

**CONTRA COSTA LOCAL AGENCY
FORMATION COMMISSION**

EXECUTIVE OFFICER'S REPORT

**PROPOSED INCORPORATION OF
THE TOWN OF ALAMO**

SEPTEMBER 18, 2008

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CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
EXECUTIVE OFFICER'S REPORT

September 18, 2008 (Agenda)

1. INTRODUCTION

1.1 Synopsis

This report provides an overview of the proposed incorporation of the Town of Alamo as the 20th city in Contra Costa County. In order for the Commission to approve an incorporation, State law requires that it find the new city will have sufficient revenues to provide public services and facilities and a reasonable reserve during the first three fiscal years following incorporation. However, as a matter of local policy, Contra Costa LAFCO requires an analysis projecting out a minimum of eight years following incorporation. Further, Contra Costa LAFCO defines “reasonable reserve” as a contingency fund equal to a minimum of 10% of the projected general funds of the new city accumulated not later than three years from the effective date of the incorporation.

A Comprehensive Fiscal Analysis (CFA) was prepared pursuant to the Government Code to make determinations as to the fiscal feasibility of the proposed new city. The CFA studied two boundary alternatives referred as Boundary Alternative 1 and Boundary Alternative 2 (Exhibit A). The CFA shows that the new Town of Alamo is considered to be fiscally feasible at the “existing level of service” under Boundary Alternative 1. The CFA projects for Boundary Alternative 1 budget surpluses for the first 10 years. The CFA shows that Boundary Alternative 2 cannot be considered fiscally feasible without significant revenue enhancements for the General Fund in later years.

In addition to the fiscal analysis, the proposed incorporation underwent an environmental review pursuant to the California Environmental Quality Act (CEQA). The resulting analysis indicates that the proposed incorporation has no significant environmental impacts.

The LAFCO staff recommendation is for conditional approval of the proposed incorporation of the Town of Alamo.

1.2 Purposes of Incorporation

The incorporation proposal was submitted to LAFCO by a petition signed by over 25% of the registered voters residing within the proposed incorporation area. The Chief Petitioners are Sharon Burke, Vicki Koc and Stephen A. Mick.

The petition sets forth the following reasons for incorporation:

- 1) Provide residents increased representation and local control in land use planning and building, municipal services, and infrastructure;
- 2) Create an efficient and politically accountable government;
- 3) Provide more effective and efficient use of local tax revenues that is better aligned with the priorities of Alamo residents;

- 4) Enhance the quality of life and maintain the town's unique, rural character;
- 5) Preserve the town's historical and cultural heritage;
- 6) Increase opportunities for Alamo residents to participate in local and government activities; and
- 7) Establish the town as a legally recognized and equal voice in county and regional matters.

1.3 Incorporation Process

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH Act) establishes minimum procedures and requirements for incorporation. The six basic steps in the incorporation process are summarized below:

1. *Initiating the Incorporation Process* – Incorporations can be initiated in one of two ways – by resolution of a public agency, or by petition of either registered voters or landowners. Petitions must be signed by not less than 25% of the registered voters or by not less than 25% of landowners. The application for the incorporation of Alamo was initiated by petition of registered voters.
2. *Application to LAFCO* – An application or proposal questionnaire is required for every change of organization or reorganization, including incorporations. Contra Costa LAFCO requires the following application material:
 - Resolution of application or petition (Government Code §56764)
 - Completed LAFCO questionnaire
 - Boundary map
 - Plan for services (Government Code §56653)
 - Comprehensive Fiscal Analysis (Government Code §56800)
 - Filing fees
3. *LAFCO Review and Analysis* - LAFCO staff reviews the application material submitted, conducts its own analyses, performs (or causes to be performed) the environmental review, determines the property tax transfer and revenue neutrality conditions, solicits comments, and produces a final report analyzing the proposal in light of various factors which are enumerated in Government Code §56668 and provides a recommendation to the Commission. In accordance with the staff review and analysis, a comprehensive fiscal analysis (CFA) is also prepared at the direction of LAFCO.

The CFA is crucial to the final staff recommendation. It provides the financial information LAFCO needs to ensure that the proposed new city is fiscally stable and self-sufficient; and provides an analysis of the reallocation of revenues among affected agencies. The preparation of a CFA is complex and must satisfy legal requirements. The CFA for the proposed incorporation of Alamo was prepared by Winzler & Kelly, an independent consulting firm.

Winzler & Kelly and LAFCO staff worked cooperatively with the County, Alamo incorporation petitioners and other interested parties to ensure that a complete and accurate proposal is

presented for the Commission's consideration. The Draft CFA underwent several iterations and was released on July 25 for public review and comment.

In addition, the proposed incorporation underwent an environmental review pursuant to CEQA. The environmental review was prepared by PMC, an independent consulting firm.

4. *Commission Hearing* – A public hearing is scheduled within 90 days after the LAFCO Executive Officer issues a Certificate of Filing. The Certificate of Filing for the proposed incorporation of the Town of Alamo was issued on July 25, 2008.

At the public hearing, the Commission hears the staff report and considers testimony of interested parties both supporting and opposing incorporation. The Commission may continue the hearing to a future date or close the public hearing and act on the proposal.

LAFCO has the authority to approve (with or without amendments) or deny the incorporation proposal. If the Commission approves the proposed incorporation, it must make certain findings and adopt terms and conditions as discussed later in this report.

If LAFCO denies the proposed incorporation, no similar application can be filed for at least one year unless the Commission waives that prohibition.

5. *Election* – If approved by the Commission, the Board of Supervisors calls an election for voters who reside within the incorporation area, as approved by LAFCO, to vote on the incorporation. A simple majority of those voting is required to approve the incorporation.

Pursuant to Government Code §57090, if the incorporation is rejected by the voters, no substantially similar proposal for incorporation of the same or substantially the same territory may be filed with the Commission within two years, unless the Commission subsequently determines that these timing requirements are detrimental to the public interest.

The election of the City Council can also be held at the same time as the question of incorporation.

6. *Final Filing Procedures* - After the Board of Supervisors adopts a canvass of the votes, if the election is successful, LAFCO staff will record the proceedings and file a certificate of completion with the State Board of Equalization and County Recorder, which completes the incorporation process.

1.4 Petition and Application

On August 27, 2007, Stephen A. Mick, a proponent of the incorporation of Alamo, submitted to LAFCO a Notice of Intent to Circulate a Petition pursuant to Government Code §56700.4 proposing to incorporate the Town of Alamo.

On November 5, 2007, Sharon Burke, Vicki Koc and Stephen A. Mick (collectively the “Chief Petitioners”) submitted a petition and Vicki Koc (“Proponent”) submitted an application to LAFCO proposing the incorporation of the Town of Alamo. On November 14, 2007, the petition signatures were found to be sufficient by the Contra Costa County Registrar of Voters.

The application submitted by the petitioners contained the required components, including the LAFCO questionnaire, plan for providing services, LAFCO filing fees and draft map and legal description. In addition, the application included an Initial Fiscal Analysis (IFA) prepared in March 2007 by Economic & Planning Systems, Inc. The IFA was intended to serve as a “fatal flaw” analysis of incorporation feasibility and identify issues requiring further research as part of the formal CFA. The IFA found that the new Town of Alamo could be financially feasible depending on several variables, including boundary option, mitigation payment to the County, and reorganization of various County Service Areas which provide revenues to Alamo.

1.5 Background and History

The Alamo community is characterized as a semi-rural community with primarily low density residential development, and some retail and business activity limited to areas immediately north and south of the intersection of Danville Blvd. and Stone Valley Road. Alamo is considered a “built out” community with some limited ongoing residential development.

The proposed incorporation boundary includes approximately 9.87 square miles bounded by the City of Walnut Creek and unincorporated territory (“Tice Valley”) to the north, the Town of Danville to the south, Las Trampas Regional Wilderness to the west, and Mt. Diablo and Diablo Foothills State Parks to the east. The proposed incorporation boundary coincides with the 94507 Alamo zip code, except for a small portion of the 94507 zip code, comprised of approximately 17 residential lots that is within the Town of Danville’s corporate limits. Alamo has a population of approximately 16,700 residents.

In recent history, the Tatcan Indians, a Bay Miwok tribe closely connected to the Sacians of Walnut Creek, lived in Alamo in the 18th century. The area was named Alamo by the Spanish for the poplar trees that lined the San Ramon Creek.

Over the years, there have been numerous attempts to incorporate parts of the San Ramon Valley, dating back to the 1950s. Encouraged by the success of its neighboring communities of Danville and San Ramon, Alamo attempted to incorporate on its own in the 1980s.

In 1984-85 a fiscal study was prepared, which concluded that the proposed Town of Alamo would be financially feasible. With no State requirements for revenue neutrality, the County opposed the incorporation based on fiscal impacts to the County, and expressed concerns with the fiscal solvency of the new town. In 1986, LAFCO voted 4-1 to deny the proposed incorporation of Alamo.

2. COMPREHENSIVE FISCAL ANALYSIS

2.1 Initiation

The requirements for the CFA are provided in Government Code §56800 as follows:

For any proposal which includes an incorporation, the LAFCO Executive Officer shall prepare or cause to be prepared a comprehensive fiscal analysis. This analysis shall become part of the Executive Officer’s report.

Data used for the analysis shall be from the most recent fiscal year for which data are available, provided that the data are not more than one fiscal year old. When data from the most recent fiscal year are unavailable, the Executive Officer may request supplemental data.

Pursuant to the Government Code, the analysis shall review and document each of the following:

- (a) The costs to the proposed city of providing public services and facilities during the first three years following incorporation.
- (b) The revenues of the proposed city during the three fiscal years following incorporation.
- (c) The effects on the costs and revenues of any affected local government agency during the first three fiscal years of incorporation.
- (d) Any other information and analysis needed to make the findings required by §56720.

It should be noted that the Contra Costa LAFCO policies require a 10 year analysis of revenues and expenditures.

The determination of fiscal feasibility is key in the evaluation of an incorporation proposal. Government Code §56720 prohibits the Commission from approving an incorporation unless it finds that the new city will have sufficient revenues to provide public services and facilities and a reasonable reserve during the first three years following incorporation.

In November 2007, the Commission authorized staff to proceed with a Request for Proposals to prepare the CFA. A selection committee composed of representatives of the County, Alamo proponent group, and LAFCO professionals was formed to review the proposals received, conduct interviews, and make a recommendation to the Commission regarding selection of a consultant.

In December 2007, following the competitive bid process, the Commission approved a contract with Winzler & Kelly (W&K) to prepare the CFA. Since that time, W&K has worked closely with the County, LAFCO staff, the Alamo community, and interested and affected parties to develop a CFA for the proposed city.

In January 2008, W&K distributed data request letters to all affected agencies to obtain revenue and cost information relating to the proposed incorporation.

The CFA went through several iterations, including an Administrative Draft, Public Review Draft and Public Hearing Draft (Exhibit B), which incorporates comments received from affected parties and the general public. Finally, following the public hearing, a Final CFA will be prepared which incorporates the Commission's actions.

2.2 Draft CFA

The CFA was prepared in accordance with the CKH Act, the Governor's Office of Planning and Research Guidelines for Incorporations, and the Contra Costa LAFCO's locally adopted policies and procedures. Additionally, the previously prepared IFA and comparable city budgets for cities in Contra Costa County and surrounding areas were utilized for reference.

The CFA is used by staff and the Commission as a guideline to make a conservative projection as to how the proposed new city *could* function fiscally. It is important to note that the CFA does not

project how the new city *will* actually function. Accordingly, assumptions are made in the CFA that may or may not be realized.

The Draft CFA analyzes the proposed incorporation boundary as submitted by the incorporation applicant (Alternative 1), and one boundary alternative as requested by LAFCO staff (Alternative 2). Boundary Alternative 2 encompasses all of boundary Alternative 1, plus an additional area commonly referred to as Tice Valley, generally located to the northwest and within the City of Walnut Creek's sphere of influence (SOI). The Tice Valley area includes about 430 housing units. This area was included for analysis as it would become an island if Alamo incorporates.

The Draft CFA was prepared using a Fiscal Year (FY) 2006-07 base year and data supplied by County departments and other public and private agencies. Assuming a June 30, or July 1, 2009 effective date, the CFA concludes that the incorporation of Alamo (Alternative 1) is financially feasible.

Under this scenario, the forecasted General Fund surplus (i.e., revenues less expenses including a 10% contingency reserve) for a 10-year period (FY 2009-10 through FY 2018-19) averages approximately \$572,757 per year. The cumulative General Fund surplus increases to \$5.47 million by the end of FY 2018-19, then decreases to \$2.7 million following the \$3 million mitigation payment to the County. The forecasted Road Fund surplus for the same period averages approximately \$126,412 annually. The forecasted Park & Recreation Fund surplus for the same period averages approximately \$376,342 annually.

The projected annual surpluses appear to be adequate. Further, in no one year does the forecast model reflect a deficit. Also, the FY 2009-10 transition year revenue surplus carryover of approximately \$1 million for the General Fund and \$482,940 for the Road Fund provide additional reserve capacity, if needed, to cover any short-term declines in projected revenues.

The State Office of Planning and Research Incorporation Guidelines recommend new cities maintain an annual reserve of 10%. Generally, cities prefer to carry a higher reserve. The projected Town of Alamo General Fund reserves range from a high of 52% to a low of 25%.

The Draft CFA covers four distinct periods: *Base Year*, *Transition Period*, *Subvention Years* (initial five years of cityhood in which certain revenues are based on an inflated population), and *Post Subvention Years* (when inflated population based revenues revert to actual population). Each of these periods are described below:

Base Year – The Base Year is the foundation of the cost and revenue forecast. For most estimates the revenue and cost data used in the CFA were based on FY 2006-07 data.

Transition Period – The Transition Period for Alamo is the period commencing with the effective date of the incorporation and ending on June 30, 2010.

Subvention and Post Subvention Years – During the first five years of cityhood (Subvention Years), a new city receives certain population-based revenue subventions based on a formula that inflates population. For example, Motor Vehicle License Fee and Gasoline Tax revenue subventions are based on a formula that increases the population by 150% in the first year, decreasing 10% annually until the fifth year. After the fifth year, the actual population is used for determining revenues.

The Draft CFA provides an analysis of revenues and expenditures for the proposed new city. With regard to revenues, there are two primary types: General Fund and restricted revenues. General Fund revenues typically come from property taxes, sales taxes, business license taxes, state motor vehicle license fees, franchise and other fees for services. A majority of city revenue is designated as General Fund and can be used to provide a variety of municipal services such as general government, law enforcement, planning and land use, building inspection, parks and recreation, and animal control.

Road Fund revenues, which are generated primarily through state gasoline taxes, and state and local sales taxes on gas and other motor vehicle fuel products, are restricted revenues. They are restricted by law to road-related expenditures, such as routine road maintenance, road and traffic signal maintenance, and other activities specific to roads. Road Funds cannot be used to pay for general municipal services.

In addition to General Funds and Road Funds, Alamo receives revenues through various special taxes and benefit assessments, including the Parks & Recreation Fund - County Service Area (CSA) R-7A.

With regard to expenditures, total estimated expenses (including a budgeted 10% contingency reserve) for the proposed city range from approximately \$7.58 million in FY 2010-11 (the city's first full fiscal year) to \$10.79 million in FY 2018-19. The largest single expenditure category is law enforcement which comprises approximately 42% of the proposed city's annual total expenditures. In the Draft CFA, staffing for the proposed city is based on a "contract city" concept where the city relies primarily on contract services and minimal city staffing is employed. The model anticipates that the city will employ approximately 10 employees in its first full fiscal year (FY 2010-11), in addition to contract personnel for various services including law enforcement.

The projected General Fund revenues and expenditures for the proposed Town of Alamo are summarized in Table 1. Road Fund and CSA R-7A funding is summarized in Table 2. A detailed explanation of the proposed city's revenues and expenditures for the 10-year projection period is provided in the CFA.

Table 1 – Projected General Fund Revenues and Expenditures

	FY 2010-11 (Year 2)	FY 2013-14 (Year 5)	FY 2018-19 (Year 10)
General Fund Revenues			
General Property Tax	\$ 1,505,177	\$ 1,730,262	\$ 2,178,015
Street Lighting Property Tax (CSA L-100)	43,561	48,962	59,503
Law Enforcement Property Tax (CSAs P-2B, P-5, P-6)	1,030,247	1,174,998	1,461,234
Law Enforcement Special Tax (CSAs P-2B, P-5, P-6)	377,421	388,857	408,693
Sales and Use Tax	876,347	960,399	1,118,781
Property in Lieu of Sales Tax	301,742	346,864	436,625
Property Transfer Tax	125,589	143,256	178,181
Motor Vehicle in Lieu Fees	1,566,750	1,295,934	1,571,515
Off Highway Vehicle License Fee	1,232	1,285	1,378
Misc Special/Benefit Assessment District Revenue	384,547	421,429	490,929
Franchise Fees	557,872	617,586	730,828
Community Development Fees	1,342,892	1,471,693	1,714,393
Business License Tax	119,205	136,280	170,154
Fines and Forfeitures	99,457	103,752	111,202
Miscellaneous Revenues	83,614	87,225	93,489
Transfer from Parks & Recreation Fund	106,416	120,204	142,841
Interest	66,552	157,700	243,217
Total Revenues	8,588,620	9,206,689	11,110,978
General Fund Expenditures			
City Council	41,582	45,726	53,749
City Manager	337,253	384,640	460,370
City Clerk	218,972	205,052	241,832
City Attorney	124,751	136,716	159,262
Finance	247,433	280,004	332,642
Non-Departmental	322,958	370,882	412,302
Community Development/Engineering	1,971,495	2,041,621	2,387,635
Animal Control	83,536	95,502	119,240
Law Enforcement (Sheriff)	3,219,524	3,777,933	4,926,487
Transfer to Road Fund	75,000	75,000	75,000
Misc Special/Benefit Assessment District Maintenance	422,992	463,562	540,010
Street Lighting	77,506	84,939	98,947
Subtotal	7,143,002	7,961,579	9,807,474
Contingency	714,300	796,158	980,747
County Repayment (credit to city)	(273,795)	0	0
Total Expenditures	7,583,507	8,757,737	10,788,222
General Fund Operating Reserve	2,014,771	3,807,767	5,727,574
Revenue Neutrality	-	-	3,000,000
Required Operating Reserve (10% of expenses)	758,351	875,774	1,078,833
Excess Reserve	1,256,420	2,931,994	1,648,752
Operating Reserve as a % of Operating Expenditures	27%	43%	25%

Table 2 – Projected Road Fund/Parks & Recreation (CSA R-7A) Revenues and Expenditures

	FY 2010-11 (Year 2)	FY 2013-14 (Year 5)	FY 2018-19 (Year 10)
Road Fund Revenues			
Section 2105	\$ 149,590	\$ 111,465	\$ 119,469
Section 2106	93,894	69,964	74,988
Section 2107	199,864	148,926	159,620
Section 2107.5	4,000	4,000	4,000
Measure C/J Local Streets & Roads	302,339	331,338	385,979
Proposition 42	188,352	215,332	268,856
Transfer from General Fund	75,000	75,000	75,000
Interest	25,231	42,745	54,731
Total Revenues	1,038,271	998,769	1,142,642
Road Fund Expenditures			
Road, Drainage, Vegetation, Bridge, Traffic Signal Maintenance & Traffic Engineering	\$ 779,577	\$ 854,349	\$ 995,242
Contingency	77,958	85,435	99,524
Total Expenditures	857,535	939,784	1,094,766
Road Fund Operating Reserve	663,676	1,000,758	1,264,116
Required Operating Reserve (10% of expenses)	85,754	93,978	109,477
Excess Reserve	577,923	906,780	1,154,639
Operating Reserve as a % of Operating Expenditures	77%	106%	115%
Parks & Recreation Revenues			
Property Tax	\$ 917,018	\$ 1,031,149	\$ 1,253,908
Misc Fees and Other Revenues	42,512	46,589	54,273
Interest	14,094	61,162	154,155
Total Revenues	973,624	1,138,901	1,462,335
Parks & Recreation Expenditures			
Maintenance	379,065	415,423	483,931
Recreation Programs	92,046	100,875	117,510
Support Overhead/Office/Supplies	87,070	95,421	111,157
Transfer to General Fund	106,416	120,204	142,841
Contingency	66,460	73,192	85,544
County Repayment (credit to city)	(397,919)	0	0
Total Expenditures	333,138	805,115	940,984
Park & Recreation Operating Reserve	640,486	1,556,631	3,763,416
Required Operating Reserve (10% of expenses)	33,314	80,512	94,098
Excess Reserve	607,173	1,476,119	3,669,318
Operating Reserve as a % of Operating Expenditures	192%	193%	400%

In addition to analyzing projected revenues and expenditures, the CFA provides information regarding transition year services and revenue neutrality mitigation.

Under State law, a new city is not obligated to provide direct municipal services during the Transition Year. The County and other servicing agencies continue to provide municipal service level services during this period to provide time for the new city to accrue adequate revenues to start up. The County is allowed under law to charge the city for the cost of services during the Transition

Year. The Transition Year costs may be paid over five years, in a lump sum payment, or any combination as mutually agreed.

