD that receives monthly and annual financial reports and carefully keeps track of both revenues and costs (using those same financial reports that the consultant feels are a waste of money). If it appears that the costs are out of line, the SFD Board has the legal authority to renegotiate the service agreement with CCFD to correct the situation – a power that will be totally lost if SFD is dissolved. We would respectively suggest to the LAFCO staff and the consultant that this is an essential aspect of accountability. Moreover, it should be remembered that a significant portion of all SFD revenue is directly received by the District and subject to full control by the SFD Board. None of this revenue is diverted for the benefit of other areas.

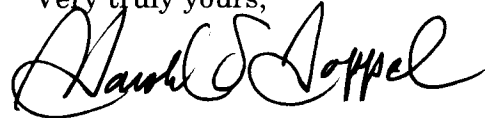
Once again we hear the same alleged reasons why dissolution is necessary: there is no contract between SFD and the City of Saratoga regarding administration of the EWAS program (which is fully described in the respective ordinances and regulations adopted by both agencies); there is no resolution establishing the EWAS service fee (which has not been changed in 33 years and is individually billed to each person who pays it); and there is no written employment contract with the District’s business manager (to describe the duties and responsibilities she has continuously performed for the last 21 years). We have responded to these arguments before and our earlier comments are still applicable. However, the LAFCO members should ask themselves these questions: if LAFCO was merely engaged in a normal service review of any other agency, would these technicalities be considered major problems? Would the final LAFCO recommendations simply be to consider an agreement with the city, adopt a resolution to confirm the EWAS service charge, and sign an employment contract with the business manager? But since we are dealing with a staff and consultant who clearly have as their objective a dissolution of the SFD, these items are being elevated in importance to serve as the primary justifications for dissolution.

The staff report and consultant responses repeatedly state that dissolution will lead to “better transparency and accountability.” Yet both of them continue to ignore the fact that the Saratoga Fire District has been awarded the Transparency Certificate of Excellence by the Special District Leadership Foundation – and the County Central Fire District has not. So who is really the most transparent agency?

The revised Draft Report and the consultant responses confirm, and actually reinforce, the position of the SFD that the findings required for dissolution cannot be made. Arguments do not constitute the substantial evidence legally required to support a finding, particularly when the arguments are wrong, and no such evidence has been presented in either the Draft Report or the consultant's responses.

We would once again request the Commission to acknowledge receipt of the report and our comments, consider your work on this matter to be completed, and close your file.

Very truly yours,

A handwritten signature in black ink, appearing to read "Harold S. Toppel". The signature is fluid and cursive, with the first and last names being more prominent.

Harold S. Toppel  
District Counsel

cc: Neelima Palacherla  
Richard Berkson  
Malathy Subramanian  
SFD Board of Directors  
Trina Whitley  
Marc Hynes





**LAFCO MEETING: June 4, 2014**  
**TO: LAFCO**  
**FROM: Neelima Palacherla, Executive Officer**  
**Mala Subramanian, LAFCO Counsel**  
**Dunia Noel, Analyst**  
**SUBJECT: SARATOGA FIRE PROTECTION DISTRICT SPECIAL STUDY**  
**REVISED DRAFT REPORT AND OPTIONS FOR NEXT STEPS**

**STAFF RECOMMENDATION**

---

**CEQA ACTION**

1. Determine that the Saratoga Fire Protection District Special Study is not a “project” for purposes of the California Environmental Quality Act (CEQA) under §15061(b)(3) [General Rule] and is exempt from the requirements of CEQA under §15306, Class 6.
2. No CEQA action is necessary if the Commission does not initiate any changes in the governance of Saratoga Fire Protection District (SFD). In order to declare intent to initiate consolidation of SFD with the Santa Clara County Central Fire Protection (CCFD), LAFCO as Lead Agency under CEQA, must find that the consolidation of SFD with CCFD is not a “project” for purposes of the CEQA pursuant to §15378(b)(5) and §15061(b)(3) [General Rule] and is exempt from the requirements of CEQA under §15320, Class 20.

**PROJECT ACTION**

3. Accept the Saratoga Fire Protection District Special Study Report. (**See Attachment B for Special Study Report**)
4. Discuss the two options and direct staff as necessary:  
Option 1: Declare intent to not initiate any changes in the governance of SFD.  
OR  
Option 2: Declare intent to initiate consolidation of SFD with CCFD; and direct staff to seek concurrence from the CCFD, and prepare appropriate terms and conditions.

## PROJECT DESCRIPTION

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The Saratoga Fire Protection District (SFD) covers a portion of the City of Saratoga and some adjacent unincorporated area. The SFD is completely surrounded by the Santa Clara County Central Fire Protection District (CCFD), a regional fire district, which serves the remaining portion of the City of Saratoga, other nearby cities and large unincorporated areas in the vicinity. (**See Attachment A for map of the two districts**) As an independent special district, the SFD is governed by a 3-member elected Board of Directors, whereas the CCFD is governed by the County Board of Supervisors. In 2008, following the success of a management agreement between SFD and CCFD, the two districts entered into a full service agreement, whereby SFD employees were transferred to the CCFD.

The resulting “functional consolidation” increased efficiencies without change in governance or jurisdictional boundaries of the two districts. As part of the Service Agreement (Appendix A of the Special Study Report), CCFD must provide fire suppression and prevention services to SFD; and SFD must pay 90% of its property tax revenue to CCFD for the service. The SFD has retained responsibility for the management of the Early Warning Alarm System (EWAS), a program mandated by the City of Saratoga and SFD ordinances which require installation/monitoring of a fire detection system for new construction and certain remodels / additions located within the SFD or the City of Saratoga.

In 2010, LAFCO’s Countywide Fire Service Review identified two viable options for SFD governance: (1) maintenance of the status quo, or (2) dissolution of the SFD and consolidation with CCFD which would result in an estimated annual savings of approximately \$118,000 in administrative costs and make accountability for service more transparent. Following the adoption of the Service Review, LAFCO established a zero sphere of influence for the SFD in anticipation of its eventual consolidation with the CCFD given that it is completely surrounded by and contracts for services with CCFD. Partly in response to the 2010-2011 Civil Grand Jury Report which urged LAFCO to be more proactive about implementing the recommendations in its service review reports, including those related to dissolutions, where warranted, LAFCO at its December 2010 meeting, directed staff to pursue further research and analysis of the latter option.

In spring of 2011, staff began researching and developing materials on the dissolution process. In June 2011, staff met with the chairperson of the SFD in order to discuss this issue, who expressed strong opposition to any potential dissolution efforts. As directed by LAFCO, staff provided a presentation to the Saratoga City Council in November 2011, to solicit input on the SFD issue. The City Council had several questions regarding the process, indicated that the current situation should be given a chance to continue, and requested that they be kept informed of any further study by LAFCO.

In December 2011, LAFCO authorized staff to seek a professional service firm to conduct a special study on the impacts of the potential dissolution of SFD and annexation to

CCFD, including a detailed analysis of the cost savings and fiscal impacts in order to inform LAFCO's decision on whether or not to initiate dissolution of the SFD and annex its territory to CCFD.

## **PREPARATION OF THE SARATOGA FIRE PROTECTION DISTRICT SPECIAL STUDY REPORT**

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In June 2012, LAFCO issued a Request for Proposals (RFP) for a professional services firm to prepare the special study in response to which, it received a single proposal from Economic & Planning Systems (EPS). However, due to the LAFCO Office's workload and priorities, this project was placed on hold until 2013. In March 2013, LAFCO contracted with EPS to conduct the Saratoga Fire Protection District Special Study.

In mid-July 2013, LAFCO staff contacted SFD in order to arrange a meeting between EPS and SFD regarding the study. However, due to scheduling issues, a meeting could not be immediately arranged. On July 26, 2013, LAFCO staff forwarded a data request from EPS to SFD and requested that the District respond by August 14, 2013. In response, SFD's Legal Counsel stated that their draft response would be considered by the entire District Board at its meeting on August 20, 2013 and suggested that EPS meet with SFD on the study as part of the District's September 24, 2013 meeting. On September 11, 2013, EPS received data from SFD in response to its initial data request.

EPS attended SFD's September 24, 2013 Board meeting and also met with staff of CCFD on the same day in order to collect additional information from each district for the study. LAFCO staff attended both of these meetings. EPS continued to request and receive additional information from both districts over the next few months in order to prepare their report.

### **Release of Draft Report for Public Review and Comment**

On February 25, 2014, an administrative draft of the report (excluding the Findings Chapter) was provided to the SFD and the CCFD, for their internal review and comment prior to the public release of the Draft Report. The purpose of this step was to ensure that the two districts had an opportunity to review the report and identify any factual inaccuracies prior to the release of the report for public review and comment. The SFD provided written comments on March 20, 2014, which were considered and addressed in the Draft Report as appropriate. The CCFD did not provide any comments.

The Saratoga Fire Protection District Special Study Draft Report was made available on the LAFCO website on March 28, 2014, and as part of the LAFCO packet for the April 2, 2014 meeting. Staff sent a Notice of Availability to all affected agencies, LAFCO commissioners, and other interested parties announcing the release of the Draft Report for public review and comment.

At its April 2, 2014 meeting, LAFCO received a presentation from EPS on the Draft Report for the Saratoga Fire Protection District Special Study and received comments

from SFD's attorney on the Draft Report. No final action on the Draft Report was taken at this meeting.

### **Release of the Revised Draft Report for Public Hearing**

As of May 20, 2014, LAFCO received two comment letters on the Draft Report (from Hal Toppel, SFD's attorney and from Ernest Kraule, Retired SFD Chief). EPS has reviewed these comments and has prepared a response to these comments. See **Attachment C** for the comment letters and the consultant's response.

The Revised Draft Report with tracked changes and this staff report was made available on the LAFCO website on May 20, 2014, for additional public review and comment. A Notice of Availability (**See Attachment D**) was sent to all affected agencies, LAFCO commissioners, and other interested parties in order to announce the availability of the Revised Draft Report. Affected agencies, interested parties and the public may continue to provide comments on the Revised Draft Report. LAFCO will hold a public hearing on June 4, 2014 in order to accept further public comment, consider the Revised Draft Report and options for next steps.

LAFCO staff would like to extend their appreciation to the SFD Board and staff member as well as to the CCFD staff for cooperating with LAFCO and its consultant and providing prompt responses to the consultant's request for information.

### **STAFF ANALYSIS**

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Other than the requirement that LAFCO must make findings prior to initiating consolidation proceedings that the consolidation would result in lower or substantially similar public service costs and that it would promote public access and accountability, State law or local LAFCO policies do not provide any specific criteria to determine when a consolidation is appropriate. LAFCO must make its decision on a case by case basis.

Geographically, the SFD is completely surrounded by the larger, regional CCFD, with which it contracts for fire services. Approximately half of the City of Saratoga is within the SFD and the remaining portion is within the boundaries of the CCFD. As a result of the full-service agreement between the two districts, the City of Saratoga is now served by a single provider, the CCFD. It is therefore likely that the average resident of the City would not know or experience a difference in fire protection service as a result of being within or outside the SFD. However, despite the "functional consolidation" of the two districts, the SFD remains an independent special district with its elected board of directors; has expressed strong opposition to potential dissolution and consolidation with the CCFD; and functions as an "intermediary" between City residents (within the SFD) and the CCFD, their actual service provider.

Consolidation of SFD with CCFD would improve transparency by eliminating confusion as to which agency provides fire service to the City of Saratoga residents. It would also clarify lines of communication, and facilitate direct communication between Saratoga residents and the service provider. Similar to the remaining City residents, the residents

of the SFD, following consolidation, could obtain fire service information at city council meetings from specific reports prepared by the CCFD.

It appears that the major concerns with dissolution of the SFD relate to loss of local control over service levels and local revenues, and the loss of local community's access to decision makers. These are important considerations for the SFD constituents; however, the Special Study Report describes a current lack of public interest as indicated by a lack of contested elections since 2001 and a lack of public oral comments (participation) at the SFD meetings. The SFD has countered that this simply reflects a constituency that is satisfied with the current representation and services provided by the SFD. Further, the SFD indicates that as members of the local community, the SFD Board is more accessible to its constituents.

The Special Study Report notes some current SFD practices that are contrary to promoting public accountability and transparency such as the absence of a job description and pay scale for the SFD's employee; and absence of a rate schedule and contract for EWAS services.

Regarding control over local service levels, in reality, the service levels within the SFD are established by agreement with CCFD. Although the contract can be amended before it expires on July 1, 2018, given the limitation of the SFD revenues and the regional nature of the CCFD service, it is unlikely that any significant changes in service levels / response times specific to the SFD will be requested or can be accommodated. CCFD has indicated that the Saratoga Fire Station currently is and will remain integral to their regional fire service model, regardless of consolidation. At this time, the SFD does not provide any other service besides the management of EWAS which is uniformly administered throughout the City of Saratoga and the SFD.

The Special Study Report indicates that the consolidation would result in potential annual savings ranging from \$82,600 to \$151,800. While these amounts are only a small percentage of the SFD's current annual expenses of over \$5.5 million, over a period of time this could amount to significant savings. It may be possible to utilize these savings to partially pay down the SFD's debt.

LAFCO's 2010 Fire Service Review first indicated and the Special Study Report now confirms that additional, albeit small annual savings, as well as better transparency and accountability could be realized through consolidation of SFD with CCFD.

While consolidation is consistent with LAFCO's goals for promoting efficient service delivery and good governance, the SFD is opposed to the consolidation, has threatened litigation should LAFCO proceed, and claims that the district residents support the continuance of the SFD and would benefit from the local control/representation provided by the SFD Board. The CCFD staff has indicated that the district is able to assume the responsibilities of the SFD and will request consideration by their Board if LAFCO intends to proceed with consolidation efforts.

## **ENVIRONMENTAL ANALYSIS**

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The Saratoga Fire Protection District Special Study Report is intended to provide information on whether or not the necessary findings could be made to allow LAFCO to initiate a reorganization of the SFD. The report is not a “project” for purposes of the California Environmental Quality Act (CEQA) under §15061(b)(3) [General Rule] because it does not propose any actions, and is also exempt from the requirements of CEQA under §15306, Class 6.

*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.*

*Section 15036, 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.*

The staff report which accompanies the Special Study Report presents the following potential options for the Commission’s consideration: Option 1: Declare intent to not initiate any changes in the governance of SFD; OR Option 2: Declare intent to initiate consolidation of SFD with CCFD; and direct staff to seek concurrence from the CCFD, and prepare appropriate terms and conditions.

Option 1 consists of a decision to maintain the status quo and so, itself, is not a project subject to CEQA.

Option 2 is to initiate consolidation of SFD with CCFD. As an effect of the consolidation, CCFD, the consolidated district, will succeed to “all of the powers, rights, duties, obligations, functions and properties” of the SFD which has been joined into the CCFD. Option 2 is not a “project” for purposes of CEQA pursuant to §15378(b)(5) and also under §15061(b)(3) [General Rule] because it would result only in a reorganization of the two fire districts and would not modify or expand services or service area, and so it would not result in a direct or reasonably foreseeable indirect environmental impact. Further, as a reorganization of a governmental agency, even if it were a project, Option 2 would also be exempt from the requirements of CEQA under §15320, Class 20.

*Section 15378(b)(5) states a project does not include organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment.*

*Section 15320, 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.*

## **PROCEDURE FOR CONSOLIDATION OF SFD WITH CCFD**

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The Saratoga Fire Protection District Special Study Report concluded that LAFCO can make the required determinations should it decide to initiate a reorganization in order to dissolve SFD and add its territory to the CCFD. After researching the various procedures that LAFCO might use to achieve this result, LAFCO staff and Counsel recommend the consolidation process.

Pursuant to GC §56375(a)(2), LAFCO may initiate a consolidation of the SFD with CCFD. As an effect of the consolidation, CCFD, the consolidated district, will succeed to “all of the powers, rights, duties, obligations, functions and properties” of the SFD which has been joined into the CCFD. (GC §57500) As part of these rights and duties, CCFD would become liable for all debts of the SFD, the predecessor agency (GC §57502); and the combined territory and residents / voters within the territory are subject to the jurisdiction of CCFD, the consolidated district. Following consolidation, the boundaries of the CCFD will expand to include SFD’s territory; there will be no change in the governance structure of the CCFD.

If LAFCO initiates the consolidation proposal, LAFCO would be responsible for all processing costs such as staff, legal, and any litigation or election costs.

The following is a summary of key steps necessary in a LAFCO initiated consolidation procedure.

### **1. LAFCO Initiation & Determinations**

LAFCO may only initiate a consolidation of two districts if the proposal is consistent with a conclusion or recommendation in a service review, sphere of influence update or special study and the Commission makes both of the following determinations required in Government Code §56881. [GC §56375(a)(2) & (3)]:

1. Public service costs of the proposal are likely to be less than or substantially similar to the costs of alternative means of providing the service.
2. The proposal promotes public access and accountability for community services needs and financial resources.

The 2010 Countywide Fire Service Review identified this as a viable option for SFD and concluded that such an action could result in annual administrative cost savings in the amount of approximately \$118,000. LAFCO decided that additional analysis is required to verify the data, address issues regarding the district’s assets and liabilities in detail, and confirm that the necessary findings could be made. Subsequently, LAFCO authorized the preparation of the Saratoga Fire Protection District Special Study, which concluded that the above two findings can be made should LAFCO decide to initiate such a reorganization.

## **2. Property Tax Exchange**

For jurisdictional changes that would affect one or more special districts, pursuant to Revenue and Tax Code §99(b)(5), the County Board of Supervisors is required to establish the amount of property tax transfer between the affected special districts. CCFD, the consolidated district, is expected to receive the same portion of the 1% tax allocation as SFD, the predecessor agency, was receiving from the territory; and it is expected that no other agency would be affected by this transfer.

## **3. LAFCO Public Hearing**

LAFCO is required to hold a public hearing and provide appropriate notice on the proposed consolidation proposal. At the hearing, LAFCO may approve, deny or approve with terms and conditions and set a date for holding a protest proceeding.

## **4. Protest Proceeding**

LAFCO is required to hold a protest proceeding and based on the level of written protest received at the protest proceeding, LAFCO may terminate the proposal, order the proposal without election or order the proposal subject to an election. LAFCO must terminate the proposal if written protest has been filed by 50% or more of the voters residing in the territory. (GC §57078)

## **5. Election may be Required**

LAFCO must order the consolidation without an election except when written protest has been submitted by at least 10% of the number of landowners within any subject agency within the affected territory who own at least 10% of the assessed value of land within the territory OR by at least 10% of the voters entitled to vote as a result of residing within, or owning land within, any subject agency within the affected territory. (GC §57077.2(a) & (b)(4) and GC §57113)

## **NEXT STEPS**

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Should LAFCO decide not to proceed with consolidation efforts at this time, staff recommends that LAFCO encourage the SFD to consider addressing the lack of documentation / records by for example, developing a job description / pay scale for its part time employee and by establishing documentation for the EWAS program.

Should LAFCO decide to proceed with consolidation efforts, it should direct staff to work with CCFD to confirm support for the consolidation effort from the CCFD's Board of Directors. The Commission should provide direction on potential terms and conditions that it would like to consider imposing on the consolidation proposal.

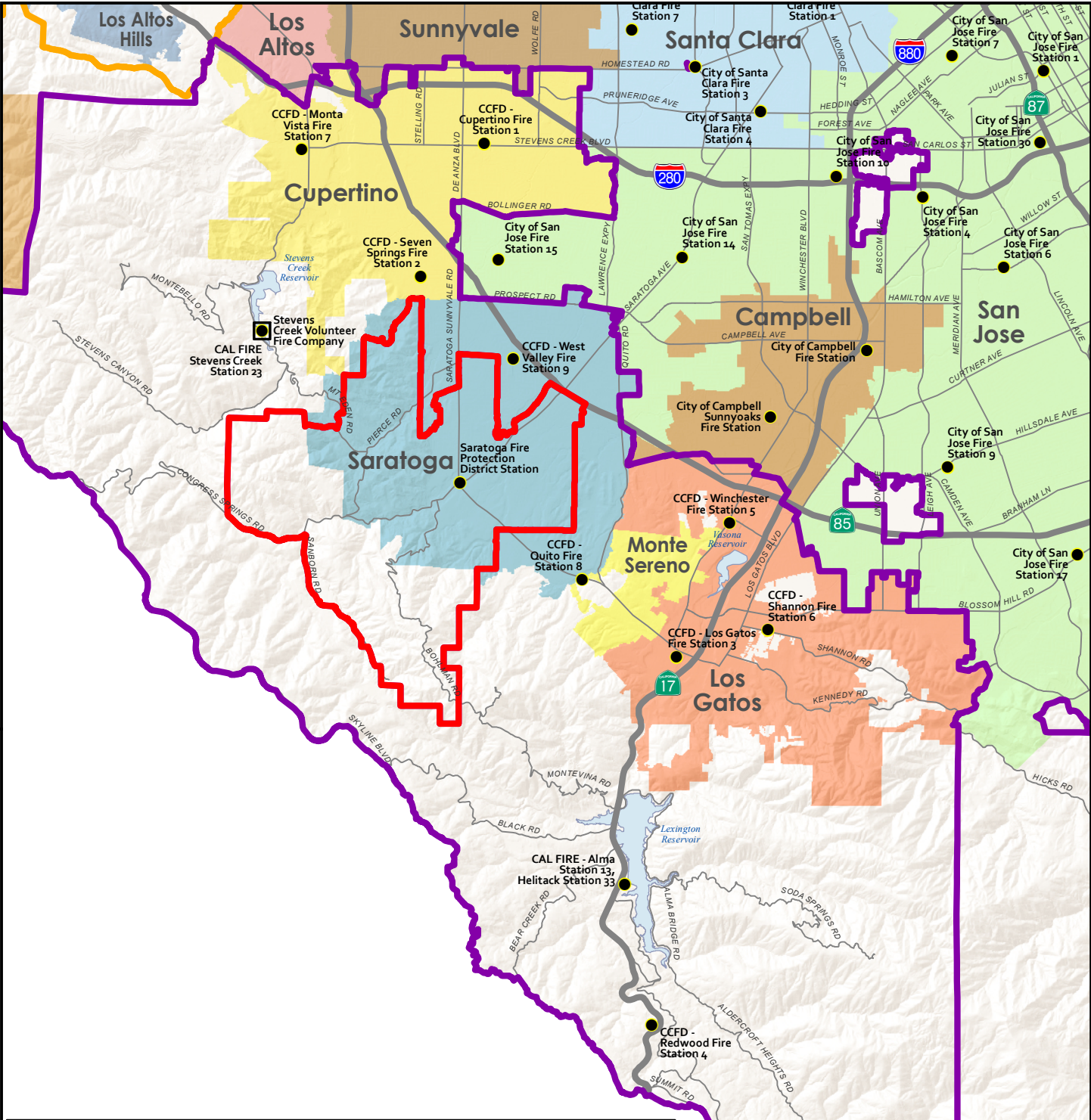


## **ATTACHMENTS**

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- Attachment A: Map Depicting Boundaries of the SFD and the CCFD
- Attachment B: The Saratoga Fire Protection District Special Study Revised Draft Report
- Attachment C: Comment Letters on the Draft Report and EPS' Response to Comments
- Attachment D: Notice of Availability and Public Hearing





**Saratoga Fire Protection District**

May 2014

**Fire Protection Districts**

- ▭ Saratoga Fire Protection District
- ▭ Santa Clara County Central Fire Protection District (CCFD)
- ▭ Los Altos Hills County Fire District
- City/District Fire Stations
- ▭ Volunteer Fire Companies



**ATTACHMENT B**

**Draft Report**

**Special Study:  
Saratoga Fire Protection District**

*The Economics of Land Use*



Prepared for:

Santa Clara County LAFCO

Prepared by:

Economic & Planning Systems, Inc.

*Economic & Planning Systems, Inc.  
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~~March 27~~ May 9, 2014

EPS #121080

*Oakland  
Sacramento  
Denver  
Los Angeles*

**[www.epsys.com](http://www.epsys.com)**

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### APPENDIX A:

Fire and Emergency Medical Services Agreement, Saratoga Fire Protection District and Santa Clara County Central Fire Protection District, effective July 1, 2008

First Addendum to Fire and Emergency Medical Services Agreement, Saratoga Fire Protection District and Santa Clara County Central Fire Protection District, effective December 17, 2009

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## 1. INTRODUCTION

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### **Purpose of the Study**

LAFCO initiated this Special Study in response to service review determinations for the Saratoga Fire Protection District (SFD) contained in the 2010 Countywide Fire Service Review adopted by LAFCO. The service review determination stated that "*Administrative costs could be reduced by dissolving the district and consolidating with CCFD.*"<sup>1</sup> LAFCO directed staff to further research and analyze this governance option, and in December 2011 authorized staff to seek a professional service firm to conduct a special study on whether or not to initiate a reorganization.<sup>2</sup>

Under Government Code (GC) §56375 (a)(2), a commission may initiate proposals for consolidation of a district, dissolution of a district, a merger, establishment of a subsidiary district, formation of a new district or a reorganization that includes any of those changes.

For LAFCO-initiated actions pursuant to GC §56375, GC §56881(b) requires that the commission make both of the following determinations:

- a. Public service costs of a proposal that the commission is authorizing are likely to be less than or substantially similar to the costs of alternative means of providing the service.
- b. A change or organization or reorganization that is authorized by the commission promotes public access and accountability for community service needs and financial resources.

The purpose of this study is to assist the Commission in evaluating whether or not it can make the required determinations.

---

<sup>1</sup> 2010 Countywide Fire Service Review, LAFCO of Santa Clara County, pg. 171.

<sup>2</sup> Request for Proposals for a Special Study, LAFCO of Santa Clara County.



## 2. SARATOGA FIRE DISTRICT

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### Formation and Statutory Authority

The Saratoga Fire Protection District ("SFD") was organized on February 18, 1924.<sup>3</sup> The SFD operates under the provisions of Part 2.7 of Division 12 of the Health and Safety Code.<sup>4</sup>

### Boundaries

**Figure 1** shows the current boundaries of the District, which encompass approximately 7,775 acres and a population of 13,067 including 8,319 registered voters,<sup>5</sup> and serves a portion of the City of Saratoga and unincorporated areas outside of the City of Saratoga as shown in **TABLE 1**. The SFD is completely surrounded by the Santa Clara County Central Fire District ("CCFD") service area, whose boundary includes the remaining portion of the City of Saratoga and other nearby cities (Monte Sereno, Los Gatos, and Cupertino) and all unincorporated lands in the Santa Cruz Mountains up to the County border. In addition, CCFD also provides service by contract to the cities of Campbell and Los Altos, and to the Los Altos Hills County Fire District.

Following reorganization, the SFD service area would be added to the CCFD service area to provide one continuous service boundary.

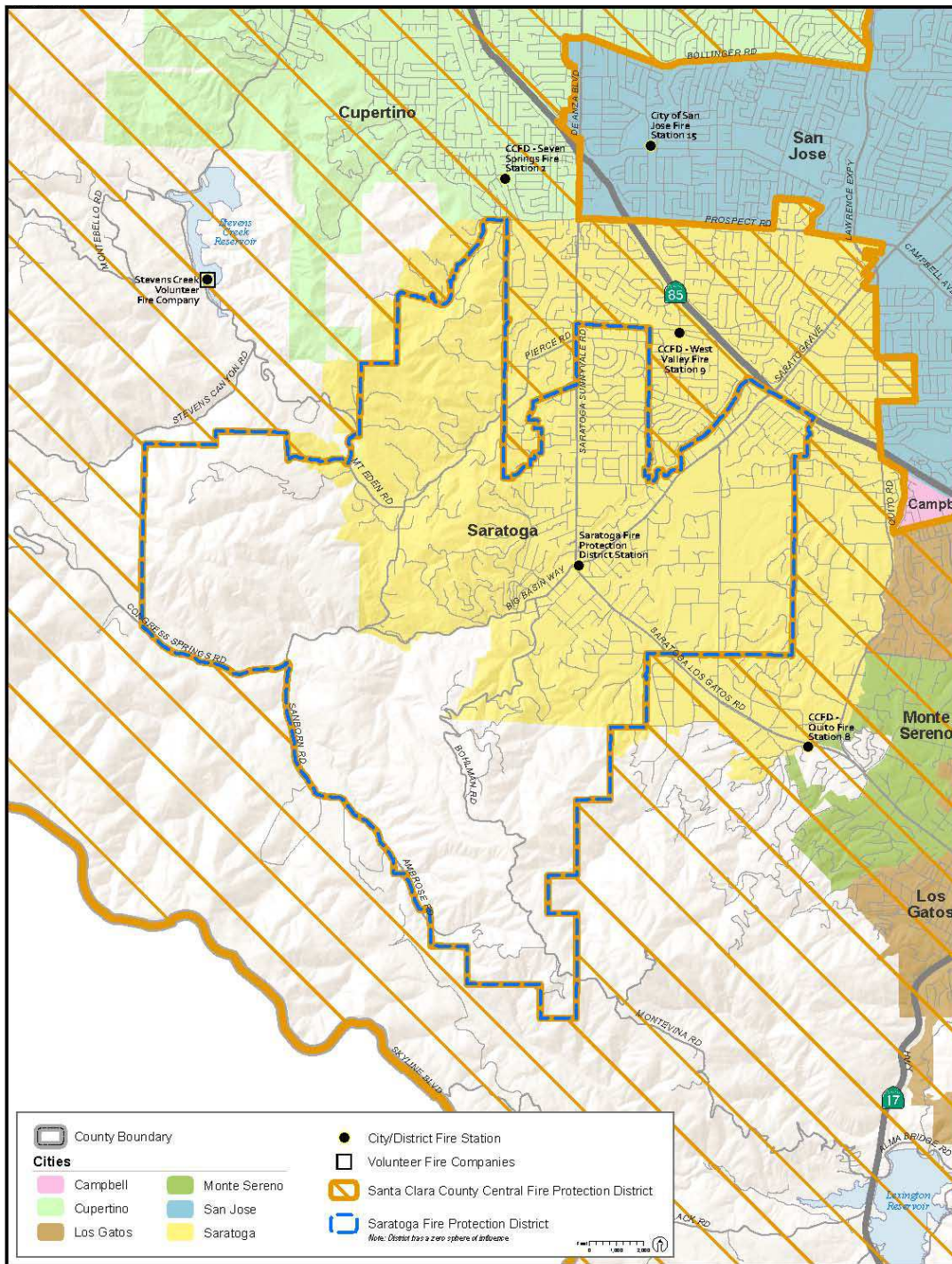
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<sup>3</sup> Saratoga Fire Protection District Audit Report, Year Ended June 30, 2013, Vargas and Company

<sup>4</sup> Part 2.7 is the Fire Protection District Law of 1987.

<sup>5</sup> County of Santa Clara Registrar of Voters, UDEL-6 - 0 Saratoga Fire Protection District, 11/1/13.

**Figure 1 District Boundaries—SFD Special Study**



**Table 1 SFD Assessed Value, Housing Units and Population by Jurisdiction**

Item	City of Saratoga	Unincorporated	TOTAL
<b>Saratoga Fire District</b>			
Assessed Value	\$5.485 bill.	\$0.161 bill.	\$5.646 bill.
Acres	4,286	3,489	7,775
Housing Units	4,849	113	4,962
Population	12,788	279	13,067
<b>CCFD</b>			
Assessed Value	\$6.026 bill.	na	\$36.227 bill.
Acres	3,681	na	78,495
Housing Units	6,288	na	55,936
Population	17,188	na	149,866

Source: Santa Clara Cnty Planning Dept. (2010 census, 2013 assessor data)

2/17/14

## Services Provided

The SFD provided fire protection services through its own staff until 2006 when it contracted with Santa Clara County Central Fire Protection District (CCFD). A copy of the 2008 agreement and the 2009 amendment (“Agreement”), which superseded a prior management agreement dated July 1, 2005, is included in **APPENDIX A**.<sup>6</sup> At that time, SFD shifted employees to the CCFD, along with its pension liability totaling \$5,478,798 and OPEB liability of \$9,869,100.<sup>7</sup> Consequently, SFD has no pension liabilities.

The CCFD operates the SFD-owned fire station at 14380 Saratoga Avenue in the City of Saratoga with two daily-staffed apparatus, Engine 17 and Rescue 17. The station handled 1,256 incidents in calendar year 2012.<sup>8</sup> **TABLE 2** summarizes incidents by category.

<sup>6</sup> Fire and Emergency Medical Services Agreement, Saratoga Fire Protection District and Santa Clara County Central Fire Protection District, effective July 1, 2008. The 2008 agreement superseded a prior management agreement dated July 1, 2005.

<sup>7</sup> CCFD, December 9, 2013, response to data request from EPS. The CCFD has since established an irrevocable trust for the OPEB, reducing the liability to about \$4-\$5 million.

<sup>8</sup> Fire Report for Calendar Year 2012, Santa Clara County Fire Department

**Table 2 Saratoga FPD Incident Report (2012)**

Incident Type	TOTAL	%
Fire	16	1.3%
Overpressure Rupture, Explosion, Overheat (no fire)	3	0.2%
Rescue & Emergency Medical Service Incident	739	58.8%
Hazardous Condition (no fire)	42	3.3%
Service Call	89	7.1%
Good Intent Call	170	13.5%
False Alarm & False Call	196	15.6%
Special Incident Type	1	0.1%
<b>Total</b>	<b>1,256</b>	<b>100.0%</b>

*Source: Santa Clara County Fire Department*

In addition to fire suppression services and fire cause investigation, the CCFD also provides dispatch communication and fire marshal services to the District. The CCFD boundaries completely surround the SFD boundaries, and include the remaining areas of the City of Saratoga. The CCFD owns and operates one other station in Saratoga as well as other stations in adjoining communities.

The CCFD is a dependent Fire Protection District governed by the Santa Clara County Board of Supervisors. The district provides fire protection and emergency service to a district population of approximately 149,866 within 123 square miles.<sup>9</sup>

Following the transfer of fire protection services to the CCFD, the SFD has continued to review activity reports provided by CCFD, produce a budget, negotiate the contract and method of payment with the CCFD, manage debt (including refinancings) for fire station improvements, and handle maintenance of the fire station. All operational implementation of SFD policies regarding the provision of fire protection (except EWAS, described below) is handled by the CCFD,

<sup>9</sup> Santa Clara County Planning Dept. based on 2010 census, per correspondence from Dunia Noel, Santa Clara LAFCO, 10/17/13.

pursuant to terms established in the Agreement between the SFD and CCFD.<sup>10</sup> The amount paid by SFD to CCFD for fire protection is established by the Agreement as equal to 90 percent of property tax revenues received by SFD.

