

**SACRAMENTO LOCAL AGENCY FORMATION COMMISSION**  
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November 5, 2003

TO: Sacramento Local Agency Formation Commission

FROM: Peter Brundage, Executive Officer  
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RE: **Policy Discussion Paper:**  
**Open Space and Agricultural Land Preservation Policy**

**RECOMMENDATION**

Direct staff to continue to meet with interested parties (landowners, County, cities, other agencies, and community groups) to solicit comments and suggestions regarding proposed Sacramento LAFCo Policies, Procedures and Guidelines for Open Space and Agricultural Resource Preservation. The Guidelines will encourage cities to develop General Plan policies, ordinances, and programs that consider and mitigate impacts on open space and prime agricultural resources.

**BACKGROUND**

We have previously discussed the development of criteria and standards regarding water availability, infill/smart growth, and regional fair share housing, as well as other relevant factors to be considered in the evaluation of future Sphere of Influence and Change of Organization proposals. As benchmarks are met, the various areas of policy development will be presented for the consideration of your Commission.

This is a report back on the development of Open Space and Agricultural Land Preservation Policies. These policies will provide your Commission the criteria to apply to future proposals. Maps showing the county-wide open space and agricultural resources, overlaid with all city boundaries, are attached as Exhibits A1 - 3.

Staff has revised the Sacramento LAFCo policies and procedures to reflect changes in Hertzberg legislation. The revised policies will inform the public about how Sacramento LAFCo will evaluate the preservation of open space and prime agricultural resources during LAFCo proceedings.

Staff appreciates that cities are mandated to develop responsible, community based local land use policies that address the economic, political, environmental and social issues of their jurisdictions. However, there may be a tension in the ability to maintain a regional perspective regarding issues beyond the control of a single jurisdiction, which may not be congruent with local preferences.

### **LAFCo Legislative Mandate**

As you know, your Commission plays a role in regional planning issues by taking into consideration a wide range of land use and growth factors when acting on matters under your jurisdiction. LAFCo has broad statutory responsibility to facilitate planned, orderly, efficient patterns of urban development; preserve agricultural lands; and discourage urban sprawl. Your decisions must balance the competing needs for affordable housing, economic opportunities, public safety and the preservation of natural resources.

By making decisions about the extent of the geographic area over which a local government or special district may control planning, services provision and development, LAFCo may influence the extent and path of growth and development both locally and regionally. Local growth pressures are influenced by an array of external variables which necessitate that local governments respond in an equally varied manner. They may choose to grow, or not to grow. Also, the electorate may initiate referendums on growth management. These considerations contribute to the nature and direction of growth.

LAFCo oversees logical and timely changes in local governmental boundaries (§56001); conducts special studies which review ways to reorganize, simplify and streamline governmental structures (§56031); and prepares Spheres of Influence for each city and special district within the County (§56425). The mission of LAFCo is to promote orderly development, discourage urban sprawl, preserve open space and prime agricultural lands, provide for housing for persons and families of all incomes, and encourage the efficient extension of governmental services.

In fulfilling this mission, LAFCo has various mandates which may be in conflict: (1) provide land for orderly development and efficient service delivery; (2) preserve and protect open space and prime agricultural lands. These two mandates often compete with one another.

### **Linkage and Interrelationship Between Open Space, Agricultural Preservation and Urban Development**

Open space and agriculture preservation policies are directly linked to land use planning decisions. The timing and extent of an area to be annexed is a function of the level of efficiency of how a city develops existing land inventory, and how it plans to use the area to be annexed. In-fill strategies, mixed-use and smart growth principles, redevelopment and re-use (brownfield) programs, intensity of use and distribution of density, all contribute to the character of the city. In light of this direct linkage and integration of

planning for growth, it is necessary for localities to develop General Plan land use and development strategies which include open space and agricultural preservation policies.

