

MENDOCINO

Local Agency Formation Commission

Ukiah Valley Conference Center | 200 South School Street | Ukiah, California 95482

Telephone: (707) 463-4470 | Fax: (707) 462-2088 | E-mail: eo@mendolafco.org | Web: www.mendolafco.org

A G E N D A

Regular Meeting of Monday, September 10, 2018 9:00 AM
County Board of Supervisors Chambers 501 Low Gap Road, Ukiah, California

Live web streaming and recordings of Commission meetings are available via the County of Mendocino's YouTube Channel. Links to recordings and approved minutes are available on the LAFCo website (<http://mendolafco.org/recorded-meetings/>).

Meeting documents are available online: <http://mendolafco.org/meeting-documents-2018>

1. CALL TO ORDER and ROLL CALL

2. PUBLIC EXPRESSION

The Commission welcomes participation in the LAFCo meeting. Any person may address the Commission on any subject within the jurisdiction of LAFCo which is not on the agenda. There is a three minute limit and no action will be taken at this meeting. Individuals wishing to address the Commission under Public Expression are welcome to do so throughout the meeting.

3. OTHER BUSINESS

3a) Alternate Special District Representative

The oath will be conducted for new Commissioner Jenifer Bazzani.

4. CONSENT CALENDAR

The following consent items are expected to be routine and non-controversial, and will be acted on by the Commission in a single action without discussion, unless a request is made by a Commissioner or a member of the public for discussion or separate action.

4a) Approval of the August 6, 2018 Regular Meeting Summary Minutes

4b) Approval of the August 2018 Claims

4c) Approval of AB 2258 (grant program) support letter

5. PUBLIC HEARING ITEMS

Public Hearings are scheduled for Commission consideration and possible adoption of items. Questions and comments from the Commission, participating agencies, and members of the public are welcome. Documents are available for review at: <http://mendolafco.org/meeting-documents-2018>

5a) None

(9-10-18 Agenda Continued...)

COMMISSIONERS

Jerry Ward, Chair & Treasurer
Public Member

Carre Brown, Vice Chair
County Board of Supervisors

Kevin Doble
Ukiah City Council

Gerardo Gonzalez
Willits City Council

John McCowen
County Board of Supervisors

Theresa McNerlin
Ukiah Valley Sanitation District

Tony Orth
Brooktrails Township CSD

Scott Ignacio, Alternate
Point Arena City Council

Dan Hamburg, Alternate
County Board of Supervisors

Carol Rosenberg, Alternate
Public Member

Special District Seat, Alternate
(Jenifer Bazzani to be sworn in September 2018.)

STAFF

Executive Officer
Uma Hinman

Analyst
Larkyn Feiler

Commission Clerk
Elizabeth Salomone

Counsel
Scott Browne

Regular Meetings

First Monday
of each month
at 9:00 AM
in the Mendocino
County Board
of Supervisors Chambers
501 Low Gap Road

6. WORKSHOP ITEMS

Workshops are scheduled for Commission review of draft reports prior to the noticing for public hearing. The Commission is invited to discuss the draft report and provide feedback to staff in anticipation of receiving a final SOI Update for formal action as part of a public hearing at a future meeting. No action will be taken by the Commission as part of the following item. Questions and comments from the Commission, participating agencies, and members of the public are welcome. Documents are available for review at: <http://mendolafco.org/meeting-documents-2018>

None.

7. MATTERS FOR DISCUSSION AND POSSIBLE ACTION

7a) Proposed Area of Interest

The will consider a proposed “Area of Interest” policy that was considered by the Policies & Procedures Committee and recommended to the Commission for discussion. The policy is a tool to identify areas outside of a sphere of influence that would benefit from greater coordination between agencies. RECOMMENDED ACTIONS: a) Approve the proposed Area of Interest Policy; or b) provide further direction to the Policies and Procedures Committee and/or staff.

7b) White Paper on Agricultural Preservation

The Commission will receive an informational report from staff regarding CALAFCO and American Farmland Trust’s White Paper on Agricultural Preservation.

8. INFORMATION AND REPORT ITEMS

The following informational items are reports on current LAFCo activities, communications, studies, legislation, and special projects. General direction to staff for future action may be provided by the Commission.

8a) Work Plan, Current and Future Proposals (Written)

8b) Correspondence (copies provided upon request)

8c) Executive Officer’s Report (Verbal)

8d) Committee Reports (Verbal)

Policies & Procedures Committee

Executive Committee

8e) Commissioner Reports, Comments or Questions (Verbal)

8f) CALAFCO Business and Legislative Report

ADJOURNMENT

The next Regular Commission Meeting is scheduled for Monday, October 1, 2018 at 9:00 AM
in the County Board of Supervisors Chambers 501 Low Gap Road, Ukiah, California

Notes: Participation on LAFCo Matters

All persons are invited to testify and submit written comments to the Commission on public hearing items. Any challenge to a LAFCo action in Court may be limited to issues raised at a public hearing or submitted as written comments prior to the close of the public hearing.

Americans with Disabilities Act (ADA) Compliance: If you are a disabled person and need a disability-related modification or accommodation to participate in a meeting, please contact the LAFCo office at 707-463-4470, by e-mail to eo@mendolafco.org, or by FAX to 707-462-2088. Requests must be made as early as possible, and at least two full business days prior to the meeting. Fair Political Practice Commission (FPPC) Notice: State Law requires that a participant in LAFCo proceedings who has a financial interest in a Commission decision, and who has made a campaign contribution of more than \$250 to any Commissioner in the past 12-months, must disclose the contribution. If you are affected, please notify the Commission prior to the agenda item.

MENDOCINO

Local Agency Formation Commission

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501 Low Gap Road

Agenda Item No. 4a

MINUTES

Local Agency Formation Commission of Mendocino County

Regular Meeting of Monday, August 6, 2018

County Board of Supervisors Chambers, 501 Low Gap Road, Ukiah, California

1. CALL TO ORDER and ROLL CALL (Video Time 2:25)

Chair Ward called the meeting to order at 9:02am.

Members Present: Commissioners Carre Brown, Gerardo Gonzalez, John McCowen (arrived 9:37 am), Theresa McNerlin (departed 9:50am), Tony Orth, and Jerry Ward

Members Absent: Commissioner Kevin Doble

Alternate Members Present: Commissioners Dan Hamburg, Scott Ignacio, and Carol Rosenberg

Alternate Members Absent: Jenifer Bazzani (scheduled to be sworn in)

Staff Present: Uma Hinman, Executive Officer

Elizabeth Salomone, Clerk

Commissioner Ignacio was immediately seated as the City Representative in Commissioner Doble's absence and Commissioner Hamburg was immediately seated as the County Representative in Commission McCowen's absence.

A moment of silence was held in honor of the victims in Northern California Wildfires and gratitude to the support agencies in the community.

2. PUBLIC EXPRESSION (Video Time 3:30)

No one indicated interest in public expression.

3. OTHER BUSINESS (Video Time 3:39)

3a) Alternate Special District Representative

Apologies sent from Jenifer Bazzani who was scheduled to be sworn in as Alternate Special District Representative.

4. CONSENT CALENDAR (Video Time 3:55)

4a) Approval of the June 4, 2018 Regular Meeting Summary Minutes

4b) Approval of the June 2018 Claims and Financial Report

4c) Approval of the July 2018 Claims and Financial Report

4d) Approval of Pehling & Pehling, CPAs Contract for FY 2017-18 Audit

4e) Ratification of AB 3254 support letter dated June 29, 2018

Chair Ward pulled Consent Items 4b) Approval of the June 2018 Claims and Financial Report and 4c) Approval of the July 2018 Claims and Financial Report.

<u>June 2018 Claims totaling</u>	<u>\$ 7,593.82</u>
Uma Hinman Consulting	\$ 6,066.25
P. Scott Browne	\$ 600.00
Ukiah Valley Conference Center	\$ 511.00
Commissioner Reimbursement	\$ 127.00
County of Mendocino (audio/video, GIS, etc)	\$ 149.96
SDRMA	\$ 139.61

<u>July 2018 Claims totaling</u>	<u>\$ 20,671.08</u>
Uma Hinman Consulting	\$13,743.50
P. Scott Browne	\$ 600.00
Ukiah Valley Conference Center	\$ 653.87
County of Mendocino (audio/video, GIS, etc)	\$ 1,067.47
CALAFCO membership for FY 18/19	\$ 925.00
CALAFCO Conference Registration	\$ 2,600.00
Pacific Internet for FY 18/19	\$ 1,081.24

Upon motion by Commissioner Gonzalez and second by Commissioner Brown, Consent Calendar items 4a) Approval of the June 4, 2018 Regular Meeting Summary Minutes, 4d) Approval of Pehling & Pehling, CPAs Contract for FY 2017-18 Audit, and 4e) Ratification of AB 3254 support letter dated June 29, 2018 were approved with noted corrections by roll call vote:

Ayes: (7) Brown, Gonzalez, Hamburg, Ignacio, McNerlin, Orth, and Ward
 Absent: Doble, McCowen

Chair Ward noted the withdrawal from Commission reserves to cover Fiscal Year 2017-18 claims and the Executive Committee recommendation to repay the reserves account when FY 2018-19 apportionment fees were received. Staff was directed to deposit the check issued from the County Auditor-Controller's office for the first installment of 2018/19 apportionment fees and facilitate transfer of funds to maintain the reserves account as per Commission policy.

Upon motion by Commissioner Brown and second by Commissioner Gonzalez, Consent Calendar items 4b) Approval of the June 2018 Claims and Financial Report 4c) Approval of the July 2018 Claims and Financial Report were approved by roll call vote:

Ayes: (7) Brown, Gonzalez, Hamburg, Ignacio, McNerlin, Orth, and Ward
 Absent: Doble, McCowen

5. PUBLIC HEARING ITEMS (Video 7:37)

None

6. WORKSHOP ITEMS (Video time 7:43)

None.

7. MATTERS FOR DISCUSSION & POSSIBLE ACTION (Video time 7:50)

7a) Mutual Water Company Report

EO Hinman presented the AB 54 Report on Draft Mutual Water Companies of Mendocino County. Comments and questions were offered by Commissioners Brown, Ward, Orth, Gonzalez, Rosenberg, and McNerlin.

Commissioner Brown noted for the record that the AB 54 Report on Draft Mutual Water Companies of Mendocino County was an unfunded mandate by the State of California. Chair Ward asked staff to research possible grant funding available to assist with the costs.

Upon motion by Commissioner Gonzalez and second by Commissioner McNerlin, the acceptance of the AB 54 Report on Draft Mutual Water Companies of Mendocino County with clarifying language on Pg 2 regarding Rogina Water Company's estimated service population, capitalization of the title "Water Master" throughout the document, and direction to staff to post the report on the LAFCo website was approved by roll call vote:

Ayes: (7) Brown, Gonzalez, Hamburg, Ignacio, McNerlin, Orth, and Ward
Absent: Doble, McCowen

7b) Legal Counsel Contract Amendment

EO Hinman presented the Executive Committee's recommendation to approve the proposed contract amendment to the existing Legal Counsel Contract. Comments and questions were offered by Commissioner Hamburg, Ward,

Upon motion by Commissioner Orth and second by Commissioner Hamburg, the approval of the proposed contract amendment with P. Scott Browne, Attorney at Law, and direction to the Chair to sign the contract was approved by roll call vote:

Ayes: (7) Brown, Gonzalez, Hamburg, Ignacio, McNerlin, Orth, and Ward
Absent: Doble, McCowen

Note: During Agenda Item 8e) Commissioner Comments, Commissioner McCowen offered comments on this item that he missed while absent from the meeting. Commissioner McCowen asked for clarification on the number of amendments made to the current legal contract and expressed concern on the allowance of legal counsel's excess time billed to the Commission on items not directly requested by the Commission.

