BACKGROUND

This report is prepared pursuant to legislation enacted in 2000 that requires LAFCO to conduct a comprehensive review of municipal service delivery and update the spheres of influence (SOIs) of all agencies under LAFCO's jurisdiction. The focus of this report is nine special districts that provide distinct and diverse services throughout the County. This chapter provides the background of the service review requirements and an overview of the process for this particular service review. The outline of the chapter is as follows:

1) The history and purpose of LAFCO,
2) Purpose of the service review,
3) Sphere of influence updating process, and
4) Process and methodology of the review.

LAFCOs, Service Reviews, and Spheres of Influence

History of LAFCO

After World War II, California experienced dramatic growth in population and economic development. With this boom came a demand for housing, jobs and public services. To accommodate this demand, many new local government agencies were formed, often with little forethought as to the ultimate governance structures in a given region, and existing agencies often competed for expansion areas. The lack of coordination and adequate planning led to a multitude of overlapping, inefficient jurisdictional and service boundaries, and the premature conversion of California's agricultural and open-space lands.

Recognizing this problem, in 1959, Governor Edmund G. Brown, Sr. appointed the Commission on Metropolitan Area Problems. The Commission's charge was to study and make recommendations on the "misuse of land resources" and the growing complexity of local governmental jurisdictions. The Commission's recommendations on local governmental reorganization were introduced in the Legislature in 1963, resulting in the creation of a Local Agency Formation Commission, or "LAFCO," operating in each county.

Each LAFCO was formed as a countywide agency to discourage urban sprawl, preserve agricultural and open space resources, promote efficient service provision and encourage the orderly formation and development of local government agencies. LAFCO has jurisdiction over local governmental boundaries, including annexations and detachments of territory, incorporations of cities, formations of special districts, and consolidations, mergers and dissolutions of districts, as well as reviewing ways to reorganize, simplify, and streamline governmental structure. The Commission's efforts are focused on ensuring that services are provided efficiently and economically while agricultural and open-space lands are protected. To better inform itself and the community as it seeks to exercise its charge, LAFCO conducts service reviews to evaluate the provision of services within the County.

LAFCO regulates, through approval, denial, conditions and modification, boundary changes proposed by public agencies or individuals. It also regulates the extension of

public services by cities and special districts outside their boundaries. LAFCO is empowered to initiate updates to the SOIs and proposals involving the dissolution or consolidation of special districts, mergers, establishment of subsidiary districts, and any reorganization including such actions. Otherwise, LAFCO actions must originate as petitions or resolutions from affected voters, landowners, cities or districts.

LAFCO of Santa Clara County consists of seven regular members: two members from the Santa Clara County Board of Supervisors, two city council members with one permanent seat for San Jose as the largest city, two special district members, and one public member who is appointed by the other members of the Commission. There is an alternate in each category. All Commissioners are appointed to four-year terms.

The mandate for LAFCOs to conduct service reviews is part of the Cortese-Knox Hertzberg Local Government Reorganization Act of 2000 (CKH Act), California Government Code §56000 et seq. LAFCOs are required to conduct service reviews prior to or in conjunction with sphere of influence updates and are required to review and update the sphere of influence for each city and special district as necessary, but not less than once every five years. LAFCO of Santa Clara County completed and adopted its first round of service reviews and sphere of influence updates prior to January 1, 2008, as required by state law. LAFCO of Santa Clara County is responsible for establishing, reviewing and updating spheres of influence for 44 public agencies in Santa Clara County (15 cities and 28 special districts).

Service Reviews

The service review requirement was enacted by the Legislature months after the release of two studies recommending that LAFCOs conduct reviews of local agencies. The "Little Hoover Commission" focused on the need for oversight and consolidation of special districts, whereas the "Commission on Local Governance for the 21st Century" focused on the need for regional planning to ensure adequate and efficient local governmental services as the California population continues to grow.

Little Hoover Commission

In May 2000, the Little Hoover Commission released a report entitled Special Districts: Relics of the Past or Resources for the Future? This report focused on governance and financial challenges among independent special districts, and the barriers to LAFCO's pursuit of consolidation and dissolution of districts. The report raised the concern that "the underlying patchwork of special district governments has become unnecessarily redundant, inefficient and unaccountable."

In particular, the report raised concern about a lack of visibility and accountability among some independent special districts. The report indicated that many special districts hold excessive reserve funds and some receive questionable property tax revenue. The report expressed concern about the lack of financial oversight of the districts. It asserted that financial reporting by special districts is inadequate, that districts are not required to submit financial information to local elected officials, and concluded that district financial information is "largely meaningless as a tool to evaluate the effectiveness and efficiency of

services provided by districts, or to make comparisons with neighboring districts or services provided through a city or county."[5]

The report questioned the accountability and relevance of certain special districts with uncontested elections and without adequate notice of public meetings. In addition to concerns about the accountability and visibility of special districts, the report raised concerns about special districts with outdated boundaries and outdated missions. The report questioned the public benefit provided by health care districts that have sold, leased or closed their hospitals, and asserted that LAFCOs consistently fail to examine whether they should be eliminated. The report pointed to service improvements and cost reductions associated with special district consolidations, but asserted that LAFCOs have generally failed to pursue special district reorganizations.

