

CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
EXECUTIVE OFFICER'S REPORT

June 29, 2012
Special Meeting
Agenda Item 6

June 29, 2012 (Agenda)

LAFCO 12-02 Mt. Diablo Health Care District (MDHCD) Reorganization: Detachment of Territory, Establishment of a Subsidiary District, and Amendment to the Sphere of Influence (SOI) for the MDHCD

PROPONENT City of Concord by Resolution No. 12-29 adopted April 3, 2012

ACREAGE & LOCATION As a result of the detachment included as a component of the reorganization, the MDHCD will consist of 38.65± square miles adhering to the exterior boundaries of the cities of Concord and Pleasant Hill that are currently within the MDHCD, including unincorporated islands and pockets within the Concord and Pleasant Hill boundaries as shown on the attached map (Attachment 1).

SYNOPSIS

The City of Concord filed an application with LAFCO to reorganize the MDHCD to include 1) detachment of all incorporated and unincorporated territory within the District except for those areas located within the exterior boundaries of the cities of Concord and Pleasant Hill and also within the MDHCD, and 2) establishment of the MDHCD as a subsidiary district of the City of Concord.

PURPOSE

The reorganization proposal was submitted to LAFCO by a resolution and application. The City of Concord's application sets forth the following reasons for the reorganization:

- 1) provide for a district governing board more accessible, transparent, open and available to the public in compliance with Brown Act requirements;
- 2) ensure a greater portion of public funds received are used for health related purposes with lower administrative costs;
- 3) allow greater interaction and coordination of public health services with the local government structure;
- 4) allow governance of the District by an existing local agency within whose boundaries are located the John Muir Medical Center, Concord Health Center and Concord Public Health Clinic; and
- 5) respond effectively to concerns expressed by the Contra Costa Grand Jury, LAFCO, local agencies and the general public about the effectiveness and cost of operating the MDHCD.

BACKGROUND

History of Mt. Diablo Health Care District - The MDHCD, previously the Concord Hospital District, was formed in 1948, with voters approving the District formation and a special parcel tax to build the Mt. Diablo Community Hospital. The MDHCD boundary includes the cities of Clayton (portions) Martinez, Lafayette (portions), Concord, and Pleasant Hill (portions), along with the unincorporated communities of Clyde and Pacheco.

The District is funded primarily by property tax revenues (ad valorem). In 1996, MDHCD faced bankruptcy and the voters approved a Community Benefit Agreement (CBA) which transferred the

assets of the District to John Muir Health (JMH), in exchange for certain assurances regarding health care services to be provided within the District. Per the Agreement, JMH provides funding for administrative expenses of the District and contributes \$1 million per year to fund programs and events that address health issues and promote a healthy community.

The MDHCD does not currently own or operate any facilities. Per the Agreement between MDHCD and JMH, all rights and title in the Mt. Diablo Medical Center, including land, buildings and equipment, were transferred to JMH. In return, JMH is required to operate and maintain the District's healthcare facilities and assets for the benefit of the communities served by the District.

The CBA is effective until December 31, 2049, and may automatically renew for three additional successive 50-year terms unless terminated in accordance with the terms of the agreement. The CBA also provides that the MDHCD Directors serve on the Community Health Fund Board and participate in the decisions to allocate funds to health care causes within the District. MDHCD does not control the Community Health Fund Board, although it has the power to appoint one half of the board members.

LAFCO Special Study - In May 2011, the Commission received a report relating to the MDHCD focusing on ongoing concerns relating to the District's finances and operations as presented in the 2007 LAFCO Municipal Service Review, and raised by the Contra Costa Civil Grand Jury (in four separate annual reports) and the Contra Costa Taxpayers Association.

In response to these past and ongoing concerns, LAFCO proceeded with a special study relating to governance options for the MDHCD. Economic & Planning Systems (EPS) was hired to prepare the special study relating to MDHCD. Following a public review process, in January 2012, the Commission accepted the special study (available on the LAFCO website).

The special study identified a number of governance options, including the following: 1) maintenance of the status quo, 2) consolidation (with Los Medanos Community Healthcare District), 3) dissolution of MDHCD and appointment of a successor agency (i.e., City of Concord) to wind up the affairs of the District, and 4) dissolution of MDHCD and appointment of a successor agency (e.g., CSA EM-1) to continue the services.

City of Concord's Reorganization Proposal – The Commission held public hearings in January and March 2012, at which time it discussed various governance options. The Commission encouraged the City of Concord to apply to LAFCO to convert the MDHCD into a subsidiary district governed by the City. The Commission noted that the advantages associated with a reorganization include 1) ongoing allocation of property tax revenues directed at meeting health care needs of the community, 2) continued existence of MDHCD as a health care district and separate legal entity in order to preserve the provisions contained in the CBA with JMH, and 3) minimization of legal risk as establishment of a subsidiary district does not change the legal status of the MDHCD as a separate legal entity.

In April 2012, the City submitted its application, including an operational plan as discussed below. The proposal includes detachment of territory and establishment of MDHCD as a subsidiary district of the City of Concord. As proposed, the subsidiary district would include the cities of Concord and Pleasant Hill. The Concord City Council would serve as the ex-officio board of directors of the District.

Pursuant to Government Code §56118, any proposal requesting the establishment of a subsidiary district must also include a request for merger. The City of Concord has addressed merger in its

application, indicating that merger is not possible given that the subsidiary district will also include the City of Pleasant Hill. Further, it is desirable that the MDHCD remain a health care district, and a separate legal entity for financial and operational reasons.

In its application to LAFCO, the City has requested that LAFCO condition its approval of the reorganization on the following terms and conditions: 1) the MDHCD shall fully fund its current unfunded health care benefit liability; 2) all MDHCD assets and liabilities, real and fiscal, located within or identified with the areas being detached from the District, shall remain assets and liabilities of the MDHCD, a separate legal entity; 3) three of the five seats previously appointed by the MDHCD Board to the Health Foundation Board shall be assigned by the City of Concord, and the remaining two seats shall be assigned by the City of Pleasant Hill; and 4) LAFCO waive the indemnification agreement to indemnify LAFCO against expenses arising from any legal actions challenging the reorganization.

MDHCD Response to the Reorganization Proposal - The MDHCD has also put forward some suggested stipulations following a series of actions and discussions. In accordance with Government Code §56861, following submittal of a proposal to form a subsidiary district, the affected district may consent to the proposal, take no action, or adopt a resolution of intent to file an alternative proposal. If a district files a resolution of intention to file an alternative proposal, the LAFCO Executive Officer shall take no further action on the original proposal to form a subsidiary district for a period of 70 days.

