

CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION  
EXECUTIVE OFFICER'S REPORT

March 8, 2017 (Agenda)

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Agenda Item 6

LAFCO 16-11 Reorganization 191 (Faria Preserve West): Annexations to Central Contra Costa Sanitary District (CCCSD) and East Bay Municipal Utility District (EBMUD)

PROPONENT Central Contra Costa Sanitary District by Resolution No. 2016-038 adopted September 15, 2016

SYNOPSIS The applicant proposes to annex 9.7± acres (APN 208-240-053) located within the City of San Ramon, to the west of Bollinger Canyon Road, north of Deerwood Drive, and West of San Ramon Valley Blvd., at the northwest corner and edge of the approved Faria Preserve Community development (Attachment 1). Annexation will bring the property within the service boundaries of CCCSD and EBMUD, and will allow for the provision of sanitary sewer and water services to the property to serve 17 townhouse units.

DISCUSSION

In 2009, LAFCO approved the Faria Preserve Reorganization (LAFCO 08-27), which included annexation of 290+ acres to the City of San Ramon, 272+ acres to CCCSD and 251+ acres to EBMUD. At that time, the Commission approved annexation of the 9.7+ acre property to the City of San Ramon because the City indicated that the area was within the City's voter approved Urban Growth Boundary (UGB), and the area was needed for the City to meet its ratio of urban/non-urban land use. The City confirms that this ratio has been met.

In 2009, the Commission voted to exclude this property from the annexations to CCCSD and EBMUD for the following reasons: 1) the area is outside the countywide voter approved Urban Limit Line (ULL), 2) this area is designated open space and intended to house the EBMUD water tanks, and 3) it was determined that there was no need for municipal water and sewer services to this area.

Recent project design revisions have resulted in the need to relocate 17 townhouse units to the 9.7+ acre property. These residential units were part of the original total units approved by the City of San Ramon, for which service by CCCSD and EBMUD was already anticipated and considered as part of LAFCO's 2009 approval.

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

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

The area proposed for annexation is within the SOIs of CCWD and EBMUD. The subject area is within the City of San Ramon's voter approved UGB, but outside the County's ULL.

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

The site is currently undeveloped. The City indicates that the adjoining property (APN 208-240-054) will be deeded to the East Bay Regional Park District (EBRPD) and remain open space. Areas north of the residential portion of the project will be open space; a conservation easement will be recorded. Directly due east and south of the 17 units is future residential development for 618 units as approved through Vesting Tentative Map 9342.

Based on the City's 2006 Northwest Specific Plan, the proposal area has two zoning designations: Open Space [North West Specific Plan (NWSP)-OS] which provides for open space areas with limited passive recreation and agricultural activities, and High Density Residential District (NWSP-HDR) which provides for residential development at a density of 22-30 dwelling units per net acre. The City's General Plan designations are Open Space and Multi Family High density. Of the 9.7± acres proposed for annexation, 0.76± acres will be developed adjacent to other approved development; and the majority of the property (8.94± acres) will be preserved as open space.

The project site is bounded on the west and north by open space, on the east by open space and residential (under construction), and on the south by residential (under construction).

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

The project site was previously used for grazing. No portion of the subject area is subject to a Williamson Act Contract.

The subject area will remain primarily open space through a conservation easement. This includes an access road to the future EBMUD water tanks, which will also serve as a continuation of an existing trail to and from EBRPD parklands.

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

The subject property is characterized by upwards sloping to the east with a variety of slopes forming ridges and valleys. The City indicates that grading of the property will occur in accordance with the vesting tentative map.

Surrounding topography includes rugged terrain to the east and south, characterized by a variety of slopes forming high ridges and low valleys; to the north, there is also rugged terrain with higher elevations; and to the west, similar terrain with downward sloping toward Bollinger Canyon Road and Bollinger Creek.

**5. Population:**

Development of 17 townhouses is planned for the annexation area. The estimated population increase for the annexation area is approximately 50 people based on the 2016 California Department of Finance estimate of 2.91 persons per household for the City of San Ramon.

**6. Fair Share of Regional Housing:**

In its review of a proposal, LAFCO must consider 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 (Gov. Code §65584).