Under the Boundary 1 alternative, the General Fund and Park Fund reflect a credit, which is to be paid to the city in FY 2010-11. It should be noted that the actual amounts of the credits will be based on actual revenues and expenditures accrued during the transition period.

The CFA also provides an analysis of the Transition Year cash flow. During the Transition Year, the new city will begin to accrue and receive certain revenues, while some revenues will not be accrued or received until a future time. For example, the new city will not receive any Property Tax or Property in Lieu of Sales Tax during the Transition Year (FY 2009-10). Sales tax is paid in monthly installments, one quarter in arrears. Consequently, the new city will receive partial sales tax during FY 2009-10. Motor Vehicle License and Off-Highway Vehicle License Fees, Property Tax Transfer and Motor Vehicle Fuel Taxes begin accruing immediately. Other fees, such as Franchise Fees, Community Development Fees, Engineering/Building Safety Fees, Business License Tax, and Assessment Fees remain with the County during the transition period and will offset the cost of providing Transition Year services.

The fiscal consultant will provide an overview of the CFA at the LAFCO hearing on September 18.

2.3 Revenue Neutrality

Revenue neutrality requires the incorporation to result in a “similar” exchange of both revenues and service responsibility among the proposed city, County and other affected agencies. In accordance with State law, the method of calculating the “projected” annual revenue neutrality mitigation payment is based on the difference between the identifiable and recurring costs and revenues (net costs) for the base year (FY 2006-07). There is only one affected agency that would be considered for revenue neutrality purposes – Contra Costa County.

It has been determined that revenues to the County exceed the cost of providing services. Therefore, Alamo must pay the County the difference in order to achieve revenue neutrality.

Government Code §56815 allows for negotiated terms of revenue neutrality acceptable to all parties, with any such agreement becoming part of the LAFCO terms and conditions of the incorporation. The County and the incorporation Chief Petitioners have negotiated such a settlement agreement for Boundary Alternative 1, the terms of which have been incorporated into the Draft CFA.

On July 22, 2008, the Board of Supervisors approved the Revenue Neutrality Agreement (Exhibit C). The agreement takes into account the negative net impacts to the County funds. The monetary terms of the agreement for Boundary Alternative 1 call for a one-time lump sum payment of \$3 million from the new city to the County in or prior to FY 2018-19. Also, the County waives the reimbursement of providing road maintenance costs to the new city during the Transition Year (FY 2009-10), and will transfer to the city all net surplus of revenues retained over costs of services provided in FY 2009-10 for the General Fund and Parks Fund in FY 2010-11. Additional provisions relating to the transfer of CSA and benefit assessment district reserve fund balances are also included in the agreement.

2.4 Public Review Draft and Final CFA

A Public Review Draft CFA, which incorporates the revenue neutrality mitigation payment, was released on July 25, 2008 for a 30-day public comment period. In response, LAFCO received three comment letters, two from affected agencies and one from an Alamo resident (Exhibit D). Exhibit E includes responses to comments pertaining to CFA-related issues as prepared by the CFA consultant, Winzler & Kelly.

Following the Commission hearing on September 18, the consultant will incorporate any final changes and corrections and prepare the Final CFA.

3. COMPLIANCE WITH CEQA

The Commission is the Lead Agency for any incorporation proposal. PMC was retained by LAFCO, through a competitive bid process, to prepare the Initial Study pursuant to CEQA. The resulting analysis indicates that the proposed incorporation of the Town of Alamo has no significant environmental impacts.

This conclusion is based on a number of factors, including the following:

- The incorporation, if approved by LAFCO and supported by a majority of registered voters in the area, would transfer general governance and jurisdiction of municipal over service provision and land use decisions from the County of Contra Costa to the new Town of Alamo.
- No new development or new services are associated with the proposed project (“incorporation”). The project does not include changes in land use.
- In accordance with Government Code §57376(a), the new city is obligated to adopt the Contra Costa County Zoning Ordinance and General Plan for a period of 120 days or until the new city adopts its own ordinances.
- Government Code §65360 provides a new city up to 30 months following incorporation to prepare and adopt a new General Plan. It is anticipated that Alamo will adopt the current Contra Costa County General Plan until such time as it adopts its own General Plan. No changes in land use designations, zoning designations, policies, guidelines, or development regulations are proposed as part of the incorporation. All such designations and regulations are assumed to be identical to those imposed by the County. Development potential for the incorporation areas would remain the same as currently permitted under County jurisdiction and until the new Town Council adopts its own General Plan, Zoning Ordinance, and amendments to other policies or regulations that regulate development within the area of incorporation.

Accordingly, a Negative Declaration (Exhibit F) was prepared and distributed/posted for a 30-day review and comment period ending on August 28, 2008. Several comment letters were received, one of which required a response and minor revisions to the document. The revisions did not result in the need for recirculation. The Initial Study/Negative Declaration is discussed in LAFCO Agenda Item #7.

4. ALTERNATIVES TO INCORPORATION

Incorporation is one option available for the Alamo community. Other options include, but are not limited to, the following:

Retention of the Status Quo

In this option, the Board of Supervisors would continue to be the "local government" for the Alamo area and would continue to be responsible for land use and public service decisions similar to other portions of the unincorporated county. Many purposes of incorporation, as described above, would not be achieved under this alternative.

Formation of Area Planning Commission and/or Municipal Advisory Council

Forming an Area Planning Commission (APC) for Alamo would decentralize land use planning decisions, recognizing that APC decisions would still be appealable to the County. There would be no direct effect of the provision of other community services. Forming a Municipal Advisory Council (MAC) for Alamo would provide for additional advisory functions on matters of public safety, welfare, public works and planning.

The Alamo community is served by the Alamo Improvement Association (AIA). The AIA was founded in 1955 to "*preserve and foster the established character and quality of Alamo as a semi-rural, low-density, residential area.*" The AIA has a number of standing and Ad Hoc committees, including the Planning Committee, Transportation Committee, Environment Committee and Zoning Violations Committee.

Many purposes of incorporation, as described above, would not be achieved by formation of an APC or MAC.

Formation of Multi-Purpose District

Reorganizing existing special districts in Alamo, such as the various County Service Areas (CSAs) which provide enhanced police, parks & recreation, street maintenance, landscaping and street lighting into a multi-purpose district (i.e., Community Services District) accountable to area voters to provide existing services could lead to greater economy and efficiency by combining administrative responsibilities and enhancing coordination. However, this option would not alter the current land use planning responsibilities of the County, nor have any of the special districts serving Alamo expressed an interest in this alternative.

Annexation to an Adjacent City

This option would include annexation of the proposed incorporation area to one of the adjacent cities (e.g., Danville, Walnut Creek). Neither of the adjacent cities has expressed an interest in this alternative.

Further, LAFCO is required to consider the effects of the proposed incorporation and of alternative actions on adjacent areas, mutual social and economic interests and the local government structure of these other agencies. The communities of Alamo, Danville and Walnut Creek each have their own unique social, economic and community interests.

5. EFFECTS ON SPECIAL DISTRICTS

There are a number of special districts which provide service within all or portions of Alamo. The proposed incorporation will have an effect on some of these districts, and little to no effect on others as summarized below.

County Service Areas

Pursuant to the CKH Act, County Services Areas (CSAs) are County-governed special districts that are created specifically to provide enhanced services in the unincorporated area. Provisions in the CSA law provide for automatic detachments, either partially or wholly, from CSAs when lands are incorporated or annexed to cities unless the LAFCO terms and conditions specify that the CSA is to remain intact (Government Code §25210.90). Pursuant to Government Code §56375(n) LAFCO can, however, override this provision of law if it concludes that detaching the territory from the CSA would deprive the area of a service needed to ensure the health, safety and welfare of the residents, and it finds that the waiver would not affect the ability of the new city to provide service.

There are a number of CSAs that provide services within the proposed incorporation boundaries. The following is a brief description of these CSAs and a summary of the proposed effects of incorporation on the CSAs:

- *CSA EM-1* – This is a countywide district that provides enhanced emergency medical services including paramedic ambulance, first-responder medical programs, and medical communication systems. It is proposed that the automatic detachment of the Alamo community from CSA EM-1 be waived pursuant to Government Code §25210.90, as detachment would deprive the residents of the new city of services needed to ensure their health, safety and welfare.
- *CSA L-100* – Countywide street lighting services are primarily provided by the County through CSA L-100. There are approximately 350 street lights within the proposed boundaries of Alamo (Boundary Alternative 1). It is proposed that detachment from CSA L-100 be waived until the end of the Transition Period, at which time all encumbered funds, assets and liabilities of those portions of CSA L-100 that are within Boundary Alternative 1 shall be transferred to the new city. Following incorporation, the new city will assume responsibility for providing services. As proposed, CSA L-100 funding would continue as part of the Property Tax AB 8 allocation and through the special tax allocation. CSA L-100 would continue to fund street lighting services in the same areas within Alamo that are covered by the CSA. Following the Transition Period, the new city will be detached from CSA L-100.
- *CSA M-30* – This district provides enhanced law enforcement, street maintenance, parks, landscaping and street lighting to the Alamo Springs community in Alamo. It is proposed that the dissolution of CSA M-30 be waived until the end of the Transition Period, at which time all encumbered funds, assets and liabilities of the district, along with responsibility for services shall be transferred to the new city. During the Transition Period the new city will determine the appropriate mechanism (e.g., benefit assessment district) if any, to continue the special tax that currently funds CSA M-30. The current assessments would continue to fund

these services in the same areas within Alamo that are covered by the CSA. Following the Transition Period, CSA M-30 will be dissolved.

- *CSAs P-2/Zone B, P-5 and P-6* – The County Sheriff’s Department currently provides law enforcement protection for the Alamo community. These services are primarily funded through General Fund contributions. In addition to the regular police services provided to Alamo, there are number of CSAs which fund enhanced services. Funding for enhanced services is provided through CSAs P-2/Zone B, P-5 and P-6. CSA P-6 is a countywide district, P-5 serves primarily the Round Hill community in Alamo, and P-2/Zone B serves other portions of Alamo which comprise approximately 60% of the Alamo area. Funding sources include a combination of property and parcel taxes and benefit assessments. It is proposed that detachment from and/or dissolution of these CSAs, as appropriate, be waived until the end of the Transition Period, at which time all encumbered funds, assets and liabilities of those portions of CSAs that are within Boundary Alternative 1 shall be transferred to the new city. Following incorporation, the new city will assume responsibility for providing services. During the Transition Period the new city will determine the appropriate mechanism (e.g., benefit assessment district) if any, to continue any special tax or benefit assessment of CSA P-2/Zone B, P-5 and/or P-6 funding. It is assumed that the current assessments would continue to fund these services in the same areas within Alamo that are covered by the CSA. It is important to note that any continuation of special taxes and/or assessments to fund dedicated police services (e.g., resident deputy) will continue to fund those enhanced services. Following the Transition Period, the new city will be detached from CSA P2 and P-6 and CSA P-5 will be dissolved.
- *CSA R-7A* - This district provides parks, trails, landscaping and related facilities development, operation and maintenance for most of the Alamo community. It is proposed that the dissolution of CSA R-7A be waived until the end of the Transition Period, at which time all encumbered funds, assets and liabilities of the district along with service responsibility shall be transferred to the new city. CSA R-7A funding would continue as part of the Property Tax AB 8 and special tax allocations. The current assessments would continue to fund these services in the same areas within Alamo that are covered by the CSA. Following the Transition Period, CSA R-7A will be dissolved.

In addition to the special districts listed above, the Alamo is served by various benefit assessment districts including the countywide Landscaping District LL-2 Benefit Zone 36 (Alamo Area), Zone 45 (Alamo Villas) and Zone 54 (Alamo Country Subdivisions 7601 and 7818). With regard to these benefit assessment zone, the following is recommended:

- *LL-2 Benefit Zones 36, 45 and 54*: The Countywide Landscaping District LL-2 Benefit Zones 36, 45 and 54 will detach from the County on the last day of the Transition Period. Services provided by the County within these zones will continue at the same level during FY 2008-09 and during the Transition Period. No unusual or extraordinary expenses shall be charged to LL-2 Zones 36, 45 or 54, or made on behalf of these zones during FY 2008-09 and during the Transition Period. On the last day of the Transition Period, all unencumbered funds of these zones, including cash on hand and monies due but uncollected, and any obligations of these zones will be transferred to the new city. Further, at the end of the Transition Period, the authority to collect assessments or fees for these services shall pass to the new city.

Other Special Districts

The following special districts include all or a part of the area proposed for incorporation. For the most part, these districts will be unaffected by the incorporation and will continue to provide services as they are doing now following the successful incorporation of Alamo.

- Alamo-Lafayette Cemetery District
- Central Contra Costa Sanitary District
- Contra Costa County Fire Protection
- Contra Costa County Flood Control District
- Contra Costa County Mosquito & Vector Control District
- Contra Costa County Water District
- East Bay Municipal Utility District
- East Bay Regional Park District
- San Ramon Valley Fire Protection District
- School districts: Acalanes High School District, San Ramon Valley Unified School District, Walnut Creek Elementary School District
- Transit districts: Central Contra Costa Transit Authority, Bay Area Rapid Transit District (BART)

In addition to the special districts listed above, the Alamo community is served by various State, regional, local and private entities including the California Highway Patrol, Central Contra Costa Solid Waste Authority, Astound & Comcast, and PG&E. See Transfer of Service Responsibilities (Table 3) below for details.

6. INCORPORATION BOUNDARIES

6.1 Proposed Boundary

Creating city boundaries is a policy decision involving many factors such as fiscal feasibility, community identity, and orderly land use patterns. A more geographically inclusive city may have merit from the LAFCO perspective, including such general policies as avoiding enclaves substantially surrounded by cities and providing efficient public services.

Two distinct study areas were identified for the Alamo incorporation area for the purpose of analyzing two separate boundary alternatives. The analysis of each boundary alternative provides a basis for LAFCO to make determinations of the final boundaries.

Study Area 1 as identified in Exhibit A, reflects the proposed boundary as submitted by the incorporation petitioners. Additionally, Study Area 2, also show in Exhibit A, was included in the analysis as this area would become an unincorporated island if Study Area 1 alone were to be incorporated.

Boundary Alternative 1 encompasses all of Study Area 1 and includes 9.87± square miles. Except for the aforementioned 17-lot area with the Town of Danville's city limits, Boundary Alternative 1 includes all of properties within the 94507 zip code, and is generally bounded by the cities of Danville to the south and Walnut Creek to the north, Las Trampas Regional Park to the west, and Mt. Diablo State Park, Diablo Foothills Regional Park and Shell Ridge Recreation Area to the northeast and east. Boundary Alternative 1 includes a population of approximately 16,683 and 5,571 housing

units. Boundary Alternative 1 conforms to planned, orderly and efficient patterns of urban development.

It should be noted that in some areas, the Alamo incorporation boundary is drawn to the street center line and bisects streets (i.e., Stone Valley Road, Glenwood Court, Livorna Road and Danville Blvd. at Rudgear Road). Following incorporation, the new Town of Alamo should enter into maintenance agreements with neighboring agencies (e.g., Town of Danville, City of Walnut Creek) to address road maintenance issues.

6.2 Boundary Alternative 2

Boundary Alternative 2 encompasses all of Study Area 1 plus Study Area 2, which includes a total of 10.32± square miles. Study Area 2 includes an area known as Tice Valley in unincorporated Walnut Creek which is within the City of Walnut Creek's sphere of influence (SOI). Boundary Alternative 2 includes a total population of approximately 17,818 and 6,002 housing units.

The following factors were considered in analyzing the boundary alternatives:

- **Fiscal Feasibility** – The CFA finds that Boundary Alternative 2 is fiscally infeasible. The additional population, housing units and service area results in increased service costs (i.e., police services), which results in deficit spending on an annual basis beginning in FY 2013-14. This deficit spending is projected to continue on an annual basis and exhaust General Fund reserves by FY 2018-19. Consequently, it was found that Boundary Alternative 2 cannot be rendered fiscally feasible without additional revenue enhancements in later years.
- **Community of Interest** – The residents of Tice Valley (Study Area 2) reside within the City of Walnut Creek's SOI. They have Walnut Creek addresses, they access their neighborhoods through Walnut Creek streets, and their children attend Walnut Creek schools. This area has a strong community of interest with Walnut Creek.

Fire Service – Study Area 1 is served primarily by the San Ramon Valley Fire Protection District (SRVFPD), although a small portion to the north/northwest is within Contra Costa County Fire Protection District (CCFPD). Study Area 2 (Tice Valley) is served exclusively by CCCFPD. SRVFPD submitted several letters to LAFCO expressing concern with the new city receiving fire service from two different fire districts. According to SRVFPD staff, this situation has the potential of creating complications in terms of emergency response times, fire station locations, and non-emergency fire prevention code requirements.

While it is less desirable to have multiple fire districts serving a city, it is not unique. There is at least one other city in Contra Costa County (City of Antioch) that receives fire service from more than one district. One possible remedy would be that following incorporation, the new city and two fire districts pursue a reorganization involving detachment and annexation. LAFCO is not empowered to initiate annexations and detachments.

For these reasons, Boundary Alternative 1 is recommended. However, it should be noted that the exclusion of the Tice Valley area (Study Area 2) will result in an island. LAFCO typically discourages the creation of islands, as they can result in service challenges and inefficiencies.

The Commission is often faced with balancing competing interests and factors. In this situation, the Commission must weigh the fiscal feasibility of the new city, community of interest and service issues with that of creating an unincorporated island. A potential remedy might involve the future annexation of the Tice Valley area to either the City of Walnut Creek, in whose sphere of influence the area is located, or to the new city.

Once the Commission approves the incorporation, the boundaries will be definite and certain. The proposed boundaries follow lines of assessment and ownership. A map sufficient for filing with the State Board of Equalization is pending with the County Surveyor's office.

7. SPHERE OF INFLUENCE

A sphere of influence (SOI) is defined in Government Code §56076 as "... a plan for the probable physical boundaries and service area of a local agency, as determined by the commission." The Commission is required by §56425 to develop and adopt an SOI for each city and special district in the County.

7.1 Sphere of Influence of the Town of Alamo

With regard to SOIs for new cities, §56426.5 states:

"... at the time the commission approves a proposal for an incorporation or a reorganization which includes an incorporation, the commission may determine the sphere of influence for the proposed new city... the commission shall determine the sphere of influence for any new incorporated city within one year of the effective date of the incorporation."

The Alamo boundary is essentially land-locked, surrounded by the cities of Danville to the south and Walnut Creek to the north, Las Trampas Regional Park to the east, and Mt. Diablo State Park and Shell Ridge Recreation area to the northeast. As indicated above, one of the few potential expansion areas might be Tice Valley. Thus, it is recommended that the SOI for the new Town of Alamo be coterminous with the proposed city boundary and be determined in conjunction with the proposed incorporation.

With regard to the Alamo SOI, consideration was given to adding an area located at Tice Valley Blvd. and Crest Avenue which is presently not in any SOI. The area totals 12.85± acres and was originally part of the Walnut Creek Park Subdivision. There are approximately 10 large lots in the area (all residential). The parcels are being assessed for various Walnut Creek school districts, are served by Contra Costa County Fire Protection District, and all have Walnut Creek addresses. This area has a geographic, economic and social identify with Walnut Creek. Thus, it is recommended that LAFCO consider adding this area to the Walnut Creek SOI when the Commission considers the Central County Sub-regional Municipal Services Review/SOI Updates in the coming months.

7.2 Spheres of Influence of Affected Local Agencies

SOIs are major planning tools for determining which governmental agencies can provide services in the most efficient way to the people and property in a given area. For that reason, proposed incorporation boundaries that overlap with other adopted SOIs are given particularly close attention.

In reviewing the boundaries for the proposed Town of Alamo, there are 101± acres that are currently within the City of Walnut Creek's SOI, and 8.06± acres within the Town of Danville's SOI (see LAFCO Agenda Item #8 for a full discussion and maps).

These SOIs were established before the proposed incorporation of Alamo was initiated. The cities of Danville and Walnut Creek do not serve these areas, and receive no sales tax or other revenues from them. Thus, adjusting the SOI boundaries will have no material impact on the cities' current financial condition. Also, neither city has expressed an interest in annexing these areas.

Pursuant to Government Code §56720, the Commission shall not approve or conditionally approve any proposal that includes an incorporation, unless the Commission finds that it has reviewed the SOIs of the affected local agencies and the incorporation is consistent with those spheres.

As discussed in Agenda Item #7, it is recommended that the Commission amend the SOIs for the Town of Danville and the City of Walnut Creek to coincide with the boundaries of the proposed Town of Alamo.

8. OTHER LAFCO FACTORS

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

8.1 Population

The population for the Alamo community is estimated to be 16,683 for Boundary Alternative 1 and 17,818 for Boundary Alternative 2. Population figures were derived from the 2000 Census, Alamo Census Designated Place (CDP), and projected to FY 2006-07 for the relative growth in residential development in that period of time. Population for Alamo is anticipated to increase only slightly over time, at an annual rate of approximately 1.6% based on 2000 census data for the Alamo CDP.

