



CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION

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March 15, 2016

**TO:** City/Town Managers and City/Town Planning Directors  
Special District General Managers  
County Administrator and Director, Department of Conservation & Development

**FROM:** Contra Costa LAFCO Policies & Procedures Committee ("Committee")

**SUBJECT:** Draft Contra Costa LAFCO Agricultural & Open Space Preservation Policy

Contra Costa LAFCO is soliciting input on its draft Agricultural & Open Space Preservation Policy ("AOSPP").

The purpose of the policy is twofold: 1) to provide guidance to applicants on how to assess the impacts of proposals before LAFCO on agricultural and open space and to explain any proposed mitigations; and 2) to provide a framework for LAFCO to evaluate and process in a consistent manner, proposals that involve or impact agricultural and/or open space lands.

**A LITTLE BACKGROUND...** LAFCO has discussed a potential AOSPP for approximately one year, as chronicled in Attachment A. In January 2016, LAFCO modified its *Questionnaire for Amending a Sphere of Influence (SOI), Questionnaire for Annexations, Detachments, and Reorganizations, and Procedures for Processing Boundary Changes* to include an Agricultural & Open Space Impact Assessment (Attachment B).

On March 9<sup>th</sup>, the Committee presented to the Commission a draft AOSPP (Attachment 3), and is soliciting comments prior to the Commission taking any action.

**WHAT'S NEXT?** On May 11<sup>th</sup>, the Committee will return to the Commission with a summary/collection of comments received and a discussion of global issues; and on June 8<sup>th</sup>, the Committee will present to the Commission a revised draft AOSPP, incorporating comments from stakeholders.

***Contra Costa LAFCO wants to hear from you!*** We urge you to discuss the draft LAFCO policy with your councils/boards and other interested parties in your community. Comments received prior to May 1<sup>st</sup> will be included with the Committee's report to the Commission.

If you have questions, please contact Lou Ann Teixeira, Executive Officer, Contra Costa LAFCO by email at [LouAnn.Teixeira@lafco.cccounty.us](mailto:LouAnn.Teixeira@lafco.cccounty.us) or by phone (925) 335-1094.

Thank you for your interest in Contra Costa LAFCO.

**Attachment A** – Chronology of Contra Costa LAFCO’s Agricultural & Open Space Preservation Policy Development

**Attachment B** – Updated LAFCO Questionnaires and Boundary Change Procedures

**Attachment C** – Draft LAFCO Agricultural & Open Space Preservation Policy

## **Attachment A - Chronology of Contra Costa LAFCO's Agricultural & Open Space Preservation Policy Development – March 2016**

Development of a LAFCO AOSPP was identified years ago as part of the Commission's ongoing efforts to update its Policies & Procedures. The discussion was elevated in March 2015, at which time LAFCO's Policies and Procedures Committee presented a report to the Commission, along with a summary of the Committee's research, relevant LAFCO statutes, and a collection of LAFCO policies and procedures representing 18 different LAFCOs from around the State.

In July 2015, Contra Costa LAFCO hosted an Agricultural & Open Space Preservation Workshop to engage stakeholders and begin a conversation as to whether or not LAFCO should develop a local AOSPP; and if so, what the Contra Costa LAFCO policy should address.

The conversation continued throughout the summer and fall. The Committee and County GIS presented series of maps depicting prime agricultural soil, important farmland, land covered under Williamson Act land contracts, parks and protected open space areas, areas with and without urban services, urban growth boundaries, and related features. The maps were intended to show important agricultural and open space areas that could potentially be at risk. (These maps can be viewed online at <http://www.contracostalafco.org/Ag-and-Open-Space-Preservation.htm>)

Subsequently, the Commission directed the Committee to reach out to various local agency groups to gauge their level of interest in a LAFCO AOSPP. In October and November, the Committee reported on its meetings with these groups, including the Contra Costa Transportation Authority (CCTA), Contra Costa Public Managers Association (PMA), County/City Planning Directors (CCPD), and the Contra Costa Special Districts (CCSDA). Through these meetings, we learned that the groups are generally interested in a LAFCO AOSPP and wish to be kept apprised of LAFCO's progress.

Throughout the process, LAFCO has received input from agriculture, building, environmental, farming, local government and other interest groups, along with members of the general public.

In November, the Commission directed the Committee to draft guidelines relating to agriculture and open space preservation that focus on the LAFCO application requirements and procedures.

In January 2016, the Committee presented proposed revisions to LAFCO's *Questionnaire for Amending a Sphere of Influence (SOI)*, *Questionnaire for Annexations, Detachments and Reorganizations*, and *Procedures for Processing Boundary Changes*. The Commission agreed with the proposed revisions, and also directed the Committee to draft an AOSPP and discuss the draft policy with the various local agency groups (i.e., CCTA, PMA, CCPD, CCSDA). Meetings with these groups are occurring in March and April.

On March 9<sup>th</sup>, the Committee presented to the Commission the draft AOSPP (attached). Based on the Commission's prior direction, the draft policy complements the recent updates to the LAFCO questionnaires and procedures, which now include an agricultural and open space impact analysis. Also on March 9<sup>th</sup>, the Commission received a number of written and verbal comments. The Commission directed the Committee to reach out to the County, cities/towns and special districts to solicit input on the draft LAFCO AOSPP.

