



LAFCO

Alameda Local Agency Formation Commission

NOTICE OF REGULAR MEETING AND AGENDA

ALAMEDA LOCAL AGENCY FORMATION COMMISSION

THURSDAY, SEPTEMBER 8, 2022

2:00 P.M.

[This meeting will be conducted by Teleconference](#)

[Written public comments may be submitted PRIOR to the meeting \(Deadline September 7th at 5:00 P.M.\)](#)

[Public comments DURING the meeting:](#)

[See COVID-19 – Notice of Meeting Procedures on page 5 of the Agenda](#)

Sblend Sblendorio, Chair — Nate Miley — David Haubert — Melissa Hernandez — Bob Woerner — Ralph Johnson — Ayn Wieskamp
Dave Brown, Alternate — Karla Brown, Alternate — Georgan Vonheeder-Leopold, Alternate — John Marchand, Alternate

<https://us02web.zoom.us/j/82021111931?pwd=dU50Qk13dU5iMXd0aGlpOG5PT2VyUT09>

Meeting ID: 820 2111 1931

Password (if prompted): lafco

Join Teleconference Meeting by Telephone:

Dial (669)-900-9128

Follow the prompts: Meeting ID: 820 2111 1931

Password (if prompted): 585971

Please avoid the speakerphone function to prevent echoing.

If you need assistance before the meeting, please contact Executive Officer, Rachel Jones at: rachel.jones@acgov.org

1. **2:00 P.M. – Call to Order**
2. **Public Comment:** Anyone from the audience may address the Commission on any matter not listed on the agenda and within the jurisdiction of Alameda LAFCO. The Commission cannot act upon matters not appearing on the agenda. *Speakers are limited to three (3) minutes.*
3. **Consent Items:**
 - a. Approval of Meeting Minutes: July 14, 2022 Regular Meeting
 - b. Approval of Resolution to Continue Virtual Meetings due to COVID-19 Pandemic
 - c. Approval of Meeting Dates for Calendar Year 2023
 - d. Approval of Conflict of Interest Code
 - e. End of Fiscal Year Budget Report

- 4. Alameda County’s Ordinance Amending Measure D (Public Hearing)**
The Alameda Local Agency Formation Commission (LAFCO) will consider supporting Alameda County’s ballot measure to amend Measure D.

LAFCO Staff Recommendation: Support.

- 5. Review of Draft Scope of Analysis | South Livermore Valley Area Plan Study (Business)**
The Alameda Local Agency Formation Commission (LAFCO) will receive a draft scope of analysis developed by Lamphier-Gregory to guide the preparation and timing of the agency’s scheduled study on the South Livermore Valley Area Plan. This includes setting the depth and range of analysis as well as establishing key LAFCO interests.

LAFCO Staff Recommendation: Commission discussion and feedback.

- 6. Contract Award | Preliminary Comprehensive Fiscal Analysis (Business)**
The Alameda Local Agency Formation Commission (LAFCO) will consider awarding a service contract to Berkson Associates to perform work associated with LAFCO’s Preliminary Comprehensive Fiscal Analysis for the unincorporated communities of Castro Valley, Ashland, Cherryland, San Lorenzo, Fairview, and Hayward Acres. The contract is for a period of twelve months, starting in October of 2022, and in an amount not to exceed \$72,000.

LAFCO Staff Recommendation: Staff recommends approval.

- 7. Proposed Amendments to Commission Stipend Policy (Business)**
The Alameda Local Agency Formation Commission (LAFCO) will consider amending its policy on Commissioner stipends that expands the coverage of payments to include attendance at standing and ad hoc committee meetings, and increases the stipend amount to \$125. The policy also specifies certain LAFCO activities that Commissioners may claim for individual reimbursements.

LAFCO Staff Recommendation: Approval with any desired changes.

8. Matters Initiated by Members of the Commission

9. Executive Officer Report

10. Informational Items

- a. Current and Pending Proposals
- b. Progress Report on Work Plan
- c. CALAFCO Annual Conference, October 19th – 21st in Newport Beach, California

11. Adjournment of Regular Meeting

Next Meetings of the Commission

Policy and Budget Committee Meeting
Thursday, October 6, 2022 at 2:00 p.m.

Regular Meeting
Thursday, November 10, 2022 at 2:00 p.m., To Be Determined

DISCLOSURE OF BUSINESS OR CAMPAIGN CONTRIBUTIONS TO COMMISSIONERS

Government Code Section 84308 requires that a Commissioner (regular or alternate) disqualify herself or himself and not participate in a proceeding involving an "entitlement for use" application if, within the last twelve months, the Commissioner has received **\$250 or more in business or campaign contributions from an applicant, an agent of an applicant, or any financially interested person who actively supports or opposes a decision on the matter.** A LAFCo decision approving a proposal (e.g., for an annexation) will often be an "entitlement for use" within the meaning of Section 84308. Sphere of Influence determinations are exempt under Government Code Section 84308.

If you are an applicant or an agent of an applicant on such a matter to be heard by the Commission and if you have made business or campaign contributions totaling \$250 or more to any Commissioner in the past twelve months, Section 84308(d) requires that you disclose that fact for the official record of the proceeding. The disclosure of any such contribution (including the amount of the contribution and the name of the recipient Commissioner) must be made either: 1) In writing and delivered to the Secretary of the Commission prior to the hearing on the matter, or 2) By oral declaration made at the time the hearing on the matter is opened. Contribution disclosure forms are available at the meeting for anyone who prefers to disclose contributions in writing.

Pursuant to GC Section 84308, if you wish to participate in the above proceedings, you or your agent are prohibited from making a campaign contribution of \$250 or more to any Commissioner. This prohibition begins on the date you begin to actively support or oppose an application before LAFCO and continues until 3 months after a final decision is rendered by LAFCO. If you or your agent have made a contribution of \$250 or more to any Commissioner during the 12 months preceding the decision, in the proceeding that Commissioner must disqualify himself or herself from the decision. However, disqualification is not required if the Commissioner returns that campaign contribution within 30 days of learning both about the contribution and the fact that you are a participant in the proceedings. Separately, any person with a disability under the Americans with Disabilities Act (ADA) may receive a copy of the agenda or a copy of all the documents constituting the agenda packet for a meeting upon request. Any person with a disability covered under the ADA may also request a disability-related modification or accommodation, including auxiliary aids or services, in order to participate in a public meeting. Please contact the LAFCO office at least three (3) working days prior to the meeting for any requested arrangements or accommodations.

Alameda LAFCO Administrative Office
224 West Winton Avenue, Suite 110
Hayward, CA 94544
T: 510.670.6267
W: alamedalafco.org

MEETING INFORMATION

CORONAVIRUS (COVID-19) – Notice of Meeting Procedures

Join Teleconference Meeting *Virtually* (computer, tablet, or smartphone): click on the link below:

<https://us02web.zoom.us/j/82021111931?pwd=dU50Qk13dU5iMXd0aGlpOG5PT2VyUT09>

Meeting ID: 820 2111 1931
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Password (if prompted): 585971
Please avoid the speakerphone function to prevent echoing.

If you need assistance before the meeting, please contact Executive Officer, Rachel Jones at: rachel.jones@acgov.org

SUBMITTING WRITTEN COMMENTS TO BE READ AT THE MEETING

Any member of the public may submit a written comment to the Commission before the meeting by **September 7, 2022 at 5:00 P.M.** by email to rachel.jones@acgov.org or by mail to Alameda LAFCO 224 West Winton Avenue, Suite 110, Hayward, CA 94544. If you are commenting on a particular item on the agenda, please identify the agenda item number and letter. Any comments of 500 words or less (per person, per item) will be read into the record if: (1) the subject line includes “COMMENT TO COMMISSION – PLEASE READ”, and (2) it is received by the Executive Officer prior to the deadline of **September 7, 2022 at 5:00 P.M.**

SUBMITTING SPOKEN COMMENTS DURING THE COMMISSION MEETING

Electronically:

1. We request that you identify yourself by name as this will be visible online and will be used to notify you that it is your turn to speak.
2. When the Commission calls for the item on which you wish to speak, click “participants,” a menu will appear, click on the “raise hand” icon. Staff will activate and unmute speakers in turn.
3. When called, please limit your remarks to the time limit allotted (3 minutes).

By phone (landline):

1. Your phone number will appear but not your name.
2. When the Commission calls for the item on which you wish to speak, press *9 to “raise your hand”. Staff will activate and unmute speakers in turn. You will be called upon using the last four digits of your phone number, since your name is not visible.
3. When you are called upon to speak please provide your name for the record.

VIEWING RECORDING OF THE TELECONFERENCE MEETING

The Commission's teleconference meeting will be recorded. Members of the public may access the teleconference meeting and other archived Commission meetings by going to lafco.acgov.org/meetings.page?.

ADA ACCESSIBILITY: Meetings are accessible to persons with disabilities. Requests for assistive listening devices or other considerations should be made 72 hours in advance through the Executive Officer at (510) 670-6267 or rachel.jones@acgov.org.



LAFCO

Alameda Local Agency Formation Commission

AGENDA REPORT

September 8, 2022

Item No. 3a

TO: Alameda Commissioners

FROM: April L. Raffel, Commission Clerk

SUBJECT: July 14th Regular Meeting Minutes

The Alameda Local Agency Formation Commission (LAFCO) will consider draft minutes prepared for the meeting held on July 14, 2022. The minutes are in action-form and being presented for formal Commission approval.

Background

The Ralph M. Brown Act was enacted by the State Legislature in 1953 and – among other items – requires public agencies to maintain written minutes for qualifying meetings.

Discussion

This item is for Alameda LAFCO to consider approving action minutes for the July 14, 2022, regular meeting. The attendance record for the meeting follows.

- All Commissioners were present.
- All alternate Commissioners were present except Dave Brown (County of Alameda).

Alternatives for Action

The following alternatives are available to the Commission:

Alternative One (Recommended):

Approve the draft minutes prepared for Alameda LAFCO’s July 14, 2022, regular meeting (Attachment 1) with any desired corrections or clarifications.

Alternative Two:

Continue consideration of the report to a future meeting and provide direction to staff as needed.

Recommendation

It is recommended the Commission proceed with Alternative Action One.

Procedures

This item has been placed on Alameda LAFCO's agenda as part of the consent calendar. A successful motion to approve the consent calendar will include taking affirmative action on the staff recommendation as provided unless otherwise specified by the Commission

Respectfully,



April L. Raffel
Commission Clerk

Attachments:

1. Draft Meeting Minutes for July 14, 2022, Regular Meeting

SUMMARY ACTION MINUTES
ALAMEDA LOCAL AGENCY FORMATION COMMISSION
JULY 14, 2022, REGULAR MEETING

1. CALL TO ORDER | ROLL CALL

The regular meeting was called to order at 2:05 a.m. by Chair Sblendorio.
The Commission Clerk performed the roll call with the following attendance recorded.

Regulars Present: David Haubert, County of Alameda
 Melissa Hernandez, City of Dublin
 Ralph Johnson, Castro Valley Sanitary District
 Nathan Miley, County of Alameda
 Sblend Sblendorio, Public (CHAIR)
 Ayn Wieskamp, East Bay Regional Park District
 Bob Woerner, City of Livermore

Alternates Present: Karla Brown, City of Pleasanton
 John Marchand, Public
 Georgean Vonheeder-Leopold, Dublin San Ramon Services District

Members Absent: Dave Brown, County of Alameda (alternate)

The Commission Clerk confirmed a quorum was present with six voting members. Also present at the meeting were Executive Officer Rachel Jones, Commission Counsel Audrey Beaman, and Commission Clerk April Raffel.

Chair Sblendorio arrived at 2:05 p.m.

Commissioner Miley arrived at 2:24 p.m.

Alternative Commissioner Marchand arrived at 2:24 p.m.

2. PUBLIC COMMENT:

Chair Sblendorio invited anyone from the public to address the Commission on any matter not listed on the agenda and within the jurisdiction of the Commission. The Commission Clerk confirmed there were no public comments.

3. CONSENT ITEMS

Item 3a

Approval Meeting Minutes for May 12, 2022

Item presented to approve draft action minutes prepared for the Commission’s May 12, 2022, regular meeting. Recommendation to approve.

Item 3b

Transfer of Jurisdiction Request from Contra Costa LAFCO – EBMUD

Item presented to review transfer of jurisdiction request from Contra Costa LAFCO – EBMUD. Recommendation to approve.

Item 3c

Approval of Resolution to Continue Virtual Meetings due to COVID-19 Pandemic

Item presented to consider a resolution authorizing LAFCO to conduct virtual meetings for the Commission for the next 30-day period as allowed under AB361, as circumstances warrant. Recommendation to approve.

Chair Sblendorio asked if any Commissioner would like to pull any consent agenda item. There were no Commissioners that wanted to pull any item from the consent agenda.

Commissioner Haubert motioned to approve the consent calendar with a second from Commissioner Hernandez. Roll call requested:

AYES: Haubert, Hernandez, Johnson, Sblendorio, Wieskamp, and Woerner
NOES: None
ABSENT: Miley
ABSTAIN: None

The Commission Clerk confirms the motion was approved 6-0.

4. PROPOSED RECOMMENDATIONS FOR LAFCO'S 20-YEAR REVIEW ON MEASURE D (BUSINESS)

Item to consider accepting proposed recommendations to further direct the Commission's own agricultural and open space policies and help aid in the future policy decisions to amend ballot Measure D.

- In summary, this item is for the Commission to accept the proposed recommendations prepared by staff and the Ad Hoc Subcommittee and submit these recommendations to the Alameda County Board of Supervisors ahead of the first reading of the ordinance on ballot Measure D scheduled for July 19th.

Commission discussion followed.

Chair Sblendorio invited public comments. Commission Clerk confirmed there were four public comments to address the Commission. Comments were received from the following persons:

- Dick Schneider, Measure D's co-author
- Larry Gosselin, Sustainable Food Network, LLC.
- Shweta Bonn, Senior Planner, City of Pleasanton
- Chuck Campos, Resident

Commissioner Haubert motioned to accept the recommendations and add to the record that we forward to the Board of Supervisors the comments received and summarized, with a second from Commissioner Woerner. Roll call requested:

AYES: Haubert, Hernandez, Johnson, Miley, Sblendorio, Wieskamp, and Woerner
NOES: None
ABSENT: None
ABSTAIN: None

The Commission Clerk confirms the motion was 7-0.

5. REQUEST FOR PROPOSALS | PRELIMINARY COMPREHENSIVE FISCAL ANALYSIS (BUSINESS)

Item to consider authorizing the circulation of a Request for Proposals (RFP) for a Preliminary Comprehensive Fiscal Analysis (PCFA) on the unincorporated communities of Castro Valley, Ashland, Cherryland, San Lorenzo, Fairview, and Hayward Acres, and direct staff to return to the Commission with a recommended contract award at its September 8, 2022 regular meeting.

To provide the public with clear and objective information about an incorporation proposal and its feasibility, Executive Officer Jones provided presentations to the Alameda County Agricultural Advisory Committee and Municipal Advisory Committees (MACs) on the interest of LAFCO in preparing a PCFA. If authorized, staff will circulate an RFP and scope of services that will address PCFA factors, focus areas, and required analysis. Recommendation to approve.

Chair Sblendorio invited Commissioner comments.

Commission discussion followed.

Chair Sblendorio invited public comments.

The Commission Clerk confirmed there was one public comment to address the Commission. A comment was received from the following person:

- Kelly Abreau, Resident

Commissioners Miley, Woerner, and Executive Officer Jones confirmed the Preliminary Comprehensive Fiscal Analysis's purpose is to provide the community with clear and objective information about an incorporation proposal, its service costs, and tax revenue implications. LAFCO cannot submit an incorporation proposal.

Commissioner Woerner motioned to authorize the circulation of the RFP for the PCFA with a second from Commissioner Miley. Roll call requested:

AYES: Haubert, Hernandez, Johnson, Miley, Sblendorio, Wieskamp, and Woerner
NOES: None
ABSENT: None
ABSTAIN: None

The Commission Clerk confirms the motion was approved 7-0.

6. CONFLICT OF INTEREST FOR PLANNING SERVICES WITH LAMPHER-GREGORY (BUSINESS)

Item to consider reviewing a conflict of interest with consultant firm, Lamphier-Gregory and consider its ability to provide planning services for LAFCO after it has been retained by the County of Alameda to conduct the environmental review for the ballot amendment on Measure D. Government Code Section 56384(c) requires the Commission appoint alternate staff to assist it if staff for the Commission is subject to conflict of interest on a matter before the Commission.

Staff recommended continuing contracting services with Lamphier-Gregory outside of matters concerning the conflict of interest and appointing Alameda LAFCO Executive Officer to provide written comments on the environmental documents for the proposed ballot amendment.

Chair Sblendorio invited Commissioner questions or comments.

Chair Sblendorio invited comments from the public. The Commissioner Clerk responded there were no comments for this item.

Commissioner Woerner motioned to accept the staff recommendation as provided in the agenda report with a second from Commissioner Haubert. Roll call requested:

AYES: Haubert, Hernandez, Johnson, Miley, Sblendorio, Wieskamp, and Woerner
NOES: None
ABSENT: None
ABSTAIN: None

The Commission Clerk confirms the motion was approved 7-0.