In Contra Costa County, the Association of Bay Area Governments (ABAG) determines each city's fair share of regional housing needs. Each jurisdiction is required, in turn, to incorporate its fair share of the regional housing needs into the housing element of its General Plan. In July 2013, ABAG adopted the 2014-2022 Regional Housing Needs Allocation (RHNA) Plan for the San Francisco Bay Area. The RHNA Plan includes the following allocations for the City of San

Ramon: total RHNA is calculated at 1,417 units, including 340 above moderate, 282 moderate, 279 low and 516 very low income units. The proposed annexation includes a total of 17 townhouses residential units which would help the City meet its current regional housing obligation for above moderate units.

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

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 (Gov. Code §56653). 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 proposal before the Commission is to annex the property to CCCSD and EBMUD for the provision of sanitary sewer and water services, respectively. Municipal services are needed to support development in the area. The annexation area is currently served by various local agencies including, but not limited to, the City of San Ramon and San Ramon Valley Fire Protection District.

**Sewer Services** – CCCSD currently serves an estimated population of 481,600 residents in a 145-square-mile service area. CCCSD's wastewater collection system consists of 1,500 miles of sewer mains with 19 pump stations. The majority of CCCSD's system operates with gravity flow with some pumping stations and force mains. All sewer connections to the subject property will be either gravity flow or individual residential pump systems. CCCSD's wastewater treatment plant provides secondary level treatment for an average dry weather flow of approximately 30.8 million gallons per day (mgd) of wastewater. The wastewater treatment plant has a permitted discharge limit of 53.8 mgd.

Based on 17 townhomes planned for the annexation area, the maximum demand for service is approximately 1,785 gallons of wastewater per day. CCCSD has infrastructure in the area and serves surrounding properties. CCCSD has the capacity to serve the project.

All gravity mains required to serve the affected parcels will be 8-inch diameter or up to 2-inch diameter for pressure mains (CCCSD's minimum size). All laterals will be 4-inch diameter (CCCSD's minimum size for gravity laterals), or 1¼ to 2-inch diameter pump laterals (CCCSD's minimum size for pump laterals, depending on the specific pump type installed).

All capital costs including any required sewer main extensions, along with connections fees, will be borne by the property owner/developer. CCCSD funds the maintenance of all sewers through its annual sewer service charge.

Private parties pay for all sewer main extensions. CCCSD fees are established such that new connectors "buy into" the system with connection fees; and the annual sewer service charge pays for maintenance and repair of the sewer system and wastewater treatment plant.

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

Pursuant to the CKH, 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 proposal before the Commission includes annexation of the subject property to EBMUD. EBMUD provides potable water services and limited wastewater collection and treatment services in portions of the District's service area. The EBMUD service area is approximately 331 square miles (Contra Costa and Alameda counties). EBMUD provides potable water to approximately 1.3 million people within the two-county service area. Within Contra Costa County, EBMUD provides water service to a 146+ square mile service area, serving an estimated 477,212 residents.

EBMUD's water supply is distributed through a collection system consisting of aqueducts, reservoirs, and other components. The primary source of water supply for EBMUD is the Mokelumne River; this watershed accounts for 90 percent of EBMUD's water supply. EBMUD's existing water rights allow the delivery of up to 325 mgd or approximately 364,046 acre-feet per year of water from the Mokelumne River.

EBMUD's water rights are subject to variability, particularly during dry and multiple dry years. The availability of the Mokelumne River runoff is subject to senior water rights of other users, downstream fishery flow requirements, and other Mokelumne River water uses. Given the variability, EBMUD indicates that supplemental water supply sources are needed to meet future water demand during extended periods of drought.

The Freeport Regional Water Facility is a regional water supply project that provides supplemental water supply to EBMUD during dry years, as part of the Central Valley Project (CVP), a federal water management program. During periods of drought, EBMUD receives CVP water from its Freeport Regional Water Facility to augment its water supply. The U.S. Bureau of Reclamation (USBR) provides supplemental water supply during dry and multiple dry years to ensure the reliability of EBMUD's water supply. In conjunction with the request to annex the property, EBMUD is also seeking approval from the USBR.

The costs for water supply and system capacity charges (connection fees) will be borne by the project sponsor. Ongoing maintenance will be paid for through water rates collected by EBMUD.

