

COLUSA LOCAL AGENCY FORMATION COMMISSION

MEETING DATE: April 1, 2021 3:00 PM

TO: Colusa Local Agency Formation Commission
FROM: John Benoit, Executive Officer
SUBJECT: LAFCO 2019-0001 – Colusa Industrial Park (CIP) Annexation including 611 acres more or less to the City of Colusa

Attachments:

1. LAFCo Resolution 2021-0004 approving the CIP Annexation to the City of Colusa consisting of 611 acres more or less
2. City of Colusa CEQA documents used to support the CIP annexation located on LAFCo Webpage www.colusalafco.org
3. City of Colusa Resolution 20-49 Initiating the CIP annexation and Resolution 20-48 City Sphere of Influence Amendment located on LAFCo Webpage www.colusalafco.org
4. Ordinance #533 Rezoning ordinance the CIP Annexation area Located on LAFCo webpage at www.colusalafco.org
5. Plan for Services and Justification Located on LAFCo Webpage www.colusa.lafco.org
6. City Resolution 20-48 amending its General Plan for the CIP annexation located on LAFCo webpage at www.colusalafco.org
7. Comment letter received from the Planning and Building and Public Works Departments
8. Parcels to be deleted from the annexation

EXECUTIVE OFFICER'S RECOMMENDATION:

The City of Colusa is requesting a reorganization known as the Colusa Industrial Park Reorganization consisting of 611 acres of property more or less consisting of an annexation to the City of Colusa. No detachment from the Sacramento River Fire Protection District is included in this application as has been the case with all other annexations approved by Colusa LAFCo. This request from the City of Colusa is to annex into the City 611 acres of land more or less consisting of 48 assessor's parcels 017-030-050, -054, -055, -078, -082 thru -084, -094 thru -096, and -099; 017-130-005 thru -009, -011, -012, -025, -028, -029, -031, -035, -038, -040, -043, -056, -057, -075, -077, -084, -085, -094, -095, -099, -100, -101, & -102; 017-140-001 thru -011 together with adjacent public rights of way.

This recommendation includes the following deletion and addition:

Deletion of Parcel #'s 017-020-009,010 & 027; 017-070-027& 032; 017-030-097 & Parcel 13 of APN 017-030-099 need to be removed from the annexation and the annexation shall continue to include the entire Enterprise Blvd in the annexation shown herein as attachment #8

Addition of the entire Westcott Road to the annexation as requested by County Planning and Public Works for the reasons stated in their letter dated January 14, 2021 shown herein as attachment #7

It is recommended that the Commission deliberate on these items, review the policy analysis included in this report as well as the Sphere of Influence update report, and consider adoption of the attached resolution approving the proposed reorganization of the CIP territory into the City of Colusa, subject to the recommended terms and conditions stated in the attached resolution (See Attachment #1 including a map and geographic description, CEQA findings and the City-County Property Tax Exchange Resolutions as exhibits.

Government Code Section 56666 states a hearing may be continued from time to time but not to exceed 70 days from the date specified in the original notice.

LAFCo's Role:

The Cortese-Knox-Hertzberg Act directs LAFCos to achieve two main purposes:

1. Discourage sprawl.
2. Encourage orderly government.

LAFCo's regulate by reviewing and acting on proposals to change boundaries.

State law forbids LAFCos from making *direct land use decisions*. See Government Code Section 56886. LAFCo's cannot regulate the use of land, property development, or subdivisions design. For instance, Colusa LAFCo cannot force the Colusa County Board of Supervisors to zone land in unincorporated areas for agricultural use nor can the LAFCo overturn a subdivision decision made by the City of Colusa city council. LAFCos may control the timing and location of *land use* because LAFCo controls the boundaries of those local governments that make land use decisions and provide services for development.

1. INTRODUCTION:

LAFCo File # 2014-0001 Colusa Industrial Properties: The City of Colusa is requesting an Annexation consisting of 611 acres of property more or less to the City of Colusa and no concurrent detachment from the Sacramento River Fire Protection District is proposed. This request from the City of Colusa is to annex into the City 611 acres of land more or less consisting of 48 assessor's parcels 017-030-050, -054, -055, -078, -082 thru -084, -094 thru -096, and -099; 017-130-005 thru -009, -011, -012, -025, -028, -029, -031, -035, -038, -040, -043, -056, -057, -075,-077, -084, -085, -094, -095,-099, -100, -101, & -102 ; 017-140-001 thru -011 together with adjacent public rights of way.

The City of Colusa approved Resolution 7-29 certifying the Environmental Impact Report with a statement of overriding considerations and mitigation monitoring program for the MEIR prepared for the City's General Plan including the CIP Project and approving Resolution 7-29 certifying the MEIR and City of Colusa Resolution 20-49 Initiating the CIP annexation and Resolution 20-48 City Sphere of Influence Amendment (See Attachments #2 and #3).

Colusa County certified its General Plan EIR in July 2012 and adopted findings of fact and a statement of overriding considerations. Since the General Plan was self-mitigating to the extent feasible, no feasible mitigation measures were determined available. The Statement of Overriding Considerations included Conversion of Farmland, Stationary source emissions, airport related issues, visual character, Flooding, Noise, Transportation, Demand for Water Supply, Wastewater Treatment, Agriculture, Air Quality, Biological Resources, Noise Sensitive land uses, cumulative impacts on the transportation network, Utilities, and irreversible significant and unavoidable effects.

Furthermore, the Board of Supervisors approved Resolution 08-014 certifying an Environmental Impact Report for the Colusa Industrial Properties on March 18, 2008 and adopted a Mitigation Monitoring and Reporting program and Statement of Overriding Considerations including 151 acres part of which is included in this annexation.

The following issues have been identified in staff's review of LAFCo's adopted policies:

The Sacramento River Fire Protection District and the City have entered into an Auto Aid Agreement to ensure EMS and Fire Protection in the annexation area.