The Agreement requires that the CCFD staff the SFD station with "at least two three-person companies, on a twenty-four hour, seven day a week schedule".<sup>11</sup> The CCFD currently staffs the station with one three-person company and one four-person company; however, unless the current FEMA grant which funds the fourth firefighter position is renewed, the level will revert to two three-person companies late in 2015.<sup>12</sup> The Agreement also specifies that the SFD station shall be a "core" station, and shall be staffed similarly to other CCFD core stations. According to the CCFD, there is no standard staffing model for core stations, and staffing levels for core stations vary.<sup>13</sup> Core stations are strategically important to meeting response time goals, and are always staffed; engines may be moved to core stations during periods of high activity in order to maintain response times within areas where calls are most likely to occur.<sup>14</sup>

Post-reorganization, the CCFD intends to continue to staff at least two three-person companies at the SFD station because those companies are critical to meeting response time goals, and the second company provides a necessary concentration of resources necessary to respond to events requiring more than a single unit in the larger general area.<sup>15</sup> The CCFD would continue to provide the same level of services as currently provided, funded by the SFD property taxes transferred from the SFD to the CCFD.

Currently a portion of SFD property taxes is allocated to the State's Education Revenue Augmentation Fund (ERAF). ~~It is likely that upon~~ Upon transfer of SFD property tax to CCFD, the ERAF portion will continue to be allocated to ERAF, based upon opinions rendered by the State Controller's Office in a similar situation involving the proposed annexation of Morgan Hill to CCFD in 2009. Recently, the County Controller-Treasurer's Office contacted the State Controller's Office, and confirmed to LAFCO staff that the Controller-Treasurer's Office "will take the necessary procedures to ensure that ERAF will not be affected by this proposed change".<sup>16</sup> Even if the ERAF revenues were not retained by the State, the costs of fire protection would be unaffected by the amount of property tax revenues transferred to the CCFD.

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<sup>10</sup> Fire and Emergency Medical Services Agreement, Saratoga Fire Protection District and Santa Clara County Central Fire Protection District, effective July 1, 2008. The 2008 agreement superseded a prior management agreement dated July 1, 2005 (see Appendix A).

<sup>11</sup> Fire and Emergency Medical Services Agreement, effective July 1, 2008, Section 2.01 B (see Appendix A).

<sup>12</sup> Email from Don Jarvis, CCFD, to Richard Berkson, EPS, January 14, 2014.

<sup>13</sup> Email from Don Jarvis, CCFD, to Richard Berkson, EPS, January 14, 2014.

<sup>14</sup> Email from Don Jarvis, CCFD, to Richard Berkson, EPS, January 14, 2014.

<sup>15</sup> Email from Don Jarvis, CCFD, to Richard Berkson, EPS, January 14, 2014.

<sup>16</sup> Email from Irene Lui, County of Santa Clara Controller-Treasurer, May 8, 2014.

## Early Warning Alarm System (EWAS)

The SFD manages the EWAS. The system provides early detection of fires and immediately alerts a monitoring service which automatically notifies the CCFD fire dispatch system. The EWAS is mandated by a City of Saratoga ordinance<sup>17</sup> adopted in 1984 requiring a fire detection system in newly constructed homes over 5,000 square feet, remodeled homes expanded over 50 percent of the original square footage, any new construction in the Hazardous Hillside Area, new commercial construction, and certain other land uses. Installed EWAS units must comply with standards and requirements established by the SFD. No agreement exists between the City of Saratoga and the SFD regarding terms of the arrangement whereby SFD provides EWAS services to City residents, including residents who reside outside of the SFD boundaries.

When the SFD began contracting for fire services with the CCFD in 2006, the monitoring responsibilities were contracted out to a privately-owned monitoring service. The EWAS units are tested daily by California Security Alarms Inc. (CSAI), and a monthly report is provided to the SFD of any detected malfunctions. CSAI is also required under their contract to immediately attempt to contact the EWAS owner to alert them of the problem. Alarms are transmitted from the EWAS unit to CSAI, and from CSAI to the County dispatch.

Management and operation of the EWAS is budgeted to spend \$168,300 for operations in FY 2013-14, including a share of office overhead and employee costs, and payments to a monitoring service. Currently EWAS revenues cover EWAS costs and allocations to EWAS of SFD staff and overhead costs.

The SFD pays for the monitoring of the EWAS alarm units, which was budgeted at \$50,000 for FY 2013-14, handles all billing and service records, and facilitates identification of service problems and their repair. In addition, it pays for some service calls and system repairs, although it is not required to do so. For example, in FY 2012-13, the SFD paid for re-programming older units when a new area code overlay was implemented in the area. The SFD anticipates that "...as the systems continue to age, the cost of service will increase".<sup>18</sup> The SFD "will be considering alternative alarm equipment and methods of monitoring the system"<sup>19</sup>; this potentially could reduce EWAS costs; however, the potential savings are not known at this time.

Reorganization assumes that EWAS services would continue to be required by the City of Saratoga; however, responsibility for monitoring, billing and administration would be shifted from the SFD to the CCFD. The CCFD may choose to provide EWAS services in the same manner as currently provided by SFD. It is likely that CCFD could handle EWAS functions utilizing a 20-

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<sup>17</sup> City of Saratoga Code of Ordinances, Chapter 16 Building Regulation, Article 16-60 – Early Warning Fire Alarm System.

<sup>18</sup> SFD, September 10, 2013, response to data request from EPS.

<sup>19</sup> Letter from Harold S. Toppel to Santa Clara County LAFCO, 3/20/2014.

hour/week Office Assistant II position at a cost of \$60,000/year for 50% of a full-time equivalent position including employer-paid taxes and benefits.<sup>20</sup>

Alternatively, the CCFD may explore outsourcing elements of the service, e.g., billing, to a private service provider (in addition to the current SFD outsourcing of monitoring to a private provider) as a means to reduce costs.

## Facilities and Equipment

The SFD contracts with the CCFD to staff the SFD-owned station. All equipment, with the exception of Engine 30 used by volunteer firefighters, and the 1928 Model AA fire engine, is owned by the CCFD. It is assumed that all SFD facilities and equipment would transfer to CCFD upon reorganization.

### **Building Repairs and Maintenance**

The SFD is responsible for painting and carpeting the SFD headquarters, and for maintaining the roof in good repair. The SFD is also responsible for the repair of any item where the repair cost exceeds \$5,000 and exceeds 50 percent of the replacement cost for the item. While the CCFD is required to maintain the property in good condition and repair, the SFD is responsible for any costs that exceed \$25,000 in a fiscal year.

## Governance and Other Activities

The SFD is governed by a three-member Board of Fire Commissioners, elected by residents of the SFD to a four-year term. The three Board commissioners receive dental and vision benefits totaling approximately \$7,000<sup>21</sup> annually. The last contested election for one of the current commissioners was in 2001;<sup>22</sup> ); one of the other two commissioners was elected in 2005, and the third was appointed to fill a 2006 vacancy then confirmed by election in 2008.<sup>23</sup>

The SFD Board meets monthly to manage the affairs of the District. Activities of the SFD, as reported in minutes of the SFD, include:

- **Approval of minutes.**
- **Receipt and review of oral communications and comments** – From July 2010 through August 20, 2013, only two oral communications were received from the public; one was related to a financial award to the Boy Scout Explorer Troop affiliated with the SFD, and one was a financial award to be applied towards the restoration of the Model AA fire engine that the SFD was restoring.

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<sup>20</sup> Email from CCFD, 1/29/14. Note: if the position is filled by a part-time employee the benefit costs could be less, and the cost to CCFD would be less than \$60,000/year.

<sup>21</sup> Trina Whitley, 11/25/13. The FY13-14 budget estimates an increase to \$7,500.

<sup>22</sup> SFD Workshop, 9/24/13

<sup>23</sup> Email from Trina Whitley, SFD, to EPS 2/11/14.

- **Preparation, review and approval of operating and capital budget and other financial and policy documents** – Topics include review of expenditures for station improvements, equipment disposition, insurance, security issues, etc.
- **Chief's Reports** – The Fire Chief's reports include response reports (incident statistics), support services report (documents repairs or maintenance necessary for the fire station), and Deputy Fire Marshal's reports (any significant building projects in the prior month).
- **Restoration of Model AA fire engine** – This project, according to the SFD, was undertaken "...to preserve an important heritage resource of the District".<sup>24</sup> The project was substantially completed in FY2012-13 at an SFD General Fund expense of \$116,760. The Model AA fire engine was expected to incur additional costs in FY 2013-14 and beyond, including insurance, gold leaf lettering, housing, engine and radiator work;<sup>25</sup> however, recent information from SFD indicates that "the fire engine is now fully restored and there will not be any further restoration costs".<sup>26</sup>
- **Scheduling of Public Use of Facilities** – The SFD handles scheduling of the public's use of its meeting facilities by the public.

## Staff

Currently the only SFD employee is a part-time business manager who works 30 hours per week.<sup>27</sup> It appears that her duties include preparation of agenda, minutes, office operations, budget preparation, response to public inquiries and public records requests, and EWAS functions, but there is no contract or job description. The cost of her salary, \$111,777<sup>28</sup> (approximately \$71/hour<sup>29</sup>), is allocated between the SFD General Fund and the EWAS Fund; the amount of the allocation between the General Fund and EWAS Fund varies year-to-year depending on available revenues and other required expenditures. The SFD does not provide dental, vision, and long-term care benefits, which are paid by the employee. SFD pays the employer's portion of Medicare and social security, which is approximately \$10,000.

The equivalent salary for a 40 hour per week employee, if paid on the same hourly basis of approximately \$71/hour, would equal about \$148,000. The SFD does not provide any pension or other post-employment benefits (OPEB) for the business manager.

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<sup>24</sup> SFD Response to EPS's Follow-up Question 10/9/13.

<sup>25</sup> SFD Minutes, Board of Commissioners meetings, July 16, 2013 and August 20, 2013, although SFD's response to questions states that they won't incur new charges.

<sup>26</sup> Letter from Harold S. Toppel to Santa Clara County LAFCO, 3/20/2014.

<sup>27</sup> SFD Workshop, 9/24/13.

<sup>28</sup> Salary (per Trina Whitley, 11/25/13).

<sup>29</sup> Calculated by EPS based on 52 weeks, 30 hours per week.



The current employee's salary for a 30-hour week budgeted at \$111,777 is equal to a full-time employee paid about \$148,000 annually, although the SFD employee receives no benefits (as noted above, the SFD also pays the employer's portion of Medicare and social security, about \$10,000). This rate appears high; for example, salaries for positions with similar functions at CCFD are approximately \$132,000 annually for a full-time position including employer-paid taxes and benefits.<sup>30</sup>

The SFD budget allocates \$72,000 of its employee costs to EWAS. In the event of reorganization, the CCFD estimates that this position could be filled by the addition of a 20-hour/week Office Assistant II position<sup>31</sup> at a cost of \$60,000/year for 50% of a full-time equivalent position including employer-paid taxes and benefits; other functions of the current SFD employee would be handled by existing CCFD staff. If the position is filled by a part-time employee the benefit costs could be less, and the cost to CCFD would be less than \$60,000/year.

## Public Access and Accountability

### Website

The SFD has a website which was recently revamped to eliminate outdated information and to add previously missing information.

### Accountability for Financial Resources

As noted previously, the SFD reviews and adopts its annual budget at its scheduled and publicly-noticed meetings. An annual audit is conducted and documented by an independent firm. These documents are posted on the SFD website.

Contracts, agreements and ordinances were readily available upon request during the course of the current study. However, certain expected documents do not exist; no agreement exists with the City of Saratoga related to the SFD provision of EWAS services to City areas within and outside the SFD boundaries, no ordinance or resolution exist adopting current EWAS rates, and there is no contract or agreement with SFD's employee. A review of SFD minutes for the period from July 20, 2010 by EPS found no discussion regarding the terms of the SFD employee's employment, payment amount, or required services.

### Accountability for Community Service Needs

Currently, operational implementation of all fire protection and emergency medical services are provided by the CCFD, with the exception of EWAS and the maintenance and financing of the fire station owned by the SFD. The SFD negotiates minimum fire service levels and the formula for repayment to the CCFD.

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<sup>30</sup> Annual cost for CCFD Administrative Support Officer I (including 73 percent of salary for employer-paid taxes and benefits), midpoint of salary range. The ASO II and III positions include supervisory responsibilities.

<sup>31</sup> CCFD, 1/29/14

As noted previously, the fire service contract amount is determined by formula as a percent of SFD property taxes, and operational decisions regarding staffing and allocation of fire protection resources are made by the CCFD, subject to the contract negotiated with the SFD. Ultimately, operational issues regarding fire protection are the responsibility of the CCFD, as long as the CCFD meets the minimum requirements of the Agreement.

The SFD has one part-time staff person to respond to inquiries, and to place items on the SFD agenda for their monthly meeting. Responses to inquiries may require additional time for Board follow-up with CCFD staff. A recorded message on the SFD line also directs the caller to CCFD Headquarters, where the receptionist routes the call to the appropriate person. Currently, if members of the public are aware that the CCFD provides fire protection and emergency medical services, they may inquire directly to the full-time staff of the CCFD if they have questions or issues.

A review of SFD minutes for a three-year period from July 20, 2010 found no public oral comments (other than limited comments by current or former SFD staff) with the exception of two presentations of financial grants.

## Financial Review

**TABLE 3** provides a summary of the SFD budget for FY 2013-14. The following sections describe the history and composition of these items.

**Table 3 Summary of SFD Revenues and Expenditures, FY 2013-14**

Item	General Fund	EWAS	TOTAL
<b>Revenues</b>			
Property Tax	\$5,540,000	\$0	\$5,540,000
EWAS Charges	0	175,000	175,000
Other (interest, rent)	<u>20,200</u>	<u>500</u>	<u>20,700</u>
<b>Subtotal, Revenues</b>	<b>\$5,560,200</b>	<b>\$175,500</b>	<b>\$5,735,700</b>
<b>Expenditures</b>			
Employees (1)	\$60,000 1%	\$72,000 42%	\$132,000 2%
OPEB (retiree health care)	110,500 2%	1,500 1%	112,000 2%
EWAS Monitoring Service	- 0%	50,000 29%	50,000 1%
Tax Collection Fee	67,000 1%	- 0%	67,000 1%
Fire Protection Contract w/CCFD	4,986,000 91%	- 0%	4,986,000 88%
Overhead & Admin	<u>51,000</u> 1%	<u>44,800</u> 26%	<u>95,800</u> 2%
<b>Subtotal, Operations</b>	<b>\$5,274,500</b> 96%	<b>\$168,300</b> 97%	<b>\$5,442,800</b> 96%
Capital Improvements	\$40,000 1%	\$0 0%	\$40,000 1%
Debt Service	163,341 3%	5,052 3%	\$168,393 3%
<b>Total Expenditures</b>	<b>\$5,477,841</b> 100%	<b>\$173,352</b> 100%	<b>\$5,651,193</b> 100%
<b>Net</b>	<b>\$82,359</b>	<b>\$2,148</b>	<b>\$84,507</b>

(1) Office manager salary (30 hours/week) and employer's share of social security and medicare (approx. \$10,000), plus commissioners' benefits (approx. \$7,500). 2/17/14

Source: Saratoga Fire District Budget

## Revenues

**TABLE 4** shows annual revenues to the SFD, consisting primarily of property taxes and charges for EWAS services.

**Table 4 Summary of SFD Revenues**

Year	General Fund Operations			EWAS		
	Property Tax	Other Revenues	TOTAL	Charges for Services	Other Revenues	TOTAL
2008-09	\$5,114,780	\$233,349	\$5,348,129	\$184,440	\$304	\$184,744
2009-10	4,744,737	51,260	4,795,997	172,280	104	172,384
2010-11	4,997,507	54,290	5,051,797	178,785	110	178,895
2011-12	5,136,185	41,393	5,177,578	180,575	53	180,628
2012-13	5,845,317	69,262	5,914,579	175,935	34	175,969
2013-14	5,540,000	20,200	5,560,200	175,000	500	175,500

Source: Saratoga Fire District Audit Reports through 2012-13; 2013-14 from budget.

2/16/14

### Property Taxes

As shown in **TABLE 4**, property tax represents nearly all of SFD General Fund revenues. Revenues over the past six years reflect recessionary impacts in FY 2009-10, and subsequent growth. The SFD received a payment from the State in FY 2012-13 of \$410,551 as repayment for the State's borrowing in prior years. Recent growth in property taxes is the result of improving real estate values and increased sales activity, which triggers an upward re-assessment of property value.

Upon reorganization, these property tax revenues would accrue to the CCFD to fund fire protection services and other costs transferred from the SFD.

#### General Fund Property Tax

Property tax revenues provide over 99 percent of the SFD's General Fund revenues. The SFD anticipates \$5.5 million of property taxes in FY 2013-14. As assessed values in the SFD change, approximately 11 percent of the increase (or decrease) in property taxes accrue to the SFD. After deductions for ERAF<sup>32</sup>, the net amount is about 10 percent.

#### Debt Service Property Tax

Debt service property tax revenues are tracked in a separate Debt Service Fund. In 2000, property owners within the SFD approved issuance of General Obligation bonds to fund fire

<sup>32</sup> Educational Revenue Augmentation Fund (ERAF), which is a State account that funds schools.

station improvements. An ad valorem property tax rate is charged on assessed value to repay the bonds; this rate is in addition to the Prop. 13 mandated one percent of assessed value.

The tax rate needed to repay the debt varies annually depending on the total assessed value over which the debt service obligation can be distributed. In FY 2013-14, a rate of .007 was applied to assessed value in the SFD.<sup>33</sup> This is equivalent to an additional 7/10 of 1 cent added to each property tax dollar paid by taxpayers in the District.

### **EWAS Charges for Services**

The SFD bills EWAS customers the following amounts:

- Residential: \$60 quarterly (\$20/month)
- Commercial: \$75 quarterly (\$25/month)

According to the SFD, the rates have not changed since EWAS was implemented in 1984.<sup>34</sup>

### **Other Revenues**

The SFD received other revenues, including \$13,200 for ambulance space rental. In addition, interest earnings accrue from cash and investments.

## **Expenditures**

**TABLE 5** summarizes SFD expenditures over a six-year period. The table shows operating expenditures, and does not include debt service. Total employee costs include office manager salary (\$112,000) and taxes (\$10,000), and Commissioner benefits (\$10,000 including dental).

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<sup>33</sup> County of Santa Clara General Obligation Bonds Debt Service Requirements, Tax Year 2013/2014, approved by Trina Whitely 8/5/13.

<sup>34</sup> No rate resolution was available, according to the SFD (SFD Workshop, 9/24/13).

**Table 5 Summary of SFD Expenditures**

Year	General Fund Operations					EWAS		
	Employees (1)	Retiree Medical	County Fire Services	Other Operating	TOTAL	Employees	Services/Supplies	TOTAL
2008-09	\$146,780	\$40,000	\$4,484,700	\$97,750	<b>\$4,769,230</b>	\$154,920	\$15,050	<b>\$169,970</b>
2009-10	101,342	42,000	4,352,781	82,650	<b>4,578,773</b>	100,000	70,350	<b>170,350</b>
2010-11	70,000	63,000	4,683,600	48,600	<b>4,865,200</b>	89,000	86,000	<b>175,000</b>
2011-12	52,000	101,000	4,429,800	53,600	<b>4,636,400</b>	94,000	79,500	<b>173,500</b>
2012-13	42,000	106,000	4,765,500	138,300	<b>5,051,800</b>	94,000	80,000	<b>174,000</b>
2013-14	60,000	110,500	4,986,000	118,000	<b>5,274,500</b>	72,000	94,800	<b>166,800</b>

(1) Salary and benefits, plus commissioners' benefits.

1/30/14

Source: Saratoga Fire District Budgets

**TABLE 6** illustrates the potential transfer of costs from SFD to CCFD as a result of reorganization. The exact magnitude of cost shifts depends on specific reorganization details, for example, whether the CCFD would need to retain certain office equipment and related maintenance costs. Both the "High" and the "Low" estimates assume that existing office manager and Board services would be handled by existing CCFD staff with no transferred costs<sup>35</sup>. The "High" range assumes that the CCFD will need to continue to maintain office equipment and phones at the SFD fire station, as well as a range of other overhead functions as shown.

EWAS cost transfers are estimated in **TABLE 7**; staff costs to CCFD are estimated at \$60,000,<sup>36</sup> a savings of \$12,000 compared to the \$72,000 cost allocated by SFD to EWAS. This cost assumes a CCFD 20-hour/week Office Assistant II position<sup>37</sup> at a cost of \$60,000/year for 50% of a full-time equivalent position including employer-paid taxes and benefits. If the position is filled by a part-time employee the benefit costs could be less, and the cost to CCFD would be less than \$60,000/year.

As noted above, the range of savings could depend on the extent to which the CCFD has a continuing need for a range of equipment and other overhead expenses associated with operation of the fire station. To the extent that actual FY2013-14 expenditures differ from the budget estimates, the cost transfers shown below will also change accordingly.

<sup>35</sup> CCFD, 1/29/14

<sup>36</sup> Assumes a CCFD 20-hour/week Office Assistant II position (per CCFD, 1/29/14), at a cost of \$60,000/year for 50% of a full-time equivalent position including employer-paid taxes and benefits. If the position is filled by a part-time employee the benefit costs could be less, and the cost to CCFD would be less than \$60,000/year.

<sup>37</sup> CCFD, 1/29/14

**Table 6 Potential General Fund Service & Cost Transfers from SFD to CCFD**

Item	2013-14 SFD Budget	Potential Range of Cost Transfers	
		Low	High
<b>Employee Related</b>			
Employees	\$60,000	\$0	\$0
Benefits (OPEB)	<u>110,500</u>	<u>110,500</u>	<u>110,500</u>
Subtotal	\$170,500	\$110,500	\$110,500
<b>Services/Supplies</b>			
Tax Collection Fee	\$67,000	\$67,000	\$67,000
Telephone	7,000	0	7,000
Insurance	8,000	0	8,000
Office Expense	3,000	0	3,000
Prof/Special Services	15,000	0	15,000
Fire Protection Services	4,986,000	4,986,000	4,986,000
Rents/Leases	500	0	500
Dues/Licenses	10,000	0	0
Printing & Reproduction	3,000	0	3,000
Advertising/Promotion	600	0	0
Supplies-Household	200	0	200
Office Machine Maintenance	2,000	0	2,000
Software	1,500	0	1,500
Postage	<u>200</u>	<u>0</u>	<u>200</u>
Subtotal	\$5,104,000	\$5,053,000	\$5,093,400
Total Operating Expenses	\$5,274,500	\$5,163,500	\$5,203,900
Capital Improvements	\$40,000	\$40,000	\$40,000
Loan Principal and Interest	\$163,341	\$163,341	\$163,341
<b>TOTAL</b>	<b>\$5,477,841</b>	<b>\$5,366,841</b>	<b>\$5,407,241</b>
vs. SFD Budget		(\$111,000)	(\$70,600)

Source: Saratoga Fire District budget 2013-14; EPS

3/26/14

**Table 7 Potential EWAS Service & Cost Transfers from SFD to CCFD**

Item	2013-14 SFD Budget	Potential Range of Cost Transfers	
		Low	High
<b>Employee Related</b>			
Employees	\$72,000	\$60,000	\$60,000
Benefits (OPEB)	<u>1,500</u>	<u>1,500</u>	<u>1,500</u>
Subtotal	\$73,500	\$61,500	\$61,500
<b>Services/Supplies</b>			
Monitoring Service	\$50,000	\$50,000	\$50,000
Tax Collection Fee	0	0	0
Telephone	8,000	8,000	8,000
Insurance	1,000	0	1,000
Office Expense	1,000	0	1,000
Prof/Special Services	20,000	0	20,000
Fire Protection Services	0	0	0
Rents/Leases	1,000	0	1,000
Dues/Licenses	0	0	0
Printing & Reproduction	2,000	0	2,000
Advertising/Promotion	0	0	0
Supplies-Household	0	0	0
Office Machine Maintenance	2,000	0	2,000
Software	1,800	0	1,800
Postage	<u>8,000</u>	<u>8,000</u>	<u>8,000</u>
Subtotal	\$94,800	\$66,000	\$94,800
Total Operating Expenses	\$168,300	\$127,500	\$156,300
Capital Improvements	\$0	\$0	\$0
Loan Principal and Interest	\$5,052	\$5,052	\$5,052
<b>TOTAL</b>	<b>\$173,352</b>	<b>\$132,552</b>	<b>\$161,352</b>
vs. SFD Budget		(\$40,800)	(\$12,000)

Source: Saratoga Fire District budget 2013-14; EPS

3/26/14

The following sections describe SFD services and costs in greater detail.

### Fire Protection Services

Beginning in FY 2008-09, the SFD and CCFD entered into an Agreement whereby the CCFD would provide fire and emergency services to SFD. The Agreement provides for payment equal to 90 percent of property taxes apportioned to SFD. The FY 2013-14 SFD budget projects a



payment of \$4,986,000. This contract represents approximately 95 percent of the SFD's General Fund budget.

The CCFD indicated that the payments approximately cover the cost of providing services to the SFD, with the exception of PERS obligations that the CCFD acquired from the SFD.<sup>38</sup> When CCFD contracted to provide services in FY 2008-09, SFD firefighters transferred to CCFD. The SFD firefighters benefitted from a better CCFD pension plan. However, the CCFD took on responsibility for an additional annual cost to fund those increased benefits; those costs are not covered by the current payment from SFD to CCFD, and must be paid from other CCFD revenues.<sup>39</sup> Consequently, the SFD does not have any pension liabilities that would transfer to the CCFD in the event of a reorganization.

## **EWAS**

### ***EWAS Monitoring***

SFD contracted with CSAI beginning in 2002 for monitoring services. Before the contract, EWAS alerts were sent from alarm units directly to the SFD fire station. The monitoring service automatically tests the systems and provides information monthly to SFD about any apparent failures. When an alarm is received by the monitoring service, it is sent to the County dispatch. The SFD pays for the monitoring service, budgeting \$50,000 in FY 2013-14.

### ***EWAS Repair***

While the SFD does not pay for regular maintenance, it does pay for some service calls and system repairs. For example, costs were incurred by the implementation of the "408" area code overlay, which required re-programming of 250 systems. SFD staff time for EWAS services is required to coordinate service calls with the homeowner, review signals at the monitoring station to identify problems, contact a service appointment and approve charges, and follow-up to assure the repair has been made. The SFD anticipates that "... as the systems continue to age, the cost of service will increase."<sup>40</sup>

### ***EWAS Billing***

The SFD handles all billing related to the EWAS systems and maintains billing/service records. There are approximately 950 EWAS accounts<sup>41</sup>; however, not all of those accounts are currently active.<sup>42</sup>

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<sup>38</sup> EPS meeting with CCFD, 9/24/13.

<sup>39</sup> EPS meeting with CCFD, 9/24/13.

<sup>40</sup> Response to Information Request, Saratoga Fire District, September 10, 2013

<sup>41</sup> Response to Information Request, Saratoga Fire District, September 10, 2013

<sup>42</sup> The SFD indicated that the number of accounts is probably high because old account numbers, which have been replaced, are not deleted from the system. The Audit Report, Year Ended June 30, 2012, indicated approximately 750 alarm account on-line (pg. 23.). The lower number is generally consistent with budget revenue from EWAS charges.

## OPEB

The SFD offers continuing medical, dental, vision and long-term care coverage after retirement, but is only responsible for the cost of the medical coverage. Currently SFD is paying for nine retirees currently receiving benefits in the SFD's healthcare plan.<sup>43</sup> The Board does not receive any benefits after they leave office.<sup>44</sup>

The SFD is under a "pay-as-you-go" funding policy as it has not established an irrevocable OPEB trust. In FY 2012-13 SFD contributed \$92,639 which equaled the cost of the medical coverage premiums. The calculated annual required contribution was \$114,906 as of June 30, 2013, and the actuarial accrued liability was \$1,951,427.<sup>45</sup>

## Pension Liability

Currently, SFD has no pension liability. The SFD provided fire protection services through its own staff until it 2006 when it contracted with CCFD. At that time, SFD shifted employees to the CCFD, along with its pension liability totaling \$5,478,798 and OPEB liability of \$9,869,100.<sup>46</sup>

## Assets

### Cash, Investments and Other Assets

As of June 30, 2013, governmental fund assets (excluding EWAS) totaled \$3,275,318<sup>47</sup> as summarized in **TABLE 8**. Cash and investments comprise about 96 percent of those assets, and the balance includes funds due from the County (interest), due from other SFD funds, and prepaid expenses and deposits. Ending fund balances net of \$863,873 in liabilities equaled \$2,411,445. Of these fund balances, \$1,851,769 was unassigned and available to meet the SFD's needs; the balance consisted of funds reserved for debt service and for facility repair and maintenance. These funds would be transferred to CCFD upon reorganization.

Included in total assets are \$176,640 of "special revenue" funds, which are intended for equipment maintenance and reserves.<sup>48</sup>

EWAS unrestricted funds totaled \$77,174 after deducting accounts payable, and moneys due to other funds.<sup>49</sup>

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<sup>43</sup> Audit Report Year Ended June 30, 2013, pg. 36

<sup>44</sup> Trina Whitley, 11/25/13.

<sup>45</sup> Saratoga Fire District Actuarial Valuation of the Other Post-Employment Benefit Programs as of June 30, 2013, Bickmore, submitted August 2013.

<sup>46</sup> CCFD, December 9, 2013, response to data request from EPS. The CCFD has since established an irrevocable trust for the OPEB, reducing the liability to about \$4-\$5 million.

<sup>47</sup> Audit Report Year Ended June 30, 2013, pg. 16

<sup>48</sup> SFD Workshop, 9/24/13

**Table 8 Summary of Balance Sheet - Governmental Funds**

Item	General Fund	Debt Service	Special Revenue	Total
<b>Assets</b>				
Cash and Investments	\$2,604,073	\$373,715	\$176,466	\$3,154,254
Due from County funds - interest	1,798	218	174	2,190
Due from other Funds	109,771	-	-	109,771
Prepaid expenses and deposits	9,103	-	-	9,103
Total Assets	\$2,724,745	\$373,933	\$176,640	\$3,275,318
<b>Liabilities</b>				
	\$863,873	-	-	\$863,873
<b>Fund Balances</b>				
Nonspendable (prepaids)	\$9,103	-	-	\$9,103
Assigned				
Special Revenue Fund	-	-	176,640	176,640
Debt Service Fund	-	373,933	-	373,933
Unassigned				
General Fund	1,851,769	-	-	1,851,769
Total Fund Balances	\$1,860,872	\$373,933	\$176,640	\$2,411,445
<b>Total Liabilities and Fund Balances</b>	\$2,724,745	\$373,933	\$176,640	\$3,275,318

Source: Saratoga Fire District Audit Report, year ended June 30, 2013.

1/06/14

### Capital Assets

The SFD's investment in capital assets for its governmental activities as of June 30, 2013, amounted to \$6,090,559 (net of accumulated depreciation).<sup>50</sup> This investment in capital assets includes land, buildings, vehicles, equipment, and furniture and fixtures.

CCFD owns all of the first-line apparatus and equipment (Engine 17, Engine 317, and Rescue 17) and the reserve engine (Engine 117) housed at the Saratoga Fire Station. SFD owns Engine 30, which is held for use by volunteer firefighters. SFD also owns the restored 1928 Model A fire engine, used for community events and public relations.

<sup>49</sup> Audit Report Year Ended June 30, 2013, pg. 20

<sup>50</sup> Audit Report Year Ended June 30, 2013, pg. 12

It is assumed that all SFD capital assets would transfer to CCFD upon reorganization.

## Liabilities

The General Fund showed liabilities totaling \$863,873.<sup>51</sup> These liabilities, or "Accounts and warrants payable" largely include payments owed to CCFD for services to be paid in the following month. In addition, the SFD has additional long-term debt and OPEB obligations as described in the following sections. SFD has no pension liabilities.

Upon reorganization, the "Accounts and warrants payable" could be retired by the CCFD using net assets transferred from the SFD.

### Long-Term Debt

#### *Bonds Payable*

On September 12, 2000 the SFD issued the Election of 2000 General Obligation Bonds to finance the renovation, construction and acquisition of SFD facilities and property. As of June 30, 2013, the outstanding principal balance amounted to \$4,253,737.<sup>52</sup> The bonds will be paid off by 2031. The annual debt service is paid by an ad valorem property tax rate applied to assessed value in the SFD.

This Special Study assumes that the General Obligation bond payments would not be affected by reorganization, and would continue to be paid from an ad valorem tax on properties within the former SFD boundaries. GC §56886(c)

#### *Mortgage Payable and Lease Refunding*

On September 23, 2004, the SFD issued a promissory note to supplement bond proceeds to complete the fire station improvements. The mortgage was recently refinanced to obtain a better interest rate. The outstanding principal balance as of June 30, 2013, was \$2,097,148 and will be fully retired by 2031. The debt service payments are funded by General Fund revenues.

Upon reorganization, SFD General Fund property tax revenues shifted to the CCFD would be sufficient to continue to pay the mortgage, in addition to fire service costs and OPEB obligations.

### OPEB

As described previously, the SFD offers continuing medical, dental, vision and long-term care coverage after retirement, but is only responsible for the cost of the medical coverage. Currently SFD is paying for 9 retirees currently receiving benefits in the SFD's healthcare plan.<sup>53</sup> The SFD is under a "pay-as-you-go" funding policy as it has not established an irrevocable OPEB trust. In FY 2012-13 SFD contributed \$92,639 which equaled the cost of the medical coverage premiums.

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<sup>51</sup> Audit Report Year Ended June 30, 2013, pg. 16

<sup>52</sup> Audit Report Year Ended June 30, 2013, pg. 34

<sup>53</sup> Audit Report Year Ended June 30, 2012, pg. 37

The calculated annual required contribution was \$114,906 as of June 30, 2013, and the actuarial unfunded accrued liability was calculated to be \$1,951,427.<sup>54</sup>

Upon reorganization with CCFD, SFD General Fund property tax revenues shifted to the CCFD would continue to pay the annual OPEB costs, in addition to the costs for fire protection services, unless CCFD chooses to fund the OPEB obligation, which would reduce future interest costs.

