

CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION  
EXECUTIVE OFFICER'S REPORT

September 14, 2016  
Agenda Item 6

September 14, 2016 (Agenda)

LAFCO 13-08 Northeast Antioch Reorganization Area 2A - Annexations to the City of Antioch and Delta Diablo Zone 3 (DD) and detachment from County Service Area (CSA) P-6 *This item was continued from the February 12, 2014, March 12, 2014, April 9, 2014, June 11, 2014, June 10, 2015, and June 8, 2016 LAFCO meetings*

PROPONENT City of Antioch (by Resolution)

ACREAGE & LOCATION Area 2A comprises 116± acres (19 parcels) and is located immediately west of State Route 160 (Attachment 1).

PURPOSE Provide municipal services to the area, which is largely built out with marina, commercial, storage and incidental uses, along with several dwelling units.

SYNOPSIS

The Area 2A reorganization is the third and final in a series of three reorganizations encompassing Northeast Antioch. In 2014, the Commission approved the annexations of Area 1, comprising 470± acres located both north and south of Wilbur Ave, which is largely industrial; and Area 2B, comprising 103± acres located south of Wilbur Ave and roughly centered on Viera Ave, which is primarily residential.

Given that Areas 1 and 2B were previously annexed to the City, Area 2A now constitutes an island, which is surrounded by the City of Antioch to the west and south, the City of Oakley to the east, and the San Joaquin River to the north. LAFCO is precluded from creating islands, as discussed in section #13 below.

Although the applications to annex Northeast Antioch were submitted to LAFCO in three separate proposals, it is assumed by all parties that all three areas would ultimately be annexed to the City and the two districts. The property tax transfer agreement approved by the City and County covers all three areas and assumes that all areas would be annexed to the City.

A number of options are presented for the Commission's consideration at the end of this report. Should the Commission decide to take action today to approve or deny the proposal, we have included the full staff analysis as presented below.

UPDATE

The Commission last discussed this proposal on June 8, 2016. At that time, the Commission received public comment, and discussed the ongoing unresolved issues, including the faulty storm drain infrastructure, the City's land use designations in the area, and outreach to the property owners in the area. The Commission also had questions regarding management of the Antioch Dunes wildlife area following annexation, the availability of funding to finance the needed improvements in Area 2A, and LAFCO protest proceedings. These issues are summarized below.

- Storm water infrastructure – The pipeline is located in a private road partially owned by Marterm Holdings, LLC, and partially owned by Sportsmen, Inc. It was constructed over 20 years ago by the developer, in conjunction with the Antioch Kmart project. The purpose of the pipeline is to

drain the Kmart Basin, located fully in the City of Antioch. The pipeline is sized to support future development in this area of the City, and does not serve Area 2A. The Contra Costa County Flood Control District assumed the responsibility for maintaining the pipeline under a drainage easement, until 2004, when the easement was transferred to the County.

The pipeline appears to have been faulty since initial construction, possibly due to the materials used, soil conditions and tidal impacts. Since the beginning of 2016, the County has performed two repairs totaling \$150,000. County staff reports that the full cost to repair the existing line would be approximately \$1 million; and the cost for a full removal and replacement of the line would be over \$3 million. County staff reports that no funds are available to undertake further pipeline repairs and, as such, additional repairs are not planned at this time. County staff reports that this is the only location in the County where the County owns and maintains a storm drain facility that benefits only a city and not the unincorporated area.

Concerns regarding the pipeline were raised late in the annexation process, following the City's submittal of the annexation application to LAFCO. As reiterated in the City's letter dated August 31, 2016, (Attachment 2), the City will not accept the pipeline until repairs deemed satisfactory to the City are made and the pipeline is accepted by the Antioch City Council.

Since the June 8<sup>th</sup> LAFCO meeting, there have been various meetings among City, County and LAFCO staff to discuss the pipeline and a repair strategy. To date, this issue has not been resolved. At the City's request, a LAFCO condition is recommended to acknowledge that this annexation will not impact the County's existing rights and obligations with regard to the drainage easement and pipeline. However, inasmuch as the City will continue to need this pipeline to drain existing City properties, as well as potential future City development, LAFCO urges the City and County to continue to work together to share the repair obligations with an eye towards the eventual transfer of the maintenance responsibilities to the City.

- City's General Plan update – Several of the commercial landowners (i.e., Kiewit Construction, Vortex Marine Construction, Wilbur Avenue Storage) are currently opposed to the annexation due to concerns regarding the City's land use designations of their properties and potential costs associated with future sewer service. At least one of these properties has indicated that they would not oppose the annexation if the City would provide the appropriate land use designation for their property.

For over two years, LAFCO has continued to delay its action to allow the City time to process the necessary General Plan and zoning amendments to address the land use designations for some of the heavy industrial uses, and to explore options to fund a sewer system in the area. City staff indicates that it will complete the General Plan update by the end of the year. The City has heard the concerns expressed by the landowners and has indicated its commitment to address these concerns through the General Plan process. Regarding sewer service to Area 2A, the City indicates in its Plan for Service, that sewer service in this area will be funded by future development in the area, and/or through assessment districts. Thus, completion of the General Plan update and the extension of sewer service to the area are within the City's purview, do not warrant further delay by LAFCO.

- Outreach to Area 2A landowners and residents – Several landowners and a number of marina patrons have expressed opposition to the proposed annexation. The landowners are mostly concerned about their land use and zoning designations under the City's current General Plan; LAFCO is still unclear as to the concerns of the marina patrons. It is important that the City reach out to the landowners and others in the area and respond to their concerns. As with the annexation of Area 2B (Viera Avenue), it was useful to meet with the residents and landowners. City staff should consider updating and making available the previously prepared *Frequently Asked Questions* (FAQ) handout to address common questions and concerns.
- Antioch Dunes wildlife area – LAFCO staff has confirmed that the Antioch Dunes National Wildlife Refuge is a federally owned and maintained facility; the City of Antioch has no responsibility for this area.
- Funding – In conjunction with the annexation of Areas 1 (large industrial area) and 2B (Viera Avenue) - see map (Attachment 3), both the City and County received supplemental funding.

In 2011, the City entered into an agreement with GenOn Marsh Landing, LLC which provides \$6.5 - \$7.5 million over a 12 year period. The funding supports the following: Community Centers Foundation; representative tax, post annexation, and water payments; payments prior to the Mirant Landing Generating Station (MLGS) coming online; \$1 million bonus payment to complete the annexation on or before December 31, 2012; and City assurances.