8.2 Land Use, Planning and Zoning

As indicated above, the proposed incorporation includes two boundary alternatives: Study Area 1 and Study Area 2. Study Area 1 reflects the proposed boundary as submitted by the incorporation applicants and reflects the Alamo zip code. Study Area 2 was included for analysis to address logical boundary and possible island issues. Study Area 2 is located within the City of Walnut Creek's SOI and within the unincorporated County in an area commonly referred to as Tice Valley. A review of Study Area 2 indicates that it is neither feasible nor desirable to include this area in the incorporation boundaries at this time.

Environmental Setting and Background - The proposed incorporation area lies in flat valleys between the East Bay hills to the west and the Diablo Range to the east, extending north and south of Mt. Diablo bounded by the City of Walnut Creek to the north and the Town of Danville to the south. Interstate 680, a State designated scenic route, bisects the project area and connects the communities within the San Ramon Valley. It is the primary transportation route for both private and commercial

traffic for the area, and is surrounded by commercial development that would provide much of the tax revenue for the project area if incorporation is approved.

The Alamo boundaries consist of rolling hills and are dominated by existing urban uses. There are several active faults within the project area; however, most of the major seismic hazards are from active faults outside the boundary. Other hazards include erosion, corrosion, and flooding. The area offers expansive views of surrounding hillsides, including the ridgelines of the East Bay hills and Mt. Diablo. Three parks and one open space area are located within the proposed area of incorporation and would continue to serve the area if incorporation is approved.

According to the County General Plan 2005-2020 and Zoning Ordinance (Title 8), there are a variety of land use designations and zoning districts within the proposed Alamo boundaries. (See LAFCO Agenda Item #7 for details and maps relating to land use designations).

The preferred incorporation boundary (Study Area 1) includes land that is primarily built out with semi-rural residential and commercial uses. The proposed boundary includes 584± acres of land designated for agricultural use and 955± acres designated for open space uses. Of the 584± acres designated for agricultural use, 9.4± acres are designated as Williamson Contract non prime agricultural land, and 53.6± acres are designated as Williamson Contract non prime agricultural land in non renewal.

State law requires that the newly incorporated city adopt existing County General Plan and zoning designations for the areas subject to incorporation. Therefore, no General Plan or zoning changes will result from successful incorporation (Government Code §57376). It is anticipated that the new city will initiate a comprehensive update of the General Plan and Zoning Ordinance, subject to the California Environmental Quality Act (CEQA). Contra Costa County General Plan policies and the County's Zoning Ordinance will continue to control land use until the new city acts to change them.

The proposed incorporation is not expected to induce, facilitate or lead to the conversion of existing open space lands to uses other than open space, as the area is primarily developed and not does anticipate significant new development.

Urban Limit Line – Growth and urban development in Contra Costa County have a complex history.

In 1988, the voters of Contra Costa approved a half-cent local transportation sales tax that would be in place for 20 years and would help fund local street and road and public transportation services (Measure C). In 2004, the sales tax was renewed for an additional 25 years (to 2034) and a new expenditure plan was adopted, the "Measure J Expenditure Plan."

The Contra Costa Transportation Authority (CCTA) was originally formed to manage the funds generated by the 1988 half-cent transportation sales tax and to oversee implementation of the Measure C Expenditure Plan. In addition, CCTA oversees the design and construction of the transportation projects and programs included in the Expenditure Plans, most notably, the County's Growth Management Program and serves as the County's Congestion Management Agency. In 1992 the Authority was designated Contra Costa's Program Manager for the return-to-source portion of the regional Transportation Fund for Clean Air (TFCA). In this capacity, CCTA is responsible for the allocation of approximately \$1.3 million dollars annually for projects that reduce air pollution caused by motor vehicles. Information regarding the Measure J Expenditure Plan, Measure C Expenditure Plan, and TFCA is available online at www.ccta.net.

One of the major components of transportation funding is the Growth Management Program (GPM). The GPM is intended to promote a healthy, strong economy while preserving and enhancing the quality of life for the people of Contra Costa County.

To receive its share of local transportation maintenance and improvement funds, local agencies must comply with the provisions of the GPM, including the following:

- Adopt a growth management element
- Adopt a development mitigation program
- Address housing options
- Participate in an ongoing cooperative, multi-jurisdictional planning process
- Adopt an urban limit line
- Develop a five-year capital improvement program
- Adopt a transportation system management ordinance or resolution

A number of the GMP components relate directly to LAFCO and local agency boundaries; in particular, the adoption of urban limit lines.

The County and several cities (i.e., Antioch, Pittsburg and San Ramon) have voter-approved Urban Limit Lines (ULLs). In addition, a number of cities have adopted the countywide ULL as their own ULL. These lines serve as long-term growth boundaries and delineate areas intended for future urbanization. The ULLs are adopted either by the individual local agencies (e.g., County, city) or by their respective voters and do not require LAFCO approval.

In 1990, the voters in Contra Costa County approved Measure C, the 65/35 Contra Costa County Land Preservation Ordinance. This measure limited urban development in the County to no more than 35% of the land in the County, and required that at least 65% of all land in the County be preserved for agriculture, open space, wetlands, parks and other non-urban uses.

In 2000, the Board of Supervisors approved a General Plan amendment modifying the County ULL and moving approximately 16,000 acres, which were previously inside the ULL outside the ULL. The County's decision was challenged in court and the County prevailed.

In 2004, the voters approved Measure J that extended to 2034 the local half-cent transportation sales tax, previously approved in 1988 (Measure C). This measure ties transportation funding to the provisions of local agency adopted urban growth boundaries.

In November 2006, voters in Contra Costa County approved Measure L which (1) extends the term of the 65/35 Land Preservation Plan Ordinance from December 31, 2010 to December 31, 2026; (2) requires voter approval, in addition to four-fifths approval by the Board of Supervisors, to expand the ULL by more than 30 acres; (3) provides for periodic reviews of the ULL, including a mandatory mid-point review involving an evaluation of housing and job needs; (4) adopts a new and revised ULL map that reflects the approvals of city ULLs by voters in the cities of Antioch, Pittsburg, and San Ramon and also reflects other non-substantial boundary changes at various locations; and (5) retains the 65/35 land preservation standard and protections for the County's prime agricultural land. The County ULL approved by voters in 2006 generally coincides with the city adopted ULLs (Antioch, Pittsburg, and San Ramon) with some exceptions such as the Tassajara Valley area.

As a new city, Alamo would be subject to the County's Growth and Congestion Management programs and the provisions of the Measure J Expenditure Plan in order to receive its share of local transportation funding.

As proposed, the Alamo incorporation boundaries include two areas totaling approximately 200 acres, which extend beyond Contra Costa County's voter approved Urban Limit Line (ULL) – Measure L (Exhibit G).

The northernmost of the two areas outside the ULL (Stonegate) is common area open space of the Stonegate development and is owned and maintained by the Homeowners Association for Bogue Ranch Development. The area also includes a retention basin parcel owned by the County Flood Control District. These lands are designated Open Space under the County General Plan. Removing these areas from the incorporation boundary would result in split parcels, create illogical boundaries and property management issues.

The larger areas to the east that is outside the County ULL (Country Oaks and Serenity Lanes) includes homeowners association common area open space, privately owned residential lots and public lands, including an EBMUD water tank and lands that have been deeded to East Bay Regional Park District. All of the lands that are beyond the ULL in this area are designated Open Space or Agricultural Lands under the County General Plan with P-1 District (Planned Unit) zoning. A number of the parcels are split by the County ULL, including a parcel that is partially designated Agricultural Lands (that portion which is outside the ULL) and partially designated Single-Family Low Density (that portion which is inside the ULL). As with the Stonegate area, removing these areas from the Alamo incorporation boundaries would result in split parcels, create illogical boundaries and property management issues.

Future development in these areas is restricted by General Plan and zoning designations, topography (much of the open space area is steep and unbuildable), and by the County ULL.

To receive its share of local transportation funds, the new city must comply with the provisions of the GPM, including adoption of an ULL, either the County's or its own.

As previously stated, by law, upon incorporation, the new city must adopt the County's General Plan and Zoning Ordinance in their entirety, including the County's ULL within the General Plan. Thus, the incorporation of Alamo would not change the existing land use designations, development regulations or growth potential. No development, other than that allowed under the County's General Plan, would result from the incorporation, as discussed in the Initial Study/Negative Declaration.

By law, the new city has 30 months to develop and adopt its own General Plan. Should the citizens of Alamo, as part of this or any subsequent process, wish to change this ULL, an affirmative vote of the electorate would be required.

The Alamo incorporation petitioners advised CCTA of this matter and have requested confirmation that the Alamo incorporation boundaries, as proposed, which include territory outside the countywide ULL, would comply with Contra Costa County Measure J requirements.

The incorporation petitioners understand that CCTA's response will be that the newly formed Town

of Alamo would be considered compliant with Measure J, if, among other things, the Town Council initially adopts the County ULL alignment by resolution. Thereafter, CCTA would treat any rezoning by the Town of areas outside the adopted ULL the same as annexation areas outside the ULL for the purpose of Measure J compliance. The petitioners anticipate receiving a letter from CCTA confirming this prior to the September 18 LAFCO hearing.

8.3 Municipal Services

Incorporation of Alamo would result in the transfer of certain responsibilities for the provision of municipal services to the new city. A city in California is required, by law, to provide only a limited number of services, including:

- General legislative functions
- Land use planning, regulation and control over land use development
- Law enforcement
- Animal control
- Maintenance of public roads and other public infrastructure owned by the city

All other municipal services, such as fire protection, libraries, parks & recreation, street lighting, flood control, water and wastewater, are optional to a city.

The new city may choose to provide municipal services directly, or contract for some or all services.

Since the early 1990's, when Educational Revenue Augmentation Funds (ERAF) and the Revenue Neutrality provisions were placed into State law, virtually every incorporation since has resulted in what is termed as a "contract city." This is a result of the significant loss of revenues to newly incorporating cities. Contracting for service provides for economies of scale, and allows the city time to ramp-up (i.e., acquire staff, facilities and accrue revenues).

Table 3 below provides an overview of the changes in service providers and levels of service as proposed by the incorporation applicants. The plan for services assumes that Alamo will maintain the current or enhanced service levels. The plan for service also assumes that a number of services will continue to be provided by existing service providers, including, but not limited to cable television, cemetery, education, electricity and natural gas, fire, library, mosquito abatement, solid waste management, transit, wastewater and water services. The CFA discusses in detail the provision of services.

Table 3 – Transfer of Service Responsibility

Public Service	Current Provider	Anticipated Provider	LOS**	Funding Source
General Government	County of Contra Costa	Town of Alamo	Enhanced	General Fund
Law Enforcement	County of Contra Costa, CSA P-2/ Zone B, CSA P-5, CSA P-6	Town of Alamo- Contract with Sheriff Dept	Enhanced	General Fund
Traffic Control & Accident Investigation	California Highway Patrol	Town of Alamo- Contract with Sheriff Dept	Enhanced	General Fund/Fines
Animal Services	County of Contra Costa	Town of Alamo- Contract with County	No Change	General Fund
Fire Protection/Emergency Medical	San Ramon Valley Fire Protection District, Contra Costa County Fire Protection District, CSA EM-01	San Ramon Valley Fire Protection District, Contra Costa County Fire Protection District, CSA EM-01	No Change	As currently funded
Land Use Planning	County of Contra Costa	Town of Alamo- Town Staff & Contract	Enhanced	General Fund/User Fees
Building & Safety and Engineering	County of Contra Costa	Town of Alamo- Contract Services	Enhanced	General Fund/User Fees
Code Enforcement	County of Contra Costa	Town of Alamo- Contract Services	Enhanced	General Fund/Fines
Parks & Recreation	CSA R-7A, CSA M-30	Town of Alamo- Town Staff & Contract	Enhanced	General Fund & User Fees
Street Lighting	CSA L-100	Town of Alamo	No Change	General Fund
Road & Traffic Signal Maintenance, Street Sweeping, Engineering, Landscape Maintenance	County of Contra Costa, CSA M-30, LL District 2, Zone 36, Assessment Districts Zones 45, 54	Town of Alamo- Contract Services	No Change	Road & General Funds
Storm Water Runoff (NPDES)	County of Contra Costa	Town of Alamo- Co-Permittee with County of Contra Costa	No Change	General Fund
Electricity	Pacific Gas & Electric	Pacific Gas & Electric - Town Franchise	No Change	Franchise Fee
Natural Gas	Pacific Gas & Electric	Pacific Gas & Electric- Town Franchise	No Change	Franchise Fee
Domestic Water	East Bay Municipal Utility District, Contra Costa County Water District	East Bay Municipal Utility District, Contra Costa County Water District	No Change	Franchise Fee
Cable Television	Comcast & Astound	Comcast & Astound- Town Franchise	No Change	Franchise Fee
Solid Waste Collection & Disposal	Central Contra Costa Solid Waste Authority	Central Contra Costa Solid Waste Authority- Franchise Agreements with Valley Waste Management & Allied Waste Services	No Change	Franchise Fee
Library	County of Contra Costa	County of Contra Costa	No Change	N/A
Public Education (K-12)	San Ramon Valley Unified School District, Walnut Creek Elementary School District, Acalanes High School District	San Ramon Valley Unified School District, Walnut Creek Elementary School District, Acalanes High School District	No Change	N/A
Public Transit	Central Contra Costa County Transit Authority	Central Contra Costa County Transit Authority	No Change	N/A
Flood Control	Contra Costa County Flood Control District	Contra Costa County Flood Control District	No Change	N/A
Solid Waste Landfill	County of Contra Costa	County of Contra Costa	No Change	N/A
Wastewater/Sanitation	Central Contra Costa Sanitary District	Central Contra Costa Sanitary District	No Change	N/A
Cemetery	Alamo-Lafayette Cemetery District	Alamo-Lafayette Cemetery District	No Change	N/A
Mosquito Abatement	Contra Costa Mosquito & Vector Control District	Contra Costa Mosquito & Vector Control District	No Change	N/A

** Level of Service

8.4 Fair Share of Regional Housing

There are approximately 16,700 people living with the community of Alamo. The community of Alamo is essentially built out, with limited residential development and little to no new retail or commercial development. Most of the residential development is generated by lot splits for second residential units, remodels, expansions, and replacements of existing residential units.

The new city would be required to participate in and comply with the Regional Housing Needs Assessment (RHNA) process under the San Francisco Bay Area Housing Needs Plan 2007-2014, which is conducted every five years by the Association of Bay Area Governments (ABAG). This process is required by State law for purposes of planning for the regional fair share allocation of future overall and affordable housing. In addition, Section 6, Housing Element of the Contra Costa County General Plan, provides housing needs assessment, constraints, resources, accomplishments, goals and policies.

According to Government Code §57376(a), the new city would be required to adopt all existing County plans, policies, ordinances and regulations related to population and housing in the Alamo area including the RHNA. Also, the city would be required to adopt a housing element as a component of their Contra Costa County General Plan per Government Code §65580(a), §65581(b), and §65582(d). The town's housing element would include an analysis of population and employment trends, the locality's share of the regional housing need, the number of low income households and other factors (Government Code §§65583(a)(1) and 65584).

Government Code §65584.07(c) also provides for the following:

“(1) If an incorporation of a new city occurs after the council of governments, or the department for areas with no council of governments, has made its final allocation under §65584, the city and county may reach a mutually acceptable agreement on a revised determination and report the revision to the council of governments and the department, or to the department for areas with no council of governments. If the affected parties cannot reach a mutually acceptable agreement, then either party may request the council of governments, or the department for areas with no council of governments, to consider the facts, data, and methodology presented by both parties and make the revised determination.

“(2) The revised determination shall be made within six months after receipt of the written request, based upon the methodology adopted under §65584.04, and shall reallocate a portion of the affected county's share of regional housing needs to the new city. The revised determination shall neither reduce the total regional housing needs nor change the previous allocation of the regional housing needs assigned by the council of governments or the department, where there is no council of governments, to other cities within the affected county.”

8.5 Comments from Affected Agencies, Landowners and Registered Voters

Comment letters were received from affected agencies, including the East Bay Municipal Utility District (indicating “no comment”) and the San Ramon Valley Fire Protection District (SRVFPD). The SRVFPD comments, along with responses to comments, are presented in Exhibits D and E.

In addition, comments were received from numerous affected landowners and registered voters, primarily in support of the proposed incorporation (Exhibit D).

Throughout the incorporation process there has been communication from several interested parties encouraging the new government agency (i.e., city) to provide direct and immediate involvement of its residents and neighborhoods, and discouraging the creation of yet another autonomous layer of government with community representation. The parties request that the new Town of Alamo define its proposed governance structure, operations, staffing, services, commissions, committees, and taskforces. Further, that existing structures such as homeowners associations and benefit assessment districts remain in tact. These comments are more clearly articulated in the e-mail from Harald A. Bailey, as included with the comment letters in Exhibit D.

The formation of various committees and commissions is at the discretion of the new city. California law does not require cities and counties to have commissions or committees; nonetheless, most do. Most cities have a Planning Commission, and many utilize other committees and commissions, such as Design Review Boards, Parks & Recreation Commissioners, Civil Service/Personnel Boards, etc. to advise the City Council. While LAFCO cannot mandate that a new city form such committees and commissions, it can encourage a new city to employ these and other methods of encouraging maximum public participation and involvement of its residents.

8.6 Environmental Justice

Beginning January 1, 2008, Government Code §56668(o) requires that LAFCO 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 Governor’s Office of Planning and Research “Guide to the LAFCO Process for Incorporations – Appendices” includes a discussion regarding civil rights and environmental justice. The Guide provides the federal and State frameworks, a discussion regarding forms of inequity, and suggested factors relating to environmental justice (i.e., identification of lands, population, and facilities).

Data obtained in the incorporation review process was used to evaluate how the proposed incorporation might promote or discourage environmental justice. The proposed incorporation is not expected to promote or discourage the fair treatment of minority or economically disadvantaged groups.

9. REQUIRED LAFCO FINDINGS

The CKH Act creates specific tests for incorporating new cities. These are presented in the form of "findings" that LAFCO must make before approving the incorporation.

Government Code §56720 Findings

The commission shall not approve or conditionally approve any proposal that includes an incorporation, unless the commission finds, based on the entire record, that:

- (a) The proposed incorporation is consistent with the intent of this division, including, but not limited to, the policies of §§ 56001, 56300, 56301 and 56377.

- (b) It has reviewed the spheres of influence of the affected local agencies and the incorporation is consistent with those spheres of influence.
- (c) It has reviewed the comprehensive fiscal analysis prepared pursuant to §56800 and the Controller's report prepared pursuant to §56801.
- (d) It has reviewed the Executive Officer's report and recommendation prepared pursuant to §56665, and the testimony presented at its public hearing.
- (e) The proposed city is expected to receive revenues sufficient to provide public services and facilities and a reasonable reserve during the first three fiscal years following incorporation.

Following is information that allows the Commission to make these findings.

- Consistency with the Intent of the Act

§56001 declares it is the policy of the State to encourage the logical formation and determination of local agency boundaries, that urban population densities necessitate a broad spectrum and high level of community services and a single governmental agency rather than several limited purpose agencies may be better able to be accountable for community service needs and financial resources.

§56300 affirms the intent of the State that each LAFCO establish policies and exercise its powers in a manner that encourages and provides planned, well-ordered, efficient urban development patterns with appropriate consideration of preserving open-space lands.

§56301 states that LAFCO purposes include discouraging urban sprawl and encouraging the orderly formation and development of local agencies based on local conditions and circumstances.

§56377 provides that LAFCO must consider the policy and priority of guiding development away from prime agricultural land in open-space to use toward areas containing non-prime agricultural lands, unless that would not promote the planned, orderly, efficient development of the area.

§56668 sets forth the factors that your Commission is required to consider in evaluating any change of organization or reorganization proposal as discussed throughout this report, including present and probable need for services, consistency with spheres of influence of affected local agencies, land area and uses, likelihood of future growth and urban development, regional housing needs, etc.

- Consistency with Spheres of Influence

The proposed incorporation is consistent with the spheres of influence of all affected local agencies, as discussed in this report.

- The Commission has Reviewed the Comprehensive Fiscal Analysis

The CFA is included as part of this staff report for the Commission's review.

- The Commission has Reviewed the Staff Report and Public Testimony

The Executive Officer's report and public testimony are part of the official record of the incorporation hearing.

- The Proposed City is Expected to be Fiscally Feasible

The CFA provides information that based on the Boundary Alternative 1, the proposed city will receive sufficient revenue to provide public services and facilities and a reasonable reserve during the first three years following incorporation.

Government Code §56815(b) Revenue Neutrality Findings

§56815(b) states:

“The commission shall not approve a proposal that includes an incorporation unless it finds that the following two quantities are substantially equal:

- (1) Revenues currently received by the local agency transferring the affected territory, which but for the operation of this section, would accrue to the local agency receiving the affected territory.
- (2) Expenditures currently made by the local agency transferring the affected territory for those services which will be assumed by the local agency receiving the affected territory.