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<sup>54</sup> Saratoga Fire District Actuarial Valuation of the Other Post-Employment Benefit Programs as of June 30, 2013, Bickmore, submitted August 2013.

### 3. FINDINGS

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**a. Public service costs of a proposal that the commission is authorizing are likely to be less than or substantially similar to the costs of alternative means of providing the service.**

The public service costs resulting from the reorganization of SFD would be less than the costs of existing service, and current levels of service would be retained. The total General Fund and EWAS savings, as described in this report and summarized below, could total \$82,600 to \$151,800 annually. Cost savings could be utilized for the improvement of existing facilities, increases in levels of service, and upgrades/repairs to the EWAS system.

There would be no change in the current provision of fire protection services to the former SFD service area according to the CCFD, because the station's current contractually-required minimum staffing level of at least two three-person companies is critical to meeting response time goals, and the second company provides a necessary concentration of resources necessary to respond to events requiring more than a single unit in the larger general area.<sup>55</sup>

In essence, reorganization creates the opportunity to eliminate redundant costs and take advantage of the economy of scale offered by the CCFD. Following reorganization, approximately \$60,000 of SFD General Fund employee expenses (the SFD Office Manager and commissioners) and \$51,000 in General Fund overhead expenditure could be eliminated as management of fire protection service is shifted entirely to existing staff of the CCFD, for a total potential savings of \$111,000 annually. Existing CCFD staff would be adequate to handle overhead and administrative functions currently performed by SFD, and any overhead created by absorbing the SFPD "...would most likely be transitional and of a very minor nature".<sup>56</sup> Therefore, it is expected that cost savings would result from the elimination of current SFD staff, directors and overhead.

**TABLE 6** summarizes the range of potential transfer of General Fund costs from SFD to CCFD upon reorganization, depending on specific reorganization details, for example, whether the CCFD would need to retain certain office equipment and its related maintenance costs. If the only savings are due to the elimination of the SFD office manager and commissioners, and elimination of a portion of overhead costs, the savings would be a minimum of \$70,600 annually. General Fund cost savings could be greater, up to \$111,000, if SFD overhead costs are entirely eliminated (except OPEB, tax collection fees, debt service, and fire protection services).

In addition, the CCFD is likely to realize EWAS savings to the extent that staff management of the system costs less than the currently budgeted \$72,000 allocation of SFD staff costs, as shown in **TABLE 7**. The savings from the use of a 20-hour per week Office Assistant II for EWAS services is estimated at \$12,000 annually. The total potential EWAS cost savings is estimated to

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<sup>55</sup> Email from Don Jarvis, CCFD, to Richard Berkson, EPS, January 14, 2014.

<sup>56</sup> Draft Responses to Questions, CCFD, 12/9/13.

range from \$12,000 to \$40,800. The range depends on the extent to which existing EWAS overhead costs continue to be required, and potential funding of upgrades to EWAS units.

Over time, certain EWAS responsibilities could be shifted to a private provider. This shift may result in cost savings and service fee reductions, since staff costs required by EWAS will be eliminated. There may be opportunities for the private provider to offer fee reductions to some homeowners who currently may pay for multiple services. A more detailed analysis will be necessary to determine potential savings.

**b. A change of organization or reorganization that is authorized by the commission promotes public access and accountability for community service needs and financial resources.**

Reorganization would promote public access and accountability for community service needs and financial resources in a number of ways:

- The SFD is completely surrounded by the Santa Clara CCFD service area. The CCFD is a much larger jurisdiction, and is the service provider to the SFD through the CCFD's service agreement with the SFD. The CCFD also serves the remainder of the City of Saratoga not covered by the SFD. Reorganization would eliminate redundancy from two fire service agencies serving the same city.
- Reorganization would eliminate an unnecessary additional layer of governance. The SFD effectively functions as an intermediary between a portion of City of Saratoga residents and the CCFD, the actual provider of fire protection services. The SFD does not determine levels of fire protection service other than the minimum levels specified by the agreement between the SFD and the CCFD.
- Reorganization under the CCFD would assure that all contracts, employee salaries and responsibilities, and rates would be subject to public review, discussion and documentation. Currently, the SFD does not have a contract with its office manager nor any discussion or documentation about the office manager's role, responsibilities and appropriate salary range. No resolution exists adopting current EWAS rates.
- While the SFD offers a local public forum for its constituents concerned about fire services, a review of SFD minutes for a three-year period from July 20, 2010, found no public oral comments (other than limited comments by current or former SFD staff) with the exception of two presentations of financial grants.
- SFD commissioners are locally elected, however, there is a lack of contested elections which indicates lack of community concern and involvement in SFD affairs (the last contested election for one of the current commissioners was in 2001); one of the other two commissioners was elected in 2005, and the third was appointed to fill a 2006 vacancy then confirmed by election in 2008.<sup>57</sup>

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<sup>57</sup> Email from Trina Whitley, SFD, to EPS 2/11/14.

- Reorganization would clarify that inquiries be directed to the CCFD, thereby promoting public access. Because the SFD has one part-time employee, inquiries by telephone may not be answered immediately; responses may require re-direction to the CCFD, or addition to the agenda of the next SFD meeting. Issues regarding service provision would need to be addressed by the CCFD, in any case. Currently, if members of the public are aware that the CCFD provides fire protection and emergency medical services to the SFD, they may inquire directly to the full-time staff of the CCFD if they have questions or issues and receive immediate attention and redirection of their inquiry as appropriate.

There would be no change in the current provision of fire protection services to the former SFD service area according to the CCFD, because the station's current contractually-required minimum staffing level of at least two three-person companies is critical to meeting response time goals, and the second company provides a necessary concentration of resources necessary to respond to events requiring more than a single unit in the larger general area.<sup>58</sup>

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<sup>58</sup> Email from Don Jarvis, CCFD, to Richard Berkson, EPS, January 14, 2014.





## APPENDIX A

Fire and Emergency Medical Services Agreement,  
Saratoga Fire Protection District and Santa Clara County Central Fire  
Protection District, effective July 1, 2008

First Addendum to Fire and Emergency Medical Services Agreement,  
Saratoga Fire Protection District and Santa Clara County Central Fire  
Protection District, effective December 17, 2009



**FIRE AND EMERGENCY MEDICAL SERVICES AGREEMENT**

**SARATOGA FIRE PROTECTION DISTRICT  
AND  
SANTA CLARA COUNTY  
CENTRAL FIRE PROTECTION DISTRICT**

THIS AGREEMENT, effective as of 12:00:01 o'clock a.m. on July 1, 2008, is by and between the SARATOGA FIRE PROTECTION DISTRICT, an independent fire district organized and operating pursuant to the Fire Protection District Law of 1987 of the California Health and Safety Code ("SFD"), and the SANTA CLARA COUNTY CENTRAL FIRE PROTECTION DISTRICT, a fire protection district, organized and operating under the Fire Protection District Law of 1987 of the California Health and Safety Code, ("CFPD").

**BASED ON MUTUAL CONSIDERATION AND PROMISES  
THE PARTIES AGREE AS FOLLOWS:**

**SECTION 1**

**Purpose**

1.01 Purpose. The purpose of this Agreement is to set forth the rights and responsibilities of the parties regarding the fire and emergency medical services to be provided by CFPD to SFD. For purposes of this Agreement, the term "SFD" is defined as: the geographical area within the boundaries of SFD as of the effective date of this Agreement, and all other geographical areas which are thereafter annexed to SFD.

**SECTION 2**

**Scope of Services Provided**

2.01 Fire Suppression and Fire Cause Investigation Services. CFPD shall provide the following fire suppression and prevention services to SFD:

- A. CFPD shall provide fire suppression services within SFD, twenty-four hours a day, seven days a week.
- B. CFPD shall operate and maintain the SFD fire station located at 14380 Saratoga Avenue, Saratoga, California 95070 ("SFD HQ"). CFPD shall staff the station with at least two three-person companies, on a twenty-four hour, seven day a week schedule. A typical first alarm response to a structure fire shall be the four closest fire apparatuses and an incident commander.

- C. In addition to the above, CFPD shall dispatch any available companies or units that are necessary, or reallocate resources to meet workload demands during the course of service calls or training sessions for short periods of time.
- D. CFPD is responsible for fire cause investigations.
- E. CFPD shall retain a volunteer driver-operator program within SFD boundaries. The volunteer firefighters who were authorized to drive the volunteer fire engine prior to July 1, 2008 shall retain their authority to drive the volunteer fire engine at SFD HQ assuming all certificates, licenses, including licenses required by the state of California, and training requirements are satisfied. CFPD shall use reasonable efforts to ensure the assignment of a sufficient number of volunteer firefighters authorized to drive the volunteer fire engine, subject to maintaining in effect all required certificates and licenses, including licenses required by the state of California, and satisfying all training requirements. Assignment of individual volunteer firefighters to the driver-operator program shall be at the discretion of the Fire Chief or his/her designee.

2.02 Other Services to Be Provided by CFPD.

- A. CFPD shall keep accurate records on all SFD fire matters that, except as otherwise required by law, shall be available for review by SFD officers and staff during regular office hours.
- B. CFPD shall notify the Saratoga City Building Official of all structural fires in SFD.
- C. CFPD shall review all requests for street closures.
- D. CFPD is responsible for public education and citizen emergency response training in SFD.

2.03 Services Not to Be Provided by CFPD.

- A. CFPD is not responsible for administering hazardous material programs in SFD.
- B. SFD shall continue to employ Harold Netter as a full-time fire marshal to provide services within SFD, until such time as Mr. Netter retires or otherwise separates from service with SFD. During the period of Mr. Netter's employment, SFD shall be responsible for providing its own fire prevention services and other fire marshal related code enforcement duties, including the following:

1. Plan checks and inspections for construction projects within SFD.
2. Enforcement of the fire services related to nuisance abatement and other related codes, including but not limited to preparing reports, inspection, testifying and interviewing.
3. Review all applicable business license requests and sign-off immediately in the event that a license request is in full compliance with all fire codes.
4. Review all fire access on new streets and all water main sizing and location of fire hydrants throughout SFD.
5. Enforcing fire lane and building exit requirements in cooperation with the Santa Clara County Sheriff.

So long as Mr. Netter provides the foregoing fire marshal duties, SFD shall take an annual credit (during each fiscal year from July 1 through June 30) in the amount of \$200,000.00 against the property tax amount described in Section 10.01. One half of such credit shall be applied during the month of December of each year and the remaining half shall be applied during the month of June of each year. This credit shall cease when CFPD assumes the responsibilities of fire marshal for SFD. CFPD shall assume such responsibilities when Mr. Netter ceases to be employed as SFD's fire marshal. If such assumption occurs as of a date other than the close of a fiscal year, the credit shall be pro-rated based upon the portion of the fiscal year prior to the effective date of the assumption.

- C. SFD shall retain responsibility for management including staffing, financing and enforcement of the Early Warning Alarm System program adopted by SFD and the City of Saratoga.

2.04 Dispatch Communications. CFPD shall, without charge to SFD, establish, operate and maintain a communications system to receive emergency requests from Public Safety Answering Points. The system shall be provided by, or under the authority of, CFPD and shall be maintained on a twenty-four (24) hour basis by an appropriate number of qualified personnel.

2.05 Communications System. CFPD may, without charge, use any SFD owned FCC Communications frequency licensed for fire and emergency vehicle services to operate and maintain the communications system required by this Agreement while SFD retains any and all rights of ownership to the license.

2.06 Community Services. CFPD shall cooperate with SFD in promoting civic betterment and improvement by providing its staff and equipment for community events and activities, to the extent consistent with the provision of fire prevention and suppression services.

2.07 Cooperative Training. CFPD shall make available to SFD employees mutually beneficial training classes presented by CFPD, such as classes in incident command overview.

2.08 Maps. CFPD shall provide copies of updated run maps to SFD. SFD shall provide copies of map changes to CFPD.

2.09 Law Enforcement Support. CFPD shall provide support to law enforcement including, but not limited to, emergency scene stand-by and laddering of buildings.

2.10 Existing Programs. SFD shall encourage the use of residential sprinklers in new construction and agrees to administer a brush abatement program in cooperation with the City of Saratoga.

### **SECTION 3**

#### **Service Levels, Standards of Performance**

3.01 Identifying Problems in Service. In the event SFD determines that CFPD has failed to comply with the duties described in this Agreement, SFD shall notify CFPD, in writing, sufficiently detailing the specific compliance issue. Upon receipt of the written notice, CFPD shall respond within ten (10) working days in writing, setting forth a detailed plan as to how CFPD shall come into compliance. If CFPD disagrees with SFD's determination, CFPD shall inform SFD in writing, setting forth the factual and/or legal basis for CFPD's disagreement.

3.02 Standard of Performance. CFPD shall perform all services required under this Agreement in a manner and according to the standards observed by competent fire personnel providing equivalent services. All products of whatever nature and all services shall be prepared and provided in a professional manner. All work products, engine company inspections and other services provided pursuant to this Agreement shall be in conformance with the related fire statutes, laws, regulations and guidelines.

3.03 Closure of Quito or West Valley Fire Station. If CFPD suspends operations from its Quito or West Valley sites for longer than one month CFPD shall provide replacement coverage to SFD from another location at no additional cost to SFD.

3.04 SFD HQ is a core station. CFPD shall define the SFD HQ station as a core station for purposes of staffing. The staffing at the SFD HQ station shall be staffed similarly to other CFPD core stations.

### **SECTION 4**

#### **Emergency Medical Services and Operations**

4.01 Emergency Medical Services. CFPD shall provide fire engine-based advanced life

support first responder services on two of the fire engines (or truck or rescue units) assigned to SFD HQ.

4.02 Emergency Operations Services

- A. CFPD has primary responsibility for emergency services coordination for emergency events that are under the jurisdiction of a fire agency.
- B. CFPD shall cooperate with SFD in the preparation, maintenance, and execution of civil defense and disaster plans for emergency operations.

**SECTION 5**

**Real Property**

5.01 Real Property Defined. As used in this section, the term "Real Property" means the land and improvements situated at 14380 Saratoga Avenue, Saratoga, California 95070 consisting of the fire station and appurtenances attached thereto and as identified in Exhibit A, attached hereto and incorporated by this reference.

5.02 Use of Real Property. During the term of this Agreement, CFPD shall be entitled to use and occupy the Real Property rent-free. SFD shall continue to use one office within the Real Property for its business office and a second office for Harold Netter for so long as he is employed by SFD as its fire marshal. The conference room shall continue to be used by the SFD Board of Fire Commissioners for its regular and special meetings and shall also be used from time to time for meetings of community groups in accordance with the established policies and procedures of the SFD.

5.03 Real Property Maintained.

- A. CFPD agrees that it shall not allow nuisances to exist or be maintained at any of the Real Property in SFD.
- B. CFPD shall keep the Real Property in a safe, neat and clean condition.
- C. CFPD shall maintain the Real Property in good condition and repair, including all interior and exterior surfaces, structural components, heating, cooling, plumbing and electrical systems, clarification systems and landscaping subject, however, to the following limitations:
  - 1. CFPD's total obligation for payment of maintenance and repair expenses during any single fiscal year shall not exceed the sum of \$25,000. Should maintenance and repair expenses during any single year exceed such amount, SFD shall be responsible for payment of the excess; provided, CFPD first gives prior notice of such excess expense to SFD and obtains

authorization from SFD for performance of the work. Notwithstanding the foregoing, prior notice to SFD shall not be required for emergency repairs that are necessary in order to protect the Real Property or to abate an immediate health or safety hazard. In such event, notice of the emergency repair shall be given to SFD as soon as reasonably practical. The annual allowance for maintenance and repair expenses provided herein shall be non-cumulative.

2. CFPD shall not be responsible to repair any item where the cost of repair (including labor) exceeds the sum of \$5,000 and such repair cost also exceeds fifty percent (50%) of the replacement cost (including labor) for that item. In such case, the repair or replacement of that item shall be the responsibility of SFD.
3. SFD shall be responsible for painting and carpeting SFD HQ, and shall be responsible for keeping the roof in good repair.

Repairs shall be performed promptly according to the controlling building code. SFD has the right to inspect the property upon reasonable notice to CFPD.

- D. CFPD may at its own expense expand, remodel or otherwise improve or add fixtures to the Real Property in order to enable it to better meet its needs, subject to the approval of SFD.
- E. SFD shall share with CFPD all construction plans, specifications, drawings and documentation it has regarding construction of SFD HQ, manufacturer's warranties, invoices, service records, owner's manuals and maintenance records of the Real Property.

#### 5.04 Underground Storage Tanks.

- A. SFD is responsible for any underground storage tank or tanks on any of the Real Property including any and all repairs and/or replacement of underground storage tanks. SFD shall retain any and all rights of ownership in said tanks and shall be fully responsible for any and all clean-up costs associated with any tank or tanks installed at any time on the premises.
- B. SFD shall defend, indemnify and hold harmless CFPD its officers, directors, agents and employees from and against any and all claims, liabilities, loss, injury or damage arising out of or in connection with actions, including claims and administrative processes, by government agencies or third parties, for investigation, response, removal, clean-up and/or remediation (collectively "claims") arising from or related in any way to any contamination, including contamination by oil or hazardous substances of the Real Property, the

buildings or the surrounding area unless such contamination was caused by the acts or omissions of CFPD or its agents or contractors.

5.05 Replacement of Facilities. In the event that any of the Real Property is for any cause destroyed or damaged beyond repair, SFD at its sole expense shall within a reasonable time replace facilities with improvements and facilities of the same kind and purpose, and minimally to the same quality, size and capacity as those damaged or destroyed at the same location or an alternative location which shall comply with the required response times set forth in this Agreement, or if such facilities are not provided by SFD, SFD shall relieve CFPD of performance goals.

5.06 Identity of Fire Stations. SFD HQ shall be identified as both a SFD and CFPD facility, and the apparatus stationed therein shall bear the name of Saratoga and County Fire. SFD's name shall appear on the station while CFPD's logo shall appear on the front door and/or front office window. In addition to display of the American flag, CFPD may display the flag of the state of California and the County Fire flag.

5.07 New Fire Stations.

- A. In the event an additional fire station or stations are needed to serve SFD exclusively, SFD shall be responsible for construction thereof. The contractor hired to construct the station(s) shall cooperate with CFPD regarding the design and construction of the new facilities.
- B. All construction shall be undertaken in conformance with all applicable California laws including, but not limited to, the Civil Code, Code of Civil Procedure, Health and Safety Code, and the California Public Contracts Code, including laws relating to competitive bidding.

## **SECTION 6**

### **Vehicles and Equipment**

6.01 Equipment Defined. As used in this section, the term "Equipment" is defined as that equipment, tools, furnishings, supplies and other materials not consisting of Real Property or Vehicles.

6.02 New Equipment and Vehicles. In the event new equipment needs to be purchased or needs to be replaced, CFPD shall have the sole responsibility for purchasing new equipment and replacing existing equipment. If CFPD purchases, leases or otherwise acquires ownership of new equipment, CFPD shall retain ownership of such equipment during and after the term of this Agreement.



6.03 Records for Equipment and Vehicles. SFD shall share with CFPD all plans, drawings and documentation it has regarding manufacturer's warranties, invoices, service records, owner's manuals and maintenance records of equipment and vehicles.

6.04 Purchase and Rental of Vehicles.

- A. CFPD shall rent Engine 30, Rescue 30 and Patrol 30 for a minimum of one year effective July 1, 2008 for amounts as described in Exhibit C. CFPD shall provide routine maintenance to Engine 30, Rescue 30 and Patrol 30 and shall add these vehicles to CFPD's liability insurance policy. One half of the annual rental shall be due on December 15<sup>th</sup> of each year and the remaining half shall be due on June 15<sup>th</sup> of each year. In the event any rented vehicle is temporarily taken out of service for maintenance or repair and such work cannot reasonably be completed within 30 days, the rental payment for such vehicle shall be abated during the period from the 31<sup>st</sup> day until the date on which the vehicle is returned to active service. At any time from and after July 1, 2009, CFPD may elect to permanently discontinue using any or all of the rented vehicles, in which event CFPD shall give written notice to SFD indicating the effective date on which a particular vehicle shall permanently be taken out of service. CFPD's obligation to pay rent and to provide maintenance and insurance coverage for such vehicle shall cease as of the effective date on which the vehicle is taken out of service. SFD may thereafter use or dispose of such vehicle in any manner it deems appropriate.
- B. CFPD will purchase the vehicles listed in Exhibit B, entitled Vehicles to Be Sold to CFPD. SFD shall transfer title to CFPD for the 2000 Ford SUV effective September 1, 2009 with a negotiated value of \$6,000. SFD shall transfer title to the 1994 Ford Crown Victoria effective July 1, 2008 with a negotiated value of \$2,000. The cost of the SUV and Ford Crown Victoria are included in the \$275,000 price referred to in Section 6.06 below.
- C. CFPD shall not rent nor purchase Engine 31, which is currently owned by SFD. However, CFPD shall provide regular maintenance on Engine 31 and shall add Engine 31 to CFPD's liability insurance plan at no cost to SFD. CFPD shall stop providing routine maintenance and liability insurance on Engine 31 when Engine 31 is no longer used as a reserve engine or the volunteer division's primary fire engine for service to SFD.

6.05 Rescue Equipment Assigned to All SFD HQ Vehicles. CFPD shall retain specialized rescue equipment on the SFD vehicles that had such equipment as of July 1, 2008. As the equipment is removed from service CFPD shall replace only the number of units needed to comply with CFPD's standard equipment inventory. If SFD desires to augment the assigned inventory on a vehicle assigned to SFD HQ, it may request CFPD to do so and SFD shall pay for the extra equipment.

6.06 Purchase of Equipment and Two Vehicles. CFPD shall pay SFD \$275,000 on or before May 15, 2008 for the 2000 Ford SUV and 1994 Ford Crown Victoria listed in Exhibit B and all the equipment listed in Exhibit D.

## SECTION 7

### Records Retention

7.01 Records Retention and Storage. SFD shall retain ownership of all SFD emergency and public service related service records pertaining to responses that occur prior to July 1, 2008. CFPD shall have access to all such records. CFPD shall provide a list of records CFPD intends to move from SFD for use elsewhere and the new location of such records. Those records that are not needed by CFPD at another location shall remain with SFD. CFPD shall own all service records related to emergency and public service calls for service that occur on or after July 1, 2008.

## SECTION 8

### Insurance And Indemnities

8.01 Insurance Required.

- A. SFD shall insure the real property listed in Exhibit A against the risk of damage or destruction in amounts sufficient to enable it to satisfy the obligations created by this Agreement.
- B. CFPD shall maintain its current insurance program or contract for and maintain during all periods this Agreement is in effect comprehensive general liability insurance and property insurance, and shall provide an endorsement naming SFD, members of its Commission and all other officers, agents and employees of SFD, individually and collectively, as additional insureds. The coverage under such insurance shall include the indemnification requirements of CFPD as set forth in Section 8.02 of this Agreement. CFPD's current insurance program or any future comprehensive general liability insurance shall provide minimum coverage of two million dollars. CFPD's insurance shall be primary to SFD's general and property insurance policies and shall not contribute with SFD's coverage. Certificates of insurance shall be provided to SFD Board of Fire Commissioners annually on the anniversary date of this Agreement and to the extent CFPD alters any coverage, it shall include SFD, members of the SFD Board of Fire Commissioners and all other officers, agents and employees of SFD as additional insured parties. Any and all insurance purchased must be from carriers holding an A.M. Best rating of no less than A:VII. SFD shall be given thirty days' advance notification of any cancellations or lapses in coverage including, but not limited to, policy limits

and deductibles.

- C. CFPD shall maintain its current workers' compensation self-insurance program or shall at all times maintain workers' compensation insurance in an amount to comply with California statutory requirements. Such coverage shall apply to all CFPD employees who are former SFD employees. SFD shall at all times maintain workers' compensation coverage either through a self-insurance program or insurance policy in an amount to comply with California statutory requirements. SFD shall be responsible for any and all workers' compensation claims arising out of an accident or incident that occurred prior to July 1, 2008.
  
- D. SFD shall maintain its current insurance program or contract for and maintain during all periods this Agreement is in effect comprehensive general liability insurance and property insurance and shall provide an endorsement naming CFPD, members of its Board of Directors and all other officers, agents and employees of CFPD, individually and collectively, as additional insureds. The coverage under such insurance shall include the indemnification requirements of SFD as set forth in Section 8.02 of this Agreement. SFD's current insurance program or any future comprehensive general liability insurance shall provide minimum coverage of two million dollars. SFD's insurance shall be primary to CFPD's general and property insurance policies and shall not contribute with CFPD's coverage. SFD shall provide Certificates of insurance to the CFPD Fire Chief annually on the anniversary date of this Agreement and to the extent SFD alters any coverage, it shall include CFPD, members of the CFPD Board of Directors and all other officers, agents and employees of CFPD as additional insured parties. Any and all insurance purchased, must be from carriers holding an A.M. Best rating of no less than A:VII. CFPD shall be given thirty days' advanced notification of any cancellations or lapses in coverage including, but not limited to, policy limits and deductibles.

8.02 Mutual Indemnities. In lieu of and notwithstanding the pro rata risk allocation which might otherwise be imposed between the Parties pursuant to Government Code Section 895.6, the Parties agree that all losses or liabilities incurred by a party shall not be shared pro rata but instead CFPD and SFD agree that pursuant to Government Code Section 895.4, each of the parties hereto shall fully indemnify and hold each of the other parties, their officers, board members, commissioners, employees and agents, harmless from any claim, expense or cost, damage or liability imposed for injury (as defined by Government Code Section 810.8) occurring by reason of the negligent acts or omissions or willful misconduct of the indemnifying party, its officers, board members, commissioners, employees or agents, under or in connection with or arising out of any work, authority, services, or jurisdiction delegated to or performed by such party under this Agreement or use of the Real Property by the indemnifying party. No party, nor any officer, board member, commissioner, employee or agent thereof shall be responsible for any damage or liability occurring by reason of the negligent acts or omissions or willful misconduct of other party hereto, its officers, board members, commissioners, employees or agents, under or

in connection with or arising out of any work, authority, services, or jurisdiction delegated to or performed by such party under this Agreement or use of the Real Property by such party.

## **SECTION 9**

### **Term Of Agreement**

9.01 Initial Term of Agreement. The initial term of this Agreement shall commence on July 1, 2008, at 12:00:01 a.m. and shall expire on July 1, 2013 at 12:00 o'clock a.m.

9.02 Renewal. At the expiration of the initial term, this Agreement shall automatically renew year to year for an additional five years unless SFD or CFPD provides written notice of non-renewal to the other party at least one year prior to the July 1 that the terminating party intends to terminate the Agreement. Unless sooner terminated by either party, this Agreement shall expire on July 1, 2018, at 11:59:59 p.m.

## **SECTION 10**

### **Terms Of Payment/Financial Provisions**

10.01 Payment. Commencing on July 1, 2008, and every fiscal year thereafter SFD shall pay CFPD an amount equal to 90% of the total property taxes apportioned to SFD, inclusive of the Homeowners Property Tax Replacement (HOPTR) and prior property taxes but exclusive of property taxes designated for SFD's general obligation bond, and property taxes attributed to fiscal year 2007-2008. In the event of any change in apportionment laws, for example the elimination of the Educational Revenue Augmentation Fund (ERAF), or changes in tax rates or tax revenues due to annexations or detachments, the 90% factor described in this section shall apply to the new rates or amounts.

10.02 Terms of Payment. SFD shall pay CFPD 90% of the tax revenues described in Section 10.01 within 30 days after the date on which SFD receives written notice from the County of Santa Clara (which may be in the form of an email message) that the tax revenues have been apportioned to SFD. If SFD is tardy with the payment SFD shall pay a late fee of one percent of the delinquent payment if SFD has not made the payment within 30 days of learning that the property taxes had been apportioned. For every fifteen days that payment is late CFPD shall be entitled to the base amount plus late fees, compounded by one percent each fifteen days.

10.03 American Medical Response West (AMRW) First Responder Payments. SFD relinquishes to CFPD SFD's right to payments from AMRW, or its successor, fees, payments or pass-through revenues that relate to fire departments providing first responder emergency medical care in support of AMRW'S contractual obligations to Santa Clara County relative to response times.

## SECTION 11

### **Fire Personnel**

11.01 Designation of Fire Chief. The CFPD Fire Chief shall be designated as the Fire Chief for SFD for purposes of statutory regulations and the exercise of all powers and duties assigned to the fire chief under any applicable laws.

11.02 Paid Fire Personnel. CFPD has the right to hire and control all personnel necessary to fulfill its obligations set forth in this Agreement and assumes all responsibility and liability for personnel in accordance with applicable State and Federal laws.

11.03 Layoff of SFD Personnel. Effective 12:00 o'clock a.m. July 1, 2008, SFD shall lay-off its Firefighters, Firefighter-Paramedics, Engineers, Engineer-Paramedics, Captains, Captain-Paramedics, and Assistant Chief who are listed in Exhibit E, entitled Former Paid SFD Fire Personnel, and CFPD shall hire these employees effective as of 12:00:01 o'clock a.m., July 1, 2008. The specific terms of employment including job title and job class, rank, compensation, benefits, seniority, leave accruals and usage, and retirement benefits are addressed in separate agreements.

11.04 SFD Volunteer Division. Exhibit "F", entitled Former SFD Volunteers, is incorporated herein by this reference. CFPD shall enroll those persons who were SFD volunteers listed on Exhibit "F", into its volunteer division. Former SFD volunteers shall be afforded the same training and emergency response opportunities as CFPD volunteers plus the additional privilege described in section 2.01.E.

## SECTION 12

### **Termination**

12.01 Termination for Cause. Without limiting any other remedy that may be available, this Agreement may only be terminated for a material breach after utilizing the Arbitration Review Board procedure in Section 13.01.

12.02 Termination without Cause. Neither party may terminate this Agreement without cause prior to June 30, 2013. Thereafter, either party may terminate this Agreement without cause only the manner provided in Section 9.02. SFD and CFPD can mutually agree to terminate this Agreement without cause at any time.

12.03 Duties upon Termination. In the event of termination, and in accordance with all applicable laws, CFPD shall retain ownership of all records pertaining to emergency and non-emergency calls for service that CFPD responded to during the period that this Agreement was in force. SFD shall have reasonable access to all such records.

12.04 Employment of Fire Personnel upon Termination. Upon termination of this

Agreement SFD shall assume full responsibility for fire protection and fire department-related emergency services within SFD. SFD shall provide its former SFD employees currently employed by CFPD a right of first refusal for employment subject to SFD's minimum qualifications. Former SFD employees currently employed by CFPD are described in that document entitled "Former Paid SFD Fire Personnel," attached hereto marked Exhibit "E" and incorporated herein by this reference. Thereafter, SFD shall provide CFPD employees a right of first refusal for employment subject to SFD's minimum qualifications. In the event SFD elects to contract with another provider of fire protection services, SFD shall endeavor to provide the same right of first refusal set forth above in the contract terms with the new provider.

12.05 Payment upon Termination. CFPD shall rebate to SFD any payment for services not received, and SFD shall pay CFPD a prorated amount for all days not constituting a full month owed up to and including the date of termination date.

## **SECTION 13**

### **Dispute Resolution**

13.01 Arbitration Review Board. At any time during the term of this Agreement, the party aggrieved by a material breach may provide written notice describing the breach to the party responsible. Upon receipt of the written notice, the party responsible shall respond within ten (10) working days in writing with a detailed action plan summarizing how the party shall correct the problem. If the dispute is not resolved within ninety days of such-notice of breach, SFD and CFPD shall attempt to agree on appointing an individual to serve as a non-binding mediator. If the parties cannot agree on the selection of a mediator, or if either of the parties elects to not accept the mediator's suggestions, the parties shall appoint an Arbitration Review Board consisting of three (3) members, one (1) appointed by each entity, and the third mutually agreed upon. After the Board's decision is given, the aggrieved party, if not satisfied, may then give written notice of termination. This arbitration shall be conducted in accordance with procedures agreed to by the parties (such as applicable California statutes regarding non-binding arbitration or the rules set forth by the American Arbitration Association). The arbitration shall be non-binding and each party shall bear its own costs and expenses of this proceeding. The parties shall equally bear the fees charged by the arbitrators.

13.02 Governing Law. California law shall govern this Agreement and the interpretation thereof.

## **SECTION 14**

### **Miscellaneous Provisions**

14.01 Assignment. Except as expressly provided herein, neither SFD nor CFPD shall voluntarily or involuntarily assign, delegate, subcontract, pledge, hypothecate or encumber any right, duty or interest, in whole or in part, in or of this Agreement.

14.02 Notice. All notices, demands or other writings in this Agreement provided to be given or made or sent, or which may be given or made or sent, by either party hereto to the other, shall be deemed to have been fully given if sent by facsimile or made or sent when made in writing and deposited in the United States mail, registered or certified and postage prepaid and addressed as follows:

To SFD: Chairperson  
Board of Fire Commissioners  
Saratoga Fire Protection District  
14380 Saratoga Avenue  
Saratoga, CA 95070

To CFPD: FIRE CHIEF  
Santa Clara County Fire Department  
14700 Winchester Boulevard  
Los Gatos, CA 95032-1818

The address to which any notice, demand or other writing may be given or made or sent to any party may be changed by written notice given by such party.

14.03 Compliance with Law. SFD and CFPD agree to comply with and abide by all federal, state, county, municipal and other governmental statutes, ordinances, laws and regulations which affect this Agreement or any activity, duty, obligation, performance or occupancy of use of real or personal property which arise from this Agreement.

14.04 Waiver of Rights. Neither party may waive or release any of its rights or interests in this Agreement except in writing. Failure to assert any right arising from this Agreement shall not be deemed or construed to be a waiver of such right.

14.05 Interest in Agreement. This Agreement shall not be deemed or construed to confer upon any person or entity, other than the parties hereto, any right or interest, including, without limiting the generality of the foregoing, any third party beneficiary status or any right to enforce any provision of this Agreement.

14.06 Consents Approvals, and Modifications.

- A. All consents, approvals, interpretations and waivers relating to this Agreement shall bind a party only when executed by such party's Authorized Representative. SFD's Authorized Representative shall be the Chairperson of the SFD Board of Fire Commissioners, and CFPD's shall be its Fire Chief. Superiors and successors of, and agents expressly authorized in writing by, said SFD Chairperson and Fire Chief, as the case may be, shall also be authorized representatives.