The report called on the Legislature to increase the oversight of special districts by mandating that LAFCOs identify service duplications and study reorganization alternatives when service duplications are identified, when a district appears insolvent, when district reserves are excessive, when rate inequities surface, when a district's mission changes, when a new city incorporates and when service levels are unsatisfactory. To accomplish this, the report recommended that the State strengthen the independence and funding of LAFCOs, require districts to report to their respective LAFCO, and require LAFCOs to study service duplications.

Commission on Local Governance for the 21st Century

The Legislature formed the Commission on Local Governance for the 21st Century ("21st Century Commission") in 1997 to review statutes on the policies, criteria, procedures and precedents for city, county and special district boundary changes. After conducting extensive research and holding 25 days of public hearings throughout the State, at which it heard from over 160 organizations and individuals, the 21st Century Commission released its final report, Growth Within Bounds: Planning California Governance for the 21st Century, in January 2000.[6] The report examines the way that government is organized and operates and establishes a vision of how the State will grow by "making better use of the often invisible LAFCOs in each county."

The report points to the expectation that California's population will double over the first four decades of the 21st Century, and raises concern that our government institutions were designed when our population was much smaller and our society was less complex. The report warns that without a strategy open spaces will be swallowed up, expensive freeway extensions will be needed, job centers will become farther removed from housing, and this will lead to longer commutes, increased pollution and more stressful lives. Growth Within Bounds acknowledges that local governments face unprecedented challenges in their ability to finance service delivery since voters cut property tax revenues in 1978 and the Legislature shifted property tax revenues from local government to schools in 1993.

[5] Little Hoover Commission, 2000, page 24.

[6] The Commission on Local Governance for the 21st Century ceased to exist on July 1, 2000, pursuant to a statutory sunset provision.

The report asserts that these financial strains have created governmental entrepreneurism in which agencies compete for sales tax revenue and market share.

The 21st Century Commission recommended that effective, efficient and easily understandable government be encouraged. In accomplishing this, the 21st Century Commission recommended consolidation of small, inefficient or overlapping providers, transparency of municipal service delivery to the people, and accountability of municipal service providers. The sheer number of special districts, the report asserts, "has provoked controversy, including several legislative attempts to initiate district consolidations,"[7] but cautions LAFCOs that decisions to consolidate districts should focus on the adequacy of services, not on the number of districts.

Growth Within Bounds stated that LAFCOs cannot achieve their fundamental purposes without a comprehensive knowledge of the services available within its county, the current efficiency of providing service within various areas of the county, future needs for each service, and expansion capacity of each service provider. Comprehensive knowledge of water and sanitary providers, the report argued, would promote consolidations of water and sanitary districts, reduce water costs and promote a more comprehensive approach to the use of water resources. Further, the report asserted that many LAFCOs lack such knowledge and should be required to conduct such a review to ensure that municipal services are logically extended to meet California's future growth and development.

Service reviews would require LAFCO to look broadly at all agencies within a geographic region that provide a particular municipal service and to examine consolidation or reorganization of service providers. The 21st Century Commission recommended that the review include water, wastewater, and other municipal services that LAFCO judges to be important to future growth. The Commission recommended that the service review be followed by consolidation studies and be performed in conjunction with updates of SOIs. The recommendation was that service reviews be designed to make nine determinations, each of which was incorporated verbatim in the subsequently adopted legislation. The legislature since consolidated the determinations into six required findings, and subsequently added a seventh determination effective July 2012.

Municipal Services Review Legislation

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 requires LAFCO to review and update SOIs not less than every five years and to review municipal services before updating SOIs. The requirement for service reviews arises from the identified need for a more coordinated and efficient public service structure to support California's anticipated growth. The service review provides LAFCO with a tool to study existing and future public service conditions comprehensively and to evaluate organizational options for accommodating growth, preventing urban sprawl, and ensuring that critical services are provided efficiently.

Effective January 1, 2008, Government Code §56430 requires LAFCO to conduct a review of municipal services provided in the county by region, sub-region or other

[7] Commission on Local Governance for the 21st Century, 2000, page 70.

designated geographic area, as appropriate, for the service or services to be reviewed, and prepare a written statement of determination with respect to each of the following topics:

- Growth and population projections for the affected area;
- The location and characteristics of any disadvantaged unincorporated communities within or contiguous to the SOI (effective July 1, 2012);
- Present and planned capacity of public facilities and adequacy of public services, including infrastructure needs or deficiencies (including needs or deficiencies related to sewers, municipal and industrial water, and structural fire protection in any disadvantaged, unincorporated communities within or contiguous to the sphere of influence);
- Financial ability of agencies to provide services;
- Status of, and opportunities for shared facilities;
- Accountability for community service needs, including governmental structure and operational efficiencies; and
- Any other matter related to effective or efficient service delivery, as required by commission policy.