7. AFFECTED AGENCIES' RESPONSES ON MUNICIPAL SERVICE REVIEW RECOMMENDATIONS (BUSINESS)

Alameda LAFCO received written responses from 8 of the 17 affected agencies requested to address the implementation of recommendations from Alameda LAFCO's 2021 Countywide Municipal Service Review (MSR) on Water, Wastewater, Stormwater, and Flood Control Services. These responses can be found in Attachment 1 of the staff report and will be posted on the LAFCO website. Staff will track each agency's implementation efforts and provide updates to the Commission, as necessary. Staff will also follow up with the staff and officials of those agencies that did not provide a written response to LAFCO by the June 10th deadline. Recommendation to accept and file and provide direction to staff as necessary.

Chair Sblendorio invited comments from the Commissioners and the public.

The Commission Clerk confirmed there were no public comments.

Commissioner Johnson motioned to approve the staff recommendation as provided in the agenda report with a second from Commissioner Woerner. Roll call requested:

AYES:	Haubert, Hernandez, Johnson, Miley, Sblendorio, Wieskamp, and Woerner
NOES:	None
ABSENT:	None
ABSTAIN:	None

The Commission Clerk confirms the motion was approved 7-0.

8. CALAFCO NOMINATIONS AND DESIGNATION OF VOTING DELEGATES (BUSINESS)

Item to consider action items relating to the California Association of Local Agency Formation Commissions (CALAFCO) Annual Conference scheduled for October 19th to 21st in Newport Beach (Hyatt Regency Newport Beach John Wayne Airport). The Annual Conference will include Board of Directors elections and an achievement awards ceremony. Recommendation to appoint Alternate Commissioner Vonheeder-Leopold and Chair Sblendorio as voting delegate and alternate voting delegate, respectively.

Commissioner Haubert motioned to appoint Alternate Commissioner Vonheeder-Leopold as the voting delegate and Chair Sblendorio as an alternate voting delegate during the upcoming CALAFCO conference with a second from Commissioner Hernandez. Roll call requested:

AYES:	Haubert, Hernandez, Johnson, Miley, Sblendorio, Wieskamp, and Woerner
NOES:	None
ABSENT:	None
ABSTAIN:	None

The Commission Clerk confirms the motion was approved 7-0.

9. LAFCO LOCAL AGENCY DIRECTORY (BUSINESS)

This item is for Alameda LAFCO to receive a local agency directory prepared as part of the adopted work plan for the fiscal year 2021-2022. The directory identifies all elected and appointed local agency officials for the 43 cities and special districts under the Commission's jurisdiction in Alameda County as of July 2022. A link to the directory will be sent to local agencies and other state and regional governmental agencies. Presented for discussion and feedback only.

10. MATTERS INITIATED BY MEMBERS OF THE COMMISSION

There were none.

11. EXECUTIVE OFFICER REPORT

- a. Comment Letter on the Draft Supplemental Environmental Report for the South Livermore Sewer Expansion Project

On June 20, 2022, Alameda LAFCO submitted a comment letter on the Draft Supplemental Environmental Impact Report (EIR) for the South Livermore’s Sewer Expansion Project. The proposed project is to allow existing residences and wineries in the unincorporated part of South Livermore Valley to connect to the City of Livermore’s public wastewater system. LAFCO also requested that the report consider governance options of either an annexation proposal or out-of-area service agreement, given that the proposed project lies outside of the City’s jurisdictional boundary. LAFCO’s comment letter requested that the Draft Supplemental EIR include LAFCO as a responsible agency, given that the proposed project calls for LAFCO approval of one or more applications requesting the delivery of wastewater service to the affected territory.

- b. LAFCO Community Services Municipal Service Review RFP Update (verbal report)
- c. LAFCO SLVAP Study Update (verbal report)

Chair Sblendorio, Commissioner Woerner, and Commissioner Haubert wanted to have the study scope include an analysis of economics and include input from businesses, such as the Wine Growers Association, or other agritourism.

12. INFORMATIONAL ITEMS

- a. Current and Pending Proposals
- b. Progress Report on Work Plan
- c. CALAFCO Annual Conference, October 19th – 21st in Newport Beach, California
 - Please contact LAFCO Commission Clerk, April Raffel, to register for the Conference.

13. ADJOURNMENT OF REGULAR MEETING

Chair Sblendorio adjourned the meeting at 3:30 p.m.

Next Meetings of the Commission

Policy and Budget Committee Meeting

Cancelled - Thursday, August 4, 2022, at 2:00 p.m.

Regular Meeting

Thursday, September 8, 2022, at 2:00 p.m., Online Meeting

– Staff is looking into hosting a hybrid meeting DSRSD

I hereby attest the minutes above accurately reflect the deliberations of the Commission at its July 14, 2022, videoconference meeting.

ATTEST,

April L. Raffel
Commission Clerk

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LAFCO

Alameda Local Agency Formation Commission

AGENDA REPORT
September 8, 2022
Item No. 3b

TO: Alameda Commissioners

FROM: Rachel Jones, Executive Officer

SUBJECT: Resolution to Continue Virtual Meetings due to COVID-19 Pandemic

The Alameda Local Agency Formation Commission (LAFCO) will consider adopting a resolution declaring its intent to continue remote video and teleconference meetings due to the Governor’s Proclamation of State of Emergency and state regulations related to physical distancing due to the threat of COVID-19 consistent with California Assembly Bill (AB) 361 and amended California Government Code Section 54953.

Background

Alameda LAFCO switched from in-person Commission meetings to fully remote meetings following Governor Newsom’s declaration of a state of emergency in March 2020 due to the COVID-19 pandemic. The transition authorized by Executive Orders N-25-20, N-29-20, and N-35-20, which collectively modified requirements of the Ralph M. Brown Act, and the State’s local agency public meeting law. On June 11, 2021, the Governor issued Executive Order N-08-21 which rescinds the prior executive orders modifying the Brown Act effective September 30, 2021. To accommodate the desire on the part of local governments to maintain virtual meetings as may be necessary during the pandemic, the Legislature approved AB 361. AB 361 is an urgency statute and took effect upon the Governor’s signature on September 16, 2021.

The Commission may continue to meet virtually until such time the Governor declares the State of Emergency due to Covid-19 is over, and measures to promote social distancing are no longer recommended, or can return to in-person meetings sooner, if desired. In order to continue to hold virtual meetings, the Commission will need to review and make findings every thirty days to declare that the state of emergency continues to directly impact the ability of the members to meet safely in person, and that state and local officials continue to impose or recommend measures to promote social distancing.

Discussion

This item is for Alameda LAFCO to consider actions necessary to proceed with virtual meetings in accordance with AB 361. The attached resolution has been prepared accordingly and makes the necessary findings authorizing LAFCO to conduct virtual meetings of the Commission for the next 30 days. LAFCO will need to adopt a version of this resolution at each of its subsequent meetings if it desires to maintain fully remote meetings.

Alternatives for Action

The following alternatives are available to the Commission:

Alternative One (Recommended):

Approve the resolution authorizing the use of virtual meetings for a 30-day period.

Alternative Two:

Reject the resolution authorizing the use of virtual meetings for a 30-day period and cancel the public meeting for Alameda LAFCO's September 8th regular meeting.

Recommendation

It is recommended the Commission proceed with Alternative Action One.

Procedures

This item has been placed on Alameda LAFCO's agenda as part of the consent calendar. A successful motion to approve the consent calendar will include taking affirmative action on the staff recommendation as provided unless otherwise specified by the Commission.

Respectfully,



Rachel Jones
Executive Officer

Attachments:

1. Resolution

ALAMEDA LOCAL AGENCY FORMATION COMMISSION

RESOLUTION NO. 2022-XX

AUTHORIZING THE CONTINUANCE OF VIRTUAL MEETINGS OF THE COMMISSION

WHEREAS, the Alameda Local Agency Formation Commission is committed to preserving and nurturing public access and participation in meetings of the Commissioners; and

WHEREAS, all meetings of the Commission's legislative bodies are open and public, as required by the Ralph M. Brown Act (California Government Code sections 54950-54963), so that any member of the public may attend, participate, and watch the Commission conduct its business; and

WHEREAS, the Brown Act, Government Code section 54953(e), makes provisions for virtual participation in meetings by members of a legislative body, without compliance with requirements of Government Code section 54953(b)(3), subject to the existence of certain conditions; and

WHEREAS, a required condition is that a state of emergency is declared by the Governor pursuant to Government Code section 8625, proclaiming the existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by conditions as described in Government Code section 8558; and

WHEREAS, it is further required that state or local officials have imposed or recommended measures to promote social distancing; and

WHEREAS, such conditions now exist in the Alameda County, specifically, the Governor proclaimed a State of Emergency on March 4, 2020 due to COVID-19; and

WHEREAS, the Division of Occupational Safety and Health of California's (Cal/OSHA) issued Emergency Temporary Standards that require employers to train and instruct employees that the use of social distancing helps combat the spread of COVID-19 (8 Cal. Code Regs. 3205(c)(5)(D).); and

WHEREAS, on September 28, 2021, the Board of Supervisors of the County of Alameda accepted the recommendation of the Health Care Services Agency Director for continued social distancing at all meetings of the full Board of Supervisors and at all Board of Supervisors Committee meetings; and

WHEREAS, as a consequence of the state of emergency and the state and local public health guidance, the Commission does hereby find that the Commission, including all its Committees, shall conduct meetings without compliance with paragraph (3) of subdivision (b) of Government Code section 54953, as authorized by subdivision (e) of section 54953, and shall comply with the

requirements to provide the public with access to the meetings as prescribed in paragraph (2) of subdivision (e) of section 54953

WHEREAS, the Commission does hereby find that conducting virtual meetings present the best compromise between the competing goals of facilitating in-person, public meetings under the Brown Act and social distancing necessary to combat the spread of COVID-19; and

WHEREAS, members of the public will be able to participate remotely through the digital means listed on the meeting agenda, and for hybrid meetings, may also participate in person provided applicable social distancing and masking protocols are observed.

NOW, THEREFORE, THE COMMISSION DOES HEREBY RESOLVE, DETERMINE AND ORDER as follows:

1. Recitals. The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.
2. The Commission finds that state and local officials have imposed or recommended measures to promote social distancing. The Commission has reconsidered the circumstances of the state of emergency and finds that state and local officials continue to impose or recommend measures to promote social distancing.
3. The Commission finds that as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees. The Commission has reconsidered the circumstances of the state of emergency and finds that the state of emergency continues to directly impact the ability of the members to meet safely in person.
4. The Commission therefore determines that it and its legislative bodies shall conduct their meetings by teleconferencing in accordance with Government Code section 54953(e).
5. This Resolution expires thirty (30) days after the date of its adoption only to the extent required by law. Otherwise, this Resolution shall remain in effect until repealed by the Commission.

PASSED AND ADOPTED by the Alameda Local Agency Formation Commission on September 8, 2022 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

APPROVED:

ATTEST:

Sblend Sblendorio
Chair

Rachel Jones
Executive Officer

APPROVED TO FORM:

Andrew Massey
Legal Counsel

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LAFCO

Alameda Local Agency Formation Commission

AGENDA REPORT

September 8, 2022

Item No. 3c

TO: Alameda Commissioners

FROM: Rachel Jones, Executive Officer

SUBJECT: **Approval of Meeting Dates for Calendar Year 2023**

The Commission will consider setting regular dates for the upcoming calendar year as required under policy. Regular meeting dates are proposed for each odd numbered month with the resulting dates falling on January 12th, March 9th, May 11th, July 13th, September 14th, and November 9th.

Information

It is the policy of Alameda LAFCO (“Commission”) to set its meeting schedule for the proceeding calendar year every September. All regular meetings are typically held on the second Thursday of each odd numbered month. The proposed meeting schedule is as follows:

January 12, 2023	Thursday 2:00 P.M. Zoom Meeting	Regular Meeting
March 9, 2023	Thursday 2:00 P.M. To Be Determined	Regular Meeting
May 11, 2023	Thursday 2:00 P.M. To Be Determined	Regular Meeting
July 13, 2023	Thursday 2:00 P.M. To Be Determined	Regular Meeting
September 14, 2023	Thursday 2:00 P.M. To Be Determined	Regular Meeting
November 9, 2023	Thursday 2:00 P.M. To Be Determined	Regular Meeting

Discussion

This item is for the Commission to formally set meeting dates for the upcoming calendar year as required under policy. This includes considering anticipated workload and Commission preferences in holding meetings.

Alternatives for Action

The following alternatives are available to the Commission:

Alternative One (Recommended):

Approve regular meeting dates on the following odd-numbered Thursdays: January 12th, March 9th, May 11th, July 13th, September 14th, and November 9th.

Alternative Two:

Continue consideration of the report to a future meeting and provide direction to staff for additional information as needed.

Recommendation

It is recommended the Commission proceed with Alternative Action One.

Procedures

This item has been placed on Alameda LAFCO's agenda as part of the consent calendar. A successful motion to approve the consent calendar will include taking affirmative action on the staff recommendation as provided unless otherwise specified by the Commission.

Respectfully,

A handwritten signature in blue ink, appearing to read "Rachel Jones", with a long horizontal flourish extending to the right.

Rachel Jones
Executive Officer

Attachments: none



LAFCO

Alameda Local Agency Formation Commission

AGENDA REPORT

September 8, 2022

Item No. 3d

TO: Alameda Commissioners
FROM: Rachel Jones, Executive Officer
SUBJECT: Conflict of Interest Code

The Alameda Local Agency Formation Commission (LAFCO) will review its conflict of interest code and consider requiring no amendment.

Information

Alameda LAFCO, as a local government agency, is required by the Political Reform Act (Government Code Section 8100, *et. seq.*) to adopt and promulgate a conflict of interest code. The Commission adopted its first Conflict of Interest Code in 1990.

The last amendment to the code was adopted by the Commission at a public hearing in September of 2020 and subsequently forwarded to the Board of Supervisors, as the Code Reviewing Body, for final approval. The approved Conflict of Interest Code is attached.

Discussion

The Political Reform Act requires every public agency to review its conflict of interest code biennially in even numbered years and determine whether amendments are necessary. Notice of the determination must be returned to the Board of Supervisors by October 1st. Staff has reviewed the existing code and finds no reason to amend it.

Alternatives for Action

The following alternatives are available to the Commission:

Alternative One (Recommended):

Determine that no amendment is required to the Commission’s conflict of interest code; and Direct the Executive Officer to notify the Board of Supervisors of its determination.

Alternative Two:

Continue consideration of the report to a future meeting before October 1st and provide direction to staff for additional information as needed.

Recommendation

It is recommended the Commission proceed with Alternative Action One.

Procedures

This item has been placed on Alameda LAFCO's agenda as part of the consent calendar. A successful motion to approve the consent calendar will include taking affirmative action on the staff recommendation as provided unless otherwise specified by the Commission.

Respectfully,



Rachel Jones
Executive Officer

Attachments:

1. Alameda LAFCO Conflict of Interest Code

CONFLICT OF INTEREST CODE**ALAMEDA LOCAL AGENCY FORMATION COMMISSION**1. Standard Code of FPPC

The Political Reform Act (Government Code section 81000, *et seq.*) requires state and local government agencies to adopt and promulgate conflict of interest codes. The Alameda Local Agency Formation Commission ("Commission") is therefore required to adopt such a code.

The Fair Political Practices Commission ("FPPC") has adopted a regulation (2 California Code of Regulations section 18730) that contains the terms of a standard conflict of interest code, which may be incorporated by reference in an agency's code, and which may be amended by the FPPC to conform to amendments in the Political Reform Act following public notice and hearing.

2. Adoption of Standard Code of FPPC

Therefore, the terms of 2 California Code of Regulations section 18730 and any amendments or revisions adopted by the FPPC are hereby incorporated by reference. This regulation and the attached Appendix designating officials and positions and establishing disclosure categories shall constitute the Conflict of Interest Code of the Commission. This code shall take effect when approved by the Alameda County Board of Supervisors, and replace any prior adopted code.

3. Filing of Statements of Economic Interests

Designated employees and public officials who manage public investments shall file statements of economic interests with the Commission Clerk. The Commission shall make all statements available for public inspection and reproduction, pursuant to Government Code Section 81008.

APPROVED AND ADOPTED by the Alameda Local Agency Formation Commission on the 10th day of September, 2020.

/Scott Haggerty/

Scott Haggerty, Chair
Alameda Local Agency Formation Commission

I hereby certify that the foregoing is a correct copy of a conflict of interest code adopted by the Alameda Local Agency Formation Commission.



Attest: _____

Rachel Jones
LAFCO Executive Officer

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APPENDIX TO

**CONFLICT OF INTEREST CODE
OF THE
ALAMEDA LOCAL AGENCY FORMATION COMMISSION**

Preamble

Any person designated in Section I of this Appendix who is unsure of any right or obligation arising under this Code may request a formal opinion or letter of advice from the FPPC or an opinion from the Commission's Legal Counsel. (Gov. Code § 83114; 2 CCR § 18730(b)(11).) A person who acts in good faith in reliance on an opinion issued to him or her by the FPPC shall not be subject to criminal or civil penalties for so acting, provided that all material facts are stated in the opinion request. (Gov. Code § 83114(a).)

Opinions rendered by Legal Counsel do not provide any statutory defense to an alleged violation of conflict of interest statutes or regulations. The prosecuting agency may, but is not required to, consider a requesting party's reliance on Legal Counsel's opinion as evidence of good faith. In addition, the Commission may consider whether such reliance should constitute a mitigating factor to any disciplinary action that the Commission may bring against the requesting party under Government Code section 91003.5.