7c) Executive Officer Services Contract Amendment

EO Hinman presented the Executive Committee's recommendation to approve a contract amendment to the existing Executive Officer Services Agreement for consistency with Commission policies. Comments and questions were offered by Commissioners Orth, Rosenberg, Brown, and Ward.

Upon motion by Commissioner Brown and second by Commissioner Ignacio, the approval of the proposed Contract Amendment No. 1 with Hinman & Associates Consulting, Inc., and direction to the Chair to sign the contract amendment was approved by roll call vote:

Ayes: (7) Brown, Gonzalez, Hamburg, Ignacio, McNerlin, Orth, and Ward
Absent: Doble, McCowen

Note: During Agenda Item 8e) Commissioner Comments, Commissioner McCowen offered comments on this item that he missed while absent from the meeting. Commissioner McCowen suggested a change as follows: “NOW, THEREFORE it is agreed that COMMISSION does hereby amend the *Executive Officer Services* contract to include amendment No 1 as stated in the attached Exhibit A of ~~Contract Amendment as listed above.~~”

Commissioners Brown suggested the Executive Committee review Commissioner McCowen’s comments regarding the Executive Officer Amendment No. 1.

7d) CALAFCO Call for Board of Directors Nominations and Voting Delegate

EO Hinman presented the item, inviting the Commission to consider nominating a City or Public Commissioner for the CALAFCO Board of Directors and to assign a voting delegate for the election to be held during the CALAFCO Business Meeting at the 2018 Conference.

Upon motion by Commissioner Brown and second by Commissioner Ignacio, the approval of Commissioner Gerardo Gonzalez as the voting delegate for the election for the CALAFCO Board of Directors at the CALAFCO conference was approved by roll call vote:

Ayes: (7) Brown, Gonzalez, Hamburg, Ignacio, McNerlin, Orth, and Ward
Absent: Doble, McCowen

8. INFORMATION/ REPORT ITEMS

8a) Work Plan, Current, and Future Proposals (Video Time: 44:09)

EO reviewed the detailed staff report, highlighting changes from the previous format of the report. Comments and questions were offered by Commissioners McCowen, Ward, Orth, Gonzalez, and Rosenberg.

Commissioner McCowen made suggested edits to the staff report and for the text to lead a policy update for the budget process. Commissioner Orth suggested adding a line item to the budget to track unfunded mandated expenses, such as the Redevelopment Agency Oversight Board Nominations and the Mutual Water Company studies. Direction was given to the EO to request legal advice on excessive delays in receiving information to complete mandated reports and the P&P Committee was directed to review the budget process policy to incorporate suggested changes.

8b) Correspondence (Video Time: 1:18:50)

None to report.

8c) Executive Officer’s Report (Video Time: 1:19:20)

EO Hinman reported on the following:

- EO reviewed the Redevelopment Agency (RDA) Oversight Board Special District Appointment process performed by staff.
- Next Commission meeting will be on September 10, 2018 due to the Labor Day holiday.

8d) Committee Reports

No committee meetings were held due to participants’ summer scheduling difficulties. The Executive Committee plans to meet in September for a quarterly review of the work plan and any other relevant issues. The Policies & Procedures Committee plans to meet to finalize several policy recommendations.

8e) Commissioners Reports, Comments or Questions

Commissioner Orth noted, with appreciation, the extensive coverage of cooperative fire agencies and personnel on the current California wildfires. Brooktrails Township CSD is obtaining a water tender and is also in the process of hiring a new General Manager within the next 30 days. Brooktrails is discussing hosting an association of water districts in Mendocino County to represent the County on common water issues.

Commissioner Brown offered comments on the importance of speaking about the Potter Valley Project and provided information on the Project's history, service range, and future. She stressed the potential impacts of the Project's future on special districts, cities, and the County of Mendocino, and therefore the importance of LAFCo's attention on the development.

8f) CALAFCO Business and Legislation Report

No additional reports.

ADJOURNMENT

There being no further business, at 10:34am the meeting was adjourned. The next regular meeting is scheduled for Monday, September 10, 2018 at 9:00am in the County Board of Supervisors Chambers at 501 Low Gap Road, Ukiah, California.

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<https://www.youtube.com/watch?v=Z5mPIRSeQDM&index=7&list=PLraKTU7AyZLTmV-2PpmufbzkvpN3QCnog>

MENDOCINO Local Agency Formation Commission

Staff Report

DATE: September 10, 2018
 TO: Mendocino Local Agency Formation Commission
 FROM: Uma Hinman, Executive Officer
 SUBJECT: Financial Report and Claims for August 2018

Claims

The following claims are recommended for payment authorization:

Name	Account Description	Amount	Total
Hinman & Associates	5300 Basics Services	\$ 4,720.00	\$ 11,564.50
	6200 Bookkeeping	\$ 1,560.50	
	7000 MSR SOI Workplan	\$ 5,224.00	
	5601 Office Supplies	\$ 60.00	
	5700 Internet and Website		
P. Scott Browne	6300 Legal Counsel-Monthly flat fee	\$ 600.00	\$ 600.00
Ukiah Valley Conf. Center	5502 Office space	\$ 415.00	\$ 450.37
	5503 Work room	\$ 30.00	
	5603 Photocopy (August 2018)	\$ 0.20	
	5605 Postage (August 2018)	\$ 5.17	
Commissioner Reimbursements	6740 In-County Travel & Stipends: Rosenberg (August 2018)	\$ 51.07	\$ 178.07
	McNerlin (August 2018)	\$ 50.00	
	Orth (August 2018)	\$ 77.00	
Pehling & Pehling, CPAs	6100 Audit Services	\$ 1,550.00	\$ 1,550.00
Total:			\$ 14,342.94

Deposits:

- \$45,000 from County (FY 18-19 Apportionment Fees) into LAFCo checking account at Savings Bank of Mendocino
- \$5,000 from LAFCo checking account at Savings Bank of Mendocino into LAFCo reserves account at WestAmerica Bank.

Attachments:

- Budget Track Spreadsheet
- Hinman & Associates Consulting Invoice & Scott Browne Invoice
- Pehling & Pehling, CPAs

Please note that copies of all invoices, bank statements, and petty cash register were forwarded to Commission Treasurer.



Hinman & Associates Consulting

PO Box 1251 | Cedar Ridge, CA 95924

(916) 813-0818

uhinman@comcast.net

Date August 31, 2018
To Mendocino LAFCo
Project Executive Officer Services
Work Period July 30, 2018 - August 31, 2018

Invoice No. 380
Invoice Total **\$ 11,564.50**

Account	Description	Staff/Hours			Other (At Cost)	Totals
		Hinman EO (\$100)	Feiler Analyst (\$68)	Salomone Clerk (\$40)*		
5300	Basic Services	31.75	4.50	29.50		\$ 4,720.00
5601	Office Supplies					
	Quickbooks Online Fee				\$ 60.00	\$ 60.00
	Office Supplies					
6200	Bookkeeping	15.50		0.25		\$ 1,560.50
7000	Work Plan (MSR/SOI/Special Studies)					\$ -
	City of Willits	6.00	68.00			\$ 5,224.00
Totals		\$ 5,325.00	\$ 4,930.00	\$ 1,249.50	\$ 60.00	\$ 11,564.50

5300 Basic Services

Scheduled and prepared September Commission and Executive Committee meeting agenda packet and postings. Scheduled next Policies & Procedures meeting. Staffed office during the time period. Website updates. Prepared and distributed public member opening announcement and posted on website. Responded to inquiries.

6200 Bookkeeping (Other Services)

Compiled claims for Commissioner review and approval at next regular meeting. Entered claims into Quickbooks and prepared checks for claims to be authorized at September 10th meeting. Reviewed claims, bank records, etc. Quickbooks reconciliation. Quickbooks reports in preparation for end of year financial report.

7000 Work Plan (Sphere of Influence Updates, Municipal Service Reviews, and Special Studies)

Prepared administrative draft Willits MSR/SOI Update and sent to City for review. Coordinate with Willits staff, legal counsel, analyst. Corresponded with Ukiah Valley FPD and Fort Bragg FPD.

Notes:

* Plus administrative fee of 5% for subconsultant labor

Law Offices of P. Scott Browne

131 South Auburn Street
Grass Valley, CA 95945

(530) 272-4250
(530) 272-1684 Fax

Marsha A. Burch
Of Counsel

Mendocino Lafco
200 South School Street, Suite F
Ukiah, CA 95482

Period Ending:

8/15/2018

Payment due by the 15th of next month

In Reference To: CLIENT CODE: MENDO-01

Professional Services

	<u>Hours</u>	
7/18/2018 PSB Review Willits SOI alternatives proposal and respond.	2.00	
8/8/2018 PSB CALAFCo Conference committee (Time split evenly between all LAFCo clients).	0.35	
PSB Respond to questions re: Willits SOI and subsidiary districts.	1.50	
8/14/2018 PSB Review emails re: CALAFCo Conference & Legislative Committee; Respond re: language question. (Time split evenly between all LAFCo clients)	0.20	
	<hr/>	
SUBTOTAL:	[4.05]	
		<hr/>
Total Professional Hours	4.05	<u>Amount</u>
Per Representation Agreement, flat fee of \$600/month.		\$600.00
Previous balance		\$600.00
 <u>Payments and Credit Activity</u>		
8/9/2018 Payment - Thank You. Check No. 1380		(\$600.00)
		<hr/>
Total payments and adjustments		(\$600.00)

Pehling & Pehling, CPAs



An Accountancy Corporation ■ 12667 Granite Dr ■ Truckee, CA 96161

Phone: (707)279-4259

E-mail: Zach@PehlingCPA.com

Web: www.PehlingCPA.com

Invoice: 887

Date: 07/31/2018

Due Date: 07/31/2018

Mendocino LAFCO
200 S School St
Ukiah, CA 95482

For professional service rendered as follows:

Assurance	1,550.00
	<hr/>
Billed Time & Expenses	\$1,550.00
	<hr/>
Invoice Total	<u>\$1,550.00</u>
	<hr/>
Beginning Balance	\$1,550.00
Invoices	1,550.00
Receipts	(1,550.00)
Adjustments	0.00
Service Charges	<u>0.00</u>
Amount Due	<u>\$1,550.00</u>

Please return this portion with payment.