Based on 17 townhomes planned for the annexation area, the maximum demand for service is approximately 199 gallons of water per day. EBMUD has the capacity to serve the project as noted in their will serve letter.

**9. Assessed Value, Tax Rates and Indebtedness:**

The annexation area is within tax rate area 17138. The assessed value for the annexation area is \$42,440 (2016-17 roll). The territory being annexed shall be liable for all authorized or existing taxes and bonded debt comparable to properties presently within the annexing agencies.

## **10. Environmental Impact of the Proposal:**

In December 2006, the City of San Ramon, as Lead Agency, prepared and certified the Northwest Specific Plan/Faria Preserve Community Environmental Impact Report (EIR); adopted a Mitigation Monitoring and Reporting Program (MMRP), findings and a statement of overriding considerations; and approved the NWSP and related rezoning for the Faria Preserve. The MMRP contains a number of mitigation measures relating to municipal services, and specifically hydrology/water quality and traffic/ transportation. The MMRP includes mitigation measures to address potential impacts to surface and groundwater, potential flooding, and traffic resulting from implementation of the Faria Preserve project. Further, the NWSP EIR was tiered off of the General Plan, and incorporates by reference various mitigation measures.

In 2007-08, the EBRPD and the Sierra Club filed suits challenging certain approvals required for development of the Faria Preserve Community project. Subsequently, the parties entered into two settlement agreements. In June 2008, the City adopted an addendum to the NWSP/Faria Preserve Community to address changes in the EIR's original assessment of environmental impacts in light of changes to the project resulting from the EBRPD and Sierra Club settlement agreements.

The NWSP/Faria Preserve Community EIR evaluated the potential environmental impacts of including the project area in the CCCSD and EBMUD boundaries. The EIR identifies potentially significant environmental effects, for which mitigation measures have been adopted. In addition, the EIR identifies potentially significant unavoidable environmental effects, for which the City adopted findings and a statement of overriding considerations. The City notes that the only significant impacts remaining after mitigation of the project are inconsistency with the 2005 Ozone Strategy and increased emissions of criteria air pollutants.

Following LAFCO's approval of the boundary reorganization in 2009, there was a change in ownership of the property, followed by revisions to the project including, but not limited to, a reduction in the number of residential units from 786 to 740, relocation of the project entry, and a reconfiguration of the project such that approximately 17 townhouse units were placed in the project area that had not previously been annexed to CCCSD and EBMUD.

In September 2014, the City of San Ramon adopted an Initial Study/ Mitigated Declaration and MMRP to address the project redesign. Copies of the environmental documents were previously provided the Commission and are available in the LAFCO office.

## **11. Landowner Consent and Consent by Annexing Agency:**

According to County Elections, there are fewer than 12 registered voters in the subject area; thus, the area proposed for annexation is considered uninhabited. The applicant indicates that 100% of the affected landowners have provided written consent to the annexation. Thus, if the Commission approves the annexation, the Commission may waive the protest hearing (Gov. Code §56662). All landowners and registered voters within the proposal area and within 300 feet of the exterior boundaries of the area have received notice of the LAFCO hearing.

## **12. Boundaries and Lines of Assessment:**

The annexation area is within the SOIs of CCCSD and EBMUD. A map and legal description to implement the proposed boundary changes have been received and are subject to final approval by the County Surveyor.

**13. Environmental Justice:**

LAFCO is required to consider the extent to which proposals 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.

**14. 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’s Department of Conservation and Development, the annexation area does not meet the criteria of a DUC.

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

To date, LAFCO has received no comments from affected agencies or other interested parties.

**16. 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. 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 also aims to protect open space and agricultural land by directing 100% 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.

Plan Bay Area also 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. The new plan - "Plan Bay Area 2040" - is currently underway. In November 2016, ABAG and MTC adopted a final preferred scenario at a joint meeting. An EIR to evaluate the project is currently underway. All of this work will form the foundation for Plan Bay Area 2040, to be adopted in summer 2017.

The 2013 Plan Bay Area identifies two PDAs in San Ramon, including the City Center Mixed Use District and North Camino Ramon (pedestrian and bicycle friendly, mixed use, transit-oriented neighborhood). The subject property is not designated as a "Priority Conservation Area" or a "PDA."