- B. The express terms of this Agreement represent the exclusive understanding between the parties for the services contemplated herein. Modification of this Agreement may occur only in writing upon the mutual consent of the parties. The SFD Chairperson is authorized to approve minor modifications to this contract on behalf of SFD, providing such modifications do not significantly affect the scope of services or compensation. The Fire Chief is authorized to approve minor modifications on behalf of CFPD that do not significantly affect the scope of services or compensation.

14.07 Entire Agreement. Except as otherwise provided in Section 11.02, this Agreement and the exhibits hereto contain the entire Agreement between SFD and CFPD with respect to the fire and emergency medical services, and no other agreement, statement or promise made by any party or any employee, officer or agent of any party which is not contained in this Agreement shall be binding or valid.

14.08 Successors in Interest. This Agreement shall be binding upon and shall inure to the benefit of any successors to or assigns of the parties.

14.09 Severability. Should any part, term, portion, or provision of this Agreement be decided to be in conflict with any law of the United States or of the State of California, or otherwise found to be unenforceable or ineffectual, the validity of the remaining terms, parts, portions, or provisions shall be deemed severable and shall not be affected, provided such remaining portions or provisions can be construed in substance to constitute the Agreement which the parties intended to enter into for fire and emergency medical services by CFPD in the first instance.

14.10 Nondiscrimination. Each party and every subcontractor shall comply with all applicable federal, state, and local laws and regulations including Santa Clara County's policies concerning nondiscrimination and equal opportunity in contracting. Such laws include but are not limited to the following: Title VII of the Civil Rights Act of 1964 as amended; Americans with Disabilities Act of 1990; The Rehabilitation Act of 1973 (sections 503 and 504); California Fair Employment and Housing Act (Government Code sections 12900 et seq.); California Labor Code sections 1101 and 1102. The parties shall not discriminate against any subcontractor, employee, or applicant for employment because of age, race, color, national origin, ancestry, religion, sex/gender, sexual orientation, mental disability, physical disability, medical condition, political beliefs, organizational affiliations or marital status in the recruitment, selection for training including apprenticeship, hiring, employment, utilization, promotion, layoff, rates of pay or other forms of compensation. Nor shall the parties discriminate in provision of services provided under this contract because of age, race, color, national origin, ancestry, religion, sex/gender, sexual orientation, mental disability, physical disability, medical condition, political beliefs, organizational affiliations or marital status.

14.11 Survival of Obligations. The rights and obligations of the parties set forth in Sections 5, 7 and 8 shall survive the termination of this Agreement.

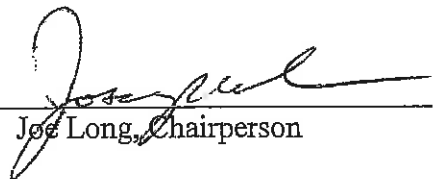


14.12 Termination of Administrative Management Agreement. This Agreement supersedes and cancels in all respects the existing Administrative Management Agreement between CFPD and SFD dated July 1, 2005, and upon the effective date hereof, said Administrative Management Agreement shall be deemed terminated and have no further force or effect.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in duplicate by the persons thereunto duly authorized as of the date first mentioned.

SARATOGA FIRE  
PROTECTION DISTRICT

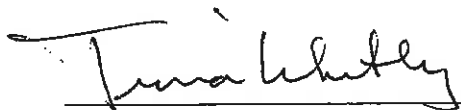
SANTA CLARA COUNTY  
CENTRAL FIRE PROTECTION DISTRICT

By:   
Joe Long, Chairperson

By:   
BLANCA ALVARADO VICE CHAIR

ATTEST:

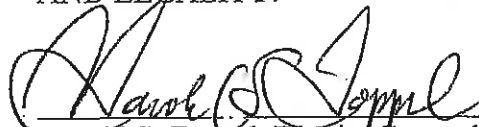
ATTEST:

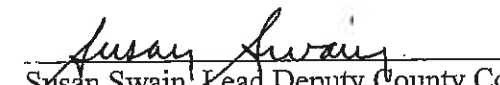
  
Trina Whitley, Secretary

  
Phyllis A. Perez, Clerk of the Board

APPROVED AS TO FORM  
AND LEGALITY:

APPROVED AS TO FORM  
AND LEGALITY:

  
Harold S. Toppel, District Counsel

  
Susan Swain, Lead Deputy County Counsel

**FIRST ADDENDUM  
TO  
FIRE AND EMERGENCY MEDICAL SERVICES AGREEMENT  
SARATOGA FIRE PROTECTION DISTRICT AND SANTA CLARA COUNTY  
CENTRAL FIRE PROTECTION DISTRICT**

THIS FIRST ADDENDUM TO FIRE AND EMERGENCY MEDICAL SERVICES AGREEMENT, dated 12/17/09, 2009, by and between the SARATOGA FIRE PROTECTION DISTRICT, an independent fire district organized and operating pursuant to the Fire Protection District Law of 1987 of the California Health and Safety Code ("SFD"), and the SANTA CLARA COUNTY CENTRAL FIRE PROTECTION DISTRICT, a fire protection district, organized and operating under the Fire Protection District Law of 1987 of the California Health and Safety Code, ("CFPD"), is made with reference to the following facts:

A. SFD and CFPD are parties to a Fire and Emergency Medical Services Agreement effective as of July 1, 2008 (the "Services Agreement").

B. Section 10.01 of the Services Agreement provides as follows:

10.01 Payment.

Commencing on July 1, 2008, and every fiscal year thereafter SFD shall pay CFPD an amount equal to 90% of the total property taxes apportioned to SFD, inclusive of the Homeowners Property Tax Replacement (HOPTR) and prior property taxes but exclusive of property taxes designated for SFD's general obligation bond, and property taxes attributed to fiscal year 2007-2008. In the event of any change in apportionment laws, for example the elimination of the Educational Revenue Augmentation Fund (ERAF), or changes in tax rates or tax revenues due to annexations or detachments, the 90% factor described in this section shall apply to the new rates or amounts.

C. The State of California has suspended Proposition 1A and intends to borrow property tax revenue from cities, counties and special districts, including SFD and CFPD.

D. If property tax revenues are borrowed, the State will be obligated to repay the loan within three years of borrowing these revenues, plus interest.

NOW, THEREFORE, SFD and CFPD agree as follows:

1. If any property tax revenues that otherwise would be allocated to SFD are borrowed by the State of California, then upon repayment of such loan, and in accordance with the provisions of Section 10.01 of the Services Agreement, 90% of each repayment representing property taxes that would be shared with CFPD, including 90% of the interest thereon, shall be paid to CFPD and the remaining 10% shall be remitted to SFD. If any property taxes are diverted by the State that are designated for SFD's general obligation bond, then upon repayment of such loan, 100% of the each repayment, including all interest thereon, shall be paid to SFD.

2. In the event the term of this Agreement expires before the State repays the subject loans, SFD is still obligated to pay CFPD 90% of each repayment representing property taxes that CFPD is entitled to under the Services Agreement and this Addendum, including 90% of the interest thereon, shall be paid to CFPD .

3. All terms of the Agreement not in conflict with this Addendum shall remain in full force and effect.

4. Each of the undersigned warrants and represents that they have the authority to sign this Addendum on behalf of the respective parties.

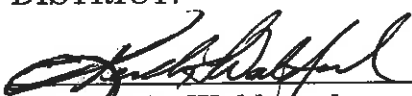
5. This Addendum contains the entire agreement between the parties pertaining to the subject matter and fully supersedes all prior written or oral

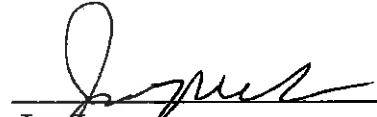
agreements and understandings between the parties pertaining to such subject matter.

IN WITNESS WHEREOF, the Addendum is effective as of the day and year set forth above.

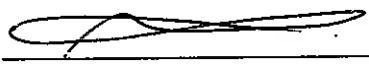
SANTA CLARA COUNTY  
CENTRAL FIRE PROTECTION  
DISTRICT:

SARATOGA  
FIRE PROTECTON DISTRICT:

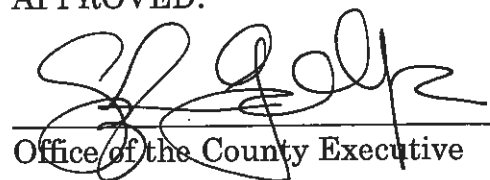
  
Kenneth L. Waldvogel  
Fire Chief  
Date: 12/11/09

  
Joe Long  
Chairman  
Date: 12/15/09

APPROVED AS TO FORM AND LEGALITY:

  
Neysa A. Fligor  
Deputy County Counsel

APPROVED:

  
Office of the County Executive  
Sylvia Gallegos  
11-20-05

**ATKINSON • FARASYN, LLP**

ATTORNEYS AT LAW

REPLY TO:  
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660 WEST DANA STREET  
P.O. BOX 279  
MOUNTAIN VIEW, CALIFORNIA 94042  
TELEPHONE (650) 967-6941  
FACSIMILE (650) 967-1395

J.M. ATKINSON (1892-1982)  
L.M. FARASYN (1915-1979)

April 15, 2014

Santa Clara County LAFCO  
Attn: Neelima Palacheria, Executive Officer  
70 West Hedding Street  
San Jose, CA 95110

Re: Saratoga Fire Protection District  
Special Study - Revised Draft Report

Dear Ms. Palacheria:

The Saratoga Fire Protection District ("SFD") submitted comments on the Draft Report from EPS dated February 24, 2014. Some of these comments were incorporated into the Revised Draft Report dated March 27, 2014 ("the Revised Report"); most were not. This letter will focus primarily upon the legal process being followed by LAFCO and the findings set forth in the Revised Report.

**THE PROCESS:**

**A. Where is the annexation?**

As we have noted in prior communications to LAFCO, a dissolution of the SFD necessarily involves the concurrent annexation of former SFD territory to the Central Fire Protection District ("CCFD"). It has been our legal position that while LAFCO may have the power under state law to initiate the dissolution of a special district, it does not have the power to *initiate* an annexation. In other words, state law cannot require a governmental agency to accept new jurisdictional territory and all associated responsibilities and liabilities without its consent. We have repeatedly asked LAFCO staff and the consultant to provide either the legal authority showing the power of LAFCO to order an involuntary annexation or evidence that a petition for annexation has been filed or will be filed by the Santa Clara County Board of Supervisors. This information was not contained in the original Report and again is not contained in the Revised Report.

During his presentation of the Revised Report at the LAFCO meeting on April 2, 2014, the consultant noted that he had been advised by the employees of CCFD that they were able to assume the responsibilities of the SFD. However, the decision to assume the functions of the SFD does not rest with the employees of CCFD – it rests exclusively upon the Board of Supervisors, in its capacity as the governing body of CCFD. Yet there has been no indication that the Board of Supervisors has any interest in making this decision or has initiated any proceedings to do so. If the Board of Supervisors does not wish to be a

party to a hostile take-over the SFD, then we are all wasting our time and money by proceeding any further with this dissolution process.

**B. Will there be an election on the issue of SFD's dissolution?**

In response to a question from the Commission as to whether the issue of SFD's dissolution would be put before the voters of the District, the answer was that there *would* be an election. Either the LAFCO staff knows of a state law that this writer has not seen and would be more than happy to review if they could provide me with the citation, or the response was simply dead wrong. The only applicable law we are aware of is Government Code Section 57077.1,<sup>1</sup> which states that if a proposal for dissolution is initiated by the Commission (as in this case), and "regardless of whether a subject agency has objected to the proposal," the Commission shall order a dissolution *without confirmation by the voters* unless "written protests have been submitted that meet the requirements of Section 57113." That Section would require voter confirmation of a proposed dissolution only if protests have been signed by either 10% of the voters entitled to vote, or by persons owning 10% of the assessed value of land within the subject territory.

The time to collect and submit written protests turns out to be incredibly short, given the importance of this decision. Section 57051 requires that all protests be submitted not later than the conclusion of the public hearing and no protest may be dated prior to the date of publication of the notice for that public hearing. So the SFD might have only 30 to 45 days to collect the required number of signatures and we cannot even get a head start on this task before the notice is published.<sup>2</sup>

If the SFD is forced to choose between an attempt to accomplish the nearly impossible task of gathering 1,000 protest signatures in a matter of days, or seeking judicial review of a dissolution resolution we firmly believe will be legally defective and invalidated by the court, the course of action that will be taken by SFD is rather obvious. This is not intended as a threat but merely a statement of a predictable outcome – which is totally avoidable, depending upon the actions of the Commission.

**THE FINDINGS:**

**A. Will there be any cost savings?**

The Revised Report claims that a dissolution of the SFD will result in various cost savings, mostly from the elimination of the District's executive officer and business manager, who would be replaced by a second level clerk at CCFD. Aside from the general question as to whether this "savings" is really worth the total loss of a local governmental

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<sup>1</sup> Part of the Cortese-Knox Hertzberg Local Government Reorganization Act of 2000, which is the general law governing all of LAFCO functions, powers and proceedings. All other Section references contained in this letter are to the Government Code.

<sup>2</sup> Retaining the services of a paid signature-gathering firm to obtain the required number of protest signatures is not an option. In the opinion of the SFD legal counsel, such an expenditure would constitute an illegal use of public funds.

agency that is fully accountable to its own residents, what is really the nature of this "savings"? As shown by the text of the Revised Report and the oral comments by the consultant, it is not a matter of services being performed more cheaply; it is a matter of certain services no longer being performed at all. This result is mischaracterized as the elimination of "redundant costs" but most of the services now being performed by the District's business manager are not redundant and would simply disappear. For example, the residents of SFD would no longer have monthly financial statements showing income and expenses, nor would they have annual audited financial reports. They would no longer receive monthly emergency response reports; monthly reports on the condition and status of the District owned fire station; monthly reports on the fire protection measures being installed in new construction projects; or monthly reports on the status of special community activities conducted by the District. In addition, there would be no separate operating and capital budgets for the SFD since all of this financial information would be merged into the vast budget for the CCFD.

From the perspective of the residents of the SFD, there are no "savings" since a dissolution would not result in any reduction in the amount of their property taxes or assessments. But there would be a possible *loss* of revenue now utilized exclusively by and for the SFD. Nothing in the state law mandates that future revenues received from the territory of a dissolved special district must only be used for that territory. It seems quite unlikely that CCFD would be willing to incur the additional cost and staff time to keep track of these revenues and allocate them only for the benefit of the SFD territory. Nor would there be any reason to do so because CCFD would not be required to prepare separate financial statements applicable only to the SFD territory, as currently being prepared by the SFD business manager.

It is also possible that the school districts will suffer since no actual evidence was presented showing that the ERAF payments now being allocated for the schools out of the SFD tax revenues would be continued after dissolution. It is our belief that these funds, in the amount of approximately \$600,000, will simply be taken from the schools and shifted to the CCFD for its unrestricted use. The school districts would hardly view this economic loss as a "savings."

If there will be no reduction in property taxes, no increase in the level of fire protection, and the elimination of various services now being provided to the SFD, the cost "savings" are, in reality, a revenue shifting from an agency where District revenue is fully used and accountable to another agency where it is combined with other revenue and may be used for any purpose, whether related or unrelated to the District. The residents of the District will have no control over how their tax dollars are spent, and would not have the information needed to determine whether the funds are even spent within the District.

**B. Would a dissolution promote public access and accountability?**

The consultant apparently measures access and accountability by looking at who answers the phone for business calls, how many people attend regular board meetings, and whether ancient contracts and resolutions that the consultant "expects" to find can be

found. A discussion of this finding should start with basic definitions for the terms "promote" "access" and "accountability." Since the state law does not contain any special definition for these terms, the ordinary dictionary meanings would apply.

In the context of Section 56881, which sets forth the required findings, the following definitions from Webster's dictionary should be used:

"Promote" means to contribute to the growth of, or help something to happen, develop or increase.

"Access" means the ability to approach or communicate with a person or thing; to have contact with someone.

"Accountability" means an obligation or willingness to accept responsibility or to account for one's actions. It is described in more detail in Wikipedia as "the acknowledgment and assumption of responsibility for actions, products, decisions, and policies including the administration, governance and implementation within the scope of the role or employment position and encompassing the obligation to report, explain, and be answerable for resulting consequences."

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When the Legislature adopted Section 56881, it obviously did not have the telephone receptionist in mind. The Section is directed toward the persons who actually make policy decisions and govern the agency. In this case, those persons would clearly be the Board of Directors (also called the Fire Commissioners) of the SFD and the Santa Clara County Board of Supervisors, sitting as the Board of Directors of the CCFD. If SFD is dissolved, the accountability of the governing body would drop from 100% to zero. The residents of SFD currently elect every member of the SFD Board. They can easily recall or replace any member who the voters determine is not properly performing his or her job. But the residents of the District (or, for that matter, the entire population of the City of Saratoga) have no voting power to elect a single member of the Board of Supervisors, even if every person voted in the same way. A dissolution would not "promote" access and accountability of the governing body; it would destroy it and effectively disenfranchise every resident of the SFD.

The consultant attempts to avoid this mathematical fact by the absurd statement that the lack of contested elections "indicates lack of community concern and involvement in SFD affairs...". Apparently, it never occurred to the consultant that the voters might be satisfied with their present board members and the existence of conflict and contested elections might instead suggest instability and a dysfunctional organization. The statement is an insult to 88% of the District voters who approved an assessment upon themselves to pay for the new fire station. The Mayor of Saratoga previously sent a letter to LAFCO describing the community support for the SFD. Another copy is enclosed for your reference.



The Revised Report reflects the work of someone who has arrived at a conclusion and is now seeking facts to support it. The consultant again points to the absence of a contract between SFD and the City of Saratoga for administration of the EWAS program. The earlier draft referred to this as an "expected document," but the consultant is the only one with this expectancy. As we pointed out in our comments on the Draft Report, the EWAS program is governed by the adopted ordinances and regulations of both agencies and no contract is required. After all, what would it say that the EWAS ordinances and regulations do not? In 30 years of operation, neither the City of Saratoga nor the SFD has found a need for a separate EWAS contract. Yet the consultant is now rendering his own unqualified legal opinion that a contract is "expected" and therefore missing.

Also missing, in the view of the consultant, is the resolution establishing the EWAS service fee. The same fee has been charged for the last 30 years and each EWAS customer receives an actual written bill for the service fee which is mailed quarterly directly to the customer. So there is no confusion over the amount of the fee or when it is payable. Even if a rate resolution was found, it would mean absolutely nothing in terms of access. If an EWAS customer wants to know the amount of his or her service charge, would the customer search through the 30-year old archives of the fire district or would the customer just look into his or her own mailbox? The so-called "missing" EWAS rate resolution is merely an inconsequential circumstance from which the consultant is attempting to fabricate another "fact" to support his conclusions.

The consultant also mentions, once again, the lack of a job description for the business manager. Job descriptions are appropriate to distinguish between responsibilities assigned to multiple employees. As stated in our earlier comments, the SFD has only one employee who basically performs whatever tasks are needed – from the preparation of agendas, financial reports, processing and payment of bills, customer contacts, and EWAS invoices, to any other duties that may be assigned from time to time by the Board of Directors. Her job involves knowledge, training, experience, and responsibilities far in excess of anything that might be provided by a second-level clerk. The lack of a description does not minimize the scope or importance of her job.

Perhaps because it would negate his attempts to show lack of access, the consultant fails to acknowledge the Transparency Certificate of Excellence awarded to the SFD by the Special District Leadership Foundation, with specific compliments on the SFD website. Instead, the consultant again reminds us in the Revised Report that the SFD website was recently "revamped to eliminate outdated information and to add previously missing information." In other words, the fact that it is now an award-winning website should be ignored and LAFCO should only consider the earlier condition which was still a work-in-progress. This is just another instance of a conclusion in search of supporting "facts."

## CONCLUSION

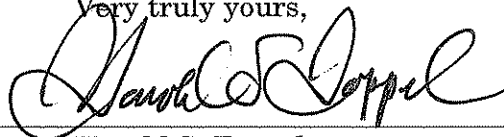
LAFCO was charged with the responsibility of reviewing the status of the SFD. We understand that it needed to perform the study to determine whether the legally required findings can be made for dissolution of the District. That study has now been completed,

and despite statements by the consultant to the contrary, the study clearly shows that the findings cannot be made. It is now time for LAFCO to declare that it has fulfilled its assignment to study the potential dissolution of the SFD; advise the public that the Report is now available for review by any interested person, along with comments from SFD; and conclude the investigation by taking no further action and closing its file.

If the residents of the SFD felt it was necessary to dissolve the District, they certainly have the power to do so. They can vote to replace the current Board of Directors and then file with LAFCO a voluntary petition for dissolution. But this democratic process is far different than having a dissolution the residents do not want, imposed by persons they did not and could not elect, and through a process over which they have absolutely no control.

A considerable amount of time and money has already been expended by both LAFCO and the SFD on this matter. It would be a complete waste of public funds and resources if a final resolution could only be obtained through litigation. The SFD hopes LAFCO does not force both of us into this position.

Very truly yours,



Harold S. Toppel  
District Counsel

cc: LAFCO Commissioners  
SFD Board of Directors  
Richard Berkson  
Trina Whitley



Incorporated October 22, 1956

# CITY OF SARATOGA

13777 FRUITVALE AVENUE • SARATOGA, CALIFORNIA 95070 • [www.saratoga.ca.us](http://www.saratoga.ca.us)

COUNCIL MEMBERS:

*Manny Cappello  
Jill Hunter  
Emily Lo  
Howard Miller  
Chuck Page*

September 30, 2013

Chairperson Mike Wasserman  
Local Agency Formation Commission of Santa Clara County  
70 West Hedding Street, 11<sup>th</sup> Floor  
San Jose, CA 95110

Subject: Saratoga Fire Protection District

Dear Chairperson Wasserman,

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The Local Area Formation Commission of Santa Clara County (LAFCO) performs a unique function in our County. It encourages the orderly formation of local agencies and does so by conducting reviews of these agencies and determining when there are opportunities to consolidate services, with the intent to improve service delivery and reduce operating expenses.

While it might be argued that annexing the Saratoga Fire Protection District into the Santa Clara County Central Fire Protection District will result in administrative cost savings, I urge the members LAFCO to take into consideration the distinct benefits the Saratoga Fire Protection District provides to the residents of Saratoga.

Saratoga's character began to form long before the City itself was incorporated in 1956. The Saratoga Fire Protection District has a long and rich history in Saratoga and is one of the primary institutions that helped give our City a sense of identity in its formative years.

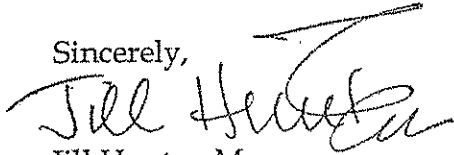
Not only is the Saratoga Fire Protection District a key part of the City's past, it also an important part of our City today and something very vital to the residents of Saratoga will be lost if the Saratoga Fire Protection District is merged with the Santa Clara County Central Fire Protection District. Saratoga was founded on the principle that government should be small and citizens should have easy access to both local government and their elected officials. The Saratoga Fire Protection District embodies this philosophy, which unites Saratoga residents and draws likeminded people to this

City. Residents know their Saratoga Fire Commissioners and vice versa. If we lose this special district, we also lose elected officials who are truly part of our community and representative of the people who live here.

I understand that merging the Saratoga Fire District with the Santa Clara County Central Fire Protection District will provide a limited amount of savings. However, for me, the benefit of retaining this integral institution far outweighs the savings that may result from merging the two fire protection districts.

Consequently, as the Mayor of the City of Saratoga, I support the Saratoga Fire Protection District's bid to remain independent. The District is a vital part of our City's identity and serves an important role in our community. I hope that you and the other LAFCO Commissioners will keep this in mind when making your decision on whether to annex the Saratoga Fire District into the Santa Clara County Central Fire Protection District.

Sincerely,



Jill Hunter, Mayor  
City of Saratoga

---

CC: LAFCO Commissioners  
LAFCO Executive Director  
LAFCO Clerk

Ernest Kraule  
14433 Springer Avenue  
Saratoga, CA 95070  
ekraule@aol.com, (408) 741-1966

April 18, 2014

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

RE: Submittal of written comments by Friday, April 18, 2014, on the Saratoga Fire Protection District Special Study Draft Report, to be to be considered in the preparation of the Final Report.

Dear Ms. Palacherla,

I am a resident of the City of Saratoga, and the former Fire Chief of the Saratoga Fire District (SFD) for thirty-four years. For the record, I am submitting the following commentary on the Saratoga Fire Protection District Special Study Draft Report prepared by Economic & Planning Systems, Inc. for the Santa Clara County LAFCO.

Page 8 of the Special Study Draft Report, under Facilities and Equipment, Paragraph 1, states that: It is assumed that all SFD facilities and equipment would transfer to CCFD upon reorganization. **Clearly, Saratoga Fire District's facilities and equipment (the fire station, Engine 30 and the Model AA fire engine) should be transferred to, and retained by the City of Saratoga, not CCFD.**

Page 21, of the Special Study Draft Report, under Liabilities, Long-Term Debt, Bonds Payable, Paragraph 1 states that: On September 12, 2000 the SFD issued the Election of 2000 General Obligation Bonds to finance the renovation, construction and acquisition of SFD facilities and property. **For clarification, the General Obligation Bonds were issued to finance the construction of a new fire station on the existing property owned by the Saratoga Fire District.**

Paragraph 2 states that: The Special Study assumes that the General Obligation bond payments would not be affected by reorganization; and would continue to be paid from an ad valorem tax on properties within the former SFD boundaries GC 56886(c). **If this assumption holds true, similarly the Saratoga Fire District facility, land and property could be transferred to the City of Saratoga, another public agency, and would continue to be paid for by the ad valorem property tax assessed to the residents of the City of Saratoga residing in the Saratoga Fire District. Regardless of whether a reorganization occurs, this tax will continue to be paid until 2031 (seventeen years) by the residents of the Saratoga Fire District for the fire station.**

Sincerely,



Ernest O. Kraule  
Saratoga Fire Chief, Retired



## ***TRANSMITTAL***

To: Neelima Palacherla, Executive Officer  
LAFCO of Santa Clara County

From: Richard Berkson

Subject: Response to Comments on EPS' Special Study Draft Report,  
Saratoga Fire Protection District, March 27, 2014

Date: 5/9/14

*The Economics of Land Use*



As you requested, we have prepared responses to comments submitted on our Special Study Draft Report, Saratoga Fire Protection District, March 27, 2014.

Please let me know if you would like any further response or clarification.

*Economic & Planning Systems, Inc.  
One Kaiser Plaza, Suite 1410  
Oakland, CA 94612-3604  
510.841.9190 tel  
510.740.2080 fax*

*Oakland  
Sacramento  
Denver  
Los Angeles*

**[www.epsys.com](http://www.epsys.com)**

## **Response to Comments by Harold S. Toppel, SFD District Counsel, 4/15/14**

### **THE PROCESS**

#### **A. Where is the annexation?**

**Comment:** While LAFCO may have the power under state law to initiate the dissolution of a special district, it does not have the power to initiate an annexation.

**Response:** The process and legal authorities will be addressed in the LAFCO staff report.

#### **B. Will there be an election on the issue of SFD's dissolution?**

**Comment:** If Section 57113 applies, SFD will have inadequate time to obtain the required number of protest signatures, and the SFD will seek judicial review.

**Response:** The process and legal authorities will be addressed in the LAFCO staff report.

### **THE FINDINGS**

#### **A. Will there be any cost savings?**

**Comment:** Dissolution will not result in the elimination of redundant services, but will eliminate services entirely such as monthly financial statements; annual audited financial reports; monthly emergency response reports; monthly reports on the condition and status of the fire station; monthly reports on fire protection measures in new construction projects; and monthly reports on the status of special community activities conducted by the District.

**Response:** The dissolution of the SFD would eliminate certain financial reports and the costs of that reporting; the elimination of these costs contribute to the potential overhead savings described in the Report.

The CCFD currently prepares reports on responses, station conditions, and other items noted in the comment above. The CCFD presents such reports to city councils within the District's boundaries when requested. If requested by the City of Saratoga, following dissolution, the CCFD can present those reports to the City of Saratoga's city council; the report would include both the boundaries of the current SFD as well as the rest of the City.

**Comment:** There will be no savings to the residents of the SFD from dissolution because there would be no reduction in their property taxes, and any cost savings may be used outside the current boundaries of the SFD.



**Response:** The property taxes of residents will not be affected since state law mandates that all residents pay 1 percent of value in property taxes (plus other voter-approved assessments and bonds).

Cost savings may be used by CCFD either inside or outside of the current SFD boundaries following dissolution. That is currently true for any cost savings that CCFD may create through service delivery efficiencies; the current contract does not require those savings to be used within the SFD. Savings used outside the current boundaries may also benefit residents within the current boundaries, because the current boundaries are served by more than the one Saratoga station, and multiple stations respond when necessary.

**Comment:** It is possible local school districts will suffer if ERAF payments now allocated to schools out of SFD tax revenues are discontinued.

**Response:** This statement is incorrect. The State Controller and the County Auditor have both stated, when addressing the potential annexation of Morgan Hill to the CCFD, that ERAF funds would not transfer to the CCFD following reorganization; those funds would continue to accrue to ERAF. The same situation would apply to the transfer of SFD property tax to the CCFD.

More recently, the County Controller-Treasurer's Office contacted the State Controller's Office, and confirmed to LAFCO staff that the Controller-Treasurer's Office "will take the necessary procedures to ensure that ERAF will not be affected by this proposed change".<sup>1</sup>

## **B. Would a dissolution promote public access and accountability?**

**Comment:** The residents of the SFD would no longer elect the SFD board members following dissolution; the Board of Supervisors governs the CCFD, and the residents of the area only elect one supervisor who is responsible for services to a broader area.

**Response:** Governance of fire protection services to the area would change; the Board of Supervisors would be the governing body, which would eliminate SFD election costs and allow for savings to be used for improved fire protection services.

**Comment:** No contract is required for the SFD to provide EWAS services outside of its boundaries to non-residents of the SFD.

**Response:** Utilizing a contract when providing services outside of a district's boundary is a standard practice. A contract provides the public with information about services to non-residents of the district, and provides transparency by explicitly documenting service obligations, responsibilities, and costs for review by the taxpayers of the district. The absence of a contract or other form of agreement reduces accountability to the residents of the district.

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<sup>1</sup> Email from Irene Lui, County of Santa Clara Controller-Treasurer, May 8, 2014.

**Comment:** The report attempts to fabricate “facts” by investigating whether there is a resolution listing the SFD charges for EWAS services. A missing rate resolution is inconsequential.

**Response:** Published rates and charges adopted by resolution of the governing body is a standard practice for jurisdictions in California. This documentation improves public accountability and transparency. The absence of a rate resolution reduces transparency and accountability to the ratepayers.

If a resolution is adopted by the Board of a Special District it is a legislative action and thus, normally considered vital records, which should be kept permanently. Also, the Secretary of State’s Local Government Records Management Guidelines recommends permanent retention for resolutions. As an example, Government Code section 34090 requires a City to permanently retain a resolution.

**Comment:** The lack of a job description does not minimize the scope or importance of the SFD business manager’s job.

**Response:** Maintaining job descriptions is a standard practice for jurisdictions in California, as it improves transparency and accountability for the salaries being paid. The lack of a job description and contract reduces public accountability and makes public scrutiny of expenditures more difficult.

## **Response to Comments by Ernest Kraule, Former Fire Chief of the SFD (4/18/14)**

**Comment:** The Special Study Draft Report (pg. 8) states that: "It is assumed that all SFD facilities and equipment would transfer to CCFD upon reorganization". Clearly, Saratoga Fire District's facilities and equipment (the fire station, Engine 30 and the Model AA fire engine) should be transferred to, and retained by the City of Saratoga, not CCFD.

**Response:** The CCFD will bear all responsibility for services, and therefore it should also take full responsibility for all equipment, land and buildings currently owned by the SFD.

**Comment:** The Special Study Draft Report (pg. 21) states that: "On September 12, 2000 the SFD issued the Election of 2000 General Obligation Bonds to finance the renovation, construction and acquisition of SFD facilities and properties". For clarification, the General Obligation Bonds were issued to finance the construction of a new fire station on the existing property owned by the Saratoga Fire District.

**Response:** Comment acknowledged.

**Comment:** Page 21 also states that: "This Special Study assumes that the General Obligation bond payments would not be affected by reorganization, and would continue to be paid from an ad valorem tax on properties within the former SFD boundaries. GC §56886(c)" If this assumption holds true, similarly the Saratoga Fire District facility, land and property could be transferred to the city of Saratoga, another public agency, and would continue to be paid for by the ad valorem property tax assessed to the residents of the city of Saratoga residing in the Saratoga Fire District. Regardless of whether a reorganization occurs, this tax will continue to be paid until 2031 (seventeen years) by the residents of the Saratoga Fire District for the fire station.

**Response:** The repayment for the General Obligation bond issued in 2000 will continue to be paid by the residents of the Saratoga Fire District regardless of whether a reorganization occurs. As noted in the first response, the CCFD will bear all responsibility for services, and therefore it should also take full responsibility for all equipment, land and buildings currently owned by the SFD.





**ATTACHMENT D**

**DATE:** May 20, 2014

**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: SARATOGA FIRE PROTECTION DISTRICT SPECIAL STUDY REVISED DRAFT REPORT  
NOTICE OF AVAILABILITY & PUBLIC HEARING**

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The redlined version of the Revised Draft Report for the Saratoga Fire Protection District Special Study is now available for public review and comment on the LAFCO website at [www.santaclara.lafco.ca.gov](http://www.santaclara.lafco.ca.gov). LAFCO consultant's response to comments letters and the comment letters received to date on the Draft Report are also available on the LAFCO website. A LAFCO staff report with information on process and options for next steps is also available on the LAFCO website.

LAFCO will hold a Public Hearing to accept public comment, consider accepting the Revised Draft Report, discuss options for next steps and provide further direction to staff.

**LAFCO Hearing:** June 4, 2014  
**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, 11<sup>th</sup> Floor, East Wing, San Jose, CA 95110 OR you may email your comments to: [neelima.palacherla@ceo.sccgov.org](mailto:neelima.palacherla@ceo.sccgov.org). All written comments will be provided to the LAFCO Commission.

Please contact me at (408) 299-5127 or Dunia Noel, LAFCO Analyst, at (408) 299-5148, if you have any questions.