(c) Notwithstanding subdivision (b), the commission may approve a proposal that includes an incorporation if it finds either of the following:

- (1) The county and all of the subject agencies agree to the proposed transfer.
- (2) The negative fiscal effect has been adequately mitigated by tax sharing agreements, lump-sum payments, payments over a fixed period of time, or any other terms and conditions pursuant to §56886.”

This is commonly referred to as the "revenue neutrality" requirement. The County has negotiated a revenue neutrality agreement with incorporation Chief Petitioners and has executed a Revenue Neutrality Resolution, in which the County proposes specific terms and conditions, thereby allowing the Commission to make the findings pursuant to §56815 (Exhibit C).

10. RECOMMENDED TERMS AND CONDITIONS

In addition to approving the incorporation of a new city, the Commission is called upon to set forth "ground rules" for the incorporation in the form of terms and conditions that will give substance to the proposal that goes to the voters. A summary of the recommended terms and conditions is presented below. The complete terms and conditions are detailed in the Commission's resolution of approval (Exhibit H). In case of conflict, the wording in the resolution will prevail.

The following terms and conditions would apply to Boundary Alternative 1 as proposed by the applicant. Many of the following fiscal and public service conditions result from the Revenue Neutrality Resolution entered into by the Contra Costa County Board of Supervisors and the Alamo Incorporation Chief Petitioners.

10.1 *Incorporation as a General Law City* – Subject to confirmation by the voters on March 3, 2009, within the incorporation area (Boundary Alternative 1), and in accordance with Government Code §57118(a), the Alamo incorporation is incorporated as a general law city.

10.2 *Name of City* - The new city shall be the Town of Alamo.

10.3 *Election of City Council* – The city shall be governed by a five-member city council elected at large. Subject to the limitations of Government Code §56724, the election of the first City Council shall be on March 3, 2009.

10.4 *Terms of Office of City Council* – The terms of office of the city council members shall be four years. Of the first elected legislative body, the terms of the two members of the city council with the largest popular votes shall be four years. Of the first elected legislative body, the terms of the three members of the city council with the least popular votes shall be two years. (Government Code §57377)

10.5 *Selection of Mayor* – Pursuant to Government Code §36801, the city council shall, at its first meeting, choose one of its number as mayor, and one of its number as mayor pro tempore.

10.6 *Appointment of City Staff* – Upon and after the effective date of incorporation, the City Manager, City Attorney, City Clerk, and City Treasurer shall be appointed by the City Council.

10.7 *Effective Date* – The effective date of the incorporation is July 1, 2009 (or June 30, 2009 if SB 301 is not signed by the Governor).

10.8 *Election Costs* – Pursuant to Government Code §57150(b), election costs will be borne by the new city, if the incorporation is confirmed by the voters, OR by the County of Contra Costa if the proceedings are terminated. Election costs shall be paid within 30 days of written request from the Contra Costa County Registrar of Voters, unless alternative payment arrangement is agreed to by the parties.

10.9 *Service Provision* – The County is currently responsible for providing both municipal and countywide services to the Alamo community. The County will continue to provide all county services furnished to the area prior to incorporation until the end of the Transition Period or until the new city requests discontinuation of the services, whichever occurs first. During the Transition Period, services shall be provided at the current level of service pursuant to Government Code §57384. Following incorporation, the County shall continue to provide countywide services to Alamo, including, but not limited to, health and welfare, probation, operation of the County jail, District Attorney, and indigent defense.

10.10 *First Year Costs* – In FY 2010-11, the County will pay from the General Fund the net credit for costs of general fund services provided to the new city during the Transition Period (approximately \$274,000). In the unlikely event that the actual net of revenues received by the County minus service costs paid by the County reflects a net cost, the new city will pay the County the net cost within five years of June 30, 2009.

The County waives reimbursement by the new city for the net cost of providing road and traffic signal maintenance to the new city during the Transition Period; the net cost of providing such services will be paid by the County Road Fund (approximately \$283,000).

In FY 2010-11, the County, using Park Funds, will pay the net credit for cost of park services to the new city (approximately \$398,000) during the Transition Period.

10.11 *Base Year Property Tax* - The base year General property tax transferred to the new city pursuant to Government Code §56375 shall be \$1,292,813. This amount is independent of the transfer of any other funds, and may be adjusted in accordance with Commission action (e.g., modification of boundaries), pursuant to the CKH Act.

In addition to the property tax transferred to the new city pursuant to Government Code §§56810 (c) and 56812, the new city will receive 100% of the various County Service Area (CSA) property tax allocations allocated to the Alamo area (Boundary Alternative 1) due to the transfer of these districts to the new city as follows:

- CSA P-2/Zone B - \$135,194
- CSA P-5 - \$194,288
- CSA P-6 - \$566,408
- CSA L-100 – 38,384
- CSA R-7A - \$807,699

10.12 *Set-Aside Funds* - The County will provide accounting for the purposes of distributing funds set aside in the proposed incorporation area, including but not limited to Quimby and park fees, Measure C/J transportation fees, State and federal grant amounts, and fees paid to the County for services not yet delivered.

10.13 *Mitigation Obligation* – To make revenue neutrality findings under Government Code §56845(c), staff recommends the terms and conditions as set forth in the revenue neutrality resolution (Exhibit C) adopted by the County, as follows:

Total General Fund Obligation: The Town shall pay the County a total of \$3 million in revenue neutrality payments. This total revenue neutrality obligation is based on an annual County deficit amount of \$656,977, as calculated in the CFA.

- Source of Payment: The Town will make a lump sum payment of \$3 million to the County. It is anticipated that these funds will come from Town General Fund accumulated reserves.
- Payment Schedule: The Town shall pay the County the entire amount of the lump sum payment no later than June 30, 2019.
- Pre-payment: The Town may pre-pay any amount due under this Agreement on terms mutually agreed upon by the Town and County.

Total Road Funds Obligation: The Town agrees to waive Revenue Neutrality payments from the County's Road Fund of \$310,570, as calculated in the CFA.

10.14 *Treasurer Tax Collector and Administrative Services* - The Tax Collector will continue to collect all taxes currently collected by the County but transferred to the new city, for the remainder of the initial year; future services (not currently provided to all cities) will need to be negotiated with the new city.

10.15 *Streets and Roads* – Pursuant to Government Code §57385, upon the effective date of the incorporation, all roads and highways or portions of road(s) and highway(s), in the incorporation area (Boundary Alternative 1) which have been accepted into the County road system pursuant to §941 of the Street & Highway Code, shall become city streets, and all right, title, interest and responsibility for said roads and highways and all adjacent slopes, medians, sidewalks, trails, bikeways, landscaped areas, street lights, signals, and bridges owned and operated by the County of Contra Costa that are located within the public rights of way within the incorporation area, shall vest with the new city.

10.16 *Flood Control and Storm Drains* - Upon the effective date of the incorporation, the Town of Alamo shall assume the obligations and responsibilities of Contra Costa County under the Drainage Fee Collection, Right-of-Way and Maintenance agreements for Drainage Areas 9, 13 and 76 executed with the Contra Costa County Flood Control and Water Conservation District on October 17, 2006.

The Town of Alamo shall accept from Contra Costa County the transfer of land-rights, accepted by Contra Costa County for drainage purposes, on the following parcels, identified by Assessor Parcel Number:

Miranda Creek

- 192-110-020, -021, -023
- 192-280-003, -018
- 192-290-016, -024
- 192-300-005, -024, -025
- 192-310-001, -005, -007, -009, -012, -015, -017, -024
- 192-340-002, -003, -004, -005, -006, -007, -008, -009, -010
- 192-350-002
- 192-360-009

Rutherford Creek

- 197-090-003

San Ramon Creek

- 197-330-007
- 197-420-036

Bunce Meadows Ditch

- 192-300-024, -025
- 192-340-001

Bolla Acres Ditch

- 193-080-072, -073
- 193-090-003, -004, -016, -019, -020, -021, -022, -023, -024, -025
- 193-100-008, -009, -015, -016, -017, -018, -021
- 193-111-001, -002, -007, -008

193-384-003, -004, -005
193-410-001, -002, -003, -004

Erselia Trails Ditch
192-170-047, -057

The Town of Alamo shall accept from Contra Costa County the transfer of all other land-rights, not listed above, accepted by Contra Costa County for drainage and creek set back purposes.

10.17 *Transfer of Other Real Property* - The transfer of other real property, if necessary, will occur pursuant to a future agreement between the Town of Alamo and Contra Costa County.

10.18 *HOME, McKinney and Community Development Block Grant (CDBG)* – The City will participate in the HOME, McKinney and CDBG consortia at least through completion of the programs' current contracts.

10.19 *County Service Areas (CSAs) and Benefit Assessment Districts/Zones* – Pursuant to Government Code §25210.90, CSA law provides for automatic detachments, either partially or wholly, from CSAs when lands are incorporated, unless otherwise specified by LAFCO. Pursuant to Government Code §56375(n) LAFCO can override this provision of law if it concludes that detaching the territory from the CSA would deprive the area of a service needed to ensure the health, safety and welfare of the residents, and it finds that the waiver would not affect the ability of the new city to provide service.

There are currently seven CSAs and four benefit assessment districts/zones that serve the proposed Alamo incorporation boundaries. Details regarding the treatment of the CSAs and benefit assessment districts/zones is provided in the Revenue Neutrality Agreement and summarized below:

- CSA EM-1 remains intact.
- Detachment from CSAs L-100, P-2 and P-6 is waived until the end of the Transition Period, at which time all encumbered funds, assets and liabilities of those portions of these CSAs that are within Boundary Alternative 1 shall be transferred to the new city. Following incorporation, the new city will assume responsibility for providing services. During the Transition Period the new city will determine the appropriate mechanism (e.g., benefit assessment district) if any, to continue the CSA funding. It is assumed that the current assessments would continue to fund services in the same areas within Alamo that are covered by the CSAs. Upon the expiration of the Transition Period, the new city will be detached from the CSAs.
- Dissolution of CSAs M-30, P-5 and R-7A is waived until the end of the Transition Period, at which time all encumbered funds, assets and liabilities of these districts, along with responsibility for services shall be transferred to the new city. During the Transition Period the new city will determine the appropriate mechanism (e.g., benefit assessment district) if any, to continue the CSA funding. It is assumed that the current assessments would continue to fund these services in the same areas within Alamo that are covered by the CSAs. Upon the expiration of the Transition Period, these CSAs will be dissolved.
- *LL-2 Benefit Zones 36, 45 and 54*: The Countywide Landscaping District LL-2 Benefit Zones 36, 45 and 54 will detach from the County on the last day of the Transition Period. Services

provided by the County within these zones will continue at the same level during FY 2008-09 and during the Transition Period. No unusual or extraordinary expenses shall be charged to LL-2 Zones 36, 45 or 54, or made on behalf of these zones during FY 2008-09 and during the Transition Period. On the last day of the Transition Period, all unencumbered funds of these zones, including cash on hand and monies due but uncollected, and any obligations of these zones will be transferred to the new city. Further, at the end of the Transition Period, the authority to collect assessments or fees for these services shall pass to the new city.

10.20 *Equalizing Payment* – Should the calculation of property taxes prepared pursuant to Government Code §56810 be modified as a result of a court action brought pursuant to Government Code §56810(h), or as a result of legislative action with retroactive application, to provide that a larger share be retained by the County and a smaller share transferred to the city than that specified by LAFCO pursuant to Government Code §56810, in approving the incorporation, the County shall transfer the amount of annual property tax resulting from such difference to the city for the purpose of maintaining revenue neutrality pursuant to Government Code §56815, and the LAFCO terms and conditions (“equalizing payment”).

Should the calculation prepared pursuant to Government Code §56810, be modified as a result of a court action brought pursuant to Government Code §56810(h), or as a result of legislative action with retroactive application, to provide that a smaller share be retained by the County and a larger share transferred to the city than that specified by LAFCO pursuant to Government Code §56810, in approving the incorporation, the city shall make an equalizing payment to the County.

10.21 *Provisional Appropriations Limit* – The provisional appropriations limit, as required by Article XIII B of the California Constitution, and pursuant to Government Code §56812, shall be \$8,643,695 (Boundary Alternative 1). A permanent appropriations limit will be set by the voters of the new city at the first municipal election, which will be held following the first full year of operation by the new city (Government Code §56812).

10.22 *Continuation of General Taxes* – The Town of Alamo shall be authorized and shall continue to levy as general taxes of the city those general taxes presently levied by Contra Costa County. The types, rates and method of collection of general taxes to be so continued are as follows:

- A sales and use tax of the retail sale or use of tangible personal property within the Town of Alamo to be collected under contract with the State Board of Equalization and returned to the Town of Alamo pursuant to local ordinance.
- A business license tax at the rate currently imposed by the County of Contra Costa pursuant to local ordinance.
- A real property transfer tax at the rate imposed by Contra Costa County upon the sales of real property within the Town of Alamo to be collected by Contra Costa County and returned to the Town of Alamo pursuant to local ordinance.
- All other general taxes presently imposed by Contra Costa County at the same rate and in the same manner as they are imposed and collected by Contra Costa County.
- All taxes generally authorized for incorporated cities, including, but not limited to:
 - Property taxes

- Sales taxes
- Real property transfer taxes
- Franchise fees

10.23 *Continuation of Fees and Charges* – Pursuant to Government Code 56886(t), the Town of Alamo shall be authorized to levy any other fees, assessments and charges at the same rate and manner they are imposed and collected by Contra Costa County, for such fees, assessments and charges that fund services that will be provided by the new city.

10.24 *Sphere of Influence* – The Commission shall adopt a sphere of influence for the Town of Alamo that is coterminous with the city boundary, pursuant to Government Code §56426.5.

10.25 *Development Agreements and Approvals* – Any and all development agreements entered into between Contra Costa County and any development project applicant, and any condition of approval (including mitigation measures adopted pursuant to CEQA) imposed by the County Board of Supervisors on any and all discretionary projects adopted and approved prior to the effective date of incorporation shall remain valid and enforceable between the applicant and the new Town of Alamo, subject to Government Code §65865.3. Any and all scenic easements and/or development rights conveyed to Contra Costa County in conjunction with discretionary approvals within the incorporation boundary shall transfer to the new city.

10.26 *National Pollution Discharge Elimination System Permit (NPDES)* – The Town of Alamo shall become a co-permittee under the terms associated with the existing countywide National Pollution Discharge Elimination System Permit.

10.27 *Regional and State Associations* - The new city is encouraged to participate in various regional and State associations and organizations, including, but not limited to the Association of Bay Area Governments (ABAG), Contra Costa County Transportation Authority, and the League of California Cities.

11. ALTERNATIVES FOR COMMISSION ACTION

After reviewing the Executive Officer's report, Comprehensive Fiscal Analysis, Initial Study/Negative Declaration, public testimony and additional materials that are submitted, the Commission shall take one of the following actions:

Option 1

APPROVE the proposed incorporation (Boundary Alternative 1) contingent upon the terms and conditions included in the LAFCO resolution, or as modified by the Commission, and the provisions below.

A. Find that pursuant to Government Code §56720 that:

1. The proposed city is expected to receive revenues sufficient to provide adequate public services and facilities and a reasonable reserve during the first three fiscal years following incorporation.

2. The incorporation is consistent with the intent of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 of the California Government Code, and specifically §§56001, 56300, 56301 and 56377; namely that the urban population densities are best served by an agency accountable for community service needs and resources and responsive to local government circumstances and conditions; the boundaries of the proposed city are logical and orderly, thereby discouraging urban sprawl and encouraging the orderly formation of local agencies, the approved boundaries encourage planned, well-ordered, efficient urban development patterns with appropriate consideration of preserving open-space lands.
 3. The incorporation is consistent with the adopted policies and procedures of the Contra Costa LAFCO.
 4. The Commission has reviewed the Comprehensive Fiscal Analysis prepared pursuant to Government Code §56800.
 5. The Commission has reviewed the Executive Officer's report prepared pursuant to Government Code §56665 and testimony presented at the Commission's public hearing.
- B. Find that pursuant to Government Code §56815 and the information contained in the Comprehensive Fiscal Analysis, that
1. Revenues currently received by the County of Contra Costa for the incorporation area and the expenditures for service responsibilities to be transferred to the new city are not substantially equal.
 2. Pursuant to Government Code §56815:
 - a. That the County has approved a Revenue Neutrality Agreement (Resolution No. 2008/529 by and between the County and petitioners for incorporation of the Town of Alamo, for the proposed incorporation of the Town of Alamo
 - b. The approval and execution of the Revenue Neutrality Resolution by the County and the other terms and conditions set forth herein adequately mitigate the negative fiscal effects on the County.
 - c. That but for the conditions contained herein, or alternative conditions to achieve a similar effect, the Commission would be unable to make the required findings and approve the incorporation.
 - d. That the terms and conditions contained herein are integral to the approval of the incorporation under Government Code §§56880, 56881, 56375, and 56720.
- C. Adopt this report and the resolution enclosed as Exhibit H making determinations and approving the incorporation of the Town of Alamo (Boundary Alternative 1) as recommended in the staff report or as modified by the Commission.
- D. Subject the proceedings to the terms and conditions as set forth in this staff report or as modified by the Commission.

Option 2

DENY the proposed incorporation. Receive this report and deny the proposal.

Option 3

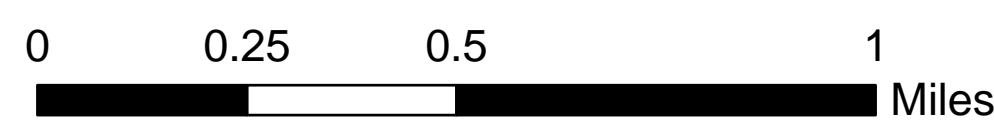
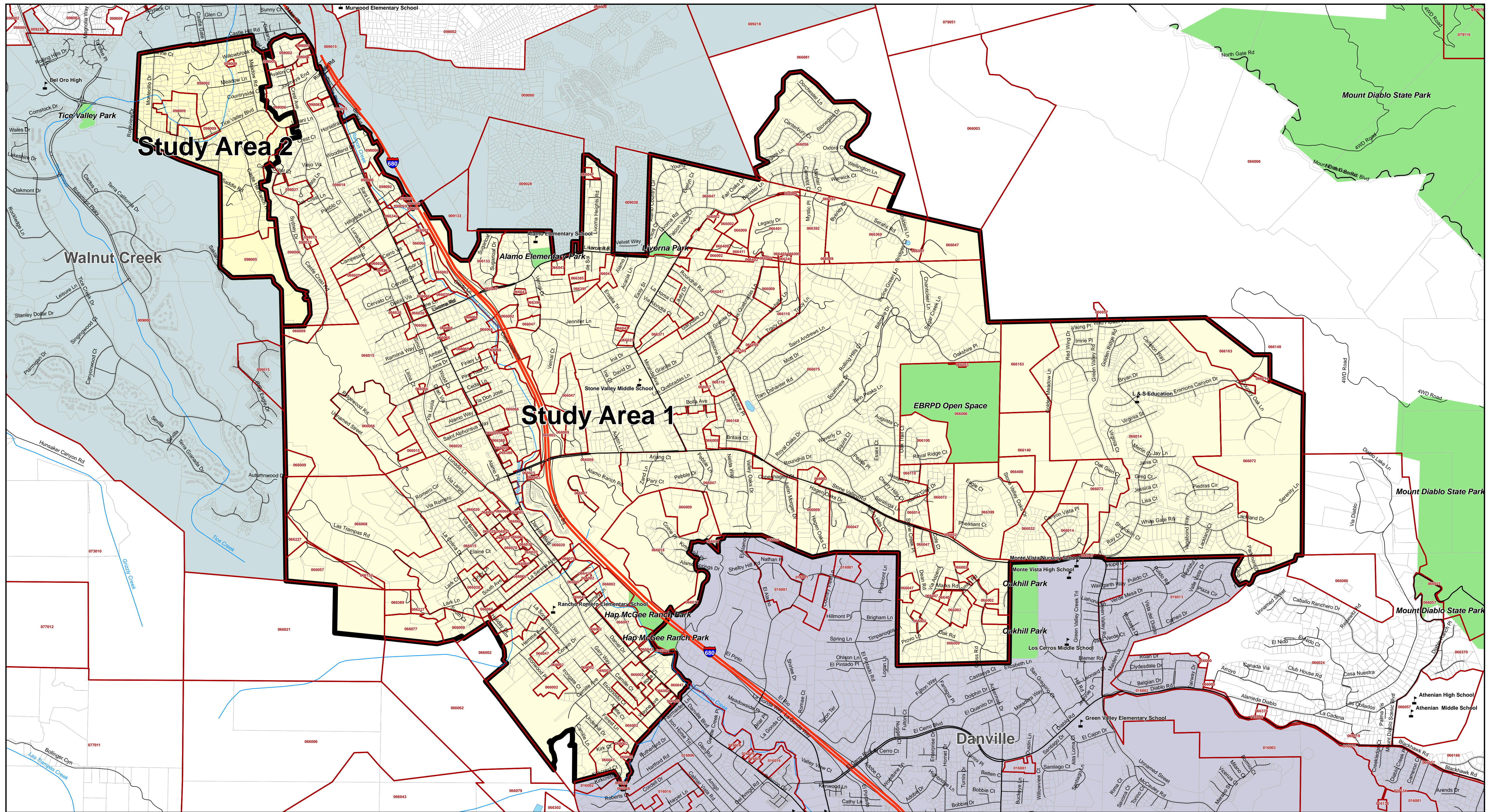
If the Commission needs more information, CONTINUE this matter to a future meeting.

