

CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
EXECUTIVE OFFICER'S REPORT

April 18, 2018 (Agenda)

April 18, 2018
Agenda Item 7

LAFCO 17-11

Kirkpatrick Drive Annexation to West County Wastewater District (WCWD)

PROPONENT

Satwant S. and Gurmail S. Pandher, Landowners

SYNOPSIS

The landowners propose to annex one parcel of 0.763± acres (APN 430-161-021) to WCWD. The parcel is located at 39 Kirkpatrick Drive in unincorporated El Sobrante, as shown in Attachment 1. There is one single family residential dwelling unit on the property; no new development is proposed. This is a boundary clean-up as the property currently receives municipal sewer service from WCWD.

It is also recommended that the Commission include the neighboring property of 0.442± acres located southwest of the subject parcel (APN 430-161-004). This parcel is currently vacant, and is within the WCWD's SOI. This parcel is partially in WCWD's service boundary and partially outside the District's boundary, and shows on the 1% ad valorem as being within WCWD. In October 2017, the applicant contacted the neighboring property to ask if they want to be included in the annexation. The neighboring property owner indicated they were in the process of selling the property and were not interested in annexation. County records show no change in ownership has occurred.

LAFCO staff informed the neighboring property owner of split parcel and potential annexation of the property to WCWD. Further, that exclusion of her property would create an island. As of this writing, the neighboring property owner has not responded to the letter or the public notice.

DISCUSSION

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

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

Both the property proposed for annexation and the neighboring property are within WCWD's SOI, and within the County Urban Limit Line; the parcels are located in the unincorporated community of El Sobrante.

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

The County General Plan designation for the subject parcels is Single Family Residential – High. And the County zoning is Single Family Residential – 7,000 square foot minimum. Land use designations in the surrounding areas are comparable, with residential development to the northwest and southeast, vacant land to the southwest, and underutilized land to the northeast. No changes are proposed to the General Plan or zoning designations as part of this proposal.

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

The subject properties contain no prime farmland or land covered under Williamson Act Land Conservation agreements; there are no agricultural uses on the parcels proposed for annexation.

4. Topography, Natural Features and Drainage Basins:

The topography of the subject parcels and surrounding area is hillside residential.

Population:

No residential development is currently proposed on the subject parcels; therefore, there is no projected population growth associated with this proposal.

5. Fair Share of Regional Housing:

In its review of a proposal, LAFCO must consider the extent to which the proposal will assist the receiving entity in achieving its fair share of the regional housing needs as determined by the regional council of governments. No residential development is proposed; thus, the proposed annexation will have no effect on regional housing needs.

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

An application for a change of organization or reorganization typically requires a plan for providing services within the affected territory (Gov. Code §56653). The plan shall include all of the following information and any additional information required by the Commission or the LAFCO Executive Officer:

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

A plan for service is not required for this application as this is primarily a boundary clean-up. Municipal sewer services are already being provided to one of the parcels, and no other development is proposed at this time.

7. Timely Availability of Water and Related Issues:

Water service is currently provided to the property by EBMUD. No change in water service is anticipated as a result of this annexation.

8. Assessed Value, Tax Rates and Indebtedness:

The annexation area is within tax rate area 85040. The total assessed value for the annexation area is \$238,441 (2017-18 roll). The territory being annexed shall be liable for all authorized or existing taxes comparable to properties presently within the annexing agencies. The County and District will rely on the master tax transfer agreement for this annexation.

9. Environmental Impact of the Proposal:

The WCWD found the proposed annexation of APN 430-161-021 categorically exempt pursuant to CEQA Guidelines sections 15319, and 15061(b)(3). The District prepared a Notice of Exemption which the LAFCO environmental coordinator finds to be adequate. In addition, LAFCO staff found the annexation of the remainder of APN 430-161-004 exempt pursuant to 15061(b)(3).

10. Landowner Consent and Consent by Annexing Agency:

According to County Elections, there is one registered voters in the area proposed for annexation; thus, the area proposed for annexation is considered uninhabited. All landowners and registered voters within the proposal area(s) and within 300 feet of the exterior boundaries of the area(s) have received notice of the April 18, 2018 LAFCO hearing.

The applicant/landowner supports the annexation. As of this writing, LAFCO has received no comments from the adjacent landowner whose parcel is partially within the WCWD boundary and is also proposed for annexation. Given that this landowner has not yet provided written consent to the annexation, a protest hearing is required (Gov. Code §56663).

11. Boundaries and Lines of Assessment:

The annexation area is within WCWD's SOI and contiguous to the District's service boundary. A map and legal description to implement the proposed boundary change has been submitted and is subject to approval by the County Surveyor. Annexation of the subject parcel alone would create an island. Annexation of the neighboring parcel is recommended to clean up the boundary and avoid creating an island.