Invoice: 887

Date: 07/31/2018

Due Date: 07/31/2018

ID: MLAFCO
Mendocino LAFCO

Amount Due: \$1,550.00

Amount Enclosed: \$_____

Mendocino Local Agency Formation Commission
FY 2018-19 Budget and Application Tract

Acct #	Task	FY 18-19 Budget	July	August	Year to Date	Remaining Budget
EXPENSES						
5300	Basic Services - EO/Analyst/Clerk	\$70,560	\$4,928.00	\$4,720.00	\$9,648.00	\$60,912.00
5500	Rent	\$5,360	\$445.00	\$415.00	\$860.00	\$4,500.00
5600	Office Expenses	\$3,450	\$268.87	\$65.37	\$334.24	\$3,115.76
5700	Internet & Website Costs	\$1,300	\$1,081.24		\$1,081.24	\$218.76
5900	Publication & Legal Notices	\$2,000	\$0.00		\$0.00	\$2,000.00
6000	Televising Meetings	\$3,000	\$190.86		\$190.86	\$2,809.14
6100	Audit Services	\$3,100	\$0.00	\$1,550.00	\$1,550.00	\$1,550.00
6200	Bookkeeping	\$4,000	\$618.00	\$1,560.50	\$2,178.50	\$1,821.50
6300	Legal Counsel (S Browne)	\$7,200	\$600.00	\$600.00	\$1,200.00	\$6,000.00
6400	A-87 Costs County Services	\$0	\$0.00		\$0.00	\$0.00
6500	Insurance - General Liability	\$1,000	\$0.00		\$0.00	\$1,000.00
6600	Memberships (CALAFCO/CSDA)	\$2,300	\$925.00		\$925.00	\$1,375.00
6670	GIS Contract with County	\$3,500	\$876.61		\$876.61	\$2,623.39
6740	In-County Travel & Stipends	\$2,000	\$0.00	\$178.07	\$178.07	\$1,821.93
6750	Travel & Lodging Expenses	\$3,000	\$0.00		\$0.00	\$3,000.00
6800	Conferences (Registrations)	\$3,000	\$2,600.00		\$2,600.00	\$400.00
7000	Work Plan (MSRs and SOIs)	\$35,000	\$8,137.50	\$5,224.00	\$13,361.50	\$21,638.50
9000	Special District Training Support	\$500	\$0.00		\$0.00	\$500.00
	Unfunded Mandates				\$0.00	\$0.00
Monthly/ Year to Date Totals		\$150,270.00	\$20,671.08	\$14,312.94	\$34,984.02	\$115,285.98
APPLICATIONS						
		BALANCE	July	August	Year to Date	Remaining Budget
A-2009-8001	Irish Beach WD Moores Annexation	\$-610.56	\$0.00	\$0.00	\$0.00	\$-610.56
P-2014-8010	City of Ukiah Detachment of UVCS D lands	\$1,532.75	\$0.00	\$0.00	\$0.00	\$1,532.75
Applications to Date Totals		\$922.19	\$0.00	\$0.00	\$0.00	
EXPENSES AND APPLICATION TOTALS			\$20,671.08	\$14,312.94	\$34,984.02	

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Regular Meetings
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501 Low Gap Road

September 10, 2018

The Honorable Edmund G. Brown, Jr.
Governor, State of California
State Capitol
Sacramento, CA 95814

Re: AB 2258 (Caballero): Local agency formation commissions: grant program
Request for Signature

Dear Governor Brown:

The Mendocino County Local Agency Formation Commission (LAFCo) joins the California Association for Local Agency Formation Commissions (CALAFCO) in respectfully requesting your signature on Assembly Bill 2258 by Assembly Member Anna Caballero. Sponsored by CALAFCO, AB 2258 establishes a grant program administered by the Strategic Growth Council for California's 58 LAFCos to provide grants to LAFCos to address known service and governance concerns in disadvantaged communities.

The five-year grant funding program provides financial assistance to conduct studies and analyses of local government agencies and services serving disadvantaged communities for the purposes of creating improved efficiencies in the delivery of services and to complete the process to terminate inactive special districts. The bill authorizes the grant program for a limited time period, upon appropriation in the annual Budget Act and sunsets July 31, 2024.

As you know, LAFCos are responsible for meeting important statutory directives to maintain orderly boundaries and seek greater efficiencies in delivering local services, and yet these directives often cannot be consistently met under current funding mechanisms. As a result, much-needed LAFCo activities are sometimes delayed or rejected due to lack of funds. In fact, an August 2017 Little Hoover Commission report on special districts outlined these concerns about LAFCos and recommended the Legislature consider one-time grant funding to pay for specified activities, suggesting a small amount of funding could save taxpayers money in the long-term if local government services are streamlined and efficiency is improved.

In Mendocino County, four water districts have been working towards consolidation in the Ukiah Valley area, which is consistent with recommendations adopted by LAFCo in the last round of municipal service reviews and sphere of influence updates. Funding to assist with studies and application fees would greatly further the consolidation effort, implementing numerous administrative and operational efficiencies.

AB 2258 establishes a grant program – contingent upon an appropriation in a future budget – administered by the Strategic Growth Council, to provide LAFCos with funding to initiate and complete dissolution of inactive districts as identified by the State Controller’s Office, prepare special studies, and potentially initiate actions based on determinations contained in the study. The program includes specific eligible activities, limited to services provided in disadvantaged communities, and a requirement to report to the Strategic Growth Council as to the use of grant funds.

Through AB 2258, LAFCos and service providers can work together to create greater efficiencies in the provision of sustainable municipal services, focusing on disadvantaged communities throughout California, by directing much needed resources to these areas.

We respectfully request your signature on AB 2258 when it comes before you for action. Please don’t hesitate to reach out with questions or concerns.

Sincerely,

Gerald Ward
Chair, Mendocino County Local Agency Formation Commission

MENDOCINO
Local Agency Formation Commission
Staff Report

DATE: September 10, 2018
TO: Mendocino Local Agency Formation Commission
FROM: Uma Hinman, Executive Officer
SUBJECT: Proposed Area of Interest Policy

STAFF RECOMMENDATION

- a) Adopt Resolution 2018-19-01, approving the proposed Area of Interest Policy; or
- b) Provide further direction to the Policies and Procedures Committee and/or staff.

BACKGROUND

An “Area of Interest” is a policy tool that serves as a compromise approach to recognize situations involving challenging boundary considerations.

An Area of Interest is defined in the Mendocino LAFCo Policies & Procedures Manual Definition of Terms as the geographical area beyond the Sphere of Influence (SOI) of a local agency in which land use decisions, or other governmental actions of the jurisdiction impact directly or indirectly upon the local agency, or for which urbanization may be anticipated in the intermediate or long range planning horizons.

There is no statutory recognition of Areas of Interest. Rather, the tool is a program to enhance communication between local agencies and/or the County regarding nearby areas that could be affected by other local agency or County plans and decision. The intent would then be that LAFCo, a local agency and/or the County would work towards an agreement that would result in the area essentially being treated as part of the sphere for the purpose of seeking agency input on any development plans within the Area of Interest. Establishment of Areas of Interest are exempt from CEQA.

The Policies & Procedures Committee recommended the Commission consider both the concept and the following proposed language, which closely mirrors policies adopted by Butte, Merced, Napa, Nevada, San Luis Obispo, Stanislaus, and Ventura LAFCos. The Commission discussed the proposed policy at its June 2018 regular meeting and directed staff to expand outreach to include special districts as well as cities and the County. The June 2018 proposed language has been revised consistent with Commission discussion; changes identified by strikethrough/underline.

Areas of Interest

LAFCo may, at its discretion, designate a geographic area beyond the sphere of influence as an Area of Interest to any local agency.

- A. An Area of Interest is a geographic area beyond the sphere of influence in which land use decisions or other governmental actions of one local agency (the "Acting Agency") impact directly or indirectly upon another local agency (the "Interested Agency"). For example, approval of a housing project developed to urban densities on septic tanks outside the city

limits of a city and its sphere of influence may result in the city being forced subsequently to extend sewer services to the area to deal with septic failures and improve city roads that provide access to the development. The city in such a situation would be the Interested Agency with appropriate reason to request special consideration from the Acting Agency in considering projects adjacent to the city.

- B. When LAFCo receives notice of a proposal from another agency relating to the Area of Interest, LAFCo will notify the Interested Agency and will ~~give great weight to~~ consider its comments.
- C. LAFCo will encourage Acting and Interested Agencies to establish Joint Powers Agreements or other commitments as appropriate.

Staff performed outreach to the special districts, cities and County of Mendocino to introduce the concept, potential uses of the policy, and to provide opportunity for dialogue and feedback for the Commission to consider. In response, staff received one phone call from a cemetery district requesting additional explanation of the policy; no other comments were received.

Attachment: Resolution No. 2018-19-01

**Resolution No. 2018-19-01
of the Mendocino Local Agency Formation Commission**

**Approving the
Area of Interest Policy**

WHEREAS, Local Agency Formation Commissions have been created under the provisions of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, Sections 56000 et. seq. of the Government Code, as independent agencies, shall adopt policies and procedures to carry out their functions, (§56300); and

WHEREAS, the Mendocino Local Agency Formation Commission, hereinafter referred to as Commission, held a public meeting on the proposed Area of Interest Policy, and at that meeting the Commission received the report of the Executive Officer and all oral and written comments with respect to the proposed policy.

NOW, THEREFORE, the Mendocino Local Agency Formation Commission DOES HEREBY RESOLVE, DETERMINE AND ORDER the adoption of the Area of Interest Policy as set forth in Exhibit A.

The foregoing Resolution was passed and duly adopted at a regular meeting of the Mendocino Local Agency Formation Commission held on this 10th day of September 2018, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

UMA HINMAN, Executive Officer

GERALD WARD, Chair

Exhibit "A"

Area of Interest

LAFCo may, at its discretion, designate a geographic area beyond the sphere of influence as an Area of Interest to any local agency.

- A. An Area of Interest is a geographic area beyond the sphere of influence in which land use decisions or other governmental actions of one local agency (the "Acting Agency") impact directly or indirectly upon another local agency (the "Interested Agency"). For example, approval of a housing project developed to urban densities on septic tanks outside the city limits of a city and its sphere of influence may result in the city being forced subsequently to extend sewer services to the area to deal with septic failures and improve city roads that provide access to the development. The city in such a situation would be the Interested Agency with appropriate reason to request special consideration from the Acting Agency in considering projects adjacent to the city.
- B. When LAFCo receives notice of a proposal from another agency relating to the Area of Interest, LAFCo will notify the Interested Agency and will consider its comments.
- C. LAFCo will encourage Acting and Interested Agencies to establish Joint Powers Agreements or other commitments as appropriate.

MENDOCINO Local Agency Formation Commission

Staff Report

DATE: September 10, 2018
TO: Mendocino Local Agency Formation Commission
FROM: Uma Hinman, Executive Officer
SUBJECT: White Paper on Agricultural Preservation

Recommendation

Receive informational report from staff regarding CALAFCO and American Farmland Trust's White Paper "State of the Art on Agricultural Preservation."

Background

The California Association of Local Agency Formation Commissions (CALAFCO) and the American Farmland Trust (AFT) jointly prepared and released a white paper titled "State of the Art on Agricultural Preservation" (Attachment Three). The white paper summarizes the varying definitions of prime agricultural lands (and challenges associated with the existence of multiple definitions), the environmental and economic importance of preserving agricultural lands, LAFCo's mandate to preserve agricultural lands, working with cities and counties, and best practices for LAFCos.

LAFCos' mandate to preserve agricultural lands is set forth in the CKH, Government Code Section 56301:

Among the purposes of a commission are discouraging urban sprawl, preserving open-space and prime agricultural lands, encouraging the efficient provision of government services, and encouraging the orderly formation and development of local agencies based upon local conditions and circumstances.

