

LAFCO MEETING AGENDA

Isaac Newton Senter Auditorium, 70 West Hedding Street, First Floor
San Jose, CA 95110

August 3, 2016

1:00 PM

**PLEASE NOTE
CHANGE IN
LOCATION**



CHAIRPERSON: Mike Wasserman • VICE-CHAIRPERSON: Tara Martin-Milius

COMMISSIONERS: Sequoia Hall, Ash Kalra, Linda J. LeZotte, Susan Vicklund Wilson, Ken Yeager

ALTERNATES: Cindy Chavez, Yoriko Kishimoto, Raul Peralez, Rob Rennie, Terry Trumbull

NOTICE TO THE PUBLIC

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

70 West Hedding Street • 8th Floor, East Wing • San Jose, CA 95110 • (408) 299-5127 • www.santaclaralafco.org

COMMISSIONERS: Sequoia Hall, Ash Kalra, Linda J. LeZotte, Tara Martin-Milius, Mike Wasserman, Susan Vicklund Wilson, Ken Yeager

ALTERNATE COMMISSIONERS: Cindy Chavez, Yoriko Kishimoto, Raul Peralez, Rob Rennie, Terry Trumbull

EXECUTIVE OFFICER: Neelima Palacherla

1. ROLL CALL

2. PUBLIC COMMENTS

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

3. APPROVE MINUTES OF APRIL 6, 2016 LAFCO MEETING

4. APPROVE MINUTES OF JUNE 1, 2016 LAFCO MEETING

CLOSED SESSION

The Commission will recess into Closed Session to discuss Item Nos. 5, 6, 7 and 8, and reconvene into Open Session to consider the remainder of the Agenda.

5. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Conference with Legal Counsel - Initiation of litigation pursuant to Government Code 54956.9(d)(4) (1 case)

6. CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Real Property: 675 North First Street, Suite 645, San Jose, CA 95112
Agency Negotiator: Neelima Palacherla
Negotiating Parties: Michael Joseph
Under Negotiation: Price and terms of payment

7. CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Real Property: 777 North First Street, Suite 400, 410, and 415, San Jose, CA 95112
Agency Negotiator: Neelima Palacherla
Negotiating Parties: Steve Botto
Under Negotiation: Price and terms of payment

8. PERFORMANCE EVALUATION

Public Employee Performance Evaluation (Government Code §54957)
Title: LAFCO Executive Officer

ITEMS FOR ACTION / INFORMATION

9. REPORT FROM THE CLOSED SESSION**10. LAFCO OFFICE SPACE: AUTHORIZATION TO LEASE PRIVATE OFFICE SPACE****Recommended Action**

- a. Authorize the Executive Officer to execute a lease agreement for office space (at either 675 North First Street or 777 North First Street) for a five year lease term not to exceed a total cost of \$213,000, after coordinating with the Ad Hoc Office Space Committee and subject to review and approval by LAFCO Counsel. The executed lease agreement will be placed on the next LAFCO agenda for information purposes.
- b. Authorize the expenditure of an amount not to exceed \$45,000, to fund moving costs; and the purchase of necessary furniture, and information technology / telephone services for the new office space.
- c. Authorize the use of reserves to fund all of the expenses described above in (a.) and (b.), associated with leasing and furnishing private space for the LAFCO office.

11. EXECUTIVE OFFICER'S REPORT**11.1 UPDATE ON THE SANTA CLARA VALLEY CLIMATE & AGRICULTURE PROTECTION PROGRAM (CAPP)**

For Information Only.

11.2 COMMENT LETTER ON FINAL ENVIRONMENTAL IMPACT REPORT FOR CITY OF MORGAN HILL'S GENERAL PLAN UPDATE (MORGAN HILL 2035)

For Information Only.

11.3 LAFCO ORIENTATION SESSION FOR ALTERNATE COMMISSIONER PERALEZ

For Information Only.

11.4 COMPLIANCE WITH ENTERPRISE SYSTEM CATALOG (SB 272)

For Information Only.

11.5 UPDATE ON REQUEST FOR SEWER SERVICE TO 3262 WEST VIEW DRIVE

For Information Only.

11.6 UPDATE ON REQUEST FOR SEWER SERVICE TO 23310 MORA GLEN DRIVE

For Information Only.

**11.7 UPDATE ON REQUEST TO ANNEX 3343 ALPINE ROAD TO WEST BAY
SANITARY DISTRICT**

For Information Only.

11.8 SANTA CLARA COUNTY SPECIAL DISTRICTS ASSOCIATION MEETING

For Information Only.

**11.9 SANTA CLARA COUNTY ASSOCIATION OF PLANNING OFFICIALS
(SCCAPO) MEETING**

For Information Only.

12. CALAFCO RELATED ACTIVITIES

12.1 NOMINATIONS TO THE 2016/2017 CALAFCO BOARD OF DIRECTORS

Recommended Action: Nominate interested commissioners and provide further direction to staff, as necessary.

12.2 DESIGNATE VOTING DELEGATE AND ALTERNATE

Recommended Action: Appoint voting delegate and alternate voting delegate.

13. PENDING APPLICATIONS / UPCOMING PROJECTS

- Monte Sereno Urban Service Area/Sphere of Influence Amendment 2016
- Amendment of LAFCO By-laws
- Annual Report for FY 2015-2016

14. COMMISSIONER REPORTS

15. NEWSPAPER ARTICLES / NEWSLETTERS

16. WRITTEN CORRESPONDENCE

17. ADJOURN

Adjourn to the regular LAFCO meeting on October 5, 2016 at 1:00 PM in the Board Meeting Chambers, 70 West Hedding Street, San Jose.

**LAFCO MEETING MINUTES
WEDNESDAY, APRIL 6, 2016**

CALL TO ORDER

The meeting was called to order at 1:03 p.m.

1. ROLL CALL

The following commissioners were present:

- **Chairperson Cat Tucker**
- **Vice Chairperson Mike Wasserman**
- **Commissioner Johnny Khamis** (left at 1:43 p.m.)
- **Commissioner Linda J. LeZotte**
- **Commissioner Susan Vicklund Wilson**
- **Commissioner Ken Yeager**
- **Alternate Commissioner Yoriko Kishimoto**, voting in place of Sequoia Hall
- **Alternate Commissioner Tara Martin-Milius**
- **Alternate Commissioner Terry Trumbull**

The following staff members were present:

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

2. PUBLIC COMMENTS

Carolyn Bostick, a resident of 23310 Mora Glen Drive in an unincorporated area outside the Town of Los Altos Hills, requested assistance in the annexation of her property to the Town and connection to its sewer system.

In response to an inquiry by **Commissioner Wasserman**, Ms. Palacherla informed that Steve Burch spoke at the February 2016 meeting about this request. She advised that since the property is within the Town's urban service area the Town can annex the property and provide sewer service. She reported that the Town has expressed interest in annexing the property. Ms. Palacherla informed that Mr. Burch reported that his septic system is failing but has not provided any documentation from the County Department of Environmental Health. She informed that Mr. Burch has applied for annexation with the Town and the County Surveyor has approved the annexation map. She explained that she worked with the County Surveyor's Office and the County Roads and Airports Department to address the Town's concerns regarding the length and condition of the road to be annexed. In response to an inquiry by **Commissioner Wasserman**, Ms. Palacherla informed that the annexation does not require LAFCO approval. **Commissioner Wasserman** questioned why LAFCO is being viewed as an

impediment to this request and reiterated that the annexation will be processed directly by the Town and that staff has done everything needed to facilitate it.

3. MINUTES OF FEBRUARY 3, 2016 LAFCO MEETING

The Commission approved the minutes of February 3, 2016 LAFCO meeting.

Motion: Wilson

Second: LeZotte

AYES: Khamis, Kishimoto, LeZotte, Tucker, Wasserman, Wilson, Yeager

NOES: None

ABSTAIN: None

ABSENT: None

MOTION PASSED

4. SETTLEMENT AGREEMENT AND RELEASE WITH THE CITY OF GILROY REGARDING LOCAL AGENCY FORMATION COMMISSION OF SANTA CLARA COUNTY v. CITY OF GILROY ET.AL.

Ms. Palacherla presented the staff report.

Doug Muirhead, a resident of Morgan Hill, expressed concern regarding the lack of transparency in the settlement agreement as there is no admission of wrongdoing.

The Commission authorized LAFCO Counsel to execute the Settlement Agreement.

Motion: Kishimoto

Second: Khamis

AYES: Khamis, Kishimoto, LeZotte, Tucker, Wasserman, Wilson, Yeager

NOES: None

ABSTAIN: None

ABSENT: None

MOTION PASSED

5. PROPOSED LAFCO BUDGET FOR FISCAL YEAR 2017

Ms. Palacherla presented the staff report.

Commissioner Wasserman recognized the large workload for staff and the need for more resources. He recommended a part-time position that can be made full-time, as needed. **Commissioner Wilson** acknowledged the long hours that staff puts in and noted the need to increase staff. **Commissioner LeZotte** recommended that the new position should be full-time in order to allow staff to pursue projects in the work plan, such as the communications strategy, and in anticipation of more complex applications. She observed that hiring a full-time position from the start would be more efficient since a part-time employee may not want a full-time job when the time comes to make the position full-time. She noted that staff has been doing incredible work, but that the workload continues to increase.

In response to an inquiry by **Alternate Commissioner Kishimoto**, Ms. Palacherla informed that the implementation of recommendations from the 2015 Cities Service Review related to storm drains is not part of the workplan, and that while LAFCO may facilitate the implementation of recommendations from the Cities Service Review, it cannot directly implement them. **Alternate Commissioner Kishimoto** expressed support for a part-time position which could be made into a full-time position, when necessary. **Commissioner Khamis** likewise expressed support for a part-time position.

Commissioner Yeager noted that there is not much difference in cost between the part-time and full-time positions and requested staff recommendation for the level of staffing. In response, Ms. Palacherla advised that a fulltime position would be ideal as the staff's workload has been building up over the years with new responsibilities and additional directives from the Commission, such as those relating to the oversight of local agencies, the work for public communications and outreach strategy, and the need to update policies, among others. In response to a follow-up inquiry by **Commissioner Yeager**, Ms. Palacherla advised that recruiting for a part-time position may be challenging. In response to another inquiry by **Commissioner Yeager**, Ms. Palacherla recommended that the allocation for consultant services be maintained regardless of adding a part-time or full-time positions because of the need for consultant expertise in certain areas.

Commissioner Wilson recalled that the Commission added specific items to the workload over the years. She agreed that the consultant services are needed even when there is additional staff. She informed that in view of these and the comments by the other members, she will support a full-time position. **Commissioner LeZotte** reiterated her support for a full-time position in view of the workload and the time it takes to train new staff. She informed that the part-time staff may need to work over time anyway. She noted that it would be inefficient to hire staff who can only work part-time, reevaluate after a year to find out that a full-time position is needed, and then train a new full-time employee.

Commissioner Wasserman directed attention to Attachment D of the staff report and expressed support for Option #2 which provides for an additional part-time position. He informed that the Commission, which represents the public agencies that fund LAFCO, must make responsible decisions about the LAFCO budget. He noted that Option #2 is still above the current budget and if all that is expended, more resources could be requested. **Commissioner Tucker** observed that the workplan does not justify the need for additional staffing as the actual workload is not accurately predicted; however, in recognition of the stated staffing needs, she expressed support for a part-time position.

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

The Commission selected LAFCO staffing/funding Option #2 for adding a half-time position and adopted the Proposed Budget for Fiscal Year 2016-2017.

Motion: Khamis

Second: Wasserman

AYES: Khamis, Kishimoto, Tucker, Wasserman

NOES: Wilson, Wilson, Yeager

ABSTAIN: None

ABSENT: None

MOTION PASSED

In response to an inquiry by **Commissioner LeZotte**, Ms. Palacherla advised that the 2016 year-end projection for legal counsel services as indicated on Attachment B of the staff report does not take into account the reimbursement of attorney fees from the settlement of the lawsuit with Gilroy.

The Commission found that the Proposed Budget for Fiscal Year 2017 is expected to be adequate to allow the Commission to fulfill its statutory responsibilities.

The Commission authorized staff to transmit the Proposed 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 2016 Final Budget to the cities, the special districts, the County, the Cities Association and the Special Districts Association.

Motion: Wasserman Second: Kishimoto

AYES: Khamis, Kishimoto, LeZotte, Tucker, Wasserman, Wilson, Yeager

NOES: None ABSTAIN: None ABSENT: None

MOTION PASSED

6. EXECUTIVE OFFICER'S REPORT

6.1 UPDATE ON MORGAN HILL URBAN SERVICE AREA AMENDMENT 2015

Ms. Palacherla reported that staff will provide the additional information in support of the invoice as requested by the city.

The Commission noted the report.

6.2 DISCUSSIONS WITH LOMA PRIETA RESOURCE CONSERVATION DISTRICT STAFF

The Commission noted the report.

6.3 SANTA CLARA COUNTY SPECIAL DISTRICTS ASSOCIATION MEETING

The Commission noted the report.

6.4 INTER-JURISDICTIONAL GIS WORKING GROUP MEETING

The Commission noted the report.

7. LEGISLATIVE REPORT

Ms. Palacherla presented the staff report.

Alternate Commissioner Kishimoto noted that there are many joint powers authorities that have no oversight, such as the CalTrain.

The Commission accepted the report, took support positions on AB 2910 (CALAFCO Omnibus Bill) and SB 1266 (Joint Powers Authority), and authorized staff to send letters of support.

Motion: Wilson Second: Wasserman

AYES: Hall, LeZotte, Tucker, Wasserman, Wilson, Yeager

NOES: None ABSTAIN: None ABSENT: Khamis

MOTION PASSED

10.2 INTER-JURISDICTIONAL GIS WORKING GROUP MEETING

The Commission noted the report.

8. PENDING APPLICATIONS / UPCOMING PROJECTS

There was none.

9. COMMISSIONER REPORTS

There was none.

10. NEWSPAPER ARTICLES / NEWSLETTERS

The Commission noted the CALAFCO Quarterly Report for February 2016.

11. WRITTEN CORRESPONDENCE

There was none.

12. ADJOURN

The Commission adjourned at 1:49 p.m., to a regular LAFCO meeting on Wednesday, June 1, 2016, at 1:00 PM in the Board Meeting Chambers, 70 West Hedding Street, San Jose.

Approved on _____.

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

By: _____
Emmanuel Abello, LAFCO Clerk

**LAFCO MEETING MINUTES
WEDNESDAY, JUNE 1, 2016**

CALL TO ORDER

The meeting was called to order at 1:03 p.m.

1. ROLL CALL

The following commissioners were present:

- **Vice Chairperson Mike Wasserman**
- **Commissioner Sequoia Hall**
- **Commissioner Ash Kalra**
- **Commissioner Linda J. LeZotte**
- **Commissioner Tara Martin-Milius**
- **Commissioner Susan Vicklund Wilson**
- **Commissioner Ken Yeager**
- **Alternate Commissioner Yoriko Kishimoto**
- **Alternate Commissioner Rob Rennie**
- **Alternate Commissioner Terry Trumbull**

The following staff members were present:

- **LAFCO Executive Officer Neelima Palacherla**
- **LAFCO Assistant Executive Officer Dunia Noel**
- **LAFCO Counsel Malathy Subramanian**
- **LAFCO Counsel Sarah Owsowitz**

2. WELCOME NEW LAFCO COMMISSIONERS

Vice Chairperson Wasserman welcomed new commissioners Ash Kalra and Tara Martin-Milius, and Alternate Commissioner Rob Rennie.

***4. TAKEN OUT OF ORDER: RESOLUTION OF COMMENDATION FOR FORMER COMMISSIONER JOHNNY KHAMIS**

The Commission adopted and presented the Resolution of Commendation to Commissioner Khamis.

3. APPOINTMENT OF NEW LAFCO CHAIRPERSON AND VICE-CHAIRPERSON FOR THE REMAINDER OF 2016

Commissioner Yeager moved to appoint Commissioner Wasserman as Chairperson and **Commissioner LeZotte** seconded. **Commissioner Wilson** offered to amend the motion to appoint Commissioner Milius as Vice Chairperson in order to allow the new members to become familiar with LAFCO before assuming the role of chair.

A brief discussion ensued relating to the deviation from the rotation schedule and fairness for all members, and it was decided that the Commission will consider these issues when it makes 2017 appointments at its December 2016 meeting.

The Commission appointed Commissioner Wasserman as Chairperson and Commissioner Milius as Vice-Chairperson for the remainder of 2016, and directed that the item be included on the agenda of the December meeting.

Motion: Yeager

Second: LeZotte

AYES: Hall, Kalra, LeZotte, Milius, Wasserman, Wilson, Yeager

NOES: None

ABSTAIN: None

ABSENT: None

MOTION PASSED

5. RESOLUTION OF COMMENDATION FOR FORMER COMMISSIONER CAT TUCKER

The Commission adopted the Resolution of Commendation for Commissioner Cat Tucker.

Motion: Kalra

Second: LeZotte

AYES: Hall, Kalra, LeZotte, Milius, Wasserman, Wilson, Yeager

NOES: None

ABSTAIN: None

ABSENT: None

MOTION PASSED

6. PUBLIC COMMENTS

Steve Burch, a resident of 23310 Mora Glen Drive in an unincorporated area outside of Los Altos Hills, expressed dissatisfaction over the time it has taken to connect his property to the Town's sewer line. He stated that he has done everything necessary and has paid the annexation fees to the Town but he is still waiting. He requested the Commission to address this problem.

Chairperson Wasserman indicated that the Executive Officer's Report (Item 11.1) addresses this topic. Upon the request of **Commissioner LeZotte**, the item was taken out-of-order.

***11.1 TAKEN OUT OF ORDER: UPDATE ON REQUEST FOR SEWER SERVICE TO 23310 MORA GLEN DRIVE**

Ms. Palacherla informed that the staff report includes detailed background and the current status of the request. She advised that the Town must include five other properties to establish contiguity for Mr. Burch's property. She indicated that the some owners have indicated that they may oppose the annexation eventhough they previously signed an agreement with the Town to waive their right to protest the annexation of their properties. She informed that the Town Council has continued the public hearing to June 16.

6. **CONTINUED: PUBLIC COMMENTS**

Chairperson Wasserman ordered the resumption of public comments.

Bruce Tichinin stated that he is representing Julie Driscoll who owns a five-acre parcel on the northwest corner of Hill Road and Tennant Avenue outside Morgan Hill. He directed attention to the packet he provided to the Commission and stated that the first page includes the proposed corrections to March 11th minutes to accurately reflect Ms. Dricoll's comments during the public hearing. He informed that the second page is a copy of his June 24, 2014 letter to the Morgan Hill Planning Commission requesting the inclusion of Ms. Driscoll's lands into the Southeast Quadrant project.

7. **APPROVE MINUTES OF MARCH 11, 2016 LAFCO MEETING**

The Commission approved the minutes of March 11, 2016 LAFCO meeting.

Motion: Wilson

Second: Hall

AYES: Hall, Kalra, LeZotte, Milius, Wasserman, Wilson, Yeager

NOES: None

ABSTAIN: None

ABSENT: None

MOTION PASSED

8. **REQUEST FOR RECONSIDERATION OF MARCH 11, 2016 LAFCO ACTION TO DENY CITY OF MORGAN HILL URBAN SERVICE AREA AMENDMENT 2015**

Ms. Palacherla presented the staff report.

Upon the request of the Chairperson, **Commissioner Milius** informed that she was present at the March 11th hearing, had met with the proponents, and read emails from various organizations and individuals. **Commissioner Kalra** informed that he has read the minutes, reviewed the agenda packets, discussed the reconsideration request with LAFCO staff and his policy aides, and has met with interested parties.

Chairperson Wasserman, there being no objection, allotted 15 minutes for the presentation by the applicant, two minutes for each member of the public, and another five minutes for the applicant's rebuttal.

Bart G. Hechtman stated that he is counsel for the the Catholic high school, the applicant. He directed attention to the State law and indicated that LAFCO must not impose a two-step process and informed that there are new and different facts.

Mr. Hechtman indicated that at the March meeting, staff misinformed the Commission by stating that the Commission could not make CEQA findings limited to the high school only alternative but that the Commission must make the findings on the entire EIR. He informed that the February 15th staff report does not include that statement. He indicated that State law directs LAFCO, as a responsible agency, to make findings for project alternatives particularly where such project alternative is environmentally better than the main project studied in the EIR. Mr. Hechtman indicated that the LAFCO Counsel has prepared a memo that LAFCO could not make CEQA findings for the high school only alternative because the EIR did not adequately analyze the 22-acre portion. He stated that the LAFCO Counsel's memo is factually wrong because the EIR has

considered the 22-acre portion in the high school only alternative and, having been unchallenged, the EIR is deemed adequate.

Grant Gruber stated that he is City of Morgan Hill's environmental consultant for the SEQ project and informed that the EIR includes a high school only alternative, and it indicates that the high school only alternative is 60 acres, comprised of 38 acres for the high school site and 22 acres that must be included to make the high school parcels contiguous to the city limits. He informed that when the draft EIR was circulated for public review, the comments provided by LAFCO were silent on the high school only alternative. He pointed out that LAFCO did not challenge the EIR and so it is presumed as adequate for the purposes of LAFCO.

Mr. Gruber further stated that contrary to staff's position that the EIR does not address the impact of the 22-acre portion, the EIR indicates that the high school only alternative is 60 acres. He informed that regardless of the EIR, the 22-acre portion is exempt from CEQA since the properties are currently zoned as agricultural and rural-residential and will be annexed as non-confirming land uses. He summarized his presentation by stating that the EIR's high school only alternative includes the 22-acres which is exempt from CEQA review.