12. Environmental Justice:

LAFCO is required to consider the extent to which a change of organization or reorganization proposal will promote environmental justice. As defined by statute, "environmental justice" means the fair treatment of people of all races, cultures, and incomes with respect to the location of public facilities and the provision of public services. The proposed annexation is not expected to promote or discourage the fair treatment of minority or economically disadvantaged groups.

13. Disadvantaged Communities:

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

14. Comments from Affected Agencies/Other Interested Parties

No comments were received from other affected agencies or parties.

15. Regional Transportation and Regional Growth Plans:

In its review of a proposal, LAFCO shall consider a regional transportation plan adopted pursuant to Gov. Code §65080 [Gov. Code §56668(g)]. Further, the Commission may consider the regional growth goals and policies established by a collaboration of elected officials only, formally representing their local jurisdictions in an official capacity on a regional or subregional basis (Gov. Code §56668.5). Regarding these sections, LAFCO looks at consistency of the proposal with the regional transportation and other regional plans affecting the Bay Area.

SB 375, a landmark state law, requires California's regions to adopt plans and policies to reduce the generation of greenhouse gases (GHG), primarily from transportation. To implement SB

375, in July 2013, the Association of Bay Area Governments (ABAG) and the Metropolitan Transportation Commission (MTC) adopted Plan Bay Area as the “Regional Transportation Plan and Sustainable Communities Strategy” for the San Francisco Bay Area through 2040. Plan Bay Area focuses on where the region is expected to grow and how development patterns and the transportation network can work together to reduce GHG emissions. The Plan’s key goals are to reduce GHG emissions by specified amounts; and to plan sufficient housing for the region’s projected population over the next 25 years.

In July 2017, ABAG and MTC adopted Plan Bay Area 2040, which updates the 2013 Plan Bay Area and reaffirms the goals and targets identified in the earlier version. Plan Bay Area establishes “Priority Conservation Areas” (PCAs) and “Priority Development Areas” (PDAs), and focuses growth and development in nearly 200 PDAs. These existing neighborhoods are served by public transit and have been identified as appropriate for additional, compact development. The area proposed for annexation is not within a PCA or a PDA; however, the proposed annexation does not appear to conflict with the regional transportation or growth plans.

ALTERNATIVES FOR COMMISSION ACTION

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

Option 1 Approve the annexation as proposed with the addition of APN 430-161-004 (partial parcel).

- A. Find that, as a Responsible Agency under CEQA, the Commission has reviewed and considered information contained in the WCWD’s Notice of Exemption and LAFCO’s finding of exemption of APN 430-161-004.
- B. Adopt this report, approve LAFCO Resolution No. 17-11 (Attachment 2), and approve the proposal, to be known as *Kirkpatrick Drive Annexation to West County Wastewater District* subject to the following terms and conditions:
 1. The territory being annexed shall be liable for the continuation of any authorized or existing special taxes, assessments and charges comparable to properties presently within the annexing agency.
 2. The landowner applicant has delivered an executed indemnification agreement providing for WCWD to indemnify LAFCO against any expenses arising from any legal actions challenging the annexation.
- C. Find that the subject territory is uninhabited, that not all affected landowners have provided written consent to the proposed annexation, and a protest hearing is required.

Option 2 Approve the annexation of APN 430-161-021 as proposed.

- A. Find that, as a Responsible Agency under CEQA, the Commission has reviewed and considered information contained in the WCWD’s Notice of Exemption.
- B. Adopt this report, approve LAFCO Resolution No. 17-11 (Attachment 3), and approve the proposal, to be known as *Kirkpatrick Drive Annexation to West County Wastewater District* subject to the following terms and conditions:
 1. The territory being annexed shall be liable for the continuation of any authorized or existing special taxes, assessments and charges comparable to properties presently within the annexing agency.

3. The landowner applicant has delivered an executed indemnification agreement providing for WCWD to indemnify LAFCO against any expenses arising from any legal actions challenging the annexation.
- C. Find that the subject territory is uninhabited, that all affected landowners have provided written consent to the proposed annexation, and a protest hearing is waived.

Option 3 Adopt this report and DENY the proposal.

Option 4 If the Commission needs more information, CONTINUE this matter to a future meeting.

RECOMMENDED ACTION:

Option 1 – Approve the annexation as proposed.