### **Open Space and Agricultural Preservation Mitigation Measures**

It may be difficult, and even imprudent, to develop a single set of rigid, pre-determined mitigation requirements for all annexations and Sphere of Influence amendments. Each Sphere of Influence and annexation proposal has distinct factors including, but not limited to, soil types, geography, topography, species and habitat issues, infrastructure capacity and availability, service delivery issues, civic standards and environmental resources. Consequently, each area will need to be analyzed in the context of constraints and opportunities related to the specific location.

LAFCo should act as a filter for the timing and direction of new growth outside existing jurisdictional boundaries during the evaluation of Sphere of Influence and Annexation proposals. Your Commission must weigh the needs and resources of each community, the regional implications, and impacts to environmental resources.

LAFCo policies and procedures should encourage each city to adopt General Plan policies, local ordinances and programs committed to minimize adverse social and environmental impacts and direct growth inward and/ or away from “greenfield” prime agricultural and open space resources. New growth should take advantage of existing public and private infrastructure investment, resources, and capacity.

### **Selected Other LAFCo Open Space and Agricultural Preservation Policies**

Staff has reviewed the policies and procedures of other LAFCo's around the state, and selected polices or approaches which may also be applicable for Sacramento. The twenty-five LAFCo's with applicable adopted open space/ agriculture preservation policies are shown in the attached matrix (Exhibit B). Many of the LAFCo's largely carry forward the language of Cortese-Knox-Hertzberg, while others reflect local standards.

### **Sacramento LAFCo Open Space and Prime Agricultural Preservation Policies**

Your Commission and staff will consider open space and prime agriculture impacts in the review of annexations, detachments, Sphere of Influence reviews, and incorporation proposals. The proposed policies are in the attached Exhibit C. The intent of these policies is further discussed below.

Applicable definitions of open space and prime agricultural lands are shown in Exhibit D.

Local Agency Formation Commissions are directed to guide growth, if possible, to areas that are not prime agricultural land and/or to protect natural resources. However, LAFCo does not have land use authority. That responsibility lies with the local governing entity, either a city or county.

Government Code Section 56377 guides development away from open-space lands:

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

- (a) Development or use of land for other than open-space uses shall be guided away from existing prime agricultural lands, in working landscapes or in open-space use toward areas containing nonprime agricultural lands, unless that action would not promote the planned, orderly, efficient development of an area.
- (b) Development of existing vacant or nonprime agricultural lands for urban uses within the existing jurisdiction of a local agency or within the sphere of influence of a local agency should be encouraged before any proposal is approved which would allow for or lead to the development of existing open-space lands for non-open-space uses which are outside of the existing jurisdiction of the local agency or outside of the existing sphere of influence of the local agency.

### **LAFCo Relationship and Framework of General Plan Process**

When making decisions, your Commission must review the affected city's applicable General Plan policies and related development proposals to ensure that LAFCo objectives for efficient service delivery, open space and prime agricultural preservation are achieved. Local General Plan policies may need to be reconciled with LAFCo policies in order for the city or district to obtain LAFCo approval. LAFCo, for instance, may be unable to approve an annexation or SOI amendment if those actions could be construed to encourage sprawl development on prime agricultural land.

The General Plan provides the policy foundation for the physical, economic, and environmental growth and renewal of the adopting jurisdiction. It contains goals, policies, programs, and actions which are based on an assessment of current and future needs, and available resources. A General Plan addresses land uses, the circulation network, and supporting facilities and services. The General Plan is the principle tool a city or county uses in evaluating public and private development projects and municipal service improvements to keep pace with the demands of new growth, and address community needs.

Cities and counties must adopt General Plans, with seven required elements.

- **The Land Use Element**
- **The Circulation Element**
- **The Housing Element.**
- **The Conservation Element**
- **The Open-space Element**
- **The Noise Element**

- **The Safety Element**

Each of these elements may have open space/ agriculture implications which should be considered during LAFCo proceedings.

