

CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
EXECUTIVE OFFICER'S REPORT

October 14, 2020 (Agenda)

October 14, 2020
Agenda Item 6

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| <u>LAFCO 20-04</u> | Meineke Annexation to East Bay Municipal Utility District (EBMUD) |
| <u>APPLICANT</u> | Michelle and Ryan Meineke, Landowners |
| <u>SYNOPSIS</u> | <p>The applicant proposes to annex three parcels (APNs 195-330-003/004, 195-320-007) to EBMUD. The parcels total 63.4± acres and are located on Caballo Ranchero Drive in unincorporated Diablo - see attached map (Exhibit A).</p> <p>The purpose of the proposal is to allow for the extension of municipal water service to the properties. Currently, there is a single-family home on one of the parcels. The other two parcels are vacant. The applicant intends to build a single-family home on one of the two vacant parcels. The proposed development is consistent with the County's land use designations.</p> |

BACKGROUND

On May 28, 2020, the landowners applied to Contra Costa LAFCO to annex the subject properties to EBMUD. Included with the application was a request that Alameda LAFCO transfer jurisdiction to Contra Costa LAFCO to process these applications. Alameda is the principal county for LAFCO proceedings [i.e., the principal LAFCO is the county having the greatest portion of the assessed value, as shown on the last equalized assessment roll, of all taxable property within the district - Government Code (CG) §56066].

On June 10, 2020, the Commission authorized staff to send a request to Alameda LAFCO to transfer jurisdiction. On September 10, 2020, Alameda LAFCO approved the request.

DISCUSSION

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

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

The area proposed for annexation is within the SOI of EBMUD and EBMUD staff does not oppose the proposed annexation. The subject area is an island with the EBMUD service boundary. Annexation of the subject parcels would eliminate the island.

The subject area is largely outside the Contra Costa County Urban Limit (ULL). APN 195-330-003 (0.68± acres) and 195-330-004 (57.72± acres) are mostly outside the ULL; APN 195-320-007 (5.0± acres) is split by the ULL. County staff is currently working with the landowners on a lot line adjustment and is aware of the proposed annexation. County staff is not opposed to the proposed annexation.

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

The County's General Plan (GP) designation for the subject properties is Agricultural Lands (AL) and the zoning designation is General Agricultural (A-2 - parcel 5-acre minimum).

The proposed annexation will facilitate development of property to include at least one single-family homes, which is consistent with the County's land use designations.

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

As noted above, the project site and areas to the immediate north and east are designated for agricultural use. The areas to the immediate south and west are developed with single-family

residential neighborhoods with lot sizes ranging from 15,000 sq. ft. minimum to 40,000 sq. ft. minimum. The subject parcels are not under a Williamson Act Land contract, and do not meet the LAFCO criteria for either "agricultural lands" (GC §56016) or "prime agricultural land" (GC §56064). The proposed land uses will not impact agricultural lands.

4. Topography, Natural Features and Drainage Basins:

The subject parcels are located in the unincorporated community of "Diablo" sited east of the Diablo Country Club and west of Diablo State Park. Elevation of the site ranges from 720 to 970 feet above mean sea level. Topography includes flat areas and rolling hills with a few steep areas. Land cover consists of open grass and shrubs with scattered oak trees. Surrounding areas include single family homes located with suburban neighborhoods to the south, southeast, and west, and mostly undeveloped land to the north.

5. Population:

The estimated population increase is approximately six persons, based on the 2020 California Department of Finance estimate of 2.82 persons per dwelling unit for two new dwelling units.

6. Fair Share of Regional Housing:

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

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

Whenever a local agency submits a resolution of application for a change of organization or reorganization, the local agency shall also submit a plan for providing services within the affected territory (Gov. Code §56653). The plan for services is available in the LAFCO office. The plan shall include all of the following information and any additional information required by the Commission or the Executive Officer:

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

The annexation area is currently served by various local agencies including, but not limited to, Contra Costa County, Central Contra Costa Sanitary District, Diablo Community Services District, and San Ramon Valley Fire Protection District.

The proposal before the Commission is annexation of three parcels to EBMUD for the provision of municipal water services to support one existing single-family home and up to two new single-family homes.

8. Timely Availability of Water and Related Issues:

Pursuant to the CKH, LAFCO must consider the timely and available supply of water in conjunction with a boundary change proposal. Contra Costa LAFCO policies state that any proposal for a change of organization that includes the provision of water service shall include information relating to

water supply, storage, treatment, distribution, and waste recovery; as well as adequacy of services, facilities, and improvements to be provided and financed by the agency responsible for the provision of such services, facilities and improvements.

The proposal includes annexation to EBMUD for the provision of water services. EBMUD provides potable water services and limited wastewater collection and treatment services in portions of the District's service area. The EBMUD service area is approximately 332 square miles (Contra Costa and Alameda counties). EBMUD provides potable water to approximately 1.4 million people within the two-county service area. Within Contra Costa County, EBMUD provides water service to a 225± square mile service area, serving an estimated 522,000 residents.