In 2011, the County also entered into an agreement with GenOn which provides \$6.5 million over 10 years and is available for disbursement, in whole or in part, at the County's direction to qualified community organizations.

In addition, the City and County, through the terms of the tax sharing agreement, agreed to contribute \$6 million (\$3 million each) to install the backbone water and sewer infrastructure in Area 2B (Viera Avenue). The County's \$3 million contribution is conditioned on the City matching the County's funding. The City estimates that the cost of sewer system to serve Area 2B will exceed \$10 million. There were no specific funds set aside for Area 2A.

- LAFCO protest proceedings – Commissioners have asked for clarification regarding the protest proceedings for Area 2A, as the proceedings are different depending on whether the area is inhabited or uninhabited, as summarized below and on the attached flowchart (Attachment 4).

<b>INHABITED</b>	<b>UNINHABITED</b>
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Terminate Annexation	Order Annexation without an election	Order Annexation subject to an election
A majority of voters protest	Less than 25% of voters or landowners owning less than 25% of the assessed value of land protest	At least 25%, but less than 50% of voters, or at least 25% of landowners owning 25% or more of the assessed value of land protest

Terminate Annexation	Order Annexation without an election
Landowners owning 50% or more of the assessed value of land protest	Landowners owning less than 50% of the assessed value of land protest

Initially, Area 2A was deemed to be “uninhabited” (i.e., less than 12 registered voters). However, since 2014, the number of registered voters has grown, and at last count, was 20. This is perplexing given that there are no residential land use designations in Area 2A. Further, some of the voters have registered to vote listing the marina and their slip number as their address. According to County Code Enforcement and the Sheriff’s Office, the County prohibits “liveaboards.” Other voters are registered to vote listing the Sportsmen Yacht Club as their place of residence. Since 1934, the 111-year old Ferryboat Sausalito has been the clubhouse of the Sportsmen Yacht Club (the ferry's engines and paddle wheels have been removed). Club members can stay aboard the ferryboat in tiny cabins built on the main deck. According to the County Sheriff’s Office, the maximum time one can rent a room on the ferryboat is two weeks.

County Elections has asked that LAFCO notify them of any returned registered voter mail in Area 2A, and they will remove these individuals from the registered voter list.

**DISCUSSION**

The Cortese Knox Hertzberg Act (CKH) sets forth factors that the Commission must consider in evaluating any proposed change of organization or reorganization as discussed below (Gov. Code §56668). In the Commission's review of these factors, no single factor is determinative. In reaching a decision, each factor is to be evaluated within the context of the overall proposal.

1. *Consistency with the Sphere of Influence of Any Local Agency:*

LAFCO is charged with both regulatory and planning functions. Annexations are basically a regulatory act, while establishing spheres of influence (SOIs) is a planning function. The SOI is an important benchmark as it defines the primary area within which urban development is to be encouraged. In order for the Commission to approve an annexation, it must be

consistent with the jurisdiction's adopted SOI. The annexation area is within both the City of Antioch and the DD SOIs, and within both the City of Antioch and County voter-approved Urban Limit Lines (ULLs).

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

Area 2A is part of the City's Eastern Waterfront Employment Focus Area as identified in the City's General Plan. In 2011, the City and County formed a committee to develop and implement a joint economic development strategy for the Northeast Antioch area. This committee was instrumental in addressing some of the concerns relating to the reorganization proposals, including fiscal and infrastructure issues.

The land in Area 2A is largely built out and includes some underdeveloped properties. Existing uses are predominately marina, commercial, storage and incidental uses, along with several residential dwelling units. The City's General Plan designations for Area 2A include "Marina/Support Uses" and "Commercial." The City has rezoned Area 2A as "Urban Waterfront" and "Regional Commercial."

Surrounding land uses include the San Joaquin River to the north; Highway 160 and heavy industrial to the east; heavy and light industrial to the south; and heavy industrial to the west.

The current and proposed uses are consistent with the City's plan and rezoning designations. No changes in land uses are proposed in conjunction with the proposal.

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

The State Department of Conservation produces a map every two years that identifies California's agricultural lands (e.g., Prime Farmland, Unique Farmland, Farmland of Statewide Importance, Farmland of Local Importance, Grazing Land, etc.) based on ratings that take into account soil quality and irrigation status.

Both LAFCO law and the California Environmental Quality Act (CEQA) provide their respective definitions of "agricultural land" and "prime agricultural land."

Under CEQA, the conversion of Prime Farmland, Unique Farmland, or Farmland of Statewide Importance is considered a significant impact. There is no farmland in Area 2A, and no portion of the area is under a Williamson Act Land Conservation Agreement.

4. *Topography, Natural Features and Drainage Basins:*

Area 2A is located just south of the San Joaquin River. A portion of Area 2A immediately adjacent to the San Joaquin River is located within a 100-year flood hazard zone. As discussed in the City environmental review, the City's project does not propose any new buildings or structures within an identified area of heightened flood risk.

The area has a relatively level topography. There are no other significant natural features affecting the proposal.

5. *Population:*

The area is designated primarily for marina, commercial, storage and incidental uses. Although there are no residential land use designations in Area 2A, there are an estimated four existing residential units in Area 2A, which appear to be caretaker quarters for existing storage facilities. In accordance with the City's General Plan and zoning designations, no

residential development is proposed for this area. Thus, no increase in population is anticipated.

6. *Fair Share of Regional Housing:*

Pursuant to §56668 of the CKH, LAFCO must consider, in its 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. Regional housing needs are determined by the State Department of Housing and Community Development; the councils of government throughout the State allocate to each jurisdiction a “fair share” of the regional housing needs. Given the current and proposed land uses in Area 2A, there is no effect to regional housing needs associated with the proposed reorganization.

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

In accordance with Government Code §56653, whenever a local agency submits an annexation application, the local agency must also submit a plan for providing services to the annexation area. The plan shall include all of the following information and any additional information required by LAFCO:

- (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 has provided a “Plan for Services” as required by statute. The level and range of services will be comparable to those services currently provided within the City. City services will be needed to support future development in the area. As part of the reorganization proposal, the City and County have entered into a tax sharing agreement.

Following annexation, the City will provide a range of municipal services to Area 2A, including police, streets and roads, street lighting, drainage, parks & recreation, library, and other services. Fire services will continue to be provided by the Contra Costa County Fire Protection District (CCCFFPD).

Following annexation, the City will provide sewer collection, and DD will provide sewer treatment and disposal. The City will provide retail water, and Contra Costa Water District (CCWD) will provide wholesale water as summarized below. The City has existing sewer and water lines located within Area 2A that can serve the area following annexation.