- The Land Use Element designates the type, intensity, and general distribution of uses of the land for housing, business, industry, agriculture and open-space.
- The Circulation Element is correlated with the Land Use Element and identifies the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, and other local public utilities and facilities.
- The Housing Element is a comprehensive assessment of current and projected housing needs for all segments of the jurisdiction and all economic groups.
- The Conservation Element addresses the conservation, development, and use of natural resources.
- The Open-Space Element details plans and measures for preserving open-space for natural resources, the managed production of resources, outdoor recreation, public health and safety, and the identification of agricultural land.
- The Noise Element identifies and appraises the noise environment and influences the basis for land use distribution.
- The Safety Element establishes policies and programs to protect the community from risks associated with seismic, geologic, flood, and wildfire hazards.

The General Plan should be updated as local circumstances warrant, in order to maintain a contemporary policy framework. The Housing Element must be updated every five years.

The General Plan of every city and county is unique. It reflects local preferences and community identity. This distinction results from many factors. General Plans are based on local natural features (water, geography, topography); conditions for their preservation (environmental mitigation factors); community character (urban, suburban, rural); as well as the need to make available territory which can accommodate new growth (employment, immigration, births, demographic shifts) from the perspective of current as well as new infrastructure, the cost of its development, and the effect of any single factor on all of the factors cited above.

These issues influence the type of development the jurisdiction ultimately determines to be in the public interest, and its consistency with the General Plan. The planning process is based on a public hearing process and the input of individuals, business, community and neighborhood groups, environmental groups and other interested parties. The final authority for land use decisions rests with the elected city council or board of supervisors.

Consequently, each city has different land use patterns, development standards and trends, open space requirements, land use intensities and/or densities, service levels, and growth pressures.

Land use decisions are local choices made in light of local circumstances by local officials. However, their decisions impact the quality of life and life styles not only of the territory within their jurisdiction, but also of the entire region. It is the responsibility of LAFCo to review requests for changes within boundaries in the context of regional implications to the capacity and efficiency of service delivery, impacts to air quality, public safety (floodplain management, fire suppression resources) transportation and open space and prime agricultural resources.

**LAFCo Policies for the Evaluation of Annexations, Detachments, Sphere of Influence and Incorporation Proposals**

Local Agency Formation Commissions should adopt written procedures for the evaluation of proposals, including written definitions of terms, consistent with state law.

Policy Goal

Sacramento Local Agency Formation Commission should evaluate Sphere of Influence, annexation, and incorporation proposals in order to meet projected population growth **in relation** to its requirements to preserve and protect open space.

Assumption: Cities annex property to provide land to meet employment and population growth and demand. Cities typically do not acquire land for the preservation of open space or agricultural pursuits, although there are cases of land being annexed for community buffers/ open space form. Also, based upon local government finance structure (i.e. “fiscalization of land use”) cities require some level of economic growth to sustain financial viability. This provides a significant dilemma causing cities to face difficult choices. New growth allows cities to improve, or in some cases simply maintain, the level of services available.

Nonetheless, the Sacramento LAFCo current policies may be enhanced to require each city to address specific factors within its General Plan and local ordinances prior to submitting a request for a Sphere of Influence Amendment or the annexation of territory. This approach provides guidance to the annexing agency, while respecting oversight by the city, based on local needs, to determine community standards to mitigate impacts to

open space, prime agricultural and habitat resources prior to submitting an application to LAFCo.

Your Commission currently has general standards and policies to preserve and protect open space and prime agricultural lands. The context of the proposed amendments to the LAFCo polices and procedures are discussed below.