Purposes of the Report

This Special District Service Review: Phase 2 will be available for use by LAFCO, the County, cities, special districts, and the public to better understand how services are provided within Santa Clara County. Additionally, the review will be a resource to inform LAFCO decisions, including:

- Updating spheres of influence,
- Initiating or considering jurisdictional boundary changes,
- Considering other types of LAFCO applications, and
- Providing a resource for further studies.

LAFCO will use this report as a basis to update the spheres of influence of the eight special districts.

The report contains a discussion of various alternative government structures for efficient service provision. LAFCO is not required to initiate any boundary changes based on service reviews. However, LAFCO, other local agencies (including cities, special districts or the County) or the public may subsequently use this report together with additional research and analysis, where necessary, to pursue changes in jurisdictional boundaries. Government Code §56375(a) gives LAFCO the power to initiate certain types of boundary changes consistent with a service review and sphere of influence study. These boundary changes include:

- Consolidation of districts (joining two or more districts into a single new successor district);
- Dissolution (termination of the existence of a district and its corporate powers);

- Merger (termination of the existence of a district by the merger of that district with a city);
- Establishment of a subsidiary district (where the city council is designated as the board of directors of the district); or
- A reorganization that includes any of the above.

LAFCO may also use the information presented in the service reviews in reviewing future proposals for annexations or extensions of services beyond an agency's jurisdictional boundaries or for proposals seeking amendment of urban service area boundaries of cities or sphere of influence boundaries of districts.

Other entities and the public may use this report as a foundation for further studies and analysis of issues relating to the services offered by these districts in this County.

Sphere Of Influence Updates

The Commission is charged with developing and updating the sphere of influence (SOI) for each city and special district within the County.[8]

An SOI is a LAFCO-approved plan that designates an agency's probable future boundary and service area. Spheres are planning tools used to provide guidance for individual boundary change proposals and are intended to encourage efficient provision of organized community services, discourage urban sprawl and premature conversion of agricultural and open space lands, and prevent overlapping jurisdictions and duplication of services.

Every determination made by a commission must be consistent with the SOIs of local agencies affected by that determination,[9] for example, territory may not be annexed to a city or district unless it is within that agency's sphere. In other words, the SOI essentially defines where and what types of government reorganizations (e.g., annexation, detachment, dissolution and consolidation) may be initiated. If and when a government reorganization is initiated, there are a number of procedural steps that must be conducted for a reorganization to be approved. Such steps include more in-depth analysis, LAFCO consideration at a noticed public hearing, and processes by which affected agencies and/or residents may voice their approval or disapproval.

SOIs should discourage duplication of services by local governmental agencies, guide the Commission's consideration of individual proposals for changes of organization, and identify the need for specific reorganization studies, and provide the basis for recommendations to particular agencies for government reorganizations.

The Cortese-Knox-Hertzberg (CKH) Act requires LAFCO to develop and determine the SOI of each local governmental agency within the county and to review and update the SOI every five years, as necessary. LAFCOs are empowered to adopt, update and amend the

[8] The initial statutory mandate, in 1971, imposed no deadline for completing sphere designations. When most LAFCOs failed to act, 1984 legislation required all LAFCos to establish spheres of influence by 1985.

[9] Government Code §56375.5.

SOI. They may do so with or without an application and any interested person may submit an application proposing an SOI amendment.

LAFCO may recommend government reorganizations to particular agencies in the County, using the SOIs as the basis for those recommendations. In determining the SOI, LAFCO is required to complete a service review and adopt the seven determinations previously discussed. In addition, in adopting or amending an SOI, LAFCO must make the following determinations:

- Present and planned land uses in the area, including agricultural and open-space lands;
- Present and probable need for public facilities and services in the area;
- Present capacity of public facilities and adequacy of public service that the agency provides or is authorized to provide;
- Existence of any social or economic communities of interest in the area if the Commission determines these are relevant to the agency;
- Present and probable need for water, wastewater, and structural fire protection facilities and services of any disadvantaged unincorporated communities within the existing sphere of influence; and
- In the case of special districts, the nature, location, and extent of any functions or classes of services provided by existing districts.

Urban Service Area

In Santa Clara County, the SOI as defined in state law is relevant for special districts; however, for cities, the inclusion of an area within a city's SOI should not necessarily be seen as an indication that the city will either annex or allow urban development and services in the areas. The urban service area (USA) is the more critical boundary considered by LAFCO for the cities, and serves as the primary means of indicating whether an area will be annexed to a city and provided with urban services.