EBMUD's water supply is distributed through a collection system consisting of aqueducts, reservoirs, and other components. The primary source of water for EBMUD is the Mokelumne River; this watershed accounts for 90 percent of EBMUD's water supply. EBMUD's existing water rights allow the delivery of up to 325 mgd or approximately 364,037 acre-feet per year of water from the Mokelumne River.

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

The Freeport Regional Water Facility is a regional water supply project that provides supplemental water supply to EBMUD during dry years, as part of the Central Valley Project (CVP), a federal water management program. During periods of drought, EBMUD receives CVP water from its Freeport Regional Water Facility to augment its water supply. The U.S. Bureau of Reclamation (USBR) provides supplemental water supply during dry and multiple dry years to ensure the reliability of EBMUD's water supply. In conjunction with the request to annex the property, EBMUD must seek approval from the USBR for inclusion. Furthermore, the District may be required to obtain approval to update the District's Place-in-Use with the California Water Resources Control Board (SWRCB). To initiate the review and approval process with the USBR and SWRCB, the landowner must enter into an agreement with EBMUD to reimburse the District for all fees levied by these agencies.

Based on potential development of up to two new single-family dwelling units and extension of water service to the existing dwelling unit on APN 195-320-007, the estimated demand for service is approximately 450 gallons per day. Infrastructure will include appropriate appurtenances, a private water lateral, and a meter. EBMUD staff has provided a will serve letter indicating that municipal water service will be available following annexation.

9. Assessed Value, Tax Rates, and Indebtedness:

The annexation area is within tax rate area 66086. The assessed value for the annexation area is \$225,688 (2019-20 roll). The territory being annexed shall be liable for all authorized or existing taxes and bonded debt comparable to properties presently within the annexing agencies.

10. Environmental Impact of the Proposal:

LAFCO staff finds the proposed annexation of the subject parcels is exempt pursuant to the California Environmental Quality Act (CEQA) Guidelines sections 15303(a) and (d) and 15319.

11. Landowner Consent and Consent by Annexing Agency:

According to County Elections, there are fewer than 12 registered voters in the area proposed for annexation; thus, the area proposed for annexation is considered uninhabited. The property owners consent to the proposed annexation. Therefore, if the Commission approves the annexation, the Commission may waive the protest hearing (Gov. Code §56662).

All landowners and registered voters within the proposal area(s) and within 300 feet of the exterior boundaries of the area(s) were sent notice of the LAFCO hearing.

12. Boundaries and Lines of Assessment:

The annexation area is within EBMUD's SOI. A map and legal description to implement the proposed annexation have been received and are subject to final approval by the County Surveyor.

13. Environmental Justice:

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

14. Disadvantaged Communities:

In accordance with State legislation, 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 annexation area does not meet the criteria of a DUC.

15. Comments from Affected Agencies/Other Interested Parties:

As of this writing, no comments were received from other affected agencies or parties.

16. 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, the Association of Bay Area Governments and the Metropolitan Transportation Commission, in July 2013, 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/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.

- A. Find that the project is exempt pursuant to sections 15319(b) and 15303 of the CEQA Guidelines.
- B. Adopt this report, approve LAFCO Resolution No. 20-04 (Attachment 1), and approve the proposal, to be known as *Meineke Annexation to East Bay Municipal Utility District (EBMUD)* subject to the following terms and conditions:
 1. The territory being annexed shall be liable for the continuation of any authorized or existing special taxes, assessments, and charges comparable to properties presently within the annexing agency.
 2. The applicant/landowner has delivered an executed indemnification agreement providing for the applicant/landowner to indemnify LAFCO against any expenses arising from any legal actions challenging the annexation.
 3. Find that the subject territory is uninhabited, the subject landowner consents to the annexation; thus, the conducting authority (protest) proceedings are hereby waived.

Option 2 Adopt this report and DENY the proposal.

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

RECOMMENDED ACTION: Approve Option 1

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

Exhibit

Meineke Annexation Map – Exhibit A

Attachment

1 – Draft LAFCO Resolution 20-04

c: Michelle and Ryan Meineke, Landowners
Jack Flynn, EBMUD

RESOLUTION NO. 20-04

**RESOLUTION OF THE CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
MAKING DETERMINATIONS AND APPROVING
MEINEKE ANNEXATION TO EAST BAY MUNICIPAL UTILITY DISTRICT**

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 October 14, 2020, 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 interest 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. Find that the project is exempt pursuant to sections 15303(a) and (d) and 15319 of the CEQA Guidelines.
2. The landowner/applicant has delivered to LAFCO an executed indemnification agreement providing for the landowner/applicant to indemnify LAFCO against any expenses arising from any legal actions to challenging the annexation, and
3. The annexation is hereby approved.
4. The subject proposal is assigned the distinctive short-form designation:

MEINEKE ANNEXATION TO EAST BAY MUNICIPAL UTILITY DISTRICT

Contra Costa LAFCO
Resolution No. 20-04

5. The boundaries of the affected territory, including one parcel, are found to be definite and certain as approved and set forth in Exhibit A, attached hereto and made a part hereof.
6. The subject territory shall be liable for any authorized or existing taxes, charges and assessments comparable to properties within the annexing agency.
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.