## Attachment B

### CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION

#### **Questionnaire for Annexations, Detachments and Reorganizations** (Attach additional sheets as necessary)

1. Name of Application: (The name should match the title on the map and legal description; list all boundary changes that are part of the application)
2. Describe the acreage and general location; include street addresses if known:
3. List the Assessor's Parcels within the proposal area:
4. Reasons for the proposal: (Why is this proposal being filed? Identify other actions that are part of the overall project, i.e., a tract map or development permit.)
5. Land Use and Zoning - Present and Future
  - A. Describe the existing land uses within the proposal area. Be specific.
  - B. Describe any changes in land uses that would result from or be facilitated by this proposed boundary change.
  - C. Describe the existing zoning designations within the proposal area.
  - D. Describe any proposed change in zoning for the proposal area. Do the existing and proposed uses conform to this zoning?
  - E. (For City Annexations) Describe the prezoning that will apply to the proposal area upon annexation. Do the proposed uses conform to this prezoning?
  - F. List all known entitlement applications pending for the property (i.e., zone change, land division or other entitlements).

6. Describe the area surrounding the proposal

In Table A at the end of this questionnaire, describe existing land uses, general plans and zoning designations for lands adjacent to and surrounding the proposal area. The application is incomplete without this table.

7. Conformity with Spheres of influence

- A. Is the proposal area within the sphere of influence (SOI) of the annexing agency?
- B. If not, include a proposal to revise the SOI. Per Commission policy, SOIs generally will not be amended concurrently with an action on the related change of organization or reorganization.

8. Conformity with an Urban Limit Line/Urban Growth Boundary

Is the proposal area within an Urban Limit Line or Urban Growth Boundary? If not, please explain.

9. Conformity with County and City General Plans

- A. Describe the existing General Plan designation(s) for the proposal area.
- B. (For City Annexations) Describe the City General Plan designation(s) for the area.
- C. Do the proposed uses conform to these plans? If not, please explain.

10. Topography and Natural Features

- A. Describe the general topography of the proposal area and any significant natural features that may affect the proposal.
- B. Describe the general topography of the area surrounding the proposal.

11. Agricultural Land

- A. Does the proposal area include any agricultural land as defined in Gov. Code §56016, or prime agricultural land as defined in Gov. Code §56064? If so, please describe.
- B. Will the proposal result in the conversion of agricultural land to non agricultural uses (i.e., immediately, over time, etc.)?
- C. Is there any local agency (i.e., county, city, district) adopted agricultural preservation policy relating to this area? If so, please describe.
- D. Does the proposal area include any agricultural preserve areas? If so, please describe.
- E. Describe any agricultural lands adjacent to the proposal area.
- F. Is any portion of the proposal area within a Land Conservation (Williamson) Act contract?
  - 1) If “yes,” provide the contract number and date the contract was executed.
  - 2) If “yes”, has a notice of non-renewal been filed? If so, when? If applicable, provide date of Williamson Act contract expiration/cancellation.
  - 3) If this proposal is an annexation to a city, provide a copy of any protest filed by the annexing city against the contract when it was approved.
- G. Please describe mitigation measures applicable to the loss of agricultural lands resulting from approval of this proposal (e.g., agricultural easements, agricultural buffers, exchange of land to be preserved for land that may be urbanized, etc.).

12. Open Space Land

- A. Does the proposal area include Open Space land as defined in Government Code Section 65560? If so, please describe.
- B. Does the proposal area have an open space easement? If so, please describe.

- C. Is the proposal area within or adjacent to an approved greenbelt? If so, please describe.

13. Agricultural and Open Space Impact Assessment

This section applies to applications that include, or are contiguous to, open space and/or agricultural land as defined in the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 ("CKH").

State law includes policies and priorities that guide development away from agricultural land and encourage development of land in existing boundaries and SOIs before annexing open space/agricultural land. Accordingly, Contra Costa LAFCO requires all proposals that include, or are contiguous to, agricultural and/or open space lands to include an Impact Assessment which shall address the following:

- A. How does the proposal balance the State's interest in preserving open space and agricultural lands against the need for orderly development?
- B. What is the effect of the proposal on maintaining the physical and economic integrity of agricultural lands?
- C. Can the proposal reasonably be expected to induce, facilitate, or lead to the conversion of existing agricultural and/or open space land to other uses?
- D. How does the proposal guide development away from agricultural and/or open space lands?
- E. How does the proposal facilitate development of existing vacant or non agricultural and/ or non open space lands for urban uses within the existing boundary or SOI of a local agency?
- F. What measures does the proposal contain that will protect the physical and economic integrity of adjacent agricultural and/or open space land uses?

14. Relationship to Regional Housing Goals and Policies (City annexations only)

If this proposal will result in or facilitate an increase in the number of housing units, describe the extent to which the proposal will assist the annexing city in achieving its fair share of regional housing needs as determined by ABAG.

15. Population

A. Describe the number and type of existing dwelling units within the proposal area.

B. How many new dwelling units could result from or be facilitated by the proposal?

Single-family \_\_\_\_\_ Multi-family \_\_\_\_\_

C. What is the projected population growth due to the proposal?

16. Plan for Providing Services - Government Services and Controls (per §56653)

A. Describe the services to be extended to the affected territory by this proposal.

B. Describe the level and range of the proposed services.

C. Indicate when the services can feasibly be provided to the proposal area.

D. Indicate any improvements or upgrading of structures, roads, sewers or water facilities or other conditions that will be required as a result of the proposal.

E. Identify how these services will be financed. Include both capital improvements and ongoing maintenance and operation.

F. Identify any alternatives for providing the services listed in Section (A) and how these alternatives would affect the cost and adequacy of services.



17. Ability of the annexing agency to provide services

Attach a statement from each annexing agency describing its ability to provide services that are the subject of the application, including the sufficiency of revenues (56668j).