*Police Services* – Law enforcement services are currently provided to Area 2A by the Contra Costa County Sheriff's Department. Upon annexation, police services will be provided by the City, and the area will be detached from the County's police services district (CSA P-6).

The City's standard for providing police services is 1.2 sworn officers per 1,000 residents. By including Community Service Officers in the sworn officer category, Antioch has maintained this ratio. Police response times are dependent on the agency's staffing level and size of the jurisdiction served. The Antioch General Plan establishes a response time goal of 7-8 minutes for Priority 1 (emergency) calls. The Antioch Police Department reports that the

average response time is 11 minutes due to a lack of staffing. The City's CEQA document concludes that annexation of the three Northeast Antioch areas would not significantly impact or worsen the ratio of police staff to population or adversely affect the response times.

*Streets and Roads* – The City indicated that the road network is already in place in Area 2A. The City anticipates that as development occurs in Northeast Antioch, appropriate frontage improvements will be made to existing public streets in this area. The City currently maintains 314 total centerline miles; 669 total lane miles. There is one mile of public streets within Area 2A that would be added to the City's road inventory following annexation.

*Street Lighting* – The City reports that there are several existing street lights in Area 2A in close proximity to Highway 160, which are installed and maintained by Caltrans. Any new street lights installed in Area 2A would be in conjunction with new development.

*Drainage* – The City indicates that there are currently no drainage facilities that serve the annexation area; however, there are two large storm drain trunk lines that cross Wilbur Avenue and drain into the San Joaquin River. The extent and location of any storm drainage improvements in Area 2A will depend on future development in the area. Capacity in the existing storm drain lines is limited, and significant new development within the Northeast Antioch reorganization area will require construction of a new outfall to the San Joaquin River. All new development in the annexation area must comply with provisions of various municipal, regional, State and federal requirements, including measures to remove pollutants from stormwater for compliance with the federal Clean Water Act and the National Pollution Discharge Elimination System.

*Parks & Recreation* – The City of Antioch has 33 parks. The City's General Plan Performance Standards for parks propose five acres of improved public and/or private neighborhood parks and public community parkland per 1,000 residents, including appropriate recreational facilities. The City exceeds this standard when the trail system, the Costa Loma Regional Park, and the Lone Tree Golf Course are factored in. There are currently no public parks in the Northeast Antioch reorganization area.

The City operates a comprehensive recreation program including aquatics, sports, leisure time activities, community and cultural events, Prewett Family Water Park, Senior Center, youth activities, excursions, and 300 instructional programs for pre-school, youth, adult, seniors, and on-line.

The annexation is not expected to create any significant demand on the City's existing parks & recreation facilities and programs due to the limited number of residents in the area.

*Other Services* – The City provides a multitude of other services, including arts & cultural, capital improvements, code enforcement, landscape maintenance, library and special services which will be extended to Area 2A following annexation.

*Fire Protection* – Fire and emergency medical services are, and will continue to be, provided by CCCFPD following annexation. There are four fire stations located in Antioch: Station 81 - located downtown at 315 W. 10<sup>th</sup> St; Station 82 - located at 196 Bluerock Dr., just west of Lone Tree Way in the south central portion of the City; Station 83 - located at 2717 Gentrytown Dr., south of Buchanan Road in the western portion of the City; and Station 88 - located at 4288 Folsom Dr., just east of Hillcrest Avenue in the eastern portion of the City.

The City's CEQA document concludes that the annexation will result in no change to fire services and no impacts.

*Sewer Services* – The City provides wastewater collection services, while DD provides conveyance, treatment and disposal services to the City.

Currently, Area 2A is served by onsite septic systems. Many of these septic systems have been in operation for decades (in some cases 50 years). The age of the septic systems, as well as the proximity of Area 2A to the San Joaquin River and the high water table in the area, are cause for concern. Following annexation, property owners will have the opportunity to hook up to the City's sewer system, which is one of the benefits of annexation. The existing sewer line in Wilbur Avenue, which runs along Area 2A's Wilbur frontage, was installed by PG&E in conjunction with LAFCO's previous Out of Agency service approval; the line was later extended by NRG. Given that the existing Wilbur sewer line is at the "doorstep" of the Area 2A properties, connecting to this sewer line will be straightforward. However, there are a number of deep parcels in the area that will require lengthy connections, some as long as 1,000 lineal feet.

The City's existing ordinance stipulates that any property in the City with a septic system that is located within 200 feet of a City sewer line is required within 30 days to hook up to the sewer line. The distance is measured from the location of the sewer connection in the building to the sewer line. Given the distance of most developed properties from the Wilbur sewer line, most properties in Area 2A would not be impacted by the City's requirement. The City indicates in its Plan for Service, that sewer service in this area will be funded by future development in the area, and/or through assessment districts.

The City's population is 108,298 in a 28± square mile service area. The City's wastewater collection system consists of 319 miles of gravity pipeline with three pump stations.

DD serves the cities of Antioch and Pittsburg and the unincorporated Bay Point community. DD serves 190,567 residents in a service area of 49± square miles. DD has over 49 miles of sewer main and five pump stations. The District's treatment plant capacity is 16.5 million gallons per day (mgd); in 2012, the average dry weather flow (ADWF) was 14.2 mgd.

Regarding capacity, the City's existing ADWF is 7.4 mgd; the future ADWF is 10.7 mgd. The City estimates that the future peak dry weather flow (PDWF) is 16.8 mgd. DD allows an ADWF of 16.5 mgd. As noted above, during 2012, the ADWF influent to the treatment plant was 12.7 mgd; in 2005 and 2010, the ADWF influent to the treatment plant was 14.2 mgd and 13.2 mgd, respectively. It is estimated that all three reorganization areas (Areas 1, 2A, 2B) have an existing estimated ADWF of 2.42 mgd which will increase to 3.71 mgd at buildout. The subject area is located in Zone 3 of DD's service area.

Both the City and DD indicate that they have the capacity to serve the Northeast Antioch reorganization area.

8. *Timely Availability of Water and Related Issues:*

LAFCO must consider the timely and available supply of water in conjunction with a boundary change proposal. Contra Costa LAFCO policies state that any proposal for a change of organization that includes the provision of water service shall include information relating to water supply, storage, treatment, distribution, and waste recovery; as well as



adequacy of services, facilities, and improvements to be provided and financed by the agency responsible for the provision of such services, facilities and improvements.