Timely annexation. Due to the recession and pandemic, there has been substantially reduced development throughout the County for the past 10 years. The City of Colusa currently does not have a large area within its city limits for the development of industrial and heavy commercial development. Vacant and in the City largely consists of smaller parcels not suitable for larger industrial or commercial development. It should be noted the planning process in California is lengthy, expensive and unpredictable. Should the Commission not approve the annexation at this time, the City would need to re-evaluate its services plans, economic development strategy and future plans and possibly begin a second planning process in the future. It should be noted this project before LAFCo was in part contemplated prior to the recession and pandemic and the City of Colusa has the ability to provide a full compliment of services as Industrial or Commercial lands are developed.

Agricultural Lands. It is anticipated agricultural lands will be converted (albeit, a significant portion of the area is already developed or compromised from nearby development as well as previously planned for industrial development) as a result of proposed development around the City of Colusa and throughout the County. The CKH Act recognizes agricultural lands will be converted to non-agricultural uses. Under the County General Plan, this property is designated as Industrial (including the CIP area and expansion area) and urban residential in the northern most portion of the annexation area.

General Agriculture is in the area, which includes the City of Colusa's Wastewater Treatment Plant expansion area and Public/Semi Public services (including the City of Colusa Wastewater Treatment Plant itself. This area is designated as "prime agricultural land" under the Farmland Mapping and Monitoring Program (FMMP) of the California Dept. of Conservation as well as meeting the LAFCO definition of prime agricultural lands. Among LAFCo's core purposes is preservation of open space and prime agricultural lands.

It is true that the imposition of a conservation easement on other agricultural lands does not reduce the direct impact of conversion since the land converted is permanently removed from agricultural production. What it does is to provide some protection for other agricultural lands that might otherwise face increased pressure for conversion as a result of each incremental project converting agricultural lands. This is not necessary in the case of this annexation.

EMS and Fire Protection: Each annexation to the city in the past has resulted in a detachment from the Sacramento River Fire Protection District. As a result, the district incrementally loses revenue and residents of the district experience a small decline in services. Both the City and the Fire District have adopted an agreement for fire and EMS.

Property Tax Exchange Agreement: A Joint Resolution of Tax Exchange was approved by the Board of Supervisors on August 18th 2020, County of Colusa Resolution 20-031) and by the City of Colusa on June 6, 2000, City of Colusa Resolution 20-35 on the same date. This joint resolution also rescinded a previous City (00-16) and County (00-42) joint resolution. This Resolution calls for the redistribution of tax revenues to the City from the County since the City will be providing services. Other taxing agencies will not be affected. The Property Tax Sharing agreement is included as Exhibit C for LAFCo's adopting Resolution 2021-0004 (shown as Attachment #1).

2. PROPOSAL:

LAFCO File No. 2019-0001 – CIP (City of Colusa Resolution 20-49 Initiating the CIP annexation and Resolution 20-48 City Sphere of Influence Amendment)

3. ACREAGE AND LOCATION:

CIP consists of 611 acres located south of the City of Colusa west of Highway 20 and south of the existing city limits.

4. PURPOSE:

The purpose of this annexation is to enable urbanized development within the subject property, in accordance with the City of Colusa General Plan and to more effectively serve the subject property (see Attachment #5 Plan for Services and Justification statement).

5. PRELIMINARY PROCEEDINGS INITIATED BY:

City of Colusa Resolution No. 20-49 adopted November 4, 2020 (See Attachment #3).

6. ACCEPTED FOR FILING: March 4, 2021 and the LAFCo hearing set for April 1, 2021.

7. PUBLICATION AND POSTING: March 4, 2021

8. COMPLIANCE WITH CEQA:

LEAD AGENCY:

City of Colusa

ENVIRONMENTAL FINDING:

Environmental Impact Report for CIP, the City General Plan and the County General Plan

DATE OF FINDING:

Notice of Determination filed November 9, 2020

The environmental documents are posted on LAFCo's Website www.colusalafco.org and hereby incorporated into this report. An analysis was prepared by the city regarding the use of previous environmental documents to support this annexation (and Sphere of Influence update) as follows:

City-CIP Annexation CEQA Staff Report

Project Description

The City-CIP Annexation Project is the annexation of 684 acres of land on the south boundary of the City of Colusa. The Project makes no substantive changes to land uses or zoning. The Project does not directly approve any further land development projects, structures, or infrastructure construction, so there are no new project specific impacts. The Project changes the jurisdiction of the land proposed to be annexed from the County of Colusa to the City of Colusa.

Prior Environmental Analysis

The Project area has been subject to three prior environmental impact reports (EIR's). The northern area of the annexation area included in the City's current Sphere of Influence was analyzed for environmental impacts in the 2007 City of Colusa General Plan Update EIR. This area was also subject to more detailed analysis in the General Plan Amendment and Zoning Amendment for Colusa Industrial Properties Final Environmental Impact Report SCH No. 2006052113 approved and certified by the County of Colusa in 2008. The balance of the annexation area was subject to environmental review in the County of Colusa 2030 General Plan Update Environmental Impact Report certified by Colusa County in 2012.

Project Environmental Analysis

Staff reviewed the proposed City-CIP Annexation project potential environmental impacts against the three prior EIR's done for the Project area. This review was consistent with the mandates of CEQA Guidelines Sections 15152, 15162 and 15183, which are sections dealing with streamlining environmental review. The streamlining of environmental review is exemplified by the concept of tiering set forth in Guidelines Section 15152.

15152. TIERING

(a) "Tiering" refers to using the analysis of general matters contained in a broader EIR (such as one prepared for a general plan or policy statement) with later EIRs and negative declarations on narrower projects; incorporating by reference the general discussions from the broader EIR; and concentrating the later EIR or negative declaration solely on the issues specific to the later project.