I. Designated Employees

<u>Designated Position</u>	<u>Disclosure Category</u>
Each Commissioner	1
Each Alternate Commissioner	1
Executive Officer	1
Clérk	2
Analyst	1
Legal Counsel	1
Consultants/Planner	1*
New Position	1*

* With respect to consultants and new positions, the Executive Officer may determine that the broadest disclosure is not necessary and set interim disclosure that is more tailored to positions with a limited range of duties. This determination shall include a description of the position's duties and, based upon that description, a statement of the extent of disclosure requirements. Such determination shall include a description of the consultant's or new position's duties and, based upon that description, a statement of the extent of disclosure requirements. The Executive Officer's determination is a public record and shall be retained for public inspection by the Commission in the same manner as this Conflict of Interest Code. Nothing herein excuses any such consultant from any other provision of this Conflict of Interest Code.

II. Disclosure Categories

1. All investments and business positions in business entities, sources of income and interests in real property.
2. All investments, business positions and income, including gifts, loans and travel payments, from sources that provide leased facilities, goods, equipment, vehicles, machinery or services, including training or consulting services, of the type utilized by the Commission.



LAFCO

Alameda Local Agency Formation Commission

AGENDA REPORT

September 8, 2022

Item No. 3e

TO: Alameda Commissioners

FROM: Rachel Jones, Executive Officer

SUBJECT: End of Year Budget Report

The Alameda Local Agency Formation Commission (LAFCO) will review an end of year report comparing budgeted and actual expense and revenue transactions for fiscal year 2021-2022. Alameda LAFCO finished the fiscal year with an operating net of \$14,974. The Commission budgeted \$185,000 from reserves to offset expenses and approved a budget amendment in the amount of \$100,000 for its Services and Supplies Unit. The substantive result is an overall decrease of the fund balance from \$1,153,327 to \$883,301 going into the current fiscal year. The report is being presented to the Commission to formally accept and file.

Information

Alameda LAFCO's adopted budget for 2021-2022 totaled \$655,335. This amount represented the total approved operating expenditures for the fiscal year divided between three active expense units: salaries and benefits; services and supplies; and internal services. A matching revenue total was also budgeted to provide a year-end balance of \$0 and with a purposeful aid of a planned \$185,000 transfer from reserves. Budgeted revenues are divided between three active units: intergovernmental contributions, application fees, and investments. The Commission's total unaudited fund balance as of July 1, 2021 was \$1,153,327.

Discussion

This item is for the Commission to receive a final comparison of (a) budget to (b) actual expenses and revenues for the fiscal year ending in 2022. The report provides the Commission the opportunity to review expenditures and revenues relative to recent years and provide feedback with staff as needed. The report is being presented to the Commission to formally accept and file.

Actual Expenses FY 21-22	Actual Revenues FY 21-22	Actual Year End Balance FY 21-22
\$682,463	\$697,436	\$14,974

Summary of Operating Expenses

Alameda LAFCO’s budgeted operating expense total for 2021-2022 was \$655,335. In November 2021, the Commission approved a budget amendment of \$100,000 to cover costs in the Services and Supplies Unit for professional services. The amended total for expenses is \$755,335. Actual expenses booked through the end of the year equaled \$682,463. The amount represents 90% of the budgeted total with unexpended savings of \$72,872. A breakdown of budgeted to actual expenses by unit through June 30th follows.

Expense Units	Adopted	Actuals	Percent Expended	Remaining Balance
Salaries and Benefits	373,975	373,975	100%	0
Services and Supplies	269,610 (Amended)	244,769	90.8%	24,841
Internal Service Charges	32,500	32,500	100%	0
Contingencies	50,000	0	0%	50,000
	\$755,335 (Amended)	\$682,463	90.4%	\$72,872

An expanded discussion on budgeted and actuals through the end of the year within the four expense units follows.

Staffing Unit

The Commission budgeted \$373,975 in Staffing or Salaries and Benefits Unit for 2021-2022. The Commission’s actual expenses within the account totaled \$373,975 or 100% of the budgeted amount.

Services and Supplies Unit

The Commission budgeted \$169,610 in the Services and Supplies Unit for 2021-2022 to provide funding for *direct* support services necessary to operate Alameda LAFCO. The Commission approved a \$100,000 budget amendment for additional professional consulting services. The Commission’s actual expenses within the account totaled \$244,769 or 91% of the amended amount. Slight savings can be attributed to a reduction in office supplies and audit services.

Internal Services and Supplies

The Commission budgeted \$61,750 in the Internal Services and Supplies Unit for 2021-2022 to provide funding for *indirect* support services necessary to operate Alameda LAFCO. The Commission’s actual expenses within the account totaled \$63,718 or 103% of the budgeted amount. Most of the costs over the budgeted amount can be attributed to an increase in support services from the County’s Information Technology Department for a new web host for the LAFCO website.

Summary of Operating Revenues

Alameda LAFCO’s budgeted operating revenue total for 2021-2022 was \$655,335. Actual revenues collected through the end of the year equaled \$697,436 which includes a \$100,000 budget amendment. This amount represents 92% of the amended total. A breakdown of budgeted to actual expenses by unit through June 30th follows.

Revenue Units	Adopted	Actuals	Percent Expended	Remaining Balance
Agency Contributions	433,335	427,833	98.7%	(5,502)
Application Fees	30,000	6,434	21.4%	(23,566)
SALC Grant Funds	100,000 (Amended)	72,404	72.4%	(27,596)
Interest	7,000	5,765	82.4%	(1,235)
Fund Balance Offset	185,000	185,000	100%	0
	\$755,335 (Amended)	\$697,436	92%	(\$57,899)

An expanded discussion on budgeted and actuals through the end of the year within the three revenue units follows.

Agency Apportionments

The Commission budgeted \$433,335 in the Agency Apportionments Unit for 2021-2022. This total budgeted amount was subsequently divided in three equal shares at \$144,445 and invoiced among the County of Alameda, 14 cities, and 15 independent special districts as provided under State statute. Alameda LAFCO received 98.7% of the agency apportionments of the budgeted amount. Staff is working with the County Auditor’s Office to receive the remaining payment of \$5,502 from a special district.

Application Fees Unit and SALC Grant Funding

The Commission budgeted \$30,000 in the Application Fees Unit for 2020-2021. The actual revenues collected within the account equaled \$6,434 or 21% of the budgeted amount. The revenue total is tied to LAFCO filing two proposals during the fiscal year. The Commission amended the Service Charges Unit to include a budget transfer of \$100,000 to support LAFCO’s Sustainable Lands Agricultural and Conservation (SALC) planning grant from the Department of Conservation in lieu of a revolving fund and in partnership with the Alameda County Resource Conservation District (ACRCD).

Interest Unit

The Commission budgeted \$7,000 in the Interest Unit for 2020-2021. Actual revenues in the unit totaled \$5,765 or 82% of the budgeted amount and attributed to low returns in the investment pool administered by the County Treasurer’s Office.

Conclusion

Alameda LAFCO finished the 2021-2022 fiscal year satisfactorily with an operating surplus of \$14,974. Savings in professional services directly underlies the surplus. This surplus is further distinguished given the notable costs and otherwise unplanned expenses incurred over the 12-month period. This includes using additional consultants to accommodate for LAFCO special studies. This resulted in the Commission decreasing its fund balance from \$1,153,327 to \$883,301 going into the 2022-2023 fiscal year.

Alternatives for Action

The following alternatives are available to the Commission:

Alternative One (Recommended):

Accept and file the report as presented and provide direction as needed to staff with respect to any related matters for future consideration.

Alternative Two:

Continue consideration of the report to a future meeting and provide direction for more information as needed.

Recommendation

It is recommended the Commission proceed with Alternative Action One.

Procedures

This item has been placed on Alameda LAFCO's agenda as part of the consent calendar. A successful motion to approve the consent calendar will include taking affirmative action on the staff recommendation as provided unless otherwise specified by the Commission.

Respectfully,



Rachel Jones
Executive Officer

Attachments:

1. 2021-2022 General Ledger through June 30, 2022

ALAMEDA LOCAL AGENCY FORMATION COMMISSION

Regional Service Planning | Subdivision of the State of California

Expense Ledger

		FY 2018-2019		FY 2019-2020		FY 2020-2021		FY2021-2022			
		Adopted	Actuals	Adopted	Actuals	Adopted	Actuals	Adopted	Actuals	Difference	Percent of Budget
								As of 06-30-22			
Salary and Benefit Costs											
<u>Account</u>	<u>Description</u>										
60001	Staff Salaries	321,692	263,373	308,307	263,373	234,254	172,085	250,564	250,564	-	100.0%
-	(ACERA)	149,961	149,961	175,275	149,961	122,903	88,649	123,411	123,411	-	100.0%
		471,653	413,334	483,581	324,575	357,157	260,735	373,975	373,975	-	100.0%
Service and Supplies											
<u>Account</u>	<u>Description</u>										
-	Intern	1,600	-	1,600	-	1,600	-	-	-	-	-
610077	Postage	1,000	1,000	1,000	1,000	1,000	1,000	500	-	-	-
610141	Copier	3,000	3,000	3,000	3,000	3,000	-	1,000	-	-	-
610191	Pier Diems	7,700	7,700	7,800	7,800	8,000	7,100	8,500	5,600	(2,900)	65.9%
610211	Mileage/Travel	200	2,628	1,300	1,300	1,300	-	500	373	-	-
610461	Training (Conferences and Workshops)	20,000	20,000	13,000	6,000	5,000	-	2,500	-	-	-
610241	Records Retention	1,000	1,000	1,000	1,000	1,000	303	350	210	(140)	60.1%
610261	Consultants	96,000	90,000	90,000	90,000	96,000	42,527	100,000	152,709	52,709	152.7%
610261	Mapping - County	5,000	5,000	5,000	5,000	5,000	-	500	-	-	-
610261	Planning Services	25,000	5,000	5,000	6,000	5,000	-	5,000	-	-	-
610261	Legal Services	40,000	40,000	30,000	21,775	25,000	-	20,000	-	-	-
610261	SALC Grant Charges	-	-	-	-	-	-	-	72,404	-	-
610311	CAO/CDA - County - Services	11,000	11,000	11,000	11,000	1,000	7,700	1,000	-	-	-
610312	Audit Services	10,000	7,500	7,700	10,000	10,000	-	10,000	-	-	-
610351	Memberships	9,000	9,026	10,476	10,476	10,762	10,662	10,760	10,760	-	100.0%
610421	Public Notices	5,000	5,000	5,000	5,000	5,000	2,149	3,000	2,453	(547)	81.8%
610441	Assessor - County - Services	2,500	2,500	2,500	2,500	2,500	-	500	-	-	-
610461	Special Departmental	1,500	1,500	1,500	1,500	1,500	1,000	1,500	233	(1,267)	15.5%
620041	Office Supplies	4,000	4,000	4,000	4,000	4,000	916	4,000	28	-	-
		243,500	215,854	200,876	187,351	186,662	73,357	269,610	244,769	(24,841)	90.8%
Internal Service Charges											
<u>Account</u>	<u>Description</u>										
630051	Office Lease/Rent	3,200	3,200	25,000	35,000	32,500	32,500	32,500	32,500	-	100.0%
630021	Communication Services	3,878	3,878	3,950	3,950	100	-	100	-	-	-
630061	Information Technology	21,578	23,370	27,373	27,373	27,373	25,870	25,870	27,938	2,068	108.0%
630081	Risk Management	3,034	3,034	3,100	3,100	3,100	3,280	3,280	3,280	-	-
		31,690	37,482	59,423	69,423	63,073	61,650	61,750	63,718	1,968	103.2%
Contingencies		50,000	-	50,000	-	50,000	-	50,000	-	-	-
<u>Account</u>	<u>Description</u>										
-	Operating Reserve	-	-	-	-	-	-	-	-	-	-
		-	-								
EXPENSE TOTALS		796,843	666,670	793,880	581,349	656,892	395,742	655,335	755,335	(682,463)	(90.4%)

Revenue Ledger		FY2018-2019		FY2019-2020		FY2020-2021		FY2021-2022			
		Adopted	Actuals	Adopted	Actuals	Adopted	Actuals	Adopted	Actuals As of 06-30-22	Difference	Percent of Budget
Intergovernmental											
<u>Account</u>	<u>Description</u>										
-	Agency Contributions										
	County of Alameda	196,948	196,948	192,127	192,127	146,630	146,631	144,445	144,445	-	100.0%
	Cities	196,948	196,948	192,127	192,127	146,630	146,631	144,445	144,445	-	100.0%
	Special Districts	196,948	196,948	192,127	192,127	146,630	146,631	144,445	138,943	-	96.2%
		590,844	590,844	576,380	576,380	439,891	439,891	433,335	427,833	(5,502)	98.7%
Service Charges											
-	Application Fees	30,000	10,000	30,000	25,000	30,000	38,643	30,000	6,434	(23,566)	21.4%
-	SALC Grant Funds							100,000 Amended	72,404	(27,596)	72.4%
Investments											
-	Interest	-	11,531	7,500	7,500	7,000	8,965	7,000	5,765	(1,235)	82.4%
Fund Balance Offset											
		176,000	176,000	180,000	-	180,000	-	185,000	185,000	-	-
	REVENUE TOTALS	796,844	788,375	793,880	608,880	656,891	487,499	655,335 Adopted	697,436 Amended	(57,899)	92.3%
OPERATING NET		-	121,705	-	27,531	(1)	91,757		14,974	-	-
UNRESTRICTED FUND BALANCE			1,034,039		1,061,570		1,153,327		883,301		
As of June 30th											



TO: Alameda Commissioners
FROM: Rachel Jones, Executive Officer
SUBJECT: Alameda County’s Ordinance Amending Measure D | Support

The Alameda Local Agency Formation Commission (LAFCO) will consider supporting Alameda County’s ballot measure to amend Measure D.

Background

At Alameda LAFCO’s last regular meeting held on July 14th, the Commission approved recommendations to further direct its agricultural and open space policies and help aid in the future policy decisions to amend ballot Measure D. These recommendations were based on *LAFCO’s 20-Year Review of Measure D*, and developed by the Commission’s Ad Hoc Subcommittee (Haubert, Marchand, Woerner). Staff was also directed to present these recommendations to the Alameda County Board of Supervisors ahead of the first reading of the ordinance to amend Measure D at their July 19th meeting.

The Commission was then advised by staff to consider endorsing the ballot measure amendment at its September meeting.

First Reading of Ordinance Amending Measure D

The ordinance changes the amount of development allowed on agricultural parcels with the general plan designations of Large Parcel Agriculture (LPA) and Resource Management (RM) in the unincorporated area of East County. The ballot measure amendment is aligned with the Commission’s recommendations and includes the following:

1. Applies additional .025 FAR now allowed for greenhouses in the LPA designation to all types of agricultural buildings, including greenhouses only on properties designated as LPA. In addition, on parcels designated LPA and RM in the East County and Castro Valley Canyonlands.

2. In areas of the East County and Castro Valley Canyonlands designated LPA or RM allow up to .025 FAR for covered equestrian arenas, providing at least 20,000 square feet for small parcels with a maximum of 60,000 square feet.

On July 18th, staff submitted a letter to the Board of Supervisors outlining LAFCO's recommendations and requesting further discussions regarding proposed text amendments to Alameda County's East County Area Plan, South Livermore Valley Area Plan, and Zoning chapter of the Alameda County Code of Ordinances recommended by the Tri-Valley Conservancy and other community stakeholders (Attachment 1).

On August 11th, the Tri-Valley Conservancy also presented at the Board of Supervisors Planning meeting a status update regarding the proposed text amendments on Alameda County's planning documents to modify regulations in the South Livermore Valley Plan Area

Alameda County's Ballot Amendment to Measure D

At their August 9th meeting, the Board of Supervisors adopted a resolution and order to place the ordinance amending Measure D on the November 8, 2022 ballot. No additional language was added to the ordinance. At the August 11th Board of Supervisors Planning meeting, the Board will also consider creating a project timeline to include the proposed text amendments developed by the Tri-Valley Conservancy for the Alameda County planning documents starting February of 2023 (Attachment 2).

Discussion

This item is for the Commission to consider supporting Alameda County's ordinance to amend ballot Measure D. Staff finds that overall, the County's ballot measure is consistent with LAFCO's recommendations for supporting an agricultural economy and maintaining its vitality. Staff will continue to encourage the County to consider LAFCO's additional recommendations developed by the Tri-Valley Conservancy that were not included in the ballot amendment.

Alternatives for Action

The following alternatives are available to the Commission:

Alternative One (Recommended):

Support Alameda County's ordinance amending Measure D ahead of the November 8, 2022 ballot.

Alternative Two:

Continue consideration of the item at the next regular meeting.

Alternative Three:

Take no action.

Recommendation

It is recommended the Commission proceed with Alternative Action One.

Procedures for Consideration

This item has been placed on the agenda for action as part of a noticed public hearing. The following procedures are recommended for consideration.

- 1) Receive a verbal report from staff;
- 2) Invite questions from the Commission;
- 3) Open the public hearing and invite comments from audience (mandatory); and
- 4) Close the public hearing, discuss item, and consider recommendation.

Respectfully,



Rachel Jones
Executive Officer

Attachments:

1. Alameda LAFCO Comment Letter to Board of Supervisors, July 18, 2022
2. Staff Report, Board of Supervisors Planning Meeting, August 11, 2022

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LAFCO

Alameda Local Agency Formation Commission

July 15, 2022

SENT VIA EMAIL

Honorable Board of Supervisors
Administration Building
1221 Oak Street, Suite 536
Oakland, CA 94612
cbs@acgov.org

SUBJECT: First Reading of Ordinance to Amend Ballot Measure D

Dear Board Members:

Thank you for the opportunity to comment on the first reading of the ordinance to amend ballot Measure D. The Alameda Local Agency Formation Commission (LAFCO) approved at its May 12th regular meeting, a final report on its *20-Year Review of Measure D* (Attachment 1). The purpose of the report was to review whether the ballot initiative's land use policies and regulations enhanced the agricultural and open space needs of the region.