On June 7, the MDHCD Board voted to file an alternative proposal based on a number of concerns as described in MDHCD Resolution No. 2012.2. The District's concerns related to the City's proposal, and specifically, proposed operations of the reorganized district, and the City's understanding of and future compliance with the terms of the CBA. In addition, the District had questions and concerns regarding the effects of the proposed detachment from MDHCD of territory within the cities of Clayton, Lafayette, Martinez and Walnut Creek.

On June 19, representatives from the City of Concord and MDHCD met to discuss these concerns. We understand that the meeting was productive. Consequently, on June 21, the MDHCD Board voted to rescind Resolution No. 2012.2 which allows LAFCO to resume its proceedings.

In conjunction with the repeal of its resolution, the District has submitted suggested stipulations (Attachment 2) for the Commission to take into account as it considers the City of Concord's reorganization proposal as summarized below:

1. Affirmation (by the City of Concord) that the \$1 million annual contribution from JMH to fund grants for health care initiatives is a contractual obligation.
2. The reorganized MDHCD will fund the *CPR Anytime* program without interruption and consider AED applications outside of the grant process timeframe.
3. Affirmation (by the City of Concord) that dissolution is not an alternative.
4. Affirmation (by the City of Concord) that proposed changes to the Community Health Fund Board can be accomplished through amendments to the reorganized District's Bylaws and side agreements, rather than amendments to the CBA.
5. Affirmation (by the City of Concord) that the reversionary provision of the Transfer Agreement cannot be changed or removed by law.

In accordance with Government Code §§56885 - 56890, LAFCO has the authority to establish a range of terms and conditions in conjunction with its actions.

The recommended terms and conditions are presented at the end of the staff report under *Alternatives for Commission Action* and included in LAFCO Resolution No. 12-02B. The recommended terms and conditions and language in LAFCO resolution No. 12-02B speak to the City of Concord and the MDHCD issues. It should be noted that Contra Costa LAFCO terms and conditions typically require that the applicant indemnify LAFCO. At the City's request, and due to the unusual circumstances of this unique reorganization proposal, the terms and conditions at the end of the staff report and in LAFCO resolution No. 12-02B do not include an indemnification provision. However, whether or not to waive the indemnification requirement is a Commission decision.

DISCUSSION

The Government Code sets forth factors that the Commission is required to consider in evaluating any proposed boundary change as discussed below (Gov. Code §56668). In the Commission's review and evaluation, no single factor is determinative. In reaching a decision, each is to be evaluated within the context of the overall proposal.

The City's proposal is essentially a jurisdictional change and has no physical effects on land use or the environment as discussed below.

1. Consistency with the Sphere of Influence (SOI) of Any Local Agency:

On January 11, 2012, the Commission adopted a zero SOI for the MDHCD in anticipation of a future reorganization. In conjunction with the proposed reorganization, LAFCO should also amend the SOI for the District. It is recommended that the SOI for the subsidiary district be coterminous with the exterior boundaries of the cities of Concord and Pleasant Hill that are currently within the MDHCD, including unincorporated islands and pockets within the Concord and Pleasant Hill boundaries.

In amending the District's SOI, the Commission shall consider and prepare a written statement of determinations with respect to the following:

a. The present and planned uses in the area, including agricultural and open space lands.

Land uses within the MDHCD boundary are varied, and include both incorporated and unincorporated territory. There are a variety of County and City General Plan and zoning designations with the District. Health care services do not themselves induce or encourage growth. No Williamson Act contracts will be affected; and no changes to the present or planned land uses will result from this reorganization.

b. The present and probable need for public facilities and services in the area.

The District boundary contains urbanized areas that place a demand on health care service providers. There will continue to be a need for health care services and facilities following the reorganization.

c. The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide.

The District does not own or manage any facilities, and is authorized to provide a range of other healthcare services. The provision of these services is limited primarily by its property tax allocation.

The District receives a portion of the 1% property tax to fund services and programs. The District will provide health care services as outlined in the City's plan for service.

d. The existence of any social or economic communities of interest in the area if the commission determines that they are relevant to the agency.

The residents of the proposed subsidiary District have an economic interest in the programs and services to be provided by the District.

e. The nature, location, extent, functions and classes of service to be provided.

The District does not own or manage any facilities. The District is authorized to provide a range of health care services. As proposed, the District will continue to provide health services, health access, healthy lifestyle, support and related services.

2. Land Use, Planning and Zoning - Present and Future:

There are a variety of County and City General Plan and zoning designations within the proposed subsidiary District. No changes to the present or planned land uses will result from this reorganization.

3. The Effect on Maintaining the Physical and Economic Integrity of Agricultural Lands:

The District contains no prime farmland or land covered under Williamson Act Land Conservation agreements. The proposed reorganization will have no effect on the preservation of agricultural lands or open space.

4. Topography, Natural Features and Drainage Basins:

The topography of the District is relatively flat with some rolling hills. Topography has no effect on the services provided by the District, and the proposed reorganization will have no effect on the topography of the District or surroundings areas.

5. Population:

The estimated population of the reorganization area is approximately 154,748 residents based on 2010 Census data. The proposed reorganization will have no effect on the population.

6. Fair Share of Regional Housing:

Pursuant to Government Code §56668, LAFCO must consider in the review of a proposal the extent to which the proposal will assist the receiving entity in achieving its fair share of the regional housing needs as determined by the regional council of governments. The proposed reorganization will have no effect on regional housing needs.

7. Governmental Services and Controls - Need, Cost, Adequacy and Availability:

In accordance with Government Code §56653, whenever a local agency submits a resolution of application for a change of organization or reorganization, the local agency shall also submit a plan for providing services within the affected territory. The plan shall include all of the following information and any additional information required by the Commission or the Executive Officer:

- (1) An enumeration and description of the services to be extended to the affected territory.
- (2) The level and range of those services.

- (3) An indication of when those services can feasibly be extended to the affected territory.
- (4) An indication of any improvement or upgrading of structures, roads, sewer or water facilities, or other conditions the local agency would impose or require within the affected territory if the change of organization or reorganization is completed.
- (5) Information with respect to how those services will be financed.

The City of Concord "Plan for Providing Services within the Affected Territory," as required by Government Code §56653, is attached (Attachment 3). The proposed subsidiary district area is served by various local agencies including, but not limited to, the cities of Concord and Pleasant Hill, Contra Costa County Fire Protection District, Contra Costa Water District, East Bay Municipal Utility District, and Central Contra Costa Sanitary District. The proposed reorganization will have no effect on any of these districts.