LAFCo would favor a proposal where the city has adopted General Plan policies, implementing ordinances and programs that address:

- demand analysis – timing of buildout and use of existing land inventory
- habitat preservation as applicable
- mitigation and acquisition program for prime agricultural and open space resources
- infill, reuse, and redevelopment programs
- Smart Growth Principles and Civic Standards for:
  - transit supportive land uses
  - efficient density distribution and land use intensities
- capacity and ability to provide or extend services
- water supply
- performance standards for meeting Regional Housing Needs Allocations

If an affected agency's General Plan does not address these policy concerns, your Commission has the authority to modify, conditionally approve, or deny any proposal.

### **Analysis of Policy**

General Plans and land use pressures change over time for any number of reasons. Each community has changing needs because of population and demographic shifts, availability of local resources, employment trends, etc. Thus, it may be problematic for LAFCo to impose specific requirements on land use decision-makers.

In addition, preservation standards and mitigation requirements are likely to vary from one geographic setting to another. Therefore, it is very difficult to develop a single regional or a countywide mitigation fee or ratio program for the protection of open space and prime agricultural lands. For example, annexation of prime agricultural land should

have a greater mitigation requirement than lesser valued agricultural land. The annexation of prime agricultural land represents the loss of a valuable statewide resource: productive agricultural land. On the other hand, the annexation of dry pasture land that has lesser production value may warrant a lower mitigation requirement in that its development could be beneficial in diverting growth pressure away from prime agricultural lands.

To impose the same mitigation requirement on lands of highly productive quality as that on lesser productive quality may actually be counterproductive in the preservation of prime agricultural lands. Such an approach fails to encourage the use of non-prime agricultural land as growth areas, as directed per statute. A more flexible, variable mitigation program, including a fee structure, would help create an incentive to direct growth from prime agricultural areas to non-prime agricultural areas.

LAFCo needs to encourage cities and counties to consider policies and standards to help protect open space and a viable agricultural economy when a local jurisdiction adopts or amends its General Plan. LAFCo recommends that cities develop General Plan policies and/or local ordinances or programs that place emphasis on, and address the following issues:

1. Demonstrate efficient use of existing land inventory such as establishment and implementation of infill and reuse/brownfield strategies within city limits.
2. Demonstrate development and implementation of Smart Growth Principles to maximize return on existing public/ private infrastructure investment, bring certainty to the outcome, and establish a level playing field for development review.
3. Identify in the General Plan the build-out rate and inventory of all land uses.
4. Demonstrate that the city has the means to continue to provide the existing level of municipal services to the current city residents as well as the area proposed to be annexed.

A General Plan should also emphasize a broad based approach to open space and prime agricultural resources preservation. The policies should not instead support only open space and agricultural mitigation programs such as:

- a. Mitigation Fees/ Mitigation Ratios
- b. Habitat Conservation Plans
- c. Buffer Areas or Easements as Community Separators  
(to be derived from the developing territory)
- d. Participation in Countywide and/or Regional Conservation Programs
- e. Develop Regional Funding Mechanisms for Open Space and Agricultural Lands Acquisition



## **Conclusion**

LAFCo is required to evaluate Sphere of Influence and reorganization proposals for consistency with an affected city's applicable policies and its future intent based on its General Plan. These factors provide a comprehensive framework for the review of proposals. The overall focus is to avoid or minimize growth impacts on open space and prime agricultural resources. By placing the emphasis on the LAFCo mandate to preserve these resources, city General Plans should encourage growth consistent with the LAFCo legislative mandate. Your Commission reserves the right to deny a proposal if a city has not made a good faith effort at addressing any of the above listed factors.

I recommend that your Commission endorse the proposed policies and direct staff to continue its outreach and return to your Commission for final policy adoption.