The City provides water treatment and distribution services, with 328 miles of main, seven pump stations and 11 reservoirs. The City obtains a majority of its water supply from CCWD, along with diversions from the San Joaquin River.

CCWD's boundary encompasses 220+ square miles in central and eastern Contra Costa County. CCWD's untreated water service area includes Antioch, Bay Point, Oakley, Pittsburg, and portions of Brentwood and Martinez. The District's treated water service area includes Clayton, Clyde, Concord, Pacheco, Port Costa, and parts of Martinez, Pleasant Hill, and Walnut Creek. CCWD also treats and delivers water to the City of Brentwood, Golden State Water Company (Bay Point), Diablo Water District (Oakley), and the City of Antioch. CCWD serves approximately 500,000 (61,085 water connections). The primary sources of water are the U.S. Bureau of Reclamation Central Valley Water Project and delta diversions.

Regarding the water distribution system, the City currently has existing "looped" water mains located in the Northeast Antioch annexation area, consisting of a 16-inch main that runs north/south along the length of Viera Avenue, a 12-inch water line that runs east/west along the length of Wilbur Avenue through Area 1, and 12-inch and 16-inch water lines that run along East 18<sup>th</sup> Street. Also, there is an existing 8-inch water line in Bridgehead Road that can serve properties in that area. These existing water lines provide the backbone of a future water delivery system that will ultimately be developed to serve properties and businesses located in the Northeast Antioch reorganization area.

In its Water Master Plan, the City examined its ability to serve all three subareas. The analysis confirms that, given the City's allocation of raw water and the City's rights to future water supplies of raw water, and based on the City's current and planned treatment capacity, the City has the ability to provide potable water to all three subareas based on the level of existing and future development.

The City reports that most of the existing uses in Area 2A currently have City water; and that these water service connections pre-date LAFCO.

9. *Assessed Value, Tax Rate Areas and Indebtedness:*

The annexation area is within tax rate area 53004. The total assessed value (secured and unsecured) is \$18,840,624 (2014-15 roll). The territory being annexed shall be liable for all authorized or existing taxes comparable to properties presently within the annexing agencies, if applicable.

10. *Property Tax Exchange:*

Revenue and Taxation Code §99(b)(6) requires adoption of a property tax exchange agreement by affected local agencies before the Commission can consider a proposed boundary change. Both the City and County have adopted resolutions approving a tax revenue allocation agreement covering all three annexation areas. A tax allocation agreement covering Areas 1, 2A and 2B was previously approved by both the City and County. This agreement provides for various future revenues for both the City and County in conjunction with the annexation of Area 1, which was completed in 2014. These revenues include property tax (base and increment), sales and use tax, surcharge and franchise fees, and a special economic development initiative fund which provides both the City and County

\$100,000 per year for five years, with an option to extend the economic development initiative funding for an additional five years. The special funding can be used on economic development initiatives in any of the reorganization areas. This special fund provides that the City and County shall consult with the other party on how the economic funds are expended. As noted above, there are some underdeveloped properties in Area 2A. The City and County could dedicate some of these funds to make the needed pipeline improvements in Area 2A.

11. *Environmental Impact of the Proposal:*

The City of Antioch, as Lead Agency, prepared and adopted the Northeast Antioch Area Reorganization Initial Study/Mitigated Negative Declaration (IS/MND). The City's IS/MND identified potentially significant impacts resulting from Air Quality, Biological Resources, Cultural Resources, Hazards & Hazardous Materials and Noise. Mitigation measures have been provided for each potentially significant impact, reducing all to a less than significant level. Copies of the City's document were previously provided to Commissioners and are available for review in the LAFCO office. The LAFCO Environmental Coordinator finds the City's CEQA document sufficient for LAFCO purposes.

12. *Landowner Consent and Consent by Annexing Agency:*

At the various LAFCO hearings, the Commission has heard from members of the Sportsmen Yacht Club and a number of property owners of their opposition to the annexation. Per the Commission's direction, City, County and LAFCO staff previously met with members of the yacht club and property owners and residents of Area 2A to hear their concerns. A community meeting was held in February 2014 at the New Bridge Marina Yacht Club, located in Area 2A. There were over 50 attendees at the meeting. City staff prepared a FAQ relating to annexation, which was distributed at the meeting. City, County and LAFCO staff addressed a range of issues and questions. City staff responded to questions relating to water and sewer services, utility connection fees/rates and potential funding/grant options, zoning and land use, police and marine patrol services, the City's ability to serve the area, curbs and sidewalks, access roads and easements, code enforcement and eminent domain. County staff provided information regarding environmental health and septic system requirements. LAFCO staff provided information regarding LAFCO's role, mission and authority, LAFCO proceedings, protest thresholds, islands and Disadvantaged Unincorporated Communities (DUCs). The majority of attendees indicated opposition to the annexation.

Some of the common concerns relate to potential fiscal impacts to the landowners and residents of Area 2A following annexation, and requirements to connect to the City's water and sewer systems.

As explained in the FAQ and by City staff, there are no additional taxes or assessments associated with annexation. In November 2013, the Antioch voters passed a ½ cent temporary sales tax. The impact of this sales tax is insignificant given the lack of retail uses in Area 2A. As a sales tax, it would be paid by a customer buying a product or merchandise sold within Area 2A.

Regarding connection to the City's water and sewer utilities, City staff notes that all of the properties in Area 2A have City water service, and that all developed properties within Area 2A currently rely on onsite septic systems to handle wastewater flow. Many of these septic systems have been in operation for decades (in some cases 50 years). The age of the septic systems, as well as the proximity of Area 2A to the San Joaquin River and the high water

table in the area, are cause for concern. Following annexation, property owners will have the opportunity to hook up to the City's sewer system, which is one of the benefits of annexation.

City staff explains that most properties in Area 2A will not be required to hook up to City sewer system, given the distance of these facilities from the Wilbur sewer line. The City's existing ordinance stipulates that any property in the City with a septic system that is located within 200 feet of a City sewer line is required within 30 days to hook up to the sewer line. The distance is measured from the location of the sewer connection in the building to the sewer line. Most properties in Area 2A would not be impacted by this requirement.

In August 2016, LAFCO received updated information from the County Assessor (assessed values) and County Elections (registered voters). LAFCO staff has confirmed that Area 2A is "inhabited" (i.e., 12 or more registered voters); thus, the Commission's action is subject to notice, hearing, as well as protest proceedings. If the Commission approves the annexation as proposed, a subsequent notice and protest hearing will follow. Authority to conduct the protest hearing has been delegated to the LAFCO Executive Officer.

