

CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION  
EXECUTIVE OFFICER'S REPORT

December 10, 2014 (Agenda)

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Agenda Item 6

LAFCO 14-06 Reorganization 187 (Podva) – Annexations to Central Contra Costa Sanitary District (CCCSD) and East Bay Municipal Utility District (EBMUD)

PROPONENT CCCSD by Resolution No. 2014-019 adopted June 19, 2014

SYNOPSIS The applicant proposes to annex 13.1± acres (partial parcel) of the total 108.85± acre parcel. The property is located directly west of the terminus of Midland Way in the Town of Danville as shown on the attached map (Attachment 1).

DISCUSSION

CCCSD filed an application with LAFCO to annex the properties to both CCCSD and EBMUD. The annexation area contains 20 residential lots and two common area properties. The remaining acreage is open space and will not require water or sewer services. The property owner has petitioned CCCSD for annexation.

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

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

The area proposed for annexation is within the SOIs of both CCCSD and EBMUD, and within the County Urban Limit Line.

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

The Town of Danville General Plan designation for the annexation area is Rural Residential, five-acre lot minimum (with clustering allowed). The Town's zoning designation is Planned Unit Development (P-1). A change from the General Agricultural District (A-2) designation occurred in April 2014 when the Podva property subdivision was approved by the Town. The entitlements for development of 20 single family residential units are complete. The subdivision map and grading and improvement plans are still in progress for construction of utilities and roadway infrastructure, which are expected to begin in 2015.

Surrounding land uses include single family residential uses to the east and north, and open space to the west and south.

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

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

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

The general topography of the site gently slopes uphill toward the west, transitioning to rolling hills offsite. To the west of the annexation area, the topography is relatively steep with uphill sloping terrain. North and south of the site, the terrain is gently sloping uphill toward the west. East of the site, the terrain flattens out through a graded residential neighborhood toward I-680.

**5. Population:**

Development of 20 single family homes is planned for the annexation area; two of the residential lots are authorized to build second units. The estimated population increase for the annexation area is approximately 61, based on 2014 California Department of Finance estimates for households in the Town of Danville. The estimate takes in account the 20 single family homes, plus the second 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 minimal 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 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 District's Plan for Providing Services is on file in the LAFCO office. The annexation area is served by various local agencies including, but not limited to, the Town of Danville and the San Ramon Valley Fire Protection District.

The proposal before the Commission is to annex the property to CCCSD and EBMUD for the provision of sanitary sewer and water services, respectively.

CCCSD currently serves an estimated population of 471,000 residents in a 144-square-mile service area. CCCSD's wastewater collection system consists of 1,500 miles of sewer mains with 19 pump stations. The majority of CCCSD's system operates with gravity flow with some pumping stations and force mains. All sewer connections to the subject property will be either gravity flow or individual residential pump systems. CCCSD's wastewater treatment plant provides secondary level treatment for an average dry weather flow of approximately 33.8 million gallons per day (mgd) of wastewater. The wastewater treatment plant has a permitted discharge limit of 53.8 mgd.

Based on the maximum number of dwelling units planned for the annexation area, the maximum demand for service is approximately 4,290 gallons of wastewater per day. CCCSD has the capacity to serve the project.

CCCSD has infrastructure in the area and serves a significant number of surrounding properties.

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

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

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

The proposal also includes annexation to EBMUD. EBMUD provides water services along with wastewater collection and treatment services in portions of the District. The EBMUD service area is approximately 331 square miles (Contra Costa and Alameda counties). EBMUD provides potable water to approximately 1.3 million people within the two-county service area. Within Contra Costa County, EBMUD provides water service to a 146± square mile service area, serving an estimated 477,212 residents.