Thank you.

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

COMMISSIONERS: Cindy Chavez, Sequoia Hall, Johnny Khamis, Margaret Abe-Koga, Linda J. LeZotte, Mike Wasserman, Susan Vicklund Wilson  
ALTERNATE COMMISSIONERS: Pete Constant, Yoriko Kishimoto, Terry Trumbull, Cat Tucker, Ken Yeager  
EXECUTIVE OFFICER: Neelima Palacherla



**LAFCO MEETING: June 4, 2014**  
**TO: LAFCO**  
**FROM: Neelima Palacherla, Executive Officer**  
**SUBJECT: FINAL LAFCO BUDGET FOR FISCAL YEAR 2015**

**STAFF RECOMMENDATION**

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1. Adopt the Final LAFCO Budget for Fiscal Year 2014-2015. (Attachment A)
2. Find that the Final LAFCO Budget for Fiscal Year 2015 is expected to be adequate to allow the Commission to fulfill its statutory responsibilities.
3. Authorize staff to transmit the Final LAFCO Budget adopted by the Commission including the estimated agency costs to the cities, the special districts, the County, the Cities Association and the Special Districts Association.
4. Direct the County Auditor–Controller to apportion LAFCO costs to the cities; to the special districts; and to the County; and to collect payment pursuant to Government Code §56381.

**BACKGROUND**

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The Cortese Knox Hertzberg Local Government Reorganization Act of 2000 (CKH Act) requires LAFCO to annually adopt a draft budget by May 1 and a final budget by June 15 at noticed public hearings. Both the draft and the final budgets are required to be transmitted to the cities, to the special districts and to the County. Government Code §56381(a) establishes that at a minimum, the budget must be equal to that of the previous year unless the Commission finds that reduced staffing or program costs will nevertheless allow it to fulfill its statutory responsibilities. Any unspent funds at the end of the year may be rolled over into the next fiscal year budget. Government Code §56381(c) requires the County Auditor to request payment from the cities, special districts and the County no later than July 1 of each year for the amount each agency owes based on the net operating expenses of the Commission and the actual administrative costs incurred by the Auditor in apportioning costs and requesting payment.

## **LAFCO FINANCE COMMITTEE RECOMMENDATIONS**

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### **No Change to the Draft / Preliminary Budget**

The Commission on April 2, 2014, adopted LAFCO's preliminary budget for Fiscal Year 2014-2015. The LAFCO Finance Committee recommended no changes to the preliminary budget adopted by the Commission.

### **Request for Review of Compensation for the Executive Officer and Analyst Positions**

The Memorandum of Understanding between the County and LAFCO (MOU) requires the County to provide notice to LAFCO prior to termination of LAFCO staff positions' bargaining unit contract in order to allow LAFCO to timely submit requests to the County for review of compensation and classification of the LAFCO positions. Pursuant to this provision in the MOU, the County provided a notice to LAFCO on March 26, 2014, informing that the County Employee Management Association (CEMA) Contract which includes the LAFCO Executive Officer and the LAFCO Analyst positions expires on June 23, 2014. Following receipt of the County's notice, staff conducted a preliminary salary survey of LAFCOs in the Bay Area and in other urban counties. The LAFCO Finance Committee at its May 23, 2014 meeting considered this information and recommended that the County review and establish appropriate compensation for the two positions. Staff has sent a letter to the County requesting the review.

### **COST APPORTIONMENT TO CITIES, DISTRICTS AND COUNTY**

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The CKH Act requires LAFCO costs to be split in proportion to the percentage of an agency's representation (excluding the public member) on the Commission. The LAFCO of Santa Clara County is composed of a public member, two County board members, two city council members, and since January 2013 – by two special district members. Government Code §56381(b)(1)(A) provides that when independent special districts are seated on LAFCO, the county, cities and districts must each provide a one-third share of LAFCO's operational budget.

Since the City of San Jose has permanent membership on LAFCO, as required by Government Code §56381.6(b), the City of San Jose's share of LAFCO costs must be in the same proportion as its member bears to the total membership on the commission, excluding the public member. Therefore in Santa Clara County, the City of San Jose pays one sixth and the remaining cities pay one sixth of LAFCO's operational costs. Per the CKH Act, the remaining cities' share must be apportioned in proportion to each city's total revenue, as reported in the most recent edition of the Cities Annual Report published by the Controller, as a percentage of the combined city revenues within a county. Each city's share is therefore based on the 2011/2012 Report – which is the most recent edition available.

Government Code Section 56381 provides that the independent special districts' share shall be apportioned in proportion to each district's total revenues as a percentage of the combined total district revenues within a county. The Santa Clara County Special



Districts Association (SDA), at its August 13, 2012 meeting, adopted an alternative formula for distributing the independent special districts' share to individual districts. The SDA's agreement requires each district's cost to be based on a fixed percentage of the total independent special districts' share.

LAFCO's net operating expenses for Fiscal Year 2015 is \$562,564.

The estimated apportionment of LAFCO's FY 2015 costs to the individual cities and districts is included as **Attachment B**. The final costs will be calculated and invoiced to the individual agencies by the County Controller's Office after LAFCO adopts the final budget.

#### **ATTACHMENTS**

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Attachment A: Proposed Final LAFCO Budget for Fiscal Year 2015

Attachment B: Costs to Agencies Based on the Proposed Final Budget



**FINAL LAFCO BUDGET  
FISCAL YEAR 2014 - 2015**

**AGENDA ITEM # 5  
Attachment A**

<b>ITEM # TITLE</b>	<b>APPROVED FY 2014 BUDGET</b>	<b>ACTUALS Year to Date 2/26/2014</b>	<b>YEAR END PROJECTIONS 2014</b>	<b>FINAL FY 2015 BUDGET</b>
<b>EXPENDITURES</b>				
Object 1: Salary and Benefits	\$432,087	\$284,028	\$448,437	\$465,700
Object 2: Services and Supplies				
5255100 Intra-County Professional Services	\$45,000	\$1,872	\$10,000	\$45,000
5255800 Legal Counsel	\$57,000	\$30,205	\$56,500	\$58,000
5255500 Consultant Services	\$100,000	\$33,592	\$50,000	\$100,000
5285700 Meal Claims	\$750	\$131	\$500	\$750
5220100 Insurance Premiums	\$5,600	\$4,047	\$5,600	\$5,600
5250100 Office Expenses	\$2,000	\$486	\$2,000	\$2,000
5255650 Data Processing Services	\$2,700	\$2,269	\$2,700	\$4,000
5225500 Commissioners' Fee	\$10,000	\$3,700	\$7,000	\$10,000
5260100 Publications and Legal Notices	\$2,500	\$288	\$1,000	\$2,500
5245100 Membership Dues	\$7,319	\$0	\$0	\$7,428
5250750 Printing and Reproduction	\$1,500	\$9	\$100	\$1,500
5285800 Business Travel	\$15,000	\$3,488	\$8,000	\$15,000
5285300 Private Automobile Mileage	\$2,000	\$378	\$1,000	\$2,000
5285200 Transportation&Travel (County Car Usage)	\$1,088	\$329	\$1,000	\$1,000
5281600 Overhead	\$43,473	\$21,096	\$43,133	\$36,065
5275200 Computer Hardware	\$11,000	\$2,500	\$2,500	\$3,000
5250800 Computer Software	\$2,500	\$854	\$3,500	\$4,000
5250250 Postage	\$2,000	\$23	\$1,000	\$2,000
5252100 Staff/Commissioner Training Programs	\$2,000	\$0	\$1,000	\$2,000
5701000 Reserves	\$0	\$0	\$0	\$0
<b>TOTAL EXPENDITURES</b>	<b>\$745,517</b>	<b>\$389,296</b>	<b>\$644,970</b>	<b>\$767,543</b>
<b>REVENUES</b>				
4103400 Application Fees	\$25,000	\$44,809	\$45,000	\$30,000
4301100 Interest: Deposits and Investments	\$5,000	\$1,612	\$3,000	\$3,000
3400150 Savings/Fund Balance from previous FY	\$106,620	\$160,052	\$160,052	\$171,979
<b>TOTAL REVENUE</b>	<b>\$136,620</b>	<b>\$206,474</b>	<b>\$208,052</b>	<b>\$204,979</b>
<b>NET LAFCO OPERATING EXPENSES</b>	<b>\$608,897</b>	<b>\$182,822</b>	<b>\$436,918</b>	<b>\$562,564</b>
3400800 <b>RESERVES</b>	<b>\$150,000</b>	<b>\$150,000</b>	<b>\$150,000</b>	<b>\$150,000</b>
<b>COSTS TO AGENCIES</b>				
5440200 County	\$202,966	\$156,002	\$156,002	\$187,521
4600100 Cities (San Jose 50% + Other Cities 50%)	\$202,966	\$156,002	\$156,002	\$187,521
Special Districts	\$202,966	\$296,892	\$296,892	\$187,521



**AGENDA ITEM # 5**  
**Attachment B**

**LAFCO COST APPORTIONMENT: County, Cities, Special Districts**  
**Costs to Agencies Based on the Final 2015 LAFCO Budget**

<b>LAFCO Net Operating Expenses for 2015:</b>				<b>\$562,564</b>
<b>Jurisdictions</b>	<b>Revenue per 2011/2012 Report</b>	<b>Percentage of Total Revenue</b>	<b>Allocation Percentages</b>	<b>Allocated Costs</b>
<b>County</b>	N/A	N/A	33.3333333%	\$187,521.34
<b>Cities Total Share</b>			<b>33.3333333%</b>	<b>\$187,521.33</b>
San Jose	N/A	N/A	50.0000000%	\$93,760.67
Other cities share			50.0000000%	\$93,760.66
Campbell	\$42,136,384	2.0782315%		\$1,948.56
Cupertino	\$101,768,890	5.0193988%		\$4,706.22
Gilroy	\$73,549,973	3.6275982%		\$3,401.26
Los Altos	\$40,559,754	2.0004697%		\$1,875.65
Los Altos Hills	\$8,965,078	0.4421715%		\$414.58
Los Gatos	\$35,566,167	1.7541783%		\$1,644.73
Milpitas	\$108,110,368	5.3321703%		\$4,999.48
Monte Sereno	\$2,398,104	0.1182782%		\$110.90
Morgan Hill	\$56,304,100	2.7770051%		\$2,603.74
Mountain View	\$180,902,676	8.9223993%		\$8,365.70
Palo Alto	\$469,550,000	23.1589310%		\$21,713.97
Santa Clara	\$583,863,212	28.7970351%		\$27,000.30
Saratoga	\$21,802,406	1.0753283%		\$1,008.23
Sunnyvale	\$302,034,437	14.8968048%		\$13,967.34
<b>Total Cities (excluding San Jose)</b>	<b>\$2,027,511,549</b>	<b>100.0000000%</b>		<b>\$93,760.66</b>
<b>Total Cities (including San Jose)</b>				<b>\$187,521.33</b>
<b>Special Districts Total Share*</b>			<b>33.3333333%</b>	<b>\$187,521.33</b>
Aldercroft Heights County Water District		0.06233%		\$116.88
Burbank Sanitary District		0.15593%		\$292.40
Cupertino Sanitary District		2.64110%		\$4,952.63
El Camino Hospital District		4.90738%		\$9,202.38
Guadalupe Coyote Resource Cons. District		0.04860%		\$91.14
Lake Canyon Community Services District		0.02206%		\$41.37
Lion's Gate Community Services District		0.22053%		\$413.54
Loma Prieta Resource Cons. District		0.02020%		\$37.88
Midpeninsula Regional Open Space District		5.76378%		\$10,808.32
Purissima Hills County Water District		1.35427%		\$2,539.55
Rancho Rinconada Rec. and Park District		0.15988%		\$299.81
San Martin County Water District		0.04431%		\$83.09
Santa Clara County Open Space District		1.27051%		\$2,382.48
Santa Clara Valley Water District		81.44126%		\$152,719.72
Saratoga Cemetery District		0.32078%		\$601.53
Saratoga Fire Protection District		1.52956%		\$2,868.25
South Santa Clara Valley Memorial District		0.03752%		\$70.36
<b>Total Special Districts</b>		<b>100.00000%</b>		<b>\$187,521.33</b>
<b>Total Allocated Costs</b>				<b>\$562,564.00</b>

\* Individual district's share is based on fixed percentages per Special District Association's August 13, 2012 Agreement



**LAFCO MEETING: June 4, 2014**  
**TO: LAFCO**  
**FROM: Neelima Palacherla, Executive Officer  
Dunia Noel, Analyst**  
**SUBJECT: UPDATE ON THE SOUTH SANTA CLARA VALLEY MEMORIAL  
DISTRICT'S IMPLEMENTATION OF LAFCO RECOMMENDATIONS**

### **STAFF RECOMMENDATION**

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Accept report and provide direction, as necessary.

### **BACKGROUND**

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At its June 5, 2013 meeting, LAFCO identified and requested the SSCVMD to immediately implement some of the recommendations included in the Special Districts Service Review Phase 1 Report and provide a progress report to LAFCO on those items within three months (by September 13, 2013). Additionally, LAFCO requested that the SSCVMD implement the remaining recommendations from the Service Review Report within a year and provide a second progress report to LAFCO by May 23, 2014.

At its October 2, 2013 meeting, LAFCO considered the SSCVMD's first progress report which indicated that the District had completed only some of the recommended actions, but planned to implement the remaining recommendations once an executive director was hired. In November 2013, the SSCVMD hired Christine West as the District's Executive Director.

### **SSCVMD'S 12-MONTH PROGRESS REPORT**

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Attached is a letter dated May 22, 2014 from Kirsten Powell, Attorney for SSCVMD, which serves as the SSCVMD's second progress report to LAFCO (Attachment A) and includes a matrix showing the status of the District's implementation efforts. As indicated in the letter, the SSCVMD has made substantial progress in implementing LAFCO's recommendations.

Earlier this month, the District launched its website ([www.sscvMemorialDistrict.org](http://www.sscvMemorialDistrict.org)). Please see the attached Press Release (Attachment B) from the SSCVMD announcing the website. The website includes information on the District's Board and each member's specific term of office is clearly identified.

The District, through its website and announcements in local newspapers, has increased public awareness of the District and its facility and rental of the Veterans Hall has also increased. The District also completed a rate study and revised its rental rates to be competitive with the market. A reduced rate will apply to veterans.

An copy of the draft audit of the District's finances was recently posted on the District's website. LAFCO staff will work with the County Auditor's Office to review the audit and will provide an update to the Commission in August on the findings of the audit. Staff is particularly interested in whether and how the issues identified in LAFCO's Special Districts Service Review Report concerning financial accountability will be addressed.

The SSCVMD also indicated that it has implemented all but three of the recommendations of LAFCO's service review, namely adopting a policy to designate the purpose of its reserve funds, adopting a capital improvement program, and establishing a documentable bidding process for any future capital improvements. According to the District, implementation of these specific recommendations was postponed pending the conclusion of the District's 5-year audit. The District anticipates that the three outstanding recommendations will be implemented in June 2014.

#### **NEXT STEPS**

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At the Commission's August 6, 2014 meeting, staff will provide an update to the Commission on the District's implementation efforts and the results of the audit.

#### **ATTACHMENT**

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**Attachment A:** May 22, 2014 Letter from Kirsten Powell, Attorney for the South Santa Clara Valley Memorial District

**Attachment B:** Press Release from the SSCVMD announcing the District's website





May 22, 2014

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

**RE: South Santa Clara Valley Memorial District Update**

Dear Honorable Chairperson Vicklund Wilson and Board Members:

This letter is intended to serve as an update on the actions of the South Santa Clara Valley Memorial District (the "District") since my prior correspondence to you dated September 13, 2013.

The Board continues to address the issues outline in the Service Report. A summary of the District's actions is attached hereto as Exhibit A. On November 4, 2013, the Board hired Christine West as the District's Executive Director. Under Ms. West's direction, the District has completed all of the items required under the Service Report with the exception of adopting a policy to designate the purpose of reserve funds, adopting a capital improvement program and establishing a documentable bidding process. It is expected those matters will be completed in June 2014. The District is concluding the 5-year audit and staff believed until the audit was completed and a true financial picture was available for the District, it was prudent to postpone any financial decisions or any capital expenditures.

The District conducted a rate study in February 2014 and revised its rental rates to be competitive in the market but still recognize the mission of the District is to serve its veterans. Pursuant to Military and Veterans Code section 1191, the rental rates charged to veterans and nonveterans need not be the same. Under Ms. West's direction, rental of the Veterans Hall has increased and public awareness of the District has increased. A copy of an insert recently included in the Gilroy Dispatch is attached as Exhibit B.

On April 4, 2014, the District's website was completed and can be found at [www.SCCVMemorialDistrict.com](http://www.SCCVMemorialDistrict.com). The website includes information on the District, the Board Members and staff, and the use of the Veterans Hall. Periodically, the website

Honorable Chairperson Vicklund Wilson and Board Members  
RE: South Santa Clara Valley Memorial District Update  
May 22, 2014  
Page 2

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will be updated to include timely information including special events at the Veterans Hall, election of Board Members, etc.

The Board has been diligently working to address all of the issues outlined in the service report while continuing to address the needs of the veterans in its jurisdiction. It has made incredible strides in the last year. I am hopeful that this letter and the actions taken by the Board demonstrate those commitments and accomplishments. If you have any questions or need additional information, please do not hesitate to contact me.

Very truly yours,



Kirsten M. Powell

KMP:sk  
cc: Board Members  
Christine West, Executive Director  
encl.

# EXHIBIT A

TABLE 1: RECOMMENDATIONS FOR THE SOUTH SANTA CLARA VALLEY MEMORIAL DISTRICT (SSCVMD)

	FOR IMMEDIATE ACTION (Within 1 to 3 Months)		TO BE COMPLETED WITHIN 12 MONTHS	
	Action	Status	Action	Status
<b>1. Operational Practices</b>	a. Hire legal counsel to ensure legal requirements are met regarding operations accountability and board actions	Completed 4/17/13	k. Conduct a documentable bidding process for any future capital improvements through advertisements in printed press, online proposal search engines, and on District website	June 2014
	b. Conduct required ethics training	Completed Sept/Oct. 2013	l. Conduct rate study to ensure rates are appropriate	Completed 2/10/14
	c. Conduct annual Brown Act training for Board Members	Completed 5/13/13	m. Establish similar rates for veterans and residents alike	Completed 2/24/14
	d. Hire a general manager to implement improvements	Completed 11/4/13		
	e. Edit and adopt appropriate bylaws based on guidance from legal counsel	Completed 5/13/13		
	f. Define in bylaws how Board President and Secretary are to be selected and the term of the appointment	Completed 5/13/13		
	g. Appoint both a board president and a secretary from among the Board members	Completed 5/13/13		
	h. Eliminate conflicts of interest between Board positions and Bar Council and Bingo Committee positions	No conflicts on bar council.		
	i. Adopt a detailed budget before start of the fiscal year	Completed 6/17/13		
	j. Resume receiving rent from bar to limit liabilities	Completed December 2013		

	FOR IMMEDIATE ACTION (Within 1 to 3 Months)		TO BE COMPLETED WITHIN 12 MONTHS	
	Action	Status	Action	Status
<b>2. Website</b>	a. Establish a website and publish Board's agendas and minutes, the annual financial transaction reports, and the annual operating budget	Completed 4/4/14	c. Use website to conduct outreach to veterans, as well as residents of the District, regarding services and upcoming board vacancies	Completed 4/4/14
	b. Include information on Board members and terms	Completed 4/4/14		
<b>3. Financial Records &amp; Audits</b>	a. Work with County to conduct a forensic audit of District	Completed May 2014		
	b. Switch from 5-year audits to annual audits	Completed		
	c. Ensure consistency and clarity of financial documents	Completed		
	d. File a copy of annual budget with County Auditor, as legally required	Completed		Completed 4/11
<b>4. Elections</b>	a. Ensure Board positions are properly filled through the election process or appointment by Board of Supervisors with clearly defined term expiration dates for each Board Member	Completed 11/3/13	b. Make information available at other veteran service locations and related events regarding services and upcoming board vacancies	Completed
<b>5. Plans/ Programs/ Policies</b>	a. Adopt a policy to designate the purpose of the reserve funds	June 2014	d. Adopt a multi-year capital improvement program	June 2014
	b. District and County should formalize in a set of policies the procedures for announcing Board openings, interviewing candidates, and appointing new Board members	Completed	e. Develop and implement plans to enhance utilization of memorial hall by veterans organizations	Completed
	c. Adopt a records retention policy	Completed 3/17/14		

# EXHIBIT B

# Serving Those Who Served.

## Gilroy Veterans Memorial Building Quietly Hosts History

Everyone knows about the building at 74 West 6th Street in Gilroy. They call it the Vets Hall, the VFW Building, the American Legion Hall or the Bingo Hall, but few really know anything about it. Ironically, the Veterans Memorial Building has a long and fascinating history.

Today, the energy efficient building is home to the American Legion Post 217, the John A. Berri Veterans of Foreign (VFW) Post 6309 and the VFW Ladies Auxiliary. It also hosts weddings, birthday celebrations, memorials and other local functions.

continued inside



continued from cover

"This building has witnessed a lot of Gilroy history," said South Santa Clara Valley Memorial District (SSCVMD) president John Ceballos. "Couples have celebrated their nuptials here and families have said their goodbyes to fallen

For rental information contact SSCVMD executive director Christine West at [christine@sscvMemorialDistrict.org](mailto:christine@sscvMemorialDistrict.org), 408.842.3838 or visit the [www.sscvMemorialDistrict.org](http://www.sscvMemorialDistrict.org).

heroes. It's pretty important to Gilroy."

The building, which was built in 1951 for \$90,000

including furnishings, includes a canteen with a fireplace, full kitchen, auditorium, meeting room and garden patio with barbeque pits.

### HOW IT ALL STARTED

In 1945, members of the Gilroy community service clubs met and decided that "something should be done for local veterans" and a 12-member committee was formed to develop a plan. It was decided a building should be dedicated to veterans and they set out to secure property.

Once the property at 74 W. Sixth Street was secured, the South Santa Clara Valley Memorial District (SSCVMD) was formed as an independent special district on August 26, 1946. Today there are 27 other memorial districts in California, but SSCVMD is the only memorial district in Santa Clara County.

Formed under the Military and Veterans Code of the State of California, the District's mission is to provide and maintain a quality, first-class



facility for all residents of the District's service area, including members of the armed services, non-profit organizations and the general public.

The District is managed and governed by a five-member board of directors who serve a four-year term. The founding board included Cecil Carlyle, Marcel Braquet, Mike Filice, Tom Underwood and Peter Blaettler. They spent the first five years raising money through a local tax assessment and the 6,100-square-foot Veterans Memorial Hall opened with great pomp and circumstance on May 25, 1951.

Mayor George C. Miliias presided over the opening ceremonies. Lieutenant Governor Goodwin C. Knight dedicated the building with states heads of both the American Legion and VFW in attendance.

While the building hasn't changed much, except for adding solar panels in 2007, many veterans have come and gone and are among the who's who of Gilroy. The current board of directors for the District include president Ceballos, vice president Phil Garcia, secretary Nicolas Marquez, Gabe Perez and Ray Sanchez.

## Local Color Guard/ Honor Guard Celebrate Patriotism

The American Legion and the VFW both sponsor the Color Guard and Honor Guard with members from both posts represented. The Color Guard participates in all the local parades and the Honor Guard provides the 21 gun salute for veterans' memorial services. Guard participants also teach flag etiquette to local scouts and students.

For more information on either the Color or Honor Guard contact the South Santa Clara Valley Memorial District at 408.842.3838.

*Saluting Those  
Who Served*

## American Legion

The American Legion, with roots in Gilroy dating back to 1921, has a proud history in this community.

"The American Legion has always served an important role in our community," said Post 217 Commander Bob Armendariz. "It not only offers veterans a chance to socialize with fellow comrades, but also an opportunity to continue serving their community and country. Once a veteran, always a veteran."

The American Legion is a patriotic veterans service organization committed to mentoring youth, sponsorship of wholesome programs in the community, advocating patriotism and honor, promoting strong national security and continued devotion to fellow service members and veterans.

At one time, Gilroy boasted two American Legion posts – Post 217, chartered June 1, 1921, and the Las Animas Post 669, chartered Aug. 26, 1946. With dwindling numbers in Post 669, the members eventually merged into Post 217. The Morgan Hill Post also experienced a similar membership decline and also merged with Post 217 in recent years. Today, Post 217 has about 360 members.





# VFW Members Continue Serving Gilroy Long After Serving Their Country

For members of the Veterans of Foreign Wars (VFW) service is a way of life. As a result, the VFW John A. Berri Post 6309 has been serving Gilroy and the surrounding area since 1946.

“Regardless of what branch of the military you served in, service becomes a way of life,” said VFW Post 6309 Commander John Ceballos of veterans. “So we’ve continued to serve our community, though in a quiet manner.”

That’s why many Gilroyans may not know just how much the VFW does for the community.

Locally, the VFW, with nearly 300 members, provides toys and dinner for an annual children’s Christmas party, scholarships for local students, donations to local school programs, local charities and much more.

Originally founded in 1899, the VFW’s mission is to foster camaraderie among veterans of overseas conflicts, to serve veterans, the military and communities; and to advocate on behalf of all veterans. Worldwide, there are more than 2 million VFW members.

With this mission in mind, Post 6309 also does a lot for local veterans. It provides financial assistance for homeless veterans, supports the Gavilan College Student Veterans Club, and hosts events for its members and community.



VFW's Veterans Monument at Christmas Hill Park, Ranch Site.

To celebrate veterans, the VFW takes turns with the American Legion Post 217 in organizing the annual Memorial Day and Veterans Day events. This year the VFW has scheduled the **Memorial Day service at Gavilan Hills Cemetery at 9 am, with the Memorial Day Parade to Christmas Hill Park to follow.**

For its members and their spouses, the VFW’s monthly social events are not to be missed and include New Year’s, Valentines, Thanksgiving

and Christmas dinners and dances.

Post 6309 also currently holds monthly business meetings at the Gilroy Veterans Hall, 74 West 6th Street, on the first Tuesday of each month and social events on the third Tuesday of each month.

The local Post supports all of its community service activities by hosting Bingo, every Friday at the Gilroy Veterans Hall from 6:30 – 9:30 pm. Bingo is open to the public and features flash and \$1,199 games, as well as standard bingo.

The VFW also sponsors the Ladies Auxiliary, which provides a social and community service organization for veterans’ family members. The Auxiliary not only supports VFW events, but also hosts its own fundraising activities.

The Auxiliary holds their business meeting on the second Monday of each month at 5 pm.

For information about membership contact Commander Ceballos at 408.307.6193 or [ceballos.john@verizon.net](mailto:ceballos.john@verizon.net).

For more information about the Auxiliary contact President Rita Delgado at 408.427.6268.

Gilroy can count on the VFW, either through its own members or members of the Auxiliary, to continue serving the community for years to come.

## Serving Gilroy Veterans Since 1921

Post 217 currently holds monthly business meetings at the Gilroy Veterans Hall, 74 West 6th Street, on the first Thursday of each month and social events on the third Thursday of each month.

For information about membership contact Ray Sanchez, Adjutant, at 408.607.3280 or [hairweare@charter.net](mailto:hairweare@charter.net).

Staying true to its mission, the local American Legion Post is active in the community. To mentor and support youth, the Post honors outstanding Gilroy middle school students, provides four scholarships a year for Gavilan students, and supports the national organization’s Boys State, which allows high school students to learn about local, county, state and even national government first hand.

“Our last local candidate earned a trip to Washington, DC,” said Armendariz. “We are very proud of him and all other Boys State representatives. This is one of the most respected educational programs of government instruction for U.S. high school students.”

The local Post is also devoted to fellow service members and veterans. It provides free meals, including an Independence Day

barbeque, and temporary assistance for housing and finances. The Legionnaires also donate to charitable causes that are veteran focused.

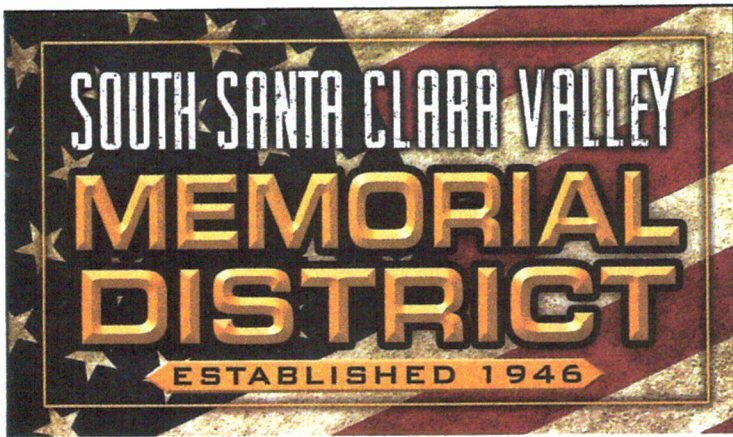
An annual dinner hosted by the Post also recognizes American Legion members for their service and longevity.

In an effort to reach out to even more veterans, Post 217 is hosting a **Veterans Community Outreach program on Saturday, May 3, 2014 at the Gilroy Veterans Hall**. The event includes medical professionals, counseling, benefits assistance, a job fair and a military art exhibit.

“Sometimes veterans don’t even know about these services or they aren’t convenient so we organized this outreach to overcome both of those barriers for veterans,” said Ray Sanchez, American Legion Post 217 Adjutant and organizer of the event. “Hopefully, this can become a regular event.”

Of course, the local post is also instrumental in celebrating veterans. The Post takes turns with the Veterans of Foreign Wars (VFW) Post 6309 in organizing the annual Memorial Day and Veterans Day events.

After nearly 100 years, the American Legion is still serving local veterans and the community.



*Providing a quality, first-class facility for veterans and Gilroy residents.*

Assembly hall, meeting room, garden patio and full kitchen available to rent. Visit the website for a virtual tour and more information.

74 West 6th Street, Gilroy

**408.842.3838**

[www.sscvMemorialDistrict.org](http://www.sscvMemorialDistrict.org)



**VETERANS OF FOREIGN WARS**

**NO ONE DOES MORE FOR VETERANS.**

John A. Berri Post #6309

**Business meetings**

1st Tuesday of each month

**Social events**

3rd Tuesday of each month

**Memorial Day Ceremony**

May 26 at 9 am at Gavilan Hills Memorial Park  
Parade to follow down 10th Street to Christmas Hill Park

**Veterans Day Ceremony**

November 10, 2014 at Gilroy Veterans Memorial Building

Contact Commander John Ceballos at  
[ceballos.john@verizon.net](mailto:ceballos.john@verizon.net) for more information.



**Ladies Auxiliary  
Business meetings**

2nd Monday of each month at 5pm

For more information contact President  
Rita Delgado at 408.427.6268



**American Legion Post #217**

**Business Meetings**

1<sup>st</sup> Thursday of each month

**Social Events**

3<sup>rd</sup> Thursday of each month

**Veterans Community Outreach Program**

Saturday, May 3 from 10am – 3pm

Veterans Memorial Building, 74 West 6<sup>th</sup> Street, Gilroy

Medical professionals, counseling, a job fair,  
veterans benefits assistance and military art exhibit.

**93<sup>rd</sup> Anniversary Dinner**

Honoring Legion Members

June 7 at 5:30 pm at the Veterans Memorial Building

Open to the Public. Tickets \$10/person

Contact Ray Sanchez, Adjutant

at 408.607.3280 or [hairweare@charter.net](mailto:hairweare@charter.net)

for more information about the Post, membership,

Anniversary Dinner tickets or other events.



**Gilroy Veterans Memorial Canteen**

Open 8 am daily and closes  
at discretion of bartender.

Open to all members of the  
American Legion Post 217,  
VFW Post 6309 and veterans,  
with proof of service,  
and their guests.

**408.842.4913**





# Veterans Memorial Hall

74 West 6th Street, Gilroy

## 8 Hour Event

Weddings, Birthday Parties, etc.

(Includes time to set-up/clean-up)

\$1,250 + \$500 deposit

## 4 Hour Event

Baby Showers, Meetings, etc.

(Includes time to set-up/clean-up)

\$625 + \$250 deposit

**Memorials** \$450, no deposit

*All events require certificate of insurance.*

*Deposit covers security & cleaning.*

*Discount available for veteran*

*with a DD214 & their spouse.*



## AGENDA ITEM # 6 Attachment B

**From:** [Noel, Dunia](mailto:Noel.Dunia)  
**To:** [Noel, Dunia](mailto:Noel.Dunia)  
**Subject:** FW: Press Release: South Santa Clara Valley Memorial District Launches Web Site  
**Date:** Friday, May 30, 2014 11:33:24 AM

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**From:** SSCVMD [<mailto:sscvmd@gmail.com>]  
**Sent:** Wednesday, May 14, 2014 11:51 AM  
**To:** [christine@sscvMemorialDistrict.org](mailto:christine@sscvMemorialDistrict.org)  
**Subject:** Press Release: South Santa Clara Valley Memorial District Launches Web Site

### FOR IMMEDIATE RELEASE

For More Information

Contact: Christine West  
408/842-3838  
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### South Santa Clara Valley Memorial District Launches Web Site

**Gilroy, CA (May 14, 2014)** – The South Santa Clara Valley Memorial District (SSCVMD), an independent special district focused on serving veterans of Gilroy by providing a first-class facility, announced today that it has launched a web site at [www.sscvMemorialDistrict.org](http://www.sscvMemorialDistrict.org).

“The District has been around since 1946 and the Veterans Memorial Hall since 1951,” said SSCVMD president John Ceballos. “We have been the best-kept secret in town, but now the web site will help veterans and area residents know a little more about the District and the Hall.”

The new web site provides information on the District, such as board member bios, service area, election procedures, minutes and agendas for board meetings and even a form for public records requests. The site will also post requests for bids for future remodeling projects.

For the general public, there is a virtual tour of the Hall, information on renting the facility and a calendar to see when the Hall is available. Individuals interested in renting the facility can also use the email form to request more information.

For veterans and their families, there is contact information for the American Legion Post 217, VFW John A. Berri Post 6309, VFW Ladies Auxiliary and the Color Guard/Honor Guard. There are also links to other area resources for veterans.

The Gallery page will of course include event photos, a link to the “City of Gilroy’s Tribute to Veterans” video produced by Joe Kline and YouTube links to the Stories of Service series produced by Darren Yaffi’s world history class from Gilroy High School starting in 2007 and continuing at Christopher High School to the present. Links to Gilroyans, who served in the Vietnam War and are featured on the [virtualwall.org](http://virtualwall.org), are also provided.