Based on the concept of tiering, the environmental review for this Project was focused on substantial changes in the Project, circumstances or setting, any change in the severity of impacts previously analyzed, any environmental impacts not previously analyzed, any new material information regarding the project's impacts, and the ability to impose all prior mitigation measures identified in the prior EIR's which included the Project site. This comparison was done by analysis of the project General Plan Land Use designations, Zoning designations, and all

other sections of environmental impact analysis set forth in the three applicable EIR's relevant to the Project site.

Following the concept of Tiering, Section 15162, Subsequent EIRs and Negative Declarations, subsection (a) states:

(a) When an EIR has been certified or a negative declaration adopted for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in the light of the whole record, one or more of the following:

(1) Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;

(2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or

(3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the Negative Declaration was adopted, shows any of the following:

(A) The project will have one or more significant effects not discussed in the previous EIR or negative declaration;

(B) Significant effects previously examined will be substantially more severe than shown in the previous EIR;

(C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or

(D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

Section 15183. Projects Consistent with A Community Plan or Zoning provides a similar limitation on further environmental review.

(a) CEQA mandates that projects which are consistent with the development density established by existing zoning, community plan, or general plan policies for which an EIR was certified shall not require additional environmental review, except as might be necessary to examine whether there are project-specific significant effects which are peculiar to the project or its site. This streamlines the review of such projects and reduces the need to prepare repetitive environmental studies.

(b) In approving a project meeting the requirements of this section, a public agency shall limit its examination of environmental effects to those, which the agency determines, in an initial study or other analysis:

(1) Are peculiar to the project or the parcel on which the project would be located,

(2) Were not analyzed as significant effects in a prior EIR on the zoning action, general plan, or community plan, with which the project is consistent,

- (3) Are potentially significant off-site impacts and cumulative impacts which were not discussed in the prior EIR prepared for the general plan, community plan or zoning action, or
- (4) Are previously identified significant effects which, as a result of substantial new information which was not known at the time the EIR was certified, are determined to have a more severe adverse impact than discussed in the prior EIR.

(c) If an impact is not peculiar to the parcel or to the project, has been addressed as a significant effect in the prior EIR, or can be substantially mitigated by the imposition of uniformly applied development policies or standards, as contemplated by subdivision (e) below, then an additional EIR need not be prepared for the project solely on the basis of that impact.

(d) This section shall apply only to projects, which meet the following conditions:

(1) The project is consistent with:

- (A) A community plan adopted as part of a general plan,
- (B) A zoning action which zoned or designated the parcel on which the project would be located to accommodate a particular density of development, or

(C) A general plan of a local agency, and

(2) An EIR was certified by the lead agency for the zoning action, the community plan, or the general plan.

(e) This section shall limit the analysis of only those significant environmental effects for which:

(1) Each public agency with authority to mitigate any of the significant effects on the environment identified in the EIR on the planning or zoning action undertakes or requires others to undertake mitigation measures specified in the EIR which the lead agency found to be feasible, and

(2) The lead agency makes a finding at a public hearing as to whether the feasible mitigation measures will be undertaken.

(f) An effect of a project on the environment shall not be considered peculiar to the project or the parcel for the purposes of this section if uniformly applied development policies or standards have been previously adopted by the city or county with a finding that the development policies or standards will substantially mitigate that environmental effect when applied to future projects, unless substantial new information shows that the policies or standards will not substantially mitigate the environmental effect. The finding shall be based on substantial evidence, which need not include an EIR. Such development policies or standards need not apply throughout the entire city or county, but can apply only within the zoning district in which the project is located, or within the area subject to the community plan on which the lead agency is relying. Moreover, such policies or standards need not be part of the general plan or any community plan, but can be found within another pertinent planning document such as a zoning ordinance. Where a city or county, in previously adopting uniformly applied development policies or standards for imposition on future projects, failed to make a finding as to whether such policies or standards would substantially mitigate the effects of future projects, the decision-making body of the city or county, prior to approving such a future project

pursuant to this section, may hold a public hearing for the purpose of considering whether, as applied to the project, such standards or policies would substantially mitigate the effects of the project. Such a public hearing need only be held if the city or county decides to apply the standards or policies as permitted in this section.

(g) Examples of uniformly applied development policies or standards include, but are not limited to:

- (1) Parking ordinances.
- (2) Public access requirements.
- (3) Grading ordinances.
- (4) Hillside development ordinances.
- (5) Flood plain ordinances.
- (6) Habitat protection or conservation ordinances.
- (7) View protection ordinances.
- (8) Requirements for reducing greenhouse gas emissions, as set forth in adopted land use plans, policies, or regulations.

(h) An environmental effect shall not be considered peculiar to the project or parcel solely because no uniformly applied development policy or standard is applicable to it.

(i) Where the prior EIR relied upon by the lead agency was prepared for a general plan or community plan that meets the requirements of this section, any rezoning action consistent with the general plan or community plan shall be treated as a project subject to this section.

(1) "Community plan" is defined as a part of the general plan of a city or county which applies to a defined geographic portion of the total area included in the general plan, includes or references each of the mandatory elements specified in Section 65302 of the Government Code, and contains specific development policies and implementation measures which will apply those policies to each involved parcel.

(2) For purposes of this section, "consistent" means that the density of the proposed project is the same or less than the standard expressed for the involved parcel in the general plan, community plan or zoning action for which an EIR has been certified, and that the project complies with the density-related standards contained in that plan or zoning. Where the zoning ordinance refers to the general plan or community plan for its density standard, the project shall be consistent with the applicable plan.

(j) This section does not affect any requirement to analyze potentially significant offsite or cumulative impacts if those impacts were not adequately discussed in the prior EIR. If a significant offsite or cumulative impact was adequately discussed in the prior EIR, then this section may be used as a basis for excluding further analysis of that offsite or cumulative impact.

Discussion

The Project area and the City of Colusa generally have developed at a slow pace since the prior environmental analyses were done, and no substantial changes have occurred in either the Project or circumstances and setting. Development that has occurred has been of the type and character anticipated by the prior EIR's and is consistent with the prior impact analyses for traffic, air quality, biological impacts, public services, and provision of utilities, as well as the other impact analysis sections of the EIR's.