Mr. Hechtman concluded that his letter and testimony set forth new and different facts that could not be raised before the close of the March 11th public hearing and noted that it is uncertain if the statute allows a two-step reconsideration process. He urged LAFCO to let the reconsideration go forward to ensure that there is due process.

Mr. Hechtman also requested LAFCO to waive the processing fees in excess of the \$2,619 deposit. He noted that the deposit has been paid and that they now withdraw their protest to pay it. He also noted that the processing fees are now at least \$5,000 in excess of the deposit and he requested that LAFCO waive the fees because (1) the reconsideration request is being made due to staff's misstatement, and (2) staff has not prepared a balanced report.

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

Angelo Grestoni stated that he owns lands contiguous to the proposed high school site which he will use to build a gymnasium to provide after-school activity for grades 5 to 12 kids. He noted that his land is too small to farm and is surrounded by urban development, and he requested that the Commission vote in favor of the project.

Scott Higgins expressed his support for the Catholic high school requested its approval, and stated that it is a gift for the children.

David Puliafico stated that his family owned lands adjacent to the expansion area and he expressed support for the high school as it will benefit the community. He indicated that the community would benefit more if the lands are used for the high school rather than for growing crops.

Chuck Berghoff indicated that he is the co-chair for fundraising for the Catholic high school and the services director of the Rotary Club. He thanked LAFCO members for meeting with him and he expressed understanding of LAFCO goals. He urged LAFCO to approve the USA expansion as its benefits outweigh the potential adverse

environmental impacts. He informed that the proposal would meet the needs of the community as thousands of students and their families travel long distances to attend Catholic schools. He asked LAFCO to recognize that the location being proposed is the best and only viable solution for the high school.

Julie Hutcheson, Committee for Green Foothills, reminded the Commission that it had carefully weighed and discussed this application at its March 11th hearing, and voted to deny it in its entirety or any portion of it. She stated that downsizing the application does not alter the fact that it is inconsistent with LAFCO policies. She directed attention to letters that the Commission received from the public detailing why the request should be denied. She urged LAFCO to deny this renewed attempt to annex SEQ lands.

Father Kim stated that he represents Bishop Patrick McGraw. He directed attention to Bishop McGraw's May 26th letter and offered to answer any questions. He informed that the only intention of the Diocese of San Jose was to build the high school for the benefit of the community. He urged the Commission to see the high school site as separate from the larger SEQ project and requested Commission's approval.

In response to the inquiry by **Chairperson Wasserman**, Mr. Hechtman stated he has no rebuttal to the public testimony.

Chairperson Wasserman noted that there are no more members of the public who would like to speak on the item and declared the public hearing closed.

Commissioner Yeager thanked the members of the public for their participation and noted that no one on LAFCO is against education or the high school but that is not the issue. He read excerpts from the minutes of March 11th meeting where staff described that the approval of the high school only option would require LAFCO to make findings on the entire SEQ EIR, and that all the reasons for denial of Area 1 also apply to the high school only option. He indicated that the EIR has not changed and there is no new information. He informed that while there may be different interpretations of the statutory provisions for the reconsideration process, LAFCO is allowing the applicant to present new evidence and is discussing it.

Commissioner Wilson expressed understanding of the community's need as her daughter commuted to San Jose to attend Presentation High School. She agreed with Commissioner Yeager on the issues about the EIR. She indicated that regardless of the EIR, LAFCO has its own policies that must be followed. She stated that staff has gone out of their way to release a fair report in a timely manner and that she agrees with Commissioner Yeager that there is no new or different information to reconsider.

Commissioner Hall expressed agreement with Commissioners Yeager and Wilson. He directed attention to a letter from the Morgan Hill Unified School District and noted that Morgan Hill should plan for schools within the city. He observed that when a school is built on the city's edge it will make farming go out of business and will induce growth. He stated that LAFCO's approval of the Catholic high school site years ago was based on the assertion that a school would be built there but using those lands to build homes is an example of Morgan Hill not following its own plans. He observed that the applicant has brought no new information to reconsider. He apologized for being unable to meet with any group or return phone calls as he had limited time prior to the meeting but he reported that he had read everything that was provided in writing.

Commissioner LeZotte thanked all those members of the public who addressed the Commission. She disclosed that she met with Andy Passby and Chuck Berghoff, and she reported that she had read all the documents and letters. She informed that she does not have anything to add to what was said at the March 11th meeting, and she expressed agreement that there is no new or different information. She indicated that she would be violating LAFCO policy if she voted in favor of the 60-acre annexation.

Commissioner Wasserman stated that he has a different perspective on the reconsideration request as he recalled that after the denial of the application, there was a discussion about the EIR for the high school only alternative and the attorneys had different opinions. He indicated that the issue at this time is whether the request for reconsideration should be granted in order to allow due process. He expressed his support for reconsideration.

In response to an inquiry by **Chairperson Wasserman**, Ms. Owsowitz indicated that the EIR has been unchallenged, was certified by the city and its analysis is now presumed adequate. She advised that if LAFCO approves the annexation of 60 acres, comprising of the high school site and its adjoining parcels, it would have to make findings pursuant to that EIR. She advised that the EIR has repeatedly analyzed the development impact of the 38-acre high school only alternative but it did not analyze the 22-acre parcels. She indicated that since the city has pre-zoned that portion to sports, leisure and recreational (SLR), that area would not remain agricultural. She informed that APN 817-13-008 has been proposed for a sports facility and has been analyzed as such in the EIR. She informed that since the EIR does not discuss the 22-acre portion in its high school only alternative, if LAFCO approves the 60 acres it would have to use Morgan Hill's programmatic findings.

Chairperson Wasserman requested staff to clarify the two-step reconsideration process. Ms. Subramanian informed that the CKH Act requires applicants to present new or different facts that could not have been previously presented. She informed that prior to 2000, anyone could request reconsideration without explanation but the Commission on Local Governance for the 21st Century recommended the requirement for new information in order to limit abuse and to permit LAFCO to evaluate whether or not a new hearing would be productive. She advised that the better interpretation of the law is a two-step process where LAFCO obtains the new information and determines if a new reconsideration hearing is warranted.

Commissioner Yeager moved to deny the request for reconsideration and **Commissioner Wilson** seconded.

Commissioner Milius informed that she listened to the deliberations and asked questions of staff and the proponents prior to the meeting, and she expressed support for the motion as the request does not meet the criteria for reconsideration and it is against LAFCO policies.

The Commission found that there were no new or different facts that could not have been presented previously that are claimed to warrant the reconsideration and denied the request for reconsideration.

Motion: Yeager

Second: Wilson

AYES: Hall, Kalra, LeZotte, Milius, Wilson, Yeager

NOES: Wasserman

ABSTAIN: None

ABSENT: None

MOTION PASSED

Commissioner Yeager recognized that there is a cost to processing this application. He noted that he would not like to encourage frivolous applications but given the good cause of the applicant, he moved to waive the fees in excess of the \$2,619 deposit.

Chairperson Wasserman seconded.

Commissioner Wilson expressed concern that the fee waiver sets a negative precedent since it would be unfair to the cities, the County and special districts to pay for it. She observed that the increase in cost was due to the fairly complex legal issues that had to be researched in response to the applicant. She noted that a waiver would set a precedent as applicants with similar criteria will refuse to pay for their applications. She expressed her opposition to the motion.

Commissioner Hall expressed support for the motion and noted that the best use for funds of the Catholic Diocese is for community service and in finding a suitable high school site in the South County. **Commissioner Kalra** expressed support for the motion as LAFCO has discretion to waive fees on a case-by-case basis although he agreed that a fee waiver could set a precedent.

Ms. Subramanian advised that if LAFCO goes forward with the motion, it would have to make a finding that the fee waiver would not be detrimental to public interest and advised that Commissioner Hall's comments may reflect the finding.

Commissioner Yeager clarified that his motion is for the waiver of fees in excess of the \$2,619 initial deposit.

LAFCO waived \$7,194.65 in LAFCO fees, in excess of the initial deposit amount of \$2,619, that were incurred by LAFCO in processing the request for reconsideration pursuant to Government Code Section 56383(d); and found that the full payment of LAFCO fees in this specific case would be detrimental to the public interest, in that the San Jose Diocese, the non-profit entity paying for the application, does serve a better community good; and that requiring the full payment of LAFCO fees would not promote the applicant finding a suitable school site in South County.

Motion: Yeager

Second: Wasserman

AYES: Hall, Kalra, LeZotte, Milius, Wasserman, Yeager

NOES: Wilson

ABSTAIN: None

ABSENT: None

MOTION PASSED

***10. TAKEN OUT-OF-ORDER: NOTICE FROM COUNTY TO RELOCATE LAFCO OFFICE TO CHARCOT ROAD**

Upon the request of **Commissioner Hall**, there being no objection, **Chairperson Wasserman** ordered that Item No. 10 be taken out of order.

Ms. Noel presented the staff report.

Commissioner Yeager informed that he and Chairperson Wasserman are aware of the County's recommendation to move the LAFCO office to Charcot Road, and informed that the County has purchased property across from the County Government Center but there is no guarantee that LAFCO could be relocated there. He expressed support for the creation of a space committee and indicated that the move to Charcot Road cannot be postponed. **Chairperson Wasserman** indicated that there may be no need for a space committee given the finality of the office relocation.

Commissioner Hall recommended to retain the LAFCO office close to the County Government Center due to regular contact with the Planning Office and other County agencies and also because the role LAFCO plays requires it to have a high-level presence. He encouraged the County delegates to locate LAFCO in close proximity to the Government Center. **Chairperson Wasserman** informed that the County has a chain-of-command and the decision for the relocation was made by the County Executive. He indicated that the cost for relocation would be paid for by the County.

Commissioner Wilson stated that LAFCO should be located in the Government Center and expressed concern that space in the newly acquired building is not guaranteed. She informed that many LAFCOs lease their own space but that LAFCO was provided little notice in this instance. She expressed support for the creation of the Space Committee to look at alternatives, including a lease agreement with the County or for lease in a private building. She also proposed that the County be requested to postpone the relocation while the Space Committee is working on the alternatives. She observed that LAFCOs have become more independent over the years and leasing its own office space will be the next step towards independence. She indicated that postponement of the move to Charcot Road would allow the LAFCO office to be moved only once.

Commissioner Milius expressed concern about moving the LAFCO twice as there has been an increase in LAFCO activities. She observed that it would be more challenging for staff to keep the same level of work standards while the office is relocated multiple times. She expressed hope that the County would defer the relocation until alternatives are found.

Commissioner LeZotte expressed agreement and requested the Chairperson send a letter asking the County to postpone the relocation for six months. She opined that the County delegates to LAFCO could influence the decision of the County Executive and suggested that they should settle this issue so staff is not distracted from their work by the double move. She also informed that while the relocation has no fiscal impact to LAFCO, it has costs to staff morale. She expressed support for the creation of the Space Committee to discuss various options, including lease of a private space.

Chairperson Wasserman indicated that while the County Board of Supervisors as a body can direct the County Executive, individual board members only make requests. He noted that the Commission could certainly choose to move the LAFCO office to a private building where it must pay rent and the associated costs. In response to an inquiry by **Chairperson Wasserman**, Ms. Palacherla proposed that if LAFCO is relocated to a County facility closer to the Government Center, there should be a lease agreement specific to the property. In response to a follow-up inquiry by **Chairperson**

Wasserman, Ms. Palacherla informed that staff has been notified that they may tour the Charcot Office in the first week of June.

Commissioner Yeager noted that a lease agreement for office space across the County Government Center may be possible and he expressed support for the creation of a Space Committee to determine LAFCO's space requirements.

Chairperson Wasserman nominated Commissioner Wilson to serve on the Committee. **Commissioner Wilson** expressed agreement and indicated that she will be available for Committee meetings after June 18th.

Commissioner Wilson moved to request the County delegates to continue their efforts for a leased space in the building across the Government Center, create the Space Committee to look at space alternatives, including a lease of a private office space, and to authorize the Chairperson to send a letter to the County requesting for a six-month postponement of the move to Charcot offices. She indicated that her preference is for LAFCO to stay in a County facility guaranteed by a lease. In response to an inquiry by **Chairperson Wasserman**, **Commissioners Hall** and **LeZotte** offered to serve on the Space Committee.

The Commission established the Ad-Hoc Space Committee composed of Commissioners Hall, LeZotte and Wilson, to review LAFCO's space requirements, explore alternatives which includes lease of a private space, and to report to the full Commission.

The Commission requested the County delegates to continue their efforts in exploring a leased space for LAFCO in the building across the County Government Center, and authorized the Chairperson to sign a letter to the County requesting a six-month postponement in the relocation of the LAFCO office to Charcot Road.

Motion: Wilson

Second: Yeager

AYES: Hall, Kalra, LeZotte, Milius, Wasserman, Wilson, Yeager

NOES: None

ABSTAIN: None

ABSENT: None

MOTION PASSED

9. **PROPOSED LAFCO BUDGET FOR FISCAL YEAR 2017**

Ms. Palacherla presented the staff report.

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

Chairperson Wasserman moved for the approval of Option #1 to keep the reserves at \$150,000 and reimburse the \$104,000 in unexpected revenues to the County, cities and special districts. There was no second.

In response to an inquiry by **Commissioner Yeager**, Ms. Palacherla informed that both options #1 and #2 include the half-time position and that a full-time position costs an additional \$80,000. **Commissioner Yeager** noted that since LAFCO deals with complicated issues, the additional position must be full-time to avoid staff turnover.

Commissioner Yeager moved for the approval of the budget, plus \$80,000 for a full-time position. **Commissioner Wilson** offered to amend the motion to state that the remaining \$24,000 be set aside to address the office space situation. **Commissioner Yeager** accepted the amendment and **Commissioner Wilson** seconded the motion.

Commissioner Milius agreed that no refunds should be made to member agencies until the office space issue is resolved. **Commissioner Wasserman** expressed his opposition to the motion. He recalled that at the last meeting, the Commission has approved the hiring of a half-time staff with \$150,000 in reserve, and he expressed concern that the cost of a full-time position in the subsequent years will come out from agency contributions. **Commissioner Hall** informed that he was not present to vote on staffing level at the last meeting and he expressed support for adequate staffing to deal with the workload. He recalled how staff spent long hours on a recent project without being paid for the overtime work and he stated that a successful agency should have enough staff to get its job done during normal business hours. **Commissioner Wasserman** recalled that at the last meeting, the consensus was to hire a half-time staff that could be made full-time when needed. He noted that the recent upsurge in LAFCO revenues is unusual and creating a full-time position will be a long-term commitment. He indicated that the County office space has no associated cost to LAFCO so there is no need to retain additional reserves. **Commissioner Milius** stated that she would not normally use the one-time revenue surge to fund recurrent costs but she noted that there is a need for additional staff. She stated that based on the analysis made for hiring a full-time versus part-time staff, she is in support of a full-time position. She also indicated her support for reimbursements to the agencies after LAFCO has addressed all of its responsibilities.

The Commission:

- a. Approved the Fiscal Year 2017 budget; authorized the allocation of \$80,000 for salaries and benefits to hire an additional 1.0 FTE position, instead of a 0.5 FTE position; and authorized the allocation of \$24,000 to reserves in order to address the LAFCO office space issue, bringing the total reserves to \$174,000.
- b. Found that the Final LAFCO Budget for Fiscal Year 2017 is expected to be adequate to allow the Commission to fulfill its statutory responsibilities.
- c. Authorized 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.
- d. Directed 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.

Motion: Yeager

Second: Wilson

AYES: Hall, Kalra, LeZotte, Milius, Wilson, Yeager

NOES: Wasserman

ABSTAIN: None

ABSENT: None

MOTION PASSED

11. EXECUTIVE OFFICER’S REPORT

11.2 UPDATE ON REQUEST TO ANNEX 3343 ALPINE ROAD TO WEST BAY SANITARY DISTRICT

The Commission noted the report.

11.3 LAFCO ORIENTATION SESSION FOR ALTERNATE COMMISSIONER RENNIE

The Commission noted the report.

11.4 SANTA CLARA COUNTY ASSOCIATION OF PLANNING OFFICIALS (SCCAPO) MEETING

The Commission noted the report.

11.5 INTER-JURISDICTIONAL GIS WORKING GROUP MEETING

The Commission noted the report.

12. CALAFCO RELATED ACTIVITIES

12.1 REPORT ON THE 2016 CALAFCO STAFF WORKSHOP (MARCH 30-APRIL 1)

The Commission noted the report.

12.2 2016 CALAFCO ANNUAL CONFERENCE ON OCTOBER 26-28

The Commission authorized commissioners and staff to attend the Annual Conference and directed that associated travel expenses be funded by the LAFCO Budget for Fiscal Year 2017.

Motion: Hall

Second: Wilson

AYES: Hall, Kalra, LeZotte, Milius, Wasserman, Wilson, Yeager

NOES: None

ABSTAIN: None

ABSENT: None

MOTION PASSED

12.3 REPORT ON THE CALAFCO LEGISLATIVE COMMITTEE MEETINGS

The Commission noted the report.

13. PENDING APPLICATIONS / UPCOMING PROJECTS

Ms. Palacherla announced the receipt of an application from Monte Sereno for the expansion of its Sphere of Influence and Urban Service Area boundaries. She reported that a similar application was denied by LAFCO in 2013. She reported that staff has had extensive conversations with the City and the property owner relating to LAFCO policies and the circumstances surrounding the application; however, the applicant has decided to go forward with the application.

14. COMMISSIONER REPORTS

Commissioner Hall proposed that the start time of LAFCO meetings be changed back to the 1:00 p.m., and he requested that this item be included in the agenda of the next meeting.

15. NEWSPAPER ARTICLES / NEWSLETTERS

The Commission noted the CALAFCO Quarterly Report.

16. WRITTEN CORRESPONDENCE

There was none.

**17. CLOSED SESSION
PUBLIC EMPLOYEE PERFORMANCE EVALUATION**

The Commission adjourned to Closed Session at 3:02 p.m., and reconvened to an open meeting at 3:34 p.m.

18. ADJOURN

The Commission adjourned at 3:35 p.m., to a regular LAFCO meeting on Wednesday, August 3, 2016, at 1:00 PM in the Board Meeting Chambers, 70 West Hedding Street, San Jose.

Approved on _____.

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

By: _____
Emmanuel Abello, LAFCO Clerk

LAFCO MEETING: June 1, 2016
TO: LAFCO
FROM: Neelima Palacherla, Executive Officer
Dunia Noel, Analyst
SUBJECT: LAFCO OFFICE SPACE: AUTHORIZATION TO LEASE PRIVATE OFFICE SPACE

STAFF RECOMMENDATION

- a. Authorize the Executive Officer to execute a lease agreement for office space (at either 675 North First Street or 777 North First Street) for a five year lease term not to exceed a total cost of \$213,000, after coordinating with the Ad Hoc Office Space Committee and subject to review and approval by LAFCO Counsel. The executed lease agreement will be placed on the next LAFCO agenda for information purposes.
- b. Authorize the expenditure of an amount not to exceed \$45,000, to fund moving costs; and the purchase of necessary furniture, and information technology / telephone services for the new office space.
- c. Authorize the use of reserves to fund all of the expenses described above in (a.) and (b.), associated with leasing and furnishing private space for the LAFCO office.

BACKGROUND

Move to Charcot Road

The County was unable to accommodate LAFCO's request for a postponement of the LAFCO Office move from the 8th Floor of the County Government Center to Charcot Road.

On June 20th, the LAFCO Office was relocated to Charcot Road. Prior to and following the date of the move, the LAFCO Office was temporarily closed for a couple of days in order to prepare for the move and to facilitate a smooth transition to the new location. In addition to the distance from the County Government Center, there are several facilities related issues at the Charcot Road offices that are yet to be resolved including a lack of

ability to directly receive mail from the U.S. Postal Service, extremely limited cellphone service resulting in no signal or dropped calls, no space to meet with the public on a drop-in basis, poor air circulation, and inadequate storage/shelving in some offices. For the time being, LAFCO's mailing address will remain at the County Government Center and staff is making mail runs to retrieve mail, as necessary. For efficiency purposes, staff has tried to coordinate these mail runs with meetings or other required activities at the Government Center.

Possibility of Locating the LAFCO Office in the Credit Union Building Purchased by the County

The County recently purchased the Federal Credit Union building located at 852 N. First Street with the intent of renovating the property and consolidating /relocating the County's Department of Revenue, consisting of 100+ employees to the building. Given the close proximity of the property to the County Government Center, it was suggested that the County might be able to accommodate the LAFCO Office at this location in the future. EO Palacherla discussed this option with County staff, who indicated that such a possibility may exist, but cannot be guaranteed at this time and noted that the earliest estimated date of building occupancy is expected to be no sooner than late summer 2018.

EO Palacherla was invited to participate in the County's multi-year planning process for the renovation of the Credit Union building in hopes of potentially securing space there for the LAFCO Office. While staff appreciates the County's efforts to find space for the LAFCO office in the building, given the projected occupancy date for the building, and the uncertain outcome for LAFCO, staff does not recommend pursuing this option.

Space Needs Assessment for an Independent LAFCO Office

Staff estimates LAFCO's office space needs to be approximately 1,500 square feet total, which includes offices for four employees, small reception area, work/break/file storage area, and a conference room to accommodate a minimum of eight people. A slightly smaller space may also be feasible if the space is efficiently planned.