12. STAFF RECOMMENDATIONS

- A. Receive this report and accept any public testimony;
- B. Approve the incorporation of the Town of Alamo (Boundary Alternative 1) pursuant to Option 1; and
- C. Adopt the Resolution Making Determinations and Approving the Incorporation of the Town of Alamo subject to specific terms and conditions, together with any desired changes.

13. EXHIBITS

- A – Proposed Boundary and Boundary Alternative
- B – Comprehensive Fiscal Analysis (available online at www.contracostalafco.org, hard copy available upon request)
- C – Revenue Neutrality Agreement between Contra Costa County and Incorporation Petitioners
- D – Comment Letters
- E – Response to CFA Comment Letters (see Agenda Item 7 for IS/ND Comments and Response)
- F - Initial Study/Negative Declaration (available online at www.contracostalafco.org, hard copy available upon request)
- G – Map Showing Areas that Extend Beyond Contra Costa County’s Voter Approved Urban Limit Line (Measure L)
- H - Draft LAFCO Resolution Making Determinations and Approving the Incorporation of the Town of Alamo



Legend			
	Study Area Boundary		River / Stream
	Tax Rate Area		Highway
	Parcel		Lake / Reservoir
	City		Park / Open Space
	Railroad		School
	Street		



Exhibit A

Proposed Town of Alamo

January 2008

Urban Crossroads, Inc.
 41 Corporate Park, Suite 300
 Irvine, CA 92606
 (949) 660-1994



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THE BOARD OF SUPERVISORS OF CONTRA COSTA COUNTY, CALIFORNIA

Adopted this Resolution on (date), by the following vote:

AYES: GIOIA, WILKEMA & GLOVER

NOES: —

ABSENT: PIERHO & BONILLA

ABSTAIN: —

Resolution No. 2008/529

Subject: Proposed Incorporation of the)
Town of Alamo)

WHEREAS, on August 27, 2007, Alamo Incorporation Proponents submitted to the Contra Costa Local Agency Formation Commission (LAFCO) a Notice of Intent to Circulate a Petition pursuant to Government Code section 56700.4 proposing to incorporate the Town of Alamo. On November 5, 2007, a petition and an application were submitted to LAFCO proposing the incorporation of the Town of Alamo ("incorporation"). The petition signatures were found to be sufficient; and

WHEREAS, California Government Code section 56815 expresses the intent of the State Legislature that any incorporation should result in a similar exchange of both revenue and responsibility for service, delivery between the affected county and the proposed town. The Contra Costa LAFCO adopted policies and standards relating to incorporations and revenue neutrality pursuant to the Government Code. The express intent of the LAFCO policies and of this Agreement is to mitigate potential fiscal losses to the County without making incorporation impossible for local communities ready for self-governance or precluding an adequate fiscal base for new cities/towns; and

WHEREAS, under LAFCO policies, LAFCO shall not approve an incorporation unless it finds that revenue currently received by the County which would accrue to the Town is substantially equal to the expenditures currently made by the County for the services which will be assumed by the Town or if it determines that the negative fiscal impacts of the proposed incorporation on the County have been mitigated by tax sharing agreements, lump-sum payments, payments over a fixed period of time, or any other terms and conditions pursuant to LAFCO policies or the County and all the subject agencies agree to the terms of the proposed transfer; and

WHEREAS, the County is currently responsible for providing both municipal and countywide services including, but not limited to, health and welfare services, probation services, operation of the County jail, District Attorney and indigent defense. The tax revenue currently received by the County from within the area proposed for incorporation is used to fund both municipal and countywide services. Incorporation of the Town will relieve the County of the responsibility for providing certain municipal services. However, the County will continue to be responsible for providing countywide services within the boundaries of the Town and all other areas of the incorporated and unincorporated County; and

WHEREAS, pursuant to LAFCO policies, the Alamo Incorporation Committee funded and LAFCO caused to be prepared a "preliminary" draft Comprehensive Fiscal Analysis ("CFA") of the Proposed Incorporation of the Town of Alamo to serve as the basis for revenue neutrality negotiations between the County and the Alamo Incorporation Proponents. The "preliminary" draft CFA analyzed the initial study area (Area 1) and one alternative study area (Area 2). LAFCO staff, the incorporation proponents and the County agree that Area 1 would be the alternative proposed for incorporation and would serve as the basis for the revenue neutrality negotiations; and

WHEREAS, based-upon a careful review of the "preliminary" draft CFA, including County records utilized in the preparation of the "preliminary" draft CFA relating to revenue projections for the area included in the incorporation, the present and projected costs of law enforcement, road maintenance and other County services transferred to the Town, and the costs of services retained by the County, County staff and the Alamo Incorporation Proponents have agreed upon the terms that would mitigate the fiscal impacts of the incorporation on the County. Today's Board action is requesting that the Board consider directing the execution of the Revenue Neutrality Agreement ("Agreement") negotiated by staff; and

WHEREAS, this Agreement represents a compromise between the County and the Alamo Incorporation Proponents and is intended to resolve all fiscal issues between the County and the proposed Town with respect to the incorporation of the Town of Alamo. The County agrees not to challenge LAFCO's approval of the incorporation proposal or to seek to further mitigate the fiscal impact of the Town's incorporation in the form of a larger share of the Town's tax revenue in perpetuity. In the event the CFA upon which this Agreement is modified or revised, the parties agree to amend this Agreement based on the modified or revised CFA; and

WHEREAS, it is anticipated that LAFCO will find 1) that the approval and execution of this Agreement by the County, and the lump-sum payments, installment payments, and other terms and conditions set forth herein adequately mitigate the negative fiscal effects of the incorporation on the County, 2) that but for the conditions contained herein, that LAFCO would be unable to make the required findings under Government Code section 56815 and approve the incorporation; and (3) that this Agreement is integral to LAFCO's determinations approving the incorporation under the Government Code; and

WHEREAS, the transfer of funds and responsibilities set forth in the attached will be used as part of the incorporation process as provided by law. Approval of this Agreement by an affirmative vote of the people casting votes at the incorporation election held in accord with all applicable provisions of California law shall be binding on the Town. The terms of this Agreement shall take effect upon certification of the results of that successful incorporation election without further action by any party; and

WHEREAS, the "preliminary" draft CFA finds that for revenue neutrality, the forecasted revenues minus expenditures for FY 2009/10 through FY 2018/19 average an approximate \$573,000 annual deficit for the County General Fund and \$311,000 annual surplus for the County Road Fund. Additionally, the draft finds that transition year 'net cost' of providing services to the Town by the County will be a deficit (cost to the County) of approximately \$274,000 from the General Fund and a surplus (credit to the County) of approximately \$283,000 for Road Fund. The transition period is defined as the period commencing with the effective date on which the Town comes into existence under State Law (anticipated to be either June 30, 2009 or July 1, 2009) and ending on June 30, 2010; and

WHEREAS, the Agreement covers two revenue neutrality areas 1) annual loss of revenue over a 10 year period and 2) transition year costs. The terms of the Agreement call for the Town to make a lump sum payment of \$3 million to the County no later than FY 2018/19 from Town General Fund accumulated reserves. The Town waives a transfer from the Road Fund. The County will pay the net credit for costs of services for the General Fund transition year to the Town in FY 2010/11 (approximately \$274,000). In the unlikely event that the actual net of revenues/service costs reflects a net cost, the Town will have the option to repay the County over a 5 year period. The County waives reimbursement by the Town for the transition year net cost of providing road and traffic signal maintenance (approximately \$283,000), which will be paid by the Road Fund. The County, using Park Funds, will pay the net credit for costs of services (approximately \$398,000) for the Park Fund Transition Year to the Town in FY 2010/11.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors approves and authorizes the County Administrator to execute the attached Revenue Neutrality Agreement by and between the County of Contra Costa and petitioners for incorporation of the Town of Alamo, and to be binding on the Town of Alamo upon incorporation.

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown:

ATTESTED: 07/22/08

JOHN CULLEN, Clerk of the Board of Supervisors and County Administrator

By  Deputy

Contact: Lisa Driscoll (335-1023)

cc: Lou Ann Texeria, LAFCO
Julie Bueren, Public Works
Steve Ybarra, Auditor-Controller

CERTIFIED COPY
I certify that this is a full, true and correct copy of the original document which is on file in my office. ATTEST, JOHN CULLEN, Clerk of the Board of Supervisors and County Administrator by Deputy Clerk.

RESOLUTION NO. 2008/529

on 07/28/08

REVENUE NEUTRALITY AGREEMENT BY AND BETWEEN
THE COUNTY OF CONTRA COSTA AND THE TOWN OF ALAMO

THIS REVENUE NEUTRALITY AGREEMENT ("Agreement") is entered into by and between THE COUNTY OF CONTRA COSTA, a subdivision of the State of California ("County") and the undersigned Petitioners for incorporation of the Town of Alamo, and to be binding on THE TOWN OF ALAMO, a municipal corporation ("Town"), upon incorporation

1.0 RECITALS. This Agreement is entered into with reference to the following facts:

- 1.1 On August 27, 2007, Stephen A. Mick, a proponent of the incorporation of Alamo, submitted to the Contra Costa Local Agency Formation Commission ("LAFCO") a Notice of Intent to Circulate a Petition pursuant to Government Code section 56700.4 proposing to incorporate the Town of Alamo.
- 1.2 On November 5, 2007, Sharon Burke, Vicki Koc and Stephen A. Mick (collectively the "Chief Petitioners") submitted a petition and Vicki Koc ("Proponent") submitted an application to LAFCO proposing the incorporation of the Town of Alamo ("incorporation"). On November 14, 2007, the petition signatures were found to be sufficient.
- 1.3 California Government Code section 56815 expresses the intent of the State Legislature that any incorporation should result in a similar exchange of both revenue and responsibility for service, delivery between the affected county and the proposed town.
- 1.4 On November 14, 2007, the Contra Costa LAFCO adopted policies and standards ("Policies") relating to incorporations and revenue neutrality pursuant to the Government Code.
- 1.5 The express intent of the LAFCO Policies and of this Agreement is to mitigate potential fiscal losses to the County without making incorporation impossible for local communities ready for self-governance or precluding an adequate fiscal base for new cities/towns.
- 1.6 Under Government Code section 56815 and the LAFCO policies, LAFCO shall not approve the incorporation unless it finds that the revenue currently received by the County which, but for the operation of Government Code section 56815, would accrue to the Town is substantially equal to the expenditures currently made by the County for the services which will be assumed by Town. Notwithstanding this provision, Government Code section 56815 authorizes LAFCO to approve an incorporation if (1) LAFCO finds that the negative fiscal effects of the proposed incorporation on the County have been adequately mitigated by tax sharing agreements, lump-sum payments, payments over a fixed period of time, or any other terms and conditions pursuant to Government Code section 56886 or (2) the County and all of the subject agencies agree to the proposed transfer.
- 1.7 The County is currently responsible for providing both municipal and countywide services including, but not limited to, health and welfare services, probation services, operation of the County jail, District Attorney and indigent defense. The tax revenue currently received by the County from within the area proposed for incorporation is used to fund both municipal and countywide services. Incorporation of the Town will relieve the County of the responsibility for providing certain municipal services. However, the County will continue

to be responsible for providing countywide services within the boundaries of the Town and all other areas of the incorporated and unincorporated County.

- 1.8 Pursuant to Government Code section 56800 and the LAFCO Policies, the Alamo Incorporation Committee funded and LAFCO caused to be prepared a Comprehensive Fiscal Analysis (“CFA”) of the Proposed Incorporation of the Town of Alamo to serve as the basis for revenue neutrality negotiations between the County and the Chief Petitioners.
- 1.9 The CFA was prepared in accordance with the Government Code section 56800 and analyzed the initial study area (Area 1) and one alternative study area (Area 2). LAFCO staff, the incorporation proponents and Chief Petitioners, and the County agree that Area 1 is the alternative proposed for incorporation and will serve as the basis for the revenue neutrality negotiations.
- 1.10 Based-upon a careful review of the CFA, including County records utilized in the preparation of the CFA relating to revenue projections for the area included in the incorporation, the present and projected costs of law enforcement, road maintenance and other County services transferred to the Town, and the costs of services retained by the County, the County and the Chief Petitioners have agreed upon the terms herein that would mitigate the negative fiscal impacts of the incorporation on the County to a level acceptable to the County.
- 1.11 The Contra Costa County Board of Supervisors and the Petitioners have agreed to the transfer of funds and responsibilities set forth in this Agreement and to the submission of these terms and conditions to the electorate as part of the incorporation process as provided by law. Approval of this Agreement by an affirmative vote of the people casting votes at the incorporation election held in accord with all applicable provisions of California law shall be binding on the Town. The terms of this Agreement shall take effect upon certification of the results of that successful incorporation election without further action by any party.
- 1.12 This Agreement represents a compromise between the County and the Petitioners and is intended to resolve all issues between the County and the Town with respect to the application of the requirements of Government Code section 56815 to the incorporation of the Town of Alamo and is conditioned on incorporation. In specific reliance on this Agreement, the County has elected not to challenge LAFCO’s approval of the incorporation proposal or to seek to further mitigate the fiscal impact of the Town’s incorporation in the form of a larger share of the Town’s tax revenue in perpetuity.
- 1.13 No provision herein shall be construed to mandate the County members of LAFCO to vote “for” or “against” the incorporation or any other related matters during the LAFCO proceedings.
- 1.14 In approving the proposed incorporation, LAFCO found pursuant to Government Code section 56815 as follows: (1) that the approval and execution of this Agreement by the County, and the lump-sum payments, installment payments, and other terms and conditions set forth herein adequately mitigate the negative fiscal effects of the incorporation on the County, (2) that but for the conditions contained herein, that LAFCO would be unable to make the required findings under section 56815 and approve the incorporation; and (3) that this Agreement is integral to LAFCO's determinations approving the incorporation under the Government Code.

2.0 DEFINITIONS. In this Agreement, unless the context otherwise requires:

- 2.1 "Act" means the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000.
- 2.2 "Effective Date" means the date on which the Town comes into existence under State Law.
- 2.3 "Fiscal Year" means July 1 through June 30.
- 2.4 "Town Boundary" means the boundary of the Town of Alamo as depicted as Area 1 of the preliminary draft CFA. Any change by LAFCO to this boundary that significantly affects the Revenue Neutrality obligation as stated in this Agreement may require negotiation of an amendment to adjust the Revenue Neutrality payment amount.
- 2.5 "Transition Period" means the period commencing with the Effective Date and ending on June 30, 2010.

3.0 COUNTY SERVICES AFTER INCORPORATION

- 3.1 County Support Services. As required by Government Code section 57384, the County will continue to provide all county services furnished to the area within the Town Boundary prior to incorporation until the end of the Transition Period or until the town council requests discontinuation of the services, whichever occurs first. During this Transition Period, services shall be provided at the current level of service.
- 3.2 Contra Costa County Library. The Contra Costa library services will not be affected by this Agreement.
- 3.3 Special Districts. Fire, school, water, wastewater and other special districts will not be affected by this Agreement.
- 3.4 Continued County Services. The County and Town may contract for a continuation of County services or an enhanced level of service to the Town after the Transition Period as mutually agreed upon between the Town and the County.

4.0 COUNTY SERVICE AREAS /SPECIAL BENEFIT ASSESSMENT DISTRICTS:

Government Code section 25210.90 provides for automatic exclusion (detachment) from County Service Areas ("CSAs") upon the effective date of the incorporation. Government Code section 56375(n) allows LAFCO to waive the automatic detachment if it finds application would deprive an area of a service needed to ensure the health, safety, or welfare of the residents of the area and if it finds that the waiver would not affect the ability of a city to provide any service.

- 4.1 CSA EM-1: CSA EM-1 shall continue in force and effect. The automatic detachment of Town property from CSA EM-1 as required by Government Code section 25210.90 shall be waived as detachment would deprive the residents of the Town of a service needed to ensure their health, safety and welfare. Upon incorporation of the Town, any taxes, fees, assessments and charges imposed by CSA EM-1 shall continue to be imposed in the areas

becoming part of the new Town at the same rate and manner as under the County and the existing zone of the County Service Area shall continue.

- 4.2 CSA L-100: The automatic detachment of Town property from CSA L-100 as required by Government Code section 25210.90 shall be waived until the last day of the Transition Period. Services provided by the County within those portions of CSA L-100 that exist within Area 1 shall continue at the same level during Fiscal Year 2008-2009 and during the Transition Period. No unusual or extraordinary expenses shall be charged to those portions of CSA L-100 that exist within Area 1 or made on behalf of those portions of CSA L-100 that exist within Area 1 during Fiscal Year 2008-2009 and during the Transition Period. At the end of the Transition Period, all unencumbered funds of those portions of CSA L-100 that exist within Area 1, including cash on hand and monies due but uncollected, and any obligations of those portions of CSA L-100 that exist within Area 1, shall be divided between the Town and the CSA L-100 in proportion to the area remaining in the unincorporated area and the area within the new Town. Further, at the end of the Transition Period, the authority to collect assessments or fees for street lighting shall pass to the new Town.
- 4.3 CSA M-30: The automatic detachment of Town property from CSA M-30 as required by Government Code section 25210.90 shall be waived until the last day of the Transition Period. Services provided by the County within CSA M-30 shall continue at the same level during Fiscal Year 2008-2009 and during the Transition Period. No unusual or extraordinary expenses shall be charged to CSA M-30 or made on behalf of CSA M-30 during fiscal year 2008-2009 and during the Transition Period. On the last day of the Transition Period, all unencumbered funds of CSA M-30, including cash on hand and monies due but uncollected, and any obligations of the CSA M-30 shall be transferred to the new Town. Further, at the end of the Transition Period the authority to collect assessments or fees for street lighting shall pass to the new Town.
- 4.4 CSA P-2 (Zone B): The automatic detachment of Town property from CSA P-2 (Zone B) as required by Government Code section 25210.90 shall be waived until the last day of the Transition Period. Services provided by the County within those portions of CSA P-2 (Zone B) that exist within Area 1 shall continue at the same level during Fiscal Year 2008-2009 and during the Transition Period. No unusual or extraordinary expenses shall be charged to those portions of CSA P-2 (Zone B) that exist within Area 1 or made on behalf of those portions of CSA P-2 (Zone B) that exist within Area 1 during Fiscal Year 2008-2009 and during the Transition Period. On the last day of the Transition Period, all unencumbered funds of those portions of CSA P-2 (Zone B) that exist within Area 1, including cash on hand and monies due but uncollected, and any obligations of those portions of CSA P-2 (Zone B) that exist within Area 1 shall be transferred to the new Town. Further, at the end of the Transition Period, the authority to collect assessments or fees for street lighting shall pass to the new Town.
- 4.5 CSA P-5: The automatic detachment of Town property from CSA P-5 as required by Government Code section 25210.90 shall be waived until the last day of the Transition Period. Services provided by the County within CSA P-5 shall continue at the same level during Fiscal Year 2008-2009 and during the Transition Period. No unusual or extraordinary expenses shall be charged to CSA P-5 or made on behalf of CSA P-5 during Fiscal Year 2008-2009 and during the Transition Period. On the last day of the Transition Period, all unencumbered funds of CSA P-5, including cash on hand and monies due but uncollected, and any obligations of CSA P-5 shall be transferred to the new Town. Further, at the end of the Transition Period, the authority to collect assessments or fees shall pass to the new Town.