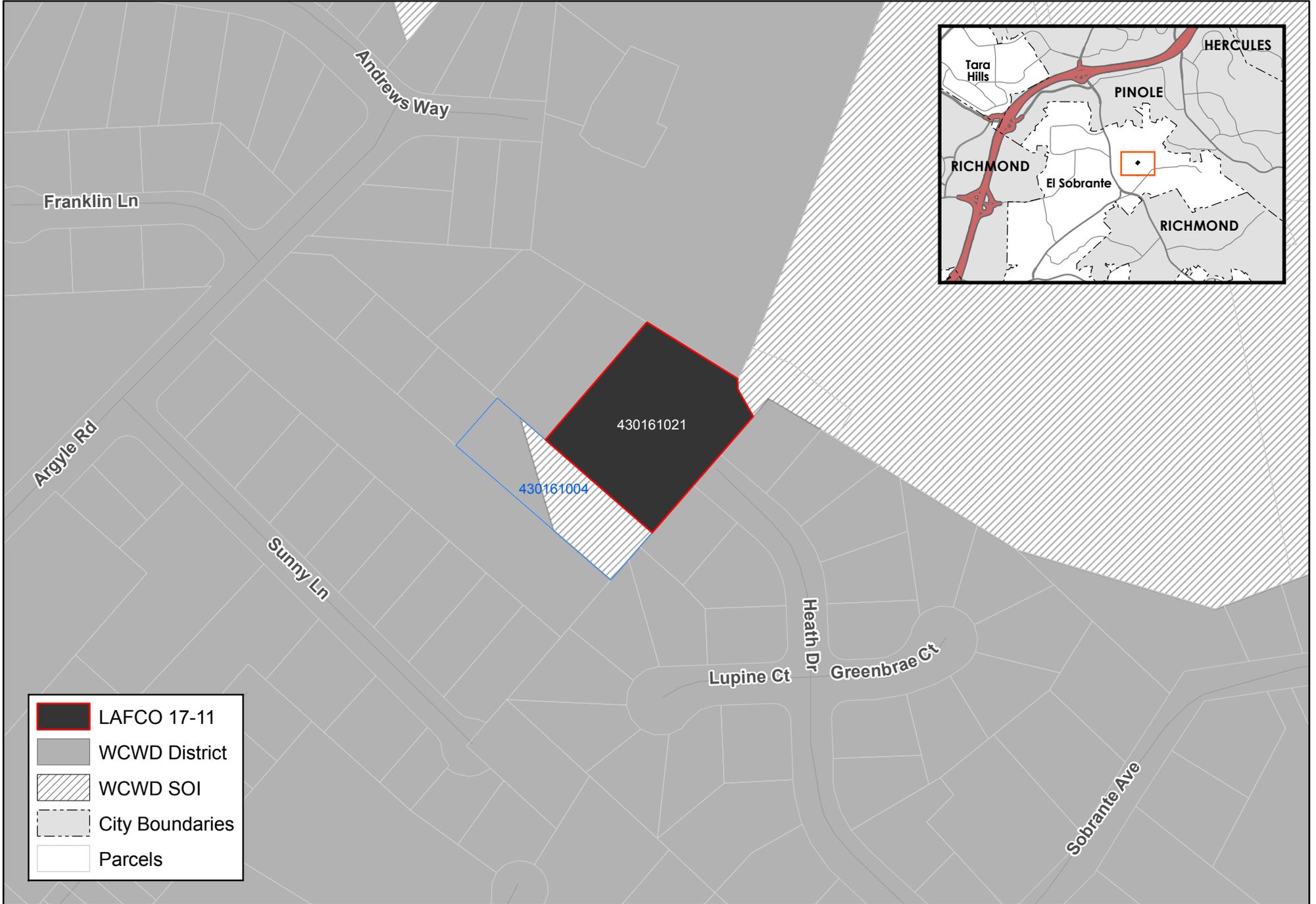
LOU ANN TEXEIRA, EXECUTIVE OFFICER
CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION

Attachments

- 1 – WCWD Annexation Map
- 2 – Draft LAFCO Resolution 17-11 (APNs 430-161-004 and -021)
- 3 - Draft LAFCO Resolution 17-11 (APN 430-161-021 only)

c: Distribution

LAFCO 17-11 39 Kirkpatrick Drive Annexation to West County Wastewater (WCWD)



-  LAFCO 17-11
-  WCWD District
-  WCWD SOI
-  City Boundaries
-  Parcels



RESOLUTION NO. 17-11

RESOLUTION OF THE CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
MAKING DETERMINATIONS AND APPROVING
**KIRKPATRICK DRIVE ANNEXATION TO
WEST COUNTY WASTEWATER DISTRICT
APNs 430-161-004 (partial) and 430-161-021**