Overall, the report concluded that while Measure D has been successful in limiting growth and development within cities in the East County area, and not outside Measure D's established Urban Growth Boundary (UGB), it found that Alameda County's 0.01 Floor Area Ratio (FAR) requirements for non-residential uses in agriculturally designated or zoned lands, were far more restrictive in comparison to Sonoma, Marin, Monterey, Napa, Solano and Contra Costa counties. Additionally, the report made note that since the adoption of Measure D, overall agricultural operations in the East County area have remained economically stable, yet stagnant, with costs related to agricultural production continuing to increase.

At LAFCO's July 14th regular meeting, the Commission approved recommendations on its *20-Year Review of Measure D* to help facilitate policy decisions surrounding the vitality of agricultural and open space lands in the County.

The following LAFCO recommendations are for your consideration:

1. Alameda LAFCO supports Alameda County's proposed ballot amendment on Measure D to allow a maximum 0.025 FAR for agricultural buildings, including greenhouses, in areas designated under the General Plan as Large Parcel Agriculture (LPA).
2. Alameda LAFCO recommends Alameda County authorize a more individual and discretionary review of maximum building envelopes for development proposals in the East County area.

Administrative Office

Rachel Jones, Executive Officer
224 West Winton Avenue, Suite 110
Hayward, California 94544
T: 510.670.6267
www.alamedalafco.org

Nate Miley, Regular
County of Alameda

David Haubert, Regular
County of Alameda

Dave Brown, Alternate
County of Alameda

Bob Woerner, Regular
City of Livermore

Melissa Hernandez, Reg
City of Dublin

Karla Brown, Alternate
City of Pleasanton

Ralph Johnson, Regular
Castro Valley Sanitary District

Ayn Wieskamp, Regular
East Bay Regional Park District

Georgan Vonheeder-Leopold, Alternate
Dublin San Ramon Services District

Sblend Sblendorio, Chair
Public Member

John Marchand, Alternate
Public Member

3. Alameda LAFCO will work in conjunction with the Alameda County Agricultural Advisory Board to develop policies on how to support the agricultural economy going forward.

The Commission would also appreciate the Board’s attention on reviewing and approving proposed amendments to Alameda County’s East County Area Plan, South Livermore Valley Area Plan, and Zoning chapter of the Alameda County Code of Ordinances recommended by the Tri-Valley Conservancy and other community stakeholders (Attachment 2). A summary of the proposed amendments are as follows:

- a. Amend East County Area Plan to add new definitions for “Subordinate,” “Agricultural Building” and “Promote.”
- b. Clarifications that wineries are permitted agricultural uses, but tasting rooms are visitor serving uses.
- c. Acknowledging that sewer connection is an option along with septic systems for wastewater treatment.
- d. Amend the South Livermore Valley Area Plan to increase Floor Area Ratios to allow larger agricultural buildings and allow for clustering of development. Approximately 90% of each parcel would be planted with agriculture.
- e. Prohibit Industrial Hemp and Cannabis cultivation in the South Livermore Valley Area Plan.
- f. Amend Alameda County Zoning Code to allow for development clustering and to increase the types of visitor-serving uses in the Cultivated Agriculture Combining District. Proposed conditional uses include hot air balloon operations, day spas, artisan furniture workshops, boutique cannabis dispensaries (limited to 3), and a 140-room resort hotel.

Alameda LAFCO would appreciate further discussions regarding the proposed text amendments to the Alameda County planning documents that seek to enhance the viability and strength of the South Livermore Valley area. Written comments that LAFCO received in regard to its proposed recommendations can be found in Attachment 3 and are also for the Board’s consultation.

Thank you again for the opportunity to comment on the agenda item for the first reading on the ordinance to amend ballot Measure D and for the consideration of our comments. Please contact the LAFCO office if you have any questions.

Respectfully,



Rachel Jones
Executive Officer

Attachments:

1. *Alameda LAFCO's 20-Year Review of Measure D*, Final Report
[https://www.acgov.org/lafco/documents/05_12_22_AgendaPacket\(2\).pdf](https://www.acgov.org/lafco/documents/05_12_22_AgendaPacket(2).pdf) (p. 89)
2. Tri-Valley Conservancy and Other Stakeholders' Proposed Amendments on ECAP, SLVAP, and Zoning Chapter of Alameda County Code of Ordinances
3. Comment Letters on LAFCO's Proposed Recommendations

**Proposed Amendments to Alameda County’s East County Area Plan,
South Livermore Valley Area Plan, and Zoning Code to Promote Economic
Development Supportive of Agriculture**

March 9, 2022

Tri-Valley Conservancy (TVC) and various stakeholders, including Measure D’s co-author Dick Schneider, have developed a set of proposals for implementing Measure D’s clustering provision and amending provisions of the East County Area Plan (ECAP), South Livermore Valley Area Plan (SLVAP), and Zoning chapter of the Alameda County Code of Ordinances (Zoning Code) to make the South Livermore Valley more economically sustainable for cultivated agriculture. These proposed amendments are described below.

This Proposed Amendments document contains three sections:

1. **Proposed amendments to the East County Area Plan** as a whole. This includes a technical amendment to Program 34 to correct a typo, adding a definition of “subordinate to” in Policy 81, and adding two definitions to Table 1 – Definitions: the County’s proposed definition of “Agricultural Building” and a definition of “Promote”.
2. **Proposed amendments to the South Livermore Valley Area Plan**, which is contained within the ECAP. This includes a new Policy that we have labelled Policy AAA, which provides that Agricultural Buildings within the South Livermore Valley Plan Area may have a maximum FAR of .035; amendments to Program 125; a new clustering plan program that we have labelled Program BBB; and a new program related to industrial hemp and cannabis cultivation that we have labelled Program CCC. Note that TVC and stakeholders interpret SLVAP’s Program 136, which concerns higher density urban development, to *not* apply to most development that might be proposed for the South Livermore Valley. TVC is therefore not proposing amendments to Program 136.
3. **Proposed amendments to Zoning Code Section 17.30.170 for the “Cultivated Agriculture (CA) combining district”**, which is how the Zoning Code refers to the “Cultivated Agricultural Overlay District” referenced in Program 125, an area coextensive with the “Vineyard Area” of the South Livermore Valley. These proposed amendments include a new subsection H for clustering plans and a more detailed list of visitor-serving commercial uses in subsection F(2).

Where we propose amending an existing ECAP, SLVAP, or Zoning Code provision, our proposed additions are shown in underline and proposed deletions in ~~striketrough~~. Where we propose adding an entirely new provision to the ECAP, SLVAP or the Zoning Code, we have flagged this as a new provision and have also shown it in underline. After each edited or added new provision, we provide an explanation in italics.

Note that ECAP Polices and Programs preceded by an “*” were added to the ECAP by Measure D.

SECTION 1. Proposed Amendments to East County Area Plan

Single Family Clustering

***Program 34:** Notwithstanding any other provision of the Initiative, the County may permit residential and other structures allowed on a parcel or adjoining parcels on land designated Large Parcel Agriculture, Resource Management or Water Management Lands on February 1, 2000, or by the Initiative, to be clustered on one or more of the parcels on adjacent development parcels not to exceed 2 acres each. No additional residential units may be built as a result of clustering, except a bonus of one residential unit for each 5 residential units clustered may be permitted.

For each residential unit clustered, an area equal to the minimum parcel size otherwise applicable to the parcel from which the unit was derived minus the area of the clustered parcel shall be protected permanently from further development, except for agricultural structures necessary for agricultural use, by dedication of a conservation easement on a single, continuous area to Alameda County or by other comparably effective means.

Except as provided in this program, all clustering shall comply with the provisions of the Initiative. Care shall be taken in permitting clustering not to impair existing or potential agricultural uses, water quality, or environmental or visual values. Consistent with those requirements, clustering shall be configured to maximize the amount of contiguous agricultural acreage.

***Notes on Proposed Amendment to Program 34:** This proposed edit deletes “Single-Family” from the heading “Single-Family Clustering” to help clarify that this Program does not apply only to residential structures. The heading for this program in the text of Measure D simply read “Clustering”. This edit therefore corrects a typo in the ECAP.*

Policy 81: The County shall give the highest priority in areas designated “**Large Parcel Agriculture**” to agricultural operations. Visitor-serving commercial facilities (such as [tasting rooms wineries](#), inns, and food and beverage stores) shall be limited to facilities that promote agriculture and are subordinate ~~and~~ [to](#), directly related to, [and supportive of](#) the area's agricultural production. [Specifically, “subordinate to” means smaller in size and scale than.](#)

Notes on Proposed Amendments to Policy 81:

- *Proposed Deletion of “wineries” from Examples of Visitor-Serving Commercial Uses and addition of “tasting rooms”: Under section 17.06.030(E) of the County Zoning Code, wineries are permitted uses in Agricultural districts. At the same time, wineries are primarily agricultural processing and production facilities. We therefore propose an edit to remove “wineries” from the examples of visitor-serving commercial facilities in Policy 81, and to add “tasting rooms” instead.*
- *Adding Proposed Definition for “subordinate to”: The new definition clarifies this potentially ambiguous term.*

Table 1 – DEFINITIONS

[PROPOSED NEW DEFINITION] Agricultural Building: [A structure designed and constructed to house farm implements, olives, nuts, hops, wine, or other horticultural products in bins, tanks, barrels, case goods, or other storage vessels. This structure shall allow for the processing, treatment, packaging and storage of agricultural/ horticultural products. This structure shall not be a place of human habitation, nor shall it be a place used by the public or for social events.](#)

Notes on Adding Proposed Definition of “Agricultural Building” to Table 1 – Definitions: *This is the proposed definition for “Agricultural Building” from the May 5, 2021 memorandum to the Board of Supervisors’ Transportation/Planning Committee, with the subject: “Update on technical modification to the East County Area Plan to adopt a Floor Area Ratio of .025 for agricultural buildings in the South Livermore Valley Plan Area.” This definition corresponds to a new Policy AAA—shown further below—that we are proposing be added to the South Livermore Valley Area Plan regarding the floor area ratio for Agricultural Buildings. Although the May 5, 2021 memorandum suggested adding this Agricultural Building definition to the County Zoning Code, we propose adding the definition to the ECAP definitions section (Table 1) instead, because the underlying policy that would use that term would be in the SLVAP section of the ECAP, and not in the Zoning Code.*

[PROPOSED NEW DEFINITION] Promote: [In the context of agriculture, agricultural products or agricultural production, Promote means \(a\) helping foster agriculture-oriented tourism in the East County area in order to build knowledge of, support for, or a connection with East County area agricultural producers or products, \(b\) providing information about or serving agricultural products from the East County area, or \(c\) encouraging visits to producers of East County area agricultural products.](#)

Notes on Adding Proposed Definition for “Promote” to Table 1 – Definitions: *This definition clarifies that “to promote”, as used in the ECAP, includes a range of activities supportive of local agricultural products and agricultural production.*

SECTION 2: Proposed Amendments to South Livermore Valley Area Plan

[PROPOSED NEW PROGRAM] Policy AAA: [On parcels with a Large Parcel Agriculture designation, in addition to the .01 FAR allowed for all non-residential buildings, all Agricultural Buildings may have an additional .025 FAR, for a total maximum intensity of .035 FAR.](#)

Notes on Proposed New Policy AAA:

- *Location in SLVAP for new Policy:* The County would need to determine where in the SLVAP to insert this proposed Policy – we have not included a proposed number for the Policy here, and have given it the provisional name Policy AAA.
- *FAR for Agricultural Buildings:* Based on a Board of Supervisors (BOS) staff report and a BOS Transportation/Planning Committee memorandum on FAR for Agricultural Buildings, as well as related meetings, TVC’s understanding is that the County has proposed to allow a maximum .035

FAR for Agricultural Buildings in the South Livermore Valley Plan Area. This proposed new Policy AAA would implement that proposal.

Program 125: The County shall limit new commercial uses within the Cultivated Agricultural Overlay District to appropriate small-scale uses that promote the area’s image as a wine region, subject to issuance of a conditional use permit. [To this end, the County shall develop a full A list of conditionally-permitted commercial uses and standards can be found in the County Zoning Code.](#) New commercial uses proposed as a part of a bonus density application should be limited to the 10% maximum area of each parcel not dedicated to cultivated agriculture, subject to appropriate coverage limitations, and should be sited to maximize efficient use of cultivated lands. [Wineries-Tasting rooms](#) and small bed-and-breakfast establishments, and associated restaurants, are examples of appropriate commercial uses. Visitor serving commercial uses are considered non-residential and, [unless subject to Program BBB](#), are subject to the maximum building intensity for non-residential buildings, which is .01 FAR (floor area ratio) but not less than 20,000 square feet, provided they are located on the allowable building envelope(s). Bed-and-breakfast establishments may be established in existing homes or homes permitted under the South Livermore Valley Area Plan, or may be located in separate additional structures located within the allowable building envelope(s) onsite. No more than one-hundred and fifty-four (154) guest rooms in Bed-and-Breakfast establishments or [similar other lodging](#) establishments shall be permitted in the Cultivated Agriculture Overlay District. The County shall require that proponents of new commercial development in rural areas show, to the satisfaction of the County and Zone 7, that development can be adequately served by a septic system [or sewer system](#) and that adequate water supplies are available for commercial needs.

Notes on Proposed Amendments to Program 125:

- *[Deletion of “wineries” from list of examples of conditionally-permitted visitor-serving commercial uses and addition of “tasting rooms”](#): Under 17.06.030(E) of the County Zoning Code, wineries are permitted uses in Agricultural districts, and not conditionally-permitted uses. At the same time, wineries are primarily agricultural processing and production facilities. We therefore propose an edit to remove “wineries” from the list of conditionally permitted visitor-serving uses in Program 125, and to add “tasting rooms” instead.*
- *[Edits related to sewer systems](#): We have added an edit to allow visitor-serving commercial uses that are served by a sewer system.*
- *[Bed and Breakfasts](#): Note that Program 125 as shown above includes the amendments regarding Bed & Breakfasts that have not yet been codified in the ECAP, but were adopted by the Board of Supervisors on June 18, 2019.*

[PROPOSED NEW PROGRAM] [Program BBB](#): For the implementation of the [Program 34 clustering provisions within the Cultivated Agriculture Overlay District](#), an applicant may submit a clustering plan to the County for any parcel of at least 40 acres or for two or more adjacent parcels that have a combined area of at least 40 acres. The clustering plan shall apply to the entirety of any parcel that is part of the clustering plan. For each 20-acre increment within the parcel or parcels in the clustering plan, the applicant shall be entitled to:

- [One homesite, including one residential unit and residential accessory uses](#)

- [One building envelope](#)
- [Visitor-serving commercial uses not to exceed 20,000 square feet](#)

[Any remainder acreage of less than 20 acres shall not entitle an applicant to any additional fractional portion of a homesite, of a building envelope, or of square footage for visitor-serving commercial uses.](#)

[On a parcel or parcels subject to a clustering plan:](#)

1. [Building envelopes may be combined to create one or more building envelopes of any size, subject to the limitations in this Program BBB as specified below.](#)
2. [All development, excluding access and farming roads and Agricultural Buildings, shall be contained within one or more building envelopes. The total area within all building envelopes shall not exceed 10% of the acreage in the clustering plan.](#)
3. [Where a clustering plan includes both a hotel and a residential unit or residential units, the hotel and any residential unit or units shall be located either in the same building envelope, or on adjacent building envelopes.](#)
4. [Except for hotels, all visitor-serving commercial uses shall be contained within 2 acres of a building envelope, regardless of the total acreage of such building envelope.](#)
5. [Residential and residential accessory uses for a single homesite shall not exceed 12,000 square feet of floor area.](#)
6. [No less than 90% of the acreage of the parcel or parcels shall be planted and maintained in cultivated agriculture for as long as any visitor-serving commercial uses are in operation on any parcel or parcels in the clustering plan.](#)
7. [The entirety of the parcel or parcels shall be placed under an agricultural conservation easement.](#)
8. [The only permitted visitor-serving commercial uses shall be those permitted under Program 125 and associated zoning.](#)
9. [Residential units and visitor-serving commercial uses may be served by a septic system or by a sewer system. This provision shall be interpreted to be consistent with the provisions of the Measure D Initiative.](#)

Notes on Proposed New Program BBB:

- *[Location in SLVAP for new Program:](#) The County would need to determine where in the SLVAP to insert this proposed Program – we have not included a proposed number for the Program here, and have given it the provisional name Program BBB.*
- *[Examples of Visitor-Serving Commercial Uses:](#) We have not included examples of the types of visitor-serving commercial uses that would be permitted on parcels subject to a clustering program, under Program BBB. However, those uses will be specified in the County’s Zoning Code, Art. VII of Ch. 17.30, which lists the conditionally permitted uses for the clustering program.*

[PROPOSED NEW PROGRAM] Program CCC: [In order to ensure compatibility with other agricultural uses, commercial cultivation and commercial production of industrial hemp and cannabis is prohibited in the South Livermore Valley Plan Area.](#)

Notes on Proposed New Program CCC:

- *[Location in SLVAP for new Program:](#) The County would need to determine where in the SLVAP to insert this proposed Program – we have not included a proposed number for the Program here,*

and have given it the provisional name Program CCC. This could also be a Policy rather than a Program.