Three important actions and mitigation measures have been completed which were specifically called out in the prior EIR's. First, the CIP Wastewater treatment plant has been constructed and is functioning as planned. This was a major requirement of the CIP project generally. Two mitigation measures called out in the City of Colusa General Plan Update addressed the impacts of additional service area on the Colusa Police and Fire Departments. The mitigation measures called for Police and Fire Service Plans to be prepared prior to annexation and those plans have been done. All other mitigation measures from the prior EIR's will be required of applicants for future development projects. Subsequent development projects will also be required to comply with all citywide uniformly applied development policies and standards. The environmental analyses the City relies on for this Project are the prior EIR's, which are incorporated herein by this reference, and because there are no new project specific impacts, no further environmental analysis is required. (CEQA Guidelines Sec. 15152)

As a jurisdictional change only, with no changes in land use, utilities, circulation, or density, the City has no substantial evidence to require a subsequent EIR or Negative Declaration. (Guidelines Section 15162) No substantial changes in the Project are proposed, nor are there substantial changes in respect to the circumstances under which the Project will be undertaken. There is no new information of substantial importance, which was not known at the time the previous EIR's were certified. There is no evidence that the project will have one or more significant effects not discussed in the prior EIR's. There is no substantial evidence that the significant effects previously examined will be substantially more severe than shown in the prior EIR's. The mitigation measures previously found to be not feasible, remain not feasible, nor are there new feasible mitigation measures available to substantially reduce the significant effects previously identified in the prior EIR's.

The land uses anticipated for development will be not be materially changed from the current land uses allowed under the City and County General Plans and the CIP project land use designations and zoning. Because the Project does not contemplate any new development not previously anticipated, nor does the City's environmental analysis of the Project support a specific new development project not previously considered in the prior EIR's, the project is consistent with the adopted community plans and zoning. Because there is no new project specific impacts associated with the jurisdictional change resulting from the annexation, no further environmental review is necessary. (CEQA Guidelines Section 15183)

Because this Annexation Project is simply a change in jurisdiction of the Annexation Project site, with no material changes in land uses or zoning, and the fact that this change in jurisdiction does not allow for any new type of development project not previously considered to be approved, thereby necessitating a development project level CEQA review, staff recommends a finding of no new impacts, and that the project is exempt from further environmental review. This finding is based on the general rule stated at CEQA Guidelines Sec. 15061 (b) (3) in that it can be seen with certainty that there is no possibility that this Project will have an impact on the environment, not previously evaluated in the prior EIR's.

LAFCo Review

Staff examined the Environmental Impact Report process as stated in Section 15096 of the State CEQA Guidelines, prepared for the City of Colusa General Plan, the County of Colusa General Plan and the EIR prepared for an Earlier 214-acre CIP reorganization as a responsible agency under the California Environmental Quality Act ("CEQA"), exercised its independent judgment and recommends the findings contained in the adopting resolutions regarding this Annexation.

CEQA Guidelines Sections 15162 and 15163 provide that a subsequent or supplemental environmental impact report (EIR) shall be prepared if certain conditions or circumstances exist. In general, a subsequent or supplemental EIR must be prepared if there are changes in the project, changes in the circumstances, or new information that require substantial changes to the previous environmental document because of new significant or more severe impacts. Having reviewed and considered all of the public comments, testimony and documentation submitted to the Commission in regard to this project staff believes that none of the factors or considerations requiring preparation of a subsequent or supplemental EIR has been identified.

CEQA Guidelines Section 15088.5 requires a lead agency to recirculate an EIR for further review and comment when significant new information is added to the EIR after public notice is given of the availability of the draft EIR but before certification. New information includes: (i) changes to the project; (ii) changes in the environmental setting; or (iii) additional data or other information. Section 15088.5 further provides that "[n]ew information added to an EIR is not 'significant' unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the project's proponents have declined to implement." Having reviewed the information contained in the EIRs and in the City's administrative record as well as the requirements under CEQA Guidelines §15088.5, staff believes no new significant information was added to the EIR (or was required to have been added) following public review and thus recirculation of the EIR is not required by CEQA.

As a responsible agency LAFCo was afforded the opportunity to review the Draft EIRs and provided comments, which the City addressed. If LAFCo believed the EIR was deficient or inadequate for its use, LAFCo was required by CEQA to have taken the issue to court within 30 days after the filing of the Notice of Determination in 2007 or 2008 and prepare a subsequent EIR if permissible under CEQA Guideline 15162, assume the Lead Agency Role or be deemed to have waived any objection to the adequacy of the EIR. As indicated above, staff believes that the Final EIRs as certified by the City and County of Colusa adequately analyzes the impacts of the proposed annexation and LAFCo's comments, and should be relied upon by LAFCo as a responsible agency under CEQA.

LAFCo's purview is narrow. Comments received must constitute substantial changes and provide significant information that was not known or could not have not been known at the time the EIR was certified as complete. All feasible mitigation for traffic, drainage and other identified impacts of the project have been incorporated into the FEIR, and are enforceable by the City of Colusa and other agencies with regulatory authority. Staff reviewed the draft and final EIRs for this CIP annexation. The City prepared a final EIR and certified the environmental impact report prepared for the projects in October 2007 as well as prepared an initial study for the CIP project, which concluded no further environmental review is needed. LAFCo staff sees no changes warranting additional review as described in CEQA Guidelines sections 15162 and 15163 for the Commission to consider this annexation.

9. COMPLIANCE WITH GENERAL PLAN:

The territory is designated in the Colusa County General Plan as Industrial, Commercial, and Urban Residential. Since the CIP project is located within the City's Sphere of Influence, as amended the City of Colusa is the principal jurisdiction and the City's General Plan will be the

controlling general plan. It should be noted development standards between the City and County are substantially similar.