The City's Operations Plan contains the following elements:

- **District Governance** – The Concord City Council will serve as the governing body for the District, and will ensure that the operations of the District are carried out pursuant to the Health and Safety Code. The governing Board will hold public meetings, adopt an annual budget, and provide policy direction to the District.
- **District Administration** – The Concord City Manager will serve as the District's Administrator/Chief Operating Officer; and the Concord City Attorney will serve as legal counsel to the District. The Concord City Council will appoint the Finance Director to the District as District treasurer pursuant to the Health and Safety Code. All District funds will be held separately from the City of Concord funds.
- **Relationships with Other Public and Private Organizations** – The City of Concord will maintain a collaborative relationship with the City of Pleasant Hill, providing Pleasant Hill input into the administration of the District and participation in the grant program. The City of Concord will also communicate with Contra Costa County and JMH regarding meetings, services and related matters.
- **Plan for Providing Service** – Under the City's direction, the District will continue to provide health services, health access, healthy lifestyle, support and related services. The District requests that the City continue to fund and execute the *CPR Anytime* program and consider AED applications outside the grant process timeframe. The City notes in its application that fewer District revenues will be allocated to District overhead costs (e.g., election costs, stipends) and the City will rely on existing City staff to oversee District operations.

The City's Plan for Providing Services (attached) also contains additional financial information, a probable schedule of activities, and discusses proposed technical clean-ups to language in the CBA with JMH, primarily dealing with the composition of the 10-member advisory board. No substantive changes to the CBA have been proposed. The District has suggested that the proposed changes in the composition of the CHF Board can be accomplished by amending the Bylaws and not the CBA. LAFCO encourages the City and JMH to consider this request and minimize amendments to the CBA.

- Financial Information** – The primary source of funding for the MDHCD is property tax revenue (ad valorem). In addition, the District receives an annual subsidy to help cover administrative expenses from JMH (\$25,000) and interest income. The District's primary expenditures include administrative and operating expenses (i.e., election costs) and community grants. The District also has carry over funds. The District's FY 2012 Budget (Calendar Year) is summarized below.

	2012 Budget	Year to Date (as of 5/31/12)	2012 Estimate
REVENUES	\$1,058,421	\$ 902,260	\$1,058,421
-Property Tax	241,014	88,809	241,014
-Subsidy	25,000	25,000	25,000
-Interest	4,700	744	4,700
-Carryover Funds	787,707	787,707	787,707
EXPENSES	\$ 358,890	\$ 279,388	\$ 716,447
-Directors	26,820	9,075	26,820
-Administration	89,610	125,202	182,610
-Organization Exp	80,200	50	120,200*
-Community Action	162,260	145,061	386,817
NET RESOURCES	\$ 699,531	\$ 622,872	\$ 341,974

***Includes \$120,000 for November 2012 election costs which may not be incurred**

Following the reorganization, the subsidiary district will receive approximately \$200,000 annually in property tax based on the reorganized District. In addition, the CBA requires JMH to provide \$25,000 annually to the District to support administrative activities.

The City of Concord's Operations Plan and Plan for Providing Service provides an estimate of revenue that will be available to fund community programs going forward. Given uncertainty regarding the timing of the effective date of the reorganization, the actual amount of and timing of funding that will be available is unknown at this time; thus the City proposes to defer operations of the grant program to FY 2013-14, with the grant application process beginning in February 2013. The District requests that the City continue to fund and execute the *CPR Anytime* program without interruption and consider AED applications outside the proposed grant process timeframe. LAFCO notes that the *CPR Anytime* program is provided to high school students in their sophomore year, and skipping the program for a year may result in some students not receiving this training.

In addition to the property tax revenue and JMH stipend, the MDHCD expects to end the budget year with net resources estimated at \$341,974. These funds will remain assets of the District. If the proposed reorganization is completed in early August, there will be no election, the \$120,000 reserved for election costs will not be needed, and the net resources available at the end of the year will be increased by that amount. Further, if the reorganization is complete in

early August, there may be additional savings in Director and Administrative expenses, and potentially in Community Action Funding, resulting in an additional increase in net resources at the end of the year.

8. Assessed Value, Tax Rates and Indebtedness:

The reorganization area is within numerous tax rate areas (TRAs). The assessed value for the proposal area is sixteen billion, forty-four million, three hundred twenty-two thousand, nine hundred fifty-two (\$16,044,322,952) based on the 2011-12 roll.

The MDHCD receives approximately \$240,000 in property tax revenue. On June 5, 2012, the Board of Supervisors adopted Resolution 2012/256 relating to the property tax allocation for the MDHCD reorganization. The agreement reallocates approximately \$39,702 from the portion of the District being detached, which is largely unincorporated territory, to the remaining entities in the affected tax rate areas. In accordance with the property tax transfer, the resulting new increment allocation factor for the subject territory TRAs will be used to allocate the annual tax increment for the effective year of the reorganization as well as in future years.

9. Environmental Impact of the Proposal:

As Lead Agency, the City of Concord filed a Notice of Exemption finding that the proposed reorganization is exempt from CEQA pursuant to Class 20 – Changes in Government Organization. The LAFCO Environmental Coordinator reviewed the document and finds it adequate for LAFCO purposes.

10. Landowner Consent and Consent by Annexing Agency:

The territory proposed for reorganization contains over 12 registered voters, and is therefore considered inhabited for LAFCO purposes. Consequently, the proposed reorganization is subject to protest proceedings, including notice and hearing.

11. Boundaries and Lines of Assessment:

The reorganization area reflects the exterior boundaries of the cities of Concord and Pleasant Hill that are currently within the MDHCD, including unincorporated islands and pockets within these exterior bounds. The establishment of a subsidiary district has specific statutory requirements that must be met. Government Code §57105 requires that the Commission make the following two determinations:

An order establishing a district as a subsidiary district may be adopted if upon the date of that order the commission determines that either of the following situations exists:

(a) The entire territory of the district is included within the boundaries of a city.

(b) A portion or portions of the territory of the district are included within the boundaries of a city and that portion or portions meet both of the following requirements:

- 1) Represent 70 percent or more of the area of land within the district, as determined by reference to the statements and the maps or plats filed pursuant to Chapter 8 (commencing with Section 54900) of Division 2 of Title 5 for the current fiscal year.*
- 2) Contain 70 percent or more of the number of registered voters who reside within the district as shown on the voters' register in the office of the county clerk or registrar of voters.*

Subsection (a) does not apply to the subject proposal as the boundaries of the District and the City are not coterminous. The reorganization as proposed meets the standards as set forth in subsection (b).