18. Dependability of Water Supply for Projected Needs (56653)

If the proposal will result in or facilitate an increase in water usage, attach a statement from the retail water purveyor that describes the timely availability of water supplies that will be adequate for the projected needs.

19. Bonded indebtedness and zones – These questions pertain to long term debt that applies or will be applied to the affected property.

- A. Do agencies whose boundaries are being changed have existing bonded debt? \_\_\_\_\_. If so, please describe.
- B. Will the proposal area be liable for payment of its share of this existing debt? \_\_\_\_\_. If yes, how will this indebtedness be repaid (property taxes, assessments, water sales, etc.)?
- C. Should the proposal area be included within any Division or Zone for debt repayment? \_\_\_\_\_. If yes, please describe.
- D. (For detachments) Does the detaching agency propose that the subject territory continue to be liable for existing bonded debt? \_\_\_\_\_. If yes, please describe.

20. Environmental Impact of the Proposal

- A. Who is the "lead agency" for this proposal? \_\_\_\_\_
- B. What type of environmental document has been prepared?  
  
Categorically Exempt -- Class \_\_\_\_ EIR \_\_\_\_ Negative Declaration \_\_\_\_  
Mitigated ND \_\_\_\_ Subsequent Use of Previous EIR \_\_\_\_ Identify the  
prior EIR. \_\_\_\_\_
- C. If an EIR has been prepared, provide 6 disks and 10 hard copies of the Final EIR and one copy of the lead agency's resolution listing significant impacts, mitigation measures and, if adopted, a statement of overriding considerations.

21. Boundaries

- A. Why are these particular boundaries being used? Ideally, what other properties should be included in and/or excluded from the proposal?
- B. If any landowners have included only part of the contiguous land under their ownership, explain why the additional property is not included.

22. Final Comments

- A. List any conditions LAFCO should include in its resolution of approval.
- B. Provide any other comments or justifications regarding the proposal from any affected local agency, landowner or resident.
- C. Enclose all pertinent staff reports and supporting documentation related to this proposal. Note any changes in the approved project that are not reflected in these materials.

23. Notices and Staff Reports - List up to three persons with email addresses to receive copies of the LAFCO notice of hearing and staff report.

Who should be contacted if there are questions about this application?

<u>Name</u>	<u>Email</u>	<u>Address</u>	<u>Phone</u>
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Signature _____	Date _____
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TABLE A

**Information regarding the areas surrounding the proposal area**

	<b>Existing Land Use</b>	<b>General Plan Designation</b>	<b>Zoning Designation</b>
East			
West			
North			
South			

**Other comments or notations:**

# CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION

## **Questionnaire for Amending a Sphere of Influence**

(Attach additional sheets as necessary)

1. Name of Proposal (Sphere of Influence of the \_\_\_\_\_)
2. Purpose of the proposal
  - A. Why is this proposal being filed?
  - B. List any related actions for LAFCO approval (e.g., annexation, detachment, etc.).
  - C. Identify other parts of the overall project (i.e., tract map, development permit, etc.).
3. Consultation with the County (City sphere changes only)
  - A. Provide documentation regarding consultation that has occurred between the City and County with regard to agreement on boundaries, development standards and zoning requirements for land in the proposed sphere as required by Government Code §56425.
4. Description of area to be included in or removed from the sphere
  - A. What area is proposed to be added to/detached from the sphere? What is the acreage? Attach a map showing the current sphere and proposed change.
  - B. Why was it decided to use these particular boundaries?
  - C. What are the existing land uses in the proposal area? Be specific. Does the proposal area include agricultural land, open space land, and/or land covered under a Williamson Act contract?
  - D. What are the proposed land uses for the proposal area? Be specific.

5. Relationship to Existing Plans

- A. Describe current County General Plan and zoning designations for the sphere expansion/reduction area(s).
- B. Describe City General Plan and rezoning designations for the area(s).

6. Agricultural and Open Space Impact Assessment

This section applies to applications that include, or are contiguous to, open space and/or agricultural land as defined in the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 ("CKH").

State law includes policies and priorities that guide development away from agricultural land and encourage development of land in existing boundaries and SOIs before increasing an SOI by including open space/agricultural land. Accordingly, Contra Costa LAFCO requires all proposals that include, or are contiguous to, agricultural and/or open space lands to include an Impact Assessment which shall address the following:

- A. How does the proposal balance the State's interest in preserving open space and agricultural lands against the need for orderly development?
- B. What is the effect of the proposal on maintaining the physical and economic integrity of agricultural lands?
- C. Can the proposal reasonably be expected to induce, facilitate, or lead to the conversion of existing agricultural and/or open space land to other uses?
- D. How does the proposal guide development away from agricultural and/or open space lands?
- E. How does the proposal facilitate development of existing vacant or non agricultural and/or non open space lands for urban uses within the existing boundary or SOI a local agency?
- F. What measures does the proposal contain that will protect the physical and economic integrity of adjacent agricultural and/or open space land uses?

7. Environmental Assessment

- A. What is the underlying project?
- B. Who is the lead agency?
- C. What type of environmental document has been prepared for the proposed project?

8. Justification

To assist LAFCO in making the determinations required by Government Code §56425, please provide information relevant to the following:

- A. Present and planned uses in the area, including agricultural and open space lands.
- B. Present and probable needs for public facilities and services.
- C. Present capacity of public facilities and adequacy of public services the affected agency provides or is authorized to provide.
- D. Existence of any social or economic communities of interest in the area.