On October 30, 2007, the City of Colusa City Council adopted an updated General Plan designated the CIP territory as Industrial, Commercial and Low Density Residential. These designations were modified on November 4, 2020 to Low Density Residential, Commercial/Industrial, Public Facilities and Urban Reserve (See City Resolution 20-48 shown as attachment 6).

On November 17, 2020 the City of Colusa City Council adopted Ordinance 533 pre-zoning the 611 acres to Planned Development (M-1-PD, M-2-PD and AV-PD and Single Family Residential (R-1, and Public Facilities (P-F-PD (See Attachment # 4).

10. COMPLIANCE WITH SPHERE OF INFLUENCE:

A sphere of influence is a planning document adopted by LAFCo that shows a city or special district's future boundary and service area. In effect, a sphere of influence tells landowners, residents, and public officials where the LAFCo believes a city or district will annex in the future. The City's sphere of influence anticipates both agricultural land and urban land within its boundaries, as well as the extension of municipal services once the area is annexed and developed. The sphere includes provisions for the city to either contract for services or expand city staffing levels. The EIR prepared for this project anticipates future growth consistent with the determinations contained within the adopted sphere of influence.

All boundary changes must be consistent with spheres of influence. Only cities and counties can designate land uses. The proposed CIP reorganization is within the Sphere of Influence for the City of Colusa. As long as the land is under County jurisdiction, the County will designate the land use. When the land becomes part of the City, the City of Colusa will designate the land use. In accordance with LAFCo policies, for the purposes of reviewing a LAFCo proposal, the City is the principal jurisdiction and the proposed land uses within the City need to be considered. Land Use issues were addressed in the EIRs prepared for the CIP project and City and County General Plans.

The Sphere for the City of Colusa was approved by LAFCo in February 2012. In 2000 the Legislature amended state law to require spheres of influence to be adopted as deemed necessary every 5 years with the first update to be completed in 2008. See Government Code § 56425 (g). Colusa LAFCo's policies were updated on June 4, 2020.

The Sphere of Influence needs to be adopted prior to approval of this annexation. A report and resolution has been prepared. The annexation area is included within the LAFCo approved Sphere of Influence for the City of Colusa as adopted by LAFCo on April 1, 2021 (LAFCo Resolution 2021-0002). The Sphere of Influence for the city overlaps the Sacramento River Fire Protection District. During the Sphere of Influence adoption process Colusa LAFCo found no duplication of services provided by other agencies excepting the Sacramento River Fire Protection District, which is not being considered at this time.

11. EXISTING LAND USE FOR AFFECTED TERRITORY:

The affected territory includes Commercial and governmental offices, commercial/industrial park, 9-hole golf course including a clubhouse and driving range, single family dwellings, the

Colusa County Visitor's Center, agricultural chemical supply/storage yard, local storm water basin, fields/range land.

Dwellings: 1
Population: 1
Registered voters: 1

Landowners:

- 1) Colusa Industrial Properties
- 2) Farmers Fresh Mushrooms
- 3) Colusa Rice Company
- 4) Chavez Real Estate
- 5) DNH Farms
- 6) County of Colusa
- 7) Bradley Hulbert
- 8) Simplot Company
- 9) John Murphy
- 10) Colusa Specialties
- 11) Westcott Ranch
- 12) Dekellis Tommie Sue
- 13) Van Pelt Industrial Properties

12. EXISTING LAND USE FOR SURROUNDING TERRITORY:

CIP:

Existing land uses within CIP:

Industrial and Agricultural

Surrounding land uses:

The land uses surrounding the CIP area can be summarized as follows:

North: Residential Low Density

South: Agricultural

West: Agricultural

East: Agricultural

13. PROPOSED DEVELOPMENT:

The proposed development at full buildout will allow further development of 611- acres more or less of Industrial, Commercial and Residential uses within the City limits.

14. FISCAL DATA:

PROPERTY TAX AND SALES TAX REVENUE EXCHANGE:

Property Tax Exchange Agreement: A Joint Resolution of Tax Exchange was approved by the Board of Supervisors on August 18th 2020, County of Colusa Resolution 20-031) and by the City of Colusa on June 6, 20 0, City of Colusa Resolution 20-35 was adopted on the same date. This joint resolution also rescinded a previous City (00-16) and County (00-42) joint resolution. This Resolution calls for the redistribution of tax revenues to the City from the County since the City will be providing services. Other taxing agencies will not be affected. The Property Tax Sharing agreement is included as Exhibit C for LAFCo's adopting Resolution 2021-0004 (shown as Attachment #1). The City and County also adopted Resolutions: City Resolution 14-51 and County Resolution 14-034.

The total assessed value in the annexation territory is \$22,758,986.

In Summary, The city will not assume responsibility for fire protection services. The city will assume responsibility for Police and Road maintenance. Subsequently, the entire share of the property tax revenue, including both the base year revenues and the annual tax increment attributable to the Sacramento River Fire District of Colusa County, the Colusa County Sheriff, and the Colusa County Road District shall be distributed to the City of Colusa excepting for two assessor's parcel areas including 017-130-054 and 017-130-065 which will be apportioned per City Resolution 14-51 and County Resolution 14-034.

Notwithstanding the adopted property tax resolutions other special districts within the annexation area (excepting the Sacramento River FPD), after the effective date of the annexation, they shall continue to receive their share of the property tax revenue, as established by AB 8 in 1978 as adjusted for growth, including both the base year revenue and the annual tax increment.

Assessed Values within the annexation territory total \$6,332,564. In summary, the County will retain 100% of Base Year Property Tax Revenues for FY 2020-2021. In all subsequent years, the County shall retain 40% and the City 60%. One hundred percent of property tax increment will go to County for FY 2020-2021 and in subsequent years the County shall retain 40% and the City shall retain 60% of the Base Year Tax Increment Revenues.