As proposed, the boundaries of the subsidiary district adhere to the exterior boundaries of the cities of Concord and Pleasant Hill that are currently within the MDHCD. Upon detachment from the MDHCD of all territory located outside the exterior boundaries of the cities of Concord and Pleasant Hill as described, the remaining District will contain approximately 38.65 square miles (24,737 acres), of which 30.5 square miles (19,515 acres) (79%) are within the Concord boundary. With regard to the number of registered voters, the remaining District will contain approximately 74,554 registered voters of which 55,861 (74.9%) are within the Concord boundary. LAFCO has received communication from all of the cities affected by detachment and none oppose the proposed reorganization.

12. Environmental Justice:

LAFCO is required to consider the extent to which proposals for changes of organization or reorganization will promote environmental justice. As defined by statute, "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. The proposed reorganization is not expected to have any effect on the fair treatment of minority or economically disadvantaged groups.

CONCLUSION

One of the fundamental goals of LAFCOs is to ensure the efficient and effective provision of municipal services in an accountable manner.

The City of Concord's proposal helps to accomplish this goal. Approval of this proposal will promote more accessible, responsive, transparent governance and accountability for the utilization of limited resources to provide essential health care services to the community.

ALTERNATIVES FOR COMMISSION ACTION

After consideration of this report and any testimony or additional materials that are submitted the Commission should consider approving one of the following options:

- Option 1**
- A.** Adopt LAFCO Resolution No. 12-02A (Attachment 4) amending the SOI for the MDHCD and find that the reorganization proposal is consistent with the amended SOI .
 - B.** Approve the reorganization as submitted and make the following determinations:
 - 1. The City of Concord, as Lead Agency, found the project to be Categorical Exempt pursuant to the California Environmental Quality Act (CEQA) Class 20 – Changes to Government Organization.
 - 2. The project is exempt pursuant to CEQA Class 20 consistent with the determination of the City of Concord acting as Lead Agency.
 - 3. The subject territory is inhabited, and the proposal is subject to protest proceedings.
 - 4. Notice of the Commission's review of this proposal was advertised in the *Contra Costa Times*, newspaper of general circulation within the reorganization area through

publication of a 1/8 page display ad; and that individual notice has been provided to affected and interested agencies, County departments, and those individuals and agencies having requested such notification.

C. Adopt this report and approve the proposal, to be known as the *Mt. Diablo Health Care District Reorganization: Detachment of Territory/Establishment as a Subsidiary District* subject to the following terms and conditions:

1. The MDHCD, through the operation of the Concord City Council as the ex-officio Board of Directors, will continue to provide health care services pursuant to the Health and Safety Code, throughout the District's new jurisdictional boundary comprising the exterior boundaries of the cities of Concord and Pleasant Hill that are currently within the MDHCD including unincorporated islands and pockets within the city boundaries;
2. Prior to August 9, 2012, the MDHCD shall negotiate a fully-funded, closed plan with its existing health care beneficiaries resolving any currently unfunded health care benefit liability, solely utilizing District assets. Should the District fail to comply with this condition as of August 9, 2012, the Concord City Council shall, as the ex-officio Board of Directors of the MDHCD, transfer any District assets, including property taxes and other revenues received in subsequent years, to a fund established specifically for the purpose of addressing any existing health care benefit liability. Any such transfer(s) shall take precedence over other District expenditures;
3. All MDHCD assets and liabilities, real and fiscal, located within or identified with the areas being detached from the District, shall remain assets and liabilities of the MDHCD, a separate legal entity;
4. Three of the five seats previously appointed by the MDHCD Board to the Health Foundation Board will be assigned by the City of Concord, and the remaining two seats will be assigned by the City of Pleasant Hill;
5. From the time the reorganization is approved by the Contra Costa LAFCO until the date the LAFCO Certificate of Completion is filed and the Concord City Council has become, ex officio, the Board of Directors of the District, the MDHCD is prohibited from taking the following actions: a) approving any increase in compensation or benefits for its directors, officers, employees or contractors; b) appropriating, encumbering, expending, or otherwise obligating, any funds of the agency for anything other than necessary and legally binding operating expenses and addressing condition C2 above relating to the unfunded health care liability; and 3) appropriating any additional funds from the District's Community Action Fund.

D. Authorize the completion of these proceedings, including protest proceedings, and without an election, unless at least 25% (and not more than 50%) of the registered voters within the District submit written protests to this proposal;

E. Adopt LAFCO Resolution No. 12-02B (Attachment 5) approving the reorganization and setting forth the Commission's terms, conditions, findings and determinations.

Option 2 Adopt this report and DENY the proposal.

Option 3 If the Commission needs more information, CONTINUE this matter to a future meeting.

RECOMMENDED ACTIONS:

