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February 1, 2012

Honorable Chair Jeffry Blanchfield and
Members of Marin County LAFCo
555 Northgate Drive, Suite 230
San Rafael, CA 94903

Re: **Request for Reconsideration of Annexation of the City of Sausalito to the Southern Marin Fire Protection District (File No. 1304)**

Dear Chair Blanchfield and Members of the Commission:

Introduction. I write as Special Counsel to the City of Sausalito to provide my opinion with respect to the request for reconsideration identified above. My law practice is restricted to the representation of local governments, including LAFCos. I am General Counsel to Calaveras and Yuba LAFCos and special counsel to several others. I served as a member of the Commission on Local Governance for the 21st Century, which recommended substantial revisions in what is now known as the Cortese-Knox-Hertzberg Act, and, as one of three lawyer-Commissioners, was intimately involved in drafting the legislation which implemented the Commission's recommendations. Should further information regarding my qualifications to render this opinion be required, my biographical profile appears at www.CLLAW.US under the "attorneys" link and my full resume can be provided on request.

Discussion. I have reviewed the Request for Reconsideration identified above, as well as the City's response to it, along with your original decision. While your Commission is, as you know, entrusted with substantial discretion to determine appropriate boundaries for local governments in Marin County, in my judgment, the following are true:

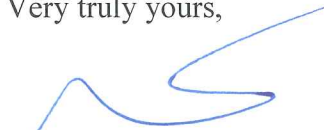
- The annexation of the territory of Sausalito to the Southern Marin Fire Protection District is easily defended as a legal matter in light of the Legislature's objectives in creating LAFCos. The District already serves the people of Sausalito via a contract between the two governments, an arrangement which obscures true service responsibilities and disenfranchises the people of Sausalito as to elections for the board of the District, which is their de facto fire provider. Government Code § 56001 states the Legislature's objectives for LAFCo and these include: "logical formation and modification of the boundaries of local agencies, with a preference granted to accommodating additional growth within, or through the

expansion of, the boundaries of those local agencies which can best accommodate and provide necessary governmental services ... in the most efficient manner feasible. ... [service] responsibility should be given to the agency or agencies that can best provide governmental service.”

- The Request for Reconsideration provides no substantial evidence which would justify a different decision that your Commission unanimously reached on November 10th. The claim that the annexation will allow the firefighters who protect life and safety in Sausalito enhanced pension benefits (which the Request pejoratively and misleadingly calls “double-dipping”) is simply wrong, as demonstrated by the City’s letter. The Request’s questioning of pension costs provides one person’s idiosyncratic opinion but does not outweigh the professional actuarial work submitted with the City’s application for the annexation. Moreover, if pension calculations are made more conservative, as the Request demands, they should be made more conservative for **both** the City’s pension costs under CalPERS and the District’s costs under the Marin County Employees Retirement Association. Evenhanded application of this conservative viewpoint will raise costs for fire service whether provided by Sausalito or Southern Marin FPD, but will not change the relative impact of annexation on the community’s capacity to fund life safety services.
- The Request’s third claim – that the District will be insufficiently funded by virtue of pension costs – amounts to restatement of its first two claims and, for the reasons noted above, provides no new substantial evidence which would justify reconsideration of your unanimous November 10th decision to approve this annexation.

Conclusion. In sum, it is my professional opinion that your November 10th decision to approve this annexation is fully consistent with the Cortese-Knox-Hertzberg Act and that nothing in the Request for Reconsideration provides substantial evidence that might support, much less require, a contrary decision now. Thank you for considering these thoughts. If I can do more to assist your review of this matter, please let me know.

Very truly yours,



Michael G. Colantuono

MGC:mgc

c: City of Sausalito
Southern Marin Fire Protection District