9. Additional Comments

- A. Provide any other comments or justifications regarding the proposal.
- B. Enclose any pertinent staff reports and supporting documentation related to this proposal.
- C. Notices and Staff Reports

- D. List up to three persons to receive copies of the LAFCO notice of hearing and staff report.

Name

Email or Address

Who should be contacted if there are questions about this application?

Name

Email Address

Phone

Signature \_\_\_\_\_

Date \_\_\_\_\_

# CONTRA COSTA LAFCO

## 3.1 Procedures for Processing Boundary Changes

### **A – Prior to Submitting a Proposal to LAFCO**

#### 1. Land use entitlements or requests for public services

Prior to submitting a proposal to LAFCO, a city or the County completes a land use planning process. This process typically involves approval of a specific plan, parcel map, development permit or other land use entitlement. Cities are required to prezone areas proposed for annexation to a city. [§56375(a)(3)]

Some city or County land use actions cannot be implemented without changes to special district boundaries. If a city or the County intends to submit an application to LAFCO, which includes proposed changes to a special district boundary, these proposals need to be included in the application.

Special districts can also initiate boundary change applications. These are typically in response to landowner requests for service, or to implement master service plans. Prior to extending service, the district must submit an application to LAFCO and obtain approval.

#### 2. Compliance with CEQA

It is the policy of the Contra Costa LAFCO that a city, the County or special district serves as Lead Agency for boundary changes. As Lead Agency, the public agency typically renders an environmental determination and conducts the appropriate review for the underlying land use entitlement, development project, LAFCO proposal, or service extension. The city must serve as Lead Agency for prezoned annexations. [CEQA Guidelines, §15051] In these cases, LAFCO assumes the Responsible Agency role. The Lead Agency is required to gather input from and interact with LAFCO throughout the CEQA process to ensure that LAFCO issues are adequately reviewed. If LAFCO issues and proposed actions are not described or addressed in a CEQA document, LAFCO may need to assume the Lead Agency role and prepare the appropriate environmental document at the applicant's expense.

#### 3. Resolution of application or petition

An application initiating a boundary change can come to LAFCO either by resolution of an affected local agency (i.e., City Council, Board of Supervisors, Special District Board of Directors), [§56654] or by a petition of registered voters or landowners execute a petition [§56700].

4. If the affected local agency(ies) received a portion of the property tax, a tax exchange agreement with all affected agencies may be completed prior to application to LAFCO and must be completed before LAFCO staff can issue a certificate of filing – Revenue & Taxation Code, Sections 99 and 99.01

### **B - Application Components [§56652]**

#### 1. A complete application includes:

- Cover letter including statement of landowner consent if applicable



- Resolution of application or petition
- SOI and Proposal Questionnaires (proposals involving agricultural land, open space land, and/or land covered under a Williamson Act land contract shall include an impact analysis)
- CEQA Documentation – Environmental Impact Report, Negative Declaration, Mitigated Negative Declaration, Notice of Determination, Finding of Fact and Statement of Overriding Considerations, Mitigation Monitoring and reporting Program, Notice of Exemption, proof of payment of Fish & Wildlife and court fees, if applicable.  
(Or, if LAFCO is going to be the Lead Agency, an environmental questionnaire.)
- Map and description of boundary change area
- Other relevant supporting documents
- LAFCO processing fee
- Deposit for County Surveyor to check map and description (if one is involved)
- For annexation proposals with a land area of 100 acres or more, a fiscal analysis is required as part of the application

## **C - LAFCO Processing Procedures**

### **1. As soon as an application is received [§56658(a)] LAFCO staff shall:**

- Access the County Assessor database for Assessor's Parcel Number and Tax rate Area printouts to determine the "affected agencies", identify all agencies that receive a share of the 1% property tax, and verify that all needed changes of organization are included in the project description.
- Prepare a notice that application materials have been received and mail it to Commissioners, County Administrator, affected local and State agencies, school districts, application's proponents, and the County Supervisor in whose District the proposal is located.
- Send out "Request for Reportback" to various County Departments (County Administrator, Assessor, Auditor, Elections, County Community Development Department and Surveyor). If a significant increase in housing will occur, request a "Reportback" from affected school districts regarding their capacity to serve the project.
- Examine the application materials for accuracy and completeness and write to the proponent or others if additional information is needed.

### **2. Issuing the Certificate of Filing**

- LAFCO staff must wait at least 20-days before issuing the Certificate of Filing.
- Within 30 days of receipt of the application, the LAFCO Executive Officer must either deem the application incomplete and notify the applicant as to the missing application components, or deem the application complete and issue the Certificate of Filing. [§56658(g)(h)]
- A Certificate of Filing cannot be issued until there is an approved property tax exchange agreement. [R&T §99 and 99.01]
- A LAFCO hearing is to be held within 90 days of issuing the Certificate of Filing

3. If a proposal is to detach territory from a city [§56751]
  - Transmit a copy of the proposal to the *city from which a detachment is proposed*.
  - Place the proposal on the agenda of the next LAFCO meeting for “information purposes.”
  - Wait 60 days before placing the detachment on the Commission’s agenda for action because the affected city may, not more than 60 days after the proposal is on the Commission’s agenda, request by resolution that LAFCO terminate the proceedings and LAFCO shall do so.
4. If a proposal is to annex territory to a special district but is not filed by the district [§56857]
  - Transmit a copy of the proposal to the *district for which annexation is proposed*.
  - Place the proposal on the agenda of the next LAFCO meeting for “information purposes.”
  - Wait 60 days before placing the annexation on the Commission’s agenda for action because the affected district may, not more than 60 days after the proposal is on the Commission’s agenda, request by resolution that LAFCO terminate the proceedings and LAFCO shall do so.
5. Property Tax Exchange Agreement [Revenue & Taxation Code, §99 and 99.01]
  - If necessary, confer with the County Administrator’s Office to determine if a “master” tax exchange agreement applies to this project or if a separate property tax agreement is needed for this proposal.
  - If a tax exchange agreement is needed, as part of the “Request for Reportback” request the Assessor and Auditor to prepare the data for the parties to negotiate
6. Determine if LAFCO can proceed without a NOTICED public hearing [§56662 & 56663]

All boundary changes must be considered at a NOTICED public hearing – meaning a 21-day notice that is published, posted and mailed to a specific mailing list -- UNLESS it meets the following criteria:

  - Consists only of annexations and detachments (and formations of CSAs) and
  - All owners of land have given their written consent to the boundary change.