Formed in 1946, The South Santa Clara Valley Memorial District (SSCVMD) was

formed as an independent special district to recognize and serve the veterans of Gilroy and South Santa Clara Valley. The District manages the Veterans Memorial Hall at 74 West 6<sup>th</sup> Street in Gilroy, which is home to the American Legion Post 217, the John A. Berri Veterans of Foreign Wars (VFW) Post 6309 and the VFW Ladies Auxiliary. The Hall is also available to rent for memorials, wedding receptions, meetings and other events. For more information about the District or the Veterans Hall call 408.842.3838 or visit [www.sscvMemorialDistrict.org](http://www.sscvMemorialDistrict.org).

###

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**LAFCO MEETING: June 4, 2014**  
**TO: LAFCO**  
**FROM: Neelima Palacherla, Executive Officer**  
**Dunia Noel, Analyst**  
**SUBJECT: WORK PLAN FOR CITIES SERVICE REVIEW**

### **STAFF RECOMMENDATION**

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1. Approve the proposed work plan for conducting the Cities Service Review.
2. Authorize staff to prepare a Draft Request for Proposals (RFP) for professional firms to conduct the Cities Service Review and authorize staff to provide the Draft RFP to affected agencies and interested parties for their review and comment.
3. Appoint two LAFCO Commissioners to serve on the Cities Service Review Technical Advisory Committee.

### **BACKGROUND**

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

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

LAFCO began its second round of required service reviews in 2010, with a Countywide Fire Service Review which was completed in December 2010. In December 2011, LAFCO completed a Countywide Water Service Review, and in August 2012, a Service Review and Audit of the El Camino Healthcare District was completed. LAFCO then completed the Special Districts Service Review in two phases (June and December 2013). The

spheres of influence for all the special districts were reviewed and updated as necessary, in conjunction with the completed service reviews. Service reviews and sphere of influence updates for cities is the only outstanding review left in this second round of service reviews and is the subject of this staff report.

## **WORK PLAN AND SCOPE OF CITIES SERVICE REVIEW AND SOI UPDATES**

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The Cities Service Review will include a review of the 15 cities including Campbell, Cupertino, Gilroy, Los Altos, Los Altos Hills, Los Gatos, Milpitas, Monte Sereno, Morgan Hill, Mountain View, Palo Alto, San Jose, Santa Clara, Saratoga, and Sunnyvale.

### **Service Review Determinations**

As required by the CKH Act, the service review will include an analysis and written statement of determinations for each city under 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, adequacy of public services, and infrastructure needs or deficiencies including infrastructure 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

In addition to preparing the legally required determinations, the Cities Service Review will review current practices and explore future opportunities for collaboration amongst cities and other local agencies or organizations to achieve common goals and efficient delivery of services. The review will focus primarily on joint efforts and/or opportunities related to shared services, sprawl prevention/infill development and preservation of agricultural lands.

### **Shared Services**

Shared services is one of the many tools that local agencies can employ to reduce operating costs or maximize staffing potential for specific services without compromising service levels within communities. As part of a service review, LAFCO is required to analyze and prepare a written determination on the “status of, and opportunities for, shared services.” Some cities and local agencies in the county



currently share services and facilities to achieve greater efficiencies and there remains a strong interest in identifying new opportunities. Some examples of these efforts include individual cities contracting with the County Sheriff to provide police services to their city; Palo Alto, Mountain View, and Los Altos police departments' new consolidated computer-aided dispatch (CAD) system; joint ownership and operation of facilities such as the San Jose/Santa Clara Water Pollution Control Plant and the Palo Alto Water Quality Control Plant; and Santa Clara County Central Fire District contracting with the City of San Jose to serve scattered unincorporated islands.

### **Sprawl Prevention/ Infill Development**

Over the last ten years the number of unincorporated islands scattered throughout the county has been reduced as both large and small islands have been annexed into their surrounding cities. While the reduction of unincorporated islands promotes overall efficiency in service provision, it also presents certain temporary challenges to the agencies that are responsible for planning and providing services to a diminishing territory. The County of Santa Clara is currently considering this issue as it relates to providing waste management services to the remaining islands. Similarly, LAFCO, San Jose, and Burbank Sanitary District have been exploring various ways to more efficiently plan for and provide sanitary sewer services to the unincorporated island, particularly as the District continues to lose territory through annexations to the City of San Jose.

Since the 1970s, Santa Clara County has been at the forefront of city and county planning in the state, with the adoption of the "Joint Urban Development Policies" in the early 1970s and the use of city urban service area boundaries, which were the result of a collaborative effort between the 15 cities, the County, and LAFCO. Further, in the 1990s, the County and interested cities worked together to adopt urban growth boundaries (UGB) for several cities, delineating areas intended for future urbanization. In the mid-1990s, the City of Gilroy, the County, and LAFCO developed an inter-jurisdictional agreement entitled "Strategies to Balance Planned Growth and Agricultural Viability" in which the City agreed to direct growth away from agricultural lands east of Highway 101 and establish a stable UGB. In return, LAFCO agreed to look at the City's urban service area requests with the UGB more favorably. There may be opportunities for interested cities, the County, and LAFCO to further collaborate in order to direct growth away from agricultural/open space lands and toward infill areas and vacant lands within cities and city urban service areas.

### **Agricultural Lands Preservation**

LAFCO is mandated to preserve agricultural lands and open space. Although there is a growing recognition of the importance of preserving agricultural lands as a local food source in Santa Clara County, agricultural lands remain threatened. There are several collaborative efforts underway in the county relating directly or indirectly to agricultural preservation, including the development of the County's Health Element; the work of the Santa Clara County Food System Alliance; the Coyote Valley: Sustaining Agriculture and Conservation, a feasibility study led by Sustainable Agriculture Education (SAGE);

and the Santa Clara Valley Greenprint which was recently issued by the Santa Clara County Open Space Authority. These reports all identify ways in which local agencies can work cooperatively with each other and interested organizations to help preserve agricultural lands and encourage agriculture.

### **Cities' Sphere of Influence Review and Updates, As Necessary**

The service review will also include a review and update, as necessary, of cities' sphere of influence (SOI). State law defines a SOI "as the probable physical boundaries and service area of a local agency." However for cities in Santa Clara County, the inclusion of an area within a city's SOI should not necessarily be seen as an indication that the city will either annex or allow urban development and services in the areas. In Santa Clara County, the urban service area (USA) boundary is the more critical factor considered by LAFCO and serves as the primary means of indicating whether an area will be annexed and provided with urban services.

### **Proposed Budget for the Cities Service Review**

The LAFCO Budget for Fiscal Year 2014-2015 includes funding for consultant services for service reviews. Given the proposed scope of the Cities Service Review, staff recommends an allocation of \$70,000 for this project.

### **Timeline for the Cities Service Review**

The following is a general timeline for completing this service review:

- Provide Draft RFP to cities and interested parties for their review and comment (mid June 2014)
- Consider comments received and revise Draft RFP, as necessary (mid-July 2014)
- Provide Revised Draft RFP to LAFCO and seek authorization to release RFP (August 6, 2014)
- Release RFP (mid-August 2014)
- Proposals Due (early September 2014))
- Interviews and Selection of Consultant (mid-September 2014)
- Begin Service Review (October 2014)
- LAFCO Public Hearings on Cities Service Review (June/August 2015)

### **ESTABLISH A TECHNICAL ADVISORY COMMITTEE FOR THE CITIES SERVICE REVIEW**

Staff is recommending that LAFCO establish a Technical Advisory Committee (TAC) consisting of two commissioners to review and advise as needed on the project and to assist in selecting the consultant to conduct the service review. Staff also recommends that LAFCO request that the Santa Clara County / Cities Managers' Association, the Santa Clara County Association of Planning Officials (SCCAPO), and the Municipal Public Works Officials Association each provide a representative to serve on the TAC as

liaisons between the LAFCO process and the various stakeholder groups and to provide technical advice and guidance throughout the project. TAC members would also assist in selecting the consultant to conduct the service review.

### **NEXT STEPS**

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Staff will prepare a draft request for proposals (RFP), and provide the Draft RFP to cities and interested parties for their review and comment. Based on the comments received, LAFCO staff will then revise the RFP as necessary and provide the RFP to LAFCO for its consideration and approval at LAFCO's August 6<sup>th</sup> meeting.



**LAFCO MEETING:** June 4, 2014  
**TO:** LAFCO  
**FROM:** Neelima Palacherla, Executive Officer  
Dunia Noel, Analyst  
**SUBJECT:** UPDATE ON LAFCO BYLAWS

### **STAFF RECOMMENDATION**

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Accept report and provide direction, as necessary.

### **BACKGROUND**

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At LAFCO's April 2, 2014 meeting, staff presented a proposed set of LAFCO Bylaws for the Commission's consideration and adoption. After substantial discussion, LAFCO adopted the proposed Bylaws and requested that staff include additional language in the Bylaws indicating that abstentions from voting are strongly discouraged. LAFCO also directed staff to research and provide a report back to the Commission on (1) how the San Jose City Council and other city councils address the issue of council members abstaining from a vote and (2) the additional language in the Bylaws to address the issue.

Staff researched how the Cities of San Jose and Palo Alto address this issue and the applicable language from each City's official rules and procedures is provided below for your information:

Per Resolution No. 76184 of the Council of the City of San Jose Amending Rules for the Conduct of its Meeting, *"all members of the Council who are present at a meeting, either in person in the room where the meeting is being held or by other means permitted by the Brown act, when a question comes up to a vote, must vote for or against the measure in accordance with City Charter Section 600."*

Per San Jose City Charter Section 600, *"The Council shall act only by ordinance, by resolution or by motion made, seconded and adopted. The vote on all ordinances, resolutions and motions shall be by ayes and noes.....All members present shall be required to vote unless disqualified from doing so by law....."*

*Per the Palo Alto City Council Procedures and Protocols Handbook, "it is the responsibility of every Council Member to vote unless disqualified for cause accepted by the Council or by opinion of the City Attorney. No Council Member can be compelled to vote." "Council Members should only abstain if they are not sufficiently informed about an item, e.g. when there was a prior hearing and they were unable to view the prior meeting before the current meeting."*

Attached for the Commission's information are the LAFCO Bylaws (Attachment A). As directed by the Commission, staff has added Subsection 12.3 to the Bylaws which states that:

*"Commissioners are strongly encouraged to vote and not abstain from voting unless they are disqualified by law or due to the appearance of impropriety."*

#### **NEXT STEPS**

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Staff will update the LAFCO website to include the adopted LAFCO Bylaws.

#### **ATTACHMENT**

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**Attachment A:** LAFCO Bylaws, including Subsection 12.3

**LAFCO OF SANTA CLARA COUNTY**

**BYLAWS**

**GENERAL**

**1. NAME AND ADDRESS OF COMMISSION**

The Local Agency Formation Commission, established in Santa Clara County pursuant to Chapter 1 (commencing with Section 56000) of Part 1, Division 3, Title 5, fo the Government Code, shall be known as the Local Agency Formation Commission of Santa Clara County (“LAFCO of Santa Clara County”), and hereinafter referred to as the “Commission.” The address of the Commission shall be 70 West Hedding Street, 11th Floor, East Wing, San Jose, CA 95110.

**2. AUTHORITY**

LAFCO of Santa Clara County is governed by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, Sections 56000 et seq. of the California Government Code, as amended, and hereinafter referred to as the “CKH Act.” The provisions of these bylaws are not intended to preempt State law. In the event of a conflict between the provisions set forth in these bylaws and those set forth in the CKH Act, the provisions of the CKH Act shall prevail.

**3. MISSION**

The mission of LAFCO of Santa Clara County is to promote sustainable growth and good governance in Santa Clara County by preserving agricultural lands and open space, curbing urban sprawl, encouraging efficient delivery of services, exploring and facilitating regional opportunities for fiscal sustainability, and promoting accountability and transparency of local agencies.

LAFCO of Santa Clara County will be proactive in raising awareness and building partnerships to accomplish this through its special studies, programs and actions.

**THE COMMISSION**

**4. COMPOSITION**

The Commission shall consist of seven (7) regular commissioners and five (5) alternate commissioners.

**5. SELECTION / APPOINTMENT OF COMMISSIONERS**

- 5.1 County. The Board of Supervisors shall appoint two regular commissioners and one alternate commissioner from the Board’s membership to serve on the commission. GC §56327(a)

- 5.2 San Jose. The City of San Jose shall appoint one regular commissioner and one alternate commissioner to serve on the commission. Each appointee shall be the mayor or city council member. GC §56327(b)
- 5.3 Cities. The City Selection Committee shall appoint one regular commissioner and one alternate commissioner to serve on the commission. Each appointee shall be a mayor or city council member from one of the County's other 14 cities. Such appointments shall be made in accordance with the procedure established by the City Selection Committee and described in the rules and regulations of that body. GC §56327(c)
- 5.4 Special Districts. The Independent Special Districts Selection committee shall appoint two regular commissioners and one alternate commissioner to serve on the commission. Each appointee shall be elected or appointed members of the legislative body of an independent special district residing in the county but shall not be members of the legislative body of a city or county. Such appointments shall be made in accordance with the procedure established by the Independent Special Districts Selection Committee. GC §56327.3 and §56332
- 5.5 Public Member. The other six commissioners shall appoint one public member and one alternate public member to serve on the commission. Each appointee shall not be a resident of a city which is already represented on the commission. GC §56327(d)

## **6. TERMS OF OFFICE OF COMMISSIONERS**

The term of office of each commissioner shall be four (4) years, expiring on May 31 in the year in which the term of the member expires. Any vacancy in the membership of the Commission shall be filled for the unexpired term by appointment by the body that originally appointed the member whose office has become vacant.

## **7. ROLE OF COMMISSIONERS**

- 7.1 While serving on the Commission, all commissioners shall exercise their independent judgment on behalf of the interests of the public as a whole in furthering the purposes of the CKH Act and not solely the interests of the appointing authority. GC §56325.1
- 7.2 In each member category, the alternate member shall serve and vote in place of a regular member who is absent or who disqualifies herself or himself from participating on a specific matter before the Commission at a regular/special commission meeting or in closed session.
- 7.3 All alternate members are expected and encouraged to attend and participate in all Commission meetings, even if the regular member(s) is (are) present.



Alternate members may attend and participate in closed session meetings of the Commission. However, alternate members may not vote or make a motion when the regular member is present.

- 7.4 The Brown Act allows an exception from its requirements for the attendance of a majority of the members of the Board of Supervisors at noticed meetings of the Commission, provided that a majority of the members of the Board of Supervisors do not discuss among themselves, other than as part of the Commission's scheduled meeting, business of a specific nature that is within the subject matter jurisdiction of the Board of Supervisors.
- 7.5 No person may disclose confidential information that has been acquired by being present in a closed session meeting authorized pursuant to the Brown Act to a person not entitled to receive it, unless the Commission authorizes disclosure of that confidential information.

## **8. APPOINTMENT OF OFFICERS**

8.1 The Commission shall annually appoint a Chairperson and Vice Chairperson for the next calendar year at the December meeting. The Chairperson and Vice Chairperson shall be appointed based on the following rotation schedule unless otherwise determined by the Commission:

- Cities member
- County member
- San Jose member
- Special Districts member
- County member
- Public member
- Special Districts member

8.2 The Chairperson shall preside at all meetings of the Commission and the Vice-Chairperson shall preside at meetings in the absence of the Chairperson.

## **9. EXECUTIVE OFFICER**

9.1 The LAFCO Executive Officer shall be designated in accordance with the terms of the Memorandum of Understanding between the Commission and the County of Santa Clara.

9.2 The Executive Officer shall carry out all orders as instructed by the Commission. The Executive Officer shall prepare or cause to be prepared an agenda for each meeting and maintain a record of all proceedings as required by law and these bylaws, and as instructed by the Commission. The Executive Officer shall set all hearing dates, publish notices and shall oversee

the performance of all other clerical and administrative services required by the Commission. In addition, the Executive Officer shall by direction of the Commission and in accordance with the terms of the Memorandum of Understanding between the Commission and the County of Santa Clara, hire other staff of the Commission.

## **10. LEGAL COUNSEL**

- 10.1 LAFCO Counsel shall be appointed by the Commission and shall serve at the pleasure of the Commission.
- 10.2 LAFCO Counsel shall attend all meetings of the Commission, give all requested advice on legal matters and represent the Commission in legal actions unless the Commission specifically makes other arrangements.

## **CONDUCT OF MEETINGS**

## **11. MEETINGS**

- 11.1 Regular Commission meetings are held on the first Wednesday of February, April, June, August, October, and December at 1:15 P.M., in the Board Meeting Chambers at 70 West Hedding Street, San Jose, California, or in another designated location.
- 11.2 The Commission shall establish a schedule of meetings for the following calendar year at its regular meeting in December.

## **12. QUORUM AND ACTION OF COMMISSION**

- 12.1 Four commissioners entitled to vote shall constitute a quorum.
- 12.2 The Commission shall act by resolution or Commission order. All final determinations of the Commission on change of organization or reorganization proposals shall be taken by resolution. The Commission minutes shall reflect the vote on all resolutions. The records and minutes of the Commission shall be signed by the Chairperson and LAFCO Clerk.

[12.3 Commissioners are strongly encouraged to vote and not abstain from voting unless they are disqualified by law or due to the appearance of impropriety.](#)

## **13. ORDER OF BUSINESS**

The order of business at Commission meetings shall typically include the following items, unless otherwise directed by the Commission.

- Roll Call
- Public Comment – An opportunity for members of the public to address the Commission on matters not on the agenda, provided that the subject matter is

within the jurisdiction of the Commission. No action may be taken on off-agenda items unless authorized by law. Speakers are limited to three minutes. All statements that require a response will be referred to staff for reply in writing.

- Consideration of Minutes
- Consent Calendar – Consent calendar consists of those items recommended for approval, not requiring public hearing, and in the opinion of the staff, not involving major issues or problems. A commissioner, staff or member of the public, may request that an item be removed from the Consent Calendar for public discussion.
- Public Hearings
- Items for Action/Discussion
- Executive Officer's report
- Pending Applications/Upcoming Projects
- Commissioner Reports – An opportunity for commissioners to comment on items not listed on the agenda, provided that the subject is within the jurisdiction of the Commission. No action or discussion by a quorum of the Commission may be taken on off-agenda items unless authorized by law.
- Newspaper Articles/Newsletters
- Written Correspondence
- Adjournment

#### **14. MEETING MINUTES**

The Executive Officer shall cause a member of his/her staff to prepare the draft minutes of each meeting which will be included on the agenda of the following meeting, for approval by the Commission.

#### **15. DEADLINES FOR SUBMISSION OF APPLICATIONS**

- 15.1 Deadlines for submitting proposals/applications will be no later than 5:00 P.M. on the Thursday immediately following a LAFCO meeting in order to be considered at the next LAFCO meeting. Applications shall be submitted with correct fees on the appropriate forms and in the quantities required,
- 15.2 The Commission will not consider proposals/applications which have been submitted in violation of the deadline unless an emergency situation exists within the territory relating to the proposal which would affect the health and safety of citizens.
- 15.3 The Commission shall establish a schedule of application deadlines for the following calendar year at its regular meeting in December.

#### **16. CLARIFICATION OF MOTIONS**

Commissioners shall state motions in such a manner as to assure understanding of all parties as to the content of any terms and conditions to be placed on the Commission's action. It shall be the responsibility of the Chairperson to verify the wording of any motion with staff.

## **17. ROSENBERG'S RULES OF ORDER**

Except as herein otherwise provided, the proceedings of the Commission shall be governed by "Rosenbergs's Rules of Order" on all matters pertaining to parliamentary law. No resolution, proceeding, or other action of the Commission shall be invalid or the legality thereof otherwise affected by the failure of the Commission to observe or follow such rules.

## **TRAVEL AND EXPENSE REIMBURSEMENT**

### **18. AUTHORIZED EXPENSES**

18.1 LAFCO funds, equipment, supplies (including letterhead), titles, and staff time must only be used for authorized LAFCO business. In addition to the day to day business activities of LAFCO, expenses incurred in connection with the following types of activities generally constitute authorized expenses (LAFCO Policy adopted on June 1, 2006):

- A. Communicating with representatives of local, regional, state and national government on LAFCO business
- B. Attending educational seminars designed to improve skills and information levels
- C. Participating in local, regional, state and national organizations whose activities affect LAFCO's interests
- D. Recognizing service to LAFCO (for example, thanking a longtime employee with a retirement gift or celebration of nominal value and cost)
- E. Attending LAFCO or CALAFCO events

18.2 All other expenditures incurred will require prior approval by the Commission.

18.3 Any questions regarding the propriety of a particular type of expense should be resolved before the expense is incurred.

### **19. MEETING PER DIEM / STIPEND**

Consistent with LAFCO Resolution # 2006-06, LAFCO commissioners including alternate commissioners will receive a \$100 per diem for attendance at LAFCO

meetings. This compensation is in lieu of reimbursement for travel and other expenses incurred in attending the LAFCO meetings.

## **20. LAFCO COMMISSIONER ATTENDANCE AT CALAFCO CONFERENCE**

Regular LAFCO commissioners will be given first priority for attending the CALAFCO Annual Conference. If a regular commissioner is unable to attend, the alternate for that commissioner may attend.

## **21. TRANSPORTATION, LODGING, MEALS, AND OTHER INCIDENTAL/ PERSONAL EXPENSES**

21.1 Reimbursement for authorized transportation, lodging, meals and other incidental expenses shall be provided in conformance with the current Travel Policy of the County of Santa Clara.

21.2 Registration and travel arrangements including airline reservations must be coordinated through the LAFCO Office.

## **22. EXPENSE REPORTING**

Within 14 calendar days of return from a LAFCO business trip or event, a final accounting of all expenses must be submitted to the LAFCO office. Original receipts are required for processing reimbursement. LAFCO staff will then fill out the necessary forms and submit to the appropriate County department in compliance with the County Travel Policy.

## **23. AUDITS OF EXPENSE REPORTS**

All expenses are subject to verification that they comply with this policy.

## **24. REPORTS TO LAFCO**

At the following LAFCO meeting, a report shall be presented on meetings attended at LAFCO expense.

## **25. COMPLIANCE WITH LAWS**

Some expenditures may be subject to reporting under the Political Reform Act and other laws. LAFCO expenditures, expense report forms and supporting documentation are public records subject to disclosure under the Public Records Act.

## **26. ETHICS TRAINING**

LAFCO is not a local agency whose officials are required to comply with the requirement of ethics training pursuant to Government Code Section 53235. Since LAFCO provides reimbursement for expenses, LAFCO commissioners, Executive

Officer and Analyst are encouraged to receive ethics training. LAFCO commissioners who are County supervisors, city council members or special districts board members will receive this training in their respective roles as county, city or special district officials. LAFCO staff will advise the public members of opportunities to receive the training.

**LAFCO MEETING:** June 4, 2014  
**TO:** LAFCO  
**FROM:** Neelima Palacherla, Executive Officer  
Dunia Noel, LAFCO Analyst  
**SUBJECT:** AB 2156 (ACHADJIAN)  
**LOCAL AGENCY FORMATION COMMISSIONS: STUDIES**

### **STAFF RECOMMENDATION**

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Take a support position on AB 2156 and authorize staff to send a letter to the Governor requesting that he sign AB 2156.

### **BACKGROUND**

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AB 2156 adds joint powers authorities (JPAs) to the list of entities that LAFCOs may request information from for purposes of conducting studies. LAFCOs are charged with evaluating the provision of municipal services and conducting studies of existing governmental agencies including their service area and service capacities. As many local agencies across the state are providing municipal services through JPAs, having access to the information that outlines service areas and specific services being delivered by JPAs is critical to conducting comprehensive studies that support LAFCO's mandate of encouraging the efficient delivery of services and promoting the orderly formation of local agencies. In Santa Clara County, local agencies have formed JPAs to provide certain services, such as library service and wastewater treatment. LAFCO's service reviews include information on JPAs, to the extent that their existence is known and the services that they provide are considered relevant to LAFCO's mandate.

A copy of the bill (Attachment A) and a draft letter requesting the Governor's signature (Attachment B) are attached for your consideration.

### **ATTACHMENTS**

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**Attachment A:** AB 2156 (Achadjian): Local Agency Formation Commissions: Studies  
**Attachment B:** Draft Letter in Support of AB 2156





## CHAPTER \_\_\_\_\_

An act to amend Section 56378 of, and to add Section 56047.7 to, the Government Code, relating to local government.

## LEGISLATIVE COUNSEL'S DIGEST

AB 2156, Achadjian. Local agency formation commissions: studies.

Existing law, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, sets forth the powers and duties of a local agency formation commission, including, among others, the requirement to conduct studies of existing governmental agencies that include, but are not limited to, inventorying those agencies and determining their maximum service area and service capacities. The commission is authorized to request land use information, studies, and plans of cities, counties, districts, including school districts, community college districts, and regional agencies and state agencies and departments, in connection with conducting the required studies, and the governmental agencies are required to comply with the commission's request.

This bill would include joint powers agencies and joint powers authorities among the entities from which the commission is authorized to request land use information, studies, and plans, for purposes of conducting the studies described above, and also would include joint powers agreements in the list of items the commission may request in conducting those studies. The bill would specifically define "joint powers agency" and "joint powers authority" for purposes of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000.

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

SECTION 1. Section 56047.7 is added to the Government Code, to read:

56047.7. "Joint powers agency" or "joint powers authority" means an agency or entity formed pursuant to the Joint Exercise of Powers Act (Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1) that is formed for the local

performance of governmental functions that includes the provision of municipal services.

SEC. 2. Section 56378 of the Government Code is amended to read:

56378. (a) In addition to its other powers, the commission shall initiate and make studies of existing governmental agencies. Those studies shall include, but shall not be limited to, inventorying those agencies and determining their maximum service area and service capacities. In conducting those studies, the commission may request land use information, studies, joint powers agreements, and plans of cities, counties, districts, including school districts, community college districts, joint powers agencies and joint powers authorities, regional agencies and state agencies and departments. Cities, counties, districts, including school districts, community college districts, joint powers agencies and joint powers authorities, regional agencies, and state agencies and departments, shall comply with the request of the commission for that information and the commission shall make its studies available to public agencies and any interested person. In making these studies, the commission may cooperate with the county planning commissions.

(b) The commission, or the board of supervisors on behalf of the commission, may apply for or accept, or both, any financial assistance and grants-in-aid from public or private agencies or from the state or federal government or from a local government.



**AGENDA ITEM # 9**  
**Attachment B**

June 4, 2014

Governor Edmund G. Brown, Jr.  
State of California  
State Capitol Building, Suite 1173  
Sacramento, CA 95814

RE: **Request to Sign AB 2156**  
**Local Agency Formation Commissions: Studies**

Dear Governor Brown:

The Local Agency Formation Commission of Santa Clara County (LAFCO) respectfully requests that you **sign Assembly Bill 2156** (Achadjian) which is now before you for action. AB 2156 adds joint powers authorities (JPAs) to the list of entities local agency formation commissions (LAFCOs) may request information from for purposes of conducting studies.

Pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, LAFCOs are charged with evaluating the provision of municipal services and conducting studies of existing governmental agencies including their service area and service capacities. As many local agencies across the state are providing municipal services through JPAs, having access to the information that outlines service areas and specific services being delivered by these entities is critical to conducting comprehensive studies that support LAFCOs' core mission of encouraging the efficient delivery of local services and evaluating local agency boundaries.

Therefore, LAFCO of Santa Clara County respectfully requests that you sign AB 2156 into law.

Sincerely,

Susan Vicklund Wilson, Chairperson  
LAFCO of Santa Clara County

cc: Assembly Member Katcho Achadjian  
Camille Wagner, Deputy Legislative Affairs Secretary to the Governor



**LAFCO MEETING: June 4, 2014**  
**TO:** LAFCO  
**FROM:** Neelima Palacherla, Executive Officer  
Dunia Noel, Analyst  
**SUBJECT: EXECUTIVE OFFICER'S REPORT**

### **10.1 REPORT ON THE ANNEXATION WORKSHOP FOR CITIES' STAFF (APRIL 8)**

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#### **For Information Only.**

On April 8, 2014, LAFCO staff conducted a workshop for city staff involved in processing annexations. The purpose of the workshop was to provide information to city staff on how the annexation process works, when protest proceedings and elections are required, and when service responsibilities and taxes get transferred to the city. Staff also discussed LAFCO's policies on orderly development and the filing requirements for annexation applications. Lastly, staff informed attendees about recent changes in island annexation law and the incentives that are available to cities for annexing islands.

Over thirty people including staff from eight cities (community development directors, planners, engineers, surveyors, attorneys, and clerks), the County (surveyors, board aides), and consultants attended the workshop. Staff prepared detailed handouts outlining and diagraming the specific steps and requirements for processing city-conducted annexations. These handouts will be available on LAFCO's new website. The workshop also allowed attendees to discuss some of the coordination issues that they have encountered following the completion of large annexations, such as code enforcement and obtaining planning and building permit records from the County. LAFCO staff has offered to facilitate a discussion between San Jose and the County on this matter.

Following the workshop, staff sent an email to all of the attendees thanking them for their attendance and requesting that they provide feedback on the workshop by completing a brief anonymous on-line survey. The workshop and handouts prepared by LAFCO staff received very high marks from the twelve attendees that responded to the on-line survey. Please see table below for survey results.

SURVEY QUESTIONS	RESPONSES				
	Ratings by Percentage				
	Very Good	Good	Fair	Poor	Very Poor
(1) Content covered during workshop	67%	33%	-	-	-
(2) Usefulness of workshop handouts	83%	17%	-	-	-
(3) Overall quality of the workshop	67%	33%	-	-	-
	Yes	No			
(4) Have your skills/knowledge increased as a result of participating in this workshop?	92%	8%			

As part of the survey, attendees were also asked to provide any suggestions on how LAFCO staff could improve the workshop and what other topics they would like to see addressed in future LAFCO workshops. It was suggested that hands-on exercises be included in the workshop. Attendees also requested that LAFCO hold future workshops focused on (1) the island annexation process, along with real life strategies for addressing various challenges that can occur before and during the annexation process, such as community outreach, legal issues, community members influencing the outcome, etc.; and (2) urban service area amendments.

Staff appreciates the feedback that it has received from attendees and will use this information to plan and conduct future workshops and outreach.

## **10.2 REPORT ON THE 2014 CALAFCO STAFF WORKSHOP (APRIL 23-25)**

### **For Information only.**

LAFCO staff attended the 2014 Annual CALAFCO Staff Workshop in Berkeley (April 23-25) hosted by the Bay Area LAFCOs, including LAFCO of Santa Clara County. The workshop was well attended by approximately 128 participants representing 50 of the 58 LAFCOs.

LAFCO staff participated in the planning of the workshop and Executive Officer Palacherla was a panelist on a session entitled “Municipal Service Reviews for a Brave New World.”

The workshop theme was *Building Bridges to the Future: Collaboration & Cooperation*, and provided various practical and hands-on courses, as well as roundtable and professional development sessions. Sessions included:

- Collaborating with and Influencing Others
- Walking with Dinosaurs – LAFCO and Boundary Law Preceding CKH
- Building Bridges to Somewhere: Toolkits for LAFCOs in Scoping MSRs
- What’s in Your Staff Report?
- Creating a LAFCO Clerks Manual: A Roadmap to Success

- The West Without Water: What Past Floods, Droughts & Other Climatic Clues Tell Us About Tomorrow
- Municipal Service Reviews for a Brave New World
- Building Bridges with Memoranda of Agreement
- Why Does the County Care About LAFCO?; Why Does the State Board of Equalization Care About LAFCO?
- Is it Getting Hot in Here? Managing a Meeting, Dealing with Political Pressure, and Keeping Your Integrity
- Meeting Minutes – How Much is Enough?
- The LAFCO File – Paper Trail or Administrative Record?
- Collaboration and Insights into Common Legislative Issues – Panel Discussion with Legislative staff from CSAC, CSDA and the League of California Cities

CALAFCO has posted workshop handouts on its website at [www.calafco.org](http://www.calafco.org). Lastly, please see the attached letter (**Attachment A**) from CALAFCO thanking the Commission for allowing staff the opportunity to attend the 2014 CALAFCO Staff Workshop.

### **10.3 UPDATE ON THE CITY OF MORGAN HILL'S SOUTHEAST QUADRANT (SEQ) PROPOSAL**

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**For Information only.**

#### **Morgan Hill Chamber of Commerce Environmental Affairs Committee Meetings (April 10 and May 8)**

The LAFCO Executive Officer was invited to attend the April and May meetings of the Morgan Hill Chamber of Commerce Environmental Affairs Committee. The Committee discussed the City's plans and various stakeholders' development proposals for Morgan Hill's Southeast Quadrant.

At the April meeting, I provided a brief presentation on LAFCO and its policies and answered the Committee's questions. Attendees at the two meetings included staff from the City of Morgan Hill and the Santa Clara County Open Space Authority, members of the business community, developers, property owners/farmers, and representatives of the Farm Bureau and environmental organizations, among others.

The May meeting included an interesting presentation provided by Amie MacPhee, planning consultant, who reviewed strategies used by the community of Middle Green Valley in Solano County and the City of Brentwood to preserve agricultural land, and discussed their relevance in planning for agriculture in the Southeast Quadrant.

#### **Meeting with Rich Constantino, Council Member, City of Morgan Hill (May 19)**

On May 19, Executive Officer Palacherla and Analyst Noel met with Morgan Hill City Council member Rich Constantino to have a further dialogue about LAFCO policies and the Southeast Quadrant project. It was a positive meeting where we had a chance to discuss in more detail topics such as LAFCO's policy regarding use of lands within existing city boundaries prior to seeking expansions, the City's Residential Development

Control System (RDSC) program, trends for small-scale farming in the county and challenges of operating small farms and potential programs to support them. Staff provided the council member with a copy of our inter-jurisdictional agreement with Gilroy: "Strategies to Balance Planned Growth and Agricultural Viability" and copies of the Cities Boundaries wall map.

### **Meeting with Representatives of the South County Catholic High School (May 29)**

At their request, the LAFCO Executive Officer met (by phone) with representatives of the South County Catholic High School, which is one of the proposed developments in the SEQ. Susan Krajewski, Campaign Coordinator for the High School, briefly described the proposed development and indicated that they are in the process of raising funds through their Capital Campaign. I explained the LAFCO policies relevant to the project and reviewed the issues raised in LAFCO's comment letters to the City.