Preserving prime agricultural land is a key statutory mandate of LAFCo, which can be challenging because federal, state, and local agencies, including LAFCos, all operate under different laws and requirements each setting out different definitions of prime farmland. Land that would not qualify as prime under USDA or FMMP definitions, may qualify as prime under the LAFCo definition; for example, Unique Farmland, Farmland of Statewide Importance, and grazing land can still meet the LAFCo definition of prime agricultural land.

Pursuant to G.C. §56064, LAFCos identify prime agricultural land as:

- ...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 USDA 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 \$400 per acre.
- e) Land that has returned from the production of unprocessed agricultural plant products an annual gross value of not less than \$400 per acre for 3 of the previous 5 calendar years.

Approaches to LAFCo Agricultural Preservation Policies

A LAFCo's broad powers will guide and influence annexation decisions and how a LAFCo will respond to the need to balance urban growth and preserving agriculture and open space. To equip individual LAFCOs with the ability to respond to local conditions and circumstances, the CKH Act calls for a LAFCo to establish written policies and procedures for considering preservation of open-space and agricultural lands (G.C. §56300(a). (Mendocino LACo's policies are included as Attachment 1 for information.)

Policies generally call for one of the following methods for reducing adverse impacts to agricultural lands (list includes excerpts from White Paper):

- Avoidance (most effective)
 - Consider removal of prime agricultural lands from city SOIs.
 - Participate in city general plan update processes to discourage premature conversion of agricultural lands.
 - Discourage extension of urban services outside city boundaries for new development.
 - Request CEQA assessments include analysis of alternatives that do not result in conversion of agricultural lands as defined in CKH.
 - Require that the jurisdiction demonstrate that infill or more efficient use of lands is not possible prior to considering an SOI expansion and/or annexation into agricultural lands.
- Minimization (more effective)
 - Encourage continuous communication and collaborate planning between public agencies and LAFCo.
 - During city's general plan update processes, encourage adoption of long-term growth management strategies for efficient development.
 - Require jurisdictions demonstrate that infill or more efficient use of land is not feasible prior to considering SOI expansion and/or annexation into agricultural lands.
 - Encourage proposals to show urban development will be contiguous with existing or proposed development.
 - Participate in CEQA processes, requesting jurisdictions demonstrate how a proposal will affect physical and economic integrity of impacted and surrounding agricultural lands.
 - Potential project requirements:
 - Agricultural buffers
 - Adoption of right-to-farm ordinances
 - Development of educational/informational programs to promote continued viability of surrounding agricultural land

- Encourage development of a real estate disclosure ordinance to full inform about importance of maintaining productive agricultural in the area
 - Example: greenbelts – voluntary agreements between Board of Supervisors and one or more City Councils regarding development of agricultural and/or open space areas beyond city limits. Cities commit to not annex any property within a greenbelt and Board agrees to restrict development to uses consistent with existing zoning. LAFCo will not approve a sphere update if territory is within a greenbelt area unless all parties to greenbelt agreement are willing to accept amendment to the agreement.
- Mitigation (less effective)
 - Acquisition and transfer of ownership of agricultural land to an agricultural conservation entity for permanent protection of the land.
 - Agricultural conservation easements for permanent protection of the land.
 - Payment of in-lieu fees to an agricultural conservation entity to fully fund the cost of acquisition and management of agricultural lands or conservation easements for permanent protection.

Best Practices for LAFCOs

The following actions provide background context when considering an agricultural preservation policy:

1. An appropriately-scaled policy framework is necessary.
2. The agricultural preservation must be consistent with the authority and limitations of a LAFCo.
3. LAFCOs should have commitment from the local agencies involved in the implementation of the policy.
4. The policy should be simple, uncomplicated and easy for the local agency staff to administer and the public to understand.
5. The policy should include a programmatic incentive for proposal applicants to either agree with the effect of the policy or not protest implementation.
6. Local agencies, stakeholders and the public must know about and understand the agricultural preservation policy and its potential use – a public education program is essential.
7. There should be flexibility in the specific details of how a given proposal can implement overarching policy goals.

Attachment 1 Mendocino LAFCo Agricultural Preservation Policies

Attachment 2 *State of the Art on Agricultural Preservation*, February 2018

Attachment 1

MENDOCINO LAFCO POLICIES & PROCEDURES (EXCEPT)

AGRICULTURAL AND OPEN SPACE LAND

AGRICULTURAL POLICIES

- a) LAFCo's decisions shall reflect its legislated responsibility to work to maximize the retention of prime agricultural land and open space while facilitating the logical and orderly expansion of urban areas.
- b) Urban growth shall be guided away from existing prime agricultural lands unless that action would not promote planned, orderly, and efficient development of an area.
- c) The Commission shall not approve a change of organization or reorganization that would result in the annexation of territory that is subject to a Williamson Act contract unless the facilities or services proposed benefit the uses that are allowed under the contract.
- d) Development of existing vacant lands for urban uses within the jurisdictional boundaries of a local agency shall be encouraged before any annexation proposal or change to a sphere of influence is approved which would lead to, or allow, the development of prime agricultural or open space lands outside the existing jurisdiction of any local agency.
- e) Spheres of influence should reflect consideration for existing and/or potential agricultural use or resource land use and should not be extended into such areas for purposes of allowing urban development.

FACTORS TO CONSIDER IN REVIEW OF A PROPOSAL

A proposal which includes agricultural or open-space designated land shall be evaluated in light of the existence of the following factors:

- a) "prime agricultural land" as defined in G.C. §56064;
- b) "open space" as defined in G.C. §56059;
- c) land that is under contract to remain in agricultural or open-space use, such as a Williamson Act Contract or Agricultural/Open-Space Easement;
- d) land which has an agricultural or open-space designation;
- e) the adopted General Plan policies of the County and the affected city;
- f) the physical and economic integrity of both agricultural lands proposed for conversion to urban use and adjoining land in agricultural use;
- g) the potential for the premature conversion of agricultural or open-space designated land to urban use; and
- h) the policies and priorities in G.C. §56377.

CONDITIONS FOR APPROVAL OF PRIME AG/OPEN SPACE LAND CONVERSION

LAFCo will apply a heightened level of review when considering proposals which could reasonably be expected to induce, facilitate, or lead to the conversion of prime agricultural land or open space uses to other uses and will approve such proposals only when the Commission finds that the proposal will lead to planned, orderly, and efficient development and/or provision of services. For purposes of this standard, a proposal leads to planned, orderly, and efficient development only if all of the following criteria have been considered:

- a) the land subject to the change of organization or reorganization is contiguous either to lands developed with an urban use or to lands which have received all discretionary approvals for urban development;
- b) the proposed development of the subject lands is consistent with the sphere of influence plan(s) of the affected agency or agencies;
- c) the land subject to the change of organization is likely to be developed within five years. For large development projects, annexation should be phased wherever feasible. If the Commission finds phasing infeasible for specific reasons, it may approve annexation if all or a substantial portion of the subject land is likely to develop within a reasonable period of time;
- d) insufficient vacant non-prime or open space land exists within the existing agency boundaries or applicable sphere boundaries that is planned and developable for the same general type of use; and
- e) The proposal will have no significant adverse effect on the physical and economic integrity of other ag/open space lands.



State of the Art on Agricultural Preservation

February 2018



A collaboration of American Farmland Trust and the California Association of Local Agency Formation Commissions



A Research Report of the
HELEN K. CAHILL CENTER FOR
FARMLAND CONSERVATION POLICY INNOVATION
Regular Meeting Packet Page 24 of 50

September 10, 2018

CALAFCO WHITE PAPER

State of the Art on Agricultural Preservation

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Acknowledgments

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Purpose and Objectives

The purpose of this white paper is to inform and inspire Local Agency Formation Commissions (LAFCo) that are seeking to establish or enhance policies that preserve agricultural land, while simultaneously promoting orderly growth and development. The California Association of Local Agency Formation Commissions (CALAFCO) invited American Farmland Trust (AFT) to work collaboratively on this white paper to exchange and share perspectives on their respective experiences in successful policy implementation and development. This paper explores the parameters of agricultural land preservation and provides guidance in the development of agricultural land preservation policies for individual LAFCos to consider.

This white paper discusses the importance of agriculture to our local communities and why the California Legislature has equipped LAFCos with the powers to curtail urban sprawl and discourage expansion onto the state's agricultural lands. The paper examines LAFCos' statutory role in preserving agricultural lands and presents opportunities for how LAFCos can incorporate the preservation of agricultural land into their local policies. Brief case studies are provided throughout to demonstrate how individual LAFCos have interpreted this responsibility locally through their own policies.

White Paper Objectives:

- 1) Provide an understanding of the economic, environmental, and cultural importance of agriculture to local communities and the state at large.
- 2) Explain the components of an effective and comprehensive LAFCo agricultural preservation policy, including the role of policies that encourage "Avoiding," "Minimizing," and "Mitigating" the loss of farmland.
- 3) Explain the role of the California Environmental Quality Act (CEQA)¹ in both annexation proposals that impact agriculture and in requirements for adopting agricultural preservation policies.
- 4) Explain the role of LAFCo in city and county planning processes and how to encourage continuous communication and collaborative planning and studies between public agencies.
- 5) Demonstrate the circumstances in which LAFCo may wish to consider an agricultural preservation policy.

A Unique Perspective from AFT

AFT believes in the importance of protecting farmland while supporting sustainable community growth. AFT promotes LAFCoS as key players in conserving agricultural land since most productive farmland is located around cities. Having actively promoted farmland conservation in California for nearly two decades, AFT offers insight on why it is important to preserve farmland and presents best practices.

A Unique Perspective from CALAFCO

The Legislature intends LAFCoS to be responsive to local challenges as well state priorities. An individual LAFCo's policies can lay out LAFCo's statutory mandate to balance the state interest in the preservation of open space and prime agricultural lands with the need for orderly development. LAFCoS have used their planning authority to anticipate and reduce or avoid the loss of agricultural land. Across the state, LAFCo experiences reflect the variance of practices on agricultural preservation between rural, suburban and urban counties.

Introduction

The Legislature created a LAFCo in each county in 1963 with the intent that they fulfill state policy to encourage orderly growth and development. These objectives were deemed essential to the social, fiscal, and economic well-being of the state. The Legislature recognized that the logical formation and determination of local agency boundaries was an important factor in promoting orderly development and in balancing that development with sometimes competing state interests of discouraging urban sprawl, preserving open-space and prime agricultural lands, and efficiently extending government services.

It was also the intent of the Legislature that each LAFCo "establish written policies and procedures and exercise its powers pursuant to statute [Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH Act)] in a manner consistent with those policies and procedures and in a manner that encourages and provides planned, well-ordered, efficient urban development patterns with appropriate consideration of preserving open-space and agricultural lands within those patterns." (Gov. Code §56300.) These written policies and procedures were required to be adopted by LAFCoS by January 1, 2002.

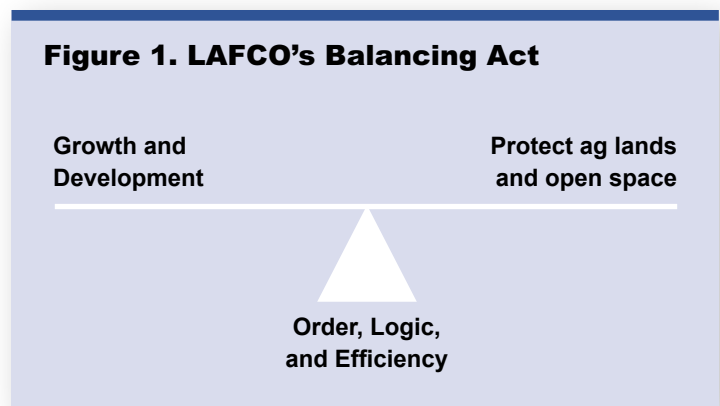
Since 1963, each LAFCo has overseen the growth of its cities and special districts through incorporations, annexations and, since 1973, the establishment of spheres of influence (which were only enforced beginning in 1985). At the time, converting lands once used for agricultural purposes to urban land uses was seen as a necessary part of accommodating the growth of California's cities. It was common for city and county leaders to see agricultural lands around cities as areas for future urbanization, with the assumption that this type of urban development would assure the economic health of the community and provide much needed housing.