All applications must be placed on a LAFCO meeting agenda by staff (except for emergency out-of-agency service agreements, which the Chair can approve and place on the next Commission agenda).
7. When a noticed hearing is required, obtain mailing lists [§56157]

Mailing lists shall be provided by the County Assessor and/or the County Registrar of Voters. The applicant is required to pay the costs associated with obtaining the mailing lists. Mailing lists are needed for:

  - All registered voters and all property owners within the proposal area, and

- All registered voters and all property owners within 300 feet of the exterior boundary of the proposed change (separate list from above).

Note: Lists must be current and include a complete street address.

8. Select a date for LAFCO to consider the proposal; include the proposal in the Notice of Hearing.
9. At least 21 days prior to each LAFCO meeting, prepare and distribute a Notice of Hearing and list all of the items to be considered at that meeting [§56661]
  - Post the Notice of Hearing on County bulletin board.
  - Post the Notice of Hearing on the Contra Costa LAFCO website.
  - Mail the Notice of Hearing to the “standard mailing list” that includes:
    - Each member of the Commission and the LAFCO legal counsel
    - Other members of the Board of Supervisors
    - All cities and special districts in the County
    - County departments listed on the mailing list
    - Affected school district and County Superintendent of Schools
    - Everyone who has requested a notice of that LAFCO meeting
    - The distribution list for each proposal to be heard, taken from each Case Processing Form
  - State Director of Conservation for city annexations in a Williamson Act Preserve contract
  - State Director Forestry and Fire Protection for annexations to fire protection districts of state responsibility areas
  - State Lands Commission if tidelands or submerged lands are included
10. Additional notice for agenda items that require a NOTICED public hearing [§56661]
  - At least 21 days before the hearing, publish a notice of the specific items to be heard that require published notice; not every item on the Notice of Hearing for a meeting requires publication.
  - At least 21 days before the hearing, mail the Notice of Hearing to an EXTENDED MAILING LIST that consists of:
    - All registered voters and property owners within the proposal area, and
    - All registered voters and property owners within 300 feet of the exterior boundary of the proposed change with cover letter.
11. LAFCO Staff will provide copies of certified EIRs or lengthy Negative Declarations and supporting reports or material for the proposal to each member of the Commission for their early review.
12. Prepare the Executive Officer report [§56665)]

Use available information from reportbacks in preparing the Executive Officer report:

- Assessor provides tax rate and assessed value information
- Elections confirms whether the proposal is inhabited or uninhabited
- Community Development verifies plans, zoning, agricultural land information
- Community Development provides maps for staff reports
- Surveyor checks map and legal description for adequacy
- School districts indicate if school facilities are adequate or require additional mitigation

13. At least seven days prior to the LAFCO meeting assemble and send the “Meeting Packet.”

Send copies of the meeting packet to:

- Each member of the Commission
- Executive Officer, legal counsel, Commission Clerk, other LAFCO staff
- County Administrator
- County Director of Community Development
- Others who have requested and paid for meeting packets

Post a copy of each agenda item and attachments to the LAFCO Website.

14. At least five days prior to the LAFCO meeting send specific staff reports and an agenda to the parties listed on the Case Processing Form and to affected County Supervisors [§56665]

## **D - Commission Hearing**

1. At the LAFCO meeting the Commission considers the items on the Agenda.

For each item on the agenda:

- Receive the Executive Officer Report
- If appropriate, open the hearing and accept any public testimony
- If appropriate, close the hearing
- Discussion by Commissioners
- Take action on each proposal or item of business - approve, deny, receive or continue

2. When can LAFCO waive the Conducting Authority proceedings? [§56663(c) and (d)]

If it approves a proposal, LAFCO can waive the conducting authority proceedings only when:

In the case of uninhabited territory (i.e., fewer than 12 registered voters):

- All affected landowners have given their written consent, and
- All local agencies that will gain or lose territory have not submitted written opposition to a waiver of protest proceedings.

In the case of inhabited annexations and detachments (i.e., 12 or more registered voters):

- All local agencies that will gain or lose territory have not submitted written opposition to a waiver of protest proceedings, and
- The LAFCO staff sends written notice to all affected landowners and registered voters and no written opposition is received regarding the proposal or the intention to waive the conducting authority proceedings.

## **E - Post Commission Hearing Activities**

### **1. If Conducting Authority proceedings have been waived:**

- Immediately file Notices of Exemption or Notices of Determination with the County Clerk-Recorder.
- Complete Commission resolutions of approval or denial by recording the votes cast; obtain the Chair's signature, and attach the Surveyor-approved map and legal description to the resolution.
- Prepare a Certificate of Completion.
- Send request to the County Auditor for the new Tax Rate Code for the proposal area.
- Wait the mandatory 30-day reconsideration period.
- Ensure the conditions of approval have been met.
- After the 30-day waiting period record the Certificate of Completion, LAFCO resolution of approval and approved map.
- When the recordation numbers and TRA data are received, file the proposal with the State Board of Equalization and County Assessor.
- When the SBE confirmation is received, send Notice of Completion to standard mailing list.