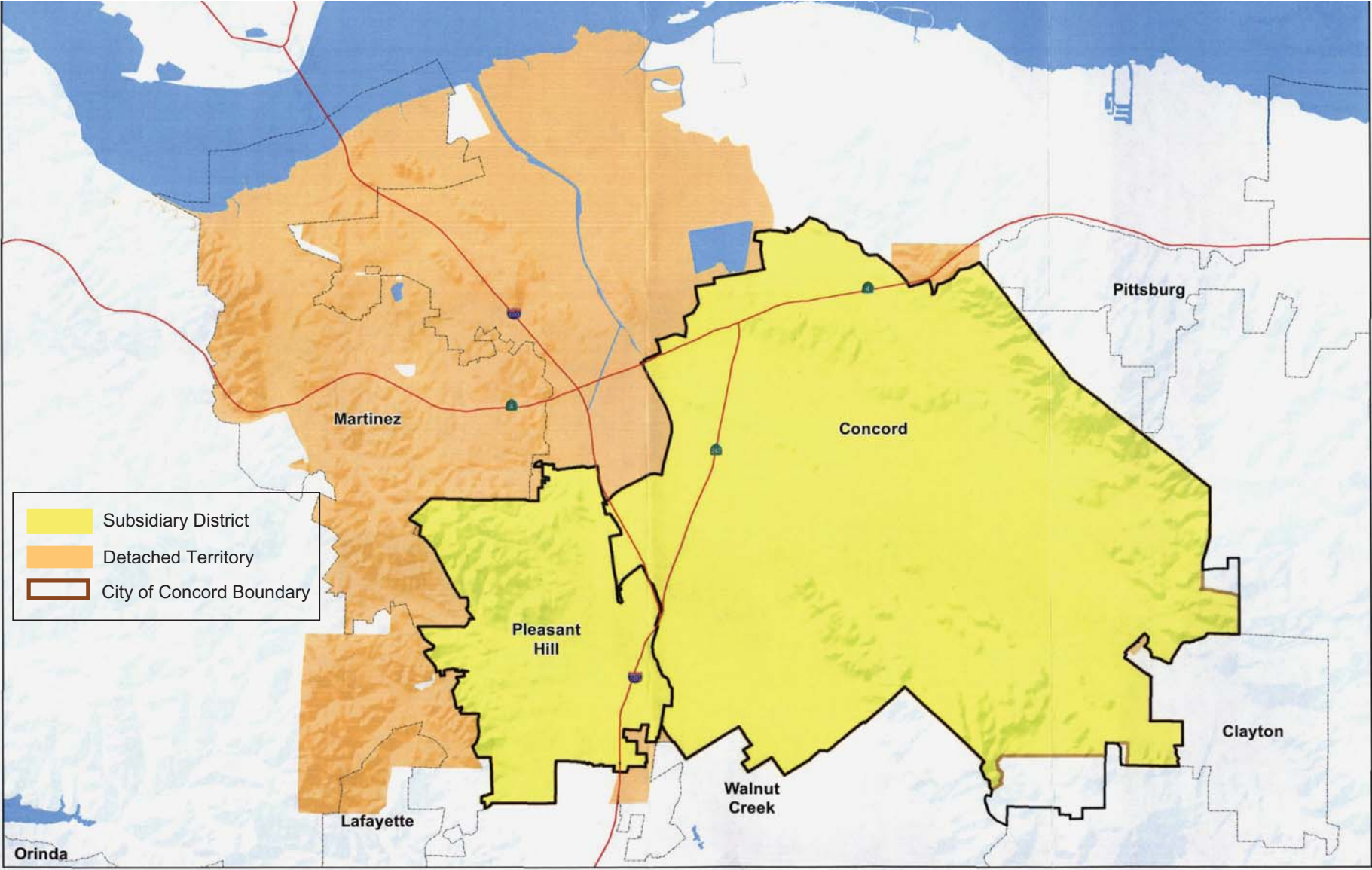
It is recommended that the Commission (1) approve Option 1, and (2) consider the City of Concord's request to waive the indemnification agreement to indemnify LAFCO against expenses arising from any legal actions challenging the reorganization and direct staff accordingly.

LOU ANN TEXEIRA, EXECUTIVE OFFICER
CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION

Attachments:

1. Map of Proposed MDHCD Reorganization Boundary
2. MDHCD Suggestions Stipulations
3. City of Concord's Operational Plan and Plan for Service
4. Draft LAFCO Resolution No. 12-02A - SOI
5. Draft LAFCO Resolution No. 12-02B - Reorganization

LAFCO 12-02 - Mt. Diablo Health Care District Reorganization



Disclaimer:
Although every reasonable effort has been made to assure the accuracy of this data, the City of Concord makes no warranty, representation or guarantee as to the content, reliability, accuracy, timeliness or completeness of any of the data provided herein and expressly disclaims any representations and warranties.

Legend

Stipulations to Motion to Reverse Resolution 2012.2

1. The City of Concord affirms the \$1,000,000 annual contribution from John Muir Health to provide grants, through CHF, for health care initiatives within the District's boundaries is a contractual obligation of the Transfer Agreement and not negotiable.
2. The reorganized Mt. Diablo Health Care District will fund and execute the CPR Anytime program without interruption and consider AED applications without regard to the Grant Process time frame.
3. The City of Concord affirms dissolution is not an alternative.
4. The City of Concord affirms that there is no need to modify or alter the Transfer Agreement and the changes needed to apportion the CHF representatives between Concord and Pleasant Hill will be accomplished in the reorganized District's Bylaws. Additionally, the clause requiring office space and equipment being provided will be handled by letter agreement with John Muir Health to suspend the requirement as long as the District is under the Governance of the City of Concord.
5. The City of Concord affirms the reversionary provision of the Transfer Agreement cannot be changed or removed by law.

CITY OF CONCORD
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CITY COUNCIL
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William D. Shinn, Vice Mayor
Timothy S. Grayson
Daniel C. Helix
Laura M. Hoffmeister

Thomas J. Wentling, City Treasurer
Valerie Barone, Interim City Manager

May 22, 2012

Ms. Lou Ann Texeira
Executive Officer
Contra Costa LAFCO
651 Pine Street, 6th Floor
Martinez CA 94553-1290

Subject: Reorganization of the Mt. Diablo Health Care District

Dear Ms. Texeira

This letter and enclosure are provided as further documentation and support for the City of Concord's application to convert the Mt. Diablo Health Care District to a subsidiary district governed by the Concord City Council.

The City application requests that LAFCO (a) reduce the size of the District by approving the detachment of territory external to boundaries of the Cities of Concord and Pleasant Hill and (2) establish the Concord City Council as, ex officio, the Board of Directors of the Mt. Diablo Health Care District.

It is important to understand that this action will not merge or consolidate the City and District. The District will remain a separate legal entity, although smaller and with a new governing board. It will continue to have a separate budget. Its statutory obligations and limitations will be unchanged since it remains a Health Care District operating under the Local Health Care District Law (Health and Safety Code Section 32000 et seq.).

With these considerations in mind, Concord is augmenting its application materials submitted to your office on April 5 to include the following document: Operations Plan for Service per Government Code Section 56653

With this submittal, I'd like to reiterate the conditions that the Concord City Council enumerated in their April 3, 2012 resolution initiating its LAFCO application (Resolution Number 12-29; submitted to LAFCO with the City's April 5, 2012 application). Each of these conditions is listed below:

1. Prior to the effective date of the reorganization the District shall fully fund its current unfunded health care benefit liability.

Lou Ann Texeira

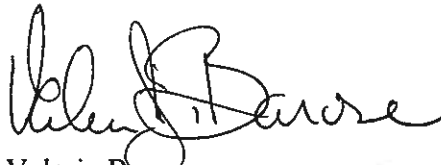
May 22, 2012

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2. All District assets and liabilities, real and fiscal, located within or identified with the area being detached from the District shall remain assets and liabilities of the District.
3. Three of the five seats previously appointed by the District Board to the Health Foundation Board shall be assigned by the City of Concord. *In addition, while not a part of Concord's resolution, the City of Concord supports the City of Pleasant Hill's request that LAFCO condition its action such that the remaining two seats of the five seats previously appointed by the District Board to the Health Foundation Board be assigned by the City of Pleasant Hill.*
4. LAFCO shall waive its standard indemnification requirement.