Two years after the creation of LAFCoS, the state enacted California Land Conservation Act of 1965 (commonly referred to as the Williamson Act) to address the growing concern that the growth of California cities was coming at the expense of losing agricultural lands. The original purpose of

the Williamson Act was to counteract tax laws that often encouraged the conversion of agricultural land to urban uses (i.e., if you were being taxed at urban rates you might as well sell to urban developers). This act enabled local governments to enter into contracts with private landowners for the purpose of creating agricultural preserves that restrict specific parcels of land to agricultural or related open-space use in exchange for reduced property taxes. Over time, this approach has had mixed success. In an earlier regulatory era, when the subdivision of land far from a city and formation of special districts to provide municipal services was a common practice, creating agricultural preserves under Williamson Act contract was deemed necessary to limit development of those parcels. The likelihood that agricultural land could be converted to urban or rural development was high enough to justify the reduction in property tax revenue in exchange for limiting the land’s development potential.

Today, much of the land under Williamson Act contract in many counties is far from a city’s sphere of influence, where conversion of the most productive farmland most frequently occurs. Yet, the agricultural lands that are under pressure of being converted to non-agricultural uses are most often located on the urban fringe. Due to development speculation of these lands, they are less likely to be protected under a Williamson Act contract, making the role of LAFCo ever more important.

LAFCos were created to implement the state’s growth management and preservation goals. To achieve these objectives, LAFCos were given the sole authority to regulate the boundaries and service areas of cities and most special districts. Though they do not have local land use authority, LAFCos exercise their authority by denying, approving, or conditionally approving expansion proposals by cities and special districts. With this broad authority, each LAFCo uses its own discretion to act in a manner that encourages and provides planned, well-ordered, efficient urban development patterns with appropriate consideration of preserving open-space and agricultural lands within those patterns. Figure 1 depicts the balance that LAFCos are expected to achieve through their actions.



Varying Definitions of “Prime” Agricultural Lands

As discussed further below, preserving prime agricultural land is a key statutory mandate of LAFCo. To measure and understand the importance of California’s remaining prime agricultural land, this paper defines what constitutes prime agricultural land. This can be a challenge because federal, state, and local agencies, including LAFCos, all operate under different laws and requirements each setting out different definitions of prime farmland.

As defined by the United States Department of Agriculture, prime farmland is

Land that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops and is also available for these uses. It has the

soil quality, growing season, and moisture supply needed to produce economically sustained high yields of crops when treated and managed according to acceptable farming methods, including water management. In general, prime farmlands have an adequate and dependable water supply from precipitation or irrigation, a favorable temperature and growing season, acceptable acidity or alkalinity, acceptable salt and sodium content, and few or no rocks. They are permeable to water and air. Prime farmlands are not excessively erodible or saturated with water for a long period of time, and they either do not flood frequently or are protected from flooding.”²

AFT relies on the California Department of Conservation’s Farmland Mapping and Monitoring Program (FMMP) definition of prime farmland, which originated from the USDA definition. The FMMP was established by the State of California in 1982 to produce agricultural resource maps, based on soil quality and land use. The FMMP maps are updated every two years using aerial photographs, a computer-based mapping system, public review, and field reconnaissance. The FMMP definition of Prime Farmland is “land which has the best combination of physical and chemical characteristics for the production of crops. It has the soil quality, growing season, and moisture supply needed to produce sustained high yields of crops when treated and managed, including water management, according to current farming methods. Prime Farmland must have been used for the production of irrigated crops at some time during the two update cycles prior to the mapping date. It does not include publicly owned lands for which there is an adopted policy preventing agricultural use.”³ FMMP also maps farmland that is classified as less than prime, such as Unique Farmland, Farmland of Statewide Importance, Farmland of Local Importance (which is defined by local jurisdictions and accepted by FMMP), Urban and Built-up Land, and Other Land.

LAFcos operate according to their own definition,⁴ which identifies prime agricultural land as:

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.

Land that would not qualify as Prime under USDA or FMMP definitions of Prime, may qualify as Prime under the LAFco definition; for example, Unique Farmland, and Farmland of Statewide

Importance, and grazing land can still meet the LAFCo definition of prime agricultural land. Although LAFCos monitor the conversion of Prime Farmland within their own jurisdictions, CALAFCO does not monitor that conversion statewide. Therefore, the following section utilizes the FMMP definition of Prime Farmland to illustrate the trends affecting farmland in California, which, from AFT's perspective, demonstrate the urgency of protecting what remains.

An AFT View: Why It Is Important to Preserve What We Have Left—What's at Risk?

California boasts some of the most productive farmland on the planet, as measured in terms of the ratio of agricultural inputs to outputs. This productivity is largely possible because of California's Mediterranean climate and fertile soils, which require fewer inputs and are less subject to unfavorable climate conditions and pest pressures. This is important for many reasons, including state and national food security, California's prospects for economic growth and competitiveness on the agricultural market, and the efficient utilization of scarce resources such as water.

For nearly four decades, AFT has monitored the conversion of agricultural lands to development, and estimates that nationally, we lose approximately an acre every minute. In California, where the state has been monitoring the conversion of farmland to urban development since the early 1980s, the average rate of loss is 40,000 acres per year. At this rate, California will lose an additional two million acres by 2050, most of which will be prime farmland.

Current Trends

Of California's approximately 100 million acres of land, 31 million acres or one-third, are used for agriculture. Of this agricultural land, 19 million acres are used for grazing land and 12 million acres are used to grow crops. That figure may seem significant, but only about 9 million acres of this cropland are considered to be prime, unique or of statewide importance (as defined by the California Department of Conservation's FMMP).⁵ This resource is diminishing and is likely to continue to do so, mostly due to conversion to urban development, but also from other causes. Considering that not all remaining farmland is ideal for agriculture due to current and future water stress, climate and temperature changes, and other constraints such as strong soil salinity, protecting what is left is paramount.

In the last 30 years, California has lost more than one million acres of farming and grazing land, and about half of that loss was prime farmland. Figure 2 below provides a snapshot from the California Department of Conservation of what has happened to farmland over that period.

Economic and Cultural Benefits

California is the leading agricultural producer in the United States. Its agricultural abundance includes more than 400 commodities. Over a third of the nation's vegetables and two-thirds of the nation's fruits and nuts are grown in California.⁶ California is the sole producer of an array of commodities consumed by people all over the world. Nearly all of the domestically grown grapes, pomegranates, olives, artichokes, and almonds are grown in California, and over three-quarters

of the nation's strawberries and lettuce come from the golden state.⁷ Ensuring the protection of the state's agricultural lands is essential to protecting California's agricultural economy, and supports numerous other social and environmental benefits to our communities.

Agriculture plays a significant role in many of the state's regions, fueling local economies, providing employment, and maintaining over a century of cultural heritage. In 2014, the farm gate value of the state's 76,400 farms and ranches was a record \$54 billion, double the size of any other state's agriculture industry. Of the \$54 billion, over \$21 billion was attributed to California's agricultural exports.⁸ Not only is California the country's largest agricultural producer, it is the largest exporter of agricultural products. Agricultural products are one of California's top five exports.⁹

Agriculture creates significant ripple effects (i.e. multipliers) throughout California's economy. Each dollar earned within agriculture fuels a more vigorous economy by stimulating additional activity in the form of jobs, labor income and value-added processes. Farm production is closely linked to many other industries: the production of farm inputs, the processing of food and beverages, the textile industry, transportation and financial services. According to the University of California Agricultural Issues Center, which is located at UC Davis and studies the multiplier effects of California farm industry and closely related processing industries, the combined sectors generated 6.7 percent of the state's private sector labor force (including part-time workers), 1.3 percent of the Gross State Product (GSP) and 6.1 percent of the state labor income in 2009. The Center calculated that during that year, a \$1 billion increase of the value added from agricultural production and processing results in a total of \$2.63 billion of GSP.¹⁰

Including multiplier effects, each job in agricultural production and processing in 2009 accounted for 2.2 jobs in the California economy as a whole, and each farming job generated 2.2 total jobs. Agricultural production and processing are especially significant to the economy of California's Central Valley where, including ripple effects, they generated 22 percent of the private sector employment and 20.1 percent of the private sector labor income in 2009. Excluding ripple effects, agriculture directly accounted for 10.2 percent of jobs and 9.2 percent of labor income that year.¹¹

When California loses productive agricultural lands, it loses the income and jobs associated with those lands. Despite the economic contribution to the state, agricultural lands are under pressure from a variety of forces that have the potential to significantly affect the food production capacity that contributes to the food security of the state, nation and world. Preserving farmland means preserving not only our food security but regional economic productivity, income levels, and jobs throughout the farming and food sectors.

Figure 2. Quick Facts on California Farmland, 1984–2012

Did you know, over the course of 30 years...

- Over 1.4 million acres of agricultural land in California were removed from farming uses (a rate of nearly one square mile every four days)
- Of converted land, 49 percent was prime farmland
- For every 5 acres leaving agricultural use, 4 acres converted to urban land

Source California Department of Conservation, Farmland Mapping and Monitoring Program Farmland Mapping and Monitoring Program, *California Farmland Conversion Summary 1984–2014 and California Farmland Conversion Report, 2015*

In California, agriculture is an important cultural identity to many communities, ranging from large-scale farming operations to small-scale family farms and geographically spanning many regions throughout the state, from coastal metropolitan regions to the heart of the San Joaquin Valley. The expanse of agricultural products that California farmers offer adds to the uniquely California cultural scenery, abundance of fresh food, and greatly contributes to quality of life.

Environmental Benefits

Although agricultural practices may sometimes have environmental downsides, agricultural use of land also contributes numerous benefits to the environment and communities. Agriculture is both vulnerable to climate change, and can help mitigate the impacts of climate change. Protecting agricultural lands will help communities reduce vehicle miles traveled (VMT) and greenhouse gas emission associated with vehicle travel by avoiding sprawl. Agricultural lands also have huge potential to sequester carbon. These two benefits make the preservation of these lands important strategies in meeting the long-term climate change goals under *California's 2017 Climate Change Scoping Plan*.¹² Additionally, their preservation is vital to maintaining groundwater recharge. The areas where our highest quality farmland is located are the areas that provide for the greatest groundwater recharge. Protecting agriculture keeps land porous and helps rebuild aquifers. One of the most important actions leaders and communities can take to address future water stresses is protecting the prime farmland that is best suited to replenishing groundwater supplies.

Accounting for Natural Resources Using a Multiple Benefit Approach

The Bay Area Greenprint is a new online mapping tool that reveals the multiple benefits of natural and agricultural lands across the region. It was designed to help integrate natural resource and agricultural lands data into policies and planning decisions that will influence the future of San Francisco Bay Area's vibrant environment, economy and regional character.