* * * * *

PASSED AND ADOPTED THIS 14th day of October 2020, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

CANDACE ANDERSEN, CHAIR, CONTRA COSTA LAFCO

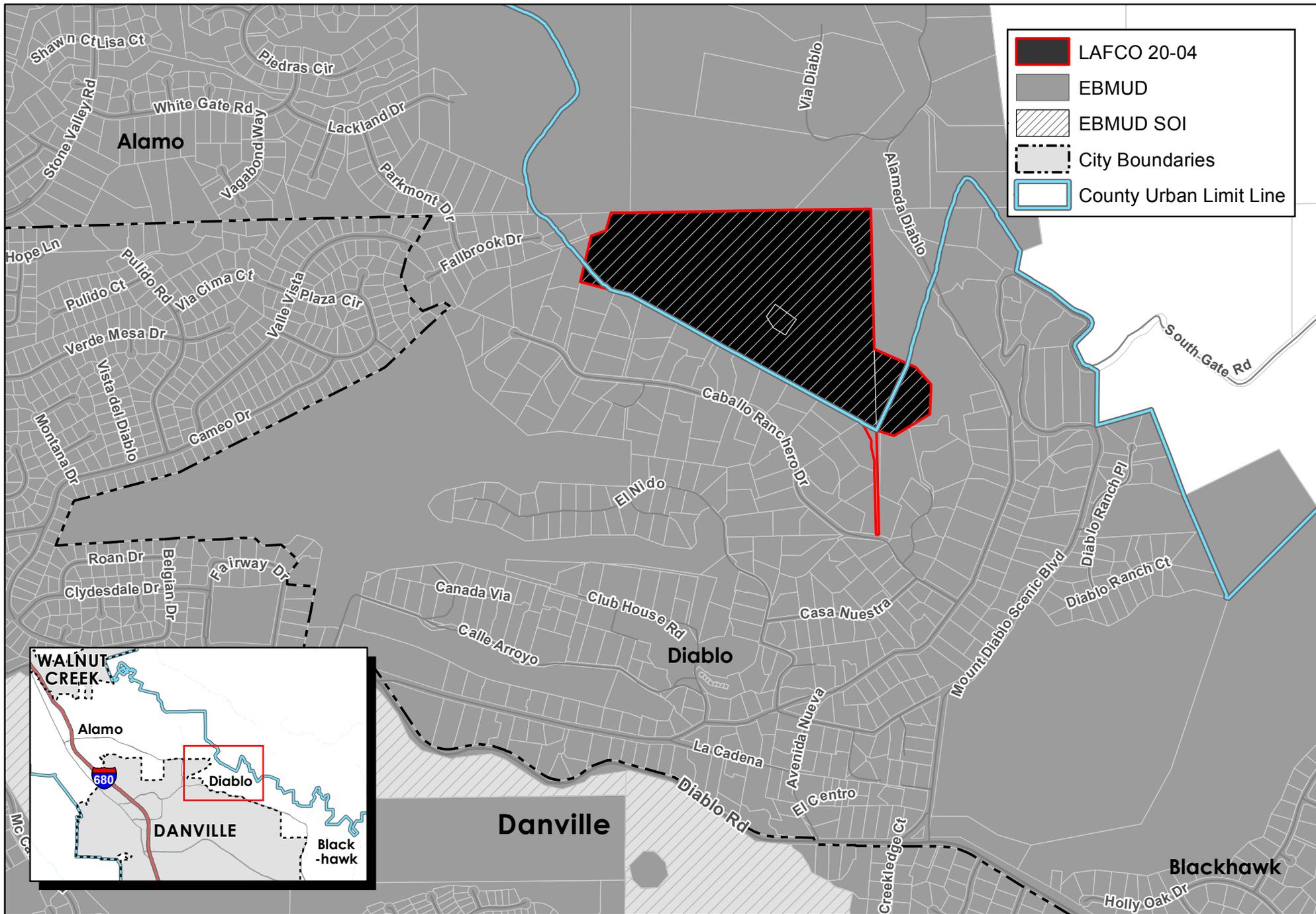
I hereby certify that this is a correct copy of a resolution passed and adopted by this Commission on the date stated.

Dated: October 14, 2020

Lou Ann Texeira, Executive Officer

LAFCO No.20-04 Meineke Trust Annexation to EBMUD

Exhibit A



Map created 06/01/2020
 by Contra Costa County Department of
 Conservation and Development, GIS Group
 30 Muir Road, Martinez, CA 94553
 37:59:41.791N 122:07:03.756W

This map or dataset was created by the Contra Costa County Department of Conservation and Development with data from the Contra Costa County GIS Program. Some base data, primarily City Limits, is derived from the CA State Board of Equalization's tax rate areas. While obligated to use this data the County assumes no responsibility for its accuracy. This map contains copyrighted information and may not be altered. It may be reproduced in its current state if the source is cited. Users of this map agree to read and accept the County of Contra Costa disclaimer of liability for geographic information.