- *Hemp and Cannabis prohibition: Until more information exists on the effects of hemp and cannabis on viticulture and other agriculture, Program CCC would prohibit the commercial cultivation and production of hemp and cannabis.*

SECTION 3: Proposed Amendments to Zoning Code

Zoning Code Section 17.30.170 - CA combining district—Regulations.

In a CA combining district, the regulations shall remain the same as the regulations in the A (agricultural) district with which it is combined, except as follows:

- A. The maximum dwelling unit density shall be one per twenty (20) acres and the minimum building site area shall be seventeen (17) acres provided the following criteria are met to the satisfaction of the planning director and by the time specified in the tentative map approving the subdivision:
 1. The applicant shall demonstrate that the proposed lots will contribute substantially to the goal of promoting viticulture or other cultivated agriculture; and
 2. The applicant shall demonstrate that adequate water supplies are available to the proposed parcels for domestic, fire fighting, and agricultural and landscaping irrigation needs; and
 3. The applicant shall demonstrate that all proposed homesite(s) can be served by individual septic tank systems; and
 4. The applicant shall demonstrate that proposed lots have been surveyed by a qualified biologist to locate any potential plant or wildlife species of concern, and that a mitigation plan has been developed to protect any sensitive or unique environmental characteristics, including but not limited to oak groves, riparian area, or species of concern; and
 5. The applicant shall demonstrate and guarantee that a minimum of ninety (90) percent of the area of the parcel being subdivided shall be permanently set aside for viticulture or other cultivated agriculture, planted, and maintained for a minimum of eight years in wine grapes or other cultivated agriculture, excepting therefrom only those minor portions needed to preserve environmentally sensitive areas; and
 6. The applicant shall demonstrate that all applicable fees have been paid; and
 7. The applicant shall demonstrate that adequate notice to buyers of proposed parcels has been given of potential residential/agricultural land use conflicts such as noise, dust, odors, night operations or other impacts resulting from the agricultural operations.

Of the ninety (90) percent of the area of the parcel being subdivided to be permanently set aside for viticulture or other cultivated agriculture as required under Section 17.30.170(A)(5), up to

but no more than fifteen (15) percent may consist of environmentally sensitive areas, including but not limited to wetlands, arroyos, slopes in excess of twenty-five (25) percent, oak groves, or areas with unique environmental characteristics. This area shall be included in the area permanently set aside, but shall not be planted. This area may be divided in any proportion between the parcels being created. In order to meet the minimum acreage required to be planted (76.5% of the total parcel), building site envelopes may be reduced below the two acre total allowed in Section 17.30.170(C)(2). The planning director may require a reduction of the two acre building site envelope in order to maximize the amount of acreage planted. If more than fifteen (15) percent of the area to be set aside permanently for agriculture consists of environmentally sensitive areas, the amount over fifteen (15) percent shall be subtracted from the total area of the parcel for purposes of calculating the number of parcels that can be created. All fractions shall be rounded down.

- B. There shall be a minimum one hundred (100) foot uncultivated and undeveloped buffer area adjacent to the top of bank of any major arroyo, and a minimum twenty (20) foot uncultivated and undeveloped buffer area adjacent to the top of bank of any minor watercourse unless buffers of different widths are approved in light of potential hazards, crop management practices, and other factors.
- C. All buildings shall be located within a building site envelope shown on the tentative map approving the subdivision and which meets the following criteria:
 - 1. There shall be not more than two separate building site envelopes on a parcel; and
 - 2. The aggregate area of the building site envelope(s) for a residence including the driveway(s) shall not exceed two acres; if nonresidential use is authorized on the parcel, the aggregate area of the building site envelope(s) for all buildings and driveway(s) shall not exceed ten percent of the area of the parcel; and
 - 3. Except for underground agricultural storage silos, the building site envelope shall not exceed twenty-five (25) percent slope; and
 - 4. The building site envelope shall not be located within a FEMA-designated, 100-year flood plain area; and
 - 5. The building site envelope shall be a minimum of two hundred (200) feet from a major street and one hundred (100) feet from any other street unless site-specific studies of noise, traffic, visual impacts or other land use compatibility factors warrant a lesser setback through the site development review process; and
 - 6. The building site envelope shall not be located in any area that is known to be subject to landslide or other seismic or geotechnical hazards.
- D. Where subdivision of land results in a net loss of vineyard acreage, the maximum area of such land that may be approved for subdivision on a tentative map between January 1st and December 31st of any calendar year shall be one hundred (100) acres.
- E. To the satisfaction of the planning director and by the time specified in the tentative map approving the subdivision, subdivision of existing vineyards shall be subject to provision of improvements necessary to bring the existing vineyard stock up to current industry standards for production, quality and resource use, including water and soil.

F. CA District—Conditional Uses prohibited.

1. The following uses, otherwise conditionally allowed by the A (agricultural) district, are neither permitted nor conditional uses where the CA district is combined with the A district:
 - a. Killing and dressing of livestock, except when accessory as specified in Section 17.06.050;
 - b. Flight strip when accessory or incidental to a permitted or conditional use, unless such a conditional use permit has been previously approved on subject property for such use;
 - c. Cemetery, crematory, or other facility for the disposal of human or animal dead, pet cemetery;
 - d. Hog ranch;
 - e. Radio and television transmission facilities, unless such a conditional use permit has been previously approved on subject property for such use;
 - f. Sanitary landfill or composting facility;
 - g. Privately owned wind-electric generators, except as an accessory use.
2. In addition to the conditional uses in the A (agricultural) district with which it is combined, the following are conditional uses in the CA combining district and shall be permitted only if approved by the board of zoning adjustments as provided in Section 17.54.130:
 - a. Bed and breakfast establishment: maximum of fourteen (14) rooms available for guests;
 - b. Restaurant, with seated service only, and a maximum of forty-nine (49) permanent indoor seats, that features agricultural products of the South Livermore Valley Area;
 - c. Bicycle rental;
 - d. [Hot air balloon rides and operations;](#)
 - e. [Golf course pro shop;](#)
 - f. [Art gallery and sculpture garden;](#)
 - g. [Day spa;](#)
 - h. [Wine trollies and tours;](#)
 - i. [Wine country museum and gift shop;](#)
 - j. [Artisan furniture workshop and tours;](#)
 - k. [Truffle hunts;](#)
 - l. [Wine country specialty gift store;](#)

- m. [Boutique cannabis dispensary;](#)
- n. [Trail hikes and vineyard tours;](#)
- o. [Resort Hotel, with up to 140 rooms for guests;](#)
- p. [Market and deli selling picnic foods for on-site or off-site consumption;](#)
- q. [Event Space, only as a subordinate use \(in terms of scale, size, and frequency of use\) at a Winery, Restaurant, and Lodging place;](#)
- r. [Tasting rooms](#)
- sd. Other small scale recreational uses found by the board of zoning adjustments to be consistent with the intent of the South Livermore Valley Area Plan.

G. CA District—Site Development Review. Site development review pursuant to Section 17.54.210 shall be required for every new building greater than five hundred (500) square feet or thirty (30) feet in height, placed on a lot in the CA district. Notwithstanding the requirements of Section 17.54.230, the planning director may establish the application filing requirements appropriate to the structure under consideration.

H. Clustering Plan.

1. [An applicant may cluster building envelopes on a parcel or adjacent parcels in the CA combining district subject to an approved clustering plan, and may develop any parcel within an approved clustering plan in a manner consistent with Program BBB of the South Livermore Valley Area Plan. An applicant shall not be required to subdivide any parcel in order for the County to approve a clustering plan.](#)
2. [On a parcel or parcels subject to a clustering plan, the visitor-serving commercial uses shall be conditional uses and shall be permitted if approved by the board of zoning adjustments as provided in Section 17.54.130.](#)

In the exercise of reasonable judgment and based on affirmative findings of fact, minor variances to the provisions of this section may be granted through the site development review process, provided that the variance does not allow a use not otherwise allowed. Specifically, this shall not allow a variance of the provisions of Section 17.30.170 that set the maximum dwelling unit density; the minimum building site area, and the maximum amount of land that may consist of environmentally sensitive areas.

Notes on Proposed Amendments to Zoning Code Section 17.30.170:

- *Additional conditional Uses—subsection F(2):* Proposed amendments to this section add additional appropriate small-scale uses that promote the area’s role as a wine region, consistent with Program 125’s direction for the County to develop a list of conditionally-permitted commercial uses.
- *Addition of subsection H – Clustering Plan:* This section further explains the clustering plan and addresses allowed uses.



July 13, 2022

Rachel Jones, Executive Officer
Alameda Local Agency Formation Commission
224 West Winton Avenue, Suite 110
Hayward, CA 94544

Re: LAFCo 20-Year Report on Measure D and Proposed Amendments to Alameda County Planning Documents.

Dear Rachel:

The City of Livermore appreciates the opportunity to comment on LAFCo's 20-Year Report on Measure D and the Tri-Valley Conservancy's and other stakeholder's proposal to amend Alameda County's planning documents. We appreciate your time in attending the June 27, 2022, City Council meeting and presenting to the City Council. At the meeting, staff received Council direction regarding the report and amendments. I am writing to convey the City of Livermore's position on the proposed amendments, as described below.

General Plan Consistency

The City Council has found that the recommended changes to Alameda County's planning documents support Livermore's General Plan policies that seek to enhance the viability and strength of wine country, as follows:

- Goal LU-13: Promote the South Livermore Valley as a unique and historic wine region.
 - Objective LU-13.1 Develop additional wineries with a range of sizes, and other wine-country uses that promote the area as a premier wine-producing area.
- Goal LU-14 Take a proactive approach to protect, enhance, and increase viticulture and other cultivated agriculture.
- Goal LU-17: Coordinate land use planning of the area between Alameda County and the cities of Livermore and Pleasanton so as to increase certainty over future land uses and to reduce speculation.

Comments and Clarifications

Given that the proposed text changes support Livermore's General Plan and strengthen the South Livermore Valley's wine country, the City of Livermore supports the proposed amendments. However, the city requests the following:

- Clarify the number and type of cannabis dispensaries that would be permitted in the South Livermore Valley.
 - Commercial cannabis sales are currently prohibited within Livermore's city limits. Current county policy would allow for up to three dispensaries in the east county area, one of which would be required to include a boutique component or components.
 - City of Livermore recommends that any dispensaries permitted in the South Livermore Valley area retain the county's boutique designation and/or be required to have a substantial connection to agriculture and the South Livermore Valley wine country. Substantial connection could mean that items sold would include, or be combined with, products that were grown, made, harvested, or otherwise produced in the greater south Livermore Valley or Tri-Valley area. Substantial connection does not include hemp or cannabis cultivation activities.
 - City of Livermore further recommends that the county retain the limit on the number of dispensaries permitted in east county to three.
- Clarify the requirements of Program CCC (prohibition of commercial cultivation and production of cannabis and hemp) and its intent.
 - How does the County define "commercial cultivation and production?"
 - Would non-commercial (e.g. agricultural) cultivation and production be allowed?
- Request that final text amendments include provisions about airport compatibility.
 - The proposed "hot air balloon rides and operations" use shall be reviewed for compatibility with the Livermore Municipal Airport consistent with the adopted Airport Land Use Compatibility Plan.
- Request continued involvement with LAFCo and Alameda County regarding the proposed text amendments to Alameda County planning documents and Measure D ballot initiative language.

Rachel Jones
July 13, 2022
Page 3 of 3

- Request coordination with LAFCo and Alameda County regarding the proposed city-sponsored ballot initiative to extend sewer service beyond Livermore's South Livermore Urban Growth Boundary.
- Request that the County consider and mitigate the environmental impacts of cannabis and hemp cultivation, particularly with respect to water use, waste products, and truck trips.

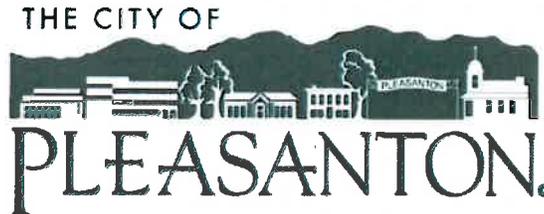
If you have any questions regarding the comments above, please contact me at (925) 960-4468, or e-mail at scstewart@cityoflivermore.net.

Sincerely



Steve Stewart
Planning Manager

cc: Jason Alcala, City Attorney
Paul Spence, Community Development Department Director
Stephen Riley, Principal Planner
Benjamin Murray, Principal Planner



July 13, 2022

Alameda LAFCo
Rachel Jones, Executive Officer
224 West Winton Avenue, Suite 110
Hayward, CA 94544

RE: Comments on Draft Recommendations for Alameda County Policy Documents and Zoning Code

Dear Ms. Jones:

Thank you for your email transmittal on July 5 providing a response to the City's June 30 letter regarding the final report, *20-Year review of Measure D* and proposed recommendations intended to facilitate policy decisions surrounding the vitality of agricultural and open space land.

Your response letter indicates that the limits of *Cultivated Agriculture (CA) Combining District* mirror those of the Vineyard Area which includes all of the existing vineyards and most of the wineries shown in the South Livermore Valley Area Plan (SLVAP) at the time the plan was established. Based on the SLVAP, some of these areas are in close proximity to Pleasanton.

In advance and anticipation of the July 14, 2022, LAFCo meeting, the City is submitting a second letter commenting specifically on the following conditional uses proposed in the *CA Combining District: Hot air balloon rides and operations; and Boutique cannabis dispensary.*

The City requests that it be notified of any application submittal for hot air balloon rides to allow for its review and comment on proposed flight paths. A hot air balloon operation could have privacy, safety, and noise implications for Pleasanton residents.

Secondly, the City does not support the proposed amendments to make boutique cannabis dispensaries a conditionally permitted use in the CA Combining District. Further, non-commercial cannabis cultivation, similar to commercial cultivation, should not be allowed.

The City requests continued involvement with LAFCo and Alameda County regarding proposed text amendments to Alameda County planning documents and Measure D ballot initiative language. Thank you again for providing a response to the City's first comment letter and for your attention to this letter.

COMMUNITY DEVELOPMENT
www.cityofpleasantonca.gov

P. O. BOX 520 · 200 Old Bernal Avenue
Pleasanton, CA 94566-0802

Planning (925) 931-5600 Fax: 931-5483	Building & Safety (925) 931-5300 Fax: 931-5478	Code Enforcement (925) 931-5620 Fax: 931-5478	Permit Center (925) 931-5630 Fax: 931-5478	Traffic Engineering (925) 931-5677 Fax: 931-5487
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Respectfully,

A handwritten signature in black ink, appearing to read "Ellen Clark". The signature is fluid and cursive, with the first name "Ellen" and last name "Clark" clearly distinguishable.

Ellen Clark
Director of Community Development

c: Gerry Beaudin, City Manager

Jones, Rachel, LAFCo

From: Larry Gosselin <gosselindvm@aol.com>
Sent: Wednesday, July 13, 2022 10:53 AM
To: Jones, Rachel, LAFCo; Sblendorio, Sblend A.; Wilson, Shawn, BOS Dist 1
Subject: Comments and Request LAFCO Agenda Item 4

Dear LAFCO Board,

Thank you for your recent "20 Year Evaluation of Measure D" and your consideration of the effort to expand benefits to Large Parcel Agriculture and Resource Management parcels. I agree that accommodations need to be made to benefit the wine and horse industries on Large Parcel Agriculture and Resource Management parcels. However, Measure D clearly defined the lands in North Livermore were to be designated a new land use of **North Livermore Intensive Agriculture**. This new designation creates an entitlement for 20-acre parcels and expanded intensive agriculture uses throughout the area. There are no overlay districts created in North Livermore for LPA or RM lands. The North Livermore Intensive Agriculture Program DEIR has clearly defined these issues.

Please include the following actions:

1. The North Livermore Intensive Agriculture Program DEIR bonus parcel program will not be amended by the ballot measure to limit the creation of new parcels
2. New parcels created in the North Livermore Intensive Agriculture Area will be entitled to increased FAR comparable to the South Livermore area.
3. Planning for the North Livermore Intensive Agriculture Program will begin to fulfill the goals of funding and implementation described by Measure D.

Thank you,
Larry Gosselin DVM
North Livermore

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Hello....

Your 4th agenda item for the July 14 meeting is of particular importance to many of us in East County. The 20-year review and report LAFCO recently shared points to the accomplishments of Measure D. Measure D has indeed accomplished a lot and served its purpose in many good ways.

The 2022 initiative is a positive step towards evolving Measure D and will help the wine industry and the equestrian industry. This is good. The 2022 initiative is a start and there is still much much more work to do if Agriculture is to remain viable in Alameda County.

Measure D calls out North Livermore as an Intensive Agriculture Area. As has sadly become tradition, there is much disagreement about what this means and little has happened in 22 years. Overall, there is an economic vacuum in North Livermore. We need to fix this starting now.

North Livermore is a "chicken or egg" area. Yes, there is a lack of water. However, with the right land use policies and definition for what "Intensive Agriculture Area" is, it can and should become economically viable to provide the water needed for the area to thrive economically with agriculture-centric economic vitality. Done properly the quality of life and scenic viewsheds will not suffer. In fact, they can improve tremendously!

Please support a North Livermore Valley overlay to compliment the South Livermore plan. Please also support taking a wholistic view of East County – one that considers and supports the richness and diversity we are blessed with. Taking a 20+ year view forward to East County as a whole with effective land use policies is something I believe we can all support.