Intact ecosystems can provide important benefits for the human population in the Bay Area and throughout the state. The Bay Area Greenprint is an opportunity to aid planners from cities, counties, and LAFcos in understanding and conveying that protecting agricultural land, as a part of intact ecosystems, can provide important benefits for residents in the Bay Area. By conducting multi-benefit assessments (agricultural + habitat + biodiversity + recreation + groundwater + carbon sequestration), the Greenprint provides a more complete understanding of the costs and tradeoffs of developing the region's natural and working lands. It will also assist stakeholders in understanding and communicating both climate change threats and opportunities as well as the multiple values of the Bay Area landscape.

For more information, please visit the tool at www.bayareagreenprint.org

LAFCos' Mandate to Preserve Agricultural Lands

Cortese-Knox-Hertzberg Local Government Reorganization Act 2000 (CKH Act)

Among the purposes of a commission are discouraging urban sprawl, preserving open-space and prime agricultural lands, encouraging the efficient provision of government services, and encouraging the orderly formation and development of local agencies based upon local conditions and circumstances. (Gov. Code §56301, emphasis added.)

Preserving prime agricultural lands and open space is a key statutory mandate of LAFCos and the CKH Act provides direction to LAFCos on certain policies, priorities, and information that LAFCos should, and/or must consider when analyzing boundary change proposals that could potentially impact agricultural lands. The CKH Act includes policies specific to agricultural preservation, including:

- 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 the action would not promote the planned, orderly, efficient development of an area. (Gov. Code §56377(a).)
- Development of existing vacant or nonprime agricultural lands for urban uses within the existing jurisdiction of a local agency or within the sphere of influence of a local agency should be encouraged before any proposal is approved which would allow for or lead to the development of existing open-space lands for non-open-space uses which are outside of the existing jurisdiction of the local agency or outside of the existing sphere of influence of the local agency. (Gov. Code §56377(b).)
- Factors to be considered [by the Commission] in the review of a proposal shall include the effect of the proposal on maintaining the physical and economic integrity of agricultural lands, as defined by Section 56016. (Gov. Code § 56668(e).)

Approaches to LAFCo Agricultural Preservation Policies

Though the CKH Act provides some policies specific to agricultural preservation, these are baseline parameters and guidelines from which individual LAFCos can carry out their mandate. Ultimately, a LAFCo's broad powers will guide and influence annexation decisions and how a LAFCo will respond to the need to balance urban growth and preserving agriculture and open space.

To equip individual LAFCos with the ability to respond to local conditions and circumstances, the CKH Act calls for a LAFCo to:

... establish written policies and procedures and exercise its powers pursuant to this part in a manner consistent with those policies and procedures and that encourages and provides planned, well-ordered, efficient urban development patterns with appropriate consideration of preserving open-space and agricultural lands within those patterns. (Gov. Code §56300(a).)

Over the years, LAFcos, on an individual basis, have adopted various local policies and procedures to assist them in their effort to preserve agricultural lands. These policies generally call for the avoidance, minimization, and mitigation of adverse impacts to agricultural lands.

Avoidance consists of anticipating and taking measures to avoid creating adverse impacts to agricultural lands from the outset, such as steering development away from agricultural lands to avoid their conversion to other uses. This most efficiently occurs at the time a city or county is updating its general plan and the issue can be viewed at a regional level and not based on an individual proposal.

Minimization consists of measures to reduce the duration, intensity, and significance of the conversion and/or the extent of adverse impacts to agricultural lands (including direct, indirect and cumulative impacts as appropriate) that cannot be completely avoided.

Mitigation consists of measurable preservation outcomes, resulting from actions applied to geographic areas typically not impacted by the proposed project, that compensate for a project’s significant adverse impacts to agricultural lands that cannot be avoided and/or minimized.

Figure 3. Hierarchy for Agricultural Land Preservation Strategies



LAFCo’s unique mandates to preserve prime agricultural lands and discourage urban sprawl, and the fact that agricultural lands are a finite and irreplaceable resource, make it essential to avoid adversely impacting agricultural lands in the first place.

Applying These Approaches

These three approaches form an agricultural preservation hierarchy that should, if followed sequentially—avoid, minimize, and then mitigate adverse impacts. These approaches and the recommended applications below may serve as a guide for LAFCos to adopt an agricultural preservation policy, including criteria to guide LAFCo’s review of boundary change proposals, thereby possibly streamlining the evaluation of proposals. It may also serve as a guide for proactive participation and collaborative discussion during a city’s general plan update. Collaborative planning may help jurisdictions better understand and prepare for the requirements of LAFCo early in the planning process.

Avoidance is preferable because it is the best way to ensure that agricultural lands are not adversely impacted, whereas minimization and mitigation actions include, by definition, some level of residual impact to agricultural lands. Avoidance can also help LAFCos address other important mandates, such as curbing urban sprawl and encouraging the efficient delivery of services by encouraging vacant and underutilized lands within urban areas to be developed before prime agricultural and agricultural land is annexed for non-agricultural purposes. Avoidance is also consistent with the growing recognition at the state level that future development should, when and where possible, be directed into infill areas located within existing urban footprints to limit the amount of transportation related greenhouse gases generated. LAFCos can adopt specific policies and procedures that encourage cities to first utilize their existing vacant and underutilized lands within urban areas for development. What LAFCos can do to **AVOID** conversion of agricultural lands:

- Consider removal of excessive amounts of land from city spheres of influence, (i.e. where SOI is much larger than what is needed over a long-range development horizon).
- Adopt policies that encourage cities to implement more efficient development patterns, adopt stable growth boundaries that exclude agricultural lands, promote infill first, and consider alternative locations within city limits in order to remove development pressure on agricultural lands.
- Encourage continuous communication and collaborative planning and studies between public agencies to ensure that consideration of avoidance begins as early as possible in a jurisdiction’s planning process.
- Participate in city general plan update processes to discourage the premature conversion of agricultural lands and to limit development pressure on agricultural lands.

Case Study: Reducing the Spheres of Influence

In 2007, the Kings County LAFCo reduced its spheres of influence through its Comprehensive City and Community District Municipal Service Review (MSR) and SOI Update. The LAFCo utilized the MSR requirement from the Cortese-Knox Hertzberg Local Government Reorganization Act of 2000 to coordinate future urban growth considerations in a more streamlined and accountable manner. In developing the MSRs, Kings LAFCo rewarded the good planning efforts of its four cities by reaffirming well planned areas with planned services, while areas within existing spheres of influence not currently planned for urban growth would require more extensive MSR updates. This approach allowed Kings LAFCo an opportunity to successfully remove almost 11,000 acres from future growth consideration where urban services were not planned and agriculture was the established use.

- Discourage extension of urban services outside city boundaries for new development.
- Request that the Lead Agency CEQA assessment includes analysis of alternatives that do not result in conversion of agricultural lands as defined in the CKH Act.
- Require that the jurisdiction demonstrate that infill or more efficient use of land is not possible *prior* to considering SOI expansion and/or annexation into agricultural lands.

Minimizing adverse impacts to agricultural lands should be considered and applied to the maximum extent practicable if all project alternatives have been considered and avoidance is truly not feasible. Minimization, by definition, means reducing the significance of the conversion and/or reducing the adverse impacts by making changes to a project. In other words, some impacts will be incurred, however, they will be less severe than if changes had not been implemented. Minimization measures must be carefully planned, implemented and monitored to assess and to ensure their long-term effectiveness.

What LAFcos can do to **MINIMIZE** conversion of agricultural lands:

- Encourage continuous communication and collaborative planning and studies between public agencies and LAFCo.
- During a city's general plan update process, encourage jurisdictions to adopt a long-term growth management strategy that provides for more efficient development.
- Encourage jurisdictions to adopt a "Plan for Agricultural Preservation."
- Encourage more efficient use of land to limit development of surrounding farmland. Require that the jurisdiction demonstrate that infill or more efficient use of land is not feasible *prior* to considering SOI expansion and/or annexation into agricultural lands.
- Encourage proposals to show that urban development will be contiguous with existing or proposed development; that a planned, orderly, and compact urban development pattern will result; and that leapfrog, non-contiguous urban development patterns will not occur.
- During a CEQA process, request that jurisdictions demonstrate how a proposal will affect the physical and economic integrity of impacted and surrounding agricultural lands.
- As part of a city's general plan process, encourage jurisdictions to map, analyze, and describe all agricultural lands within or adjacent to land proposed for annexation, including analysis of any multiple land-based values such as

Case Study: Greenbelts and Agreements

Ventura County has established greenbelts around its urban areas. Greenbelts are created through voluntary agreements between the Board of Supervisors and one or more City Councils regarding development of agricultural and/or open space areas beyond city limits. They protect open space and agricultural lands and reassure property owners located within these areas that lands will not be prematurely converted to uses that are incompatible with agriculture.

Cities commit to not annex any property within a greenbelt while the Board agrees to restrict development to uses consistent with existing zoning.

Ventura County LAFCo will not approve a sphere update if the territory is within one of the greenbelt areas unless all parties to the greenbelt agreement are willing to accept an amendment to the agreement.

The Ventura policies generally follow Gov. Code §56377.

agricultural, biodiversity, recreation, groundwater, and carbon sequestration, to identify areas of high natural resource value where development is best avoided.

- Encourage agreements among jurisdictions that outline conditions for expanding boundaries. Agreements can be recognized by LAFCo.
- Recommend project requirements to protect agricultural lands adjoining land covered in applications to LAFCo, both to prevent their premature conversion to non-agricultural uses and to minimize potential conflicts between proposed urban development and adjacent agricultural uses, such as:
 - Agricultural buffers. A buffer is typically an on-site strip of land along the perimeter of a development proposal. These provide a way to minimize conflict by creating spatial separation and other barriers such as walls and landscaping between agricultural operations and urban residents. Buffers may be established through city-county agreements and encouraged under locally adopted LAFCo policies.
 - Encourage the adoption of right-to-farm ordinances. These ordinances are developed to offset the perception that typical farming practices are a “nuisance” by 1) providing dispute resolution mechanisms for neighbors as an alternative to filing nuisance-type lawsuits against farming operations; and 2) notifying prospective buyers about the realities of living near farms before they purchase property.
 - Development of educational and informational programs to promote the continued viability of surrounding agricultural land.
 - Encourage the development of a real estate disclosure ordinance to fully inform all directly affected prospective property owners about the importance of maintaining productive agriculture in the area.

Mitigation of impacts to agricultural lands should be considered and applied to the maximum extent practicable if all project alternatives have been considered and avoidance is truly not feasible and if minimization measures have been applied, but adverse impacts remain significant. Mitigation measures must be carefully planned, implemented and monitored to assess and to ensure their long-term effectiveness. Regardless of the type of mitigation measures pursued, this path will inevitably lead to a net loss of agricultural land if it is converted. Some key agricultural mitigation principles to consider include:

- Is the proposed mitigation a fair exchange for the loss of the agricultural resource?
- Is the proposed mitigation designed, implemented and monitored to achieve

**Case Study:
Mitigation through Memorandums of
Understanding/Agreement**

Some LAFCos, including San Luis Obispo and Monterey, have entered into MOUs or MOAs with local land use jurisdictions. Such agreements enable the local jurisdictions to express their intent to jointly pursue orderly city-centered growth and agricultural preservation. In San Luis Obispo, the agreement is with San Luis Obispo County. In Monterey, LAFCo has developed agreements with the County and four of the five cities within the agriculturally rich Salinas Valley (Salinas, Soledad, Greenfield and Gonzales) to encourage development of MOAs and MOUs. Though on one occasion, Monterey LAFCo was a third party to the MOA (with Greenfield), the regular practice has been to encourage each city and the County to enter into the MOA/MOU.

clear, stated and measurable outcomes for agricultural preservation?