PB:DL:Maf

Attachments:

- Exhibit A-1 Open Space Map
- Exhibit A-2 Composite Open Space Resource Map
- Exhibit A-3 County Important Farm Land Map
- Exhibit B Matrix of Other LAFCo Open Space Policies
- Exhibit C Draft Open Space and Prime Agricultural Preservation Policies
- Exhibit D Definitions of Open Space and Agricultural Lands

(Open Space III)









**DRAFT OPEN SPACE AND PRIME AGRICULTURAL PRESERVATION POLICIES**

*(To be inserted into the Sacramento LAFCo Polices, Procedures and Guidelines.)*

LAFCo coordinates logical and timely changes in local governmental boundaries (§56001); conducts special studies which review ways to reorganize, simplify and streamline governmental structures (§56031); and prepares Sphere of Influence for each city and special district within the County (§56425). The Commission promotes provision of efficient and economical services while encouraging the protection of *prime agricultural and open space* lands (§56001, §56300). Further efforts include discouraging urban sprawl and encouraging orderly formation and development of local agencies based upon local conditions and circumstances (§56301).

LAFCo coordinates logical and timely changes in local governmental boundaries (§56001); conducts special studies which review ways to reorganize, simplify and streamline governmental structures (§56031)

**C. THE LEGISLATURE'S POLICY DIRECTION TO LAFCo**

The Legislature has charged the Local Agency Formation Commission of each county with carrying out specific mandates and policies now codified in the Act Each LAFCo is authorized and mandated to promote the orderly formation and development of local agencies based upon local conditions and circumstances. The powers, duties, and responsibilities available to the Commission to comply with this mandate may be summarized as follows:

1. To review and act upon change of organization and reorganization proposals;
2. To plan for the provision of services through Sphere of Influence Plans, special studies, and reorganization plans;
3. To encourage orderly growth and development;
4. To ensure that affected populations receive efficient governmental services;  
and
5. To guide development away from *open space* and *prime agricultural* land uses unless such actions would not promote planned, orderly and efficient development.

## **D. INCORPORATIONS AND DISINCORPORATIONS**

11. The Commission will not approve an incorporation proposal unless the following conditions exist:

- a. Applicable General Plans, Specific Plans or area plans based on realistic population and growth projections demonstrate the need for urbanization of the affected area; and
- b. The areas proposed for incorporation should be urbanized or should be planned for urbanization within the next five years.

Subparagraphs a) and b) do not apply if LAFCo determines the proposal is structured to ensure the long-term preservation of *open space or prime agricultural* lands.

13. *Prime agricultural* land which is not designated for urbanization within the next five years of the date of the receipt of the application shall not be included in any incorporation approval unless the LAFCo determines that the proposal is structured to ensure the long-term preservation of *open space or prime agricultural* lands

## **E. AGRICULTURAL LAND CONSERVATION**

LAFCo will exercise its powers to conserve *prime agricultural* land pursuant to the following standards.

1. LAFCo will approve a change of organization or reorganization which will result in the conversion of *prime agricultural* land in *open space* use to other uses only if the Commission finds that the proposal will lead to the planned, orderly and efficient development of an area. For purposes of this standard, a proposal leads to the planned, orderly and efficient development of an area only if all of the following criteria are met:

- a. The land subject to the change of organization or reorganization is contiguous to either lands developed with an urban use or lands which have received all discretionary approvals for urban development.
- b. The proposed development of the subject lands is consistent with the Spheres of Influence Plan, including the Municipal Service Review of the affected agency or agencies.
- c. Development of all or a substantial portion of the subject land is likely to occur within five years. In the case of very large developments, annexation should be phased whenever feasible. If the Commission finds phasing infeasible for the specific reasons, it may approve annexation if all or a substantial portion of the subject land is likely to develop within a reasonable period of time.

d. There is insufficient vacant non-prime lands exists within the applicable Spheres of Influence that are planned, accessible, and developable for the same general type of use.

e. The proposal will have no significant adverse effect on the physical and economic integrity of other agricultural lands. In making this determination, LAFCo will consider the following factors:

(1) The agricultural significance of the subject territory and adjacent areas relative to other agricultural lands in the region.

(2) The use of the subject and the adjacent areas.