I would like to see the part played by North Livermore in an overall scheme further Agriculture learning, education, and innovation. I would like to see included a tapestry of outdoor paths, trails, and small destinations for people to enjoy and learn about open space and agriculture and learn about green energy and see how agrivoltaics is a key piece of it all.

Thank you for reading. Please let me know how I can help...I have lots more ideas!

Best regards,

Chuk Campos

7033 Morgan Territory Rd.
Livermore, CA 94551

P: 925-321-3211

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ALAMEDA COUNTY COMMUNITY DEVELOPMENT AGENCY
P L A N N I N G D E P A R T M E N T

Sandra Rivera
Interim Agency Director

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510.670.6374

www.acgov.org/cda

August 11, 2022
Agenda Item # 6

August 4, 2022

Honorable Board of Supervisors
Administration Building
1221 Oak Street, Suite 536
Oakland, California 94612

Dear Board Members:

SUBJECT: STATUS OF AMENDMENTS TO EAST COUNTY AREA PLAN AND COUNTY GENERAL ORDINANCE CODE PROPOSED BY THE TRI-VALLEY CONSERVANCY TO MODIFY DEVELOPMENT REGULATIONS IN THE SOUTH LIVERMORE VALLEY PLAN AREA

RECOMMENDATION:

That the Board of Supervisors hear an update on the status of amendments to the East County Area Plan (ECAP) and the County General Ordinance Code proposed by the Tri-Valley Conservancy (TVC) to modify development regulations in the South Livermore Valley Plan Area, take public testimony, and provide comments to staff.

DISCUSSION/SUMMARY:

Background

The South Livermore Valley Area Plan (SLVAP) was approved by the Board of Supervisors in 1993 and incorporated into the ECAP upon its adoption in 1994 (ECAP, pp. 81-90). The ECAP land use designation for properties within the SLVPA is Large Parcel Agriculture (LPA). Almost the entirety of the Plan Area is zoned "A-CA" (Agriculture – Cultivated Agriculture Combining District) (County General Ordinance Code Sections 17.30.160 – 17.30.180).

In March of 2022, staff received a letter from the TVC with a list of proposed amendments to ECAP and the County Zoning Ordinance to promote the development of economically sustainable agricultural operations in the South Livermore Valley (see attached documents).

The amendments to ECAP proposed by the TVC include applying the additional .025 Floor Area Ratio (FAR) now allowed for greenhouses in the LPA designation to all types of agricultural buildings in the South Livermore Valley. The proposed ballot measure to amend Measure D would make this change for all properties designated LPA, including those within the South Livermore Valley Plan area. If the ballot measure is approved by the voters, the amendment specific to South Livermore will not be needed.

One of the ECAP amendments proposed by TVC would correct an error that was made when the changes made by Measure D were incorporated into ECAP in 2002, and can be corrected as a technical modification allowed under Section 23 of Measure D. The remainder of the amendments to ECAP would not affect any of the policies or programs changed by Measure D and, therefore, could be approved by your Board without a vote of the electorate. It is staff's

opinion that some of the proposed amendments to ECAP, such as the prohibition of cannabis and hemp cultivation in the South Livermore Valley Plan Area, would be more appropriate to include in the Zoning Ordinance.

Proposed amendments to the Zoning Ordinance include the incorporation of additional conditional uses that would be allowed in the Cultivated Agriculture Combining District. Staff received a letter from the City of Pleasanton objecting to the inclusion of hot air balloon rides, indicating the need to provide the public with the opportunity to vet these additional uses.

Proposed Project Timeline

If the ballot measure amending Measure D is approved by voters, there will be additional staff work needed to implement the will of the voters, including at least one Planning Commission hearing as well as Board approval to incorporate the ballot measure changes into the ECAP and Castro Valley General Plan (CVGP). Given the current workload of Policy Planning staff, an efficient means of incorporating the amendments proposed by the TVC would be to combine efforts. Staff proposes that the ECAP and Zoning Ordinance amendments proposed by the TVC be presented to the Planning Commission and your Board at the same time as the ballot measure amendments. This process can begin immediately after the 2022 election (mid-November) and is anticipated to be completed by February of 2023.

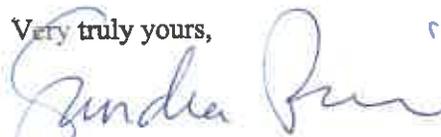
A list of current projects in the Policy Planning section and their estimated date of completion are provided in the table below.

POLICY PLANNING SECTION LIST OF MAJOR PROJECTS	
Project	Estimated Date of Completion
Ballot Measure/Measure D/TVC proposed amendments	February 2023
Environmental Justice Element	February 2023
Safety Element/ Community Climate Action Plan	November 2023
Housing Element	January 2024
Establish Waste Program to Implement SB1383 Organics Recycling	Ongoing

CONCLUSION:

Staff recommends that your Board review the information presented in this letter, hear a presentation by staff, take public comment, and provide comments to staff on the proposed process for consideration of the ECAP and Zoning Ordinance amendments.

Very truly yours,



Sandra Rivera, Interim Director
 Community Development Agency

Attachments

- Letter to Elizabeth McElligott re: Amendments to ECAP and Zoning to Fulfill Goals of South Livermore Valley Area Plan, March 25, 2022
- Proposed Amendments to Alameda County’s East County Area Plan, South Livermore Valley Area Plan, and Zoning Code to Promote Economic Development Supportive of Agriculture, March 9, 2022

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LAFCO

Alameda Local Agency Formation Commission

AGENDA REPORT
September 8, 2022
Item No. 5

TO: Alameda Commissioners

FROM: Rachel Jones, Executive Officer

SUBJECT: Review of Draft Scope of Analysis | South Livermore Valley Area Plan Study

The Alameda Local Agency Formation Commission (LAFCO) will receive a draft scope of analysis developed by Lamphier-Gregory to guide the preparation and timing of the agency’s scheduled study on the South Livermore Valley Area Plan. This includes setting the depth and range of analysis as well as establishing key LAFCO interests. The draft scope is being presented for Commission discussion and feedback.

Background

As part of Alameda LAFCO’s workplan for the current fiscal year, the agency is to conduct a special study prepared by the planning firm, Lamphier-Gregory, on a review of City and County plans, development trends, and current issues relevant to LAFCO’s interests in the South Livermore Valley.

During the past year or more, several important events have occurred that provide a re-focus for this study:

- In January 2021, the State Water Resources Control Board issued new General Waste Discharge Requirements for Winery Process Water, applicable throughout the state.
- In early 2022, the UC Davis Professors James Lapsley, Ph.D. and Daniel Sumner, Ph.D., issued a report commissioned by the Tri-Valley Conservancy titled “*Realizing the Heritage, Grape Growing and Winemaking in the Livermore Valley*”. This report provides a comprehensive and detailed evaluation of the economics of wine grape and wine production in the South Livermore Valley.
- In June, the Alameda County Board of Supervisors certified an Addendum to the East County Area Plan EIR, and approved language for a countywide ballot initiative intended to increase the allowable development intensity on agriculturally designated lands in the East County.
- In July, the Livermore City Council certified an EIR for a South Livermore Sewer Expansion Project and approved language for a citywide ballot initiative to extend sanitary sewer service beyond the Urban Growth Boundary to serve wine country uses.

Scope of Study

The intent of the study is to assess current plans and trends in South Livermore from the perspective of LAFCO's mission statement to conserve the environment and public resources such as prime agricultural and open space land, ensure efficient municipal services, and balance infrastructure needs for sustainable growth. Each of these recent events provides new information that is relevant to these topics and to LAFCO's interests in the South Livermore Valley.

Lamphier-Gregory proposes that the study should not only be a retrospective review, but also a prospective review of the potential implications of current plans, trends, and recent events relative to the following key LAFCO interests:

- What is the status of current vineyard acreage and number of wineries in South Livermore, as compared to data from prior years and as compared to County SLVAP goals? How might the current events related to potential increased FAR and expanded sewer service affect this acreage?
- How many acres of open space and agricultural lands are currently preserved through conservation easements and/or land trusts in South Livermore in 2020, as compared to prior years and as compared to County SLVAP/SLVSP goals?
- How many acres of land has been annexed to the City of Livermore for residential uses, as compared to data from prior years and as compared to City of Livermore SLVSP goals and expectations? How might the current events related to expanded sewer service beyond the Urban Growth Boundary affect new and existing residential development?
- How many changes in spheres of influence or municipal service boundary adjustments have occurred in the past, and how might current events related to expanded sewer service beyond the Urban Growth Boundary affect existing spheres and MSRs?

Lamphier-Gregory estimates a draft report completed by November of 2022.

Financing

The proposed budget of the SVLAP study is at a not-to-exceed cost of \$30,000. Alameda LAFCO has sufficient funds to cover the estimated costs within the adopted budget for the current fiscal year.

Discussion

This item outlines a scope of analysis for the Commission to review with respect to preparing and timing the agency's SVLAP study. Presenting the scope of analysis for Commission review and consideration today has been prepared by staff in a manner consistent with adopted policy and with objective cooperation from stakeholders. These efforts will be emphasized by the Commission's Measure D Subcommittee (Haubert, Marchand, Woerner) collaborating with the Agricultural Advisory Committee and its Agriculture Enhancement Subcommittee to establish a consensus on key metrics, estimates, and performance measures to outline a constructive framework to discuss the agricultural and open space needs in the South Livermore Valley area.

Alternatives for Action

The following alternatives are available to the Commission:

Alternative One (Recommended):

Review the draft scope of analysis and identify any desired changes.

Alternative Two:

Continue consideration of the item at the next regular meeting.

Recommendation

It is recommended the Commission proceed with Alternative Action One.

Procedures

This item has been placed on Alameda LAFCO's agenda as part of the business calendar. The following procedures are recommended in consideration of this item:

1. Receive verbal presentation from staff unless waived.
2. Invite any comments from the public
3. Provide feedback on the item as needed.

Respectfully,



Rachel Jones
Executive Officer

Attachments: none

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TO: Alameda Commissioners

FROM: Rachel Jones, Executive Officer
Ad Hoc Selection Committee (Haubert, Marchand, Woerner)

SUBJECT: **Contract Award | Preliminary Comprehensive Fiscal Analysis**

The Alameda Local Agency Formation Commission (LAFCO) will consider awarding a service contract to Berkson Associates to perform work associated with LAFCO’s Preliminary Comprehensive Fiscal Analysis for the unincorporated communities of Castro Valley, Ashland, Cherryland, San Lorenzo, Fairview, and Hayward Acres. The contract is for a period of twelve months, starting in October of 2022, and in an amount not to exceed \$72,000.

Background

Alameda LAFCO’s workplan for FY 2022-2023 includes an objective to complete an incorporation feasibility study on the unincorporated areas of Castro Valley, Ashland, Cherryland, San Lorenzo, Fairview, and Hayward Acres. At Alameda LAFCO’s July 14th regular meeting, the Commission granted the circulation of a Request for Proposals (RFP) for the proposed feasibility study.

Selection Process

The RFP calling for bids from experienced consultants to assist Alameda LAFCO with the preparation of a Preliminary Comprehensive Fiscal Analysis (PCFA) was issued on July 14, 2022. The deadline to receive proposals was July 29, 2022. LAFCO compiled a list of potential bidders with the help of recommendations from other LAFCO agencies and the California Association of Local Agency Formation Commissions (CALAFCO) to distribute the RFP. The RFP was electronically sent to 30 firms and posted on the Alameda LAFCO and CALAFCO websites for approximately 15 days.

An Ad Hoc Selection Committee was formed to review, and screen written proposals, conduct interviews, and develop a recommendation. The Committee had Alameda LAFCO Executive Officer, Rachel Jones and Contra Costa LAFCO Executive Officer, Lou Ann Teixeira on the interview panel.

LAFCO received proposals from two firms. Based on the review of the written proposals, the Committee interviewed the two firms and they were the following:

- RSG
- Berkson Associates

The Committee conducted interviews on August 24th remotely through a video-conferencing service. The interviews were structured with questions designed to gauge the consultants' experience preparing PCFAs, approach to conducting required tasks, qualifications of personnel assigned to the project, and other factors to determine the ability of the firm to successfully complete the required feasibility study.

The firm Berkson Associates is recommended to the Commission for the reasons including, but not limited to, the following:

- The proposed methodology and level of experience indicates that work will be implemented in a timely manner.
- The firm has significant experience in feasibility studies (completed 12), working with public agencies, and public processes.
- Berkson Associates prepared Alameda LAFCO's last Comprehensive Fiscal Analysis in 2002 for the Castro Valley area.
- The firm has worked with several LAFCOs.
- The proposal presents a comprehensive scope of work and timeline.

Financing

Adequate funding is included in the FY 2022-2023 budgets to cover costs associated with these consulting services.

Alternatives for Action

The following alternatives are available to the Commission:

Alternative One (Recommended):

Award a service contract to Berkson Associates to conduct Alameda LAFCO's PCFA on Castro Valley and surrounding unincorporated communities in an amount not to exceed \$72,000; and

Authorize the Executive Officer to finalize negotiations and execute the consulting contract with Berkson Associates with the advise of LAFCO Legal Counsel.

Alternative Two:

Continue consideration of the item at a future meeting and provide direction to staff as needed.

Alternative Three:

Take no action.

Recommendation

It is recommended the Commission proceed with Alternative Action One.

Procedures

This item has been placed on Alameda LAFCO's agenda as part of the business calendar. The following procedures are recommended in consideration of this item:

1. Receive verbal presentation from staff unless waived.
2. Invite any comments from the public
3. Provide feedback on the item as needed.

Respectfully,



Rachel Jones
Executive Officer

Attachments:

1. Draft Contract with Berkson Associates - PCFA

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P.O./Contract # _____

**ALAMEDA LAFCO, ALAMEDA COUNTY, STATE OF CALIFORNIA
STANDARD AGREEMENT**

THIS AGREEMENT, made and entered into this *** day of *****, by and between the ALAMEDA LOCAL AGENCY FORMATION COMMISSION, a public agency of the State of California, hereafter called the "Alameda LAFCO", and Berkson Associates, a business duly qualified in the State of California, whose principal place of business 34 Terrace Avenue, San Anselmo, California 94960, is hereafter called the "Contractor."

WITNESSETH

WHEREAS, the Alameda LAFCO desires to obtain professional consulting services for a Preliminary Comprehensive Fiscal Analysis (PCFA) that is a part of LAFCO's workplan for fiscal year 2022-2023 and the proposal can be viewed in Exhibit A attached hereto ("Services"); and

WHEREAS, Contractor is professionally qualified to provide such services; and

WHEREAS, the Alameda LAFCO desires to retain and employ the services of Contractor in connection with such work, and Contractor is agreeable with such employment.

NOW, THEREFORE, it is agreed that the Alameda LAFCO does hereby retain and employ Contractor to provide the Services in connection with such work, and Contractor accepts such employment, on the terms and conditions hereinafter specified in this Agreement and additional provisions attached hereto, and the following described exhibits, all of which are incorporated into this Agreement by this reference:

- Exhibit A Scope of Services
- Exhibit B Payment Terms
- Exhibit C Insurance Requirements

CONTRACT PERIOD will be a continuance from October 1, 2022 through October 1, 2023. This Agreement may be extended by mutual agreement of both parties hereto, in writing not less than thirty (30) days prior to the expiration of this Agreement.

COMPENSATION: The Alameda LAFCO agrees to pay Contractor, pursuant to the terms set forth in Exhibit B, for services performed hereunder in a total amount not to exceed \$72,500 for the term of the current agreement, including all expenses, contingencies, and other miscellaneous expenses.

ADDITIONAL PROVISIONS, pages 3 through 11, attached hereto constitute a part of this agreement.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the day and year first above written.

ALAMEDA LAFCO

CONTRACTOR

By: _____
Rachel Jones
LAFCO EXECUTIVE OFFICER

CONTRACTOR

By: _____

Title: Principal

34 Terrace Avenue
San Anselmo, CA 94960
Address

Tax Payer I.D. # _____

APPROVED AS TO FORM:

Andrew Massey,
LAFCO LEGAL COUNSEL

I hereby certify under penalty of perjury that the Executive Officer of the Alameda LAFCO was duly authorized to execute this document on behalf of the Alameda LAFCO by a majority vote of the Commission on September 8, 2022.