- 4.6 CSA P-6: The automatic detachment of Town property from CSA P-6 as required by Government Code section 25210.90 shall be waived until the last day of the Transition Period. Services provided by the County within those portions of CSA P-6 that exist within Area 1 shall continue at the same level during Fiscal Year 2008-2009 and during the Transition Period. No unusual or extraordinary expenses shall be charged to those portions of CSA P-6 that exist within Area 1 or made on behalf of those portions of CSA P-6 that exist within Area 1 during Fiscal Year 2008-2009 and during the Transition Period. At the end of the Transition Period, the balances of the CSA P-6 accounts for the existing zones of the new Town Area shall be transferred to the new Town. Further, at the end of the Transition Period, the authority to collect assessments or fees for street lighting shall pass to the new Town.
- 4.7 CSA R-7A: The automatic detachment of Town property from CSA R-7A as required by Government Code section 25210.90 shall be waived until the last day of the Transition Period. Services provided by the County within CSA R-7A shall continue at the same level during Fiscal Year 2008-2009 and during the Transition Period. No unusual or extraordinary expenses shall be charged to CSA R-7A or made on behalf of CSA R-7A during Fiscal Year 2008-2009 and during the Transition Period. On the last day of the Transition Period, all unencumbered funds of CSA R-7A, including cash on hand and monies due but uncollected, and any obligations of CSA R-7A shall be transferred to the new Town. Further, at the end of the Transition Period, the authority to collect assessments or fees for street lighting shall pass to the new Town.
- 4.8 LL-2 Benefit Zone 36: The Countywide Landscaping District LL-2 Benefit Zone 36 (Alamo Area) will detach from the County on the last day of the Transition Period. Services provided by the County within LL-2 Zone 36 shall continue at the same level during Fiscal Year 2008-2009 and during the Transition Period. No unusual or extraordinary expenses shall be charged to LL-2 Zone 36 or made on behalf of LL-2 Zone 36 during Fiscal Year 2008-2009 and during the Transition Period. On the last day of the Transition Period, all unencumbered funds of LL-2 Zone 36, including cash on hand and monies due but uncollected, and any obligations of LL-2 Zone 36 shall be transferred to the new Town. Further, at the end of the Transition Period, the authority to collect assessments or fees for street lighting shall pass to the new Town.
- 4.8 LL-2 Benefit Zone 45: The Countywide Landscaping District LL-2 Benefit Zone 45 (Alamo Villas) will detach from the County on the last day of the Transition Period. Services provided by the County within LL-2 Zone 45 shall continue at the same level during Fiscal Year 2008-2009 and during the Transition Period. No unusual or extraordinary expenses shall be charged to LL-2 Zone 45 or made on behalf of LL-2 Zone 45 during Fiscal Year 2008-2009 and during the Transition Period. On the last day of the Transition Period, all unencumbered funds of LL-2 Zone 45, including cash on hand and monies due but uncollected, and any obligations of LL-2 Zone 45 shall be transferred to the new Town. Further, at the end of the Transition Period, the authority to collect assessments or fees for street lighting shall pass to the new Town.
- 4.9 LL-2 Benefit Zone 54: The Countywide Landscaping District LL-2 Benefit Zone 54 (Alamo Country Sub-Divisions 7601 and 7818) will detach from the County on the last day of the Transition Period. Services provided by the County within LL-2 Zone 54 shall continue at the same level during Fiscal Year 2008-2009 and during the Transition Period. No unusual or extraordinary expenses shall be charged to LL-2 Zone 54 or made on behalf of LL-2 Zone

54 during Fiscal Year 2008-2009 and during the Transition Period. On the last day of the Transition Period, all unencumbered funds of LL-2 Zone 54, including cash on hand and monies due but uncollected, and any obligations of LL-2 Zone 54 shall be transferred to the new Town. Further, at the end of the Transition Period, the authority to collect assessments or fees for street lighting shall pass to the new Town.

- 4.10 Stormwater Utility Area 17: Those portions of Stormwater Utility Area 17 that exist within Area 1 will detach from the County on the last day of the Transition Period. Services provided by the County to those portions of Stormwater Utility Area 17 that exist within Area 1 shall continue at the same level during Fiscal Year 2008-2009 and during the Transition Period. No unusual or extraordinary expenses, except those which may be incurred due to obligations to the Clean Water Program or that result from the orders of the Regional Water Quality Control Board, shall be charged to those portions of Stormwater Utility Area 17 that exist within Area 1 or made on behalf of those portions of Stormwater Utility Area 17 that exist with Area 1 during Fiscal Year 2008-2009 and during the Transition Period. At the end of the Transition Period, all unencumbered funds of those portions of Stormwater Utility Area 17 that exist within Area 1, including cash on hand and monies due but uncollected, and any obligations of those portions of Stormwater Utility Area 1 that exist within Area 1, shall be divided between the Town and the Stormwater Utility Area 17 in proportion to the area remaining in the unincorporated area and the area within the new Town.
- 4.11 Alamo Area of Benefit Fund: The Alamo Area of Benefit Fund (Traffic Fee) shall be transferred to the Town as of the Effective Date. No unusual or extraordinary expenses shall be charged to the Alamo Area of Benefit Fund during Fiscal Year 2008-2009. The Town Council shall have the right to review expenditures made from the Alamo Area of Benefit Fund during Fiscal Year 2008-2009 and request reimbursement of the Fund by the County if unusual or extraordinary expenditures are found. Further, the authority to collect assessments or fees shall pass to the new Town on the Effective Date.

5.0 REVENUE NEUTRALITY PAYMENTS.

- 5.1 Total General Fund Obligation: The Town shall pay the County a total of \$3 million in revenue neutrality payments. This total revenue neutrality obligation is based on an annual County deficit amount of \$572,757, as calculated in the CFA.
- 5.1.1 Source of Payment: The Town will make a lump sum payment of \$3 million to the County. It is anticipated that these funds will come from Town General Fund accumulated reserves.
- 5.1.2 Payment Schedule: The Town shall pay the County the entire amount of the lump sum payment no later than June 30, 2019.
- 5.1.3 Pre-payment: The Town may pre-pay any amount due under this Agreement on terms mutually agreed upon by the Town and County.
- 5.2 Total Road Funds Obligation: The Town agrees to waive Revenue Neutrality payments from the County's Road Fund of \$310,570, as calculated in the CFA.
- 5.3 Town Appropriation: The Town shall appropriate on an annual basis sufficient funds to meet its obligations under this Agreement. The County and the Town, upon incorporation,

shall negotiate and execute any additional legal documents necessary to implement this Agreement and, if required, to affect a direct transfer of payments due hereunder. A direct transfer is a transfer from either the State Board of Equalization or the County Auditor-Controller to the County without the necessity of an intermediate transfer to the Town. Until an Agreement for direct transfer of such funds is completed, the Town Council shall appropriate on an annual basis sufficient funds to meet its obligations hereunder.

5.4 Refunding the First Year Costs:

5.4.1 In Fiscal Year 2010/11, the County will pay from the General Fund the net credit for costs of general fund services provided to the Town during the Transition Period (approximately \$274,000). In the unlikely event that the actual net of revenues received by the County minus service costs paid by the County reflects a net cost, the Town will pay the County the net cost within five (5) years of June 30, 2009.

5.4.2 The County waives reimbursement by the Town for the net cost of providing road and traffic signal maintenance to the Town during the Transition Period. The net cost of providing such services will be paid by the County's Road Fund (approximately \$283,000).

5.4.3 In Fiscal Year 2010/11, the County, using Park Funds, will pay the net credit for costs of park services to the Town (approximately \$398,000) during the Transition Period.

6.0 DEFAULTS AND REMEDIES

6.1 Events of Default. A default under this Agreement shall be deemed to have occurred upon the happening of one or more of the following events or conditions:

6.1.1 One party to this Agreement is proven to have knowingly made a material false representation to the other.

6.1.2 The County fails to provide the services provided for in Section 3 of this Agreement.

6.1.3 The Town or County fails to make any payment due hereunder.

6.1.4 Any other act or omission by Town or County which materially interferes with the terms of this Agreement.

6.2 Procedure upon Default

6.2.1 In General. This Paragraph 6.2 establishes the exclusive process by which disputes between the parties to this Agreement concerning or relating to this Agreement shall be resolved. The dispute resolution process established herein shall apply to disputes related to the interpretation or enforcement of, or compliance with, the terms and provisions of this Agreement. Disputes that are not alleged to relate to the interpretation of, or compliance with, this Agreement are not subject to this dispute resolution process.

- 6.2.2 Notice of Default. Upon the occurrence of an event of default by the other party, the aggrieved party shall provide the other party with thirty (30) days written notice specifying the nature of the alleged default and, when appropriate, the manner in which the default may be satisfactorily cured. In the event that the default cannot be cured within the thirty (30) day cure period, but is subject to cure within a longer period of time, the defaulting party shall be deemed not to remain in default if it commences to cure within such thirty (30) day cure period and diligently prosecutes such cure to completion. Failure or delay in giving notice of default shall not constitute a waiver of default.
- 6.2.3 Default By Town. In the event of the Town's uncured default of its obligations to make any payment due hereunder, the County may order the County Auditor to retain in a segregated escrow account for the benefit of the Town any funds on hand due the Town pending resolution of the default. If the escrowed amounts are sufficient to cover the costs of payments due, the County will continue to provide all services due hereunder, pending cure or resolution of the default by judicial order or other means. The funds in escrow will not be released to the Town until the County has been reimbursed for all services provided. In addition, upon default by the Town, at the option of County, the entire amount of all revenue transfers due to County hereunder shall become immediately due and payable without diligence, demand or presentment, protest or notice of any kind.
- 6.2.5 Informal Conferral. If a dispute arises as described above in Paragraph 6.2.1, the Town and the County will first attempt to resolve it through informal discussions, which may include designated representatives of the staff of the County or the Town, at their discretion. The Town and County will coordinate the date, time and location of informal conferral.
- 6.2.6 Mediation. In the event a dispute cannot be resolved through informal conferral within twenty-one (21) calendar days, the aggrieved party, acting through its governing body, shall give written notice to the other party to this Agreement, setting forth the nature of and basis for the dispute and facts demonstrating that the aggrieved party is materially and adversely affected thereby and requesting mediation. The County and the Town, acting through their designated representatives, including counsel, shall endeavor to settle the dispute by mediation. The County and the Town shall select a neutral third party to mediate the dispute.
- 6.2.7 Judicial Review. If the dispute cannot be resolved by mediation, either party may terminate this Agreement or proceed to judicial review, as described herein. The dispute resolution process described above shall be undertaken in good faith and exhausted prior to resort to judicial review; provided, however, that by agreeing to this dispute resolution process, no party hereby loses or waives its right to sue under any applicable statute of limitations or loses or waives its right to assert the operation of any applicable statute of limitations as an affirmative defense. In the event that an applicable statute of limitations would run during the pendency of the dispute resolution process described above, the County and Town shall agree in writing to toll such statute of limitations for such period as may reasonably be necessary to complete the dispute resolution process, but in no event shall such statute of limitations be tolled for more than ninety (90) calendar days. The obligations of the parties to this Agreement shall be enforceable only by specific performance or other equitable relief.

6.2.8 Conduct of Judicial Review. Should any Party to this Agreement ultimately seek judicial review of a dispute concerning or relating to the implementation, interpretation or enforcement of, or compliance with, the terms and provisions of this Agreement, the Town and County will submit to the jurisdiction of a court of competent jurisdiction; provided, however, that the parties shall cooperate in seeking the appointment of a neutral Judge as defined in California Code of Civil Procedure section 394 to sit in Contra Costa County Superior Court, to preside over any such dispute.

7.0 AMENDMENTS

- 7.1 Mutual Agreement. This Agreement may be modified or amended by written agreement executed by the Town and Contra Costa County, Board of Supervisors or, after Board approval, by its designee, subject to any required state or federal approval.
- 7.2 Negotiation of Amendments. The parties acknowledge that circumstances may arise which may call for or require mutual good faith negotiations for the amendment of this Agreement. Without limitation due to enumeration, the parties agree to meet and confer regarding the possible mutual amendment of this Agreement within 30 days of the written notice by one party to the other party of the occurrence of one or more of the following:
- 7.2.1 The passage of a statute or issuance of a legislative or executive order from a federal, state or local governmental entity that materially alters the manner in which revenues to the Town or County are paid or allocated.
 - 7.2.2 Unanticipated loss of revenue to the Town or County by circumstances outside of that entity's jurisdictional control, other than statute or Legislative or Executive Order, that materially alters either party's anticipated revenue or materially increases services costs over those anticipated in this Agreement or in the CFA.
 - 7.2.3 Natural disasters that materially destroy Town or County infrastructure to the extent that the County's ability to provide services or the Town's ability to make payments would be materially impaired.
 - 7.2.4 The discovery by the Town or the County of any error or omission in the data utilized for development of the CFA and this Agreement that materially affects the basis for the amount of payments due hereunder, or the projection of future revenues and or costs on which the payment schedule was based. Such errors are limited to base assumptions and inputs provided by the County and specifically exclude challenges to forecasting methods and assumptions used by LAFCO and its consultant in preparing the CFA.
- 7.3 Upon receipt of such written notice, the parties shall, within 30 days, hold at least one meeting to negotiate in good faith a mutual amendment of this Agreement. However, nothing contained herein shall require the mutual amendment of this Agreement or authorizes the unilateral amendment hereof.
- 7.4 In the event the CFA upon which this Agreement is modified or revised, the parties agree to amend this Agreement based on the modified or revised CFA.

8.0 MISCELLANEOUS PROVISIONS.

- 8.1 Rules of Construction. The singular includes the plural; the masculine gender includes the feminine; "shall" is mandatory; "may" is permissive.
- 8.2 Entire Agreement, Waivers, and Recorded Statement. This Agreement constitutes the entire understanding and agreement of the parties with respect to the matters set forth in this Agreement. This Agreement supersedes all negotiations or previous agreements between the County, the Committee, and the Town respecting this Agreement. All waivers of the provisions of this Agreement must be in writing and signed by the appropriate authorities of the County, and the Town.
- 8.3 No Personal Liability of Part of Chief Petitioners. Chief Petitioners are executing this Agreement in a representative capacity on behalf of the new Town, yet to be formed. Nothing herein shall create any personal liability on the part of the Chief Petitioners with regard to any obligations hereunder.
- 8.4 No Third Party Beneficiaries. This Agreement is not enforceable by or for the benefit of, and shall create no obligation to any person or entity other than the parties (i.e., County and Town) hereto and their permitted successors, assigns and legal representatives.
- 8.5 Incorporation of Recitals. The recitals set forth in Section 1.0 of this Agreement are part of this Agreement.
- 8.6 Captions. The captions of this Agreement are for convenience and reference only and shall not define, explain, modify, construe, limit, amplify, or aid in the interpretation, construction, or meaning of any of the provisions of this Agreement.
- 8.7 Consent. Where the consent or approval of the County, or the Town is required in or necessary under this Agreement, the consent or approval shall not be unreasonable withheld, delayed or conditioned.
- 8.8 Covenant of Cooperation. The County, and the Town shall cooperate and deal with each in good faith, and assist each other in the performance of the provisions of this Agreement.
- 8.9 Recording. The Clerk of the Board of Supervisors shall cause a copy of this Agreement to be recorded with the Office of the County Recorder of Contra Costa County, California, within 10 days following the Effective Date.
- 8.10 Delay, Extension of Time for Performance. In addition to any specific provision of this Agreement, performance by either the County or the Town of its obligations hereunder shall be excused, and the term of this Agreement extended, during any period of delay caused at any time by reason of any event beyond the control of County or the Town which prevents or delays performance by the County or the Town of obligations under this Agreement, including but not limited to, acts of God, enactment of new conflicting Federal or State laws or regulations, judicial actions such as the issuance of restraining orders and injunctions, riots, strikes, or damage to work in process by reason of fire, floods, earthquake, or other such casualties. If the County or the Town seeks excuse from performance, it shall provide written notice of such delay to the other within thirty (30) days of the commencement of such delay. If the delay or default is beyond the control of the County or the Town and is excused, an

extension of time for such cause shall be granted in writing for the period of the enforced delay, or longer as may be mutually agreed upon.

- 8.11 Interpretation and Governing Law. This Agreement and any dispute arising hereunder shall be governed and interpreted in accordance with the laws of the State of California.
- 8.12 Time of Essence. Time is of the essence in the performance of the provisions of this Agreement as to which time is an element.
- 8.13 Counterparts. This Agreement may be executed and acknowledged in multiple counterparts, each of which shall be deemed an original, but all of which shall constitute one Agreement, binding on the parties hereto.
- 8.14 Notices. Any notice, demand or request that either party hereto may, or is required to give to the other, shall be in writing and shall be deemed to have been received three days after being deposited in the U.S. Mail. Mail directed to the County shall be addressed to the County Administrator and mail directed to the Town shall be addressed to the Town Manager.
- 8.15 Drafting. The parties fully participated in negotiating the terms and conditions of this Agreement. In any action over this Agreement, it shall not be construed in favor of or against the drafting party.
- 8.16 Review. Parties acknowledge that this document has been reviewed and approved by their respective legal counsel or hereby waive that right. Failure by one party to obtain legal review shall not be used in any action against the other party.

CHIEF PETITIONERS

By: Sharon M Burke

ATTEST:

Theresa Lee Koo

Date: Aug 1, 2008

CHIEF PETITIONERS

By: Ho J Lee

ATTEST:

Theresa Lee Koo

Date: Aug 4, 2008

APPROVED AS TO FORM AND LEGALITY

CHIEF PETITIONERS

By: Theresa Lee Koo, Pres.
(Title)

ATTEST:

Ho J Lee

Date: Aug 4, 2008

COUNTY OF CONTRA COSTA

By: MULLER
(Title)

ATTEST:

J Dunsell

Date: Aug 6, 2008

APPROVED AS TO FORM AND LEGALITY

Rebecca Woolley

**Proposed Incorporation
Town of Alamo**

Response to Comments

**Public Review Draft
Comprehensive Fiscal Analysis**

September 2, 2008

Submitted to:

**Contra Costa Local Agency Formation Commission
651 Pine Street, 6th Floor
Martinez, CA 94553**

Prepared by:



3531 E. Miraloma Avenue
Anaheim, CA 92806
(714) 854-1890

The following responses to comments are hereby provided for the Alamo Public Review Draft Comprehensive Fiscal Analysis (CFA). Responses to comments are provided for areas of technical relevance to the CFA only. No response is provided to opinions expressed by the commenter regarding findings contained within the analysis. Comments are cross referenced to the corresponding identified paragraph in each comment letter.

San Ramon Valley Fire Protection District letter dtd August 12, 2008

Comment A-1: The CFA was developed with the assumption that provision of fire protection services would be unchanged under either boundary alternative, per guidance provided by LAFCO staff. There is no statutory requirement to re-organize any special district as a result of an incorporation, and no request was submitted by the applicants for such a re-organization, therefore no requirement in this case to perform such an analysis.

Email Correspondence from L. & E. Best and M. & J. Holmstedt dtd August 21, 2008

Comment B-1: The salary and benefit range established in the CFA for the City Manager is consistent with comparable city information for a city of the projected size and development status of the proposed city. The CFA utilizes FY 07/08 authorized and adopted salary information for several comparable cities in Contra Costa County and other Bay Area cities to develop an average estimate of an initial City Manager salary. These adopted salaries ranged from approximately \$105,000 per year to approximately \$128,000 per year. The CFA then assumed a higher salary than the comparable city range. Benefit factors applied are considered reasonable and consistent with existing city averages. The comment authors reference a recent salary for the City Manager of Dublin in Alameda County. Dublin, with a population of over 46,000 and with significant planned development growth, is not considered a comparable city for the proposed city. It is noted that the future city council will set a City Manager salary range dependent upon the future city council's decisions concerning selection of that position.

Comment B-2: City Attorney service costs are generally reflective of the services provided and the amount of development and other activities ongoing in the city. Cities that have high levels of staffing, including in-house public safety, provide services such as water and sewer, and have either ongoing development and/or re-development agencies, generally have higher City Attorney costs than contract cities with limited development potential, and with some services provided by other agencies. The comment authors note the costs for several cities as compared to the CFA estimates. However, it is noted that these cities, in all cases, have one or more significantly differing levels of service provision, such as water/sewer responsibilities, development and re-development agency activity, and staffing levels (full service and in-house public safety) as compared to the proposed city. The CFA reflects an estimated average cost for providing City Attorney services to a contract city of relative size with limited potential growth, and with comparable service provision requirements, as compared to the proposed city. The proposed city has limited development potential, does not provide water/sewer services, and is assumed to contract public safety services. The CFA estimates for City Attorney services are considered reasonable for this proposed city. Additionally, it is noted that the City Attorney budgeted cost for FY 07/08 for Clayton is approximately \$99,000, considerably less than the estimated amount in the CFA for the proposed city.

Comment B-3: Page 3 of the CFA discusses the annual General Fund revenue surplus projections in the CFA. As noted in the CFA, surpluses will be greater in initial years due to the additional revenue subventions new cities receive from the state. Upon expiration of these subventions, annual surpluses decline to a balanced budget level. As indicated in the CFA, for a

“built out” city, this is normal. The forecast indicates that although annual surpluses do decline, the percentage annual declination from year 9 to year 10 is less than 0.001%. Additionally, the CFA forecast assumes that the annual 10% contingency is expended every year. Under normal operating situations for cities, this contingency will rarely be expended, thus the anticipated annual surpluses are actually greater than projected.

Comment B-4: Law Enforcement costs were provided by the Contra Costa County Sheriff’s Department on March 8, 2008, and updated with corrected information on June 24, 2008. Included are all costs associated with providing the existing level of service as reported by the Sheriff’s Department, and as stated in the CFA. Sheriff costs were then projected over the 10 year forecast by applying an annual inflation rate of 4%. The calculations and methodology in the CFA are correct based on the information provided by the Sheriff’s Department.

Comment B-5: As stated on Page 13 and Page 42 of the CFA, capital improvements to road infrastructure are generally funded through competitive grants and accumulated reserves. As stated in the CFA, competitive grants include local (county), state and federal revenue sources, and have not been included in the forecast as these grants are generally applied for and funded at the point in time where the need for the improvement is identified. This is consistent with industry standards for such projections. The CFA also demonstrates that sufficient accumulated road restricted reserves accrue to the city to support implementation of future capital improvements of roads.