Efforts to Lease Private Commercial Space

In early June, staff contacted and began working with Clark Steele, Research Director for Newmark Cornish & Carey to identify available private office space that meet LAFCO's preferred size and locational needs. Mr. Steele identified for staff's consideration, space for lease in fourteen buildings, which were located in relatively close proximity to the County Government Center. Upon staff's review of these options, four properties were removed from the list due to their high costs and/or undesirable location.

Staff and Mr. Steele then toured the remaining ten properties, making note of the projected total lease cost, location in proximity to the County Government Center or other public facilities, observed condition and maintenance of the general building and specific available suite(s), ADA accessibility, availability of employee and public parking, proximity to public transportation, presence of a security or attendant onsite, and general amenities.

Letter of Intent for Two Properties

On June 30, 2016, EO Palacherla authorized Mr. Steele to submit, on LAFCO's behalf, Letters of Intent (LOI) to lease office space at two properties (777 N. First Street and 675 N. First Street) under different ownership. A LOI is the customary way of indicating serious interest in a specific property to the owner and is not legally binding but allows for more formal discussions and negotiations to begin between the property owner and the potential lessee concerning a lease agreement, including terms and conditions and improvements.

Both the properties are in close proximity to the County Government Center and have the potential to meet LAFCO's space needs provided some reconfigurations / improvements are made. Both of the properties are comparable in price.

Ad Hoc Office Space Committee Recommendation

The Ad-Hoc Office Space Committee composed of Commissioners Hall, LeZotte, and Vicklund Wilson, met on July 6th and considered staff's reports on the move to Charcot Road, the opportunity for locating the LAFCO office at the Credit Union Building, the space needs assessment for an independent LAFCO office, and efforts to identify available / suitable private office space for lease. The Committee was appointed by the Commission at its June 1, 2016 meeting to review LAFCO's office space needs, identify feasible office space options, and provide a recommendation to the full Commission for its consideration.

The Committee recommended that staff continue to pursue its efforts to lease private space and concurred with staff that the two properties for which Letters of Intent were submitted were LAFCO's best options because of their proximity to the Government Center and their costs. As you know, relocating to a space near the Government Center is very important given LAFCO's business requirements. The Committee provided general guidance on terms for further negotiations and directed that staff prioritize the completion of any additional research and tasks necessary to provide a recommendation at the August 3rd LAFCO meeting.

Staff has since received favorable responses from the owners of the two properties and is continuing negotiations with both properties to address issues and determine final terms of a potential lease which will allow for a final selection between the two properties. We believe that one of the two properties will meet LAFCO's office needs.

Other Costs that LAFCO will Incur

In addition to the monthly rent, the following is an estimate of the one-time costs associated with relocating the LAFCO office to a private space.

Office Furniture: \$22,000 to \$36,000

Moving costs: \$2,000 approx.

Costs related to connecting phones and connecting computers / printer to the County's server: \$7,000 approx.

Total estimated costs: \$31,000 to \$45,000

Please note that this is an estimated cost based on preliminary information; and gathered from various County departments and vendor contacts; and is subject to change based on the property leased and other specifications. All efforts will be made to keep these costs low.

LAFCO Budget

In adopting the budget for FY 2017, LAFCO added an additional \$24,000 to its reserve of \$150,000 to address the LAFCO office space issue. LAFCO therefore has a total of \$174,000 in its reserve that may be used for contingencies and potential litigation. The FY 2017 costs associated with the LAFCO Office relocation that must be funded using LAFCO reserves will include the first year rent of approximately \$40,000; and one-time furnishing/information technology service costs of approximately \$45,000, for a total of \$84,000.

NEXT STEPS

Upon executing a lease with one of the two selected properties, staff will ensure tenant improvements are completed and will finalize the space plan for the office and will work with the County and its vendors to order appropriate furniture and to prepare the space for network connections for the office computers and printer. The expected occupancy date is in September / October 2016.

LAFCO MEETING: August 3, 2016
TO: LAFCO
FROM: Neelima Palacherla, Executive Officer
Dunia Noel, Analyst
SUBJECT: EXECUTIVE OFFICER'S REPORT

11.1 UPDATE ON THE SANTA CLARA VALLEY CLIMATE & AGRICULTURE PROTECTION PROGRAM (CAPP)

For Information Only.

The “Santa Clara Valley Climate & Agriculture Protection Program (CAPP),” formerly known as the “Sustainable Agricultural Lands Policy Framework for Southern Santa Clara County,” is a joint project of the County of Santa Clara and the Santa Clara Valley Open Space Authority (OSA). The CAPP is intended to create a new regional approach for preserving agricultural lands and sustaining a strong farming industry in southern Santa Clara County.

County Seeks and Receives State Grant to Prepare Framework

In March 2015, the County, with the assistance of the Santa Clara Valley Open Space Authority, applied for a Sustainable Agricultural Lands Strategy Grant from the State Department of Conservation to prepare the Framework. LAFCO provided a letter to the State in support of the County’s grant proposal. In July 2015, the County was notified that it was awarded a grant in the amount of \$100,000. In December 2015, the County Board of Supervisors approved the Grant Agreement with the State.

County Begins Initial Outreach with Affected Cities and Farm Bureau

The County has indicated that it has conducted initial outreach on the proposed Framework with Santa Clara County Farm Bureau members and the cities of Gilroy, Morgan Hill, and San Jose. In January 2016, the County released a Request for Proposals in order to solicit potential consulting firms to conduct the project. In the spring of 2016, the County executed contracts with their selected consultants and began working on the project. In response to staff’s request, the County made a presentation to LAFCO at its February 2016 meeting on the project and has offered to continue to provide presentations to LAFCO as the project progresses.

Mapping and Prioritizing of Agricultural Lands for Conservation is Underway

The OSA and the County are currently in the process of mapping and prioritizing agricultural lands for conservation, as one of the identified first tasks of the project. We hope that the affected stakeholders will have an opportunity to review and provide timely feedback on the maps. It is unclear what process or criteria is being used to map these lands and what role the maps will play in the development of the Framework.

Establishment of Working Groups and Advisory Groups

The County has formed two working groups for CAPP. An Agricultural Sector Working Group has been formed consisting of the Santa Clara County Farm Bureau, local farmers and property owners. A second, Municipal Sector Working Group has been formed consisting of staff from the Santa Clara Valley Water District and the cities of Gilroy, Morgan Hill, and San Jose.

Additionally, the County has formed the following three advisory groups for the project:

- Agricultural Easement Implementation Advisory Group
- Farming Economic and Vitality Advisory Group
- Land Use Planning and Policy Advisory Group

Please see **Attachment A** for a roster listing the members of the advisory groups. We expect that further information will soon be provided on the anticipated roles and responsibilities of these three Advisory Groups, as well as, of the two Working Groups; and how they fit into the crafting of the CAPP and its approval process.

The advisory group members have been invited to participate in a 1-hour webinar on August 19th where the project will be introduced; and to a social gathering and workshop that will be held in Morgan Hill on August 30th.

LAFCO Participation in Project

The County has invited EO Palacherla to participate on the Land Use Planning and Policy Advisory Group. In addition, the County has proposed that EO Palacherla attend the County's meetings with OSA staff in order to keep abreast of the project. A schedule for these meetings has not been provided yet.

Based on discussions with County staff, it is our understanding that the CAPP is intended to augment the existing County General Plan and LAFCO policies to promote orderly growth and development, prevent urban sprawl, and preserve agricultural lands and it is not intended to supersede or undermine LAFCO's legislative authority to review and determine jurisdictional boundaries.

LAFCO staff remains cautiously optimistic that CAPP will eventually provide an opportunity for all of the affected local agencies to jointly collaborate on the issue of agricultural preservation in southern Santa Clara County.

When the CAPP leads to the development of specific work products in support of a proposed regional program, it is anticipated that LAFCO would carefully review and provide comments on these work products, as necessary. Staff will provide further updates to the Commission as this project proceeds.

11.2 COMMENT LETTER ON FINAL ENVIRONMENTAL IMPACT REPORT FOR CITY OF MORGAN HILL'S GENERAL PLAN UPDATE (MORGAN HILL 2035)

For Information Only.

On July 19, 2016, staff provided a comment letter (Attachment B) to the City of Morgan Hill on its Final Environmental Impact Report (FEIR) for the City's General Plan Update (Morgan Hill 2035). The City's FEIR clarifies that LAFCO is a Responsible Agency, under CEQA. The City has indicated that it may choose to utilize this EIR in the future to seek approval for eventual annexations that would be consistent with the proposed General Plan. As a Responsible Agency, LAFCO would then be required to rely on the City's EIR when considering such applications from the City. Therefore, it is LAFCO's duty to provide the City with comments on the adequacy of the EIR, including any deficiencies in the document.

Staff has reviewed the City's response to LAFCO's March 14, 2016 comment letter on the Draft EIR and has found that many of LAFCO's concerns about the legal adequacy of the EIR remain, including concerns about the availability of adequate water supply and infrastructure to support the City's proposed General Plan Update. The Santa Clara Valley Water District (SCVWD) also submitted a comment letter (Attachment C) to the City on the FEIR raising significant concerns about adequacy of the water supply reliability analysis included in the City's FEIR. LAFCO shares these same concerns as it is required to consider the availability of adequate water supply when reviewing a boundary change proposal.

The Morgan Hill City Council, at its July 27, 2016 public hearing, considered the comment letters submitted by LAFCO and the SCVWD, as well as additional public comments and testimony, and certified the EIR for the Morgan Hill 2035 and adopted the City's General Plan.

11.3 LAFCO ORIENTATION SESSION FOR ALTERNATE COMMISSIONER PERALEZ

For Information Only.

On June 10th, LAFCO staff conducted an orientation session for Raul Peralez, who was recently appointed to LAFCO by the City of San Jose as an Alternate Commissioner.

11.4 COMPLIANCE WITH ENTERPRISE SYSTEM CATALOG (SB 272)

For Information Only.

In compliance with SB 272, which expanded the Public Records Act to require all local government agencies to publish a catalog of their "enterprise systems," a catalog of

LAFCO's enterprise systems is now available on the LAFCO website at <https://scclafco.systemcatalog.net/>.

11.5 UPDATE ON REQUEST FOR SEWER SERVICE TO 3262 WEST VIEW DRIVE

For Information Only.

In June 2016, staff received a follow-up inquiry from Mohsan Karimi, the owner of a property located at 3262 West View Drive (APN: 654-19-006) in the unincorporated area outside of the City of San Jose's urban service area boundary, concerning his continued efforts to receive a sewer connection from the City of San Jose in order address his failing septic system. The property owner's situation is very complex involving County land development and code enforcements issues, as well.

The property owner first contacted staff in the spring of 2015 concerning his situation and staff provided information to him, the County, and the City of San Jose concerning available options and required processes. At that time, LAFCO staff informed the property owner that he will either need to work with the County on a localized wastewater management system solution or seek and receive sewer service from the City of San Jose, either through annexation to the City or through City service extension. The latter option requires the City to take the first action and then apply to LAFCO for an approval. As you know, LAFCO does not have the power to initiate or authorize a boundary change or service extension without first receiving a request from the City.

Staff, in response to the property owner's most recent inquiry, re-confirmed that his property is located outside of the City of San Jose's urban service area, noted that no new options to resolve his issue have been identified to date, that staff is happy to address any questions that he may have about LAFCO policies, and informed him that we remain in a holding pattern until such time that we have an application from the City of San Jose.

11.6 UPDATE ON REQUEST FOR SEWER SERVICE TO 23310 MORA GLEN DRIVE

For Information Only.

As staff indicated in June, the Town of Los Altos Hills is working with the owners (Mr. Burch and Mrs. Bostick) of a single-family residence located at 23310 Mora Glen Drive (APN: 331-14-07) in the unincorporated area, in order to annex and subsequently provide sewer service to the property. In order to create contiguity with the Town's existing boundary, additional intervening properties are also included in the Town's annexation effort. In 2001, as part of a larger application, LAFCO approved sewer service extension to several of these intervening properties based on assurances that the Town will eventually annex these properties and the property owners will not object to annexation when it is proposed.

On June 16, 2016, the Los Altos Hills Town Council adopted a resolution introducing the proposed annexation. On July 21, 2016, the Town Council held a public hearing to approve the proposed annexation, but received written opposition from one landowner

within the affected territory. Therefore, the Town Council approved the annexation and set August 18, 2016 as the date of the protest proceedings. Depending on the level of protest the Town receives from landowners and registered voters in the annexation territory by the close of the protest proceedings, the proposed annexation will either be terminated or ordered without election or ordered subject to election.

Prior to and/or following the Town's July 21st public hearing, staff received various enquiries from Mrs. Bostick, Town staff, and neighboring property owners concerning process requirements and what other options (i.e. out of agency service agreement) might exist to address the property owner's request, should the protest proceedings result in an unfavorable outcome. Staff will continue to provide assistance, as needed.

11.7 UPDATE ON REQUEST TO ANNEX 3343 ALPINE ROAD TO WEST BAY SANITARY DISTRICT

For Information Only.

In June, staff reported that it had received notification from San Mateo LAFCO staff about a formal inquiry/request from the owner of an undeveloped property located at 3343 Alpine Road (APN: 654-19-006) in unincorporated Santa Clara County to annex to the West Bay Sanitary District (WBSD) in order to eventually receive sewer service from the District. Such multi-county boundary change requests/inquiries are unusual and require a significant amount of joint discussion and coordination amongst the various affected agencies (e.g. LAFCOs, counties, special districts, and cities) on applicable policies and processes, in order to properly advise the property owner. On June 13th, Executive Officer Palacherla participated in a joint meeting with the property owner and staff from all of the various affected agencies to discuss their request. The property owner was advised to seek building site approval from the County of Santa Clara and as part of that process County DEH will evaluate the suitability and parameters for installing an onsite wastewater treatment system.

11.8 SANTA CLARA COUNTY SPECIAL DISTRICTS ASSOCIATION MEETING

For Information Only.

On June 6, 2016, Executive Officer Palacherla attended the quarterly meeting of the Santa Clara County Special Districts Association (SDA) and provided an update on various LAFCO activities, including informing the Association that LAFCO had recently adopted its Fiscal Year 2016-2017 Budget.

11.9 SANTA CLARA COUNTY ASSOCIATION OF PLANNING OFFICIALS (SCCAPO) MEETING

For Information Only.

Executive Officer Palacherla attended the July 13th meeting of the SCCAPO that was hosted by the City of Campbell. The meeting included a presentation by Mark Shorett, ABAG Senior Regional Planner, on MTC/ABAG's Plan Bay Area 2040, which is a strategic update of Plan Bay Area 2013 that is anticipated to be completed sometime in

2017. Campbell Planning staff also made a presentation on the City's use of the Pruneyard Master Use Permit as a planning tool. Staff from the various other cities provided updates on current and anticipated priority planning and development projects in their jurisdiction.

ATTACHMENTS

Attachment A: Roster, Timeline, Flyer for County CAPP

Attachment B: July 19, 2016 Letter to the City of Morgan Hill on FEIR for the City's General Plan Update (Morgan Hill 2035)

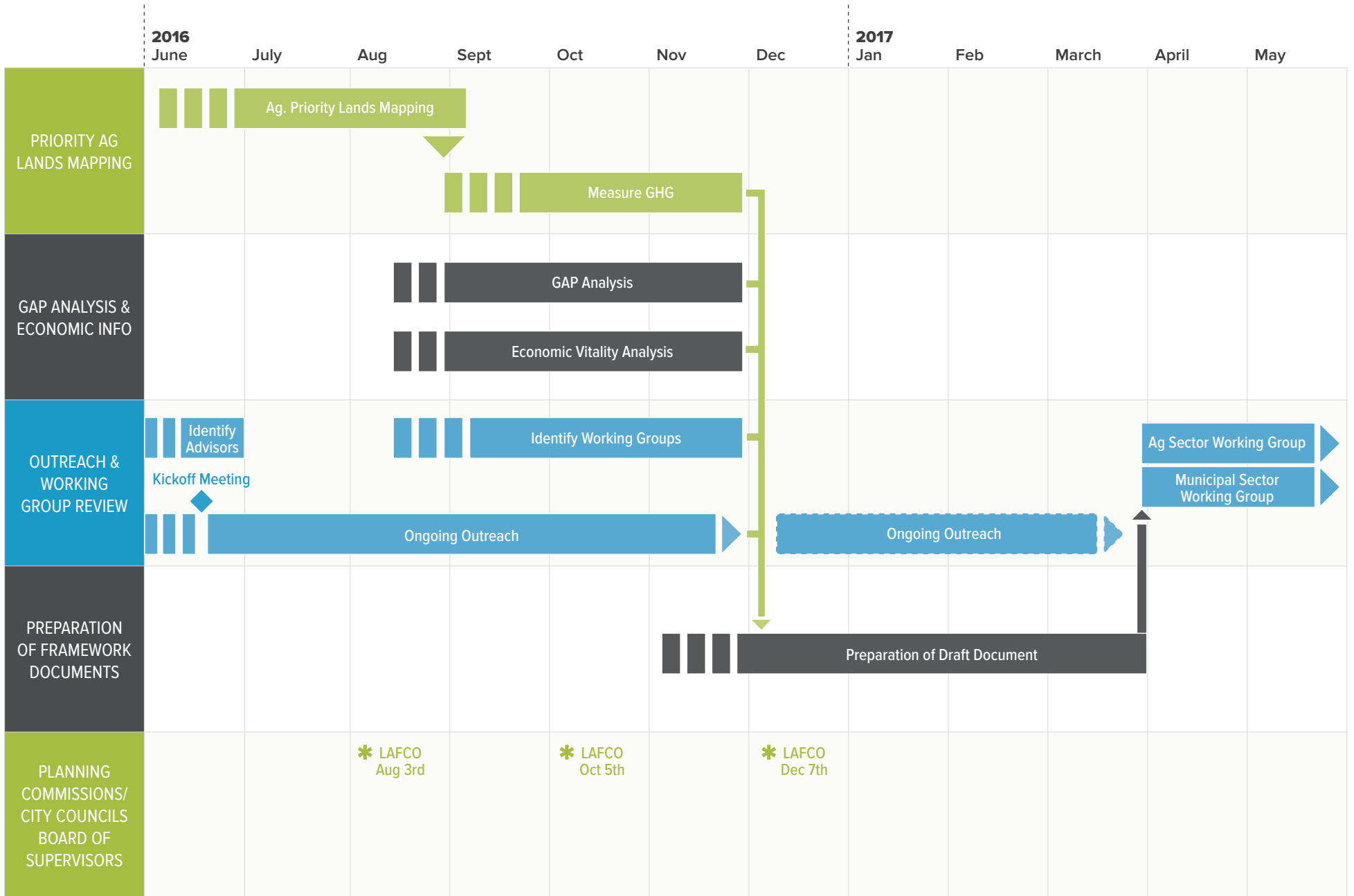
Attachment C: July 26, 2016 Letter from the SCVWD on the FEIR for the City's General Plan Update (Morgan Hill 2035)

AGENDA ITEM #11.1
Attachment A

<u>Advisors' Groups</u>	
<u>Agricultural Easement Implementation; Moderator: Andrea Mackenzie</u>	
Name	Title and Agency
Chris Kelly	CA Director, The Conservation Fund
Darla Guenzler	Executive Director, CA Council of Land Trust (CCLT)
Jeff Stump	Conservation Director, Marin Agricultural Land Trust (MALT)
John Lowrie	Asst. Director, Department of Conservation's Division of Land Resource Protection
Nancy Schaeffer	Bay Area Program Director, California Rangeland Trust
Tom Scharfenberger	Private Consultant
Kathryn Lyddan	Executive Director, Brentwood Agricultural Land Trust
<u>Farming Economics and Vitality; Moderator: Joe Deviney</u>	
Name	Title and Agency
Dave Runsten	Policy Director, Community Alliance with Family Farmers (CAFF)
Ed Thompson	Executive Director, American Farmland Trust (AFT)
Serena Unger	Policy Associate, American Farmland Trust (AFT)
Jim Leap	Farmer / Innovator (Santa Cruz County)
Reggie Knox	Executive Director, FarmLink
Justin Fields	Cattle Rancher, President, Cattlemen's Association
Sibella Kraus	President, Sustainable Agriculture Education (SAGE)
Stephen Hohenrieder	Entrepreneurial Investor, Food System 6
<u>Land Use Planning and Policy; Moderator: Rob Eastwood</u>	
Name	Title and Agency
Bill Keene	General Manager, Sonoma County Agricultural Preservation and Open Space District
David Shabazian	<i>Rural-Urban Connections Strategy Manager, Sacramento Council of Governments.</i>
Don Weden	former Santa Clara County Planning Principal Planner
Eli Zigas	SPUR Food and Agriculture Policy Director
Brian Schmidt	Program Manager, Greenbelt Alliance
Marianna Leuschel	Founder, L Studio
Pete Parkinson	Former Planning Director, Sonoma County
Jeanne Merrill	Policy Director, CA Climate and Agriculture Network (CalCAN)
Neelima Palacherla	Executive Officer, Local Agency Formation Commission (LAFCO) Santa Clara County

DRAFT ROADMAP - SANTA CLARA CLIMATE & AGRICULTURE PROTECTION PROGRAM (CAPP)

Approximate Timeline as of June 15, 2016



Note: Dates and durations are approximate and may be changed due to public and agency input



THE SANTA CLARA VALLEY CLIMATE & AGRICULTURE PROTECTION PROGRAM (CAPP)

THE SANTA CLARA VALLEY CLIMATE AND AGRICULTURAL PROTECTION PROGRAM

is a regional effort led by Santa Clara County and the Santa Clara Valley Open Space Authority to protect Southern Santa Clara County's important farmland and reduce future effects of climate change. This 18-month effort will culminate in the implementation of a targeted program to sustain agricultural lands and the County's farming industry. The CAPP is funded in part by a statewide program called the Sustainable Agricultural Lands Conservation Program (SALCP) which provides cap and trade funding to protect agricultural lands in order to reduce greenhouse gas emissions to meet California's climate change goals.