13. *Boundaries and Lines of Assessment:*

Area 2A is contiguous to the existing City of Antioch boundary. A map and legal description to implement the proposed boundary change have been received and are subject to approval by the County Surveyor.

On January 8, 2014, the Commission approved the annexation of Areas 1 and 2B. All three areas are contiguous and could have been included in one proposal; however, the City chose to divide the area into three separate LAFCO proposals due to differences in land use designations and other factors. The approved property tax transfer agreement between the City and County covers all three areas and assumes that all areas will be annexed to the City. Furthermore, LAFCO assumes that all three areas will be annexed.

Given that Areas 1 and 2B were annexed to the City, Area 2A now constitutes an island, which is surrounded by the City of Antioch to the west and south, the City of Oakley to the east, and the San Joaquin River to the north. LAFCO law (Gov. Code §56744) precludes LAFCO from creating an island; however, Gov. Code section 56375(m) allows LAFCO to waive the restrictions of Section 56744 if LAFCO finds both "*that the application of the restrictions would be detrimental to the orderly development of the community, and that the area that would be enclosed by the annexation or incorporation is so located that it cannot reasonably be annexed to another city or incorporated as a new city.*"

It is not feasible for LAFCO to make these findings, given that annexation of the Area 2A would enhance the orderly development of the area, that the City of Antioch can provide sewer collection and retail water service to the area, and that Area 2A is contiguous to the City of Oakley, and could potentially be annexed Oakley.

14. *Environmental Justice:*

One of the factors LAFCO must consider in its review of an application is the extent to which the proposal 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 annexation is not expected to promote or discourage the fair treatment of minority or economically disadvantaged groups.

15. *Disadvantaged Communities:*

In accordance with recent legislation (SB 244), local agencies and LAFCOs are required to plan for disadvantaged unincorporated communities (DUCs). Many of these communities lack basic infrastructure, including streets, sidewalks, storm drainage, clean drinking water, and adequate sewer service. LAFCO actions relating to Municipal Service Reviews, SOI reviews/amendments, and annexations must take into consideration DUCs, and specifically the adequacy of public services, including sewer, water, and fire protection needs or deficiencies, to these communities. According to the County and City Planning Departments, the annexation area does not meet the criteria of a DUC.

16. *Comments from Affected Agencies/Other Interested Parties:*

Throughout the LAFCO hearing process, members of the Sportsman Yacht Club and several landowners in the area have expressed their opposition to the annexation.

Previously, LAFCO received a testimony and a letter from Steve Klee, Chairman and General Manager of the New Bridge Marina, Inc., expressing support for the annexation.

17. *Regional Transportation and Regional Growth Plans:*

In its review of a proposal, LAFCO shall consider a regional transportation plan adopted pursuant to Section 65080 [Gov. Code section 56668(g)]. Further, the commission may consider the regional growth goals and policies established by a collaboration of elected officials only, formally representing their local jurisdictions in an official capacity on a regional or subregional basis (Gov. Code section 56668.5).

Regarding these sections, LAFCO looks at consistency of the proposal with the regional transportation and other regional plans affecting the Bay Area.

SB 375, a landmark state law, requires California's regions to adopt plans and policies to reduce the generation of greenhouse gases (GHG), primarily from transportation. To implement SB 375, in July 2013, ABAG and the Metropolitan Transportation Commission (MTC) adopted Plan Bay Area as the "Regional Transportation Plan and Sustainable Communities Strategy" for the San Francisco Bay Area through 2040. Plan Bay Area focuses on where the region is expected to grow and how development patterns and the transportation network can work together to reduce GHG emissions. The Plan's key goals are to reduce GHG emissions by specified amounts; and to plan sufficient housing for the region's projected population over the next 25 years.

The Plan Bay Area directs future development to infill areas within the existing urban footprint and focuses the majority of growth in self-identified Priority Development Areas (PDAs). PDAs include infill areas that are served by transit and are located close to other amenities, allowing for improved transit, bicycle and pedestrian access thereby reducing the amount of transportation related GHG generated. Plan Bay Area supports infill development in established communities and protects agricultural and open space lands. The Plan assumes that all urban growth boundaries are held fixed through the year 2040 and no sprawl-style development is expected to occur on the regions' open space or agricultural lands.

Plan Bay Area includes projections for the region's population, housing and job growth and indicates that the region has the capacity to accommodate expected growth over the next 25 years without sprawling further into undeveloped land on the urban fringe.

ABAG and MTC are in the process of updating the Plan Bay Area. "Plan Bay Area 2040" is currently a work in progress that will be updated every four years to reflect new priorities. Recently, a series of public open houses were held to present "Alternative Scenarios" which show different options for how the Bay Area can grow based on local land use development patterns and transportation investment strategies. These scenarios take into consideration jobs, housing, population, travel needs and funding for Transportation Improvements. Three scenarios were presented (i.e., Main Street, Connected Neighborhood, Big Cities), each showing a different combination of housing development, commercial growth and transportation investments. Based on public input and feedback from local jurisdictions, a "preferred scenario" will be constructed from these three alternatives.

The draft preferred scenario will go through a series of committee reviews and refinement. In September 2016, ABAG and MTC will be asked to adopt the final preferred scenario at a joint meeting. All of this work, in turn, will form the foundation for Plan Bay Area 2040, to be adopted in summer 2017.

*The 2013 Plan Bay Area "aims to protect open space and agricultural land by directing 100 percent of the region's growth inside the year 2010 urban footprint, which means that all growth occurs as infill development or within established urban growth boundaries or urban limit lines. As the plan assumes that all urban growth boundaries/urban limit lines are held fixed through the year 2040, no sprawl-style development is expected to occur on the region's scenic or agricultural lands."*

The proposed reorganization is within the City's ULL and surrounded by the City of Antioch to the west and south, the City of Oakley to the east, and the San Joaquin River to the north. The land use designations in the area include "Marina/Support Uses" and "Commercial", and the area has access to the local transit network. The area is not designated as a "Priority Conservation Area" or a "Priority Development Area", and does not appear to conflict with the regional transportation or growth plans.

## ALTERNATIVES FOR COMMISSION ACTION

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

- Option 1 Reopen the public hearing to accept public comment, if any; close the public hearing and *approve the reorganization as submitted by the City.*
- A. Find that, as a Responsible Agency under CEQA, the Commission has reviewed and considered the information contained in the Northeast Antioch Area Reorganization Initial Study/Mitigated Negative Declaration as prepared and adopted by the City of Antioch.