### **2. If Conducting Authority Proceedings are required**

- Immediately after the LAFCO meeting file the Notice of Exemption or Notice of Determination with the County Clerk-Recorder.
- Send request to the County Auditor for the new Tax Rate Code for the proposal area.
- Schedule and notice a protest hearing to be held following the 30-day reconsideration period.
- At least 21 days prior to the protest hearing prepare a Notice of Hearing and
  - Post the notice on County bulletin boards. [57025(a)]
  - Post the notice on the LAFCO Website.
  - Publish the notice. [57025(a)]
  - Mail notices pursuant to statute [57025]

Note: For LAFCO-initiated proposals to consolidate, dissolve or merge special districts or establish a subsidiary district, a protest hearing must be held "in the affected territory." [57008]

3. The LAFCO Executive Officer conducts the protest hearing as delegated by the Commission.

For these proceedings, an Executive Officer Order and Determination is used in lieu of a Commission resolution.

- Open the hearing.
- Call for any written or oral protests.
- Close the hearing.
- Determine the value of all written protests that have been filed and not withdrawn.

For uninhabited annexations and detachments

- Order the change of organization if written protests are filed by owners of less than 50% of the assessed value of land.
- Terminate the proceeding if protests are filed by 50% or more of the assessed value.

For inhabited annexations and detachments

- Order the change without election if written protests are filed by
  - Less than 25% of the registered voters and
  - Less than 25% of the landowners owning less than 25% of the assessed value of land.
- Order the change subject to confirmation by the voters if written protests are filed by
  - At least 25% but less than 50% of the registered voters or landowners.
- Terminate the proceeding if 50% or more of the registered voters file protests.

4. Completion of Proceedings following protest hearing

- Place the matter on the next Commission agenda to report on the outcome of any protest hearings that are conducted.
- Prepare a Certificate of Completion.
- If the proposal is approved WITHOUT AN ELECTION
  - Attach the County Surveyor-approved map and legal description to the resolution of approval.
  - Ensure the conditions of approval have been met.
  - Record the Certificate of Completion, LAFCO resolution of approval and map.
  - When the recorded information and TRA data are received, file the proposal with the State Board of Equalization and County Assessor.
  - When the SBE confirmation is received, distribute the Notice of Completion to the standard mailing list.
- If the proposal is approved SUBJECT TO VOTER CONFIRMATION, notify the Board of Supervisors or the City Council to conduct the election.
- If proposal is TERMINATED, adopt and file a resolution of termination.

## Attachment C

### 4.1 DRAFT PRESERVATION OF OPEN SPACE AND AGRICULTURAL LAND

#### **INTRODUCTION**

In accordance with the Cortese Knox Hertzberg Local Government Reorganization Act (“CKH Act”), the State Legislature finds and declares that the preservation of open space and agricultural lands is a “state interest” to be balanced with orderly growth and development (§56001).

Among the purposes of LAFCO are discouraging urban sprawl and preserving open space and agricultural lands (§56300). The CKH Act includes provisions that grant LAFCO the authority to consider and provide for the preservation of open space and agricultural lands.

LAFCO is specifically charged in some instances with protecting open space and agricultural land. For example, an island annexation may not be approved if the island consists of prime agricultural land [§56375.3(b)(5)]. LAFCO may not approve a change to an SOI where the affected territory is subject to a Williamson Act contract farmland or farmland security zone unless certain conditions exist (§§56426 and 56426.5).

Contra Costa LAFCO encourages planned, orderly, and efficient urban development while at the same time giving appropriate consideration to the preservation of open space and agricultural land (§56300).

When making a decision, LAFCO must consider whether a proposal could reasonably be expected to induce, facilitate, or lead to the conversion of existing open space and agricultural lands to other uses. Further, LAFCO should guide development away from existing open space and agricultural land, and encourage development of existing vacant and non-prime agricultural lands within a local agency’s existing jurisdiction or SOI [§§56377(a) and 56668(d)]. Finally, LAFCO must consider the effect of a proposal on maintaining the physical and economic integrity of agricultural lands [§56668 (e)].

An application or proposal for a change of organization, reorganization, the establishment of or change to a sphere of influence (SOI), the extension of extraterritorial services, and other LAFCO actions as contained in the CKH Act will be evaluated in accordance with LAFCO’s adopted policy on the Preservation of Open Space and Agricultural Land.

#### **AUTHORITY OF LAFCO**

LAFCO regulates boundary change and other proposals (e.g., SOI changes, extension of extraterritorial services, etc.) through approval or denial. The Commission also has the authority to impose terms and conditions (§§56885 -56890).

While LAFCO has considerable authority to provide for the preservation of open space and agricultural land, and impose terms and conditions, it may not directly regulate land use: “*A commission shall not impose any conditions that would directly regulate land use density or intensity, property development, or subdivision requirements*” [§§56375(6), 56886].

#### **PURPOSE OF THE POLICY**

The purpose of this policy is twofold: 1) to provide guidance to the applicant on how to assess the impacts of LAFCO proposals on agricultural and open space and to explain how the proposal intends to mitigate those impacts; and 2) to provide a framework for LAFCO to evaluate and process in a consistent manner, LAFCO proposals that involve or impact agricultural and/or open space lands.