BACKGROUND

Santa Clara County has a rich agricultural history and was once recognized as the "Valley of Heart's Delight" famous for its orchards and canneries. Today it is better recognized as Silicon Valley and is the fastest growing County in California and the most populous in the Bay Area. In the past 20 years alone, Santa Clara County has lost 45% of its farmland, and much of the 27,000 acres remaining are at continued risk of conversion as a result of intense land development pressure. Despite this, Southern Santa Clara County retains valuable agricultural lands and an important farming industry, with over 1,000 farms and total economic production value of \$1.6 billion dollars.

OUR MISSION

The time is now to create a regional program and action plan for preserving Santa Clara County's remaining agricultural land. By linking the state funding with regional efforts by the County, cities, special districts, community organizations, the agricultural community, and those concerned about agricultural preservation, we can ensure a more sustainable future for Santa Clara County by reducing greenhouse gas emissions and increasing climate adaptation by maintaining our agricultural lands and farming economy.

CAPP will build upon the studies, plans and policies that have been produced by the County, cities and private organizations to date to address the future of agriculture and farmland preservation in the County.

CAPP

WHAT THE SANTA CLARA VALLEY CLIMATE & AGRICULTURE PROTECTION PROGRAM WILL DO:

Map and prioritize agricultural lands for conservation

Identify the regional greenhouse gas reduction potential of agricultural protection

Bring the County, municipalities and the agricultural sector together to work in concert for agricultural preservation

Blueprint a Regional Agricultural Conservation Easement Program

- Tools and incentives (Land purchase, conservation easements, transfer of development rights, etc.)
- Land preservation funding sources from public agencies and private sector (Government funds, grants, development impact fees, etc.)

Revise the County Zoning Ordinance for additional agricultural preservation

JOIN US

To learn more and/or participate in this innovative regional effort to protect Santa Clara County's irreplaceable agricultural lands please visit our website at www.sccgov.org/sites/dpd/PlansOrdinances/Studies/Pages/SustainableAgLands.aspx or contact Rob Eastwood, Santa Clara County Planning Manager at Rob.Eastwood@PLN.SCCGOV.ORG or call (408)299-5792.



AGENDA ITEM # 11.2
Attachment B

VIA EMAIL

July 19, 2016

Mayor and Councilmembers
City of Morgan Hill
17575 Peak Avenue
Morgan Hill, CA 95037

**RE: FINAL ENVIRONMENTAL IMPACT REPORT FOR MORGAN HILL
GENERAL PLAN 2035**

Dear Mayor and Councilmembers,

The Local Agency Formation Commission of Santa Clara County (“LAFCO”) appreciates the City’s written responses to our March 14, 2016 comment letter submitted on the Draft Environmental Impact Report (“EIR”) prepared for the Morgan Hill General Plan 2035 (“General Plan”).

In response to LAFCO’s request for clarification, the City’s Final EIR, dated May 31, 2016, identified LAFCO as a responsible agency for the General Plan. The City has indicated that it may choose to utilize this EIR in the future to seek approval for eventual annexations that would be consistent with the proposed General Plan. As a responsible agency, LAFCO will then be required to rely on this EIR when considering such applications from the City. To that end, it is our duty to provide the City with comments on the adequacy of the EIR, including any deficiencies in the document. We are, therefore, greatly concerned by the fact that, after reviewing the City’s responses included within the Final EIR, many of LAFCO’s concerns about the legal adequacy of the EIR remain.

As detailed further in this letter, the EIR contains insufficient information and analysis to support the City’s proposed General Plan:

- The EIR fails to provide an analysis of environmental impacts of the General Plan as it does not consider all development allowed under the General Plan.

70 West Hedding Street ▪ 8th Floor, East Wing ▪ San Jose, CA 95110 ▪ (408) 299-5127 ▪ www.santaclaralafco.org

COMMISSIONERS: Sequoia Hall, Ash Kalra, Linda J. LeZotte, Tara Martin-Milius, Mike Wasserman, Susan Vicklund Wilson, Ken Yeager

ALTERNATE COMMISSIONERS: Cindy Chavez, Yoriko Kishimoto, Raul Peralez, Rob Rennie, Terry Trumbull

EXECUTIVE OFFICER: Neelima Palacherla

- The City’s rationale for failing to provide such analysis is based on unpublished case law that does not, in fact, support the City’s decision to analyze only the impacts of “expected,” rather than “allowed,” development under the General Plan.
- The City impermissibly proposes to segment environmental review of development under the General Plan by deferring review of some of the growth allowed under the General Plan until a future unspecified date, as a result of which a comprehensive assessment of the impacts of growth under the General Plan is not presently available.
- The EIR’s analysis is based on an unstable project description as it variously and selectively uses three different project descriptions for its population projections.
- The City appears to consider the General Plan EIR as encompassing environmental review of the Citywide Agricultural Preservation Program and Southeast Quadrant Land Use Plan project, even though that project is not analyzed in the EIR.
- The EIR fails to include an analysis of the impacts of the City’s Water Infrastructure Master Plan and Wastewater Infrastructure Plan, even though it concedes that the improvements in these Plans will be necessary to serve the future demands generated by the General Plan.
- The EIR fails to include a Water Supply Assessment evaluating the adequacy of water supplies for the project as required by CEQA and the Water Code for all projects that will result in the level of the development that is expressly allowed by the General Plan.

I. PROJECT DESCRIPTION / DEVELOPMENT PROJECTIONS

A. MASTER RESPONSE: DEVELOPMENT PROJECTIONS

There are inconsistencies in the “Master Response: Development Projections” on pages 5-1 and 5-2 of the Final EIR. First, the text on page 5-1 of the Final EIR reads, “As described on page 3-22 and 3-23 of the Draft EIR, development projects were prepared for a ‘full buildout’ scenario, in which every parcel within the EIR Study Area would be developed with [sic] as allowed under the General Plan...” (Emphasis added.) However, this is not correct. The “full buildout” scenario does not project all development allowed under the General Plan. Page 3-20 of the Draft EIR reads, “The ‘full buildout’ of the proposed General Plan... would be the development of underutilized and vacant parcels at the mid-point of the maximum allowed density under the General Plan, based on the past and projected development patterns in Morgan Hill.” As iterated in LAFCO’s comment letter dated March 14, 2016, and as described in more detail below, LAFCO believes that quantitative analyses of traffic, air

quality, greenhouse gas emissions, noise, population growth, and public services and utilities must be based upon a full projection of all development allowed under the General Plan.

Second, the numbers provided on page 5-2 of the Final EIR as representing the “full buildout scenario” are inconsistent with the numbers provided in the revised Table 3-3 (see redlined Table 3-3 on page 3-2 of the Final EIR). The text on page 5-2 identifies a total of 2,360 new single family units, calculated by adding the “Net Growth” (1,855) and the “Pipeline Projects” (505) columns on Table 3-3. The same is true for multi-family units. The text on page 5-2 identifies a total of 5,071 new multi-family units, calculated by adding the “Net Growth” (5,006) and “Pipeline Projects” (65) columns on Table 3-3. However, the text on page 5-2 does not use the same methodology to calculate new industrial space and new service space. Those numbers (6.1 million square feet of new industrial and 475,000 of new service) do not include pipeline projects’ square footage. Thus, the numbers provided on page 5-2 for new industrial and service development should be revised to include pipeline projects.

B. “ALLOWED” DEVELOPMENT IS NOT “EXPECTED” DEVELOPMENT

As iterated in LAFCO’s comment letter dated March 14, 2016, the Draft EIR lacks an accounting of total potential population growth allowed under the General Plan. Such an accounting is necessary to properly analyze impacts, in particular impacts relating to traffic, air quality, greenhouse gas emissions, noise, population growth, and public services and utilities. At the very least, they should be provided to disclose cumulative impacts attributable to the project. Response to comment RA3-20 states that “allowed” development and “expected” development are synonymous. For all the reasons laid out in LAFCO’s comment letter dated March 14, 2016, and above, this is not correct.

The Final EIR cites to two unpublished cases for the proposition that the EIR need not account for all development possible (by-right) under the General Plan. (*See* Final EIR pages 5-4 [Master Response: Development Projections] and 5-35 [Response to comment RA3-8].) Unpublished cases are not binding legal precedent. Regardless, even if these cases constituted binding case law, neither are applicable here.

First, in *Molano v. City of Glendale* (February 23, 2009, B203243) (nonpub. opn.) there was an actual growth cap in place, which limited development in the Downtown Specific Plan (“DSP”). (*Id.* at page *41.) The court there determined that the thrust of the plaintiff’s complaint was that the city would exceed this growth cap. (*Id.* at page *47.) Here, the current cap is set to expire and the EIR analysis is based on an uncertain expected future cap. If the City’s voters approve a development cap, then an analysis based on less than the amount of development allowed under the General Plan (without the development cap in place) would be appropriate. However, it is reasonably foreseeable that the voters might not approve a development cap, and that developers

may choose to develop to the maximum they are allowed by-right under the General Plan. Thus, *Molano* is not relevant here.

Second, in *Sierra Club v. County of Tehama* (November 20, 2012, C066996) (nonpub. opn.), unlike here, the EIR did calculate the maximum buildout, before going to describe why that maximum buildout was not likely to occur. (*Id.* at pages *10-11.) Further, the EIR's cumulative impacts analysis concluded that impacts relating to population growth would be significant and unavoidable. (*Id.* at pages *10, 67-69.) Morgan Hill's EIR does not calculate maximum buildout at all, and does not determine potential impacts from a maximum buildout even in its cumulative impacts analysis. Thus, *Sierra Club* is also not relevant.

C. DEFERRAL AND SEGMENTATION OF GROWTH EXCEEDING EIR'S ASSUMPTIONS

Response to comment RA3-20 states that, pursuant to General Plan Policy CNF-2.5, the proposed General Plan requires the City to monitor growth and, in the event growth exceeds the projections analyzed in the Draft EIR, the City "shall require that environmental review conducted for any subsequent development project address growth impacts that would occur due to development exceeding the Morgan Hill 2035 EIR's projections." How this would work in practice, however, is unclear. The City cannot saddle a single future project with robustly analyzing growth impacts beyond the purview of that single project (here, the future potential growth allowed under the General Plan). If each future project instead analyzes only its own individual contribution to growth impacts, this would result in improper piece-mealing of the overall impacts of the General Plan. Punting environmental review of the growth allowed under the General Plan – which is proposed today – is improper deferral. For these reasons, and for all the reasons identified in LAFCO's comment letter dated March 14, 2016, and further detailed herein, such review should take place now.

D. IS THE CITYWIDE AGRICULTURAL PRESERVATION PROGRAM AND SOUTHEAST QUADRANT LAND USE PLAN PART OF THE PROJECT UNDER CONSIDERATION IN THE MORGAN HILL 2035 EIR?

Response to comment LA3-7 states: "although development under the Southeast Quadrant (SEQ) Land Use Plan is anticipated, development has not yet occurred. Here it should also be noted that although Morgan Hill has approved a Land Use Plan for this area, on March 11 LAFCO denied the expansion of the Urban Service Area. . . . The addition of this text does not affect the analysis or conclusions of the Draft EIR with regard to agricultural resources." (See FEIR, p. 5-66.) The Final EIR also states that "[t]he conservative assumptions used in the [EIR's] analysis reflect the Southeast Quadrant project, which was pending at the time the Draft EIR was published . . ." (See FEIR, p. 5-3.) Given this, it appears that the City may consider the EIR to constitute CEQA analysis

of the proposed Citywide Agricultural Preservation Program and Southeast Quadrant Land Use Plan project (SEQ Project). LAFCO does not believe that such an incorporation is permitted based on the documentation included in the EIR. As well, there is no analysis of the SEQ Project in this EIR. Further, LAFCO had significant concerns with regard to the adequacy of analysis in the Citywide Agricultural Preservation Program and Southeast Quadrant Land Use Plan Environmental Impact Report (SEQ EIR) and so, to the extent the City considers the EIR to constitute a CEQA document for the SEQ Project, LAFCO hereby restates its comments on the SEQ EIR. (Copies of LAFCO's prior comments on the SEQ EIR are attached to this letter.)

II. ENVIRONMENTAL REVIEW

A. AGRICULTURE

Response to comment RA3-13 reads, "the statement that the proposed General Plan would convert less farmland of concern should be removed." However, this language was not removed per the FEIR's errata. (See FEIR, p. 3-7.)

B. POPULATION/HOUSING

Response to comment RA3-24 explains that the less than significant determination relies upon the Residential Development Control System and the population cap of 48,000 residents found in proposed General Plan Policy CNF-3.4. However, the cap has not been – and might not be – approved by the voters. Further, the Draft EIR's other analyses do not assume this cap will be in place. Therefore, to assume, selectively, that the cap will be in place for this threshold, in order to reach a less than significant impact determination, is incongruous with the rest of the EIR. The project description must be stable throughout the EIR. As drafted, this EIR now relies upon three separate project descriptions (i.e. population projections): the "full buildout" projection, the "horizon-year" projection, and now the residential cap of General Plan Policy CNF-3.4.

In the event that the General Plan is adopted, but the RDCS is not approved by the voters, what would be significance determination for the population, housing, and growth thresholds? This should be disclosed in the EIR.

C. UTILITIES AND SERVICE SYSTEMS

Water Supply and Water Infrastructure

Response to comment RA3-27 states that the City's Water Infrastructure Master Plan is not currently complete, but will determine what types of improvements are needed to meet projected future demand. Presumably this "projected future demand" is the projected future demand generated by the 2035 General Plan - the project. Thus, the

water demand impacts (which include the impacts associated with new water supply infrastructure and improvements) should be considered as part of this project and this EIR.

The analysis on page 4.15-21 of the Draft EIR states on the one hand that “that available capacity is sufficient to meet projected demand from buildout of the proposed General Plan.” Yet, later on the same page, the Draft EIR reads, “existing local distribution lines within the City may be undersized for future projects and improvements under the proposed General Plan.... Similarly... new groundwater wells may be required to ensure an adequate reliable water supply.” These statements seem incongruous with one another, and also inconsistent with the fact that the City is currently in the process of updating its Water Infrastructure Master Plan, which would presumably answer the question as to whether larger distribution lines or additional groundwater wells are required to serve demand generated by this project. Without such an analysis as part of this EIR, it is unclear what the less than significant determination made on page 4.15-21 of the Draft EIR is based upon.

Response to comment RA3-28 reads, “The pending Water Infrastructure Master Plan is not required prior to the certification of the EIR for the General Plan because (1) an addendum to the EIR can be prepared, and (2) the General Plan EIR is a programmatic EIR” This reasoning runs afoul of CEQA’s mandates for several reasons. First, a project cannot be improperly segmented, with one piece of the analysis deferred to some future date. As discussed above, the Water Infrastructure Master Plan will assess the need for additional water infrastructure improvements that result *due to* the growth allowed and contemplated by this project. Therefore, the analysis of the impacts of the Water Infrastructure Master Plan should be analyzed and disclosed now. The responses to comments provide no reasons for why such an analysis cannot be completed now. Second, without an analysis, there is no way for the City to know at this time, whether an addendum will even be the appropriate level CEQA review document. Even if it were, an addendum cannot be used to cure an EIR that is lacking a required impact analysis. Finally, the fact that the General Plan EIR is a program-level CEQA document does not preclude the need to identify and analyze the known impacts of the General Plan, which the City seems to believe includes impacts related to new water supply infrastructure to be identified in the Water Infrastructure Master Plan, which itself is a program-level document.

Response to comment RA3-28 continues on to state that General Plans are not required to include concurrent infrastructure master plans and completion of a Water Master Plan is not a requirement or prerequisite for General Plan adoption or EIR certification. While this may be true in some cases, CEQA *does* require that program-level EIRs analyze the reasonably foreseeable impacts of the program being approved. Here, the text of the Draft EIR, and the responses to comments indicate that water infrastructure

improvements will be required to accommodate the growth allowed under the General Plan. Therefore, the impacts of such improvements must be considered now.

Finally, response to comment RA3-30 states, without citation to relevant statutory or case law, that SB 610 applies only to specific development projects or Specific Plans. SB 610 does not so state. As expressed in LAFCO's comment letter dated March 14, 2016, SB 610 requires Water Supply Assessments ("WSAs") for any project that will, *inter alia*, result in residential development of more than 500 dwelling units, or shopping center or businesses establishments employing more than 1,000 persons or having more than 500,000 square feet of floor area. Even with the discounted growth projections relied upon in the EIR, these triggers have been met. A WSA is needed to establish that adequate water supplies are available to support the growth anticipated and allowed by the proposed project – regardless of whether the project is a General Plan.

Wastewater Infrastructure

Response to comment RA3-32 states that the City's pending Wastewater Infrastructure Master Plan similarly need not be considered by this EIR because (1) the General Plan EIR is programmatic; and (2) any potential impacts associated with infrastructure improvements identified in the Wastewater Infrastructure Master Plan can be addressed in some future CEQA document. For all the reasons described above in relation to the City's Water Infrastructure Master Plan, these arguments fail. First, the Wastewater Infrastructure Master Plan is needed to assess the reasonably foreseeable impacts of the population growth allowed and contemplated by the General Plan. Second, the Wastewater Infrastructure Master Plan is itself a program-level plan. Third, putting off the environmental analysis of impacts associated with *this* project could result in either (or both) improper project segmentation and improper deferral of environmental analysis.

The response to comment RA3-32 reads, "[I]f it is determined that information in the Wastewater Infrastructure Master Plan, upon completion, is considered substantial with respect to the circumstances under which the project is undertaken, a subsequent EIR [see CEQA Guidelines section 15162] may be prepared... in the form of an Addendum to the EIR." There are myriad issues with this statement. First a subsequent EIR is *not* an addendum – an addendum can only be completed when *none* of the circumstances in State CEQA Guidelines section 15162 requiring a subsequent or supplemental EIR have occurred. Second, this statement assumes that the Wastewater Infrastructure Master Plan *is* part of this project, and thus the actual contents of that document – when they are drafted – may result in a change in this General Plan project. If this is true, then the Wastewater Infrastructure Master Plan should be incorporated into the General Plan, and its impacts analyzed as part of the General Plan EIR, the City does not explain why it cannot do so.

Response to comment RA3-34 does not address the issue raised in LAFCO's original comment letter. LAFCO's original comment asked how, given the list of "example" impacts provided in Table 4.15-4, the City has determined that these impacts will be less than significant. The City's response is that the EIR evaluates impacts at a program level, and that project-specific impacts will be evaluated at a future time. However, if there are reasonably foreseeable impacts (and inclusion of a list of example impacts seems to indicate such impacts are reasonably foreseeable) they must be disclosed as part of this EIR, even if it is a program-level document.

III. CONCLUSION

LAFCO appreciates the time taken by the City to respond to its comment letter dated March 14, 2016, and requests that the City continue to resolve these remaining questions.

To that end, we request that the City **not** proceed with certification of the EIR for the General Plan until these important issues are resolved and the affected local agencies, the community and the City Council have had an opportunity to fully consider this information.

Further, we would be happy to meet with City staff to discuss our comments and any questions they may have regarding these comments. Thank you for your attention to this matter.

Sincerely,



Neelima Palacherla
LAFCO Executive Officer



Mala Subramanian
LAFCO Counsel

Attachments:

LAFCO Comment Letter Dated March 14, 2016 re. Draft Environmental Impact Report for Morgan Hill General Plan 2035

LAFCO's Prior Comment Letters on the Southeast Quadrant Project

CC:

LAFCO Members

Steve Rymer, City Manager

Andrew Crabtree, Community Development Agency Director



March 14, 2016

SENT VIA EMAIL [JOHN.BATY@MORGANHILL.CA.GOV]

Mr. John Baty
Senior Planner
Community Development Department – Planning Division
City of Morgan Hill
17575 Peak Avenue
Morgan Hill, CA 95037

Re: Draft Environmental Impact Report: Morgan Hill General Plan 2035

Dear Mr. Baty,

The Santa Clara Local Agency Formation Commission (“LAFCO”) appreciates the opportunity to review and comment upon the Draft Environmental Impact Report (“DEIR”) (SCH No. 2015022074) for the Morgan Hill General Plan 2035 (“General Plan”) and the proposed Residential Development Control System (“RDCS”).

Due to competing workload obligations, we have only been able to complete a very cursory review of the document as it relates directly to the analysis and conclusions concerning certain environmental impacts. As we began to conduct a similarly cursory review of the more policy related parts of the DEIR, we identified what seems to be a misunderstanding or misinterpretation of a County General Plan policy. Specifically, in the Land Use and Planning Section, on Page 4.10-18, the DEIR states that “One of the three basic strategies of the County General Plan is to “Promote Eventual Annexation.” Please note that this strategy relates solely to the annexation of urban unincorporated areas located within the Urban Service Area of a city and it is unclear why this County General Plan policy and not others are referenced as it relates to the DEIR’s analysis of the proposed General Plan’s consistency with County General Plan policies. There may be other instances in the DEIR where such misunderstanding or misinterpretation of local policies exist.