In subsequent years, the City shall receive 100% of the Property Tax Development Increment. Airport Aircraft unsecured tax revenues shall be split between the Colusa Unified School District and the County of Colusa at 50% each. The County shall receive sales and use tax revenue of 100% for the first year to be reduced by the sixth year to 0% and then the City shall receive 100%

15. EXISTING SERVICE AGENCIES:

<u>FIRE PROTECTION:</u>	Sacramento River Fire Protection District
<u>SCHOOL DISTRICTS:</u>	Colusa Unified School District,
<u>POLICE PROTECTION:</u>	Colusa County Sheriff
<u>RECREATION:</u>	None

WATER: None
SEWER: None
DRAINAGE: None
GENERAL GOVERNMENT: Colusa County

16. SERVICE AND IMPROVEMENT PLAN:

FIRE PROTECTION: Sacramento River Fire Protection District
SCHOOL DISTRICT: Colusa Unified School District,

POLICE PROTECTION: City of Colusa
RECREATION: City of Colusa
WATER: City of Colusa
SEWER: City of Colusa
DRAINAGE: City of Colusa
GENERAL GOVERNMENT: City of Colusa and Colusa County

17. POLICY ANALYSIS: Governing Law and LAFCO Policy

17.1 Governing Law

LAFCo is charged with applying the policies and provisions of the Cortese-Knox-Hertzberg Act to its decisions regarding annexations, incorporations, reorganizations, and other changes of government. Section 56668 of the Government Code states the following:

Factors to be considered in the review of a proposal shall include, but not be limited to, all of the following:

(a) **Population, and population density; land area and land use; per capita assessed valuation; topography, natural boundaries, and drainage basins; proximity to other populated areas; the likelihood of significant growth in the area, and in adjacent incorporated and unincorporated areas, during the next 10 years.**

(b) **The Need for organized community services; the present cost and adequacy of governmental services and controls in the area; probable future needs for those services and controls; probable effect of the proposed incorporation; formation, annexation, or exclusion and of alternative courses of action on the cost and adequacy of services and controls in the area and adjacent areas.**

“Services,” as used in this subdivision, refers to governmental services whether or not the services are services, which would be provided by local agencies subject to this division, and includes the public facilities necessary to provide those services.

(c) **The effect of the proposed action and of alternative actions, on adjacent areas, on mutual social and economic interests, and on the local governmental structure of the county.**

- (d) **The conformity of both the proposal and its anticipated effects with both the adopted commission policies on providing planned, orderly, efficient patterns, of urban development, and the policies and priorities set forth in Section 56377.**
- (e) **The effect of the proposal on maintaining the physical and economic integrity of agricultural lands, as defined by Section 56016.**
- (f) **The definiteness and certainty of the boundaries of the territory, the nonconformance of proposed boundaries with lines of assessment or ownership, the creation of islands or corridors of unincorporated territory, and other similar matters affecting the proposed boundaries.**
- (g) **A regional transportation plan adopted pursuant to Section 65080, and consistency with city or county general and specific plans.**
- (h) **The proposal's consistency with city or county general and specific plans.**
- (i) **The sphere of influence of any local agency which may be applicable to the proposal being reviewed.**
- (j) **The comments of any affected local agency or other public agency.**
- (k) **The ability of the newly formed or receiving entity to provide the services which are the subject of the application to the area, including the sufficiency of revenues for those services following the proposed boundary change.**
- (l) **Timely availability of water supplies adequate for projected needs as specified in Section 65352.5**
- (m) **The extent to which the proposal will affect a city or cities and the county in achieving their respective fair shares of the regional housing needs as determined by the appropriate council of governments consistent with Article 10.6 (commencing with section 65580) of Chapter 3 of Division 1 of Title 7.**
- (n) **Any information or comments from the landowner or landowners, voters or residents of the affected territory.**
- (o) **Any information relating to existing land use designations.**
- (p) **The extent to which the proposal will promote environmental justice. As used in this subdivision, "environmental justice" means the fair treatment of people of all races, cultures, and incomes with respect to the location of public facilities and the provision of public services.**
- (q) **Information contained in a local hazard mitigation plan, information contained in a safety element of a general plan, and any maps that identify land as a very high fire hazard zone pursuant to Section 51178 or maps that identify land determined to be in a state responsibility area pursuant to Section 4102 of the Public Resources Code, if it is determined that such information is relevant to the area that is the subject of the proposal.**

(a) Population, and population density; land area and land use; per capita assessed valuation; topography, natural boundaries, and drainage basins; proximity to other populated areas; the likelihood of significant growth in the area, and in adjacent incorporated and unincorporated areas, during the next 10 years.

Between 2010 and 2015, the City's single-family housing stock grew by 5.0 percent from 1,613 to 1,710. At its peak, the City's housing stock grew by 3.9 percent in 2009, due to the construction of a large multi-family development. The City's average growth rate is considered to be a reasonable barometer of likely growth in the coming years for the purposes of considering the SOI; however, consideration must be given to the potential for significant growth once prospective developments are approved and constructed. During the development of the City's General Plan, the housing market was peaking and projections were made in anticipation of continued significant growth. Since then, several developers have had continued interest in projects within and around the City; however, timelines have been delayed and expectations of related growth curtailed. The tenuous nature of the demand for housing makes it challenging to project the City's land needs over the next five to 20 years for the purposes of the SOI update. Should the City continue to experience growth patterns similar to those over the last 10 years, then housing growth would average around one percent. However, the City's General Plan assumes that, based on land proposed for annexation and development, growth rates through 2025 will be substantially greater than historical rates with growth rates of between three to four percent.¹

There were 2,074 housing units in the City in 2016. The City's General Plan provided an analysis of vacant parcels within the City limits and concluded that there was remaining development capacity for 721 housing units. The California Department of Housing and Community Development has allocated the region's housing needs and determined the number of new dwelling units that the City of Colusa must accommodate during the period 2007 to 2014. According to the Regional Housing Needs Allocation Plan, 523 new housing units are allocated to the City of Colusa during that time period, which equates to 73 percent of the development capacity of the vacant parcels within the City's existing limits. The 2018-2028 objectives include 402 total units to meet the city's housing objective. Given the housing market crash and economic recession and pandemic, these projections appear to be overestimated. It is assumed that housing unit growth will likely continue to mirror historical growth of 1.1 percent annually, until the proposed developments are approved and begin construction.