### **SEQ CEQA Documents**

LAFCO is a Responsible Agency under CEQA for the SEQ proposal and therefore has an independent obligation to review the EIR for legal adequacy under CEQA prior to issuing any approvals for the project (CEQA Guidelines, §15096).

On February 18, 2014, LAFCO staff provided a comment letter to the City of Morgan Hill on the Draft EIR for the proposed Citywide Agriculture Preservation Program and Southeast Quadrant Land Use Plan. See **Attachment B** for the comment letter. Staff's letter identified significant deficiencies in the DEIR and requested that the City prepare a revised environmental document to address the identified deficiencies and then circulate the revised document to affected agencies and the public for their review and comment, as required by CEQA. On May 16, 2014, the City of Morgan Hill released the Draft Final EIR for the proposed project which includes a response to LAFCO staff's comment letter. Staff has reviewed the Draft FEIR and the City's response and believes that the identified deficiencies still remain. Staff will be providing an additional comment letter to the City reiterating these concerns, prior to the Council's June 10, 2014 public hearing on the project.

## **10.4 UPDATE ON THE AMERICAN FARMLAND TRUST WORKSHOP ON THE FUTURE OF AGRICULTURE IN SANTA CLARA COUNTY**

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### **For Information only.**

In August of last year, the American Farmland Trust (AFT) sponsored a statewide farmland conservation conference in Napa which showcased innovative farmland preservation efforts from throughout the state. Following its success, the AFT is interested in holding smaller workshops in various parts of the state to highlight the need for farmland protection and encourage local communities to adopt farmland protection programs. Recently, the AFT contacted the LAFCO Executive Officer to discuss the idea of holding such a workshop in Santa Clara County which has been identified as a critical area with the greatest potential for farmland loss in the Bay Area.



The American Farmland Trust is a national conservation organization dedicated to protecting farmland, promoting sound farming practices, and keeping farmers on the land. As the vital link among farmers, conservationists and policy-makers, AFT is focused on ensuring the availability of the land that provides fresh food, a healthy environment and lasting rural landscapes.

The purpose of the workshop in Santa Clara County will be to demonstrate the importance of agricultural land preservation; inform attendees about current local trends, opportunities and challenges for farmland preservation; and encourage commitment to advance initiatives, practices and policies that prioritize farmland conservation. The workshop is tentatively scheduled to take place in mid-September.

This partnership with AFT will further one of the objectives that the Commission established in August 2012, which is to further strengthen and implement LAFCO's agricultural preservation policies by partnering with others to develop programs and materials to improve the community's understanding of the importance of agriculture in creating sustainable communities.

Staff will continue to work with AFT and provide the Commission with updates and more information on the workshop as it becomes available.

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#### **10.5 UPDATE ON THE BURBANK SANITARY DISTRICT/SAN JOSE MEETING (APRIL 4)**

##### **For Information only.**

On April 4, the LAFCO Executive Officer met with staff from the City of San Jose and the Burbank Sanitary District (BSD) to discuss the service and governance structure alternatives outlined in the Service Review Report for the BSD. The group agreed that additional information (such as maintenance history of the sewer lines; records for sanitary sewer overflows and illegal cross connections; and estimated costs to address outstanding maintenance issues) must be obtained before any recommendations regarding a preferred alternative can be made. The group is scheduled to meet again on June 11 in order to review that information and continue discussions. LAFCO staff will provide the group with more information on the island annexation process and annexation opportunities in the Burbank area.

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#### **10.6 REPORT ON THE SANTA CLARA COUNTY ASSOCIATION OF PLANNING OFFICIALS MEETING (MAY 7)**

##### **For Information only.**

The LAFCO Executive Officer attended the SCCAPO meeting in May hosted by the City of Palo Alto. These meetings are great opportunities for LAFCO staff to learn about current issues affecting the cities and the County, and to report on or seek input from city/county planning directors on LAFCO issues. At this meeting, we received a presentation from a consultant regarding a countywide collaborative approach to developing housing elements and a second presentation from the City of Palo Alto's

Development Services Department on various software applications that it uses to engage and provide updates to the community on development projects. I informed the group about LAFCO's upcoming Cities Service Review project.

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### **10.7 REPORT ON THE CALAFCO LEGISLATIVE COMMITTEE MEETING (MAY 9)**

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#### **For Information only.**

On May 9, the LAFCO Executive Officer attended the CALAFCO Legislative Committee meeting which was held as a Conference Call. The Committee discussed the various bills that CALAFCO was tracking and developed positions on the bills. Please see **Attachment C** for excerpts from CALAFCO's Daily Legislative Report.

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### **10.8 REPORT ON THE INTER-JURISDICTIONAL GIS WORKING GROUP MEETINGS (APRIL 9 AND MAY 14)**

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#### **For Information only.**

Analyst Noel attended the April and May meetings of the Inter-Jurisdictional GIS Working Group that includes staff from various county departments that use and maintain GIS data, particularly LAFCO related data. At the April meeting participants discussed boundary discrepancies that affect their department and how to continue to improve and refine existing GIS data. At the May meeting, the Group discussed ongoing efforts to increase County staff and the public's ability to access the County's GIS data via the internet. The County Planning staff conducted a demonstration of the department's new interactive maps which are available on the department's website.

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### **10.9 REPORT ON THE LAFCO WEBSITE REDESIGN**

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#### **For Information only.**

The redesigned LAFCO Website is currently being tested and will soon be launched. Along with a more updated design, the website has been restructured to content management system technology and new content has been added. The new website contains detailed information about the 28 special districts in Santa Clara County including profiles and maps of the individual districts. The new Maps feature allows the public to map various district and city boundaries. The content for Application Material has been updated to make it more user-friendly. As a resource for cities, more detailed information on island annexations and city-conducted annexation process is included.

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### **ATTACHMENTS**

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**Attachment A:** CALAFCO letter dated April 30, 2014

**Attachment B:** LAFCO comment letter (dated February 18, 2014) to the City of Morgan Hill on the Draft EIR for the proposed Citywide Agriculture Preservation Program and Southeast Quadrant Land Use Plan

**Attachment C:** Excerpts from CALAFCO's Daily Legislative Report

2013-2014  
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30 April, 2014

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Executive Assistant

Santa Clara LAFCo  
70 W. Hedding St., 11th Floor  
San Jose, CA 95110

Dear Santa Clara LAFCo Commission,

On behalf of the California Association of Local Agency Formation Commissions (CALAFCO), I would like to thank your commission for allowing your staff the opportunity to attend the CALAFCO 2014 annual staff workshop, held in Berkeley on April 23<sup>rd</sup> through 25<sup>th</sup>.

We know how lean budgets and resources are, and understand that prioritizing expenditures can be difficult. Ensuring your staff has access to ongoing professional development and specialized educational opportunities, allows them the opportunity to better serve your commission and fulfill the mission of LAFCo. The sharing of information and resources among the LAFCo staff statewide serves to strengthen their network and creates opportunities for rich and value-added learning that is applied within each LAFCo.

Thank you again for your staff's participation in the CALAFCO 2014 staff workshop. We truly appreciate your membership and value your involvement in CALAFCO.

Yours sincerely,



Pamela Miller  
Executive Director





**AGENDA ITEM # 10**  
**Attachment B**

February 18, 2014

VIA EMAIL

Rebecca Tolentino, Senior Planner  
Development Services Center  
City of Morgan Hill  
17555 Peak Avenue  
Morgan Hill, CA 95037-4128

**Re: Draft Environmental Impact Report for Citywide Agriculture Preservation Program and Southeast Quadrant Land Use Plan**

Dear Ms. Tolentino

Thank you for providing the Santa Clara County Local Agency Formation Commission (LAFCO) with an opportunity to review and comment on the Draft Environmental Impact Report (DEIR) for the City of Morgan Hill's Proposed Southeast Quadrant Land Use Plan and Citywide Agriculture Preservation Program. Furthermore, thank you for extending the public comment period to February 18<sup>th</sup> and for discussing the proposed project with LAFCO staff on February 5<sup>th</sup>.

It is our understanding that, as part of the proposed project, the City intends to apply to LAFCO in order to expand its Urban Service Area (USA) boundary to facilitate the City's eventual annexation of certain lands and also in order to annex additional lands outside of its USA boundary. Therefore, LAFCO is a Responsible Agency under CEQA for the City's proposed project. LAFCO staff and LAFCO's Legal Counsel (Attachment A) have reviewed the City's DEIR & Citywide Agriculture Preservation Program and have provided the following comments for the City's consideration.

**Separation of the SEQ Land Use Plan from the City's General Plan Update Process that is Currently in Progress is a Violation of Rational Planning Practices and CEQA Procedures**

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As we understand it, the scope of the City's proposed project is extensive; it involves major changes to the City's General Plan and includes at least the following:

**Changes to Existing Growth Management Boundaries and Jurisdictional Boundaries**

- Expanding the City's Urban Limit Line to include 840 acres in the SEQ.
- Expanding the City's Urban Growth Boundary to include 659 acres in the SEQ.
- Expanding the City's Urban Service Area to include 305 acres in the SEQ.
- Annexing 759 acres of the SEQ into the City Limits

<p><b>Creation of a New Land Use Designation in the City’s General Plan and Creation of a New Zoning Districts</b></p> <ul style="list-style-type: none"> <li>• Create a Sports-Recreation-Leisure land use designation and zoning district</li> </ul>
<p><b>Application of City Land Use Designations to Lands in the SEQ</b> Apply the following land use designations to SEQ lands:</p> <ul style="list-style-type: none"> <li>• Sports-Recreation-Leisure: 251 acres</li> <li>• Residential Estate: 76 acres</li> <li>• Public Facilities: 38 acres</li> <li>• Open Space: 445 acres</li> <li>• Rural County: 480 acres</li> </ul>
<p><b>Application of City Zoning Designations to Lands in the SEQ</b> Apply the following zoning district designations to SEQ lands:</p> <ul style="list-style-type: none"> <li>• Sports-Recreation-Leisure (142 acres in Subdistrict A and 109 acres in Subdistrict B): 251 acres</li> <li>• Residential Estate: 9 acres</li> <li>• Public Facilities (with a Planned Development overlay): 38 acres</li> <li>• Open Space (with a Planned Development overlay): 461 acres</li> <li>• 531 acres will remain under County Jurisdiction with the County’s A-20 Acre (Exclusive Agriculture 20-acre minimum) Designation</li> </ul>
<p><b>Establishment of Citywide Policies / Programs re. Agricultural &amp; Open Space Lands</b></p> <ul style="list-style-type: none"> <li>• Development of Agricultural Preservation Policies and Mitigation</li> </ul>
<p><b>Development Proposals in the SEQ</b></p> <ul style="list-style-type: none"> <li>• Private high school on 38 acres</li> <li>• Privately initiated development proposals in the SEQ covering over 375 acres <ul style="list-style-type: none"> <li>• Craiker Sports Retail/Restaurant Uses</li> <li>• Puliafico Sports-Recreation-Leisure Uses</li> <li>• Jacoby Sports-Recreation-Leisure Uses</li> <li>• Chiala Planned Development (Under Chiala Family Ownership)</li> </ul> </li> </ul>

Given the project’s sizeable scope (as outlined above), the large amount of unincorporated land that will be directly affected by the project (approximately 1,300 acres in the SEQ which is equal to over 15% of current city lands), the fact that these lands are overwhelmingly prime agricultural lands and the long-term significance of planning for these lands not only to the property owners/businesses in the vicinity but to the entire city and the region, the project should be considered in the context of a comprehensive general plan update.

Furthermore, in 1996, the City of Morgan Hill adopted its urban growth boundary (UGB). Subsequently, the County and the City adopted joint policies in their respective general plans to address among other things, how to administer and maintain a dependable UGB and established a rational process for considering changes to the UGB over time. According to these policies, major modifications to the UGB location should be processed only in the context of a “comprehensive City General Plan land use element update , which occurs on an approximately 10 year interval, unless triggered by the established criteria, findings, or prerequisites, to ensure coordination between relevant land use planning issues and growth management considerations.”

This project has the potential to impact the entire city, the surrounding unincorporated lands, and the region. Consideration of these impacts and the overall need, timeliness, and location of such a project are best considered and analyzed through a comprehensive general plan update process.

The DEIR states that the City has begun such a process to create a new General Plan through 2035 and that the process will involve updating the City's master plans and identifying infrastructure needed to service future growth areas. The DEIR also indicates that the SEQ Area will be included in these studies and will contribute to the build-out of the necessary infrastructure as a condition of development and through payment of development impact fees. However, we understand that the proposed SEQ Land Use Plan and Citywide Agriculture Preservation Program were developed and are being considered and are intended to be approved/adopted separate from the City's current General Plan update process.

The proposed Project is a major revision of the City's General Plan and should be considered in the context of a comprehensive general plan update and should involve broad stakeholder participation.

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

As part of the proposed project, the City is seeking to expand its Urban Service Area boundary (USA) and annex portions of the SEQ Area. We understand that the SEQ Area consists of largely prime agricultural land and that the City wants to include these lands in its USA even as the City has substantial amounts of land within its current boundaries that are vacant or underutilized. State law and LAFCO policies discourage the conversion of agricultural land to non-agricultural uses and require that development be guided away from existing prime agricultural lands. The statutes and policies call for a city to exhaust existing vacant or underutilized lands within its boundaries before expanding into agricultural lands because developing lands which are already within a city's boundaries would allow for more effective use of existing city infrastructure, would result in more efficient provision of city services, would discourage premature and unnecessary conversion of irreplaceable agricultural land to urban uses, and would encourage compact development that would be more consistent with greenhouse gas reduction regulations and goals. The County also has similar long-standing policies discouraging the premature conversion of agricultural lands and managing growth. It is unclear how the proposed project is consistent with State law, LAFCO policies, County General Plan policies, and City policies.

### **Annexation of Lands Outside of City's Urban Service Area is Inconsistent with LAFCO Policies**

As part of the proposed project, the City intends to request annexation of lands outside of its Urban Service Area (USA). LAFCO Policies strongly discourage such annexations until inclusion into the Urban Service Area is appropriate because the general purpose

for a city to annex lands is to provide them with necessary urban services (including police, fire, water, wastewater, and storm water management) in order to allow for their subsequent development.

As you know, LAFCO has no authority over lands once they are annexed into a city (irrespective of whether they are in the USA boundary or not). Upon annexation, these lands are under the city's authority for land use and development decisions and a city can amend the zoning and general plan designations for these lands and develop them. As part of any annexation or urban service area amendment request, LAFCO is required to consider whether the city has the ability to provide urban services to the proposed growth areas without detracting from current service levels.

Furthermore, LAFCO would only consider annexations outside of the USA if it is to promote the preservation of open space and/or agricultural land. If it is the City's intent to annex lands outside of its USA for such purposes, LAFCO will require the City to sufficiently demonstrate that the affected lands will be permanently preserved for agricultural/open space purposes. One potential way in which permanent preservation can be demonstrated is by dedicating such lands to a qualified agricultural/open space conservation entity that has a clear preservation program and has the legal and technical ability to hold and manage conservation easements or lands for the purpose of maintaining them in open space or agriculture. According to the DEIR, these lands are planned for residential estate sized lots, sports-recreation-leisure related uses, and agricultural-related uses; and the permanent preservation of all of these lands is not proposed.

The DEIR concludes the proposed project is consistent with LAFCO's policies. However, as indicated above, it is unclear how the proposed annexation of these lands outside of the City's USA would be consistent with LAFCO Policies.

### **Proposed Southeast Quadrant Land Use Plan Including its Various Project Components is Inconsistent with Many of the Stated Objectives of the Project**

Three of the stated objectives of the proposed project are to:

- 1) "Identify lands within the SEQ area viable for permanent agriculture;"
- 2) "Develop a program that fosters permanent agriculture within the SEQ Area and citywide through land use planning, agricultural preservation policies/programs, and agricultural mitigation."
- 3) "Create an open space/agricultural greenbelt along the southern edge of the City's Sphere of Influence boundary."

However, it is unclear how the proposed SEQ Land Use Plan and its various project components will be consistent with the above objectives. According to the DEIR, the proposed project will convert several hundred acres of agricultural lands to non-agricultural uses.



The Southeast Quadrant (SEQ) Area includes approximately 1,290 acres of private land, plus 48 acres of public roadways. Per the DEIR, these lands are currently developed with rural-residential and agricultural uses. The DEIR states that the SEQ contains 707 acres of Important Farmland (approx. 597 acres of Prime Farmland, 87 acres of Farmland of Statewide Importance, and 23 acres of Unique Farmland). When Farmland of Local Importance is accounted for, the SEQ contains approx. 771 acres of agricultural land per the California Department of Conservation's 2010 Important Farmlands Map.

Per the DEIR, the City is proposing to annex 759 acres of the 1,290 total acres (58.8% of the total private land area). The proposed high school site contains 38.63 acres of Important Farmland. The proposed 251-acre Sports-Recreation-Leisure Land Use Designation and Zoning District will overlap with and thus potentially convert a minimum of 120 acres of the Important Farmland to non-agricultural use. Furthermore, it is anticipated that the proposed 461-acre Open Space (Planned Development overlay) Zoning District will include a yet to be determined number of acres of sports-recreation-leisure related uses, residential estate sized lots, and agricultural-related uses. The proposed Open Space District overlaps with and thus potentially could convert hundreds of acres of Important Farmland to non-agricultural use.

Per the DEIR, the remaining agricultural land in the SEQ Area would form an "Agricultural Priority Area" that would be bordered on the north by lands in the existing city limits, on the west by lands zoned for urban development [e.g. commercially oriented uses such as gas stations, restaurants, motels/hotels, and grandstands/stadiums, and potentially two drive-thru uses (restaurants or gas stations)], and on the east by lands also zoned for urban development (e.g. residential estates, adventure sports/facilities, arts and crafts, batting cages, equestrian centers, farmers markets, and indoor/outdoor sports centers). It is unclear how the introduction of urban land uses into one of the last remaining agricultural areas in the county would help achieve the aforementioned project objectives.

### **Proposed Boundary Adjustments are Illogical and Render Boundaries Meaningless for Planning and Growth Management Purposes**

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The proposed project includes major adjustments to the City limits (i.e. annexation) urban service area, urban growth boundary, and urban limit line. However, these boundary adjustments and their relation to each other appear illogical from a planning and growth management perspective. For example, the City is proposing to annex lands while keeping these same lands outside of the City's Urban Service Area, but including most of these same lands in the City's Urban Growth Boundary and Urban Limit Line. The proposed use and configuration of boundaries renders each boundary meaningless for planning and growth management purposes.

Additionally, the DEIR identifies an "Agricultural Priority Area" that has been identified as a "priority location to preserve and encourage the long-term viability of agricultural and Open Space Lands." However, the DEIR indicates that the vast majority of the "Agricultural Priority Area" will be located within the City's proposed Urban Limit Line

which would “define the ultimate limits of City urbanization beyond the 20-year timeframe of the Urban Growth Boundary.”

### **Project’s Adverse Impacts to Agricultural Lands Cannot be Fully Mitigated and Represent a Significant and Unavoidable Impact**

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Per the DEIR, as part of the proposed project, the City proposes to adopt an Agricultural Preservation Program, which would apply to new development citywide that converts agricultural land to a non-agricultural use. Applicants would be required to mitigate the loss of farmland through measures that may include payment of an agricultural mitigation fee, acquisition of other agricultural land, or dedication of an agricultural conservation easement on eligible agricultural land and payment of a fee to cover ongoing management and monitoring activities. Mitigation would be required at a ratio of 1:1 (1 acre of mitigation for 1 acre of agricultural land converted to a non-agricultural use). While mitigation preserves agricultural land that may otherwise be converted to nonagricultural use in the future, it does not provide additional, new farmland to replace the original acres lost as a result of the proposed project. Therefore, impacts to agricultural resources, even with mitigation in place, would be considered significant and unavoidable and conversion of agricultural land should only be considered when there is no vacant or underutilized land left within a city or existing USA boundary to accommodate growth.

Furthermore, the DEIR notes that the proposed agricultural mitigation fee of \$15,000 per an acre is not sufficient to purchase agricultural conservation easements on land surrounding the City of Morgan Hill at a 1:1 ratio. The DEIR states that the City will use additional funds to augment the mitigation fee in order to accomplish this objective. Given the lack of information provided in the DEIR concerning these additional funds and noted uncertainties on this matter, it is unclear whether 1:1 mitigation will actually occur.

### **Project’s Potential Adverse Impacts to Williamson Act Lands Cannot be Self Mitigated and Represent a Significant and Unavoidable Impact**

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The DEIR indicates that the SEQ Area contains 10 properties totaling 91.65 acres that are encumbered by active Williamson Act contracts and that one of the properties is contemplated for annexation, while the other nine are not. The DEIR incorrectly states that should any of the Williamson Act contracts be required to be cancelled as a prerequisite for annexation, such a cancellation would be considered a self-mitigating aspect of the proposed project and would preclude the possibility of a conflict with a Williamson Act contract. If the proposed project could result in the early cancellation of a Williamson Act contract, this impact would be considered significant and unavoidable.

## **LAFCO Policies and State Law Require LAFCO to Consider Availability of Adequate Water Supply**

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Given the various identified deficiencies in the environmental analysis discussed here and in Attachment A, it is unclear whether the water supply assessment and water demand analysis conducted for the proposed project is adequate for LAFCO purposes. As part of LAFCO's review of any urban service area amendment or annexation request, LAFCO policies and State law require LAFCO to consider the availability of adequate water supply.

## **Analysis of Cumulative Effects and Growth-Inducing Impacts is Deficient**

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As discussed in this letter and Attachment A, analysis of impacts to agricultural resources, land use, population and housing, and greenhouse gas emissions is deficient. These deficiencies render the analysis of cumulative effects and growth-inducing impacts deficient as well.

## **Key Elements of the Proposed Agricultural Preservation Program Require Clarification and Outcome of Proposed Program is Uncertain**

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As you know, LAFCO adopted Agricultural Mitigation Policies in 2007 and these Policies encourage cities with potential LAFCO applications involving or impacting agricultural lands to adopt citywide agricultural mitigation policies and programs that are consistent with these policies. We have reviewed the City's Proposed Agricultural Preservation Program and have the following questions and comments about the program and its potential outcome:

### **Agricultural Priority Area**

Under the proposed Program, "the Agricultural Priority Area is defined as an area within the SEQ that has been identified as a priority location to preserve and encourage the long-term viability of agricultural and Open Agricultural Lands..." The boundaries of the proposed Priority Area are illogical, and particularly when coupled with the various elements of the SEQ Land Use Plan are unlikely to fulfill the City's stated objective of preserving and encouraging long-term viability of agricultural lands.

The proposed Agricultural Priority Area is sandwiched between and surrounded on three sides by, lands proposed to be included within the city limits. The surrounding city lands are proposed to be designated for urban uses such as "Sports Recreation and Leisure" which would allow for "private commercial, retail, and /or public /quasi-public, at a scale that creates a destination area for both regional and local users..." Potential applications in the area including a private high school for 1,600 students, 40,000 square feet of sports retail, 3,000 square feet of sports themed, sit-down restaurant, outdoor sports fields, indoor facilities for indoor soccer, batting cages, volleyball courts, ropes challenge course, medical offices for minor sports related injuries, and other commercial recreation and sports fields, provide a picture of the type of development likely to occur in the area. Given the potential for direct land use

conflicts between such high intensity urban uses and agriculture, and the additional impacts of extending roads, and services through the Agricultural Priority Area to serve the new development, it is improbable that the City's efforts to prioritize agriculture in this area will be successful. The City has not provided an explanation for setting these irregular boundaries for its Agricultural Priority Area.

Furthermore, the SEQ Land Use Plan proposes that the proposed City Urban Limit Line include the vast majority of the Agricultural Priority Area. However, the "Urban Limit Line defines the ultimate limits of city urbanization beyond the 20-year timeframe of the Urban Growth Boundary." Adopting an Urban Limit Line that includes lands identified for agricultural preservation will result in increased land values in the priority area due to speculation, drive-up the cost of agricultural mitigation to a point where preservation is financially infeasible, and discourage farmers and conservation entities from making any long-term agricultural investments in the area.

### **Mitigation Ratio and Agricultural Preservation In-Lieu Fee**

The City's proposed Agricultural Lands Preservation Program requires mitigation at a ratio of 1:1, i.e., one acre of in-perpetuity of farmland preservation for each acre of farmland conversion. The Mitigation Fee Nexus study prepared for the City indicates that the cost of acquiring a conservation easement would be approximately \$47,500 per acre in the Morgan Hill area and approximately \$12,750 per acre in the Gilroy area. The City's Agricultural Lands Preservation Program intends to preserve agricultural lands within Morgan Hill's sphere of influence with a focus for land preservation in the City's SEQ area. The City however, proposes to establish an Agricultural Preservation In-Lieu Fee, including the Program Surcharge Fee, in the amount of approximately \$15,000 per acre which would be insufficient to cover the cost of easement acquisitions in the Morgan Hill sphere of influence or in the SEQ area. No explanation is provided for establishing a fee that does not cover the mitigation costs in the preferred / priority area.

Furthermore, the City indicates that additional funds would be needed in order to purchase conservation easements in the Priority Area. However, the City does not provide any detailed or specific information on the source of the City's funds, current amount available, any limitations of these funds, and projected availability.

Given the amount of the proposed in-lieu fee and lack of information on the availability of other funding sources, it is impossible to conclude with any certainty that the proposed program will result in conservation of agricultural lands in the Priority Area.

### **Agricultural Land Definition**

Under the City's proposed Program, lands identified as "Grazing Land" on the 2010 map of the Farmland Mapping and Monitoring Program are not subject to the offsetting preservation/mitigation requirement. However, it is well known that many lands identified as grazing land are simply prime farmland left fallow. Given the limited amount of prime farmland left in the County, the City should not exempt "Grazing Land" from the offsetting preservation/mitigation requirement, without first confirming

that these lands are not prime farmland. If it is determined that these lands are prime farmland, then they too should be considered “Agricultural Land” and be subject to the offsetting preservation/mitigation requirement.

### **Open Agricultural Land Definition**

Please clarify the difference between “Agricultural Land” and “Open Agricultural Land” as defined and used in the City’s Agricultural Lands Preservation Program. What is the significance of open agricultural land to the Preservation Program?

### **Qualifying Entity Definition**

Under the City’s Proposed Program, the qualifying agricultural conservation entity should meet certain technical, legal, management, and strategic planning criteria and the entity’s performance should be monitored over time against those criteria. However, it appears that a public agency could not be considered such an “entity” even if it meets all of the identified criteria. The specific purpose served by eliminating public agencies from being a “qualifying entity,” provided that they demonstrate that they meet the remaining criteria, is unclear. In fact, there are many benefits associated with using a public agency for agricultural conservation purposes, such as greater public accountability and transparency requirements, financial stability, publicly elected Boards, and better access to certain government grants or funding. For these reasons, the City should include public agencies in its consideration of qualifying entities. The proposed program also states that the “third party Qualifying Entity will need to include individuals with direct experience and knowledge of farming activities.” Please clarify the purpose of this requirement and what role the City envisions these individuals might play in the Qualifying Entity. This requirement also has the risk for increased potential for conflicts of interest, which in public agencies can be better disclosed / managed through Fair Political Practices Commission requirements.

### **Stay Ahead Provision**

It is unclear how such a provision would be implemented and why an applicant or the City might choose this option of providing mitigation prior to converting or developing farmland. Without further details on this provision, it is impossible to provide meaningful comments on it.

### **Measurement of Affected Area**

The City’s proposed Program excludes certain portions of property that are left as “open space/ open fields that in the future could be put back to agricultural uses” when calculating the total agricultural mitigation requirement.

Such an exemption is inconsistent with the intent of LAFCO’s agricultural mitigation policy. The urban service area of a city delineates land that will be annexed to the city, and provided with urban services / facilities and developed with urban uses. Based on this, it is implicit that any land proposed for inclusion in a City’s USA will be converted to support urban development unless the land is protected as agricultural land in

perpetuity by a conservation easement. Therefore, it is not appropriate to exclude certain portions of property based on the assumption that they could at some point be put back into use as agricultural lands. Additionally, there is no way to guarantee / enforce that the land will remain "open space" unless the lands are preserved in-perpetuity through a conservation easement.

## **Conclusion**

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For the foregoing reasons, we urge the Morgan Hill City Council to not approve the proposed Environmental Impact Report (EIR) at this time. As noted above, LAFCO is a Responsible Agency for certain aspects of the proposed project and therefore has an independent obligation to review the EIR for legal adequacy under CEQA prior to issuing any approvals for the project (CEQA Guidelines, §15096). As detailed in this letter and Attachment A, we have identified significant deficiencies in the DEIR. Therefore, we respectfully request that the City prepare a revised environmental document that addresses the identified deficiencies and then circulate the revised document to affected agencies and the public for their review and comment, as required by CEQA.

If you have any questions regarding these comments, please contact me at (408) 299-5148. Thank you again for providing us with the opportunity to comment on this significant project.

Sincerely,



Neelima Palacherla,  
Executive Officer

Attachment A: LAFCO Counsel's February 18, 2014 Letter: Comments on Citywide Agriculture Preservation Program and Southeast Quadrant Land Use Plan Draft Environmental Impact Report

cc: Andrew Crabtree, Director, Morgan Hill Community Development Department  
LAFCO Members  
County of Santa Clara Planning and Development Department



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February 18, 2014

**VIA E-MAIL** (Rebecca.Tolentino@morganhill.ca.gov)

Ms. Rebecca Tolentino, Senior Planner  
Development Services Center  
17575 Peak Avenue  
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**RE: Comments on Citywide Agriculture Preservation Program and Southeast  
Quadrant Land Use Plan Draft Environmental Impact Report (SCH#  
2010102010)**

Dear Ms. Tolentino:

Best Best and Krieger LLP, as counsel for the Santa Clara County Local Agency Formation Commission (“LAFCO”), thanks the City of Morgan Hill (“City”) for the opportunity to review and provide comment on the City’s Draft Environmental Impact Report (“EIR”) for the Citywide Agriculture Preservation Program and Southeast Quadrant Land Use Plan (“Project”).

According to the EIR, the Project consists of five program-level components—collectively referred to as the Southeast Quadrant (“SEQ”) Project—and one project-level component—the South County Catholic High School. The five program-level components include (1) the establishment of the Agricultural Lands Preservation Program, (2) adjustments to the City limits, urban service area (“USA”), urban growth boundary (“UGB”), and urban limit line (“ULL”) (collectively, “boundary adjustments”), (3) establishment of a new Sports-Recreation-leisure (“SRL”) land use designation in the City’s General Plan and zoning district in the City’s Zoning Code, (4) General Plan amendments and Zoning Code amendments for the new SEQ area, and (5) four separate “programmatic” project applications.

Many of the flaws in the EIR’s analysis are so broad—including flaws in the Project Description and the improper segmentation of the Project—as to infect nearly every aspect of the environmental review contained therein. However, although the comments contained in this letter may only scratch the surface, it is LAFCO’s hope that these comments will lead the City to fully and sufficiently analyze the environmental impacts of the Project as a whole.

As the Project would require approvals from LAFCO for the boundary adjustments, LAFCO is a responsible agency for the Project under State CEQA Guidelines (Title 14 Cal. Code. Regs.) section 15096. The comments contained herein are provided pursuant to State CEQA Guidelines section 15096, subdivisions (d) and (g), on behalf of LAFCO. As required,



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the following comments pertain to those Project activities which are within LAFCO's areas of expertise and which are subject to LAFCO's approval authority. (*Ibid.*)

**The EIR Segments the Environmental Analysis**

The analysis separately discusses the impacts from the SEQ Area and the proposed high school. This segmenting of the analysis may downplay impacts resulting from development of the Project as a whole, inclusive of the high school (i.e. it inaccurately describes total impacts in SEQ Area). A specific example of this, although it is an issue throughout the entirety of the EIR's analysis, is the analysis of impacts to police services. (EIR at 3.12-22-23.) In this analysis, the high school is stated as having a potentially significant impact, and yet the SEQ Area is stated as separately having a less than significant impact. This evidences how segmentation can incorrectly minimize impacts that would otherwise be considered potentially significant. This type of analysis violates CEQA. (State CEQA Guidelines, §§ 15378, 15003(h); *City of Santee v. County of San Diego* (1989) 214 Cal.App.3d 1438, 1450; *Tuolumne County Citizens for Resp. Growth, Inc. v. City of Sonora* (2007) 155 Cal.App.4th 1214, 1229.)

The EIR also provides that "the City has begun the process to create a new General Plan for growth through 2035. The process will involve updating the City's utility master plans and identifying infrastructure needed to serve future growth areas. The SEQ Area will be included in these studies and will contribute to the buildout of the necessary infrastructure as a condition of development and through payment of development impact fees." First, by relying on environmental analysis for the 2035 General Plan which has not yet occurred, this improperly defers environmental analysis of the infrastructure improvements for the SEQ Area and the potential development within the Area. The potential infrastructure needs for the Project must be analyzed in this EIR. Second, if the City is preparing an update to its General Plan at this time, the SEQ Area should be included in the 2035 General Plan Update. Although a Notice of Preparation for the General Plan Update has not yet been issued, the fact that the City is in the process of both amending the General Plan for this Project, and also considering other amendments to the General Plan for future planning through 2035 suggests that analysis of the necessary amendments for implementation of Projects over this 20-year horizon, including the Project here, is being improperly and unnecessarily segmented into two projects.

**Analysis of Cumulative Impacts**

Because the analysis of the Project is improperly segmented, thereby minimizing its environmental effects, the analysis of cumulative impacts cannot be accurate. A "Cumulative Impact" is that when, considered with other effects, compounds to have a significant effect on the environment. (See State CEQA Guidelines, § 15355.) Unless the Project's environmental impacts are accurately evaluated and disclosed, its contribution to a potentially significant cumulative effect also cannot be accurately evaluated. Thus, the EIR's analysis of cumulative impacts is flawed. Should revisions to the analysis disclose new significant individual or





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cumulative impacts, recirculation of the Draft EIR would be required. (See State CEQA Guidelines, § 15088.5.)