I. PROJECT DESCRIPTION

A. “2035 horizon year” and “full buildout” projections methodology.

Please clarify the methodology and assumptions underlying the 2035 Horizon Year (Table 3-2) and Full Buildout (Table 3-3) growth projections. On Page 3-20, the text reads, “The ‘*full buildout*’ of the proposed General Plan... would be the development of underutilized and vacant parcels *at the mid-point of the maximum allowed density* under the General Plan, based on the past and projected development patterns in Morgan Hill.” In contrast, the text explains that the 2035 horizon buildout “is based on past development history.” It seems as though at least one scenario should be based solely on the maximum buildout allowed under the proposed General Plan.

Specifically, please explain what “mid-point of the maximum allowed density” means. Does this mean for any given vacant parcel, we are assuming development ultimately built will only be half of square footage or dwelling units allowed under the General Plan? Does the DEIR anywhere provide projections based on *full* buildout allowed under the General Plan?

Similarly, please clarify how the “full buildout” methodology is “based on the past and projected development patterns.” The 2035 horizon buildout is also “based on past development history.” Are these the same? How did the projections take these into account?

The Project Description does not appear to explain the basis for discounting the anticipated growth under either scenario. Was a market-by-market or industry-by-industry analysis completed to determine that non-residential uses will not reach full buildout? If so, what data sources were relied upon? What economic factors were taken into consideration in determining that the mid-point of allowable density was the most likely buildout scenario?

Finally, the text explains that full buildout of non-residential uses is not anticipated. However, the text also states that market demand for residential development is high, and full buildout of residential uses is anticipated. Yet, under the second paragraph below the heading “General Plan Development Projections” it seems as though, under even the full buildout scenario, residential development is discounted to just the mid-point of the maximum allowable density. Given market demand, the DEIR should assume maximum buildout of residential with and without voter approval of the RDCS.

B. Failure to analyze the full buildout.

The EIR does not analyze the impacts of the full buildout scenario. Even if full buildout is unlikely under a given forecasting model or economic analysis (see comments above regarding the need for such analysis), the environmental impacts of the full buildout scenario should be analyzed in the DEIR, given that the proposed General Plan

land use designations provide the theoretical capacity for such a buildout. (See e.g., *City of Redlands v. County of San Bernardino* (2002) 96 Cal.App.4th 398, 409; *Rio Vista Farm Bureau Center v. County of Solano* (1992) 5 Cal. App. 4th 351, 370-371.)

C. Responsible Agencies.

The DEIR, in Section 3.7, indicates that one of the intended uses of the EIR is for “annexation of land into the city limits.” However, nowhere does the DEIR identify LAFCO as a Responsible Agency pursuant to CEQA. Please clarify whether the City intends to rely on this EIR to seek approvals from LAFCO with regard to annexations, urban service area amendments, or other LAFCO approvals, in which case LAFCO must be identified in the EIR, as well as noticed by the City, as a responsible agency. Further, we suggest that an additional section be added to Chapter 2 or Chapter 3 wherein all Responsible Agencies for the project are identified.

II. ENVIRONMENTAL REVIEW

A. Agriculture and Forestry Resources.

Impact AG-1: Conversion of Farmland

Page 4.2-13 states that the proposed General Plan would designate approximately 1,125 acres of farmland for non-agricultural uses. However, it is unclear what uses these parcels will be re-designated as and whether agricultural uses are permitted uses under these designations.

Also, it is unclear from Figure 4.2-4 which of these agricultural areas are within the City’s proposed Urban Growth Boundary and Urban Service Area. We suggest clarifying within the text and also adding the UGB and USA lines to Figure 4.2-4.

Similarly, on the bottom of page 4.2-15, the text states that “the majority” of the farmland designated for development is within the UGB. However, is this the existing UGB, or the proposed UGB? And how many of the 1,125 total acres are located outside of the UGB and outside of the USA?

On page 4.2-16, the text reads, “[t]he proposed General Plan would convert less farmland of concern under CEQA for non-agricultural uses than the existing General Plan...” Please provide additional clarification. The proposed General Plan will designate 1,126 acres of farmland to non-agricultural uses, and therefore it seems like the proposed General Plan would convert more farmland than the existing General Plan.

Finally, on page 4.2-18, the text identifies “applicable regulations” including the LAFCO Agricultural Mitigation Policies and the City’s Municipal Code. However, neither are discussed in the analysis of Impact AG-1. We suggest expanding the analysis to

explain how LAFCO's policies and the City's code address impacts relating to farmland conversion.

B. Greenhouse Gas Emissions.

Baseline Emissions Inventory

Page 4.7-20 states that Morgan Hill's baseline emissions inventory totaled 279,407 MTCO_{2e} in 2010. However, no explanation is provided as to why the use of 2010 levels is appropriate. Has any significant development or other activities occurred since 2010 that might change the baseline emissions levels *in 2015* (the year the NOP was issued for this project)? If not, we suggest adding a discussion explaining that none have occurred and why the 2010 baseline is likely a reliable estimate of baseline 2015 emissions. However, if changes have occurred that call the applicability of the 2010 emissions levels as a proper baseline into question, we suggest analyzing this and adjusting the baseline either up or down to accommodate such changes.

Further, a footnote on page 4.7-22 implies that while the baseline emissions inventory is from 2010, the transportation emissions have been updated to reflect more recent VMT data. Is this correct? If so, we suggest explaining this in the text on page 4.7-20.

Efficiency Targets

Please provide additional explanation as to how the efficiency threshold of 6.6 MTCO_{2e} per service population per year translates to the 3.3 MTCO_{2e} and 1.3 MTCO_{2e} thresholds for 2035 and 2050, respectively. (See pages 4.7-24 and -25.)

Plan Bay Area and the Downtown Transit Center PDA

The text on page 4.7-38 states that *Plan Bay Area* allocates 1,420 new dwelling units to the Downtown Transit Center PDA. The text states that the proposed General Plan would encourage development in this PDA, but the DEIR does not say outright that the proposed General Plan designations would accommodate this allocated growth. Please clarify.

C. Population and Housing.

Baseline Year

On the bottom of page 4.12-4 there is reference to 2014 being the EIR's baseline year. Should this be 2015?

Impact POP-1: Growth Inducement

At the bottom of page 4.12-8, the text reads, “This Draft EIR considers the ‘reasonably foreseeable’ effects of adopting the proposed General Plan, which would result from development allowed between the adoption of the document and its horizon year of 2035.” However, doesn’t the DEIR only analyze the buildout that is expected (i.e. the 2035 horizon year) as opposed to the buildout that is allowed (i.e. the “full buildout”)? Please clarify.

Similar to our comments above on the Project Description, it is still unclear whether the 68,057 residents that are assumed on page 4.12-9 are based on a buildout of all residential-designated parcels to their maximum density, or just to the “mid-point of the maximum allowed density” as described on page 3-20. Please clarify.

On page 4.12-9, the text states that there would be a total of approximately 21,299 housing units within the SOI at buildout. However, according to Tables 3-2 and 3-3, it seems as though there would be a total of 22,400 dwelling units at buildout (13,181+9,219). Please clarify.

Finally, Table 4.12-7 (page 4.12-10) is titled “Projected Buildout”, however it seems like this table is only showing net growth as opposed to total buildout. Is this correct? As such, it is difficult to understand what numbers the Jobs/Housing Balance (Citywide) is based upon, as the numbers in the table seem to be the new housing units and new jobs added and does not seem to account for existing units or jobs.

Impact POP-2: Displacement of Existing Housing

At the bottom of page 4.12-11, the text reads, “While the population cap cited in Policy CNF-3.4 would exceed ABAG projections, given the requirements for planning associated with this growth, its impact would be less than significant.” Please expand upon the meaning of “requirements for planning associated with this growth.” Is this referring to specific policies (e.g., Policy CNF-4.3 [Prerequisites for Urban Development], or Policy CNF-4.1 [USA Expansions within UGB], etc.)? Or is it referring to some other type of development control or regulation? It is unclear what the conclusion that impacts are less than significant is based upon here.

Cumulative Impacts

Page 4.12-14 refers to “Mitigation Measure POP-1” however there is no mitigation identified in this DEIR chapter. Is a mitigation measure necessary to reduce cumulative impacts to less than significant?

Full Buildout

The text on page 4.12-15 states that the under the “full buildout” methodology, significantly more non-residential development would occur than under the 2035 horizon year. The text goes on to state, “therefore, the potential for impacts related to population and housing would increase.” How is this so? It is unclear how an increase in development on parcels designated for non-residential uses would (1) induce substantial unexpected population growth (Impact POP-1); (2) displace substantial numbers of existing housing units (Impact POP-2); or (3) displace substantial numbers of people. Please clarify.

D. Utilities and Service Systems (Water Supply).

Water Infrastructure Master Plan

Page 4.15-1 states that the Water Infrastructure Master Plan will not be complete before publication of the DEIR, and that impact analyses for water supply services may be subject to change through a subsequent CEQA document, such as an addendum, after the Water Infrastructure Master Plan is approved. Is this the Santa Clara Valley Water District’s Master Plan, or the City’s Master Plan? Please clarify.

Please provide an explanation in the text that describes what the Water Infrastructure Master Plan is, and why it is not required prior to the certification of the EIR for the proposed General Plan. Please describe how the Water Infrastructure Master Plan relates to the Water System Master Plan described on page 4.15-7.

Regulatory Framework

It seems as though the 2004 Recycled Water Master Plan should be identified under “Local Regulations” and described here.

Water Supply Assessment

While the DEIR identified Senate Bill (SB) 610 and its requirements for the preparation of a Water Supply Assessment (page 4.15-2), it does not appear that a WSA was prepared for the proposed General Plan Update. As you know, CEQA and the Water Code require the preparation of a WSA for project that will result in:

- Residential development of more than 500 dwelling units.
- Shopping center or business establishment employing more than 1,000 persons or having more than 500,000 square feet of floor area.
- Hotel or motel, or both, having more than 500 rooms.

- Industrial, manufacturing or processing plant, or industrial park planned to employ more than 1,000 persons, occupying more than 40 acres of land, or having more than 650,000 square feet of floor area.
- Mixed-use project that includes one or more of the projects specified above.
- Project that would demand an amount of water equivalent to, or greater than, the amount of water required for 500 dwelling units.

On page 3-23 the DEIR states that full buildout of the proposed General Plan and proposed Residential Development Control System would result in:

- 13,181 total single-family residential units
- 9,219 total multi-family residential units
- 2.70 million square feet of total retail space
- 1.89 million square feet of total office space
- 10.33 million square feet of total industrial space
- 1.15 million square feet of total service space

Full buildout as to any one of these development categories requires preparation of a WSA. Given this, we request that a WSA be prepared for the development contemplated in the DEIR.

Water Demand and Supply Projections

At the bottom of page 4.15-9, the text states that the City used 6.778 acre-feet per year of water. This should be 6,778 acre-feet per year.

Wastewater Infrastructure Master Plan

Page 4.15-26 states that the City is preparing a Wastewater Infrastructure Master Plan, but that it will not be complete before publication of the DEIR, and that impact analyses for wastewater treatment and collection services may be subject to change through a subsequent CEQA document. Is there an existing Wastewater Infrastructure Master Plan that applies in the interim? The text states that the Wastewater Infrastructure Master Plan “will assess existing wastewater demand and capacity and determine what types of improvements are necessary to meet projected future demand.” It seems as though the Wastewater Infrastructure Master Plan is therefore needed to assess the impacts of development permitted under the General Plan on wastewater demand. Please explain why this is not deferral of environmental analysis.

Please provide an explanation in the text that describes what the Wastewater Infrastructure Master Plan is, and why it is not required prior to the certification of the EIR for the proposed General Plan.

Impact UTIL-4: Wastewater Treatment Requirements

Pages 4.15-32 and -33 conclude that “with continued compliance with applicable regulations... and in accordance with the goals, policies, and actions in the proposed General Plan... wastewater generated from buildout of the Project Area would not exceed Central Coast RWQCB’s applicable treatment requirements...” However, on pages 4.15-30 and -31, the text explains that wastewater flow projections indicate that the SCRWA wastewater treatment facility will soon exceed capacity. Please explain how the capacity of the SCRWA facility is relevant to the analysis of Impact UTIL-4.

Impact UTIL-5: Wastewater Treatment Facility Expansion

Page 4.15-35 concludes that the impacts of the proposed wastewater treatment expansion will not result in significant environmental effects. However, the analysis on page 4.15-36 states that actual impacts from the expansion are too speculative to evaluate at this time. How can we know that the “example” impacts provided in Table 4.15-4 will be less than significant?

Further, CEQA requires that the proposed General Plan be compared against the existing conditions on the ground (which here, do not include the expanded wastewater treatment facility), not against plans for future projects that will change the existing conditions (here, the plans to expand the facility once by 2022, and again in the 2030s). For this reason, it seems as though the impact analysis should not rely on the future expansion absolutely coming to pass.

Impact UTIL-6: Wastewater Treatment Capacity

Regarding SCRWA’s expansion of the treatment facility, what will happen if the facility is not completed by 2022, when capacity is projected to be exceeded? What impacts would occur in that scenario? As discussed above, CEQA requires that the proposed General Plan be compared against the existing conditions on the ground (which here, do not include the expanded wastewater treatment facility). For this reason, it seems as though the impact analysis should not rely on the future expansion.

Impact UTIL-7: Cumulative Wastewater Impacts

Same comment as above. The cumulative impacts analysis determines that because no expansions are required *beyond those anticipated in 2022 and the 2030s* the Project will not result in the need for expanded facilities or the impacts associated with the same. Please explain how impacts will be less than significant, given CEQA’s mandate to compare projects against existing (not planned) conditions.

Impact UTIL-11: Energy Impacts

State CEQA Guidelines Appendix F requires that EIRs address “avoiding or reducing inefficient, wasteful, and unnecessary consumption of energy.” While the analysis on pages 4.15-54 through -57 addresses effects on service demands, energy conservation, and infrastructure needs, it does not seem to address whether the Project will result in “inefficient, wasteful, or unnecessary” energy consumption or any of the provisions of CEQA Guidelines Appendix F. Further, as you know, *California Clean Energy Committee v. City of Woodland* holds that an EIR fails to appropriately assess energy impacts consistent with Appendix F of the State CEQA Guideline when it fails to investigate renewable energy options that might be available and appropriate for a project. Given this, we request that added analysis of the potential application of Appendix F to the project be added to the EIR, and that the EIR’s energy discussion be revised and expanded.

E. Growth Inducing Impacts

Page 7-4 states that the policies enacted under the General Plan would ensure that adequate planning occurs to accommodate any growth, and that these policies would control the geographic extent of growth. Please provide additional detail. For example, which policies would do so? How would growth be controlled?

Similarly, the text on this page states that the General Plan commits to only allowing development where infrastructure is in place or is planned. Please describe how the General Plan does this.

Finally, there does not seem to be any significance determination provided at the conclusion of this analysis. Would the growth inducing impacts of the proposed General Plan be less than significant, or significant and unavoidable?

F. Proposed Chiala Development

The proposed Chiala Development, as described under 3.5.1.4, lacks specifics and the associated environmental analysis is insufficient.

LAFCO looks forward to working with the City to resolve the questions highlighted in this comment letter. Please let us know should you have any questions regarding these comments. Thank you for your attention to this matter.

Sincerely,



Neelima Palacherla
Executive Director



February 17, 2010

Kathy Molloy Previsich, Community Development Director
 Community Development Department
 City of Morgan Hill
 17555 Peak Avenue
 Morgan Hill, CA 95037-4128

RE: SOUTH EAST QUADRANT (SEQ) PROJECT

Dear Ms. Previsich:

Thank you for advising LAFCO about the City's public workshop on the South East Quadrant (SEQ) Project. The SEQ Project area consists of unincorporated lands that are located outside of the City of Morgan Hill's Urban Service Area (USA) boundary. As you are aware, the City of Morgan Hill must seek and obtain LAFCO approval to expand its USA boundary prior to annexing any lands within the SEQ Project area. As part of the USA amendment, LAFCO would consider whether the project is consistent with LAFCO's four primary objectives. These objectives are as follows:

- Encourage the orderly formation of local governmental agencies
- Preserve agricultural land and open space resources
- Discourage urban sprawl
- Encourage the efficient provision of services

LAFCO has adopted local policies based on these objectives. Specifically applicable to the SEQ Project are LAFCO's policies relating to USA amendments, annexation requests, and agricultural mitigation (See Attachments B, C & D). Pursuant to these policies, some of the key issues that the City must consider prior to proposing an USA expansion relate to the need and timeliness of an USA amendment/annexation request, availability of lands within existing city boundaries that could accommodate the proposed growth, the ability of the city to extend and finance urban services to the growth area without detracting from current service levels to residents within the city, premature conversion of agricultural lands and open space lands, other environmental impacts, and the fiscal impacts on local agencies and service providers.

In general, the purpose of including lands within a city's USA is to allow the city to annex and provide urban services to those lands in order to allow development. It is our understanding that the SEQ Project Area includes a substantial amount of agricultural land. State law and LAFCO policies discourage USA expansions that prematurely include or result in the conversion of agricultural land to non-agricultural uses.

LAFCO policies call for the development of existing vacant and underutilized sites that are located within a city's existing boundaries before expanding into agricultural lands. Development of existing vacant and underutilized sites that are located within the city's existing boundaries typically would not impact agricultural land and open space resources, would be a more efficient and effective use of existing city infrastructure, and would result in a more efficient provision of city services which is particularly important in these times as public agencies struggle financially to maintain existing service levels.

The inclusion of the SEQ Project area within the City's USA for Sports-Recreation-Leisure and Public Facility land uses would result in the conversion of agricultural lands to non-agricultural uses. If the City decides to move forward with the SEQ USA expansion, the City must address agricultural mitigation issues in a manner consistent with LAFCO's Agricultural Mitigation Policies. Additionally, we encourage the City to consider LAFCO's policies as a point of reference as the City develops its own agricultural mitigation program.

Based on the information provided in the City's notice, LAFCO would be a "Responsible Agency" for the SEQ Project under the California Environmental Quality Act (CEQA). As a Responsible Agency, LAFCO expects to use the City's environmental documents when considering any associated LAFCO applications. Therefore, please ensure that LAFCO's potential role in the project is adequately described in the project scope and that LAFCO Policies are adequately addressed during the City's environmental review process. We will provide further comments upon receipt of the City's Notice of Preparation for the Environmental Impact Report.

Please notify LAFCO about any future public workshops, Planning Commission or City Council meetings related to this Project. If you have any questions regarding these comments, you can reach me at (408) 299-5127. Thank you.

Sincerely,



Neelima Palacherla, LAFCO Executive Officer
LAFCO of Santa Clara County

Cc: LAFCO Members
Morgan Hill City Council Members
Jody Hall Esser, Director, County of Santa Clara Department of Planning and Development
Michele Beasley, Greenbelt Alliance

Attachments:

- A. City of Morgan Hill's Notice of Public Workshop
- B. LAFCO Urban Service Area (USA) Policies
- C. LAFCO Policies on Annexation/Reorganization for Cities and Special Districts
- D. LAFCO Agricultural Mitigation Policies



April 6, 2010

Steve Piasecki, Community Development Director
Community Development Department
City of Morgan Hill
17555 Peak Avenue
Morgan Hill, CA 95037-4128

Re: South East Quadrant (SEQ) Project

Dear Mr. Piasecki:

Thank you for meeting with us on March 25th and for providing us with an overview of the South East Quadrant Project. As we indicated to you at the meeting, the proposed project presents several issues of concern to LAFCO. The following is a summary of our concerns based on our initial understanding of the Project.

Annexation of Lands Outside of a City's Urban Service Area is Not Supported by LAFCO's Policies

It is our understanding that as part of the Southeast Quadrant 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 urban services in order to allow their development. As you know, LAFCO has no authority over lands once they are annexed into a city. 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.

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 its USA for open space/agricultural purposes, LAFCO will require the City to sufficiently demonstrate that the affected lands will be permanently preserved for agricultural/open space purposes, and not developed or provided with urban services. 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. Absent these measures, such a request to annex lands outside of a City's USA Boundary is not supported by LAFCO's Policies. Please see LAFCO's "*Policies Relative to Annexation / Reorganizations for Cities and Special District*" (B)(1).

LAFCO Policies and State Law Encourage Cities to Pursue the Development of Vacant and Underutilized Incorporated Lands before Seeking to Annex Agricultural Lands

The City is also seeking to expand its USA and annex portions of the SEQ Area. We understand that the SEQ Area consists of largely prime agricultural land - land that the City wants to include 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. Please see LAFCO's "*Policies Relative to Annexations / Reorganizations for Cities and Special Districts*" (A)(3) and (B)(3) and Government Code Section 56377 (a) & (b).

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 recent greenhouse gas reduction regulations and goals. Therefore we encourage the City to conduct a comprehensive review of its large inventory of vacant or underutilized lands to consider how best to provide opportunities for its development and maximize its use prior to expanding outwards into agricultural lands.

LAFCO Policies and State Law Require Consideration of many Factors, Including whether the City has the Ability to Provide Urban Services to the Expansion Area without Detracting from Current Service Levels

In addition to considering the impacts on agricultural lands and evaluating the need and timeliness of expanding the City's boundaries to accommodate growth, the City must also evaluate whether or not it has the financial ability to extend and provide services to the new area without detracting from current service levels to existing residents within the city. This is a particularly important issue in these economic times when many cities are struggling to provide and maintain acceptable service levels for services such as public safety (emergency medical, fire and police), libraries and schools. Other factors that LAFCO would consider in evaluating such proposals are contained in LAFCO's USA policies and include among other things, environmental impacts of the proposed development, availability of adequate water supply for the proposed development, and fiscal impacts to other affected agencies.