- B. Adopt this report and the attached resolution (Attachment 5) approving the proposal to be known as Northeast Antioch Reorganization (Area 2A) - Annexations to the City of Antioch and Delta Diablo Zone 3 and detachment from County Service Area P-6 subject to the following:
1. This annexation will not change the County's existing rights and responsibilities with regard to the drainage easement and pipeline in the private road partially owned by Marterm Holdings, LLC, and partially owned by Sportsmen, Inc. However, LAFCO urges the City and County to continue to work together to share the repair obligations with the goal of the eventual transfer of the storm drain line in the area (DA 29G Line A) to the City.
  2. The territory being annexed shall be liable for the continuation of any authorized or existing special taxes, assessments and charges comparable to properties presently within the annexing agency.
- C. Find that the subject territory is inhabited, and the reorganization is subject to a subsequent conducting authority (protest) hearing.
- Option 2 Reopen public hearing to accept public comment, if any; close the public hearing and take the following actions:
- A. Certify that LAFCO, as a Responsible Agency under CEQA, has reviewed and considered the information contained in the City's Mitigated Negative Declaration.
  - B. Adopt this report and DENY the proposal.
- Option 3 If the Commission needs more information, CONTINUE this matter to a future meeting.

RECOMMENDED ACTION: Option 1

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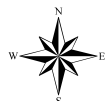
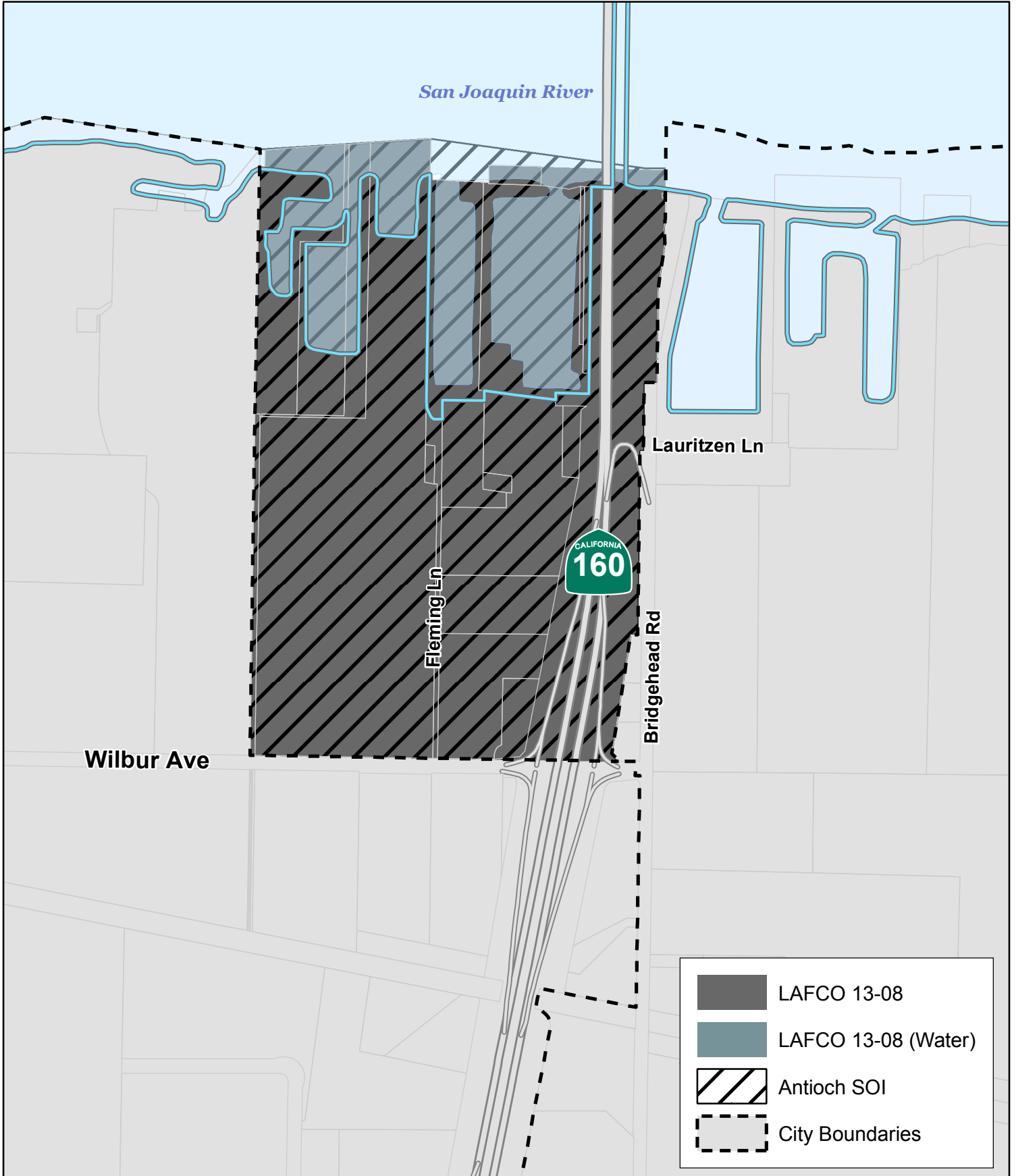
LOU ANN TEXEIRA, EXECUTIVE OFFICER  
CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION

c: Distribution

Attachments

1. Map of Area 2A Reorganization
2. Letter from the City of Antioch dated May 23, 2016
3. Map of Northeast Antioch (Areas 1, 2A and 2B)
4. LAFCO Protest Proceeding Flowchart
5. Draft LAFCO Resolution

# LAFCO No. 13-08 Northeast Antioch Area 2A Reorganization Annexations to City of Antioch and Delta Diablo Detachment from CSA P-6





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August 31, 2016

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

RE: NE Annexation Area 2A – City of Antioch

Ms. Texeira,

The purpose of this letter is to advise you and Contra Costa LAFCO Board about the status of the annexation of Northeast Annexation Area 2A into the City of Antioch.

As the LAFCO Board may be aware, the annexation of this area has been delayed for a number of reasons over the prior few years. Most recently, the City of Antioch was informed about the conditions of a significant storm drain line that was installed by the Contra Costa County Flood Control District in the early 1990s. Apparently, the materials and/or installation were deficient and, as a result, the storm drain line has experienced multiple failures and has necessitated extensive and costly repairs over time. Even with these past efforts, the storm drain line currently needs significant attention at a very high estimated cost.