**Project Description**

***The Boundary Changes Are Unclear and Conflict with LAFCO Policies***

The Project Description is confusing in how it discusses and delineates the various components of the proposed SEQ Area. The Project Description first states that the SEQ Area includes approximately 1,290 acres (EIR at 2-1), and yet later states that only 759 acres is proposed for annexation into the City limits (EIR at 2-41). Some of the area to be annexed is also that which is to be included in the City's UGB and ULL, but not its USA. (EIR at 2-10.) The EIR should explain the purpose of these differing boundaries. In addition to the confusion as to the boundary changes, the Project Description should also make clear how many acres would be subject to the Sports-Recreation-Leisure General Plan and Zoning amendments, the General Plan amendments and "prezoning" of land in the SEQ Area, and the manner in which these two sets of amendments are different and whether there is any overlap within the SEQ Area.

If the entirety of the area proposed for annexation is not proposed for inclusion in the expanded USA, this Project would be in conflict with LAFCO's policies for approving city limit changes that go beyond a USA. It is LAFCO's policy (Policy B.1 for Annexations or Reorganizations of Cities and Special Districts) that such proposals be approved only if the portion of the city not located within its USA is to be placed in permanent protection as open space or for other public lands. Here, the area of the City not within the USA (Chiala Development) would be residential and is intended to be served by septic systems and a private water company.

As to LAFCO Policy Annexation/Reorganization B.5 (see EIR at 3.9-30), the Chiala Planned Development would not be served by City services, and would require water from a private company and the use of septic systems. Further, the EIR states that there is "limited opportunity to extend existing storm drain facilities in the northern portion of the USA expansion." (EIR at 3.14-45.) These facts demonstrate that, contrary to the EIR's conclusions, the Project would "create or result in any areas that are difficult to serve," and therefore the consistency determination for this policy is unsupported.

The City also misinterprets LAFCO Policy 6. Under LAFCO policies, the preferred option is to discourage USA expansions that would impact agricultural lands, keeping those lands in agricultural use. Here, the EIR does not demonstrate that the annexation of these lands is necessary and has not provided the status of the City's vacant and underutilized lands inventory. Further, to the extent it is assumed the Project would preserve agricultural lands, as stated above regarding the Project Description and Agricultural Impacts, the Project appears to



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propose more intense development on these lands. Therefore, the Project is inconsistent with this LAFCO policy as well.

Lastly, the EIR does not even evaluate the Project's consistency with LAFCO's Urban Service Area Policies 5 and 7, which are directly relevant to this Project. Policy 5 provides that "[w]hen a city with a substantial supply of vacant land within its Urban Service Area applies for an Urban Service Area expansion, LAFCO will require an explanation of why the expansion is necessary, why infill development is not undertaken first, and how an orderly, efficient growth pattern, consistent with LAFCO mandates, will be maintained." Nowhere in the EIR has the City explained why this Project cannot be developed on land already within the City's limits. With respect to Policy 7, and as discussed in this Letter below, contrary to the conclusions in the EIR, the nature of the Project demonstrates that it would encourage the conversion of agricultural land to non-agricultural uses resulting in an adverse impact to agricultural resources. This directly conflicts with Policy 7, a fact which the EIR ignores.

If after the City conducts additional analysis to assess the Project's compliance with these policies a new significant impact is disclosed, recirculation of the Draft EIR would be required. (See State CEQA Guidelines, § 15088.5.)

***The EIR Defers Environmental Analysis By Conducting Only Programmatic Analysis of Project-Level Proposals***

Next, the EIR states that it contains programmatic analysis of project-level applications. (EIR at 2-52.) State CEQA Guidelines section 15168 provides that a program EIR is appropriate where "a series of actions . . . can be characterized as one large project and are related either: (1) Geographically; (2) As logical parts in the chain of contemplated actions; (3) In connection with issuance of rules, regulations, plans, or other general criteria to govern the conduct of a continuing program, or (4) As individual activities carried out under the same authorizing statutory or regulatory authority and having generally similar environmental effects which can be mitigated in similar ways."

Although the four applications are related geographically, as shown in Exhibit 2-12, and are being evaluated in connection with the General Plan amendment goals and criteria as outlined in the EIR, evaluation of several projects within a program EIR is intended to provide "an occasion for a more exhaustive consideration of effects" than would otherwise be considered in individual project-level environmental review. (State CEQA Guidelines, § 15168(b).) Here, the EIR provides that the four project applications are reviewed programmatically because "detailed land use proposals" have not yet been submitted. (See EIR at 2-52.) However, this is inconsistent with specific details actually provided in the EIR when describing these applications. For example, the "Craiker Sports Retail/Restaurant Uses" application provides that it would consist of 40,000 square feet of sports retail and a 3,000 square-foot sports-themed restaurant on four acres. As a result, the EIR defers more detailed analysis under the guise of a



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program EIR despite the apparent ability to conduct a more thorough and detailed, project-level review of these applications. This is a violation of CEQA.

Likewise, the EIR discloses that the Chiala Planned Development would add up to 38 new residences on 107 acres, sports-recreation-leisure uses on 86 acres, and agricultural uses on 114 acres. (EIR at 2-55.) The EIR even discloses that the development would be served by a private water company and would use septic systems. Also, as part of the Project, the Zoning Amendments are designed to facilitate the planned development on this site. An analysis of the impacts of future actions should be undertaken when the future actions are sufficiently well-defined that it is feasible to evaluate their potential impacts. (See *Env'tl Protection Info. Ctr. v. Dept. of Forestry & Fire Prot.* (2008) 44 Cal.4th 459, 503.) The level of detail in the application demonstrates that the analysis of this development at a programmatic level is insufficient and improperly defers the analysis of the specific impacts that would result.

This is not an instance where a future development will implement the program identified in the EIR, and therefore programmatic review is appropriate; rather, here, the program (the General Plan and Zoning amendments) is designed to implement the future development. Project-level analysis of the projects described in the four applications and the Chiala Planned Development is warranted.

***The Proposed Development Is Inconsistent with the Project's Objectives to Preserve Agricultural Lands***

Several components of the Project are inconsistent with its stated objectives. Four of the ten objectives stated for the Project concern the preservation and/or enhancement of agricultural lands. (See EIR at 2-26-35.) Yet the Project consists of a General Plan amendment that would permit "private commercial, retail, and/or public/quasi-public, at a scale that creates a destination area for both regional and local users." (EIR at 2-45.) The SRL zone would likewise permit "gas stations, restaurants, motels/hotels, and grandstands/stadiums." (EIR at 2-46.) The four project applications are consistent with these land designations and zoning, and would develop retail, restaurants, indoor sports facilities, and other such non-agricultural uses. (See EIR 2-52, 55.) However, none of these proposed uses is consistent with the majority of the stated Project objectives as not one of them would "foster permanent agriculture" or "[s]trengthen the City's historic role as an agricultural center." Even more, the Zoning amendments are characterized in the EIR as "urban zoning designations," further undercutting the stated Project objectives. (See EIR 3.9-23.)

This inconsistency is also highlighted by the fact that the proposed "Agricultural Priority Area," as well as existing lands under Williamson Act contracts, would be inside of the proposed ULL adjustment, suggesting that urban development may occur on lands which should be set aside for conservation (or which would require cancellation of Williamson Act contracts). (See EIR at 2-41, Exh. 2-10.) Moreover, as shown in Figure 2-9 of the EIR, the proposed Agricultural



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Preserve Area would be placed in the middle of planned development within the SEQ Area. This, along with the Project objectives and the inclusion of the Agricultural Preserve Area within the ULL, strongly suggests that the purpose of the Agricultural Preserve Area may be undermined by other future developments in the Area.

***The Project Would Create a Conflict Between the General Plan and Zoning Code***

For the Chiala Planned Development, the EIR states that this area would be zoned Open Space, with a Planned Development overlay, but would be designated as only Open Space by the General Plan. (EIR at 2-55.) Zoning ordinances must be consistent with an applicable general plan. (Gov. Code, § 65860(a).) A zoning ordinance is inconsistent with a general plan if it would authorize land uses that are incompatible with the objectives, policies, general land uses, or programs specified in the general plan. (*Ibid.*) As proposed in the EIR, the Zoning amendment for the Chiala Planned Development would be inconsistent with the General Plan designation for the site, which the EIR states will not be likewise amended. (EIR 2-55.) A zoning ordinance that is inconsistent with a general plan at the time of enactment is “void *ab initio*,” meaning invalid when passed. (See *Leshner Communications, Inc. v. City of Walnut Creek* (1990) 52 Cal.3d 531, 541.) Therefore, to the extent the City asserts that the developer is expected to seek a General Plan amendment once the project proposal is finalized, this would not prevent the proposed zoning for the site from being void. This defect in the EIR’s analysis is also present within the Land Use and Cumulative Effects analysis concerning Land Use impacts. (EIR at 3.9-10, 4-10.)

**Agricultural Resources**

***Analysis of Impacts to Important Farmland Is Deficient***

Although the EIR includes the LAFCO’s definition of “prime agricultural land” (EIR at 3.2-3-4), it does not evaluate impacts to agricultural land in light of LAFCO’s broader definition. This analysis is required for the LAFCO to review the boundary change applications, and proposed mitigation should address impacts to lands falling within the LAFCO’s definition.

Also, the analysis states that a minimum of 120 acres would be converted to non-agricultural uses for the SEQ Area. However, this figure does not include the potential conversion occurring for the Chiala Development Plan (307 additional acres). For purposes of analyzing and mitigating impacts to agricultural lands, the analysis should utilize a conservative, worst-case analysis to ensure that all potential impacts stemming from development under the SEQ are encompassed within the EIR’s analysis. To evaluate the boundary changes, LAFCO policies provide that impacts to agricultural land should be mitigated on a 1:1 basis. If all acres potentially converted (under the worst-case scenario) are included in the analysis, then this goal cannot be met with the remaining land available within the SEQ Area.



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Moreover, in its consideration of proposals, LAFCO policies require the development of existing vacant lands within City limits prior to conversion of additional agricultural lands. Likewise, LAFCO's USA Amendment Policies require an explanation of why the inclusion of agricultural lands is necessary and how such losses will be mitigated. The EIR contains no such explanation and, as stated above, does not demonstrate how the total potential loss of agricultural land will be mitigated. These deficiencies further render the Project inconsistent with Open Space and Conservation Policy 3q of the City's General Plan, which requires development to "[s]upport policies of the [LAFCO] which would guide urban development away from those agricultural areas with the greatest potential for long-term economic viability."

*The Mitigation Measures For Farmland Impacts Are Inadequate*

In light of the worst-case conversion of agricultural lands to non-agricultural uses under the Project *as a whole* (465.63 acres), only 242.03 acres of important farmland would remain in the SEQ area, which includes the Agricultural Lands Preservation Program land. (See EIR at 3.2-17, 2-37 [Figure 2-9].) Therefore, unless other lands are identified within the City's sphere of influence, mitigation at a 1:1 ratio would not be possible. In such a case, the conclusion that impacts would be mitigated to less than significant is not supported. In the event additional analysis conducted to address this issue discloses a significant and unavoidable impact with respect to farmland, recirculation of the Draft EIR would be required. (See State CEQA Guidelines, § 15088.5.)

Mitigation Measures 1a and 1b provide that Project applicants will either preserve agricultural land, or pay fees. (EIR at 3.2-20.) On page 3.2-18 of the EIR, the analysis explains that, for purposes of mitigating agricultural impacts, the City may use existing "Open Space Funds." However, the EIR does not state the amount of funds that are available and so does not support the contention that impacts to agricultural lands will be mitigated to a less than significant level. Further, this same discussion provides that the Agricultural Lands Preservation Program contains "Stay Ahead" provisions, but does not explain exactly what these provisions are or how they would be implemented. It is also unclear to what extent these provisions are intended to supplement applicant-initiated mitigation; and it is unclear whether the applicants for the projects in the SEQ Area and/or the City would have sufficient funds available with which to purchase necessary mitigation lands. The uncertainty of this mitigation and the ability to mitigate lands at a 1:1 ratio renders it infeasible. (State CEQA Guidelines, § 15364.)

*Agricultural Lands Preservation Program (Appendix K)*

Under the proposed program, a public agency could not be a qualifying conservation entity. There are several benefits associated with using a public agency for this type of activity, such as transparency and accountability requirements, financial stability, a publicly-elected board, better access to certain government grants or funding, and other benefits. It is unclear why this option was eliminated. Also, the City has not indicated that there is an existing entity



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that it believes could fulfill the role of the qualifying entity. The ability to identify a qualifying entity is further complicated by the seemingly unnecessary requirement that the entity have farmers on its governing board. While knowledge of farming is important, there are many ways that this knowledge can be addressed, including special technical committees, staff, advisors, or partnerships with farm organizations. Without more details and flexibility, the success of this aspect of the Program, and the mitigation described therein, is uncertain and infeasible. (State CEQA Guidelines, § 15364; see *Kenneth Mebane Ranches v. Superior Court* (1992) 10 Cal.App.4th 276, 291.)

***Conflicts with Williamson Act Contracts Are Not Analyzed***

The EIR (at 3.2-22, and also for Cumulative Effects at 4-4) provides that cancellation or protest of the ten Williamson Act contracts in the SEQ Area is “self-mitigating.” This is incorrect. Where a project would require the termination of a Williamson Act contract in any way—cancellation or protest—it conflicts with an existing Williamson Act contract and, thus, a potentially significant environmental impact may result. To argue that there would be no conflict because the contract would be cancelled is circular and defeats the purpose of the threshold and the analysis required by CEQA.

The EIR is also incorrect that the only two options are cancellation or protest. In the event that neither of these occurs, the City would succeed to the rights, duties and powers of the County under the existing contract. Regardless, the conclusion that no significant impacts would occur because the contracts could be cancelled or protested is grossly insufficient. Further, public agency cancellations are discretionary agency actions that may, themselves, be subject to CEQA under Public Resources Code sections 21065 and 21080, a fact which the EIR declines to mention or analyze.

***The Project May Result In the Conversion of Lands to Non-Agricultural Uses***

As stated above concerning the Project Description, the proposed Agricultural Priority Area would be inside of the proposed ULL adjustment, suggesting that urban development may occur on lands which should be set aside for conservation. (See EIR at 2-41, Exh. 2-10.) Also, as shown in Figure 2-9 of the EIR, the proposed Agricultural Priority Area would be placed in the middle of planned development within the SEQ Area. The EIR (at 3.2-24) states that the inclusion of the Agricultural Priority Area would deter the conversion of lands to non-agricultural uses. However, as stated, the circumstances surrounding the Agricultural Priority Area suggest that it would not be much of a deterrent. It is also unclear how the inclusion of lands within the City limits but outside of its USA would deter development on agricultural lands.



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The potential conversion of agricultural lands is also inconsistent with the findings contained in the Agricultural Lands Preservation Program, attached as Appendix K to the EIR. As stated therein, “[t]he SEQ of the City is of particular importance as the last major, contiguous area of agricultural land in the Morgan Hill SOI and due to its potential as a permanent ‘greenbelt’ between Morgan Hill and the neighboring rural residential development of San Martin.” (App. K at 4.)

For these same reasons, the Cumulative Effects analysis, which concludes without any support that “neither the SEQ programmatic uses nor the high school would create environmental pressures to prematurely convert neighboring agricultural uses to non-agricultural uses because of the Agricultural Lands Preservation Program,” is defective. (See EIR at 4-7; *Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 435 [conclusions reviewed for substantial evidence].)

**Air Quality/Greenhouse Gas Emissions**

LAFCO’s policies promote the preservation of agricultural lands, encourage efficient delivery of services and also promote compact urban growth to prevent urban sprawl. Through such orderly development, LAFCO policies seek to reduce total vehicle miles traveled, among other concerns. In doing so, these policies strive to reduce greenhouse gas emissions that would result from poorly planned, sprawling development.

The conclusions regarding the significance of greenhouse gas emissions from the Project are inconsistent with the quantitative analysis conducted for the Project and contained within the EIR. Although the EIR correctly states the threshold for Greenhouse Gas emissions established under BAAQMD’s CEQA Guidelines, the EIR incorrectly states the emissions per service population based on these thresholds to be 3.16. (See EIR at 3.3-65, Table 3.3-14.) However, calculations show the emissions per service population to actually equal 4.64. Under this calculation, the greenhouse gas emissions exceed the BAAQMD thresholds. Thus, this impact would be considered significant, not less than significant as stated in the EIR. (See EIR at 3.3-65.) Therefore, the correction of the error in the greenhouse gas emissions calculations would disclose a new significant impact, and the City is required to recirculate the Draft EIR. (See State CEQA Guidelines, § 15088.5.)

**Land Use**

***The Project Is Not Consistent with the General Plan Policies and Goals***

As stated above, the Project Description for the Chiala Planned Development states that this area would be zoned Open Space, with a Planned Development overlay, but would be designated as only Open Space by the General Plan. (EIR at 2-55.) Although the Land Use analysis does not acknowledge this fact (see EIR at 3.9-10), this renders the conclusion that the



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Project would not result in any conflicts with the General Plan inaccurate; and for the reasons stated in the discussion of the Project Description concerns, above, due to this conflict with the General Plan designation, the Zoning amendment for this development is void.

As demonstrated with regard to the deficiencies in the Agricultural Resources analysis, the Project as a whole could convert over 400 acres of agricultural lands to non-agricultural uses and would result in the cancellation of Williamson Act contracts. In light of the uses which would be permitted under the proposed Project, the findings that the Project would be consistent with Policy 2a, Goal 5 and Policy 5b of the General Plan concerning agricultural preservation are unsupported. (See EIR at 3.9-13, 23.)

The proposed amendment to General Plan Policy 2c (see EIR at 3.9-12) suggests that the City may develop lands with urban uses that are not within its USA or UGB so long as the land is in the City's limits. As stated above, this would be inconsistent with LAFCO's policies. This would permit the City to develop lands to which it has not committed to providing services, resulting in potential health and safety concerns. It is also unclear what this measure is intended to "self-mitigate." The amendment would conflict existing policies and could result in additional impacts that are not analyzed in the EIR. The assertion that the amendment is "self-mitigating" is devoid of supporting environmental analysis.

Policy C-GD-3 (EIR at 3.9-19) provides that the USA should generally include only urban uses, and yet the City seeks to expand the USA to encompass uses which it claims will preserve agricultural uses. The fact that the City is seeking to expand the USA contradicts its assertions. And if the City is not planning to develop urban uses on the land, then it need not be included in an expanded USA. Otherwise, the Project is inconsistent with this policy.

Concerning Policy C-GD-8, the EIR claims that "[n]o other areas in the existing Morgan Hill city limits have the attributes of the SEQ area need for the proposed SRL uses." However, this is a conclusory assertion, unsupported by evidence referenced in the EIR.

In determining that the Project would be consistent with Policy SC 1.10, the EIR states that the eastern portion of the SEQ Area would be annexed, but proposed development would not be urban. (See EIR at 3.9-22.) However, the Project would prezone this area with an "urban zoning designation, including SRL, Open Space and Residential Estate (100,000)." (See EIR at 3.9-23 under "Zoning Districts.") It is therefore uncertain whether urban development is allowed or not allowed for this area. It is also unclear how the City is defining "urban development" for this Project, and as stated throughout, the analysis suggests that more intense uses may be permitted on the Project site than are analyzed and disclosed in the EIR.





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**Population and Housing**

The population growth analysis should include a discussion of the Project's impacts as determined by the Morgan Hill Residential Development Control System and indicate whether the housing allocations have been made already. (EIR at 3.11-11.) The 38 residences of the Chiala Planned Development alone constitute approximately 15% of the annual allotment. The EIR should confirm that the Project has been accounted for in the allotment.

More importantly, the analysis also does not disclose the number of new residences expected to be generated by the Project as a whole, and thus there is no analysis of the Project's impacts with respect to ABAG's or the City's General Plan projections. The EIR provides that the Project would designate 76 acres as "Residential Estate," with only 9 acres zoned "Residential Estate." (See EIR at 4-11.) Not only does the General Plan designation anticipate that the entirety of the 76 acres will, at some point, be developed with residential uses, but this acreage is wholly separate from the Chiala Planned Development, which the Project specifically anticipates will contain 38 residences. The EIR should include analysis of impacts resulting from the maximum potential residential development under the Project in order to complete an analysis of the Project *as a whole*. (State CEQA Guidelines, § 15378(a); *Orinda Assn. v. Bd. of Supervisors* (1986) 182 Cal.App.3d 1145, 1171.) This is not speculative as the proposed General Plan designations would permit residences consisting of a specific lot size. The EIR should use this information to predict the maximum potential development, and analyze that as the Project.

These deficiencies in the EIR's analysis likewise render the Cumulative Effects analysis for Population and Housing defective because the Project is not fully analyzed and, thus, its contribution to cumulative effects cannot be accurate.

**Public Services and Recreation**

***The Analysis of Impacts to Public Services Is Insufficient Under CEQA***

County Growth and Development Policy C-GD 8(b) (see EIR at 3.12-12) provides that expansion of USA boundaries shall not be approved unless "the existing supply of land within the city's USA accommodates no more than five years of planned growth." The EIR should disclose whether the land currently within the City's USA will accommodate no more than 5 more years of planned growth. If this is not the case, then the Project is inconsistent with LAFCO and County General Plan policies.

The analysis of impacts to services assumes that impacts would be less than significant if the distance to the nearest service facility (i.e. fire station) would be less than or equal to the current distance. (EIR at 3.12-20-21.) However, service population should also be taken into account by projecting an approximate number of employees and/or residents that would be present in the SEQ Area as a result of the planned developments (4 project development



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applications *and* the high school) because, even if a facility is nearby, additional uses may place a strain on existing services by increasing demand. This could result in the need for new facilities and should be analyzed in the EIR.

As provided above as an example of improper segmentation of environmental analysis, in the analysis of police services (EIR at 3.12-22-23), the high school is stated as having a potentially significant impact, and yet the SEQ Area alone is stated as having a less than significant impact. This segmentation improperly minimizes impacts that could otherwise be considered potentially significant for the Project as a whole. This type of analysis violates CEQA. (State CEQA Guidelines, §§ 15378, 15003(h); *City of Santee v. County of San Diego*, *supra*, 214 Cal.App.3d at 1450.) Further, this analysis undermines the conclusion that cumulative impacts to public services would be less than significant. (See EIR at 4-12.)

### Utility Systems

Mitigation Measure US-3a is a product of the Project's defects concerning the USA, and likewise conflicts with LAFCO policies, as described above, because the Project is proposing to develop urban land uses within its City limits to which it would not provide services. Further, the Measure provides no means of determining whether retention systems unconnected to the City's drainage system are feasible and, therefore, no means of determining whether connection to City systems is necessary. And even if the Measure did contain this information, the EIR is completely lacking in analysis of impacts resulting from the construction of the retention basins for the SEQ (air quality/greenhouse gases, impacts to City systems if site-specific retention systems are infeasible).

### Growth-Inducing Impacts

As stated in the EIR, growth-inducing impacts may occur where a project would remove obstacles to population growth, or lead to the construction of additional development in the same area. (See EIR at 6-2-3.) Although the EIR concludes that the Project would not induce growth, as stated above concerning the "Conversion of Lands to Non-Agricultural Uses," the nature of the Project opens the land to non-agricultural uses despite the assertions in the EIR to the contrary. In doing so, even though the extension of services as a result of the USA expansion and the land annexation is currently planned only to connect to those uses specifically identified in the EIR, the very fact that the USA would be expanded and additional land annexed into the City opens these new areas to additional development. Therefore, the EIR's conclusions that the Project would not induce significant growth are unsupported. Where additional analysis on this issue discloses a new significant impact, the City would be required to recirculate the Draft EIR pursuant to State CEQA Guidelines section 15088.5.



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**Alternatives**

Project Objectives 4, 5, 6 and 10 actually describe components of the proposed Project. The specificity of these objectives, and their similarity to the Project as proposed, precludes effective consideration of Project alternatives. Any Project alternative that does not include all of these Project components by default fails to meet the Project's Objectives to the extent that the proposed Project would, thereby permitting the City to reject the alternative even if it would reduce the Project's significant and unavoidable impacts. As evidence of this, the only alternatives considered are the various components of the Project and the mandatory No Project alternative. In addition, the EIR discloses that the Project would result in a minimum of eight significant and unavoidable environmental impacts. Almost all of these impacts are directly related to the intensity of proposed land use and resulting noise, traffic and air quality impacts. Therefore, a "reduced scale" alternative should have been included for analysis. However, the ability to analyze alternatives which could reduce the Project's significant and unavoidable impacts is seriously constrained by the targeted Project objectives. Thus, the EIR's analysis of alternatives is deficient: it does not satisfy CEQA's information disclosure purposes, it fails to analyze a reasonable range of alternatives which could minimize Project impacts (State CEQA Guidelines, § 15126.6(a), (c)), and it ignores the California Supreme Court's directive that the alternatives and mitigation analysis be "the core of an EIR" (see *Citizens of Goleta Valley v. Bd. of Supervisors* (1990) 52 Cal.3d 553, 564).

**Conclusion**

For the foregoing reasons, we urge the City Council to not approve the Draft EIR at this time. As you know, LAFCO is a Responsible Agency for the Project and will require adequate CEQA documents to complete its review of the proposals. Therefore, on behalf of LAFCO, we respectfully request that the City prepare a revised Draft EIR that addresses the identified deficiencies and that the City then circulate the revised documents for review and comment, as required by CEQA.

Sincerely,

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

Malathy Subramanian  
General Counsel for the Local Agency Formation  
Commission of Santa Clara County



**CALAFCO Daily Legislative Report**  
**as of Thursday, May 29, 2014**

**AB 1521 (Fox D) Local government finance: property tax revenue allocations: vehicle license fee adjustments.**

**Current Text:** Introduced: 1/16/2014 [pdf](#) [html](#)

**Introduced:** 1/16/2014

**Status:** 5/27/2014-In Senate. Read first time. To Com. on RLS. for assignment.

Desk	Policy	Fiscal	Floor	Desk	Policy	F
1st House				2nd House		

**Summary:**

Beginning with the 2004-05 fiscal year, current law requires that each city, county, and city and county receive additional property tax revenues in the form of a vehicle license fee adjustment amount, as defined, from a vehicle license fee property tax compensation fund that exists in each county treasury. Current law requires that these additional allocations be funded from ad valorem property tax revenues otherwise required to be allocated to educational entities. This bill would modify these reduction and transfer provisions, for the 2014-15 fiscal year and for each fiscal year thereafter, by providing for a vehicle license fee adjustment amount calculated on the basis of changes in assessed valuation.

**Attachments:**

[CALAFCO Support AB 1521 February 2014](#)

**Position:** Support

**Subject:** Financial Viability of Agencies, Tax Allocation

**AB 1527 (Perea D) Public water systems: drinking water.**

**Current Text:** Amended: 4/9/2014 [pdf](#) [html](#)

**Introduced:** 1/17/2014

**Last Amended:** 4/9/2014

**Status:** 5/28/2014-In Senate. Read first time. To Com. on RLS. for assignment.

Desk	Policy	Fiscal	Floor	Desk	Policy	F
1st House				2nd House		

**Summary:**

Would require the State Department of Public Health, in administering programs to fund improvements and expansions of small community water systems and other water systems, as specified, to promote service delivery alternatives that improve efficiency and affordability of infrastructure and service delivery, as specified. This bill contains other related provisions and other existing laws.

**Attachments:**

[CALAFCO Support if Amended Letter](#)

**Position:** Support if Amended

**Subject:** Disadvantaged Communities, Municipal Services, Service Reviews/Spheres, Sustainable Community Plans

**CALAFCO Comments:** As amended, this bill promotes the consolidation of public water systems when appropriate. The bill would require the DPH to promote service delivery alternatives that improve efficiency, affordability of infrastructure, and service delivery in the administration of their programs funding improvement and expansion of public water systems. It also requires the DPH to consider LAFCo studies as part of their funding and alternative services considerations. Finally, the bill adds LAFCo to the list of eligible entities to receive sustainable community grant funding. CALAFCO has requested several minor amendments to the current language.

**[AB 1729](#) (Logue R) Local government: agricultural land: subvention payments.**

**Current Text:** Amended: 3/20/2014 [pdf](#) [html](#)

**Introduced:** 2/14/2014

**Last Amended:** 3/20/2014

**Status:** 3/24/2014-Re-referred to Com. on APPR.

Desk	Policy	<b>Fiscal</b>	Floor	Desk	Policy	
1st House				2nd House		

**Summary:**

Would appropriate \$40,000,000 to the Controller from the General Fund for the 2014-15 fiscal year to make subvention payments to counties to reimburse counties for property tax revenues not received as a result of these contracts. The bill would make legislative findings and declarations related to the preservation of agricultural land.

**Attachments:**

[CALAFCO Letter of Support March 2014](#)

**Position:** Support

**Subject:** Ag Preservation - Williamson

**CALAFCO Comments:** As amended, the bill will appropriate \$40 million from the General Fund in fiscal year 2014/2015 for subvention payments to counties for Williamson Act contracts.

**[AB 1961](#) (Eggman D) Land use: planning: sustainable farmland strategy.**

**Current Text:** Amended: 4/22/2014 [pdf](#) [html](#)

**Introduced:** 2/19/2014

**Last Amended:** 4/22/2014

**Status:** 5/23/2014-Failed Deadline pursuant to Rule 61(b)(8). (Last location was A. APPR. SUSPENSE FILE on 5/23/2014)

Desk	Policy	<b>Dead</b>	Floor	Desk	Policy	
1st House				2nd House		

**Summary:**

Would require each county to develop, on or before January 2, 2018, a sustainable farmland strategy. The bill would require the sustainable farmland strategy to include, among other things, a map and inventory of all agriculturally zoned land within the county, a description of the goals, strategies, and related policies and ordinances, to retain agriculturally zoned land where practical and mitigate the loss of agriculturally zoned land to nonagricultural uses or zones, and a page on the county's Internet Web site with the relevant documentation for the goals, strategies, and related policies and ordinances, as specified.

**Position:** Watch

**Subject:** Ag/Open Space Protection, CKH General Procedures, LAFCo Administration

**CALAFCO Comments:** As amended, the bill requires counties with 4% or more of its land zoned as agricultural to create a sustainable farmland strategy (sfs) effective January 1, 2018, in consultation with cities and LAFCo, and to update the sfs as necessary. The bill also requires OPR to create best practices that support ag land retention and mitigation. The bill creates an unfunded mandate for counties.

**[AB 2156](#) (Achadjian R) Local agency formation commissions: studies.**

**Current Text:** Enrolled: 5/28/2014 [pdf](#) [html](#)

**Introduced:** 2/20/2014

**Last Amended:** 3/24/2014

**Status:** 5/23/2014-In Assembly. Ordered to Engrossing and Enrolling.

Desk	Policy	Fiscal	Floor	Desk	Policy	F
1st House				2nd House		

**Summary:**

Would include joint powers agencies and joint powers authorities among the entities from which the local agency formation commission is authorized to request land use information, studies, and plans, for purposes of conducting specified studies, and also would include joint powers agreements in the list of items the commission may request in conducting those studies. The bill would specifically define "joint powers agency" and "joint powers authority" for purposes of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000.

**Attachments:**

[CALAFCO Letter of Support March 2014](#)

**Position:** Support

**Subject:** CKH General Procedures, LAFCo Administration, Municipal Services, Service Reviews/Spheres

**CALAFCO Comments:** As amended, the bill will specifically define "joint powers agency" and "joint powers authority" for purposes of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (C-K-H), and include joint powers agencies and joint powers authorities (JPAs) among the entities from which a local agency formation commission (LAFCo) is authorized to request information in order to conduct required studies.

**[AB 2762](#) (Committee on Local Government) Local government.**

**Current Text:** Amended: 5/6/2014 [pdf](#) [html](#)

**Introduced:** 3/24/2014

**Last Amended:** 5/6/2014

**Status:** 5/23/2014-In Senate. Read first time. To Com. on RLS. for assignment.

Desk	Policy	Fiscal	Floor	Desk	Policy	F
1st House				2nd House		

**Summary:**

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 does not apply to pending proceedings for a change or organization or reorganization for which the application was accepted for filing prior to January 1, 2001, as specified. The act authorizes these pending proceedings to be continued and completed under, and in accordance with, the law under which the proceedings were commenced. This bill would repeal those provisions relating to pending proceedings for a change or organization or reorganization for which an application was accepted for filing prior to January 1, 2001, and make other conforming changes.

**Attachments:**

[CALAFCO Letter of Support March 2014](#)

**Position:** Sponsor

**Subject:** CKH General Procedures

**[SB 69](#) (Roth D) Local government finance: property tax revenue allocation: vehicle license fee adjustments.**

**Current Text:** Amended: 5/6/2014 [pdf](#) [html](#)

**Introduced:** 1/10/2013

**Last Amended:** 5/6/2014

**Status:** 5/6/2014-From committee with author's amendments. Read second time and amended. Re-referred to Com. on RLS.

Desk	Policy	Fiscal	Floor	Desk	Policy	F
1st House				2nd House		

**Summary:**

Current property tax law requires the county auditor, in each fiscal year, to allocate property tax revenue to local jurisdictions in accordance with specified formulas and procedures, and generally provides that each jurisdiction shall be allocated an amount equal to the total of the amount of revenue allocated to that jurisdiction in the prior fiscal year, subject to certain modifications, and that jurisdiction's portion of the annual tax increment, as defined. This bill would modify these reduction and transfer provisions for a city incorporating after January 1, 2004, for the 2014-15 fiscal year and for each fiscal year thereafter, by providing for a vehicle license fee adjustment amount calculated on the basis of changes in assessed valuation.

**Attachments:**

[CALAFCO Support SB 69 Feb 2014](#)

**Position:** Support

**Subject:** Tax Allocation

**[AB 1739](#) (Dickinson D) Groundwater basin management: sustainability.**

**Current Text:** Amended: 4/22/2014 [pdf](#) [html](#)

**Introduced:** 2/14/2014

**Last Amended:** 4/22/2014

**Status:** 5/28/2014-In Senate. Read first time. To Com. on RLS. for assignment.

Desk	Policy	Fiscal	Floor	Desk	Policy	F
1st House				2nd House		

**Summary:**

Would require a sustainable groundwater management plan to be adopted, except as provided, for each high or medium priority groundwater basin by any groundwater management agency, defined as a special district authorized to provide water for beneficial uses or with specific authority to conduct groundwater management, a city, a county, a city and county, or certain joint powers authorities. This bill would require a sustainable groundwater management plan to meet certain requirements. This bill contains other related provisions and other existing laws.

**Position:** Watch

**Subject:** Water