Drainage

Chapter 4.7.1 of the Environmental Impact Report describes drainage and hydrology.

The City of Colusa is located in the lower Sacramento River Valley and is bordered on the north and east by the Sacramento River. To the west of the City is the Colusa Basin, served by the Colusa Drain.

FEMA maps indicate the southwestern portion of the proposed Planning Area is in Zone AE, which means this area is potentially vulnerable to flooding.

¹ City of Colusa, General Plan Land Use Element, 2007, p. 2-12.

However, the CIP Annexation area is located in Flood Zone X, which is within the 100-500 year flood zone. Measures to mitigate the impacts to drainage are included in the Environmental Impact Reports prepared for the City's General Plan.

- (b) Need for organized community services; the present cost and adequacy of governmental services and controls in the area; probable future needs for those services and controls; probable effect of the proposed incorporation; formation, annexation, or exclusion and of alternative courses of action on the cost and adequacy of services and controls in the area and adjacent areas.

"Services," as used in this subdivision, refers to governmental services whether or not the services are services, which would be provided by local agencies subject to this division, and includes the public facilities necessary to provide those services.

There is a need for organized community services to serve the growth that will come to Colusa County in the next several decades. As development occurs, the City of Colusa will need to provide a full complement of services to serve development in the annexation territory. The city has prepared a Plan for Services for the CIP Project. In summary, the City Plan for Services includes an enumeration of the services to be provided by the City including: Water distribution and source of water provided by the City, wastewater collection and treatment, drainage are provided by the City, Police and Roads through the City and Fire and EMS provided by the Sacramento River Fire Protection District. The Plan for Service and Justification Statement are included as Attachment #5.

- (c) The effect of the proposed action and of alternative actions, on adjacent areas, on mutual social and economic interests, and on the local governmental structure of the county.

The effect of the proposed annexation on adjacent areas would be that the City of Colusa would provide urban services, and the County would not. The County has no capability to provide water and wastewater in this area. Development in a City would be an effective way to provide urban services for future population and industrial and commercial growth of Colusa County.

The effect of the proposed annexation on mutual social and economic interests will be beneficial because there will be a way to pay for the governmental services needed. The economic trend is that it takes a greater number of people to support commercial or governmental services. The larger population will allow the City of Colusa to continue to provide urban services and effectively plan for these services in an orderly manner.

The effect of the proposed annexation on the local governmental structure of Colusa County will be beneficial because there will be a way to pay for the services required for residential and commercial and industrial development without the creation of additional small special districts that are chronically bound to have financial and management difficulties.

This annexation should not result in an adverse financial impact upon the county at full build out. The city most likely will need to augment tax revenue to provide essential services. As required, revenue may be generated within the annexation areas by a Community Facilities District or other funding mechanism as determined by the City.

- (d) The conformity of both the proposal and its anticipated effects with both the adopted commission policies on providing planned, orderly, efficient patterns, of urban development, and the policies and priorities set forth in Section 56377.

The annexation proposal and its anticipated effects conform to both the adopted Commission Policies on providing planned, orderly, efficient patterns, of urban development, and with the policies and priorities set forth in California Government Code Section 56377. Section 56377 states that land within the existing sphere of influence of a jurisdiction should be developed before lands outside the sphere of influence should be developed. There is no vacant land within the existing city limits to accommodate expansion of the CIP project.

The adopted Commission policies are examined below. The City has prepared a General Plan, Rezoning, development agreement and EIR for the CIP Project. Table 2.0.1 on page 2.0-6 through page 2.0.67 provides a discussion of mitigation measures and General Plan Policies and Implementing actions. Likewise, LAFCo is discussed in the regulatory setting of the EIR. (see LAFCo's Policy Analysis below)

The addition of Westcott Road into the annexation territory and deletion of the area in the southern area known as Parcel #'s 017-020-009,010 & 027; 017-070-027& 032; 017-030-097 & Parcel 13 of APN 017-030-099 need to be removed from the annexation and the annexation shall continue to include the entire Enterprise Blvd. (see attachments #'s 7 & 8. These are being removed as they conflict LAFCo's goal of orderly development and LAFCo's Policy 4.3.a.i.to ensure the city reasonably assumes the burden of providing adequate roads.

- (e) The effect of the proposal on maintaining the physical and economic integrity of agricultural lands, as defined by Section 56016.

A portion of the territory is in agricultural production at this time. Ultimately, the land may be converted to non-agricultural uses as the annexation area develops. LAFCo requested an analysis of Government Code Section 56064 in the EIR, Gov. Code Section 56064 is LAFCo's definition of prime farmland.