- Will the proposed mitigation result in a genuine positive change on the ground, which would not have occurred anyway?
- Will the proposed mitigation result in permanent protection of agricultural land, given that the loss of agricultural land is generally irreversible?

Examples of typical measures include:

- The acquisition and transfer of *ownership* of agricultural land to an agricultural conservation entity for permanent protection of the land.
- The acquisition and transfer of *agricultural conservation* easements to an agricultural conservation entity for permanent protection of the land.
- The payment of in-lieu fees to an agricultural conservation entity that are sufficient to fully fund the cost of acquisition and administration/management of agricultural lands or agricultural conservation easements for permanent protection.

Case Study: A Mitigation Menu

Contra Costa LAFCo recently adopted a policy that allows the applicant to choose from a menu of mitigation measures. Those measures can include a 1:1 policy whereby each acre lost is mitigated by an acre preserved for agricultural use. Other options can include fees in lieu of land, conservation easements, agricultural buffers, compliance with an approved habitat conservation plan, and participation in other development programs such as transfer or purchase of development credits. Under this policy, Contra Costa LAFCo will consider any reasonable proposal. If the applicant does not suggest a measure, the Commission has the option to impose one or deny the project.

CEQA and Agricultural Preservation

Working proactively with local agencies to avoid or minimize impacts to agricultural land in the first place is preferable to mitigation. Agricultural mitigation requirements (for example, protecting other off-site lands at a certain ratio) are beneficial, but do not prevent agricultural land from being converted.

However, as a last resort, CEQA can be a tool to help LAFCos leverage agricultural preservation in furtherance of LAFCos' state-mandated purpose. Even in the absence of locally adopted agricultural preservation policies, agencies are required to consider project impacts on agricultural resources. Therefore, LAFCos can still promote agricultural preservation even when the local political climate may not allow for strong local policies. CEQA does not require LAFCos to adopt local agricultural conservation or mitigation policies, but some LAFCos may find it useful to adopt clear and transparent expectations via a local policy.

Public Resources Code, Section 21002 states (emphasis added):

*The Legislature finds and declares that it is the policy of the state that public agencies should not approve projects as proposed if there are **feasible alternatives or feasible mitigation measures available which would***

Note

LAFCo can suggest, request, or require feasible mitigation measures, even in the absence of local agricultural preservation policies.

substantially lessen the significant environmental effects of such projects, and that the procedures required by this division are intended to assist public agencies in systematically identifying both the significant effects of proposed projects and the feasible alternatives or feasible mitigation measures which will avoid or substantially lessen such significant effects. The Legislature further finds and declares that in the event specific economic, social, or other conditions make infeasible such project alternatives or such mitigation measures, individual projects may be approved in spite of one or more significant effects thereof.

Pursuant to CEQA, public agencies shall not approve projects as proposed if there are feasible alternatives or feasible mitigation measures that would substantially lessen the significant environmental effects of the project.

LAFCo as a Responsible Agency

Typically, a LAFCo will review a CEQA document, such as an Environmental Impact Report (EIR) or Negative Declaration as a “responsible agency”. Under CEQA, the “lead agency” means the public agency which has the principal responsibility for carrying out or approving a project which may have a significant effect upon the environment.¹³ A responsible agency is any public agency, other than the lead agency, which has the responsibility for carrying out or approving the project.¹⁴ Normally, the lead agency is the agency with general governmental powers such as a city or a county. Agencies with limited powers such as LAFCos, or agencies providing a public service or utility service, tend to be a responsible agency. However, LAFCos may be the lead agency and typically serve in this role for certain projects such as approvals of sphere of influences or out-of-agency municipal service extensions.

In the role of responsible agency, LAFCos can apply some leverage because LAFCo approval is necessary to implement the project. As a responsible agency, LAFCo has an obligation to address environmental impacts within its jurisdiction. If a LAFCo has adopted local agricultural preservation policies such as required conservation ratios, buffering setbacks, etc., LAFCo can comfortably assert recommendations on a project while the lead agency is still processing the CEQA document because: (1) the lead agency, in desiring LAFCo approval, likely will be amendable to compliance with LAFCo requirements and policies; and (2) the project proponent presumably would prefer to make any project changes and/or revisions to the CEQA document in compliance with LAFCo policy up front rather than waiting until the matter is before the LAFCo, thereby optimizing the time spent securing approvals. However, a LAFCo does *not* have to have formally adopted local policies in order for LAFCo to recommend that the lead agency require a given mitigation measure such as a conservation easement to mitigate for conversion of agricultural lands. CEQA's mandate requires the lead agency to implement feasible alternatives and mitigation measures whether or not a LAFCo has a locally adopted policy. Further, even if a lead agency or project proponent is not amenable to complying with LAFCo recommendations, if LAFCo believes that a project would have a significant impact to agricultural lands that the lead agency has not identified, the LAFCo, as a responsible agency, could require subsequent environmental review. In the context of that subsequent environmental review, a LAFCo could impose its own mitigation measures to protect agricultural lands if necessary to protect against a true threat to its resource.

Notice of Preparation (For EIRs only, not Negative Declarations)

If a LAFCo is a responsible agency on a project, it should respond in writing to the Notice of Preparation. The response should identify the significant environmental issues and reasonable alternatives and mitigation measures that the responsible agency will need to have explored in the draft EIR.¹⁵ This is LAFCo's opportunity to notify the lead agency of any relevant policies and potential concerns with a project that should be included in the EIR analysis. The LAFCo should be clear and forthright about project issues and LAFCo policies and requirements at the outset in the interest of providing the earliest possible notice to the interested parties. This will enhance the LAFCo's long-term credibility in the community and help keep political and other relationships in a positive state.

The intent is to avoid, minimize, and mitigate project impacts to agricultural land. Questions to consider during the NOP process include: Do options exist to minimize or avoid impacts to agricultural land? Should project alternatives be considered? What mitigation measures should be included?

Here are a few code sections to keep on hand. The following statutes can be cited to provide support when promoting LAFCo agricultural preservation goals:

- CKH Act, California Government Code, Section 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 . . . (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 nonprime agricultural lands, unless that action would not promote the planned, orderly, efficient development of an area.
- CEQA Guidelines, Title 14, California Code Regulations, Section 15041: The responsible agency may require changes in a project to lessen or avoid only the effects, either direct or indirect, of that part of the project which the agency will be called on to carry out or approve.
- CEQA Guidelines, Title 14, California Code Regulations, Section 15096(g)(2): When an EIR has been prepared for a project, the Responsible Agency shall not approve the project as proposed if the agency finds any feasible alternative or feasible mitigation measures within its powers that would substantially lessen or avoid any significant effect the project would have on the environment. With respect to a project which includes housing development, the Responsible Agency shall not reduce the proposed number of housing units as a mitigation measure if it determines that there is another feasible specific mitigation measure available that will provide a comparable level of mitigation.

Draft EIR or Negative Declaration

At the draft EIR or Negative Declaration stage of the process, a LAFCo may comment on the adequacy of the draft environmental document's analysis, mitigation measures and conclusions. The

A Note About Ag Mitigation Ratios

Conservation easements are effective and commonly used mitigation strategies. However, they do not make up for the loss of agricultural land and may not necessarily reduce the impact of agricultural land loss to a less than significant level.

lead agency is required to consult with LAFCo if it is a responsible agency. Among questions to think about during either draft EIR or Negative Declaration review: Are the analysis and stated impacts to agricultural land sound, reasonable and acceptable to LAFCo? Have all feasible project alternatives and mitigation measures been considered and required?

A LAFCo should ordinarily only make substantive comments regarding those activities involved in the project that are within LAFCo's scope of authority under

the CKH Act, or aspects of the project required to be approved by LAFCo, and should be supported by specific documentation when possible. In a CEQA responsible agency role, LAFCos are required to advise the lead agency on environmental effects, and shall either submit to the lead agency complete and detailed performance objectives for mitigation measures addressing those effects or refer the lead agency to appropriate, readily available guidelines or reference documents concerning mitigation measures. If the responsible agency is not aware of mitigation measures that address identified effects, the responsible agency must so state.¹⁶

Examples of potential project alternatives to reduce impacts to agricultural lands include, among others: reduced footprint, clustered density, setbacks and buffers. Examples of feasible mitigation measures include: right to farm deed restrictions, setbacks and buffers, and conservation easements on a 1:1, 2:1 or 3:1 ratio.

Evaluation of and Response to Comments/Final EIR (For EIRs only, not Negative Declarations)

After the public comment period closes, the lead agency then evaluates and provides a written response to comments received. The written response by the lead agency must describe the disposition of the issues raised, detailing why any specific comments or suggestions were not accepted. There must be a good faith, reasoned analysis in the response. Unsupported conclusory statements will not suffice. The lead agency cannot simply make generalizations stating that requiring conservation easements is not economically feasible, for example. As a responsible agency, LAFCo should review the written response provided and determine if it adequately resolves the issues raised in its Draft EIR comment letter. If not, LAFCo should reiterate its remaining concerns via letter and/or orally at the public hearing to certify the EIR.

Approval of a Negative Declaration or EIR

When approving a project, the lead agency must find that either (1) the project as approved will not have a significant effect on the environment; or (2) the agency has eliminated or substantially lessened all significant effects where feasible, and determined that any remaining significant effects are found to be unavoidable. Therefore, even if the lead agency is adopting a Statement of Overriding Considerations, it does *not* relieve the agency from the requirement to adopt all feasible mitigation measures. In other words, an EIR Statement of Overriding Considerations is not a "free pass" to avoid mitigation. As a responsible agency, LAFCos should be involved in the CEQA process to ensure, as much as possible, the lead agency has implemented all feasible mitigation measures.

Mitigation Monitoring and Reporting Program

Although mitigation monitoring is the lead agency's responsibility (and LAFCos should ensure mitigation language is written to ensure the responsibility for monitoring and tracking clearly lies with the lead agency and the timing mechanism is clear), as a responsible agency it is good practice to keep tabs on local development timing to follow up and ensure any required mitigation actually occurs.

LAFCo as a Lead Agency

At times, LAFCos may act as the lead agency on a CEQA document. Examples include adoption of SOIs or approval of service extensions. However, often times LAFCos choose to not serve as the lead agency on a project where significant impacts may occur. For example, a LAFCo may choose not to enlarge a city's SOI until a development project has been proposed (and the land use authority as lead agency has conducted CEQA review instead) so that the LAFCo can process the SOI update concurrent with annexation. However, if a LAFCo finds itself as the lead agency on a project, the discussion above regarding lead agency requirements now would apply to LAFCo.

Caution Regarding Reliance on Habitat Conservation Plans as Agricultural Mitigation

Habitat Conservation Plans (HCPs) often permit developers to pay an in-lieu fee for the purchase of comparable habitat to mitigate for a development's impact to sensitive species. Generally, the priority under HCPs is to mitigate for special status species, not necessarily agricultural land. An HCP would not necessarily address loss of agricultural land as an agricultural resource itself, but would rather address the loss of agricultural land in terms of the associated impacts to special-status species and sensitive habitats. This is a generalization as there is no "one size fits all" answer whether an HCP can or should be used as a mitigation strategy to mitigate for project impacts to agricultural land. Thus, LAFCos cannot automatically assume that HCPs will provide adequate mitigation for the loss of agricultural lands and fact-specific analysis would be required.