Comment B-6: The CFA includes an annual inflation rate based on the previous 10 year average of the Consumer Price Index increase in the Bay Area as reported by the state Department of Labor, and includes an additional annual factor for projecting salary within grade increases. This annual factor is carried through the 10 year forecast. The CFA makes no assumptions on salary or benefit increases that a future city council may provide, either greater or less than area inflation, as those are policy decisions based on budgetary assessments at future points in time. This is consistent with industry standards for such projections.

Comment B-7: The CFA has taken in to consideration the current economic situation in the state, and has made adjustments accordingly in growth assumptions, in particular in property assessed valuation assumptions where the historical annual growth over the last 5 years has been reduced significantly in the CFA forecast. As noted by the comment authors, these economic cycles are in fact “cyclical”, and generally are balanced out over time by stronger than normal economic cycles. The CFA takes into consideration such a cyclical balance by assuming a flat line projection over the ten year period. This is consistent with industry standards for such projections.

It is inappropriate to make any assumptions in a CFA based on unknown litigation, as it is unreasonable to assume what type of litigation would occur. Additionally, existing cities do not project costs for unknown future litigation for the same reason. Most litigation cases for cities involve insurance claims, are covered by the city’s insurance, and therefore have minimal cost impact to the city. This is consistent with industry standards for such financial budgeting and forecasting projections.

The estimated costs, and related revenues, for managing, monitoring, reporting and implementing the current storm water program for the Alamo community were provided by Contra Costa County. With respect to future unknown costs, sufficient contingency and annual reserve funding is anticipated in the CFA to address these costs. Additionally, the CFA does not

include any special funding such as grant funding that has been historically available for implementing many new storm water programs.

Comment B-8: Comment noted as LAFCO policy items not specific to any technical aspects of the CFA, nor the CFA's conclusions.

SAN RAMON VALLEY FIRE PROTECTION DISTRICT

Administration
Phone: 925-838-6600
Fax: 925-838-6629
www.srvfire.ca.gov

1500 Bollinger Canyon Road
San Ramon, California 94583

Fire Prevention
Inspections: 925-838-6680
Phone: 925-838-6600
Fax: 925-838-6696

August 12, 2008

VIA FACSIMILE

(925) 646-1226

LTextc@lafco.cccounty.us

Ms. Lou Ann Texiera
LAFCO Executive Officer
Contra Costa County
Local Agency Formation Commission
651 Pine Street, 6th Floor
Martinez, California 94553

Re: Proposed Incorporation of the Town of Alamo; Draft Comprehensive Fiscal Analysis

Dear Ms. Texiera:

The San Ramon Valley Fire Protection District ("District") has reviewed the Public Review Draft Comprehensive Fiscal Analysis ("CFA") with respect to the proposed incorporation of the Town of Alamo (the "Incorporation") and believes that the following issues should be addressed with respect to Study Area 2 an alternative configuration of the Incorporation which is described as not feasible, as well as with respect to the Incorporation proposed as a whole.

A-1 If the alternative of Study Area 2 is included with the Incorporation Area, then the CFA is inadequate as it does not address the allocation of the property tax from the resulting inclusion of territory assuming that all the contemplated amendments to Spheres of Influence ("SOIs") and changes of organization (annexations/detachments) are accomplished, resulting in only one fire service provider so as to be consistent with the Act and Commission Policy. Stated differently, the CFA does not analyze the possibility that the Commission could include Study Area 2 thereby creating a situation where two special districts - the District and the Contra Costa County Consolidated Fire Protection District ("Confire") are providing fire services to the Town - something *which is* contrary to several LAFCO Policies - the repeated Policy text of the Commission providing for "efficient public services" and several portions of "1) City Incorporation" - it would not be a logical extension of Confire into the Town in Study Area 2 if the balance of the Town is served by the District.

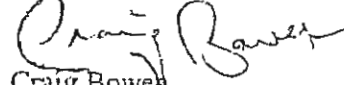
Ms. Lou Ann Texiera
LAFCO Executive Officer
Contra Costa County
Local Agency Formation Commission
August 12, 2008
Page 2

A-1

The Staff analysis should clearly indicate that if Study Area 2 is to be included, it is a new configuration for the Incorporation which would require several LAFCO actions not now included in the Incorporation, including amendments of SOIs of affected local agencies, including the District, the City of Walnut Creek and Confire at a minimum, and an independent review of those actions under the California Environmental Quality Act.

Thank you for your review of this matter.

Very truly yours,


Craig Bowen
Fire Chief

CB/sfb

cc: District Board Members
William D. Ross, District Counsel

August 21, 2008

Ms. Lou Ann Texeira
Executive Officer
Contra Costa County LAFCO
651 Pine St.
Martinez, CA 94553

Subject: Alamo Incorporation Comprehensive Fiscal Analysis

Dear Ms. Texeira:

As LAFCO approaches the decision as to whether the Alamo incorporation proposal should be put to a vote of the electorate we would encourage staff and the Commission to carefully consider at least two elements mentioned in The Public Review Draft of the Comprehensive Fiscal Analysis (CFA), dated July 23, 2008;

- **The accuracy of the financial assumptions contained in the document and**
- **The creation of an island by not including both areas 1 and 2 in the incorporation**

It is these two items that concern the authors of this letter as well as other knowledgeable individuals with whom we have spoken. It should be noted up front that we are neither pro nor anti incorporation at this moment, but do strongly feel that if Alamo citizens are to vote on incorporation they should do so with a true understanding of the benefits and risks. We also feel that if and when LAFCO were to approve taking incorporation to a vote, the citizens should be able to rely on the fiscal analysis used by LAFCO in that decision as being complete and accurate.

Accuracy of financial assumptions

Although we have been informed that the authors of the CFA are a highly respected firm and we feel that the document itself is well written and appears to reflect a good deal of research, we are very concerned that some of the financial assumptions may not accurately reflect the expectations of a new Alamo city. We have not had time between being made aware of this CFA document and the August 25 deadline for comments on it to LAFCO to do as complete a due diligence as we would like. We have, however, discussed some of the figures used in the analysis with individuals who are quite knowledgeable in those specific areas (municipal finance, roads, law enforcement, just to name a few). Questions have arisen regarding comparisons with other cities as well as the interpretation of the term "existing level of service" which is used throughout the document. It appears to us that it would not take much change in a few of the assumptions to change the financial feasibility conclusion of the study.

In particular, we are very concerned that the salaries and benefits for city staff are underestimated as compared with the experience and budgets of comparable cities. If these assumptions are not realistic, combined with other unknowns listed below, the projected annual surpluses would be eliminated and the city's financial viability put in question.

City Manager

The Fiscal Analysis for Alamo projects the City Manager's compensation package in Year 2 to be \$178,200 and the total budget for the City Manager department unit (salaries and benefits) to be \$324,364. We assume that the City of Alamo would want to recruit a very capable City Manger and from our understanding of the market, this is not a competitive salary. In the limited time

B-1

available, we have researched budgets for cities cited in the fiscal analysis as comparable to a city of Alamo. We utilized the most recent budgets available, in some cases 2007-08 and in other cases, 2008-09. Because the individual salaries for a City Manager were not available, we used the total budgets for the City Manager departments for salaries and benefits and analyzed the cost per FTE, recognizing that the City Manager would be the highest compensated individual and these results show that, in our opinion, the projections for Alamo are underestimated to a significant degree:

B-1

Alamo	2010-11	\$324,366	3.00 FTE	\$108,122/FTE
Lafayette	2007-08	285,575	2.32 FTE	123,092/FTE
Orinda	2008-09	375,716	2.00 FTE	187,858/FTE
Moraga	2007-08	212,584	1.40 FTE	151,845FTE
Clayton	2007-08	831,708	Not comparable because this is a number for total City Administration	

In addition, the August 19 edition of the San Ramon Valley Times reports that a new City Manager for the City of Dublin is expected to be hired in the next week at an annual base salary of \$205,008. Other annual benefits, including car allowance would add approximately \$15,000 per year to this total. If medical and retirement benefits are included, the total cost for the City Manager alone would be in excess of \$300,000 as of the fiscal year 2008/09, two years prior to the CFA figure in 2010/11 and not taking into consideration the cost of two additional FTE's. As previously stated, the CFA assumes 3 FTE's in the City Manager's office and a budget of only \$324,666. This and the other comparisons of City's cited in the CFA would suggest that the CFA has NOT accounted for a minimum of \$100,000 of annual expense in this area alone.

City Attorney

The Fiscal Analysis projects a City Attorney expense in Year 2 of \$124,751. Based on our survey of other comparable cities, this, too, seems unrealistically low. In fact, the average City Attorney costs of the other cities in the CFA is \$286,659. Compared to the Alamo budget of \$124,751 there is a net difference of \$161,908.

B-2

Alamo	2001-11	\$124,751	
Lafayette	2007-08	320,000	
Orinda	2008-09	370,000	
Moraga	2007-08	169,979	
Clayton	2007-08	could not determine because not broken out	

General Fund Operating Surplus

Table 1-A of the CFA projects an Operating Surplus of \$5,727,574 over the ten-year forecast based upon a variety of assumptions, some of which have already been called into question. This is the penultimate argument the CFA makes to conclude that incorporation is feasible. We believe that facts behind this projected surplus need to be carefully analyzed. For example, a closer look at the cumulative surplus finds that approximately 35% or \$2,014,750 is assumed to be achieved in the first two years after incorporation. In fact, after the first two years, the projected annual surplus DELCINES in each year until it is a modest \$322,756 in year ten. Of further significance, the tenth year surplus is less than 3% of the projected operating revenues in that year, an extremely narrow margin for error, especially if the costs of the City Manager's and City Attorney's offices alone are understated by \$261,908 in year one (\$100,000 City Manager's office and \$161,908 City Attorney) as has been delineated by a direct comparison of facts presented in the CFA. Adjusted for inflation (assuming a rate of 3% as used in the CFA), the potential understatement of the cost in these two areas would result in an additional expense in the tenth year of \$341,730, thereby turning a budget surplus into a deficit.

B-3

B-3

Because the time for comment has been so short (less than 30 days since we became aware of the consultant's analysis), we have not had the time to analyze the comparable salaries and benefits for other departments, such as finance, community planning and public works, but if there are similar discrepancies, we believe that the financial viability of a city of Alamo is seriously in question.

Law Enforcement

Law enforcement is usually a major item in most city budgets and represents over 40% of the cost assumed in an incorporated Alamo. Ignoring any of the other cost centers previously mentioned, significant changes in this item alone could change the feasibility conclusion of the study.

B-4

The CFA, on pages 17 and 40 discusses the assumptions for law enforcement. On page 40 the CFA identifies the FY 07/08 "existing level of service" for Alamo at a cost of \$2,746,991 – including an estimate of 12.3 sworn personnel. It appears that this number is used in the financial analysis in Table 1-A. After conversations with a representative from the County Sheriff and a review of the March 7, 2008 document prepared by the Sheriff's Office for the Alamo Incorporation Study, we spent a good deal of time attempting to reconcile the data in that document with what appears in the CFA. We did not have the benefit of a computer model so our analysis is based on manual calculations taking the data which the Sheriff indicates would be appropriate for the level of service they outline in their document and comparing our calculated costs for that over time with the data appearing in Table 1-A of the CFA. Our figures (which include additional lease costs for new office space and which use the inflation figures currently in the CFA) show on-going increased annual costs by FY18/19 of \$1,406,276. (an annual average increase of \$140,627). After payment of the revenue neutrality obligation, this additional expense would reduce the projected Net General Fund Operating Reserve to \$1,321,298 – only 12% of that year's expenses. We acknowledge that our calculations may not be precise, but we feel they are close enough to call the law enforcement assumptions into question. More important however, is the fact that if you add this additional expense to the previously questioned additional annual costs of \$261,908 (\$2,619,080 over ten years), there is NOT enough cumulative surplus to cover the neutrality payment in year ten and fiscal feasibility is even more impaired.

Road Fund Expenditures

B-5

The fiscal analysis does not include significant long term maintenance, such as slurry sealing, asphalt overlays, major storm drain repairs, and damaged and deteriorated road reconstruction, as these are considered capital improvement projects that will need to be funded outside the projected budget. This is based on the fact that the County has invested funds in this area and no road capital maintenance should be required for 10 years, with the exception of slurry sealing. Although we find this difficult to believe, even if this turns out to be true, how is the financial viability of the proposed city affected in 10 years when these improvements are needed, especially if some of the concerns about the financial assumptions cited above prove to be true?

Inflation Assumptions

B-6

For the most part, the Fiscal Analysis assumes an inflation rate of 4% for salary and benefits. While this may be a realistic assumption for cost of living increases, it does not include merit increases and does not reflect the real inflation of health care costs, which are close to or in double digits. Thus, a more realistic number could significantly additionally erode the assumed cumulative budget surpluses.

Future Unknowns

Cities and counties are under increasing financial pressures in the current economy. Property tax and sales tax revenue are declining and the impacts on local government of the state deficit are not yet known. These impacts occur on a cyclical basis tied to the vicissitudes of the economy, but they do occur. Are these factors considered in the fiscal impact scenario over time?

Additionally, cities are subject to litigation, which can greatly impact the budget for the City Attorney. Are these accounted for and would a financial model which includes them still show a viable city?

B-7

Increasing regulations from the region, state and federal government are a fact of life. For example, the Bay Area Regional Water Quality Control Board currently has under consideration a Regional Municipal Storm water Permit (MRP) that will significantly increase the requirements for local governments to provide additional monitoring and reporting, as well as implementation of regulations that will be very costly to local government. Contra Costa County estimates that if the MRP is adopted, the costs to Contra Costa agencies to implement the requirements will total over \$175 million in the five year period from 8/09 to 12/13. The estimated costs for 08/09 for the comparable cities who have finalized their estimates are as follows:

Moraga	\$602,550
Orinda	808,500

While this factor can be difficult to project and quantify, how might this impact the viability of the proposed City of Alamo?

LAFCO Policy on Creation of Island

LAFCO's own Policies and Standards document, in the discussion on Boundaries on page 13 states as follows:

4) Areas which should not be included within the proposed incorporation boundaries include:

(a) Agricultural and open space lands which are not designated for development in the future, such as within the next 10 years (§56377).

(b) Lands specifically designated by the County General Plan for natural resource, agriculture, or open space uses.

B-8

(c) Exclusions of land that would result in islands, flags peninsulas or boundary configurations that are illogical and difficult to serve. (emphasis added)

The CFA states on page 2, "Study Area 1 reflects the proposed boundary as submitted by the incorporation applicants. Additionally, Study Area 2 was included for analysis as this area would become a County island if Study Area 1 alone were to be incorporated." (emphasis added)

After defining Boundary Alternative 1 as including only study Area 1, and Boundary Alternative 2 as including both Study Areas 1 and 2, the CFA concludes as stated on page 6; "It is concluded by this analysis that the new city is considered to be fiscally feasible at the 'existing level of service' provision under Boundary Alternative 1." The CFA further states, "It is also concluded the Boundary Alternative 2 cannot be considered fiscally feasible without significant revenue enhancements
....."

Essentially the CFA is concluding that

1. Only the alternative which creates the County island is fiscally feasible for incorporation; and
2. That alternative is only fiscally feasible at the 'existing level of service' provision.

Although it is stated in LAFCO's own policies that LAFCO "should not" create an island, the CFA concludes that the only viable alternative does just that. While LAFCO could certainly make a case to ignore its own policy, it is our opinion that in order to do so there should be strong justification to come from clear and identifiable benefits as well as strong fiscal documentation that will not cause the proposed city to join the growing list of California cities under severe financial stress. Does the CFA present such strong justification?

B-8
During the community meeting on August 2 it was stated that the primary reason most cities incorporate is "local control". Presumably that means local control over significant issues that can impact the future of the proposed area and where local perspective in decisions would be better than the perspective of those currently making decisions. It is, we think, recognized by most that Alamo is essentially built out and that most of the remaining land use issues would be fill-in and sub divisions of larger existing properties. Although there may be some individual disagreements on specific land use results in the past we are of the opinion that the county has done a good job on the whole and that organizations such as the Alamo Improvement Association have been effective communicators to help the County be responsive to the community's desires. One can look at other municipal services identified in the CFA on page 18 and see that many are identified as "no change". Of those that are identified as "enhanced", one would seem to have a hard time determining which enhancements would be significant enough to have a great impact on the future of Alamo and over which local perspective would be a lot better than the current arrangement.

In conclusion, we recommend that LAFCO take a hard look at the CFA, its assumptions and the rationale for Alamo becoming a city. After that LAFCO needs to consider two critical criteria:

1. Is there a clear and justifiable reason to create a County island? If not, then the CFA states that "Boundary Alternative 2 is NOT fiscally feasible without significant revenue enhancements ..." and LAFCO should not approve further incorporation efforts; or
2. If a County island is permissible, LAFCO should delay any decision to proceed to a vote until the financial questions with respect to the CFA raised herein have been thoroughly vetted and can be relied upon by the voters.

The County and many communities with a much broader revenue base are facing serious financial challenges. Therefore, we believe that the decision to incorporate must not be taken lightly and must be carefully analyzed. We are prepared to be part of the process and wish only the best for our community. Thank you for your consideration; we look forward to a public vetting of our concerns.

Sincerely yours,

Linda & Ed Best

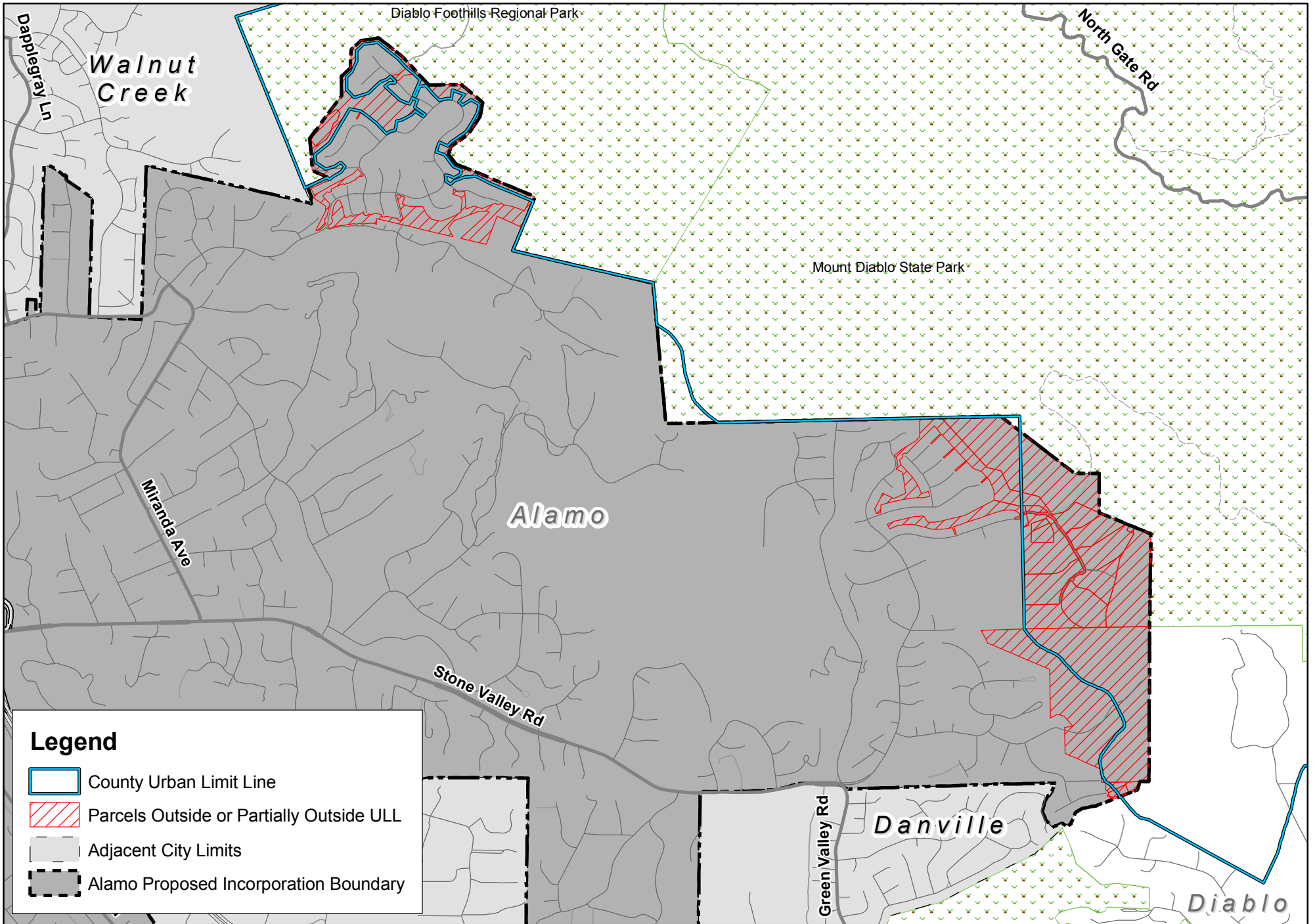
Linda and Ed Best
146 Via Copla, Alamo, CA 94507

Mark & Jean Holmstedt





Mark and Jean Holmstedt
154 Via Copla, Alamo, CA 94507

cc: LAFCO Commissioners

LAFCO No. 07-27: Areas Outside of County Urban Limit Line



Legend

-  County Urban Limit Line
-  Parcels Outside or Partially Outside ULL
-  Adjacent City Limits
-  Alamo Proposed Incorporation Boundary



RESOLUTION NO. LAFCO 07-27**RESOLUTION OF THE CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
MAKING DETERMINATIONS AND APPROVING THE PROPOSED
INCORPORATION OF THE TOWN OF ALAMO AND
ESTABLISHING THE SPHERE OF INFLUENCE OF THE TOWN OF ALAMO**

WHEREAS, on August 27, 2007, a Notice of Intent to Circulate a Petition was filed with Contra Costa Contra Costa Local Agency Formation Commission (LAFCO) pursuant to Government Code §56700.4 proposing to incorporate the Town of Alamo; and

WHEREAS, on November 5, 2007, a registered voter petition and application to incorporate the Town of Alamo (LAFCO 07-27) were filed with LAFCO pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code §56425), requesting the incorporation of the Town of Alamo; and

WHEREAS, on November 5, 2007, the Executive Officer submitted the petition to the County Registrar of Voters for verification that sufficient registered voters within the area proposed for incorporation signed the petition; and

WHEREAS, on November 14, 2007, the petition signatures were found to be sufficient and a Certificate of Sufficiency was issued; and

WHEREAS, the Executive Officer caused to be prepared a Comprehensive Fiscal Analysis for the proposed incorporation; and

WHEREAS, on September 18, 2008, LAFCO, as Lead Agency, approved the Initial Study and adopted the Negative Declaration for the proposed incorporation of the Town of Alamo pursuant to the California Environmental Quality Act (CEQA). The proposed incorporation is not expected to induce, facilitate or lead to the conversion of existing open space lands to uses other than open space, as the area is primarily developed and not does anticipate significant new development or any material alteration to the general plan and zoning ordinances currently in effect. In accordance with the Initial Study and Negative Declaration, this proposal will have no significant impact on the environment; and

WHEREAS, pursuant to Government Code §56886, existing agencies cannot provide needed services in a more efficient and accountable manner. Incorporation will allow for increased local accountability. Contracting services such as police will still allow the city to take advantage of economies of scale associated with a large organization, while allowing public service levels and priorities to be established locally; and

WHEREAS, at the time and in the manner required by law the Executive Officer gave notice of the Commission's consideration of these matters; and

WHEREAS, the Executive Officer has reviewed all available information and prepared reports, including recommendations, and presented findings, reports and related information to the Commission, which were then considered by the Commission; and

WHEREAS, at a public hearing on September 18, 2008, the Commission heard, discussed and considered all oral and written testimony related to the proposed incorporation, adoption of a sphere of influence and matters relating to the proposed incorporation of the Town of Alamo; and

WHEREAS, this resolution includes as Exhibit A, attached hereto and made a part hereof, the Revenue Neutrality Agreement by and between the County of Contra Costa and the petitioners for incorporation of the Town of Alamo as adopted by the Board of Supervisors on July 22, 2008 (Resolution No. 2008/529); and

WHEREAS, pursuant to Government Code §56375, the Commission determines the approval of the proposed incorporation, as presented to the Commission at its September 18, 2008 hearing, is in the best interest of the residents and the affected area.