Please contact me or the City's consultant, Bob Braitman, if you have any questions about this information.

Sincerely,



Valerie Barone
Interim City Manager

Enclosure:

Operations Plan for Public Services

cc: June Catalano, City Manager, City of Pleasant Hill
Bob Braitman, Consultant to the City of Concord
Mark Coon, Concord Acting City Attorney
Nancy Olsen, John Muir Health

MT. DIABLO HEALTH CARE DISTRICT
Operations Plan and Plan for Providing Services

A. District Governance

1. The City Council of the City of Concord shall ensure the operations of the Mt. Diablo Health Care District (“District”) are carried forth pursuant to and consistent with the requirements of Health and Safety Code Section 32000 et seq.) pertaining to Local Health Care Districts.
2. The Concord City Council shall serve as the Board of Directors of the District. When individuals no longer serve as members of the City Council they will no longer be members of the District Board of Directors.
3. The Concord City Council shall select from among its members an individual to serve as the Chair of the Board of Directors for the District. That individual may be the Mayor but other members may also be selected to serve as Chair.
4. Meetings of the District Board of Directors may be held on the same date, time and location as meetings of the City Council but all notices and agendas shall clearly identify District meetings as distinct and separate meetings from those of the City Council.
5. The Board of Directors shall annually adopt the District budget at a public meeting.
6. Special meetings of the Board of Directors may be held on other dates provided proper public notice is provided in accordance with State law.

B. District Administration

1. The Concord City Manager shall be the Administrator/Chief Operating Officer of the District.
2. The Concord City Attorney shall be the legal counsel to the District.
3. The City Manager may delegate administrative and operational duties related to the District to other members of the City staff but shall retain the title and responsibility as Administrator/Chief Operating Officer. All District funds will be held separately from the City of Concord funds.
4. The Concord City Council shall appoint the Finance Director, pursuant to Health and Safety Code Section 32127, as District Treasurer for the safekeeping and disbursal of District funds.

5. The City Manager, as Administrator/Chief Operating Officer, shall prepare and present to the Board of Directors the annual District operating budget.

C. Relationships with Other Public and Private Organizations

1. The City of Concord shall maintain a collaborative relationship with the City of Pleasant Hill allowing Pleasant Hill input into the overall administration of the District and participation in the grant program that will be administered by City of Concord on behalf of the District.
2. The City of Concord shall provide the City of Pleasant Hill, County of Contra Costa and John Muir Health with notices and agendas for all meetings of the District Board of Directors.
3. The John Muir/Mt. Diablo Community Health Fund (CHF) shall continue to exist, including its 10-member Board, with five of those members appointed by public bodies. When the reorganization is effective, of the five members appointed by a public body, three shall be appointed by the Concord City Council and two shall be appointed by the Pleasant Hill City Council. The remaining 5 members of the CHF shall be appointed in the same manner as they are currently appointed.
4. John Muir Health, in a March 7, 2012 letter to LAFCO signed by President and Chief Executive Officer Cal Knight, states that John Muir Health will continue its \$1 million annual investment in the Community Health Fund (\$37 million through 2049, the term of the current Community Benefit Agreement). This commitment shall continue.

D. Plan for Providing Services

Based on the requirement of Government Code Section 56653, the application to LAFCO for the reorganization submitted by the City of Concord included a plan for providing services. This document expands on that information and is presented in the same format as was submitted in the application.

1. Describe the services to be extended to the affected territory by this proposal.

The District will continue to provide Health Services, Health Access, Healthy Lifestyle, Support Services and Workforce Development services currently provided or authorized to be provided at this time.

2. Describe the level and range of the proposed services.

Fewer District revenues will be allocated to District overhead costs due to the elimination of District elections and stipend costs and an ability for the City of

Concord to administer the program in a more cost effective manner by using an existing government structure. The City of Concord councilmembers will not receive any benefits or compensation (whether salary or stipened) for serving as, ex officio, the Board of Directors to the District. Therefore more District resources will be available to benefit the public through provision of authorized health services and grant programs.

Current estimates are that the new District, once the areas outside the cities of Pleasant Hill and Concord are detached, will receive approximately \$232,500 annually in revenue from District taxes, based on FY 2011-12 revenue, as reported by the County Auditor-Controller. Additionally, the District will receive \$25,000 annually to support administrative activities from John Muir Health.

Concord anticipates running the District with the same controlled levels of overhead that apply to the City's Community Grants Program—up to 20% of revenue used for overhead costs. This equates to an expected maximum annual overhead cost for operating the District of \$46,500. However, John Muir's annual \$25,000 payment to support administrative activities within the District would offset all but \$21,500 of this overhead cost. Actual annual overhead costs may be lower than \$46,500, however, until the City takes over operations actual costs are unknown. Assuming a maximum overhead cost of \$46,500 and a \$25,000 offset of overhead costs by John Muir, there would be \$211,000 available annually for the District's programs.

The City's first-year expenses for managing the District could be higher than 20% because of the need to cover consulting and legal costs necessary to support the LAFCO application process, and the costs associated with incorporating the District into the City of Concord's administrative systems—i.e., financial, records, etc.

Additionally, the City anticipates transferring District operations onto a July 1 through June 30th Fiscal Year, to match the City's fiscal year.

Because it is not yet known how much of the current District's funds will transfer or be available upon LAFCO approval of the reorganization (anticipated to be complete by August of 2012), or actual revenue levels that the District will receive once significant areas are detached, the City anticipates deferring operations of the grant program to FY 2013-14. The application process would begin in February 2013 in order for grants to be awarded for the FY 2013-14. This will have two advantages:

- A. The City will be able to determine actual revenues vs. assumed or estimated revenues;

B. The City will use the intervening time to develop an accessible and transparent grant program, including working with the City of Pleasant Hill, County Health, John Muir, and community health advocates to establish program priorities, define grant criteria, develop application materials, define the grant review process (i.e., how Pleasant Hill and Concord will work together in the grant program) and develop accountability measurements and measures. All of these tools must be in place prior to the City initiating a grant program for the District.

3. Indicate when the services can feasibly be provided to the proposal area.

In a practical sense, some financial changes will occur upon the effective date of the reorganization; more substantial changes and benefits may become evident once the Concord City Council and administration, in consultation with the City of Pleasant Hill, have the opportunity to prepare and adopt a new District budget and updated operating procedures. As mentioned above, the City does not anticipate the grant program for the District to begin funding until Fiscal Year 2013-14.