Date: _____

ATTEST:

Alameda LAFCO
County of Alameda
State of California

By: _____

ADDITIONAL PROVISIONS

1. **EMPLOYER/EMPLOYEE RELATIONSHIP:** No relationship of employer and employee is created by this Agreement, it being understood that Contractor shall act hereunder as an independent Contractor; that Contractor shall not have any claim under this Agreement or otherwise against the Alameda LAFCO for seniority, vacation time, vacation pay, sick leave, personal time off, overtime, health insurance, medical care, hospital care, retirement benefits, Social Security, disability, Workers' Compensation, or unemployment insurance benefits, civil service protection, or employee benefits of any kind; that Contractor shall be solely liable for and obligated to pay directly all applicable taxes, including, but not limited to, Federal and State income taxes, and in connection therewith Contractor shall indemnify and hold the Alameda LAFCO harmless from any and all liability which the Alameda LAFCO may incur because of Contractor's failure to pay such taxes; that Contractor does, by this Agreement, agree to perform his/her said work and functions at all times in strict accordance with currently approved methods and practices in his/her field and that the sole interest of the Alameda LAFCO is to ensure that said service shall be performed and rendered in a competent, efficient, timely and satisfactory manner and in accordance with the standards required by the agency concerned. Notwithstanding the foregoing, if the Alameda LAFCO determines that pursuant to state and federal law Contractor is an employee for purposes of income tax withholding, the Alameda LAFCO shall, upon two weeks notice to Contractor withhold from the payments to Contractor hereunder federal and state income taxes and pay said sums over to the Federal and State governments.
2. **HOLD HARMLESS/INDEMNIFICATION:** To the fullest extent permitted by law, Contractor shall hold harmless, defend and indemnify Alameda LAFCO, its Commissioners, employees and agents from and against any and all claims, losses, damages, liabilities and expenses, including but not limited to attorneys' fees, arising out of or resulting from the performance of services under this Agreement, provided that any such claim, loss, damage, liability or expense is attributable to bodily injury, sickness, disease, death or to injury to or destruction of property, including the loss therefrom, or to any violation of federal, state or municipal law or regulation, which arises out of or is any way connected with the performance of this agreement (collectively "Liabilities") except where such Liabilities are caused solely by the negligence or willful misconduct of any indemnitee. Alameda LAFCO may participate in the defense of any such claim without relieving Contractor of any obligation hereunder. The obligations of this indemnity shall be for the full amount of all damage to Alameda LAFCO, including defense costs, and shall not be limited by any insurance limits.
3. **INSURANCE AND BOND:** Contractor shall at all times during the term of the Agreement with Alameda LAFCO maintain in force those insurance policies as designated in the attached Exhibit C, "Insurance Requirements," and will comply with all those requirements as stated herein.
4. **WORKERS' COMPENSATION:** Contractor shall provide Workers' Compensation insurance at Contractor's own cost and expense and further, neither the Contractor nor its carrier shall be entitled to recover from the Alameda LAFCO any costs, settlements, or expenses of Workers' Compensation claims arising out of this agreement.
5. **CONFORMITY WITH LAW AND SAFETY:**
 - A. Contractor shall observe and comply with all applicable laws, ordinances, codes and regulations of governmental agencies, including federal, state, municipal, and local

governing bodies, having jurisdiction over the scope of services or any part hereof, including all provisions of the Occupational Safety and Health Act of 1979 and all amendments thereto, and all applicable federal, state, municipal, and local safety regulations. All services performed by Contractor must be in accordance with these laws, ordinances, codes and regulations. Contractor shall indemnify and hold Alameda LAFCO harmless from any and all liability, fines, penalties and consequences from any noncompliance or violations of such laws, ordinances, codes and regulations. If a provision of this Agreement is found to be invalid, the parties legally, commercially, and practicably can continue this Agreement without that provision, and the remainder of this Agreement shall continue in force and effect unless an essential purpose of this Agreement would be defeated by the loss of such provision. In the event any of the terms, conditions, or provisions of this Agreement are held to be illegal or otherwise unenforceable, such term, condition or provision shall be deemed severable from the remainder of this Agreement and shall not cause any other part or provision of this Agreement to be illegal or unenforceable.

- B. **Accidents:** If death, serious personal injury or substantial property damage occurs in connection with the performance of this agreement, Contractor shall immediately notify Alameda LAFCO by telephone. Contractor shall promptly submit to Alameda LAFCO a written report, in such form as may be required by Alameda LAFCO of all accidents which occur in connection with this Agreement. This report must include the following information: (1) name and address of the injured or deceased person(s); (2) name and address of Contractor's subcontractor, if any; (3) name and address of Contractor's liability insurance carrier; and (4) a detailed description of accident and whether any of LAFCO's equipment, tools, material, or staff were involved. Contractor further agrees that it shall take all reasonable steps to preserve all physical evidence and information which may be relevant to accidents or circumstances surrounding a potential claim, while maintaining public safety. Contractor shall provide Alameda LAFCO the opportunity to review and inspect such evidence, including the scene of the accident.
6. **PAYMENT:** Payment to Contractor will be made only upon presentation of proper invoice by Contractor subject to the approval of Alameda LAFCO, and in accordance with this Agreement and its Exhibit B.
7. **ROYALTIES AND INVENTIONS:** The Alameda LAFCO shall have a royalty-free, exclusive and irrevocable license to reproduce, publish and use the results produced in the course of or under this Agreement; and Contractor shall not publish any such material relating to Alameda LAFCO without prior consent of Alameda LAFCO.
8. **CONFIDENTIALITY OF INFORMATION:** Confidential information is defined as all information disclosed to Contractor which relates to Alameda LAFCO's past, present, and future activities, as well as activities under this Agreement. Contractor will hold all such information with the same degree of care which Contractor utilizes to protect its own data of a similar nature. Upon cancellation or expiration of this Agreement, Contractor will return to Alameda LAFCO all written or descriptive matter which contains any such confidential information.
9. **CONFLICT OF INTEREST:** No officer, member, or employee of Alameda LAFCO and no member of its governing body shall have any pecuniary interest, direct or indirect, in this Agreement or the proceeds thereof. No Contractor, nor any member of Contractor's family shall serve on the Alameda LAFCO, or hold any such position which either by rule, practice or action

nominates, recommends, or supervises Contractor's operations, or authorizes funding to Contractor. Contractor shall immediately bring to Alameda LAFCO's attention any situation in which its client has, or is reasonably likely to have an application or other matter pending before Alameda LAFCO. The provisions of this Agreement are not exclusive, and thus Alameda LAFCO may at its discretion appoint a different firm to serve as its consultant in the event of a conflict. Contractor agrees not to assign any of the key personnel identified in Exhibit A to any matter that is, or is likely to be pending before Alameda LAFCO regardless of whether Alameda LAFCO in its discretion decides to hire another firm to avoid a conflict.

10. **USE OF ALAMEDA LAFCO PROPERTY:** Contractor shall not use Alameda LAFCO premises or property (including equipment, instruments and supplies) or personnel for any purpose other than in the performance of his/her obligations under this Agreement.
11. **EQUAL EMPLOYMENT OPPORTUNITY PRACTICES/PROVISIONS:** Contractor assures that it will comply with Title VII of the Civil Rights Act of 1964 and that no person shall, on the grounds of race, creed, color, disability, sex, sexual orientation, national origin, age, religion, Vietnam era Veteran's status, political affiliation, or any other non-merit factor, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this Agreement.
 - A. Contractor shall, in all solicitations or advertisements for applicants for employment placed as a result of this Agreement, state that it is an "Equal Opportunity Employer" or that all qualified applicants will receive consideration for employment without regard to their race, creed, color, disability, sex, sexual orientation, national origin, age, religion, Vietnam era Veteran's status, political affiliation, or any other non-merit factor.
 - B. Contractor shall, if requested to so do by Alameda LAFCO, certify that it has not, in the performance of this Agreement, discriminated against applicants or employees because of their race, creed, color, disability, sex, sexual orientation, national origin, age, religion, Vietnam era Veteran's status, political affiliation, or any other non-merit factor.
 - C. If requested to do so by Alameda LAFCO, Contractor shall provide Alameda LAFCO with access to copies of all of its records pertaining or relating to its employment practices, except to the extent such records or portions of such records are confidential or privileged under State or Federal law.
 - D. Contractor shall recruit vigorously and encourage minority- and women-owned businesses to bid its subcontracts.
 - E. Nothing contained in this contract shall be construed in any manner so as to require or permit any act which is prohibited by law.
 - F. The Contractor shall include the provisions set forth in paragraphs A through E (above) in each of its subcontracts.
12. **ASSIGNMENT OF CONTRACT:** Nothing contained in this Agreement shall be construed to permit assignment or transfer by Contractor of any rights under this Agreement and such assignment or transfer is expressly prohibited and void unless otherwise approved in writing by Alameda LAFCO.

13. **DRUG-FREE WORKPLACE:** Contractor and Contractor's employees shall comply with Alameda LAFCO's policy of maintaining a drug-free workplace. Neither Contractor nor Contractor's employees shall unlawfully manufacture, distribute, dispense, possess or use controlled substances, as defined in 21 U.S. Code section 812, including marijuana, heroin, cocaine, and amphetamines, at any LAFCO facility or work site. If Contractor or any employee of Contractor is convicted or pleads nolo contendere to a criminal drug statute violation occurring at an Alameda LAFCO facility or work site, the Contractor within five days thereafter shall notify the Executive Officer of Alameda LAFCO. Violation of this provision shall constitute a material breach of this Agreement.
14. **FEDERAL AND STATE AUDITS:** Until the expiration of five (5) years after the furnishing of any services pursuant to this Agreement, Contractor shall make available, upon written request, to the Federal/State government or any of their duly authorized representatives, this Agreement, and such books, documents, and records of Contractor that are necessary to certify the nature and extent of the reasonable cost of services to Alameda LAFCO. If Contractor enters into any Agreement with any related organization to provide services pursuant to this Agreement with value or cost of \$10,000 or more over a twelve-month period, such Agreement shall contain a clause to the effect that until the expiration of five years after the furnishing of services pursuant to such subcontract, the related organization shall make available, upon written request, to the Federal/State government or any of their duly authorized representatives, the subcontract, and books, documents and records of such organization that are necessary to verify the nature and extent of such costs. This paragraph shall be of no force and effect when and if it is not required by law. Alameda LAFCO shall have access to Contractor's financial records for purposes of auditing payments made to Contractor hereunder. Such records shall be complete and available for audit ninety (90) days after final payment is made to Contractor hereunder and shall be retained and available for audit purposes for five (5) years after said final payment hereunder.
15. **TIME IS OF THE ESSENCE** in each and all of the provisions of this agreement.
16. **AMENDMENT:** No change, alteration, variation, modification of the terms, termination or discharge of this Agreement shall be valid unless made in writing and signed by the parties hereto.
17. **ASSURANCE OF PERFORMANCE:** If at any time Alameda LAFCO believes Contractor may not be adequately performing its obligations under this Agreement, that Contractor may fail to complete the Services as required by this Agreement, or has provided written notice of observed deficiencies in Contractor's performance, Alameda LAFCO may request from Contractor prompt written assurances of performance and a written plan to correct the observed deficiencies in Contractor's performance. Contractor shall provide such written assurances and written plan within ten (10) calendar days of receipt of Alameda LAFCO's written request and shall thereafter diligently commence and fully perform such written plan. Contractor acknowledges and agrees that any failure to provide written assurances and a written plan to correct observed deficiencies, in the required time, to diligently commence and fully perform such written plan, is a material breach under this Agreement.
18. **KEY PERSONNEL:** Contractor shall identify himself as key personnel assigned to perform services in Exhibit A and obtain Alameda LAFCO approval of any substitution by the Contractor of key personnel.

19. **SUBCONTRACTORS:** Contractor shall identify and obtain Alameda LAFCO approval of all subcontractors. Nothing provided herein shall create any obligation on the part of Alameda LAFCO to pay or to see to the payment by Contractor of any monies to any subcontractor, supplier or vendor, nor create any relationship in contract or otherwise, express or implied between any such subcontractor, supplier or vendor and Alameda LAFCO. Approval by Alameda LAFCO of any subcontractor shall not constitute a waiver of any right of Alameda LAFCO to reject defective work, material or equipment, not in compliance with the requirements of this Agreement.
20. **CHOICE OF LAW:** This Agreement, and any dispute arising from the relationship between the parties to this Agreement, shall be governed by the laws of the State of California, excluding any laws that direct the application of another jurisdiction's laws, and its courts shall have jurisdiction (but not exclusive jurisdiction) to hear and determine all questions relating to this Agreement.
21. **WAIVER:** Any failure of a party to assert any right under this Agreement shall not constitute a waiver or a termination of that right, under this Agreement or any provisions of this Agreement.
22. **ENTIRE AGREEMENT:** This Agreement, including all attachments, exhibits, and any other documents specifically incorporated into this Agreement, shall constitute the entire Agreement between Alameda LAFCO and Contractor relating to the subject matter of this Agreement. As used herein, Agreement refers to any documents incorporated herein by reference and any exhibits or attachments. This Agreement supersedes and merges all previous understandings, and all other agreements, written or oral, between the parties and sets forth the entire understanding of the parties regarding the subject matter thereof. The Agreement may not be modified except by a written document signed by both parties.
23. **TERMINATION:** Alameda LAFCO may terminate this Agreement with or without cause by providing thirty (30) days notice, in writing, to the Contractor. Upon the expiration of said notice, this Agreement shall become of no further force or effect whatsoever and each of the parties hereto shall be relieved and discharged here from. Alameda LAFCO may terminate at any time without notice upon material breach of the terms of this Agreement and/or in the event that Alameda LAFCO determines that the Contractor's performance is substandard or unsatisfactory.
24. **SURVIVAL:** The obligations of this Agreement, which by their nature would continue beyond the termination or expiration of the Agreement, including without limitation, the obligations regarding Hold Harmless/Indemnification (paragraph 2), Confidentiality of Information (paragraph 9), and Conflict of Interest (paragraph 10), shall survive termination or expiration.
25. **NOTICES:** All notices, requests, demands, or other communications under this Agreement shall be in writing. Notices shall be given for all purposes as follows:
 - **Personal delivery:** When personally delivered to the recipient, notices are effective on delivery.
 - **First Class Mail:** When mailed first class to the last address of the recipient known to the party giving notice, notice is effective three mail delivery days after deposit in a United States Postal Service office or mailbox.
 - **Certified Mail:** When mailed certified mail, return receipt requested, notice is effective on receipt, if delivery is confirmed by a return receipt.

- **Overnight Delivery:** When delivered by overnight delivery (Federal Express/United Parcel Service/DHL WorldWide Express/etc.) with charges prepaid or charged to the sender's account, notice is effective on delivery, if delivery is confirmed by the delivery service.
- **Telex or facsimile transmission:** When sent by telex or fax to the last telex or fax number of the recipient known to the party giving notice, notice is effective on receipt, provided that (a) a duplicate copy of the notice is promptly given by first-class or certified mail or by overnight delivery, or (b) the receiving party delivers a written confirmation of receipt. Any notice given by telex or fax shall be deemed received on the next business day if it is received after 5:00 p.m. (recipients time) or on a non-business day.

Addresses for purpose of giving notice are as follows:

To LAFCO: Alameda LAFCO
 224 West Winton, Suite 110
 Hayward, CA 94544

To Contractor: Berkson Associates
 34 Terrace Avenue
 San Anselmo, CA 94960

Any correctly addressed notice that is refused, unclaimed, or undeliverable because of an act or omission of the party to be notified shall be deemed effective as of the first date that said notice was refused, unclaimed, or deemed undeliverable by the postal authorities, messenger, or overnight delivery service.

Any party may change its address or telex or facsimile number by giving the other party notice of the change in any manner permitted by this Agreement.

[END OF ADDITIONAL PROVISIONS]

EXHIBIT A - SCOPE OF SERVICES

Task 1 – Project Initiation

Task 2 – Data Collection and Review

Task 3 – Cost and Revenue Forecast

Task 4 – Impacts on Other Agencies

Task 5 – Prepare PCFA and Related Materials: Administrative Draft for Internal Review, Public Review Draft, Report Revisions Based on Comments

Task 6 – Meetings and Presentations: Kick-off Meeting (Task 1), Meeting with County of Alameda, Community Workshops, LAFCO Hearing

EXHIBIT B – CONTRACT PAYMENT TERMS

Contracted Service:

1. The Alameda LAFCo will pay Contractor for services provided herein, upon submittal of an invoice and summary report of services performed pursuant to this agreement. All services will be performed at the direction of, and with the prior authorization of, the LAFCO Executive Officer. Invoices will be approved by the Alameda LAFCO Executive Officer. Payments under the terms of this Agreement shall not exceed \$72,500. This amount includes all administrative expenses and costs, travel expenses and contingencies. For the purposes assigned in the proposal, the billing rates are as listed in the firm's proposal and shown below:

Richard Berkson, Principal: \$250/hour

2. Alameda LAFCo expects Contractor to cover all costs of professional development activities, training, and/or continuing education unless Alameda LAFCo requires such professional development activities, training and/or continuing education of Contractor or Contractor obtains prior written approval from LAFCO to incur the cost of such professional development activities, training and/or continuing education.
3. The term of this Agreement is October 1, 2022 through October 1, 2023.