Section 56064 contains a broad definition of prime agricultural land—far broader than that used in many other such characterizations. Basically under Section 56064, land is considered prime agricultural land if it meets any of the following definitions:

- (a) *Land that, if irrigated, qualifies for rating as class I or class II in the USDA Natural Resources Conservation Service land use capability classification, whether or not the 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 nut-bearing trees, vines, bushes, or crops that have a nonbearing period of less than five years and that will return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than four hundred dollars (\$400) per acre.*

As concluded in the EIR, a substantial portion of the project site contains important agricultural land meeting LAFCo's definition and remains a significant and unavoidable impact. However,

much of the CIP annexation territory is already developed or surrounded by developed uses, which compromise agricultural operations already. A Mitigation Measure was added in the FEIR calling for agricultural conservation easements to mitigate the loss of Prime Agricultural Land (MM 4.1.5)

“MM 4.1.5 As part of the Development Review process associated with Implementing Action LU-2.1.a, the City shall review development projects to mitigate for loss of Prime Farmland, Farmland of Statewide Importance, ~~or~~ and Farmland of Local Importance, as defined by the Farmland Mapping and Monitoring Program and “prime agricultural land”, as defined by Government Code Section 56064 by: (1) granting a farmland conservation easement to or for the benefit of the City and/or a qualifying entity approved by the City, at a 1:1 ratio for each acre developed, (2) if the City adopts a farmland conservation program, by payment of an in lieu fee as established by the farmland conservation program, which shall be reviewed and adjusted periodically to ensure that the fee is adequate to offset the cost of purchasing farmland conservation easements at a 1:1 ratio, or (3) other form of compensation at a 1:1 ratio, such as improvements to existing agricultural land, that is acceptable to the City and conserves the farmland in perpetuity. The City shall prepare guidelines identifying requirements for conservation easements, including timing of conservation easements, location of land to be preserved, land mitigation ratio and quality, and minimum standards for conservation easements.”

Since some of the territory within the proposed annexation territory falls within LAFCo's "prime agricultural land" definition, it triggers a "heightened scrutiny" under CKH and Colusa LAFCo's adopted policies, especially where, as here, the annexation will result in permanent removal of the land from agricultural production. Under CKH, Section 56377, LAFCo is required to do the following:

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

(a) Development or use of land for other than open-space uses shall be guided away from existing prime agricultural lands in open-space use toward areas containing 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.

Colusa LAFCo's Policies Section 2-P implements the above statutory direction by imposing a number of requirements in consideration of any change of organization that proposes to convert prime agricultural land. Chief among these is a determination that "insufficient vacant non-prime or open space land exists within the existing agency boundaries or applicable sphere of influence that is planned and developable for the same general type of use". (Section 2-14) In this case, However, the land is currently planned and zoned for Industrial uses in the county.

Colusa LAFCo Policy Section 2-14

Among LAFCO's core purposes is preservation of open space and prime agricultural lands. The Commission will exercise its powers to conserve prime agricultural ("ag") land as defined in Government Code Section 56064, and open space land as defined in Government Code Section 65560 pursuant to the following standards. In order to more effectively carry out this mandate, the Commission may develop local standards to define and identify prime agricultural and open space lands.

2.14 a) Conditions for Approval of Prime Ag/Open Space Land Conversion. LAFCO will approve proposals for changes of organization or reorganization which are likely to result in the conversion of prime ag/open space land use to other uses only when the Commission finds that the proposal will lead to planned, orderly, and efficient development

For proposals that are not associated with implementation of an approved Specific Plan or Community Plan, a proposal leads to planned, orderly, and efficient development only if all of the following criteria are met:

- i) 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.
- ii) The proposed development of the subject lands is consistent with the Sphere of Influence Plan, including the Service Review of the affected agency or agencies.
- iii) The land subject to the change of organization is likely to be developed. In the case of very large developments, annexation should be phased wherever feasible or provisions made to insure that the undeveloped portion of the project remains in productive agriculture until developed.
- iv) Insufficient vacant non-prime or open space land exists within the existing agency boundaries or applicable Sphere of Influence that is planned and developable for the same general type of use.
- v) The proposal will have no significant adverse effects upon the physical and economic integrity of ag/open space lands outside the boundaries of the proposed reorganization territory.
- vi. As applicable, LAFCO will encourage development that is consistent with Habitat Conservation Plans adopted by the applicable planning and wildlife agencies to promote a regional conservation strategy to accommodate growth in a manner that protects agricultural lands, open space, and habitat values.
- vii. LAFCo shall require agricultural conservation easements for conversions of prime farmland land meeting LAFCo's definition of Prime Agricultural Land (GC Sec 56064). Mitigation shall consist of conservation easements having equal value of land being converted and be located within Colusa County. The Commission may require

in lieu conservation fees or a one-acre of prime farmland for each acre to be converted.

1. Territory within CIP has received all discretionary approvals from the city with the exception of tentative subdivision maps and any conditional use permits, if required. It is appropriate to receive Tentative Map and Conditional approvals after annexation. The City has rezoned all the territory for a mixture of land uses. The development of lands contiguous with the city will promote orderly development and not leap frog development.
2. Territory within CIP is within the LAFCo Established Sphere of Influence, as amended and consistent with the Service Review for the City of Colusa.
3. Due to the recession and pandemic, land may not be developed in the immediate future. Phasing annexations of this area could result in higher development costs including numerous CEQA updates and additional processing costs. The Commission has the authority to approve a portion of the annexation territory should it choose.
4. The City recently annexed the Walnut Ranch subdivision, the Colusa Crossings Property and the Wastewater Treatment Plant property. The Colusa Crossings Annexation at 325 acres is significantly larger than CIP annexation of 214 acres. Lands all around the City have various development constraints and are located on prime agricultural lands. The Walnut Ranch, Colusa Crossings and Wastewater Treatment plant annexations do not contain mixed-use residential development, an existing golf course and adjacent industrial area was annexed in 2015
5. No adverse effects on the physical or economic integrity of adjacent agricultural lands are anticipated. However, potential incompatibilities may occur. In the case of the CIP annexation, these incompatibilities would be temporary.

2.14(b) *Approved Sphere of Influence Plan Required. Colusa 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 Spheres of Influence Plan, containing all of the elements required by Section III.B, below.*

Colusa LAFCo adopted a Sphere of Influence Plan on February 2, 2012 containing the required elements and updated this Sphere of Influence plan on April 1, 2021.

3. 2.14(c) Findings with Respect to Alternative Sites.

For proposals that are not associated with implementation of an approved Specific Plan or Community Plan, The Commission will make a finding that insufficient vacant nonprime agricultural or open space land exists within the city (county) of its Sphere when it determines:

- i. The Agency has accurately identified (a) all vacant