If use of an HCP for mitigation is proposed by the lead agency, that HCP needs to be reviewed to determine how the fees will be used and if comparable, compensatory mitigation will be provided. In other words, question how the HCP will use the fee. Does the fee get used just to place the land into a conservation easement that prohibits future development or will it be used for habitat restoration that will eliminate agricultural uses (such as mitigation for wetland or vernal pool mitigation)? The second key question is how the fee relates to the impact. Does it result in an appropriate ratio that compensates for the lands to be developed or is the proposed conservation easement "stacked" with other easements? Many conservation easements used for raptor habitat, for example, will prohibit vineyards and orchards, thereby limiting a raptor's ability to hunt, thus placing constraints on agricultural productivity. If the lead agency cannot demonstrate that the HCP fee would fully mitigate for the loss of agricultural land, other mitigation options should be explored outside of the HCP.

Working with Cities and Counties

City and county planning processes directly influence whether local agriculture is sustainable and viable. LAFCos can play an important role early on in a jurisdiction's planning processes and can encourage continuous communication and collaborative planning between agencies.

In addition to adopting their own local LAFCo policies, LAFCos can help cities and counties adopt meaningful agricultural preservation policies in their general plans. By taking the initiative to engage and build relationships with cities and counties, LAFCo can influence local agencies in their planning processes and advocate for the protection of farmland and the farming economy. The Governor's Office of Planning and Research considers early consultation and collaboration between local agencies and LAFCo on annexations to be a best practice. This includes coordinating on CEQA review, general process and procedures, and fiscal issues.

By providing feedback throughout the general plan adoption process, LAFCos are able to coordinate with and encourage local agencies to adopt strong farmland protection policies in their general plans, specific plans, plans for development in unincorporated areas, and even within city limits. By engaging in a dialogue over plan development with cities and counties long before those agencies submit formal applications, LAFCo can help ensure that applications will be successful.

LAFCos can formalize this kind of proactive participation in local planning processes by tracking city and county agendas and planning cycles, anticipating when such jurisdictions will pursue plan updates or make amendments, and including general plan participation in LAFCo annual work plans. Formalizing this participation through the LAFCo annual work plan provides structure for ongoing engagement, and over time, normalizes the interaction so that cities and counties will come to expect LAFCo to be actively engaged.

Not only can LAFCos engage in early, informal discussions about what kinds of policies would be useful and compatible with LAFCo policies and mandates, but they can also submit formal comments as part of the public planning process. The executive officer can submit these formal comments on behalf of the commission.

To help local agencies assess the impacts of their plans on agricultural resources, LAFCos can draw information from many sources. The California Department of Conservation's Farmland Mapping and Monitoring Program can provide information about valuable farmland, including statistical trend data that can be used for analyzing impacts on agricultural resources. Storie index maps can help LAFCos understand the location of the best soils, so that urban growth can be directed away from those areas. LAFCos should also track the location of agricultural conservation easements, and properties under Williamson Act contracts. The county agricultural commissioner's office can help other local agencies understand local agriculture and how planning decisions will have an effect.

LAFCos can help cities make good decisions with regard to annexations, following the avoid-minimize-mitigate protocol mentioned earlier in this white paper. LAFCos have the power to review and approve annexations with or without amendment, wholly, partially, or conditionally, or disapprove proposed annexations, reorganizations, and incorporations, consistent with written policies, procedures, and guidelines adopted by the commission. By working with a city early on in

the process, LAFCo can provide ongoing guidance in the development of an annexation proposal, encouraging attributes that will lead to its success.

LAFCo can also influence county planning processes via the formation or expansion of special districts.

Best Practices for LAFCos

When considering an agricultural preservation policy, the following actions provide background operational context:

1. *An appropriately-scaled policy framework is necessary.*

A policy framework implements a goal, which ideally describes the end-state desired by a LAFCo. Each policy implemented over time, and as applicable, incrementally fulfills a LAFCo's goal. The end-state should reflect the LAFCo's values and by extension the values of the greater community of local agencies that it serves.

A policy adopted without a corresponding over-arching goal is less effective.

2. *The agricultural preservation policy must be consistent with the authority and limitations of a LAFCo.*

LAFCos have broad statutory authority to approve, approve with conditions, or deny proposals for a change of organization or reorganization initiated by a petition or by resolution of application.¹⁷ However, LAFCos shall not impose any conditions that would directly regulate land use density or intensity, property development, or subdivision requirements.¹⁸

3. *LAFCos should have commitment from the local agencies involved in the implementation of the policy.*

LAFCo policies should be developed in consultation with the affected local agencies and stakeholders in the county. Also, policies should be developed so that they work in coordination with the local agencies' approval process. Preferably, LAFCo policies are consistent and complementary with cities' general plans and the master plans of special districts under LAFCo's jurisdiction.

4. *The policy should be simple, uncomplicated, and easy for the local agency staff to administer and the public to understand.*

Over 78 percent of LAFCos are staffed with four or fewer employees.¹⁹ This means that most LAFCos have very limited resources with which to implement and monitor complicated policies, implementation or mitigation measures.

5. *The policy should include a programmatic incentive for proposal applicants to either agree with the effect of the policy or not protest implementation.*

Once adopted, the policy should influence how local agencies implement their growth plans.

6. Importantly, local agencies, stakeholders and the public must know about and understand the agricultural preservation policy and its potential use. In other words, a public education program is essential.

Community involvement in the development of the goal and its supporting policy is critical. Such input should be requested, synthesized, and reflected in the goal to represent the community's interest. LAFCo interests are best served when the community's understanding is clear about how that goal is achieved, how long it should take to reach, and how one or more policies is used to reach it.

7. There should be flexibility in the specific details of how a given proposal can implement overarching policy goals.

Individual LAFCo policies can lay out a LAFCo's statutory mandate to balance the state interest in the preservation of open space and prime agricultural lands against the need for orderly development. A policy can state that a proposal provide for planned, well-ordered, efficient urban development patterns with appropriate consideration of preserving open-space and agricultural lands within those patterns. But the policy does not have to prescribe a specific course of action that an applicant should take in order to be considered satisfactory in addressing this overarching policy goal. The policy places the onus on the applicant to explain or justify how the proposal balances the state interest in the preservation of open space and prime agricultural lands against the need for orderly development. The policy can be explicit in asserting a LAFCo's authority to deem incomplete and/or deny proposals that do not adequately put forth a rationale for a LAFCo to weigh against the policy goals.

Endnotes

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8. California Department of Food and Agriculture, 2015.
9. U.S. Census Bureau, 2016.
10. *The Measure of California Agriculture*, 2012 update. University of California Agricultural Issues Center. Accessed on December 13, 2017: <http://aic.ucdavis.edu/publications/moca/MOCABrochure2013.pdf>.
11. Ibid.
12. California Air Resources Board. *California's 2017 Climate Change Scoping Plan*. Accessed on December 15, 2017: <https://www.arb.ca.gov/cc/scopingplan/scopingplan.htm>.
13. California Public Resources Code, Section 21067.
14. California Public Resources Code, Section 21069.
15. CEQA Guidelines Section 15082 (b).
16. CEQA Guidelines Section 15086 (c) and (d).
17. California Government Code Section 56375 (a)(1): The commission shall have the powers and duties to review and approve with or without amendment, wholly, partially, or conditionally, or disapprove proposals for changes of organization or reorganization, consistent with written policies, procedures, and guidelines adopted by the commission.
California Government Code Section 56021: "Change of organization" means any of the following:
 - (a) A city incorporation.
 - (b) A district formation.
 - (c) An annexation to a city.
 - (d) An annexation to a district.
 - (e) A detachment from a city.
 - (f) A detachment from a district.
 - (g) A disincorporation of a city.
 - (h) A district dissolution.
 - (i) A consolidation of cities.
 - (j) A consolidation of special districts.
 - (k) A merger of a city and a district.
 - (l) Establishment of a subsidiary district.
 - (m) The exercise of new or different functions or classes of services, or divestiture of the power to provide particular functions or classes of services, within all or part of the jurisdictional boundaries of a special district.
18. California Government Code Section 56375 (a)(6).
19. CALAFCO survey, CaLAFCO.org, 2015.

MENDOCINO Local Agency Formation Commission

Staff Report

DATE: September 10, 2018
TO: Mendocino Local Agency Formation Commission
FROM: Uma Hinman, Executive Officer
SUBJECT: Status of Applications, Proposals, and Work Plan

ACTIVE APPLICATIONS

None

APPLICATIONS ON-HOLD

The following applications have been filed with the Commission but are currently on hold. Any updates available are noted below in addition to the date of last activity.

- City of Ukiah Detachment of Ukiah Valley Sanitation District (UVSD) Served Areas
Last activity: December 2014

PRE-APPLICATIONS

None

POTENTIAL FUTURE PROJECTS

The following potential future projects have been brought to LAFCo's attention and are included for informational purposes. Any updates available are noted below in addition to the date of last activity.

- Anderson Valley CSD Proposed Activation of Latent Powers to Provide Water/Sewer Services
Last Activity: September 2017
- Proposed Consolidation of Four Water Districts in the Ukiah Valley area
Last Activity: December 2016

WORK PLAN STATUS UPDATE:

Staff is currently working with the Executive Committee regarding revisions to the 5-Year Rolling Work Plan and development of a template for tracking the work plan implementation schedule and costs on a monthly basis.

The following disclaimer addresses the underlying assumptions for the 5-Year Rolling Work Plan:

“The schedule and cost for each study identified in this Work Plan is an estimate and is subject to change based on overall staff workload, agency responsiveness and timely provision of requested information, complexity of issues, and public controversy. Each study is assumed to consist of a combined MSR and SOI Update and be exempt from CEQA. A separate cost estimate will be prepared for studies subject to a Negative Declaration or EIR. The cost estimate

reflects the minimum staff time to: coordinate a response to the Request for Information (RFI), draft the study for agency review and make revisions, prepare the study for one Public Workshop and Public Hearing and make revisions, and finalize the study to post online and mail to the subject agency. This Work Plan will be reviewed mid-year, or sooner as needed, and revised to account for a more refined level of detail related to the anticipated scope of work for specific studies. The estimated Work Plan schedule and costs may roll over to the next Fiscal Year.”

Attachment 1 is a Draft FY 2018-19 Work Plan Gantt Chart to provide an overall framework for the current work plan priorities. Staff recommends preparing a Gantt Chart on a monthly basis to provide the Commission a high level view status update on changes to the work plan priorities and associated implementation schedule. Please note the following related to the Gantt Chart:

- Staff intentionally has not scheduled any Workshop or Public Hearing items for the 1/7/2019 regular LAFCo meeting to lighten the schedule around the holiday season and to allow new Commissioners a meeting to adjust to their new position.
- Staff works concurrently on multiple studies at a time to maintain progress on the different phases of the study development process.

Attachments:

(1) Draft FY 2018-19 Work Plan Gantt Chart

Mendocino LAFCo FY 2018-19 Work Plan Gantt Chart

September 10, 2018 Draft



Study Development Process