## **DEFINITIONS**

Several terms are important in understanding LAFCO's responsibility to preserve agricultural and open space resources. These terms and definitions are found below and are applicable throughout these policies. The CKH Act contains the following definitions for agricultural land, prime agricultural land and open space:

**56016. "Agricultural lands"** means land currently used for the purpose of producing an agricultural commodity for commercial purposes, land left fallow under a crop rotational program, or land enrolled in an agricultural subsidy or set-aside program.

**56064. "Prime agricultural land"** means an area of land, whether a single parcel or contiguous parcels, that has not been developed for a use other than an agricultural use and that meets any of the following qualifications:

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

**56059. "Open space"** means any parcel or area of land or water which is substantially unimproved and devoted to an open-space use, as defined in Section 65560.

**65560.** (a) "Local open-space plan" is the open-space element of a county or city general plan adopted by the board or council, either as the local open-space plan or as the interim local open-space plan adopted pursuant to Section 65563.

(b) "Open-space land" is any parcel or area of land or water that is essentially unimproved and devoted to an open-space use as defined in this section, and that is designated on a local, regional, or state open-space plan as any of the following:

(1) Open space for the preservation of natural resources including, but not limited to, areas required for the preservation of plant and animal life, including habitat for fish and wildlife species; areas required for ecologic and other scientific study purposes; rivers, streams, bays, and estuaries; and coastal beaches, lakeshores, banks of rivers and streams, greenways, as defined in Section 816.52 of the Civil Code, and watershed lands.

(2) Open space used for the managed production of resources, including, but not limited to, forest lands, rangeland, agricultural lands, and areas of economic importance for the production of food or fiber; areas required for recharge of groundwater basins; bays, estuaries, marshes, rivers, and streams that are important for the management of commercial fisheries; and areas containing major mineral deposits, including those in short supply.

(3) Open space for outdoor recreation, including, but not limited to, areas of outstanding scenic, historic, and cultural value; areas particularly suited for park and recreation purposes, including access to lakeshores, beaches, and rivers and streams; and areas that serve as links between major recreation and open-space reservations, including utility easements, banks of rivers and streams, trails, greenways, and scenic highway corridors.



(4) Open space for public health and safety, including, but not limited to, areas that require special management or regulation because of hazardous or special conditions such as earthquake fault zones, unstable soil areas, flood plains, watersheds, areas presenting high fire risks, areas required for the protection of water quality and water reservoirs, and areas required for the protection and enhancement of air quality.

(5) Open space in support of the mission of military installations that comprises areas adjacent to military installations, military training routes, and underlying restricted airspace that can provide additional buffer zones to military activities and complement the resource values of the military lands.

(6) Open space for the protection of places, features, and objects described in Sections 5097.9 and 5097.993 of the Public Resources Code.

LAFCO's overriding objectives are to encourage the orderly formation of local government agencies, discourage urban sprawl, and preserve agricultural and open space resources. LAFCO must consider the effects that a proposal will have on agricultural and open space lands. By guiding development toward vacant urban land and away from agricultural and open space land, LAFCO promotes the protection of our valuable agricultural and open space lands. In furtherance of this objective, the CKH Act describes the intent of the legislation with regard to agricultural resources in §56377, which states:

**56377.** In reviewing and approving or disapproving proposals which could reasonably be expected to induce, facilitate, or lead to the conversion of existing open space lands to uses other than open space uses, the commission shall consider all of the following policies and priorities:

(a) Development or use of land for other than open space uses shall be guided away from existing prime agricultural lands in open space use toward areas containing non-prime agricultural lands, unless that action would not promote the planned, orderly, efficient development of an area.

(b) Development of existing vacant or non-prime agricultural lands for urban uses within the existing jurisdiction of a local agency or within the SOI of a local agency should be encouraged before any proposal is approved that would allow for or lead to the development of existing open space lands for non-open space uses that are outside of the existing jurisdiction of the local agency or outside of the existing SOI of the local agency.

## **GOALS, POLICIES AND GUIDELINES**

The following Goals, Policies, and Guidelines are consistent with the legislative direction provided in the CKH Act. The Goals are intended to be the outcome LAFCO wants to achieve. The Policies provide direction with regard to how those Goals should be achieved by providing specific guidance for decision makers and proponents. Guidelines give stakeholders procedures and practical tips regarding what information LAFCO decision makers need to evaluate a proposal that affects agricultural resources.

## **GOALS**

Agriculture is a vital and essential part of the Contra Costa County economy and environment. Accordingly, boundary changes for urban development should be proposed, evaluated, and approved in a manner that is consistent with the continuing growth and vitality of agriculture within the county. The following goals will help guide LAFCO's decisions regarding agricultural and open space resources.

**Goal 1.** Minimize the conversion of prime agricultural land to other land uses.

**Goal 2.** Encourage cities, the county, special districts, property owners and other stakeholders to work together to preserve agricultural lands.

**Goal 3.** Promote agricultural land preservation into long range planning consistent with principles of smart growth at the state, county, and municipal levels.

**Goal 4.** Preserve agricultural lands for continued agriculture uses while balancing the need to ensure orderly development and the efficient provision of services.

**Goal 5.** Strengthen and support the agricultural sector of the economy.

**Goal 6.** Fully consider the impacts a proposal will have on existing agricultural lands.

**Goal 7.** Protect the natural resources and surrounding areas that sustain agriculture in Contra Costa County.

## **POLICIES**

It is the policy of Contra Costa LAFCO that, consistent with the CKH Act, an application or proposal for a change in organization, reorganization, for the establishment of or change to an SOI, the extension of extraterritorial services, and other LAFCO actions as contained in the CKH Act (“proposals”), shall provide for planned, well-ordered, efficient urban development patterns with appropriate consideration to preserving open space and agricultural lands within those patterns. The following policies support the goals stated above and shall be used by Contra Costa LAFCO when considering a proposal that involves agricultural and/or open space resources:

**Policy 1.** Vacant land within urban areas should be developed before agricultural land is annexed for non-agricultural purposes.