The City of Antioch generally assumes complete responsibility for the infrastructure, including storm drains, within areas that it annexes, particularly when such infrastructure is located within a public right-of-way. Such was assumed for this storm drain line and the City of Antioch was greatly concerned about its ability to adequately repair or replace the deficient storm drain line. It is important to note that the condition of this storm drain line was not known by the City of Antioch when the annexation efforts were initiated.

However, the City of Antioch has recently been informed that the entire line, including the problematic sections are contained wholly on private property within an easement granted to the Contra Costa County Flood Control District/Contra Costa County. It is our understanding and contention that the annexation of Northeast Annexation Area 2A into the City of Antioch would not change this relationship. The ownership and responsibility to maintain the storm drain line would remain with the Flood Control District/Contra Costa County following the annexation because the easement would not be conveyed.



Ms. Texeira  
August 31, 2016  
Page 2

Even with this understanding, the City of Antioch needs written documentation from LAFCO that the storm drain line will remain in Contra Costa County ownership and maintenance until repairs deemed acceptable to the City of Antioch are made and the line is accepted by the Antioch City Council. The City of Antioch will continue to work with the Flood Control District to explore solutions to replace the failing sections of this storm drain line.

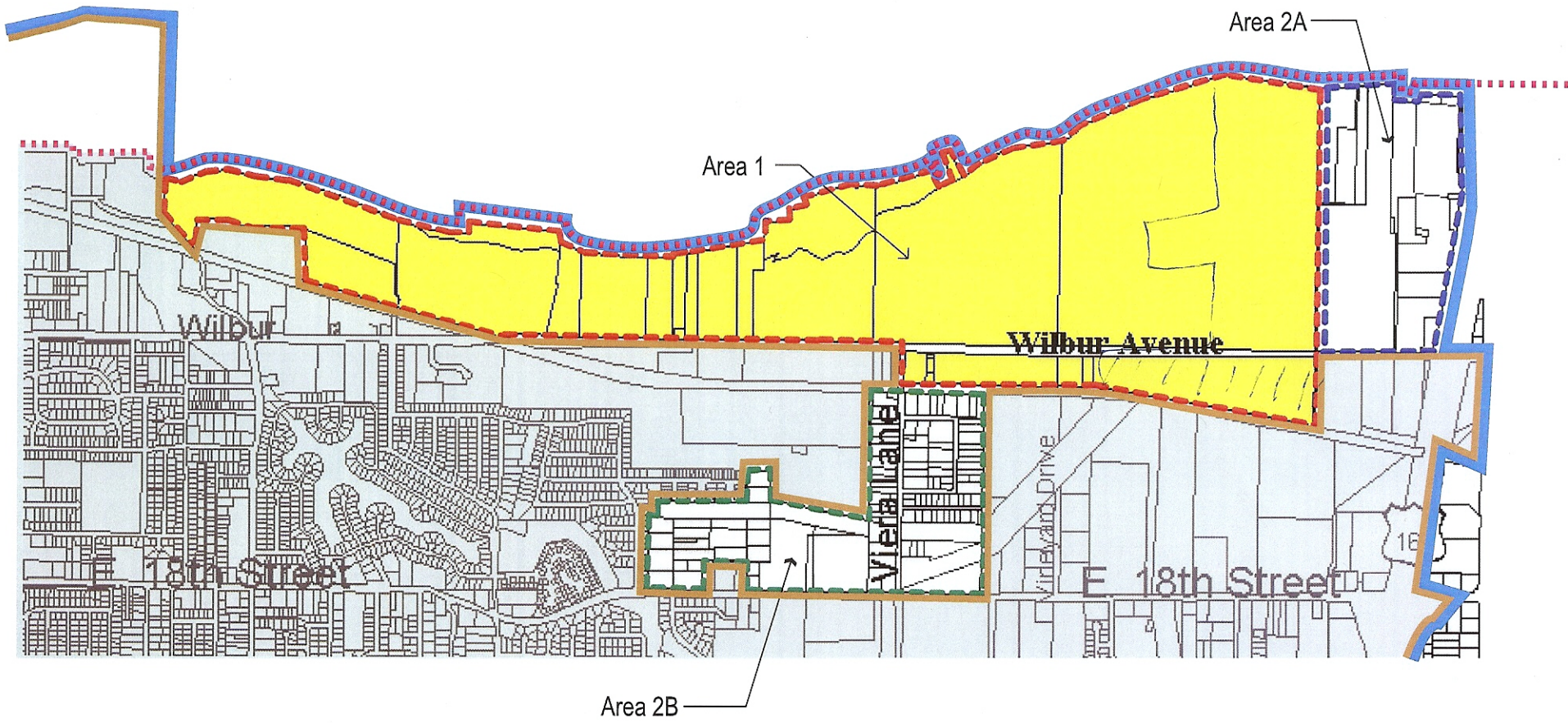
In closing, the City of Antioch appreciates the patience and understanding of Contra Costa County LAFCO. The City of Antioch is committed to providing a high level of service to its residents and takes the very important step of annexation very seriously. At this point, we would request that the LAFCO Board act favorably on the application for annexation of Annexation Area 2A provided the Flood Control District/Contra Costa County continue to own and maintain the storm drain line and written concurrence of same is provided by LAFCO.

We look forward to working with you all in the future.