Review and amendment of USA boundaries is the Commission's primary vehicle for encouraging orderly city growth. Within the USAs, LAFCO does not review city annexations and reorganizations if the proposals are initiated by city resolution and meet certain conditions. State law gives cities in Santa Clara County the authority to approve such reorganizations.

SERVICE REVIEW PROCESS AND METHODOLOGY

Standard analytical tools and practices were used to gather and analyze information for the service review. The service review process is outlined as follows:

- **Technical Advisory Committee**: LAFCO formed a committee to provide input on the service review and insight into any particular issues.
- **Outreach**: LAFCO performed outreach and explanation of the project through an informational flier.

- **Establishment of Criteria**: Preliminary general criteria, appropriate to each district, to be used in making the determinations required under the laws governing service reviews were developed, consistent with Santa Clara LAFCO policies on service reviews.
- **Data Discovery**: Collection of data from available online and central data resources (i.e., agency websites), and population information and projections, developed by the Association of Bay Area Governments (ABAG).
- **Request for Information and Interviews**: Creation of a questionnaire for each agency and distribution to the agencies for completion. After reviewing each agency's questionnaire response and submitted documents, the agencies were interviewed to fill in missing information, follow up on current matters, as well as to see what progress was made on issues identified in the previous service review.
- **Drafting of Agency Chapters**: Chapters on each of the agencies were compiled, using a standard format, based on the interviews and data collected. Agencies responded to information requests in varying levels of detail. Reasonable efforts were taken to obtain a level of consistency in the data to make the required determinations and analyze issues.
- **Agency Review for Accuracy**: The chapters were provided to each agency for internal review and comment, to ensure accuracy prior to further analysis and public release of the document.
- **Data Analysis and Service Review Determinations**: Information gathered from the agencies and the interviews was analyzed and applied to the determination criteria to make the required determinations for each agency.
- **Public Review Draft Released**: The draft document is released for public review and comment.
- **LAFCO Hearing**: LAFCO holds a public hearing to discuss and accept public comments on the draft report.
- **Response to Comments**: A comment log, along with a redlined draft of the report, is released indicating a comprehensive list of comments received and any action taken pursuant to the respective comments.
- **Adoption of Final Report**: LAFCO holds a public hearing where the Commission to consider adoption of the final report, determinations and sphere of influence updates, as well as consider next steps for implementing recommendations.

Review Criteria

Each agency under LAFCO jurisdiction is assessed in each category using the criteria described below.

Growth and population projections for the affected area

- The amount and percent of population growth projected by the Association of Bay Area Governments between 2010 and 2035.

The location and characteristics of any disadvantaged unincorporated communities

- The existence of any disadvantaged unincorporated communities as a determined by the Department of Water Resources, based on its definition of size of "community."

Present and planned capacity of public facilities and adequacy of public services, including infrastructure needs or deficiencies

- Capacity constraints as reported by the agency.
- Percent of wastewater capacity in use in 2012.
- Infrastructure needs and agency's plans to address these needs, as reported by the agency, or identified in capital improvement plans.
- Management practices: To establish public trust and accountability, best management practices include 1) preparing a budget before the beginning of the fiscal year, 2) conducting periodic financial audits, 3) maintaining relatively current financial records, 4) evaluating rates and fees periodically, 5) planning and budgeting for community service needs, 6) adopted policies related to expense reimbursement, conflict of interest, code of ethics, Brown Act compliance, and public requests for information, and 7) an established process to address complaints.

Financial ability of agency to provide services

- The adequacy of the level of financing and any financing challenges or constraints as reported by the agency.
- Rates: The degree to which the rates (and other revenue, if applicable) are able to cover annual operating and capital costs, anticipated future capital costs, and maintain a healthy a reserve.
- Capital planning: Whether or not the agency has an up-to-date capital improvement plan with estimated timing and anticipated financing sources for each project.
- Capital reserves: the capital reserve fund balance as of June 30, 2012 and the anticipated capital funding needs based on identified infrastructure needs and estimated costs.
- Reserves: the audited unrestricted fund balance as of June 30, 2012. A reserve of three months of operating costs is considered a minimum.

Status of and opportunities for shared facilities

- The degree of existing cost minimization efforts through facility, personnel and equipment sharing.
- The potential for facility, personnel, and equipment sharing as reported by the agency.

Accountability for community service needs, including governmental structure and operational efficiencies

- Public Access and Outreach: Agency efforts to engage and educate constituents through outreach activities and availability of information on a website, in addition to compliance with open meeting and public records laws.
- Governance and Service Delivery Options: The potential to restructure the governance of agencies and/or service providers, or change the service provider with the goal of increasing service efficiency.