**Policy 2.** Land substantially surrounded by existing jurisdictional boundaries should be annexed before other lands.

**Policy 3.** In general, urban development should be discouraged in agricultural areas. For example, agricultural land should not be annexed for non-agricultural purposes when feasible alternatives exist. Large lot rural development that places pressure on a jurisdiction to provide services and causes agricultural areas to be infeasible for farming is discouraged.

**Policy 4.** The continued productivity and sustainability of agricultural land surrounding existing communities should be promoted by preventing the premature conversion of agricultural land to other uses and, to the extent feasible, minimizing conflicts between agricultural and other land uses. Buffers should be established to promote this policy.

**Policy 5.** Development near agricultural land should not adversely affect the sustainability of or constrain agricultural operations.

**Policy 6.** Where feasible, and consistent with LAFCO policies, non-prime farmland should be annexed before prime farmland.

**Policy 7.** The Commission will consider feasible mitigation (found in the following guidelines) if a proposal would result in the loss of agricultural land.

**Policy 8.** The Commission encourages local agencies to adopt policies that result in efficient, coterminous and logical growth patterns within their General Plan and SOI areas and that encourage protection of prime agricultural land in a manner that is consistent with this policy.

**Policy 9.** Property owners of agricultural lands adjacent to land that is the subject of a LAFCO proposal shall be notified when an application is submitted to LAFCO.

## **GUIDELINES**

These Guidelines are intended to provide further direction regarding the application of LAFCO's Goals and Policies; to advise and assist the public, agencies, property owners, farmers and other stakeholders with regard to LAFCO's expectations in reviewing a proposal that involves agricultural resources; and to provide sample mitigation measures to address impacts to agricultural land.

**Guideline 1.** Applications submitted to LAFCO involving agricultural and/or open space resources shall include an Agricultural and Open Space Impact Assessment. At a minimum the following should be addressed:

- a. A proposal must discuss how it balances the State's interest in preserving open space and agricultural lands against the need for orderly development (§56001).
- b. A proposal must discuss its effect on maintaining the physical and economic integrity of agricultural lands [§56668 (e)].
- c. A proposal must discuss whether it could reasonably be expected to induce, facilitate, or lead to the conversion of existing open space land to uses other than open space uses (§56377).
- d. A proposal must describe how it guides development away from agricultural and/or open space lands.
- e. A proposal must describe how it facilitates development of existing vacant or non-agricultural and/ or non-open space lands for urban uses within the existing boundary or SOI of a local agency.
- f. A proposal must discuss what measures it contains that will protect the physical and economic integrity of adjacent agricultural and/or open space land uses.

**Guideline 2.** The California Environmental Quality Act (CEQA) analysis for a proposal should evaluate the impacts affecting agricultural and open space resources, and should include an assessment of impacts to agricultural, prime agricultural, and open space lands as defined in the CKH Act. In the absence of an evaluation in the CEQA document, a supplemental agriculture and impact analysis will be required as part of the LAFCO application.

**Guideline 3.** If a proposal involves a loss of prime agricultural lands, property owners, cities, the County, special districts, and other agricultural conservation agencies should work together as early in the process as possible to adequately mitigate the impacts.

**Guideline 4.** The following factors should be considered for an annexation of prime agricultural and/or open space lands:

- a. The applicant should provide a land use inventory of the jurisdiction that indicates the amount of available land within the subject jurisdiction for the proposed land use.
- b. The applicant should provide an evaluation of the effectiveness of proposed measures to mitigate the loss of agricultural lands, and to preserve adjoining lands for agricultural use to prevent their premature conversion to other uses. Examples of such measures include, but are not be limited to:
  1. acquisition and dedication of farmland (e.g., substitution ratio of at least 1:1 for the prime land annexed), development rights, open space and agricultural conservation easements to permanently protect adjacent and other agricultural lands within the county
  2. participation in other development programs that direct development towards urban areas in the county (such as transfer or purchase of development credits)
  3. payment to responsible, recognized government and/or non-profit organization in Contra Costa County for the purpose of preserving agricultural lands; payment should be sufficient to fully fund the acquisition and dedication
  4. establishment of buffers to protect adjacent agricultural operations from the effects of development
  5. other measures agreed to by the applicant and the land use jurisdiction that meet the intent of replacing prime agricultural land at a minimum 1:1 ratio

**Guideline 5.** Detachment of prime agricultural lands and other open space lands should be encouraged if consistent with the SOI for that agency.

**Guideline 6.** Annexation for land uses in conflict with an existing agricultural preserve contract shall be prohibited, unless the Commission finds that it meets all the following criteria:

- a. The area is within the annexing agency's SOI.
- b. The Commission makes findings required by Gov. Code Section 56856.5.
- c. The parcel is included in an approved city specific plan.
- d. The soil is not categorized as prime agricultural land.
- e. Mitigation for the loss of agricultural land has been secured in the form of agricultural easements to the satisfaction of the annexing agency and the County.
- f. There is a pending, or approved, cancelation for the property that has been reviewed by the local jurisdictions and the Department of Conservation.
- g. The Williamson Act contract on the property has been non-renewed and final approval of the non-renewal has been granted.