EXHIBIT C - MINIMUM INSURANCE REQUIREMENTS

Without limiting any other obligation or liability under this Agreement, the Contractor, at its sole cost and expense, shall secure and keep in force during the entire term of the Agreement or longer, as may be specified below, the following minimum insurance coverage, limits and endorsements:

TYPE OF INSURANCE COVERAGES		MINIMUM LIMITS
A	Commercial General Liability Premises Liability; Products and Completed Operations; Contractual Liability; Personal Injury and Advertising Liability	\$1,000,000 per occurrence (CSL) Bodily Injury and Property Damage
B	Commercial or Business Automobile Liability All owned vehicles, hired or leased vehicles, non-owned, borrowed and permissive uses. Personal Automobile Liability is acceptable for individual contractors with no transportation or hauling related	\$1,000,000 per occurrence (CSL) Any Auto Bodily Injury and Property Damage
C	Workers' Compensation (WC) and Employers Liability (EL) Required for all contractors with employees	WC: Statutory Limits EL: \$1,000,000 per accident for bodily injury or disease
D	<p><u>Endorsements and Conditions:</u></p> <ol style="list-style-type: none"> ADDITIONAL INSURED: All insurance required above with the exception of Commercial or Business Automobile Liability, Workers' Compensation and Employers Liability, shall be endorsed to name as additional insured: the Alameda Local Agency Formation Commission (LAFCO), the individual members thereof, and all Alameda LAFCO officers, agents, employees, volunteers, and representatives. The Additional Insured endorsement shall be at least as broad as ISO Form Number CG 20 38 04 13. DURATION OF COVERAGE: All required insurance shall be maintained during the entire term of the Agreement. In addition, Insurance policies and coverage(s) written on a claims-made basis shall be maintained during the entire term of the Agreement and until 3 years following the later of termination of the Agreement and acceptance of all work provided under the Agreement, with the retroactive date of said insurance (as may be applicable) concurrent with the commencement of activities pursuant to this Agreement. REDUCTION OR LIMIT OF OBLIGATION: All insurance policies, including excess and umbrella insurance policies, shall include an endorsement and be primary and non-contributory and will not seek contribution from any other insurance (or self-insurance) available to Alameda LAFCO. The primary and non-contributory endorsement shall be at least as broad as ISO Form 20 01 04 13. Pursuant to the provisions of this Agreement insurance effected or procured by the Contractor shall not reduce or limit Contractor's contractual obligation to indemnify and defend the Indemnified Parties. INSURER FINANCIAL RATING: Insurance shall be maintained through an insurer with a A.M. Best Rating of no less than A:VII or equivalent, shall be admitted to the State of California unless otherwise waived by Risk Management, and with deductible amounts acceptable to Alameda LAFCO. Acceptance of Contractor's insurance by Alameda LAFCo shall not relieve or decrease the liability of Contractor hereunder. Any deductible or self-insured retention amount or other similar obligation under the policies shall be the sole responsibility of the Contractor. SUBCONTRACTORS: Contractor shall include all subcontractors as an insured (covered party) under its policies or shall verify that the subcontractor, under its own policies and endorsements, has complied with the insurance requirements in this Agreement, including this Exhibit. The additional Insured endorsement shall be at least as broad as ISO Form Number CG 20 38 04 13. JOINT VENTURES: If Contractor is an association, partnership or other joint business venture, required insurance shall be provided by one of the following methods: <ul style="list-style-type: none"> Separate insurance policies issued for each individual entity, with each entity included as a "Named Insured" (covered party), or at minimum named as an "Additional Insured" on the other's policies. Coverage shall be at least as broad as in the ISO Forms named above. Joint insurance program with the association, partnership or other joint business venture included as a "Named Insured". CANCELLATION OF INSURANCE: All insurance shall be required to provide thirty (30) days advance written notice to Alameda LAFCo of cancellation. CERTIFICATE OF INSURANCE: Before commencing operations under this Agreement, Contractor shall provide Certificate(s) of Insurance and applicable insurance endorsements, in form and satisfactory to Alameda LAFCO, evidencing that all required insurance coverage is in effect. Alameda LAFCO reserves the rights to require the Contractor to provide complete, certified copies of all required insurance policies. The required certificate(s) and endorsements must be sent as set forth in the Notices provision. 	



LAFCO

Alameda Local Agency Formation Commission

AGENDA REPORT

July 14, 2022

Item No. 7

TO: Alameda Commissioners

FROM: Rachel Jones, Executive Officer
Policy and Budget Committee (Johnson, Vonheeder-Leopold, Woerner)

SUBJECT: Proposed Amendments to Commissioner Compensation Policy

The Alameda Local Agency Formation Commission (LAFCO) will consider amending its policy on Commissioner stipends that expands the coverage of payments to include attendance at standing and ad hoc committee meetings, and increases the stipend amount to \$125. The policy also specifies certain LAFCO activities that Commissioners may claim for individual reimbursements. Costs associated with the proposed amendments tally to \$9,000 and represents a \$1,500 deficit in the related expense account. Staff believes cost savings from the Commission’s designated office supplies’ expenditure will be able to offset the loss. Staff recommends the Commission adopt the proposed Commissioner stipend policy with any desired changes.

Background

It has been the long-standing majority opinion of the Commission that a flat per meeting compensation is preferable to a per diem allowance and/or individual reimbursements for such necessary and reasonable expenses as mileage, parking, or other meeting costs. The current policy, however, does not explicitly state this practice and refers to a per diem allowance for Commission compensation. Additionally, there is no mention of the current stipend rate for meeting attendance. The current stipend amount for regular meetings is \$100 and has been in effect since November 2002.

Staff proposes a stipend policy that increases the rate to \$125 for regular or special meetings, as well as, expand the stipend payments to include standing and ad hoc committee meetings. Annual costs are expected to total \$9,000, and can be accommodated through prior budget actions and cost savings from the Commission’s office supplies account. The proposed amendments for increasing the stipend amount to \$125, and including non-regular Commission meetings for stipend payments, is in step regionally, with other Bay Area LAFCOs.

Analysis

The proposed amendments state that Commissioners shall receive a \$125 stipend for attendance at the following LAFCO-related meetings:

1. Regular and special meetings of the Commission.
2. Meetings of standing and ad hoc committees of the Commission when they meet on a day separate from a day in which the Commission meets.

The payment of stipends is limited to no more than five per member in any month.

The policy also specifies that Commissioners may claim reimbursement for expenses incurred in performance of official Commission business, including attendance at CALAFCO conferences or training sessions for such necessary and reasonable expenses as transportation, lodging, food, and communication.

Increasing the stipend amount and coverage at Alameda LAFCO to include standing and ad hoc committee meetings is aligned with other LAFCOs in the region and appropriately compensates Commissioners for their additional time expended in performing related duties. The proposed amendment also clarifies the Commission's established practice of using stipends for certain LAFCO-related meetings and specifies which activities qualify for individual claim reimbursements.

Alternatives for Action

The following alternatives are available to the Commission:

Alternative One (Recommended):

Adopt the amendments to the Commissioner Compensation policy as shown in Attachment 1 with any desired changes.

Alternative Two:

Continue consideration of the report to a future meeting and provide direction to staff as needed.

Recommendation

It is recommended the Commission proceed with Alternative Action One.

Respectfully,

A handwritten signature in blue ink, appearing to read "Rachel Jones", with a long horizontal flourish extending to the right.

Rachel Jones
Executive Officer

Attachments:

1. Proposed Commissioner Stipend Policy

Alameda LAFCo COMMISSION BY-LAWS, BUDGET & OPERATING POLICIES

office. All appointed members may be reappointed to an unlimited number of consecutive terms provided they meet the membership criteria for that body. The Commission Clerk will administer the Oath of Office at the installation of a new member.

1.9 Officers

Regular members of the Commission elect a Commission Chair and Vice Chair at the May meeting. The newly elected officers shall assume office at the next Commission meeting. Unless otherwise determined by the Commission, the Chair and Vice Chair will each serve one two-year term, and, commencing November 2008, rotation of Officers shall be as follows: Special District, County, Public, and City. However, if the Chair becomes vacant mid-term, the Vice Chair shall be given the opportunity to serve as Chair for the remainder of the term. If the Vice Chair declines, the vacancy shall be filled for the remainder of the term by election at the next regular meeting following occurrence of the vacancy.

1.10 Commissioner Compensation

Commissioners shall receive a \$125 stipend for attendance at the following LAFCo-related meetings:

1. Regular and special meetings of the Commission.
2. Meetings of standing and ad hoc committees of the Commission when they meet on a day separate from a day in which the Commission meets.

The payment of stipends is limited to no more than five per member in any month.

Commissioners shall receive reimbursement for expenses incurred in performance of official Commission business, including attendance at CALAFCo conferences or training sessions. Such expenses shall include the costs of transportation, lodging, food, communications, training or events related to service on the Commission. Claims for expense reimbursement for Commissioners shall be submitted to Staff for processing.

LAFCo Funding

- 1.11 Most Alameda LAFCo expenses are funded by equal contributions from Alameda County, its cities and its special districts. LAFCo also recovers a portion of actual proposal processing costs by charging fees for certain services (See LAFCo Schedule of Fees and Charges).

Staffing

- 1.12 LAFCo shall independently appoint the Executive Officer, staff and legal counsel. LAFCo may contract with Alameda County for the provision of staff, offices, equipment, and supplies as permitted in its budget and policies. The Commission may use other means for acquiring personnel, services and supplies as deemed appropriate by the Commission.

CALAFCo

- 1.13 Alameda LAFCo shall be a member of the California Association of Local Agency Formation Commissions (CALAFCo) and will participate in the State association.



TO: Alameda Commissioners
FROM: Rachel Jones, Executive Officer
SUBJECT: **Current and Pending Proposals**

The Commission will receive a report identifying active proposals on file with the Alameda Local Agency Formation Commission (LAFCO) as required under statute. The report also identifies pending local agency proposals to help telegraph future workload. The report is being presented to the Commission for information only.

Information / Discussion

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (“CKH”) delegates LAFCOs with regulatory and planning duties to coordinate the formation and development of local government agencies and their municipal services. This includes approving or disapproving boundary changes involving the formation, expansion, merger, and dissolution of cities, towns, and special districts, as well as sphere of influence amendments. It also includes overseeing outside service extensions. Proposals involving jurisdictional changes filed by landowners or registered voters must be put on the agenda as information items before any action may be considered by LAFCO at a subsequent meeting.

Current Proposals | Approved and Awaiting Term Completions

Alameda LAFCO currently has no proposals on file that were previously approved and awaiting term completions. CKH provides applicants one calendar year to complete approval terms or receive extension approvals before the proposals are automatically terminated.

Current Proposals | Under Review and Awaiting Hearing

There are currently no active proposals on file with the Commission that remain under administrative review and await a hearing as to the date of this report.

Pending Proposals

There is currently one new potential proposal at the moment that staff believes may be submitted to the Commission from local agencies based on ongoing discussions with proponents.

- **Annexation of West Jack London Boulevard | City of Livermore**

The City of Livermore plans to annex two parcels on West Jack London Boulevard that total 71 acres within the unincorporated area of Alameda County. The purpose of the annexation is to facilitate the Oaks Business Park for the development of offices, research institutions, warehousing, manufacturing and limited business supporting commercial uses.

Alternatives for Action

The Commission is invited to discuss the item and provide direction to staff on any related matter as needed for future discussion and or action.

Attachments: none



TO: Alameda Commissioners
FROM: Rachel Jones, Executive Officer
SUBJECT: **Progress Report on 2022-2023 Work Plan**

The Alameda Local Agency Formation Commission (LAFCO) will receive a progress report on accomplishing specific projects as part of its adopted work plan for 2022-2023. The report is being presented to the Commission to formally receive and file as well as provide direction to staff as needed.

Background

Alameda LAFCO’s current strategic plan was adopted following a planning session on December 16, 2019. The plan defines each of LAFCO’s priorities through overall goals, core objectives, and target outcomes with overarching themes identified as education, facilitation, and collaboration. The strategic plan is anchored by seven key priorities that collectively orient the Commission to proactively fulfill its duties and responsibilities under the Cortese-Knox-Hertzberg Act of 2000 in a manner responsive to local conditions and needs. These pillars and their attendant strategies, which premise individual implementation outcomes, are summarized in Attachment 1.

1. Education – Serve as a resource to the public and local agencies to support orderly growth and logical sustainable service provision.
2. Facilitation – Encourage orderly growth and development through the logical and efficient provision of municipal services by local agencies best suited to feasibly provide necessary governmental services and housing for persons and families of all incomes.
3. Collaboration – Be proactive and act as a catalyst for change as a way to contribute to making Alameda County a great place to live and work by sustaining its quality of life.

On May 13, 2021, Alameda LAFCO adopted the current fiscal year work plan at a noticed public hearing. The work plan is divided into two distinct categories – statutory and administrative – with one of three priority rankings: high; moderate; or low. The underlying intent of the work plan is to serve as a management tool to allocate Commission resources in an accountable and transparent manner over the corresponding 12-month period that pulls from the key priorities in the Commission’s 2020-2021 Strategic Plan.

Further, while it is a standalone document, the work plan should be reviewed in relationship to the adopted operating budget given the planned goals and activities are facilitated and or limited accordingly.

The item provides the Commission with a status update on two-dozen plus targeted projects established for the fiscal year with a specific emphasis on the “top ten” projects that represent the highest priority to complete during the fiscal year as determined by the membership. This includes identifying the projects already completed, underway, or pending in the accompanying attachment. The report and referenced attachment are being presented for the Commission to formally receive and file while also providing additional direction to staff as appropriate.

Discussion

The Commission has initiated work on three of the nineteen projects included in the adopted work plan. This includes progress on projects, such as the municipal service review (MSR) on Fire Protection and Emergency Medical Services, Unincorporated Areas Incorporation Feasibility Report, and the Sustainable Agriculture Lands Conservation Planning Grant.

Alternatives for Action

The Commission is invited to discuss the item and provide direction to staff on any related matter as needed for future discussion and or action.

Attachments:

1. 2020-2021 Strategic Plan
2. 2022-2023 Work Plan

ALAMEDA LOCAL AGENCY FORMATION COMMISSION

STRATEGIC PLAN

2020 -2021

MISSION STATEMENT: Alameda LAFCO provides oversight over local governments to make Alameda County a great place to live and work by balancing the preservation of agriculture and open space with the provision of sustainable municipal services

	EDUCATION	FACILITATION	COLLABORATION
STRATEGIC PILLARS	Serve as a resource to the public and to local agencies to support orderly growth and logical, sustainable service provision	Encourage orderly growth and development through the logical and efficient provision of municipal services by local agencies best suited to feasibly provide necessary governmental services and housing for persons and families for all incomes.	Be proactive and act a catalyst for change as a way to contribute to making Alameda County a great place to live and work by sustaining the quality of life.
CORE STRATEGIES	Enagage with the community through LAFCO outreach as well as receive presentations from outside stakeholders and local agencies to understand issues	Use LAFCO authority through municipal services reviews and change of organizations to promote the change in the region aligned with its mission	Always seek, determine, and question if any regional issues are opportunities for partnerships
TARGET OUTCOMES	Review growth boundaries and governance	Regulate land use through the extension of services	Coordinate with other agencies to determine high-need areas (DUCs)
	Provide Presentations to City Councils, Special Districts, and the County on upcoming projects and LAFCO's role	Provide more guidance on regional issues	Promote inter-agency special projects and partnerships
	Understand local agricultural issues and then consider a study	Create a five-year island annexation plan	Work with stakeholders to identify issues under LAFCO jurisdiction related to economic viability of agriculture
	Identify emerging issues, i.e. water treatment changes	Prepare comprehensive study on climate change	Establish policies and standards to address sustainability of adequate and reliable water supplies, including the use of recycled water
	Educate public on service costs	Encourage consolidations or review shared opportunities	Conduct joint LAFCO workshops
	Determine LAFCO's role in housing	Unfunded liabilities in services - do more to encourage future planning	Create homelessness initiatives with other agencies

Priority	Urgency	Type	Project	Key Issues
1	High	Statutory	Community Services Municipal Service Review	Service Specific MSR Identify Accessibility Issues for Broadband Services
2	High	Statutory	General MSR on Fire Protection and Emergency Services	Second MSR on Fire and Emergency Services sine 2006 Address Shared Opportunities
3	High	Statutory	Alameda County Resource Conservation District MSR	MSR on resource conservation in Alameda County
4	High	Administrative	LAFCO Office Move	Fulfill Long-Term Lease in MOU with CDA; Aid in Hiring LAFCO Analyst
5	High	Statutory	Countywide MSR on Police Services	Examine Current Provision and Need for Police Services and Related Financial and Governance Considerations
6	High	Administrative	South Livermore Valley Area Specific Plan	Provide a LAFCO Update on Plan and Review Current Trends
7	High	Administrative	2018-2021 Audits	Verify Fund Balance; Perform Regular Audits
8	Moderate	Administrative	Alameda LAFCO Brochure	Create and Distribute Pamphlet for LAFCO Outreach and Education
9	Moderate	Statutory	Informational Report on Island Annexations	Map all Unincorporated Islands and Examine Island Annexation Implementation Issues in Alameda County
10	Moderate	Administrative	Create Countywide Regional Water and Wastewater Committee	Explore Opportunities and Share Practices for Collobaration on Recycled Water for the Region and Better Utilization of Imported Water
11	Moderate	Statutory	Unincorporated Areas Incorporation Feasibility Report	Prepare a Feasibility Report on the Incorporation of Castro Valley and surrounding areas of Ashland, Cherryland, and San Lorenzo
12	Moderate	Administrative	SALC Grant Award	Continue Two-Year Process on Grant Project and Track Agricultural Trends
13	Moderate	Administrative	Prepare Informational Report on JPAs	Post Enactment of SB 1266; Enhance Repository on Local Government Services
14	Low	Administrative	Review of County Transfer of Jurisdiction Policies	Ensure Policies are Consistent with CKH
15	Low	Administrative	Update Application Packet and Mapping Requirements	Streamline LAFCO Application and County Mapping Requirements; Make User Friendly
16	Low	Administrative	Informational Report on Remen Tract	Special Report on Service Delivery
17	Low	Administrative	Bay Area LAFCO Meetings	Attend Meetings with Other Bay Area LAFCOs for Projects/Training

18	Low	Administrative	Host Alameda County Special District Association Meeting	Communicate LAFCO's Mission and Goals to the Community
18	Low	Administrative	Social Media	Expand Alameda LAFCO's Social Media Presence
19	Ongoing	Statutory	Policy Review on Agricultural Protection and Out of Area Service Agreements	Periodical review of existing policies relative to practices and trends, and determine whether changes are appropriate to better reflect current preferences