City is Encouraged to Adopt Agricultural Mitigation Policies/Program that are Consistent with LAFCO's Agricultural Mitigation Policies

We understand that the City is in the process of developing its agricultural mitigation program and that the specifics of the program are yet to be finalized by the City. However, we believe it is timely to let the City know that many of the key recommendations that are being discussed and considered by the City are not

consistent with LAFCO's Policies. Please see LAFCO's "Agricultural Mitigation Policies" (Policies #1 & #2). As you may know, in 2007, LAFCO adopted Agricultural Mitigation Policies in order to provide guidance to property owners, potential applicants and cities on how to address agricultural mitigation for LAFCO proposals and to provide a framework for LAFCO to evaluate and process in a consistent manner, LAFCO proposals that involve or impact agricultural lands. LAFCO encourages cities with potential LAFCO applications involving or impacting agricultural lands to adopt citywide agricultural mitigation policies and programs that are consistent with LAFCO's Agricultural Mitigation Policies.

Proposed Agricultural Mitigation for SEQ Project is not Consistent with LAFCO's Agricultural Mitigation Policies and is Problematic

If the City decides to move forward with the SEQ Urban Service Area expansion request, the City must address agricultural mitigation issues in a manner consistent with LAFCO's Agricultural Mitigation Policies. Please see the table below for a summary of the key differences between the City's Proposed Agricultural Mitigation and LAFCO's Agricultural Mitigation Policies. If these inconsistencies are not addressed, LAFCO would be unable to consider the proposed mitigation as effective.

COMPARISON OF CITY'S RECOMMENDED AGRICULTURAL MITIGATION PROGRAM AND LAFCO'S AGRICULTURAL MITIGATION POLICIES AS THEY RELATE TO THE SOUTH EAST QUADRANT		
	CITY'S RECOMMENDED AGRICULTURAL MITIGATION <i>(based on information provided at the February 18th Workshop)</i>	LAFCO'S AGRICULTURAL MITIGATION POLICIES
Lands Subject to Agricultural Mitigation	Uses Important Farmland Map and modified LESA model to determine if mitigation is required. No mitigation required for development during first year of City's Agricultural Mitigation Program.	Mitigation recommended for LAFCO proposals resulting in the conversion of any and all lands that meet LAFCO's definition for "Prime agricultural land." (Policies #1 & #6)
Exemption from Mitigation for Converting Agricultural Lands to Certain Land Uses	Consider potential exemptions and/or reduced mitigation fees for certain types of land uses such as less intensive sports, recreational, and leisure uses or for economic development uses.	Mitigation recommended for all projects resulting in the conversion of "Prime agricultural land" irrespective of the type of proposed land use or development. (Policies #1 & #6)

Mitigation Ratio	Less than 1:1 Mitigation Ratio.	1: 1 Mitigation Ratio recommended. (<i>Policy #7</i>)
Future Use of Lands Preserved as Agricultural Mitigation	Consider allowing low intensity sports, recreational and leisure uses on agricultural preservation areas.	Areas preserved as agricultural mitigation are intended in perpetuity for the purpose of agriculture. (<i>Policy #7</i>)

City Should Consider and Address these Major Concerns and Re-Evaluate the Scope and Need for the SEQ Project

The City's USA expansion and annexation proposals for the SEQ area in their present form are contrary to LAFCO objectives of preventing urban sprawl and preventing premature conversion of agricultural lands and are inconsistent with LAFCO policies and provisions in state law. The proposed agricultural mitigation program under consideration varies significantly from what is recommended in recently adopted LAFCO policies and is inadequate for providing effective mitigation. We urge the City to fully consider and address the issues presented before proceeding further and spending time and resources on the Environmental Impact Report for the SEQ Project.

If you have any questions regarding these comments, please contact me at (408) 299-5127. Thank you again for providing us with the opportunity to comment on this significant project.

Sincerely,



Neelima Palacherla,
LAFCO Executive Officer

Cc: LAFCO Members
Morgan Hill City Council Members
Jody Hall Esser, Director, County of Santa Clara Department of Planning and Development
Michele Beasley, Greenbelt Alliance

Attachment A: LAFCO's February 17, 2010 Comment Letter Re: Southeast Quadrant, including LAFCO's Urban Service Area Policies, Annexation Policies, and Agricultural Mitigation Policies.



November 22, 2010

Rebecca Tolentino, Senior Planner
Community Development Department
City of Morgan Hill
17555 Peak Avenue
Morgan Hill, CA 95037-4128

**RE: NOTICE OF PREPARATION FOR THE MORGAN HILL SOUTHEAST
QUADRANT (SEQ) GENERAL PLAN AMENDMENTS AND AGRICULTURAL
MITIGATION AND PRESERVATION PROGRAM**

Dear Ms. Tolentino:

Thank you for providing the Local Agency Formation Commission (LAFCO) of Santa Clara County with an opportunity to comment on the City of Morgan Hill's Notice of Preparation for the SEQ General Plan Amendments and Agricultural Mitigation and Preservation Program and for extending the comment period to November 23rd. The Notice of Preparation notes that the project will require approval from LAFCO for annexation and inclusion of the project area in the City's Urban Service Area. Therefore, LAFCO is a responsible agency. LAFCO's comments on the NOP are provided below.

1. THE NOP CONTAINS INSUFFICIENT INFORMATION

LAFCO's response to the NOP is limited to the information provided to it, and LAFCO reserves the right to comment upon any information ultimately included in the EIR:

Project Description in the NOP is Inadequate and Confusing (Section 1.3)

The State CEQA Guidelines require that a Notice of Preparation (NOP) "provide the responsible and trustee agencies and the Office of Planning and Research with sufficient information describing the project and the potential environmental effects to enable the responsible agencies to make a meaningful response." (State CEQA Guidelines, §15082(a) (1)) The NOP does not provide a clear or sufficiently detailed description of the project. LAFCO requests that a more complete project description be provided and that it include, at a minimum, the following information:

- Language for the City's proposed Agricultural Land Use Designation
- Language for the City's proposed Sports-Recreation-Leisure Land Use Designation
- Language for the City's proposed Open Space Zoning District
- Language for the City's proposed Agricultural Zoning District
- Language for the City's proposed Sports-Recreation-Leisure Zoning Districts
- Language for the City's proposed Agricultural Preservation Policies/Program
- Language for the City's proposed Agricultural Conversion Policies
- Language for the City's proposed Open Space Program

- Site plans for the proposed Private High School and any specific details or plans available for the other 6 development proposals

In addition, the NOP also lists the following two objectives of the EIR:

- Identify lands within the SEQ viable for long-term agriculture
- Develop a program that fosters long-term agriculture within the SEQ through land use planning, agricultural preservation policies/programs, and agricultural mitigation.

Based on the NOP, it appears that these objectives are to be accomplished through the environmental impact report (EIR), which is in conflict with the purpose of an EIR. Pursuant to State CEQA Guidelines §15121(a), an EIR only serves the purpose of “an informational document which will inform public agency decision makers and the public generally of the significant environmental effects of a project ...”. Please provide clarification and more detailed information on the two objectives listed above and their relationship to the EIR.

The NOP indicates in sections 1.3.3 through 1.3.5 that the City intends to develop various policies for agricultural preservation and conversion, as well as an Open Space Program. Those policies and programs are included in the Project Description, but it is not clear whether such policies would actually be included in the City’s General Plan Amendment. Moreover, few details about such policies and programs are provided, limiting the ability to provide a meaningful response to the NOP. Nevertheless, at a minimum, the EIR must address all of the comments raised in prior LAFCO letters to the City dated April 6 and February 17, 2010, both of which are incorporated herein by reference.

Description of Existing Conditions Requires Clarification (Section 1.2)

The description of existing conditions in section 1.2 of the NOP states that the Southeast Quadrant area is “characterized by rural residences and agricultural lands.” It then predicts that agricultural and orchard uses of the area would gradually cease and that rural residential uses would predominate. These statements in the NOP appear to prejudge the feasibility of continued agricultural uses of the area, despite a contrary statement in section 1.3.3 of the NOP. In any event, section 15125(a) of the State CEQA Guidelines requires that the EIR include a description of physical environmental conditions in the project area “as they exist at the time the notice of preparation is published [.]” Additionally, the EIR’s description of the environmental setting must include both local and regional perspectives. (State CEQA Guidelines, §15125(a)). Thus, the EIR will need to address existing agricultural uses, and conversion pressures, not just in the Southeast Quadrant, but the rest of the region as well. This description of the existing environmental setting must also address the availability of vacant and underutilized lands within the City.

Information on Probable Environmental Effects is Insufficient (Section 1.5)

Pursuant to state law, at a minimum, the NOP must also identify any “[p]robable environmental effects of the project.” (State CEQA Guidelines, §15082(a) (1) (C)).

Section 1.5 of the NOP lists fifteen topics that will be analyzed in the EIR. That section does not describe those potential effects, or indicate which environmental effects may be probable. Please provide more information regarding potential environmental impacts or please provide a copy of the initial study. Based solely on the information provided in the NOP, the following impacts, alternatives and mitigation measures must be addressed in the EIR.

Agricultural Impacts: As previously noted, the EIR will need to address impacts to all agricultural land. Such lands should include not just those identified on the Important Farmland Map and modified LESA model, but also all of those lands that fall within LAFCO's definition of prime agricultural land. Further, the EIR must analyze potential indirect impacts to agriculture resulting from the development of urban uses in close proximity to agricultural uses. Cumulative impacts related to conversion of agriculture within the region must also be analyzed. LAFCO has also adopted many policies for protecting agricultural resources that should be addressed in the EIR's analysis of agricultural impacts.

Biological Resources: Agricultural lands often provide foraging and nesting habitat for wildlife. The EIR should, therefore, address the potential direct, indirect and cumulative impacts to listed, special-status and non-listed species.

Climate Change: The list of topics in Section 1.5 indicates that the EIR would address climate change along with air quality. Recent amendments to the State CEQA Guidelines clarify that an EIR address whether the project will increase greenhouse gas emissions compared to the existing environmental setting. (State CEQA Guidelines, § 15064.4(b).) Thus, the analysis should address the project site's existing carbon sequestration, as well as the emissions that may result from conversion, construction and ultimate operation of activities described in the NOP. The EIR should also address the project's consistency with statewide policies encouraging in-fill and compact development and discouraging expansion into non-urbanized areas.

Energy Impacts: Appendix F of the State CEQA Guidelines requires analysis of a project's energy impacts. This analysis should address energy conservation, consumption and efficiency, particularly related to the expansion of services in the project area.

Land Use: LAFCO's prior comments alerted the City to the proposed project's inconsistency with existing LAFCO policies. Appendix G of the State CEQA Guidelines suggests addressing whether the project conflicts with any applicable policy of an agency with jurisdiction over the project. Here, LAFCO is a responsible agency. Consistency with its policies is a key issue that must be addressed in the EIR.

Public Services: The project includes extension of the City's Urban Service Area and annexation of agricultural lands for conversion to more urban uses. The City's ability to provide urban services, including, among others, public safety, libraries, schools, utilities, etc., must be analyzed in the EIR. Additionally, given the project's size and character, a water supply assessment may be required.

Mitigation Measures: As noted in LAFCO's previous comments, LAFCO has adopted Agricultural Mitigation Policies. The most recent information provided by the City indicates that its mitigation plan is not consistent with LAFCO policies. Those inconsistencies must be addressed in order for LAFCO, acting as Responsible Agency, to find that mitigation to be effective.

Alternatives: The EIR will be required to analyze a reasonable range of alternatives to the proposed project. Given that the project site includes prime agricultural land, the EIR must analyze alternative locations within the City to establish Sports-Recreation-Leisure districts. If the City concludes that no feasible alternative location exists, it must disclose the reasons for that conclusion in the EIR.

2. THE 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

As we understand it, the scope of the City's potential 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
<ul style="list-style-type: none"> • Expanding the City's Urban Limit Line to include 700 acres in the SEQ. • Expanding the City's Urban Growth Boundary to include 660 acres in the SEQ. • Expanding the City's Urban Service Area to include 305 acres in the SEQ. • Annexing 760 acres of the SEQ into the City Limits
Creation of New Land use Designations in the City's General Plan and Creation of New Zoning Districts
<ul style="list-style-type: none"> • Create an Agriculture land use designation and zoning district • Create a Sports-Recreational- Leisure land use designation and zoning district
Application of Land Use and Zoning Designations to Lands in the SEQ
<p>Apply the following land use designations to SEQ lands:</p> <ul style="list-style-type: none"> • Sports-Recreation-Leisure: 359 acres • Residential Estate: 215 acres • Public Facility: 82 acres • Open Space: 121 acres • Agriculture: 266 acres • Rural County 291 acres
Establishment of Citywide Policies / Programs re. Agricultural & Open Space Lands
<ul style="list-style-type: none"> • Development of Agricultural Preservation Policies and Mitigation • Development of Agricultural Conversion Policies • Development of Open Space Program
Analysis of Development Proposals in the SEQ
<ul style="list-style-type: none"> • Project level analysis of development of a private high school on 40 acres • Programmatic level analysis of five other public and privately initiated development proposals in the SEQ covering over 376 acres

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.

3. LAFCO'S PREVIOUS LETTERS IDENTIFY SEVERAL MAJOR CONCERNS REGARDING THIS PROJECT AND ITS CONSISTENCY WITH LAFCO POLICIES AND STATE LAW

As noted in this letter and our two previous letters (dated February 17, 2010 and April 6, 2010) to the City, there are many issues and unanswered questions concerning the project's consistency with the various City, County, and LAFCO Policies.

These are the type of issues that should be fully considered by the community, the stakeholders and the decision makers through a comprehensive general plan update process. Furthermore these are the types of issues LAFCO is required to consider in its review of any USA amendment proposals. Therefore we respectfully recommend that these issues be addressed as early as possible in the process.

Lastly, the NOP is inadequate for LAFCO's use as a responsible agency. Please revise the NOP to clearly define the project, identify the potential impacts and re-circulate it for review and comment to the affected agencies and the public.

If you have any questions regarding these comments, please contact me at (408) 299-5127. Thank you again for providing us with the opportunity to comment on this significant project.

Sincerely,



Neelima Palacherla
LAFCO Executive Officer

Cc: LAFCO Members
Jody Hall Esser, Director, Santa Clara County Department of Planning & Development

ATTACHMENTS

LAFCO's April 6, 2010 and February 17, 2010 Comment Letters Re: Southeast Quadrant, including LAFCO's Urban Service Area Policies, Annexation Policies, and Agricultural Mitigation Policies.



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 18th and for discussing the proposed project with LAFCO staff on February 5th.

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

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>Creation of a New Land Use Designation in the City’s General Plan and Creation of a New Zoning Districts</p> <ul style="list-style-type: none"> • Create a Sports-Recreation-Leisure land use designation and zoning district
<p>Application of City Land Use Designations to Lands in the SEQ Apply the following land use designations to SEQ lands:</p> <ul style="list-style-type: none"> • Sports-Recreation-Leisure: 251 acres • Residential Estate: 76 acres • Public Facilities: 38 acres • Open Space: 445 acres • Rural County: 480 acres
<p>Application of City Zoning Designations to Lands in the SEQ Apply the following zoning district designations to SEQ lands:</p> <ul style="list-style-type: none"> • Sports-Recreation-Leisure (142 acres in Subdistrict A and 109 acres in Subdistrict B): 251 acres • Residential Estate: 9 acres • Public Facilities (with a Planned Development overlay): 38 acres • Open Space (with a Planned Development overlay): 461 acres • 531 acres will remain under County Jurisdiction with the County’s A-20 Acre (Exclusive Agriculture 20-acre minimum) Designation
<p>Establishment of Citywide Policies / Programs re. Agricultural & Open Space Lands</p> <ul style="list-style-type: none"> • Development of Agricultural Preservation Policies and Mitigation
<p>Development Proposals in the SEQ</p> <ul style="list-style-type: none"> • Private high school on 38 acres • Privately initiated development proposals in the SEQ covering over 375 acres <ul style="list-style-type: none"> • Craiker Sports Retail/Restaurant Uses • Puliafico Sports-Recreation-Leisure Uses • Jacoby Sports-Recreation-Leisure Uses • Chiala Planned Development (Under Chiala Family Ownership)

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

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

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

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

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

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

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

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
Morgan Hill, CA 95037

**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 “programmatically” 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,



BEST BEST & KRIEGER
ATTORNEYS AT LAW

Ms. Rebecca Tolentino
Page 2

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 *Leshar 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,

Malathy Subramanian
General Counsel for the Local Agency Formation
Commission of Santa Clara County



June 9, 2014

VIA E-MAIL [Andrew.Crabtree@morganhill.ca.gov]

Andrew Crabtree
Community Development Director
City of Morgan Hill
17575 Peak Avenue
Morgan Hill, CA 95037

RE: Comments on Citywide Agriculture Preservation Program and Southeast Quadrant Land Use Plan Final Environmental Impact Report

Dear Mr. Crabtree:

Thank you for providing the Local Agency Formation Commission of Santa Clara County (LAFCO) with an opportunity to review and comment on the Final Environmental Impact Report (FEIR) for the City of Morgan Hill's Agriculture Preservation Program and Southeast Quadrant Land Use Plan ("Project"). As you know, LAFCO has provided numerous comment letters to the City outlining LAFCO's concerns regarding various aspects of the Project. Most recently on February 18, 2014, LAFCO and its legal counsel submitted extensive comments to the City regarding the Project. As stated therein, the Draft EIR for the Project fails to satisfy the requirements of the California Environmental Quality Act.

As limited examples, and as detailed in these previous comment letters, the Draft EIR segments the environmental analysis; improperly defers environmental analysis by conducting programmatic review of project-level proposals; fails to sufficiently mitigate significant impacts to agricultural resources; fails to adequately analyze impacts to agricultural resources, air quality, public services and utilities, and utility systems; and also fails to analyze a reasonable range of alternatives. Furthermore, the Project is inconsistent with several LAFCO policies against which the Project will later be evaluated by LAFCO for its approvals.

Although LAFCO appreciates the City's efforts to address the comments presented in its letters, the Final EIR fails to remedy the identified deficiencies, and the responses themselves do not comport with the requirements of CEQA. When significant environmental issues are raised in comments on a Draft EIR, like those raised by LAFCO, CEQA requires that the response must be detailed and must provide a reasoned, good faith analysis. (State CEQA Guidelines, § 15088(c); see *Flanders Found. v. City of Carmel-by-the-Sea* (2012) 202 Cal.App.4th 603, 615 [Failure of a

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EXECUTIVE OFFICER: Neelima Palacherla

lead agency to respond to comments raising significant environmental issues frustrates CEQA's informational purpose and may render the EIR legally inadequate].)

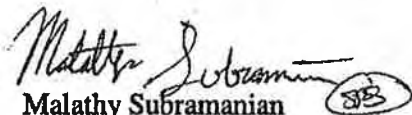
Rather than clarifying the issues raised by LAFCO, and others, including the County of Santa Clara, the Santa Clara County Open Space Authority and various environmental organizations, the Final EIR neglects to adequately respond to the comments, and in many cases adds to the confusion identified in the comments concerning the scope of the Project and the analysis of its environmental impacts.

For the foregoing reasons, we urge the City Council not to certify the EIR or approve the Project because to do so would violate the procedural and substantive mandates of CEQA. We once again thank the City for the opportunity to review the EIR, and LAFCO staff remains available should the City wish to discuss LAFCO's concerns.

Sincerely,



Neelima Palacherla
Executive Officer
LAFCO of Santa Clara County



Malathy Subramanian
General Counsel
LAFCO of Santa Clara County

Attachment A: LAFCO's February 18, 2014 Letter: Draft Environmental Impact Report for the Citywide Agriculture Preservation Program and Southeast Quadrant Land Use Plan

Attachment B: LAFCO Counsel's February 18, 2014 Letter: Comments on Citywide Agriculture Preservation Program and Southeast Quadrant Land Use Plan Draft Environmental Impact Report (SCH# 2010102010)



VIA E-MAIL

November 5, 2014

Honorable Mayor Tate and City Council Members
City of Morgan Hill
17575 Peak Avenue
Morgan Hill, CA 95037

RE: SOUTHEAST QUADRANT (SEQ) LAND USE PLAN AND CITYWIDE AGRICULTURAL LANDS PRESERVATION PROGRAM

Honorable Mayor Tate and City Council Members,

The purpose of this joint letter is to express our concerns and to request that the City not approve the proposed SEQ Project and the Agricultural Lands Preservation Program and not approve the Final EIR. Attachment 1 summarizes our concerns. We encourage the City to step back from its current plan to develop agricultural lands, and in partnership with the County of Santa Clara (County), LAFCO of Santa Clara County (LAFCO), and the Santa Clara County Open Space Authority (OSA) develop a SEQ proposal that better aligns with local and regional policies/goals.

Collaboration Efforts To-Date

Since July of this year, staff from the County, the OSA, and LAFCO have been meeting with City staff to develop an alternative agricultural preservation program in the SEQ. Staff explored conservation and financing strategies for a viable agricultural lands preservation program while addressing the City's growth needs in a sustainable manner in conformance with longstanding urban development policies.

Staff from the four agencies met several times over the course of the three months to discuss a range of potential strategies. In a good faith effort, the OSA arranged for a consultant to help staff prepare a Scope of Work for developing and implementing a viable plan for financing agricultural land preservation in the area. Successful models that the staff were beginning to evaluate would link economic incentives and initiatives (such as TDRs, conservation easements) with complementary growth management strategies (i.e. well-defined growth boundaries). The benefits of such approaches are accommodating growth without significantly impacting agricultural land; limiting development pressure in areas identified as important for continued agricultural production and providing reasonable certainty to landowners and developers.