(3) Whether public facilities related to the proposal would be sized or situated so as to facilitate the conversion of adjacent or nearby ***prime agricultural*** land, or will be extended through or adjacent to, any other ***prime agricultural*** lands which lie between the project site and existing facilities.

(4) Whether natural or man-made barriers serve to buffer adjacent or nearby ***prime agricultural*** land from the effects of the proposed development.

(5) Applicable provisions of the General Plan, including applicable growth-management policies, or other statutory provisions designed to protect ***prime agriculture***.

2. LAFCo will not make the affirmative findings that the proposed development of the subject lands is consistent with the Spheres of Influence in the absence of an approved Sphere of Influence Plan. LAFCo will not make the affirmative findings that insufficient vacant non-prime land exists within the Spheres of Influence Plan unless the applicable jurisdiction has:

a. Identified within its Spheres of Influence all “***prime agricultural*** land” as defined herein.

b. Enacted measures to preserve ***prime agricultural*** land identified within its Sphere of Influence for agricultural use.

c. Adopted as part of its General Plan specific measures to facilitate and encourage in-fill development as an alternative to the development of ***prime agricultural*** lands.

d. Adopted as part of its General Plan specific measures to facilitate and encourage “brownfield” re-development as an alternative to the “greenfield” development of ***prime agricultural*** lands.



3. The LAFCo will comment upon, whenever feasible, Notices of Preparation for Environmental Impact Reports or projects which involve the development of large tracts of *open space* and *prime agricultural* land and that are not scheduled for urbanization within a five-year period. Potential adverse impacts related to the loss of *open space* or *prime agricultural* land also will be commented upon by LAFCo.

4. Proposals involving the conversion of *prime agricultural* land shall be contiguous to existing city boundaries, designated for urbanization in the city and county general plans and consistent with the Sphere of Influence.

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

6. Development of existing vacant or nonprime agricultural lands for urban uses within the existing jurisdiction of a local agency or within the Sphere of Influence of a local agency should be encouraged before any proposal is approved which would allow for or lead to the development of existing open-space lands for non-open-space uses which are outside of the existing jurisdiction of the local agency or outside of the existing Sphere of Influence of the local agency.

## **H. SPHERE OF INFLUENCE PLANS**

A Sphere of Influence Plan is a plan for the probable, ultimate physical boundaries and service areas of a local agency. This section of the LAFCo Policies and Standards sets forth the required contents of a Sphere of Influence Plan, the procedures for submittal and approval of Sphere of Influence Plans and amendments thereto, and the use of Sphere of Influence Plans in LAFCo determinations.

1. At least 30 days prior to submitting an application to the Commission for a determination of a new Sphere of Influence, or to update an existing Sphere of Influence for a city, representatives from the city shall meet with county representatives to discuss the proposed sphere, and its boundaries, and explore methods to reach agreement on the boundaries, development standards, and zoning requirements within the sphere to ensure that development within the sphere occurs in a manner that reflects the concerns of the affected city and is accomplished in a manner that promotes the logical and orderly development of areas within the sphere.

2. If no agreement is reached between the city and county within 30 days, then the parties may, by mutual agreement, extend discussions for an additional period of 30 days. If an agreement is reached between the city and county regarding the boundaries, development standards, and zoning requirements within the proposed sphere, the agreement shall be

forwarded to the Commission, and the Commission shall consider and adopt a Sphere of Influence for the city consistent with the policies adopted by the Commission pursuant to this section, and the Commission shall give great weight to the agreement in the Commission's final determination of the city sphere.

3. If the Commission's final determination is consistent with the agreement reached between the city and county pursuant to subdivision (b), the agreement shall be adopted by the both the city and county after a public hearing. Once the agreement has been adopted by the affected local agencies and their respective general plans reflect that agreement, then any development approved by the county within the sphere shall be consistent with the terms of that agreement.