NOW, THEREFORE, the Contra Costa LAFCO DOES HEREBY RESOLVE, DETERMINE AND ORDER as follows:

1. Incorporation of the Town of Alamo

The incorporation of the Town of Alamo as a general law city is hereby approved subject to the terms and conditions of this resolution and by subsequent approval by the voters of Alamo. A simple majority of votes cast shall determine the outcome of the election. LAFCO shall request the Board of Supervisors to call an election for March 3, 2009 on the proposed incorporation.

The question of incorporation, including all terms and conditions, shall be one question on the ballot.

2. Purpose of Incorporation

The incorporation proposal was submitted to LAFCO by a petition signed by over 25% of the registered voters residing within the proposed incorporation area. The petition sets forth the following reasons for incorporation:

- Provide residents increased representation and local control in land use planning and building, municipal services, and infrastructure;
- Create an efficient and politically accountable government;
- Provide more effective and efficient use of local tax revenues that is better aligned with the priorities of Alamo residents;
- Enhance the quality of life and maintain the town's unique, rural character;

- Preserve the town's historical and cultural heritage;
- Increase opportunities for Alamo residents to participate in local and government activities; and
- Establish the town as a legally recognized and equal voice in county and regional matters.

3. Findings for Incorporation

The Commission finds, based on the entire record, that:

- A. The proposed incorporation is consistent with the intent of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH Act), including, but not limited to Government Code §§56001, 56300, 56301 and 56377 and the adopted policies and procedures of the Contra Costa LAFCO; and
- B. The Commission has reviewed the spheres of influence (SOIs) of affected local agencies, has amended the SOIs of the Town of Danville and the City of Walnut Creek, and finds the incorporation consistent with those spheres.
- C. The Commission has reviewed the Comprehensive Fiscal Analysis prepared pursuant to Government Code §56800.
- D. The proposed city is expected to receive revenues sufficient to provide public services and facilities and a reasonable reserve during the first three fiscal years following incorporation; and
- E. The Commission has reviewed the Executive Officer's report and recommendations prepared pursuant to §56665, and the testimony presented at its public hearing.

4. Incorporation Boundaries

The Commission approves the proposed Alamo incorporation with the boundaries legally described in Exhibit B and depicted in Exhibit C hereto, subject to the terms and conditions herein. The proposed boundaries are definite and certain and conform to lines of assessment and ownership.

5. Organization of the City Government

- A. Name of the City: The new city shall be the Town of Alamo.
- B. Election of the City Council: The city shall be governed by a five-member city council elected at large. Subject to the limitations of Government Code §56724, the election of the first City Council shall be on March 3, 2009, in conjunction with the question to confirm incorporation.
- C. Election Costs: Pursuant to Government Code §57150(b), election costs will be borne by the new city, if the incorporation is confirmed by the voters, OR by the County of Contra Costa if the proceedings are terminated. Election costs shall be paid within 30

days of written request from the Contra Costa County Registrar of Voters, unless alternative payment arrangement is agreed to by the parties.

- D. Terms of Office: The terms of office of the City Council shall be four years. Of the first elected legislative body, the terms of the two members of the city council with the largest popular votes shall be four years. Of the first elected legislative body, the terms of the three members of the city council with the least popular votes shall be two years (Government Code §57377).
- E. Selection of Mayor: Pursuant to Government Code §36801, at the first City Council meeting, the city council shall choose one of its number as mayor, and one of its number as mayor pro tempore.
- F. Appointment of City Staff: Upon and after the effective date of incorporation, the City Manager, City Clerk, City Attorney and City Treasurer shall be appointed by the City Council pursuant to Government Code §§36511 and 34856.

6. Effective Date of Incorporation

The effective date of the incorporation is July 1, 2009 (or June 30, 2009 if SB 301 is not signed by the Governor), subject to the vote and approval of the voters of Alamo on March 3, 2009.

7. Extension of Services

- A. Service Provision: The County will continue to provide all county services furnished to the area prior to incorporation until the end of the “Transition Period”, as defined in the Revenue Neutrality Agreement, or until the new city requests discontinuation of the services, whichever occurs first. During the Transition Period, services shall be provided at the current level of service pursuant to Government Code §57384.

Following incorporation, the Town of Alamo, in addition to providing those services required by law, shall insure the provision of the following services: Animal Control, Building and Building Inspection, Code Enforcement, Police/Law Enforcement, Planning, Public Works, Traffic, Safety and Street Lighting Maintenance, and Parks and Recreation. The new city shall, at a minimum, maintain services at existing levels. The County of Contra Costa will continue to provide Library services.

- B. First Year Costs: In FY 2010-11, the County will pay from the General Fund the net credit for costs of general fund services provided to the new city during the Transition Period (approximately \$274,000). In the unlikely event that the actual net of revenues received by the County minus service costs paid by the County reflects a net cost, the new city will pay the County the net cost within five years of June 30, 2009.

The County waives reimbursement by the new city for the net cost of providing road and traffic signal maintenance to the new city during the Transition Period; the net

cost of providing such services will be paid by the County Road Fund (approximately \$283,000).

In FY 2010-11, the County, using Park Funds, will pay the net credit for cost of park services to the new city (approximately \$398,000) during the Transition Period.

8. Base Year Property Tax

The base year General property tax transferred to the new city pursuant to Government Code §56375 shall be \$1,292,813. This amount is independent of the transfer of any other funds.

In addition to the property tax transferred to the new city pursuant to Government Code §§56810 (c) and 56812, the new city will receive 100% of the various County Service Area (CSA) property tax allocations allocated to the Alamo area due to the transfer of these districts to the new city as follows:

- CSA P-2/Zone B - \$135,194
- CSA P-5 - \$194,288
- CSA P-6 - \$566,408
- CSA L-100 – 38,384
- CSA R-7A - \$807,699

9. Mitigation Obligation

To make revenue neutrality findings under Government Code 56845(c), the terms and conditions as set forth in the revenue neutrality resolution (Exhibit A) adopted by the County, set forth below, are hereby imposed as a condition of approval of the incorporation:

A. Total General Fund Obligation: The Town shall pay the County a total of \$3 million in revenue neutrality payments. This total revenue neutrality obligation is based on an annual County deficit amount of \$656,977, as calculated in the CFA.

i. Source of Payment: The Town will make a lump sum payment of \$3 million to the County. It is anticipated that these funds will come from Town General Fund accumulated reserves.

ii. Payment Schedule: The Town shall pay the County the entire amount of the lump sum payment no later than June 30, 2019.

iii. Pre-payment: The Town may pre-pay any amount due under this Agreement on terms mutually agreed upon by the Town and County.

B. Total Road Funds Obligation

The Town agrees to waive Revenue Neutrality payments from the County's Road Fund of \$310,570, as calculated in the CFA.

10. Treasurer-Tax Collector and Administrative Services

The Tax Collector will continue to collect all taxes currently collected by the County but transferred to the city, for the remainder of the initial year; future services (not currently provided to all cities) will need to be negotiated with the new city.

11. Streets and Roads

Pursuant to Government Code §57385, upon the effective date of the incorporation, all roads and highways or portions of road(s) and highway(s), in the incorporation area which have been accepted into the County road system pursuant to §941 of the Street & Highway Code, shall become city streets, and all right, title, interest and responsibility for said roads and highways and all adjacent slopes, medians, sidewalks, trails, bikeways, landscaped areas, street lights, signals, and bridges owned and operated by the County of Contra Costa that are located within the public rights of way within the incorporation area, shall vest with the new city.

12. Flood Control and Storm Drains

Upon the effective date of the incorporation, the Town of Alamo shall assume the obligations and responsibilities of Contra Costa County under the Drainage Fee Collection, Right-of-Way and Maintenance agreements for Drainage Areas 9, 13 and 76 executed with the Contra Costa County Flood Control and Water Conservation District on October 17, 2006.

The Town of Alamo shall accept from Contra Costa County the transfer of land-rights, accepted by Contra Costa County for drainage purposes, on the following parcels, identified by Assessor Parcel Number:

Miranda Creek

192-110-020, -021, -023

192-280-003, -018

192-290-016, -024

192-300-005, -024, -025

192-310-001, -005, -007, -009, -012, -015, -017, -024

192-340-002, -003, -004, -005, -006, -007, -008, -009, -010

192-350-002

192-360-009

Rutherford Creek

197-090-003

San Ramon Creek
197-330-007
197-420-036

Bunce Meadows Ditch
192-300-024, -025
192-340-001

Bolla Acres Ditch
193-080-072, -073
193-090-003, -004, -016, -019, -020, -021, -022, -023, -024, -025
193-100-008, -009, -015, -016, -017, -018, -021
193-111-001, -002, -007, -008
193-384-003, -004, -005
193-410-001, -002, -003, -004

Erselia Trails Ditch
192-170-047, -057

The Town of Alamo shall accept from Contra Costa County the transfer of all other land-rights, not listed above, accepted by Contra Costa County for drainage and creek set back purposes.

13. Transfer of Other Real Property

The transfer of other real property, if necessary, will occur pursuant to a future agreement between the Town of Alamo and Contra Costa County.

14. “AS IS” Transfer

Real or personal property of the County of Contra Costa transferred to the new city pursuant to this resolution shall be accepted by the new city “as is.”

15. HOME, McKinney and Community Development Block Grant (CDBG)

The City will participate in the HOME, McKinney and CDBG consortia at least through completion of the programs' current contracts.

16. County Service Areas (CSAs) and Benefit Assessment Districts/Zones

Pursuant to Government Code §25210.01, CSA law provides for automatic detachments, either partially or wholly, from CSAs when lands are incorporated, unless otherwise specified by LAFCO. Pursuant to Government Code §56375(n) LAFCO can override this provision of law if it concludes that detaching the territory from the CSA would deprive the area of a service needed to ensure the health, safety and welfare of the

residents, and it finds that the waiver would not affect the ability of the new city to provide service.

There are currently seven CSAs and four benefit assessment districts/zones that serve the proposed Alamo incorporation boundaries. Funding sources include a combination of property and/or parcel taxes and benefit assessments. With regard to these districts and zones, and pursuant to the Revenue Neutrality Agreement, the following will occur:

- A. CSA EM-1 remains intact.
- B. Detachment from CSAs L-100, P-2 and P-6 is waived until the end of the Transition Period, at which time all encumbered funds, assets and liabilities of those portions of these CSAs that are within Boundary Alternative 1 shall be transferred to the new city. Following incorporation, the new city will assume responsibility for providing services. During the Transition Period the new city will determine the appropriate mechanism (e.g., benefit assessment district) if any, to continue the CSA funding. It is assumed that the current assessments would continue to fund services in the same areas within Alamo that are covered by the CSAs. Upon the expiration of the Transition Period, the new city will be detached from the CSAs.
- C. Dissolution of CSAs M-30, P-5 and R-7A is waived until the end of the Transition Period, at which time all encumbered funds, assets and liabilities of these districts, along with responsibility for services shall be transferred to the new city. During the Transition Period the new city will determine the appropriate mechanism (e.g., benefit assessment district) if any, to continue the CSA funding. It is assumed that the current assessments would continue to fund these services in the same areas within Alamo that are covered by the CSAs. Upon the expiration of the Transition Period, these CSAs will be dissolved.
- D. *LL-2 Benefit Zones 36, 45 and 54*: The Countywide Landscaping District LL-2 Benefit Zones 36, 45 and 54 will detach from the County on the last day of the Transition Period. Services provided by the County within these zones will continue at the same level during FY 2008-09 and during the Transition Period. On the last day of the Transition Period, all unencumbered funds of these zones, including cash on hand and monies due but uncollected, and any obligations of these zones will be transferred to the new city. Further, upon the expiration of the Transition Period, the authority to collect assessments or fees for these services shall pass to the new city.

17. Equalizing Payment

Should the calculation of property taxes prepared pursuant to Government Code §56810 be modified as a result of a court action brought pursuant to Government Code §56810(h), or as a result of legislative action with retroactive application, to provide that a larger share be retained by the County and a smaller share transferred to the city than that specified by LAFCO pursuant to Government Code §56810, in approving the incorporation, the County shall transfer the amount of annual property tax resulting from

such difference to the city for the purpose of maintaining revenue neutrality pursuant to Government Code §56815, and the LAFCO terms and conditions (“equalizing payment”).

Should the calculation prepared pursuant to Government Code §56810, be modified as a result of a court action brought pursuant to Government Code §56810(h), or as a result of legislative action with retroactive application, to provide that a smaller share be retained by the County and a larger share transferred to the city than that specified by LAFCO pursuant to Government Code §56810, in approving the incorporation, the city shall make an equalizing payment to the County.

18. Revenue Neutrality Findings

Pursuant to Government Code §56845, the Commission finds that:

- A. Revenues currently received by the County of Contra Costa for the incorporation area and the expenditures for service responsibilities to be transferred to the new city are not equal.
- B. In approving the proposed incorporation, the Commission finds pursuant to Government Code §56815 as follows:
 - i.* That the County of Contra Costa has agreed to the incorporation of the Town of Alamo on the terms and conditions set forth in the Revenue Neutrality Agreement (Resolution No 2008/529); and
 - ii.* That the approval of the Revenue Neutrality Agreement by the County and other terms and conditions set forth herein adequately mitigate the negative fiscal effect of the incorporation on the County; and
 - iii.* That but for the conditions contained herein incorporating all of the provisions of the Revenue Neutrality Agreement, the Commission would be unable to make the required findings under §56815 and approve the incorporation; and
 - iv.* That the terms and conditions contained herein are integral to the approval of the incorporation under Government Code §§56880, 56881, 56375, and 56720; and
 - v.* That the terms and conditions relating to revenue neutrality imposed by this resolution are independent legislative enactments of the Commission.

19. Provisional Appropriations Limit

The provisional appropriations limit, as required by Article XIIB of the California Constitution, and pursuant to Government Code §56812, shall be \$8,643,695 (Boundary Alternative 1). A permanent appropriations limit will be set by the voters of the new city at the first municipal election, which will be held following the first full year of operation by the new city (Government Code §56812).

20. Continuation of General Taxes

The Town of Alamo shall be authorized and shall continue to levy as general taxes of the city those general taxes presently levied by Contra Costa County. The types, rates and method of collection of general taxes to be so continued are as follows:

- A. A sales and use tax of the retail sale or use of tangible personal property within the Town of Alamo to be collected under contract with the State Board of Equalization and returned to the Town of Alamo pursuant to local ordinance.
- B. A real property transfer tax at the rate imposed by Contra Costa County upon the sales of real property within the Town of Alamo to be collected by Contra Costa County and returned to the Town of Alamo pursuant to local ordinance.
- C. All other general taxes presently imposed by Contra Costa County at the same rate and in the same manner as they are imposed and collected by Contra Costa County.
- D. All taxes generally authorized for incorporated cities, including, but not limited to:
 - Property taxes
 - Sales taxes
 - Real property transfer taxes
 - Franchise fees

21. Continuation of Fees and Charges

Pursuant to Government Code 56886(t), the Town of Alamo shall be authorized to levy any other fees, assessments and charges at the same rate and manner they are imposed and collected by Contra Costa County, for such fees, assessments and charges that fund services that will be provided by the new city.

22. Sphere of Influence for the Town of Alamo

The Commission shall adopt a sphere of influence for the Town of Alamo that is coterminous with the City boundary, pursuant to Government Code §56426.5.

23. Assessed Value Within the Proposed City

The assessed value for property tax calculation purposes within the area of the proposed incorporation is approximately \$4,602,760,661.

24. Registered Voters Within the Proposed City

The area proposed for incorporation is legally inhabited with a population of approximately 16,683 as derived from the 2000 Census. Pursuant to Government Code

§56375(f), the number of registered voters within the proposed incorporation area is 10,243 as of August 28, 2008.

25. Development Agreements

Any and all development agreements entered into between Contra Costa County and any development project applicant, and any condition of approval (including mitigation measures adopted pursuant to CEQA) imposed by the County Board of Supervisors on any and all discretionary projects adopted and approved prior to the effective date of incorporation shall remain valid and enforceable between the applicant and the new Town of Alamo, subject to Government Code §65865.3(a) and (b).

26. National Pollution Discharge Elimination System Permit (NPDES)

The Town of Alamo shall become a co-permittee under the terms associated with the existing countywide National Pollution Discharge Elimination System Permit.

27. Regional and State Associations

The new city is encouraged to participate in various regional and State associations and organizations, including, but not limited to the Association of Bay Area Governments (ABAG), Contra Costa County Transportation Authority, and the League of California Cities.

28. Indemnification Agreement

Within ten (10) calendar days of LAFCO's approval, the applicant shall deliver an executed indemnification agreement providing for the applicant to indemnify LAFCO against any expenses arising from any legal actions challenging the incorporation.

29. Subsequent Proceedings

All subsequent proceedings in connection with this 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.

30. Acceptance of Findings and Recommendations

Pursuant to Government Code §56803 the Commission hereby accepts the findings and recommendations made in the Executive Officer's Report prepared pursuant to Government Code §56665 and the Comprehensive Fiscal Analysis prepared pursuant to §56800, together with any desired changes.

31. Severability

Should any term or condition of this resolution be found unlawful, unenforceable, invalid or void by a final judgment of a court of competent jurisdiction, all other terms and conditions of this resolution shall remain in full force and effect and the Town of Alamo incorporation shall remain in effect and shall not be void or invalidated by reason of said term or condition being unlawful, unenforceable, invalid or void.

32. Distribution of this Resolution

The Executive Officer is hereby authorized and directed to mail certified copies of this resolution as provided in §56882 of the Government Code.

33. Record of Proceeding

The Comprehensive Fiscal Analysis, Initial Study/Negative Declaration and other documents and materials that constitute the record of proceedings upon which the Commission's decision is based are located in the office of Contra Costa LAFCO, 651 Pine Street, Sixth Floor, Martinez, CA 94553. The custodian of these documents is the LAFCO Executive Officer.

* * * * *

PASSED AND ADOPTED THIS 18TH day of September 2008, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

ROB SCHRODER, 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: September 18, 2008

Lou Ann Texeira, Executive Officer