WHEREAS, the above-referenced proposal has been filed with the Executive Officer of the Contra Costa Local Agency Formation Commission pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act (Section 56000 et seq. of the Government Code); and

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

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

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

WHEREAS, at a public hearing held on April 18, 2018, the Commission heard, discussed and considered all oral and written testimony related to the proposal including, but not limited to, the Executive Officer's report and recommendation, the environmental document or determination, applicable General and Specific Plans, consistency with the sphere of influence, contiguity with the district's boundary, and related factors and information including those contained in Gov. Code §56668; and

WHEREAS, in order to correct a boundary irregularity, APN 430-161-004 (partial parcel) has been added to the annexation proposal; and

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

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

1. LAFCO, as a Responsible Agency under the California Environmental Quality Act (CEQA), finds the proposed annexation exempt pursuant to CEQA Guidelines sections 15319, and 15061(b)(3).
2. The annexation is hereby approved.
3. The subject proposal is assigned the distinctive short-form designation:
KIRKPATRICK DRIVE ANNEXATION TO WEST COUNTY WASTEWATER DISTRICT
4. The boundaries of the affected territory, including one parcel (APN 430-161-021) and one partial parcel (APN 430-161-004), are found to be definite and certain as approved and set forth in Exhibit A, attached hereto and made a part hereof.

Contra Costa LAFCO
Resolution No. 17-11

5. The subject territory shall be liable for any authorized or existing taxes, charges and assessments comparable to properties within the annexing agency.
6. The subject landowner delivered an executed indemnification agreement between the landowner and Contra Costa LAFCO providing for the landowner to indemnify LAFCO against any expenses arising from any legal actions challenging the annexation.
7. The territory proposed for annexation is uninhabited.
8. The subject territory is uninhabited and not all affected landowners have provided written consent to the proposed annexation; thus, a protest hearing is required.
9. All subsequent proceedings in connection with this annexation shall be conducted only in compliance with the approved boundaries set forth in the attachments and any terms and conditions specified in this resolution.

PASSED AND ADOPTED THIS 18th day of April 2018, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

MICHAEL R, MCGILL, CHAIR, CONTRA COSTA LAFCO

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

Dated: April 18, 2018

Lou Ann Texeira, Executive Officer

RESOLUTION NO. 17-11

RESOLUTION OF THE CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
MAKING DETERMINATIONS AND APPROVING
**KIRKPATRICK DRIVE ANNEXATION TO
WEST COUNTY WASTEWATER DISTRICT
APN 430-161-021**

WHEREAS, the above-referenced proposal has been filed with the Executive Officer of the Contra Costa Local Agency Formation Commission pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act (Section 56000 et seq. of the Government Code); and

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

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

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

WHEREAS, at a public hearing held on April 18, 2018, the Commission heard, discussed and considered all oral and written testimony related to the proposal including, but not limited to, the Executive Officer's report and recommendation, the environmental document or determination, applicable General and Specific Plans, consistency with the sphere of influence, contiguity with the district's boundary, and related factors and information including those contained in Gov. Code §56668; and

WHEREAS, information satisfactory to the Commission has been presented that no affected landowners/registered voters within the annexation area object to the proposal; and

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

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

1. LAFCO, as a Responsible Agency under the California Environmental Quality Act (CEQA), finds the proposed annexation exempt pursuant to CEQA Guidelines sections 15319, and 15061(b)(3).
2. The annexation is hereby approved.
3. The subject proposal is assigned the distinctive short-form designation:
KIRKPATRICK DRIVE ANNEXATION TO WEST COUNTY WASTEWATER DISTRICT
4. The boundaries of the affected territory are found to be definite and certain as approved and set forth in Exhibit A, attached hereto and made a part hereof.

Contra Costa LAFCO
Resolution No. 17-11

5. The subject territory shall be liable for any authorized or existing taxes, charges and assessments comparable to properties within the annexing agency.
6. The subject landowner delivered an executed indemnification agreement between the landowner and Contra Costa LAFCO providing for the landowner to indemnify LAFCO against any expenses arising from any legal actions challenging the annexation.
7. The territory proposed for annexation is uninhabited.
8. The proposal has 100% landowner consent, and the conducting authority (protest) proceedings are hereby waived.
9. All subsequent proceedings in connection with this annexation shall be conducted only in compliance with the approved boundaries set forth in the attachments and any terms and conditions specified in this resolution.

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PASSED AND ADOPTED THIS 18th day of April 2018, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

MICHAEL R, MCGILL, CHAIR, CONTRA COSTA LAFCO

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

Dated: April 18, 2018

Lou Ann Texeira, Executive Officer