A probable schedule of activities is as follows:

August 2012: LAFCO acts to reorganize the District; the Concord City Council becomes its Board of Directors

Fall 2012: City actively works with the former District to obtain all records and files and begins the process of integrating such records into the City's electronic records management system

City establishes appropriate financial systems and legal documents to support the District

City of Concord staff works with City of Pleasant Hill staff to create a grant program. The preparation of the grant program will involve John Muir Health, County Health, community health advocates, etc., and be done in a manner that invites public involvement.

January 2013: The reorganized District Board of Directors adopts the grant program

Feb-April 2013: Grant applications made available for FY 2013-14 and grant applications submitted and reviewed in accordance with adopted program.

May-June 2013: Grants approved by the Concord City Council as part of the City's Budget process

July 2013-June 2014: City administers the grants

Oct-Dec 2013: Grant application process for Fiscal Year 2014-15 begins. Although it is also possible that the City may choose to establish a two-year grant cycle vs. an every year cycle. This decision would be made in the Fall of 2012 as the City explores in more detail its service delivery model.

4. Indicate any improvements or upgrading of structures, roads, sewers or water facilities or other conditions that will be required as a result of the proposal.

This question is not relevant to the reorganization of the Mt. Diablo Health Care District.

5. Identify how these services will be financed. Include both capital improvements and ongoing maintenance and operation.

The primary source of revenue to finance District services are property taxes collected annually on land and improvements within the District boundaries. See response to question 2 above.

6. Identify any alternatives for providing the services listed in Section (A) and how these alternatives would affect the cost and adequacy of services.

Following an extensive study of the current situation, LAFCO has determined that the preferable option is to convert the District to a subsidiary district that is governed by the City of Concord.

Another alternative would be to dissolve the District and transfer its assets and liabilities to the City of Concord as the successor agency.

The City of Concord remains open to supporting LAFCO in their actions by serving in either of these roles.

Additionally, the City considered a "merger" of the District with the City, however determined that this alternative was infeasible because it would create liability for the City and put the City's General Funds at risk.

E. Community Benefit Agreement

There are a variety of technical cleanups of the language in the Community Benefit Agreement (CBA) required by the reorganization of the Mt. Diablo Health Care District as proposed by LAFCO.

For instance it will be necessary to acknowledge the changes related to appointment of members to the Community Health Fund (CHF). The current CBA has the District Board appointing 5-members to the CHF. To be consistent with the proposal before LAFCO, the CBA will need to be amended to have the Concord City Council, in its role as the new Board of Directors to the District, appointing three members and the Pleasant Hill City Council appointing two members. Additionally, John Muir Health has requested that the CBA limit to no more than two the number of elected officials from any one agency that can be appointed to the CHF. The City of Concord supports this request and intends to incorporate it into the revised CBA.

Additionally, the CBA will need to be revised to incorporate changes in John Muir's by-laws that have occurred since the CBA was executed, and to eliminate John Muir's obligation to provide office space and conference and meeting rooms to the District.

No substantive changes to the Community Benefit Agreement are necessitated nor proposed at this time. However, John Muir Health has indicated that they would like the District to work with them to remove the reversionary provision of the CBA. The Concord City Council, in its role as the District Board of Directors, is willing to explore with John Muir options by which the public's interest in the hospital's assets are preserved, that state law is adhered to, and that any disincentives to John Muir's continued investment in the hospital are removed. At this point in time, there have been no negotiations on this topic.

F. Possible Impact of AB 2418

AB 2418 (Dickinson and Gordon) Health Districts appears to be written to purposely restrict to 5% of revenues the amount of money available to a Health District to spend on overhead and operations. Were Assembly Bill 2418 to become law and affect such a restriction on administration and overhead costs, it would make it impossible for the City of Concord to operate the District without impacting the City's General Fund. Consequently, if Assembly Bill 2418 passes the City will need to consider whether dissolution of the District is an appropriate action.

RESOLUTION NO. 12-02A

RESOLUTION OF THE CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION

**AMENDING THE SPHERE OF INFLUENCE FOR THE
MT. DIABLO HEALTHCARE DISTRICT**

WHEREAS, Government Code §56425 requires the Local Agency Formation Commission (LAFCO) to determine the sphere of influence (SOI) of each local governmental agency within the County; and

WHEREAS, in January 2012, the Commission received a special study of the Mt. Diablo Health Care District (MDHCD), which presented a number of governance options for the District to address governance, operational and financial concerns; and

WHEREAS, in accordance with the special study, the Commission adopted a zero SOI for the MDHCD signaling a future change in governance for the District; and

WHEREAS, in April 2012, the City of Concord applied to LAFCO to reorganize the MDHCD, and detach territory and establish the MDHCD as a subsidiary district of the City of Concord; and

WHEREAS, the boundary of the subsidiary district includes the exterior boundaries of the cities of Concord and Pleasant Hill that are currently within the MDHCD, including unincorporated islands and pockets with the Concord and Pleasant Hill boundaries as shown on the attached map; and

WHEREAS, in accordance with the City's proposal, an amended SOI must be established for the MDHCD; and

WHEREAS, no change in regulation, land use or development will occur as a result of amending the SOI for the MDHCD; and

WHEREAS, in the form and manner prescribed by law, the Executive Officer has given notice of a public hearing by this Commission regarding the reorganization and SOI action; and

WHEREAS, the SOI action was duly considered at a public meeting held on June 29, 2012; and

WHEREAS, Contra Costa LAFCO heard and received all oral and written protests, objections and evidence that were made, presented or filed, and all persons present were given an opportunity to appear and be heard with respect to any matter pertaining to said SOI action.

NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED that Contra Costa LAFCO does hereby:

1. Amend the SOI for the MDHCD to reflect the exterior boundaries of the cities of Concord and Pleasant Hill that are currently within the MDHCD, including unincorporated islands and pockets with the Concord and Pleasant Hill boundaries as shown on the attached map, in accordance with the proposed reorganization (LAFCO 12-02).
2. Determine that the project is Categorically Exempt pursuant to the California Environmental Quality Act (CEQA) Class 20 – Changes to Government Organization.
3. Determine that the Commission has considered the criteria set forth in Government Code §56425(e) as follows:

Contra Costa LAFCO
Resolution No. 12-02A

a. *The present and planned uses in the area, including agricultural and open space lands.*

Land uses within the MDHCD boundary are varied, and include both incorporated and unincorporated territory. There are a variety of County and city General Plan and zoning designations with the District. Healthcare services do not themselves induce or encourage growth. No Williamson Act contracts will be affected; and no changes to the present or planned land uses will result from this reorganization.

b. *The present and probable need for public facilities and services in the area.*

The District boundary contains urbanized areas that place a demand on healthcare service providers. There will continue to be a need for healthcare services and facilities following the reorganization.

c. *The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide.*

The District does not own or manage any facilities, and is authorized to provide a range of other healthcare services. The provision of these services is limited based on the property tax allocation. The District will provide healthcare services as outlined in the City’s plan for service.

d. *The existence of any social or economic communities of interest in the area if the commission determines that they are relevant to the agency.*

The District receives a portion of the 1% property tax to fund services and programs. The residents of the District have an economic interest in the programs and services to be provided by the District.

e. *The nature, location, extent, functions and classes of service to be provided.*

The District does not own or manage any facilities. The District is authorized to provide a range of health care services within its District boundary. As proposed, the District will continue to provide health services, health access, healthy lifestyle, support and related services.