Unfortunately, the work was cut short as the City indicated its intent to complete City Council action on the project by December 2014.

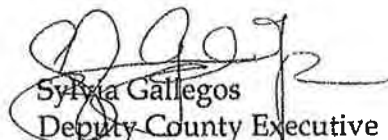
A More Balanced Approach to Preserving Agricultural Lands in SEQ


We urge the City Council to not approve the project as proposed, and to consider an alternate vision to achieve a successful outcome - significantly reducing the amount of agricultural land planned for conversion in the SEQ and delineating a meaningful and stable urban growth boundary. Such actions by the City Council would confirm the City's commitment to long-term agriculture in the SEQ and enable the Group to resume developing and implementing an effective, workable agricultural preservation program in the SEQ that includes specific programs, such as easement acquisitions and TDR programs.

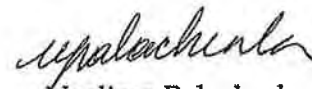
Importantly, this would be more in alignment with statewide and regional goals for building sustainable communities; specifically it would prevent urban sprawl, encourage more compact urban form, and enable the city to focus its budgetary resources on existing neighborhoods. It would allow the partner agencies to jointly support the City in applying for California Strategic Growth Council planning grants and for other potential future grants for developing conservation easement projects and for critical agricultural infrastructure needs planning.

Thank you for considering our request.

Sincerely,


Sylvia Gallegos
Deputy County Executive
County of Santa Clara


Andrea Mackenzie
General Manager
Open Space Authority


Neelima Palacherla
Executive Officer
Santa Clara LAFCO

c: OSA Board Members
LAFCO Members
Mike Wasserman, Supervisor District One

Attachment 1: Partner Agencies' Concerns with the Proposed SEQ Plan, Citywide Agricultural Lands Preservation Plan and Associated CEQA

Attachment 1:

PARTNER AGENCIES' CONCERNS WITH THE PROPOSED SOUTHEAST QUADRANT (SEQ) PLAN, CITYWIDE AGRICULTURAL LANDS PRESERVATION PLAN AND ASSOCIATED CEQA

The following summarizes some of the key concerns identified by the County of Santa Clara, LAFCO of Santa Clara County and the Santa Clara County Open Space Authority (OSA) with regard to the City of Morgan Hill's proposed plan for the SEQ and the associated CEQA review and process. Please note that the three agencies have previously raised these and other concerns in their various separate letters to the City and in their discussion with City staff.

A. INCONSISTENCIES BETWEEN STATED GOAL OF AGRICULTURAL PRESERVATION IN SEQ AND PROPOSED ACTIONS

1. Proposed Project Involves Premature and Unnecessary Conversion of Agricultural Lands in the SEQ

Even though the City has indicated that it is their goal to have permanent agricultural preservation in the SEQ and declared the SEQ as their Agricultural Priority area, the proposed plans depict that nearly half of the prime agricultural lands in the SEQ will be converted to urban uses. Out of a total of 597 acres of prime farmland, over 251 acres of prime farmland are slated for conversion to Sports Recreational and Leisure (SRL) and public facility uses. The purpose of the conversion is to allow four separate development proposals initiated by private property owners / developers on 106 acres of prime farmland. Since these four development proposals are not contiguous and are spread out in the SEQ, the City is proposing to re-designate the intervening 192 acres of prime farmland for urban use in order to simply establish contiguity. Thus the proposed urban growth (UGB) and urban limit line (ULL) boundaries, (which are proposed to include these lands) seem driven by the desire to facilitate private applicant initiated proposals rather than by the public benefit interest of farmland preservation.

2. Annexation Not Necessary for Preservation of Agricultural Lands in the SEQ

Another problematic aspect of the SEQ proposal is that it will require eventual city annexation of unincorporated lands located outside the City's urban service area (USA). First, such an annexation would directly conflict with the joint urban development policies, LAFCO policies and County General Plan which call for urban development and services within USAs; and resource conservation and rural uses outside the USA. Importantly, in keeping with the joint urban development policies, the County has established a long standing record for maintaining rural land uses and not providing public water and sewer services in the unincorporated county whereas the City has established no such record and has provided no assurances for conserving these lands. Further, it seems to be a misunderstanding amongst some people that the area would be better protected for agriculture under City jurisdiction and that annexation of the SEQ would prevent further rural residential development in the SEQ. Given that a single family home may be constructed by right on every legal lot whether it is in the County or City provided it meets the underlying building regulations, it is unclear

how the City would have the ability to somehow prohibit the construction of single family homes on recognized legal lots.

3. Designating Unincorporated Lands “Agriculture” in City General Plan Provides No Additional Protection for Unincorporated Agricultural Lands in the SEQ

Further, the City claims that by its proposal to designate unincorporated lands as Agriculture, the City would implement its General Plan policies related to agriculture and communicate its commitment for agricultural preservation within the SEQ. It is misleading and inaccurate to assume that the City’s designation offers any further protection from development for these lands, than their remaining in the County. These lands are currently designated Agriculture Medium Scale under the County General Plan. Since these lands are not proposed for annexation to the City at this time, they will continue to remain unincorporated and be subject to the County General Plan and its land use regulations. Therefore, the City’s General Plan designation would not apply to these lands and it would have no direct land use jurisdiction over these unincorporated lands.

4. Proposed Funding in the City’s Agricultural Lands Preservation Program Is Insufficient to Achieve 1:1 Mitigation

As a number of agencies have previously commented, the City’s proposed Agricultural Land Preservation Program designates the SEQ as the Agricultural Priority area within which mitigation should occur, however, it underestimates the land/easement costs and in-lieu fees necessary to preserve land in the SEQ by using lower land values more appropriate in other parts of the County. So therefore, even though the Program calls for a 1:1 mitigation, the funding generated by the proposed mitigation fees would not be sufficient to cover the 1:1 mitigation in the SEQ. It is very unlikely that the City’s program will result in any actual preservation of agriculture in the SEQ.

While the four agencies share a common goal of viable agriculture and agricultural preservation in the SEQ, the City’s project and process continue to directly conflict with these goals and with existing policies.

5. Proposed Clustering Program within Unincorporated Area is Infeasible

The City has indicated its interest in continuing to work with the three agencies to establish a Transfer of Development Rights (TDR) and clustering program *in the County only* for a specific landowner (Chialas) located within the SEQ.

With regard to establishing a clustering program within the unincorporated county for existing legal lots, the agencies have had extensive discussions and have identified significant concerns with such a program; these concerns range from inconsistencies of such development with the current County General Plan to potential lack of public benefit value of developing such a program in the County and include issues such as likely conflict between urban densities and rural character of unincorporated lands, environmental and service provision concerns, and the undesirable precedent setting nature of such a proposal on other parts of the unincorporated county. An effective TDR program in balance with other preservation strategies will need to address transferring development rights to receiving sites within the City.

B. INADEQUATE ENVIRONMENTAL ANALYSIS AND SEGMENTED REVIEW / APPROVAL PROCESS UNACCEPTABLE FOR SUCH A MAJOR LAND USE DECISION

1. City's Environmental Analysis is Deficient and Does Not Meet the Intent or Requirements of CEQA

As you know, the CEQA process is designed to identify and disclose to decision makers and the public the significant impacts of a proposed project prior to its consideration and approval. LAFCO, the County of Santa Clara, and the Santa Clara County Open Space Authority have each provided previous comments to the City on the City's environmental review process and documentation. In February 2014, these agencies identified significant deficiencies in the Draft EIR, including that the project description is unclear; the Draft EIR segments the environmental analysis; improperly defers environmental analysis by conducting programmatic review of project-level proposals; fails to sufficiently mitigate significant impacts to agricultural resources, air quality, public services and utilities, and utility systems; and also fails to analyze a reasonable range of alternatives. Subsequently, the City prepared a Final EIR which attempted to address the abovementioned comments. Rather than clarifying the issues raised by LAFCO, the County of Santa Clara, the Santa Clara County Open Space Authority, and others, the City's Final EIR neglects to adequately respond to the comments, and in many cases adds to the confusion identified in the comments concerning the scope of the project and the analysis of its environmental impacts.

2. Separation of the SEQ Land Use Plan from the City's General Plan Update Process is a Violation of Rational Planning Practices and CEQA

The City is currently in the midst of conducting a comprehensive update of its General Plan, which among other things, is considering various land use alternatives, including further outward expansion of city boundaries to accommodate anticipated growth. However, the SEQ project which requires major amendment to the City's General Plan is not part of the Comprehensive General Plan update. This is contrary to City/ County General Plan policies which require that UGB be only amended in conjunction with a comprehensive General Plan review /update. It is our understanding that the City intends to complete decisions on the SEQ by December 2014 in order to establish the SEQ project as a pre-existing condition for the Comprehensive General Plan Update EIR analysis, in clear violation of sound planning principles and CEQA Guidelines.



VIA EMAIL

February 4, 2015

Honorable Mayor Tate and City Council Members
City of Morgan Hill
17575 Peak Avenue
Morgan Hill, CA 95037

**RE: SOUTHEAST QUADRANT (SEQ) LAND USE PLAN AND CITYWIDE AGRICULTURAL
LANDS PRESERVATION PROGRAM**

Honorable Mayor Tate and City Council Members:

Thank you for your time and further consideration of LAFCO's concerns.

I am writing to respectfully request that the City Council delay consideration of the proposed General Plan Amendments. City staff has indicated that there is further opportunity to refine the Agricultural Lands Preservation Program and the General Plan, and proposes to continue to work with LAFCO, Santa Clara County Open Space Authority (OSA) and the County of Santa Clara (County) on potential refinements. However, the proposed General Plan amendments will prematurely establish the expectation for significant agricultural lands conversion in the SEQ thus making it more difficult for the City and the partner agencies to pursue their common goal and certain strategies for permanent agricultural land preservation in the SEQ.

On November 5, 2014, the County, OSA, and LAFCO sent a joint letter to the City in which we identified significant concerns with the City's Agricultural Lands Preservation Program and the SEQ project. These issues are yet to be resolved and continue to remain a concern. We urge the City to carefully consider and address these issues before moving forward.

One of the issues we identified in the letter is the lack of sufficient funding to implement an agricultural preservation plan in the SEQ. You may be aware of the new funding opportunities that have recently become available from the Strategic Growth Council for agricultural preservation planning and agricultural conservation easements. We urge the

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ALTERNATE COMMISSIONERS: Ash Kalra, Yoriko Kishimoto, Tara Martin-Milius, Terry Trumbull, Ken Yeager

EXECUTIVE OFFICER: Neelima Palacherla

City to pursue a SEQ plan that better aligns with local and regional policies/ goals – a plan that the partner agencies could support and that would qualify for the new funding opportunities.

It is LAFCO's mission and mandate to preserve agricultural land. The SEQ is an important agricultural resource in the County. We would like to reiterate our interest in working with the City and partner agencies and encourage the City to allow for a constructive, meaningful and collaborative resolution of the identified issues.

We look forward to a successful collaboration with the City and partner agencies.

Thank you.

Sincerely,



Neelima Palacherla
LAFCO Executive Officer

Attachment: LAFCO Staff Report (February 4, 2015): Update on the Southeast Quadrant Project

Cc: LAFCO Members
Sylvia Gallegos, Deputy County Executive
Andrea Mackenzie, OSA General Manager

File: 33325
Various

July 26, 2016

Mr. John Baty, Senior Planner
Community Development Department—Planning Division
City of Morgan Hill
17575 Peak Avenue
Morgan Hill, CA 95037

Subject: Morgan Hill 2035 General Plan

Dear Mr. Baty:

Santa Clara Valley Water District (District) has reviewed the Final Environmental Impact Report (FEIR) dated May 31, 2016. The District is a special district with jurisdiction throughout Santa Clara County. The District acts as the county's groundwater management agency, principal water resources manager, flood protection agency and is the steward for its watersheds, streams and creeks, and underground aquifers.

This letter transmits comments in reply to the response to comments in Table 5-1 of the FEIR that focus on the areas of interest and expertise of the District.

The District appreciates the detailed FEIR Responses to our concerns (labeled as Comments RA2 in Table 5-1). We especially appreciate the City's stated interests in consistency between the City's Urban Water Management Plan (UWMP) and General Plan and working with the District on coordinating land use and water supply plans. However, the responses to our comments do not fully address the District's concerns about the water supply reliability analysis in the FEIR. This letter presents some general comments, followed by specific comments on the Response to Comments.

General Comments

1. The future water demand of 13,655 acre-feet (AF) considered in the DEIR, with the underlying assumption of a future 179 Gallon Per Capita Per Day (GPCD) water use, exceeds any demands considered in the City's Urban Water Management Plans, or the District's UWMP or Water Supply and Infrastructure Master Plan by as much as 40%. (See comments RA2-10, RA2-20, RA2-28, RA2-32)
2. The underlying water supply availability assessments and references thereto are erroneously based on the City's pumping capacity, not actual regional water availability that considers competing demands in all hydrologic scenarios. Most of the FEIR

Response comments conclude that supply exceeds demands based on these assessments. Some comments do acknowledge that additional water supply investments and conservation efforts will be needed to meet the demand. However, that is not quantified. (See comments RA2-11, RA2-13, RA2-19, RA2-20, RA2-23)

3. Some of the assumptions regarding water supply and ability to meet demands include the effectiveness in water use reductions by up to 42% during the drought. Short term water restrictions during severe drought are not a sustainable response to long term demand and supply planning. In some cases, it appears that the City's planned long term water conservation is being intermingled with this short term drought response. However, this is not suitable for long term water supply or conservation assumptions. (See comments RA2-13, RA2-21, RA2-24, RA2-30)

Specific Comments

RA2-10: The District's primary concern in this comment is that the demands and potential impacts on groundwater supplies are not appropriately assessed. The EIR Response comments did not resolve the District's concern. The DEIR and FEIR Response uses the Morgan Hill 2010 UWMP as support of sufficient water supplies to meet future demand. However, the DEIR includes a demand (demand year 2035 of 13,655 AF) that is much higher than the 2010 UWMP demand (demand year 2030 of 9,637 AF). The FEIR Response notes that different methodologies are used to estimate demand (including, but not limited to, an interim GPCD of 179, instead of the 2020 GPCD of 159), and that the City is committed to long term, ongoing water consumption reduction and conservation. In which case, the GPCD of 159 is more appropriate and consistent with the UWMP. The FEIR does not resolve the conflicting demands and continues to support the use of the higher GPCD, which does not consider increased water use efficiency. Therefore, the comment does not appear responsive to the District's concern. In addition, as noted in the comments below, the District has concerns with the water supply reliability methodology as well, which was not sufficiently addressed.

RA2-11: The District's primary concern in this comment is the insufficient water supply assessment used to support available supply for future demand. The concern is in reference to the DEIR's use of groundwater pumping capacities of the City's wells to determine adequate supplies, rather than evaluating the actual supplies available in the demand years. The EIR Response comment acknowledges this by restating the DEIR statement: "*continued pumping at rates that exceed the total groundwater recharge can be harmful to the basins (i.e., subsidence, etc.)*". The EIR Response attempts to address this concern by stating that the City is "*...committed to additional focus on monitoring groundwater levels and implementing water conservation strategies before water levels become dangerously low.*" While the District appreciates the City's commitment to implementing water use reductions during shortages, the response does not appear to address the potential average year shortfall between supplies and demands. It appears to only address dry year actions.

The FEIR Response comment goes on to support the DEIR analysis by making reference to the use of the UWMP as a foundational document for compliance with both SB 610 and SB 221 (in accordance with the California Department of Water Resources in the Guidebook for Implementation of Senate Bill 610 and Senate Bill 221 of 2001). However, since the cited 2010 UWMP uses well capacity in the supply analysis and includes lower demand projections than those in the DEIR (see above under RA2-10), the District does not believe the UWMP adequately provides the foundation and support of the FEIR for an adequate future water supply to meet projected demand.

The FEIR does not include revised analysis in light of the acknowledgement of the deficiencies in the well capacities to establish supply reliability. However, we understand from other discussions with Morgan Hill staff that the Final 2015 UWMP will include a more appropriate analysis of water supply availability by subbasin and a lower water demand predicated on the City's continued water use efficiency efforts.

RA2-13: The District's primary concern in this comment is the conclusion of the DEIR that there is sufficient water supply, given the demand, in all year types. The FEIR Response comment refers the reader to pages 4.15-16 through 4.15-21 of the DEIR. Page 4.15-16 to 17 of the DEIR refer to the supply and demand assumptions we question in RA2-10 and RA2-11 and, thus, does not appear to be responsive. Furthermore, Page 4.15-17 also refers to the short-term water use reductions achieved during mandatory water restrictions due to the drought (*"Water conservation is the easiest, most efficient and most cost-effective way to quickly reduce water demand and extend supplies into the next year, providing flexibility for all communities. The City has demonstrated its ability to conserve voluntarily in times of drought."*). While the District supports water conservation to reduce long term demand and the City's achievements during the drought on short term reductions have been commendable, the reference to water saved during the drought is not a suitable approach to long term water supply reliability to meet increasing demand. Rather, this approach is a water shortage contingency response to serious water shortage during times of drought. We expect that City would want to minimize these shortage restrictions rather than rely on them for long-term supply planning purposes.

The referenced page continues with *"The City also plans to add new supply wells, if necessary, as the City continues to grow and the demand requirements continue to increase. However, as noted above, the current drought has reduced groundwater levels in the City's wells between 2011 and 2015."* Adding new wells does not increase the actual groundwater supplies, it only increases pumping capacity. Furthermore, this statement shows that pumping capacity is not the solution in multiple dry years. The referenced water supply methodologies do not adequately evaluate long-term water supply reliability, particularly with increasing demands.

The subsequent pages referenced in the FEIR Response (last paragraph on 4.15-17 through 4.15-21) reference GP Goals and Policies, and applicable regulations in support of enhancing water supply and conservation and begin with this statement:

“...proposed goals, policies, and actions in Chapter 9, Safety, Services and Infrastructure Element, and Chapter 8, Natural Resources and Environment Element of the proposed General Plan would enhance water supply and conservation”

The District supports the referenced policies, in particular:

Policy SSI-14.2 Water Conservation. Support water conservation measures that comply with state and federal legislation and that are consistent with measures adopted in the Urban Water Management Plan.

Policy SSI-14.3 SB-X7-7. Implement water conservation policies contained within Morgan Hill's Urban Water Management Plan to achieve 20 percent per capita water reductions by 2020.

However, the use of the interim SB-X7-7 target of 179 GPCD (see first comment in RA2-10) in the DEIR is in conflict with these policies. In addition, while the policies are well intentioned, the DEIR and the GP Policies do not present a quantifiable strategy to enhance water supply to meet demand, nor a quantifiable demand management program to increase water use efficiency (i.e. conservation) to reduce demand.

RA2-19. The District's primary concern in this comment is the incorrect conclusion of the DEIR that groundwater supply is equal to the City's maximum well capacity (see also RA2-11 comments above). The FEIR Response simply quotes the 2010 UWMP stating: "Since the basins are not adjudicated, the maximum supply available to the City is its maximum pumping capacity." The District believes that this conclusion is incorrect. There is no support to the conclusion that groundwater is available to meet maximum pumping capacity in all demand years. Groundwater availability is much more complicated than the ability to simply extract water. In fact, previous FEIR Responses noted that this is not a sustainable approach and that groundwater levels have fallen considerably in the recent drought. Furthermore, this conclusion does not consider the cumulative effects on continuous long term pumping at capacity and also it does not take into account non-city demands on the groundwater subbasin such as Gilroy and agricultural demands.

RA2-20: The District states two concerns: 1. "*Groundwater levels may decline during droughts and reduce the amount the City can pump...*"; and 2. "*... demands provided in the DEIR are from the City's 2010 UWMP and do not necessarily reflect the demands associated with the General Plan update and RDCS*". The FEIR Response is to cite its responses to RA2-10. The District noted its concerns in its comments on RA2-10 above.

RA2-23: The District's primary concern in this comment is the incorrect conclusion of the DEIR that groundwater supply is equal to the City's maximum well capacity. Further we noted that supply depends on other demands and recharge. The FEIR Responses do not address other users' demands and the long-term balance between supplies and demands. See also our comments under RA2-11 and RA2-19 above.

RA2-27: The District's primary concern of this comment is the conclusion that existing supplies are sufficient as stated on Page 4.15-20: *"The experience of the past four years of drought demonstrates that sufficient water supplies would be available to serve the proposed General*

Plan from existing entitlements and resources and new or expanded entitlements would not be required during single- and multiple-dry years". The FEIR Response includes the possible future need for expanded water supply and distribution facilities in Morgan Hill by citing the District's 2010 UWMP and its 2012 Water Supply and Infrastructure Master Plan (WSIMP). While we appreciate using District published studies as support, the District believes the City should also have a water supply assessment that is specific to its supplies and demand projections as identified in the GP and DEIR.

RA2-28 This District's concern with RA2-28 is the reference of sufficient supply determination in the City's UMWP, which includes a lower demand assumptions than the GP DEIR, and the inference that supplies were sufficient during the drought (Page 4.15-24- *"The last four years of drought have demonstrated that existing water supplies from the City's well system, along with replenishment of groundwater via natural precipitation infiltration, and SCVWD's releases from local reservoirs and imported water, were sufficient to serve the City during the current multiple-year drought period."* The FEIR Response comment states that the DEIR uses the 2010 UWMP supply analysis, but evaluates demand based on the GP. The response does not address the issue that you cannot infer sufficient supply based on a) a water supply assessment using lower demands, or b) on conditions that required water use restrictions to demands.