Sincerely,



Forrest Ebbs, AICP  
Community Development Director  
City of Antioch



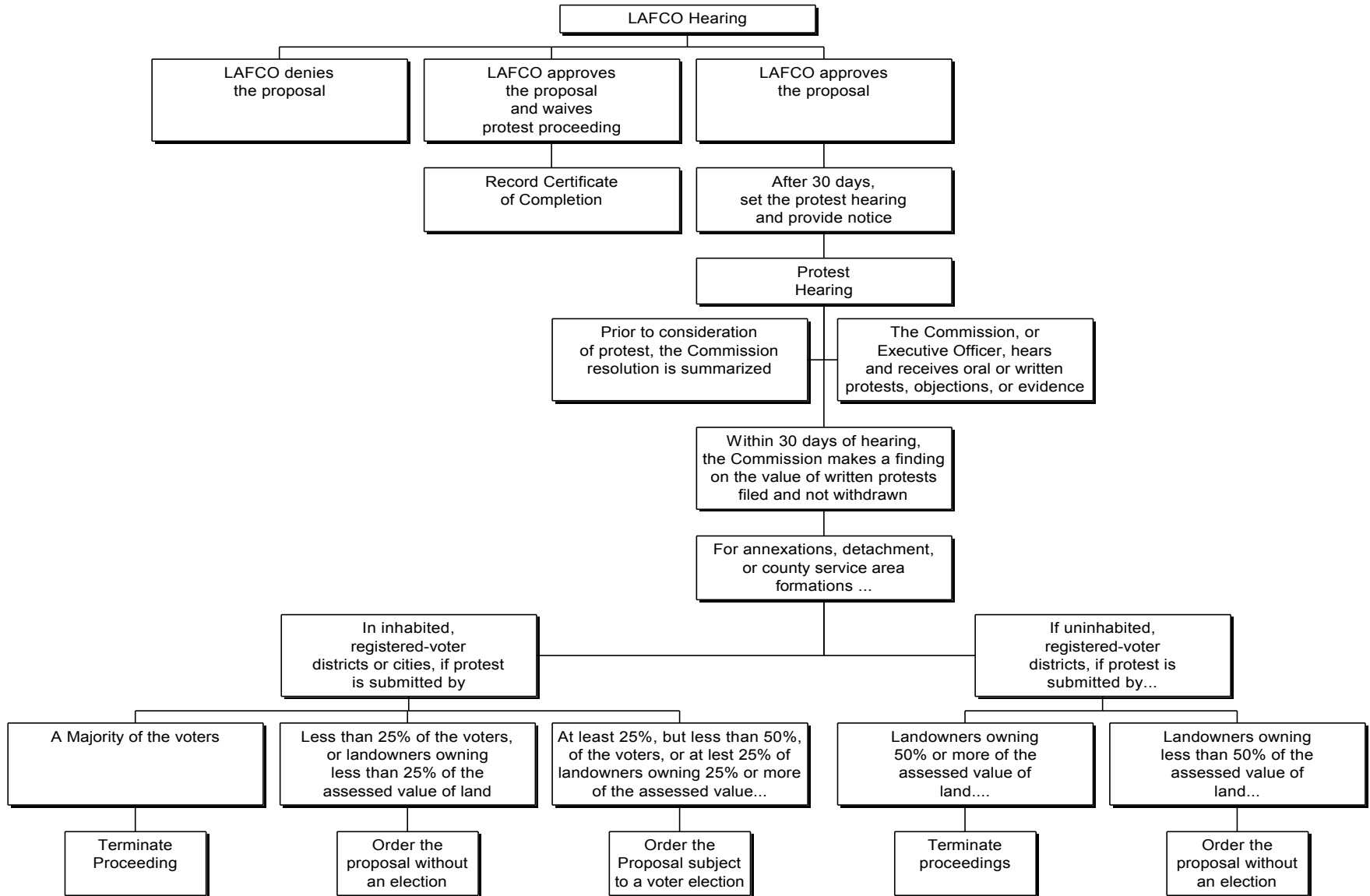
**LEGEND**

- ..... Urban Limit Line
- City Sphere of Influence (SOI)
- City Boundary
- DDSD Service Boundary and SOI
- Area 1
- Area 2A
- Area 2B

**EXHIBIT 2**  
 Current Administrative Boundaries  
 Industrial Areas Along Wilbur Avenue –  
 Administrative Reorganization

# LAFCO PROTEST PROCEEDINGS -- §57075

(FOR ANNEXATIONS, DETACHMENTS, OR COUNTY SERVICE FORMATIONS IN REGISTERED-VOTER DISTRICTS OR CITIES)



**RESOLUTION NO. 13-08**

**RESOLUTION OF THE CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION  
MAKING DETERMINATIONS AND APPROVING  
NORTHEAST ANTIOCH REORGANIZATION AREA 2A: ANNEXATIONS TO THE  
CITY OF ANTIOCH AND DELTA DIABLO SANITATION DISTRICT ZONE 3 AND  
DETACHMENT FROM COUNTY SERVICE AREA P-6**

WHEREAS, the Area 2A reorganization (marina area) proposal has been 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, at the time and in the manner required by law the Executive Officer has given notice of the Commission's consideration of the Area 2A proposal; and

WHEREAS, the Commission held public hearings on February 12, 2014, March 12, 2014, April 9, 2014, June 11, 2014, June 10, 2015, June 8, 2016 and September 14, 2016 on the Area 2A proposal; and

WHEREAS, the Commission heard, discussed and considered all oral and written testimony related to the Area 2A proposal including, but not limited to, the Executive Officer's report and recommendation, the environmental document or determination, Spheres of Influence and applicable General and Specific Plans; and

WHEREAS, the Local Agency Formation Commission determines the Area 2A proposal to be in the best interests of the affected area and the total organization of local governmental agencies within Contra Costa County;

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

1. The Commission finds that as a Responsible Agency under the California Environmental Quality Act (CEQA), it has reviewed and considered the information contained in the Northeast Antioch Area Reorganization Initial Study/Mitigated Negative Declaration as prepared and adopted by the City of Antioch.
2. Said reorganization is hereby approved.
3. The subject proposal is assigned the distinctive short-form designation:  
**NORTHEAST ANTIOCH REORGANIZATION AREA 2A: ANNEXATIONS TO THE CITY OF ANTIOCH AND DELTA DIABLO SANITATION DISTRICT ZONE 3 AND DETACHMENT FROM COUNTY SERVICE AREA P-6**
4. The boundaries of the affected territory are found to be definite and certain as approved and set forth in Exhibit A, attached hereto and made a part hereof.
5. Approval of the **Northeast Antioch Reorganization (Area 2A) - Annexations to the City of Antioch and Delta Diablo Zone 3 and detachment from County Service Area P-6** is subject to the following:

Contra Costa LAFCO  
Resolution No. 13-08

- a. Ownership and maintenance of storm drain line in the area (DA 29G Line A) is the responsibility of Contra Costa County. LAFCO encourages the City and County to continue to work together to resolve future repair/replacement of this pipeline.
- b. The territory being annexed shall be liable for the continuation of any authorized or existing special taxes, assessments and charges comparable to properties presently within the annexing agency.
- c. The City of Antioch has delivered an executed indemnification agreement between the City and Contra Costa LAFCO providing for the City to indemnify LAFCO against any expenses arising from any legal actions challenging the Area 2A reorganization.
6. The territory proposed for reorganization is inhabited and is subject to conducting authority (protest) proceedings.
7. All subsequent proceedings in connection with the Area 2A reorganization shall be conducted only in compliance with the approved boundaries set forth in the attachments and any terms and conditions specified in this resolution.

\*\*\*\*\*

PASSED AND ADOPTED THIS 12<sup>th</sup> day of September 2016, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

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MARY N. PIEPHO, 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: September 14, 2016

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Lou Ann Texeira, Executive Officer