PASSED AND ADOPTED THIS 29TH day of June 2012, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

DON TATZIN, CHAIR, CONTRA COSTA LAFCO

I hereby certify that this is a correct copy of a resolution passed and adopted by this Commission on the date stated above.

Dated: June 29, 2012

Lou Ann Texeira, Executive Officer

RESOLUTION NO. 12-02B

**RESOLUTION OF THE
CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
MAKING DETERMINATIONS AND APPROVING THE
MT. DIABLO HEALTH CARE DISTRICT REORGANIZATION: DETACHMENT OF
TERRITORY AND ESTABLISHMENT AS A SUBSIDIARY DISTRICT**

WHEREAS, a proposal to reorganize the Mt. Diablo Health Care District (MDHCD) was filed with the Executive Officer of the Contra Costa Local Agency Formation Commission pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act (Section 56000 et seq. of the Government Code); and

WHEREAS, the Executive Officer has examined the application and executed her certification in accordance with law, determining and certifying that the filing is sufficient; and

WHEREAS, at the time and in the manner required by law the Executive Officer has given notice of the Commission's consideration of the proposal; and

WHEREAS, the Executive Officer has reviewed available information and prepared a report including her recommendations therein, and the report and related information have been presented to and considered by the Commission; and

WHEREAS, the Commission heard, discussed and considered all oral and written testimony related to the proposal including, but not limited to, the Executive Officer's report and recommendation, the environmental document or determination, Spheres of Influence and related information; and

WHEREAS, in January 2012, the Commission received a special study relating to the MDHCD which presented various governance options, including maintaining the status quo, dissolution and reorganization of the District; and

WHEREAS, the Local Agency Formation Commission determines that reorganization of the MDHCD is in the best interest of the affected area and the total organization of local governmental agencies within Contra Costa County as it maintains valuable District programs including *CPR Anytime* and AED placement, and will enhance funding for needed health care programs; and

WHEREAS, this reorganization of the MDHCD does not dissolve the District; and

WHEREAS, reorganization of the MDHCD does not alter the Community Benefit Agreement (CBA) with John Muir Health and maintains important provisions of the Agreement including the \$1,000,000 annual grant funding for health care initiatives in the community, and the reversionary provision.

NOW, THEREFORE, the Contra Costa Local Agency Formation Commission DOES HEREBY RESOLVE, DETERMINE AND ORDER as follows:

1. The reorganization proposal is consistent with the amended SOI.
2. The project is categorically exempt pursuant to the California Environmental Quality Act Class 20 – Changes to Government Organization.
3. The subject territory is inhabited, and the proposal is subject to protest proceedings.
4. The boundaries of the affected territory are found to be definite and certain as approved and set forth in Attachment A, attached hereto and made a part hereof.

5. Notice of the Commission's review of this proposal was advertised in the *Contra Costa Times*, newspaper of general circulation within the reorganization area through publication of a 1/8 page display ad; and that individual notice has been provided to affected and interested agencies, County departments, and those individuals and agencies having requested such notification.
6. The subject proposal is assigned the distinctive short-form designation:
**MT. DIABLO HEALTH CARE DISTRICT REORGANIZATION:
DETACHMENT OF TERRITORY AND ESTABLISHMENT AS A SUBSIDIARY
DISTRICT**
7. Said reorganization is hereby approved and subject to the following terms and conditions:
 - a. The MDHCD, through the operation of the Concord City Council as the ex-officio Board of Directors, will continue to provide health care services pursuant to the Health and Safety Code, throughout the District's new jurisdictional boundary comprising the exterior boundaries of the cities of Concord and Pleasant Hill that are currently within the MDHCD including unincorporated islands and pockets within the city boundaries;
 - b. Prior to August 9, 2012, the MDHCD shall negotiate a fully-funded, closed plan with its existing health care beneficiaries resolving any currently unfunded health care benefit liability, solely utilizing District assets. Should the District fail to comply with this condition as of August 9, 2012, the Concord City Council shall, as the ex-officio Board of Directors of the MDHCD, transfer any District assets, including property taxes and other revenues received in subsequent years, to a fund established specifically for the purpose of addressing any existing health care benefit liability. Any such transfer(s) shall take precedence over other District expenditures;
 - c. All MDHCD assets and liabilities, real and fiscal, located within or identified with the areas being detached from the District, shall remain assets and liabilities of the MDHCD, a separate legal entity;
 - d. Three of the five seats previously appointed by the MDHCD Board to the Health Foundation Board will be assigned by the City of Concord, and the remaining two seats shall be assigned by the City of Pleasant Hill;
 - e. The territory being annexed will be liable for the continuation of authorized or existing special taxes, assessments and charges comparable to properties presently within the annexing agency, if any; and
 - f. From the time the reorganization is approved by the Contra Costa LAFCO until the date the LAFCO Certificate of Completion is filed and the City of Concord has become, ex officio, the Board of Directors of the District, the MDHCD is prohibited from taking the following actions: a) approving any increase in compensation or benefits for its directors, officers, employees or contractors; b) appropriating, encumbering, expending, or otherwise obligating, any funds of the agency for anything other than necessary and legally binding operating expenses and addressing condition 7b above relating to the unfunded health care liability; and 3) appropriating any additional funds from the District's Community Action Fund.

8. Authorize the completion of these proceedings, including protest proceedings, and without an election, unless at least 25% (and not more than 50%) of the registered voters within the District submit written protests to this proposal.

PASSED AND ADOPTED THIS 29th day of June 2012, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

DON TATZIN, CHAIR, CONTRA COSTA LAFCO

I hereby certify that this is a correct copy of a resolution passed and adopted by this Commission on the date stated.

Dated: June 29, 2012

Lou Ann Texeira, Executive Officer