### 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 actions:

#### Option 1      Approve the reorganization as proposed.

- A. Find that, as a Responsible Agency under CEQA, the Commission has reviewed and considered the information contained in the City of San Ramon's environmental documents, including the 2014 Initial Study/Mitigated Negative Declaration and 2014 MMRP, and the 2006 EIR for the Northwest Specific Plan/Faria Preserve Community, Statement of Overriding Considerations, 2006 MMRP, and Addendum to the previously certified EIR.
- B. Adopt this report, approve LAFCO Resolution No. 16-11 (Attachment 2), and approve the proposal, to be known as ***Reorganization 191 (Faria Preserve West): Annexations to CCCSD and EBMUD*** subject to the following terms and conditions:
  1. 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 agencies.
  2. The Central Contra Costa Sanitary District has delivered an executed indemnification agreement providing for the District to indemnify LAFCO against any expenses arising from any legal actions challenging the annexation.
  3. Water service is conditional upon EBMUD receiving acceptance for inclusion of the annexed areas from the USBR, pursuant to the requirements in EBMUD's contract with USBR for supplemental water supply from the CVP.
- C. Find that the subject territory is uninhabited, the proposal has 100% landowner consent, and the conducting authority (protest) proceedings are hereby waived.

#### Option 2      Accept 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 – Approve the reorganization as proposed.**

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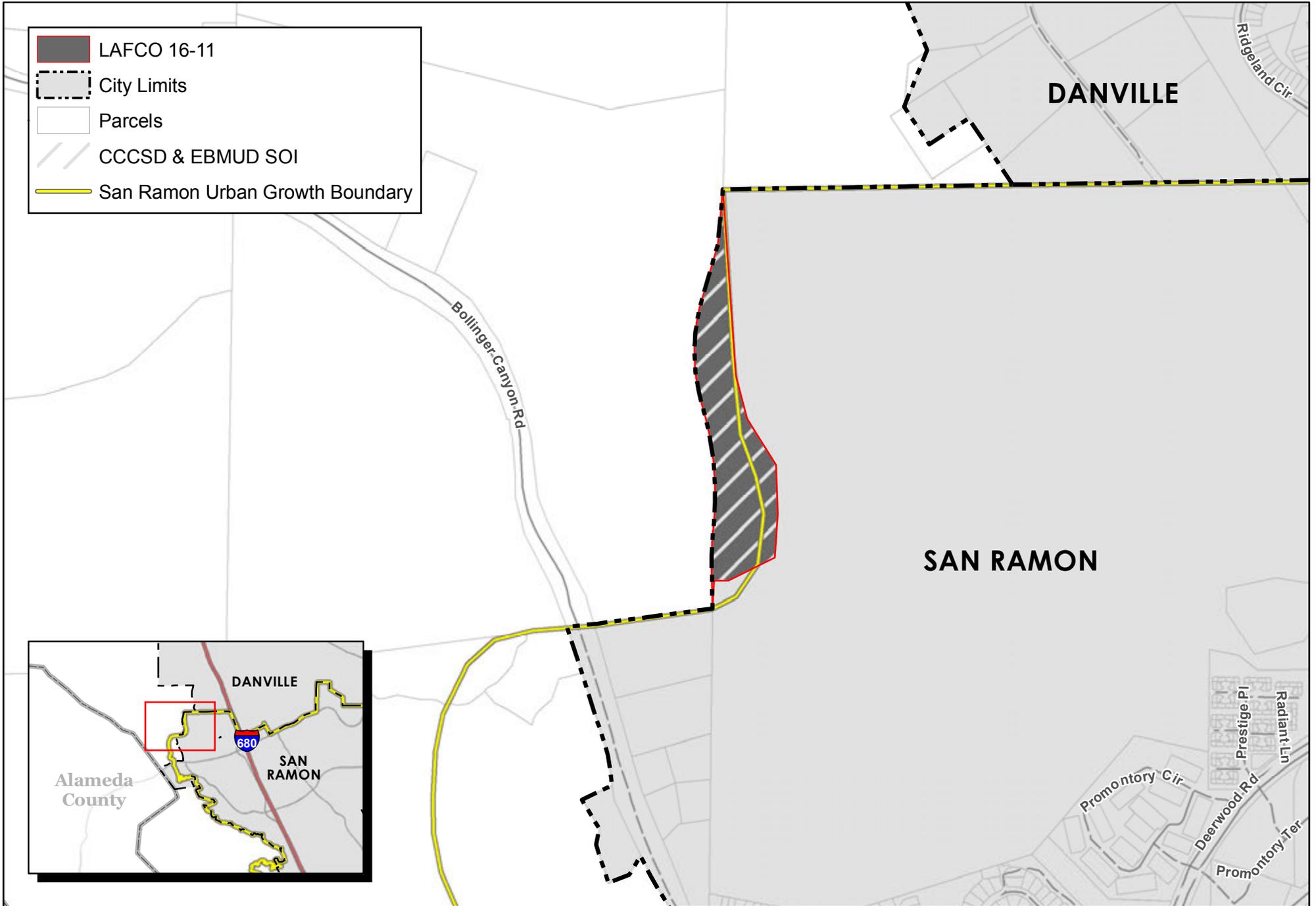
LOU ANN TEXEIRA, EXECUTIVE OFFICER  
CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION

Attachments

- 1 – Boundary Reorganization Map
- 2 – Draft LAFCO Resolution 16-11

c: Distribution

LAFCO No.16-11 Reorganization 191 (Faria Preserve West): Annexations to CCCSD and EBMUD



**RESOLUTION NO. 16-11**

**RESOLUTION OF THE CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION  
MAKING DETERMINATIONS AND APPROVING  
REORGANIZATION 191 (FARIA PRESERVE WEST): ANNEXATIONS TO CENTRAL  
CONTRA COSTA SANITARY DISTRICT AND EAST BAY MUNICIPAL UTILITY DISTRICT**

WHEREAS, the Faria Preserve West boundary reorganization proposal involving annexations to the Central Contra Costa Sanitary District (CCCSD) and the East Bay Municipal Utility District (EBMUD) 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 (Government Code §56000 et seq.); 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 Faria Preserve West boundary reorganization proposal; and

WHEREAS, the Commission held a public hearing on March 8, 2017 to consider the Faria Preserve West boundary reorganization proposal; and

WHEREAS, the Commission heard, discussed and considered all oral and written testimony related to this proposal including, but not limited to, the Executive Officer's report and recommendation, the environmental documents and determinations, Spheres of Influence and applicable General and Specific Plans.

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

1. Find that, as a Responsible Agency under CEQA, the Commission has reviewed and considered the information contained in the City of San Ramon's environmental documents, including the 2014 Initial Study/Mitigated Negative Declaration and 2014 Mitigation Monitoring and Reporting Program (MMRP), and the 2006 Environmental Impact Report (EIR) for the Northwest Specific Plan/Faria Preserve Community, Statement of Overriding Considerations, 2006 MMRP, and Addendum to the previously certified EIR.
2. Said reorganization is hereby approved.
3. The subject proposal is assigned the distinctive short-form designation:  
**REORGANIZATION 191 (FARIA PRESERVE WEST): ANNEXATIONS TO CCCSD AND EBMUD**
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 Faria Preserve West boundary reorganization - annexations to CCCSD and EBMUD is subject to the following:
  - a. 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 agencies.
  - b. The CCCSD has delivered an executed indemnification agreement between CCCSD and Contra Costa LAFCO providing for CCCSD to indemnify LAFCO against any expenses arising from any legal actions challenging the Faria Preserve West boundary reorganization.

Contra Costa LAFCO  
Resolution No. 16-11

- c. Water service is conditional upon EBMUD receiving acceptance for inclusion of the annexed area from the United States Bureau of Reclamation (USBR), pursuant to the requirements in EBMUD's contract with USBR for supplemental water supply from the Central Valley Project.
- 6. The territory proposed for reorganization is uninhabited, the proposal has 100% landowner consent, and the conducting authority (protest) proceedings are hereby waived.
- 7. All subsequent proceedings in connection with the Faria Preserve West boundary 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.

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PASSED AND ADOPTED THIS 8<sup>th</sup> day of March 2017, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

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DONALD A. BLUBAUGH, 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: March 8, 2017

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Lou Ann Texeira, Executive Officer