4. If no agreement is reached pursuant to subdivision (b), the application may be submitted to the Commission and the Commission shall consider a Sphere of Influence for the city consistent with the policies adopted by the Commission pursuant to this section.

5. In determining the Sphere of Influence of each local agency, the Commission shall consider and prepare a written statement of its determinations with respect to each of the following:

- a. A map defining the probable ultimate boundary of its service area;
- b. A statement of the present and planned land uses in the area, including *prime agricultural and open space* lands;
- c. The present and probable need for public facilities and services in the area;
- d. The present capacity of public facilities and adequacy of public services which the agency provides or is authorized to provide;
- e. The existence of any relevant social or economic communities of interest in the area if the Commission determines that they are relevant; and
- f. With respect to all cities, sewer districts, water districts, community service districts, drainage districts, and multi-purpose districts within the jurisdiction of Sacramento LAFCo, a Municipal Services Review per Section 56430, and as defined in paragraph H.2. below. Other agencies may prepare a Municipal Services Review.
- g. The Commission may recommend governmental reorganizations to particular agencies in the county, using the spheres of influence as the basis for those recommendations. Those recommendations shall be made available, upon request, to other agencies or to the public. The Commission shall make all reasonable efforts to ensure wide dissemination of the recommendations.

h. For any Sphere of Influence or a Sphere of Influence that includes a special district, the Commission shall do all of the following:

- (1) Require existing districts to file written statements with the Commission specifying the functions or classes of service provided by those districts.
- (2) Establish the nature, location, and extent of any functions or classes of service provided by existing districts.
- (3) Determine that, except as otherwise authorized by the regulations, no new or different function or class of service shall be provided by any existing district, except upon approval by the Commission.

**K. CITY PROTESTS OF LAND CONSERVATION CONTRACTS**  
**(Government Code Section 51243.5)**

1. The LAFCo may sustain a protest by a city of the County entering into a Williamson Act contract if both the following are true:

- a. The city's general plan designates the territory proposed to be under contract for urbanization within a reasonable period of time;
- b. A reasonable quantity of the city's total territory of sufficient quality has been set aside as *open space*/ agricultural land, and is designated as such in the city's general plan and relevant specific plans or community plans.

2. The LAFCo may sustain the protest if one or more of the following is true:

- a. No active agricultural use of the land is feasible within six or more calendar years of the 10-year term of the contract;
- b. The territory which is under contract has boundaries which would force imminent urban development to be illogical or make it difficult to serve.
- c. The land does not meet the definition of *prime agricultural* land per the Act.

**Definition of Open Space**

Cortese-Knox-Hertzberg Section 56059 defines Open Space:

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

Planning, Zoning & Development Law Section 65560 further defines Open Space:

- a. "Local open-space plan" is the open-space element of a county or city general plan adopted by the board or council...."
- b. "Open-space land" is any parcel or area of land or water which is essentially unimproved and devoted to an open-space use as defined in this section, and which is designated on a local, regional or state open-space plan as any of the following:

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

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

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

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

### *Definition of Agricultural Land Designations*

Government Code Section 56016 defines Agricultural Land:

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

Government Code Section 56064 defines Prime Agricultural Land:

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

(a) Land that qualifies, if irrigated, for rating as class I or class II in the USDA Natural Resources Conservation Service land use capability classification, whether or not land is actually irrigated, provided that irrigation is feasible.

(b) Land that qualifies for rating 80 through 100 Storie Index Rating.

(c) Land that supports livestock used for the production of food and fiber and that has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture in the National Handbook on Range and Related Grazing Lands, July, 1967, developed pursuant to Public Law 46, December 1935.

(d) Land planted with fruit or not-bearing trees, vines, bushes, or crops that have a nonbearing period of less than five years and that will return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than four hundred dollars (\$400) per acre.

(e) Land that has returned from the production of unprocessed agricultural plant products an annual gross value of not less than four hundred dollars (\$400) per acre for three of the previous five calendar years.