RA2-32 The District's primary concern with RA2-32 is that District's UWMP and WSIMP do not include all demands proposed in the GP, and therefore, more supplies or investments may be needed. The FEIR Response makes many statements about the demand assumptions. However, it does not acknowledge that the GP demands are higher than what the District has assumed in any analysis. In fact, the demands in these reports for the City are the demands in the City's 2010 UWMP. Furthermore, the FEIR Response again references water reductions in the current drought. As stated above, drought restricted water reductions are not useful or sustainable considerations for long term water conservation assumptions or water reliability assessments. The District's planning policies are to avoid water use reductions in drought of more than 10% and have sufficient supplies in normal years to meet normal year demands. Lastly, the FEIR Response against cites the overly conservative GPCP value of 179. The City's UWMP assumes a 2020 target of 159, in accordance with SB-X7-7.

We look forward to a response to our comments. If you have any questions or would like to discuss our comments further, you may contact me at (408) 630-2319, or by e-mail at

Mr. John Baty
Page 6
July 26, 2016

yarroyo@valleywater.org. Please reference District File No. 33325 on future correspondence regarding this project.

Sincerely,



Yvonne Arroyo
Associate Engineer
Community Projects Review Unit

cc: S. Tippets, S. Yung, V. De La Piedra, J. De La Piedra, T. Hemmeter, C. Tulloch,
Y. Arroyo, File

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CITY ATTORNEY'S OFFICE
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August 2, 2016

VIA ELECTRONIC MAIL AND US MAIL

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

Re: **Executive Officer's Report –Comment Letter on Final Environmental Impact Report for City of Morgan Hill's General Plan Update (Morgan Hill 2035)**

Dear Commissioners:

Thank you for your continued interest in the future of Morgan Hill. This is in response to Agenda Item 11.2 on LAFCO's August 3, 2016 agenda.

On July 27, 2016, the Morgan Hill City Council certified a Program EIR for its 2035 General Plan Update. LAFCO's Executive Officer claims that, as a responsible agency, LAFCO would be required to "rely" on this EIR if the City seeks approval for potential annexations. This is not true. Under a Program EIR, "[s]ubsequent activities in the program must be examined in the light of the program EIR to determine whether an additional environmental document must be prepared." Cal. Code Regs., tit. 14, § 15168.

LAFCO would be required to *consider* the City's Program EIR, but future projects, including a future annexation, "must be examined in the light of the program EIR to determine whether an additional environmental document must be prepared." Cal. Code Regs., tit. 14, § 15168(c) (emphasis added). If the City's General Plan EIR does not adequately address the potential environmental impacts of a future annexation, LAFCO and/or the City would be required to do additional environmental review prior to project approval.

Further, the Executive Officer's concerns about the adequacy of the water supply and infrastructure are misplaced.

"CEQA does not require an EIR to show a project is *certain* to have sufficient future water supplies, because "[r]equiring certainty when a long-term, large-scale development project is initially approved would likely be unworkable, as it would require water planning to far outpace land use planning."

Cherry Valley Pass Acres and Neighbors v. City of Beaumont (2010) 190 Cal.App.4th 316, 342 (emphasis in original).

Instead, the City "may rely on existing urban water management plans, so long as the expected new demand of the [project] was included in the water management plan's future demand accounting." *Id.*

LAFCO
August 2, 2016
Page 2

Morgan Hill's draft Urban Water Management Plan, which was prepared in close collaboration with the Santa Clara Valley Water District, takes into account the 2035 General Plan Land Use Map, policies, and programs. Permanent water conservation is a cornerstone of the draft plan, which ensures that we will continue to exceed the 20 x 2020 Water Conservation Plan conservation targets from the state Department of Water Resources. Adoption of the Urban Water Management Plan will be considered by the City Council on August 24, 2016.

While the level of detailed environmental analysis expected by the Executive Officer would be premature at the general planning stage, the City of Morgan Hill remains committed to working with LAFCO to address any environmental impacts that would come if the City proposes to annex land outside of its current borders.

Sincerely,



Donald A. Larkin
City Attorney

c: LAFCO Executive Officer
City Council
City Manager

LAFCO MEETING: August 3, 2016
TO: LAFCO
FROM: Neelima Palacherla, Executive Officer
Dunia Noel, Analyst
SUBJECT: CALAFCO RELATED ACTIVITIES

12.1 NOMINATIONS TO THE 2016/2017 CALAFCO BOARD OF DIRECTORS

Recommendation

Nominate interested Commissioners and provide further direction to staff, as necessary.

Discussion

Nominations for the 2016/2017 CALAFCO Board of Directors are now open. Please see **Attachment A**. LAFCO of Santa Clara County is part of the Coastal Region. Within the Coastal Region, nominations are being accepted for "County Member" and "District Member." The deadline for LAFCO to submit nominations is Monday, September 26th. Serving on the CALAFCO Board is a unique opportunity to work with other LAFCO commissioners throughout the state on legislative, fiscal and operations issues that affect LAFCOs, counties, cities, and special districts. The Board meets four to five times each year at alternate sites around the state. Any LAFCO commissioner or alternate commissioner is eligible to run for a CALAFCO Board seat.

12.2 DESIGNATE VOTING DELEGATE AND ALTERNATE

Recommendation

Appoint voting delegate and alternate voting delegate.

Discussion

Elections for the 2016/2017 CALAFCO Board of Directors will occur on Thursday, October 27, 2016, at CALAFCO's Annual Conference in Santa Barbara. Each LAFCO must designate a voting delegate and alternate who is authorized to vote on behalf of their LAFCO.

ATTACHMENT

Attachment A: Memo from CALAFCO re: Nominations for 2016/2017 CALAFCO Board of Directors dated June 27, 2016



June 27, 2016

To: Local Agency Formation Commission
Members and Alternate Members

From: Jim Curatalo, Committee Chair
Board Recruitment Committee
CALAFCO Board of Directors



RE: Nominations for 2016/2017 CALAFCO Board of Directors

Nominations are now open for the fall elections of the CALAFCO Board of Directors. Serving on the CALAFCO Board is a unique opportunity to work with other commissioners throughout the state on legislative, fiscal and operational issues that affect us all. The Board meets four to five times each year at alternate sites around the state. Any LAFCo commissioner or alternate commissioner is eligible to run for a Board seat.

CALAFCO's Recruitment Committee is accepting nominations for the following seats on the CALAFCO Board of Directors:

<u>Northern Region</u>	<u>Central Region</u>	<u>Coastal Region</u>	<u>Southern Region</u>
City Member	County Member	County Member	City Member
Public Member	District Member	District Member	Public Member

The election will be conducted during Regional Caucuses at the CALAFCO Annual Conference prior to the Annual Membership Meeting on Thursday, October 27, 2016 at the Fess Parker DoubleTree in Santa Barbara, CA.

Please inform your Commission that the CALAFCO Recruitment Committee is accepting nominations for the above-cited seats until *Monday, September 26, 2016.*

Incumbents are eligible to run for another term. Nominations received by September 26 will be included in the Recruitment Committee's Report and will be on the ballot. The Report will be distributed to LAFCo members no later than October 12 and ballots made available to Voting Delegates at the Annual Conference. Nominations received after this date will be returned; however, nominations will be permitted from the floor during the Regional Caucuses or during at-large elections, if required, at the Annual Membership Meeting.

For those member LAFCos who cannot send a representative to the Annual Meeting an electronic ballot will be made available if requested in advance. The ballot request must be made no later than Monday, September 26, 2016. Completed absentee ballots must be returned by October 21, 2016.

Should your Commission nominate a candidate, the Chair of your Commission must complete the attached Nomination Form and the Candidate's Resume Form, or provide the specified information in another format other than a resume. Commissions may also include a letter of recommendation or resolution in support of their nominee.

The nomination forms and materials must be received by the CALAFCO Executive Director no later than *Monday, September 26, 2016*

Here is a summary of the deadlines for this year's nomination process:

- **June 27** – Nomination Announcement and packet sent to LAFCo membership and posted on the CALAFCO website.
- **September 26** – Completed Nomination packet due
- **September 26** – Request for an absentee/electronic ballot due
- **September 26** – Voting delegate name due to CALAFCO
- **October 12** – Distribution of the Recruitment Committee Report (includes all completed/submitted nomination papers)
- **October 12** – Distribution of requested absentee/electronic ballots.
- **October 21** – Absentee ballots due to CALAFCO
- **October 27** - Elections

Returning the nomination form prior to the deadline ensures your nominee is placed on the ballot. Electronic filing of nomination forms and materials is encouraged to facilitate the recruitment process. Please send e-mails with forms and materials to info@calafco.org. Alternatively, nomination forms and materials can be mailed or faxed to the address or fax number below. Please forward nominations to:

CALAFCO Recruitment Committee c/o Executive Director
California Association of Local Agency Formation Commissions
1215 K Street, Suite 1650
Sacramento, California 95814
FAX: 916-442-6535
EMAIL: info@calafco.org

Questions about the election process can be sent to the Chair of the Committee, Jim Curatalo, at jcuratalo@calafco.org or by calling him at 909-261-7005. You may also contact CALAFCO Executive Director Pamela Miller at pmiller@calafco.org or by calling 916-442-6536.

Members of the 2016/2017 CALAFCO Recruitment Committee are:

James Curatalo, Chair jcuratalo@calafco.org	San Bernardino LAFCo (Southern Region) 909-261-7005
Bill Connelly bconnelly@calafco.org	Butte LAFCo (Northern Region) 530-538-2134
John Marchand jmarchand@calafco.org	Alameda LAFCo (Coastal Region) 925-960-4020
Anita Paque apaque@calafco.org	Calaveras LAFCo (Central Region) 408-893-4353

Attached please find a copy of the CALAFCO Board of Directors Nomination and Election Procedures.

Please consider joining us!

Enclosures

Board of Directors Nomination and Election Procedures and Forms

The procedures for nominations and election of the CALAFCO Board of Directors [Board] are designed to assure full, fair and open consideration of all candidates, provide confidential balloting for contested positions and avoid excessive demands on the time of those participating in the CALAFCO Annual Conference.

The Board nomination and election procedures shall be:

1. APPOINTMENT OF A RECRUITMENT COMMITTEE

- a. Following the Annual Membership Meeting the Board shall appoint a Committee of four members of the Board. The Recruitment Committee shall consist of one member from each region whose term is not ending.
- b. The Board shall appoint one of the members of the Recruitment Committee to serve as Chairman. The CALAFCO Executive Officer shall appoint a CALAFCO staff member to serve as staff for the Recruitment Committee in cooperation with the CALAFCO Executive Director.
- c. Each region shall designate a regional representative to serve as staff liaison to the Recruitment Committee.
- d. Goals of the Committee are to encourage and solicit candidates by region who represent member LAFCoS across the spectrum of geography, size, and urban-suburban-rural population, and to provide oversight of the elections process.

2. ANNOUNCEMENT TO ALL MEMBER LAFCoS

- a. No later than three months prior to the Annual Membership Meeting, the Recruitment Committee Chair shall send an announcement to each LAFCo for distribution to each commissioner and alternate. The announcement shall include the following:
 - i. A statement clearly indicating which offices are subject to the election.
 - ii. A regional map including LAFCoS listed by region.
 - iii. The dates by which all nominations must be received by the Recruitment Committee. The deadline shall be no later than 30 days prior to the opening of the Annual Conference. Nominations received after the closing date shall be returned to the proposing LAFCo marked "Received too late for Nominations Committee action."
 - iv. The names of the Recruitment Committee members with the Committee Chair's LAFCo address and phone number, and the names and contact information for each of the regional representatives.
 - v. The address to send the nominations forms.
 - vi. A form for a Commission to use to nominate a candidate and a candidate resume form of no more than one page each to be completed for each nominee.
- b. No later than four months before the annual membership meeting, the Recruitment Committee Chair shall send an announcement to the Executive Director for distribution to each member LAFCo and for publication in the newsletter and on the website. The announcement shall include the following:

Key Timeframes for Nominations Process	
<u>Days*</u>	
90	Nomination announcement
30	Nomination deadline
14	Committee report released
<small>*Days prior to annual membership meeting</small>	

- i. A statement clearly indicating which offices are subject to the election.
 - ii. The specific date by which all nominations must be received by the Recruitment Committee. Nominations received after the closing dates shall be returned to the proposing LAFCo marked "Received too late for Recruitment Committee action."
 - iii. The names of the Recruitment Committee members with the Committee Chair's LAFCo address and phone number, and the names and contact information for each of the regional representatives.
 - iv. Requirement that nominated individual must be a commissioner or alternate commissioner from a member in good standing within the region.
- c. A copy of these procedures shall be posted on the web site.

3. THE RECRUITMENT COMMITTEE

- a. The Recruitment Committee and the regional representatives have the responsibility to monitor nominations and help assure that there are adequate nominations from each region for each seat up for election. No later than two weeks prior to the Annual Conference, the Recruitment Committee Chair shall distribute to the members the Committee Report organized by regions, including copies of all nominations and resumes, which are received prior to the end of the nomination period.
- b. At the close of the nominations the Recruitment Committee shall prepare regional ballots. Each region will receive a ballot specific to that region. Each region shall conduct a caucus at the Annual Conference for the purpose of electing their designated seats. Caucus elections must be held prior to the annual membership meeting at the conference. The Executive Director or assigned staff along with a member of the Recruitment committee shall tally ballots at each caucus and provide the Recruitment Committee the names of the elected Board members and any open seats. In the event of a tie, the staff and Recruitment Committee member shall immediately conduct a run-off ballot of the tied candidates.
- c. Make available sufficient copies of the Committee Report for each Voting Member by the beginning of the Annual Conference.
- d. Make available blank copies of the nomination forms and resume forms to accommodate nominations from the floor at either the caucuses or the annual meeting (if an at-large election is required).
- e. Advise the Annual Conference Planning Committee to provide "CANDIDATE" ribbons to all candidates attending the Annual Conference.
- f. Post the candidate statements/resumes organized by region on a bulletin board near the registration desk.
- g. Regional elections shall be conducted as described in Section 4 below. The representative from the Recruitment Committee shall serve as the Presiding Officer for the purpose of the caucus election.
- h. Following the regional elections, in the event that there are open seats for any offices subject to the election, the Recruitment Committee Chair shall notify the Chair of the Board of Directors that an at-large election will be required at the annual membership meeting and to provide a list of the number and category of seats requiring an at-large election.

4. ELECTRONIC BALLOT FOR LAFCO IN GOOD STANDING NOT ATTENDING ANNUAL MEETING

Limited to the elections of the Board of Directors

- a. Any LAFCo in good standing shall have the option to request an electronic ballot if there will be no representative attending the annual meeting.
- b. LAFCos requesting an electronic ballot shall do so in writing no later than 30 days prior to the annual meeting.
- c. The Executive Director shall distribute the electronic ballot no later than two weeks prior to the annual meeting.
- d. LAFCo must return the ballot electronically to the executive director no later than three days prior to the annual meeting.
- e. LAFCos voting under this provision may discard their electronic ballot if a representative is able to attend the annual meeting.
- f. LAFCos voting under this provision may only vote for the candidates nominated by the Recruitment Committee.

5. AT THE TIME FOR ELECTIONS DURING THE REGIONAL CAUCUSES OR ANNUAL MEMBERSHIP MEETING

- a. The Recruitment Committee Chairman, another member of the Recruitment Committee, or the Chair's designee (hereafter called the Presiding Officer) shall:
 - i. Review the election procedure with the membership.
 - ii. Present the Recruitment Committee Report (previously distributed).
 - iii. Call for nominations from the floor by category for those seats subject to this election:
 1. For city member.
 2. For county member.
 3. For public member.
 4. For special district member.
- b. To make a nomination from the floor, a LAFCo, which is in good standing, shall identify itself and then name the category of vacancy and individual being nominated. The nominator may make a presentation not to exceed two minutes in support of the nomination.
- c. When there are no further nominations for a category, the Presiding Officer shall close the nominations for that category.
- d. The Presiding Officer shall conduct a "Candidates Forum". Each candidate shall be given time to make a brief statement for their candidacy.
- e. The Presiding Officer shall then conduct the election:
 - i. For categories where there are the same number of candidates as vacancies, the Presiding Officer shall:
 1. Name the nominees and offices for which they are nominated.
 2. Call for a voice vote on all nominees and thereafter declare those unopposed candidates duly elected.

- ii. For categories where there are more candidates than vacancies, the Presiding Officer shall:
 - 1. Poll the LAFCoS in good standing by written ballot.
 - 2. Each LAFCo in good standing may cast its vote for as many nominees as there are vacancies to be filled. The vote shall be recorded on a tally sheet.
 - 3. With assistance from CALAFCO staff, tally the votes cast and announce the results.
- iii. Election to the Board shall occur as follows:
 - 1. The nominee receiving the majority of votes cast is elected.
 - 2. In the case of no majority, the two nominees receiving the two highest number of votes cast shall face each other in a run-off election.
 - 3. In case of tie votes:
 - a. A second run-off election shall be held with the same two nominees.
 - b. If there remains a tie after the second run-off, the winner shall be determined by a draw of lots.
 - 4. In the case of two vacancies, any candidate receiving a majority of votes cast is elected.
 - a. In the case of no majority for either vacancy, the three nominees receiving the three highest number of votes cast shall face each other in a run-off election.
 - b. In the case of no majority for one vacancy, the two nominees receiving the second and third highest number of votes cast shall face each other in a run-off election.
 - c. In the event of a tie, a second run-off election shall be held with the tied nominees. If there remains a tie after the second run-off election the winner shall be determined by a draw of lots.

6. ADDITIONAL PROCEDURES

- a. For categories where there are more candidates than vacancies, names will be listed in the order nominated.
- b. The Recruitment Committee Chair shall announce and introduce all Board Members elected at the Regional Caucuses at the annual business meeting.
- c. In the event that Board seats remain unfilled after a Regional Caucus, an election will be held immediately at the annual business meeting to fill the position at-large. Nominations will be taken from the floor and the election process will follow the procedures described in Section 4 above. Any commissioner or alternate from a member LAFCo may be nominated for at-large seats.
- d. Seats elected at-large become subject to regional election at the expiration of the term. Only representatives from the region may be nominated for the seat.
- e. As required by the Bylaws, the members of the Board shall meet as soon as possible after election of new board members for the purpose of electing officers, determining meeting places and times for the coming year, and conducting any other necessary business.

7. LOSS OF ELECTION IN HOME LAFCO

Board Members and candidates who lose elections in their home office shall notify the Executive Director within 15 days of the certification of the election.

8. FILLING BOARD VACANCIES

Vacancies on the Board of Directors may be filled by appointment by the Board for the balance of the unexpired term. Appointees must be from the same category as the vacancy, and should be from the same region.

These policies and procedures were adopted by the CALAFCO Board of Directors on 12 January 2007 and amended on 9 November 2007, 8 February 2008, 13 February 2009, 12 February 2010, 18 February 2011, and 29 April 2011. They supersede all previous versions of the policies.

CALAFCO Regions

FOUR REGIONS



The counties in each of the four regions consist of the following:

Northern Region

Butte
Colusa
Del Norte
Glenn
Humboldt
Lake
Lassen
Mendocino
Modoc
Nevada
Plumas
Shasta
Sierra
Siskiyou
Sutter
Tehama
Trinity
Yuba

CONTACT: Steve Lucas
Butte LAFCo
slucas@buttecounty.net

Southern Region

Orange
Los Angeles
Imperial
Riverside
San Bernardino
San Diego

CONTACT: Paul Novak
Los Angeles LAFCo
pnovak@lalafco.org

Coastal Region

Alameda
Contra Costa
Marin
Monterey
Napa
San Benito
San Francisco
San Luis Obispo
San Mateo
Santa Barbara
Santa Clara
Santa Cruz
Solano
Sonoma
Ventura

CONTACT: David Church
San Luis Obispo LAFCo
dchurch@slolafco.com

Central Region

Alpine
Amador
Calaveras
El Dorado
Fresno
Inyo
Kern
Kings
Madera
Mariposa
Merced
Mono
Placer
Sacramento
San Joaquin
Stanislaus
Tulare
Tuolumne
Yolo

CONTACT: Kris Berry, Placer LAFCo
kberry@placer.ca.gov

Board of Directors 2016/2017 Nominations Form

Nomination to the CALAFCO Board of Directors

In accordance with the Nominations and Election Procedures of CALAFCO,

_____ LAFCo of the _____ Region

Nominates _____

for the (check one) City County Special District Public

Position on the CALAFCO Board of Directors to be filled by election at the next Annual
Membership Meeting of the Association.

LAFCo Chair

Date

NOTICE OF DEADLINE

Nominations must be received by **September 26, 2016**
to be considered by the Recruitment Committee. Send
completed nominations to:
CALAFCO Recruitment Committee
CALAFCO
1215 K Street, Suite 1650
Sacramento, CA 95814

Board of Directors 2016/2017 Candidate Resume Form

Nominated By: _____ LAFCo Date: _____

Region (please check one): Northern Coastal Central Southern

Category (please check one): City County Special District Public

Candidate Name _____

Address _____

Phone Office _____ Mobile _____

e-mail _____ @ _____

Personal and Professional Background:

LAFCo Experience:

CALAFCO or State-level Experience:

Availability:

Other Related Activities and Comments:

NOTICE OF DEADLINE

Nominations must be received by **September 26, 2016** to be considered by the Recruitment Committee. Send completed nominations to:
CALAFCO Recruitment Committee
CALAFCO
1215 K Street, Suite 1650
Sacramento, CA 95814