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

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

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

The Podva project would require the construction of new water mains, at the project sponsor's expense, to the project site, and within the development area. Upon extension of the water mains, the proposed development would be served by EBMUD's San Ramon Pressure Zone with a service elevation between 450 and 650 feet. The nearest water main in the San Ramon Pressure Zone is located in Westridge Avenue, approximately 300 feet south of Midland Way. Off-site pipeline improvements, also at the project sponsor's expense, may be required to meet fire flow requirements set by the local fire agency. Off-site pipeline improvements include, but are not limited to, replacement of existing water mains to the project site.

A new water main would need to be extended from the Westridge Avenue water main and through the project site within the roadway alignment for the approved new internal roadway network. New water mains and off-site pipeline improvements will be determined once the project sponsor applies for water service to EBMUD's New Business Office. Appropriately sized service laterals and water meters would be constructed for each lot. The development's expected water demand is 1,680 gallons per day. EBMUD has the capacity to serve the project.

The costs associated with water supply infrastructure (i.e., new water mains and off-site pipeline improvements), as well as development impact and service connection fees, will be borne by the project sponsors. Ongoing maintenance of the system will be funded through usage fees collected by EBMUD.

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

The annexation area is within tax rate area 16003. The assessed value for the annexation area is \$130,586 (2014-15 roll). The territory being annexed shall be liable for all authorized or existing taxes comparable to properties presently within the annexing agencies.

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

On April 1, 2014, The Town of Danville, as Lead Agency, certified an Environmental Impact Report (EIR), adopted Findings of Fact, and adopted Mitigation Measures and a Mitigation Monitoring and Reporting Program in conjunction with the development project. Copies of these documents were previously provided to the Commissioners and are available for review in the LAFCO office.

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

According to County Elections, there are fewer than 12 registered voters in the area proposed for annexation; thus, the area proposed for annexation is considered uninhabited.

CCCSD indicates that 100% of the affected landowners have provided written consent to the annexation. Thus, if the Commission approves the annexation, the Commission may waive the protest hearing (Gov. Code §56662). All landowners and registered voters within the proposal area(s) and within 300 feet of the exterior boundaries of the area(s) have received notice of the December 10 hearing.

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

The annexation area is within the SOIs of both CCCSD and EBMUD and is contiguous to the districts' service boundaries. A map and legal description to implement the proposed boundary changes have been received and are being reviewed 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 recent legislation (SB 244), local agencies and LAFCOs are required to plan for disadvantaged unincorporated communities (DUCs). Many of these communities lack basic infrastructure, including streets, sidewalks, storm drainage, clean drinking water, and adequate sewer service. LAFCO actions relating to Municipal Service Reviews, SOI reviews/amendments, and annexations must take into consideration DUCs, and specifically the adequacy of public services, including sewer, water, and fire protection needs or deficiencies, to these communities. According to the County Planning Department, the annexation area does not meet the criteria of a DUC.

#### ALTERNATIVES FOR COMMISSION ACTION

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

##### **Option 1**      Approve the reorganization.

- A. Find that, as a Responsible Agency under CEQA, the Commission has reviewed and considered the information contained in the Podva Property – Residential Development EIR and related environmental documents as certified by the Town of Danville on April 1, 2014; and that the Commission adopts the Town of Danville's Findings of Fact and Statement of Overriding Considerations.
- B. Adopt this report, approve LAFCO Resolution No. 14-06 (Attachment 2), and approve the proposal, to be known as Reorganization 187 (Podva) – Annexations to CCCSD and EBMUD subject to the following terms and conditions:
  - 1. The territory being annexed shall be liable for the continuation of any authorized or existing special taxes, assessments and charges comparable to properties presently within the annexing agency.
  - 2. That CCCSD has delivered an executed indemnification agreement providing for CCCSD to indemnify LAFCO against any expenses arising from any legal actions challenging the annexation.
- C. Find that the subject territory is uninhabited, the proposal has 100% landowner consent, and the conducting authority (protest) proceedings are hereby waived.

##### **Option 2**      Adopt this report and DENY the proposal.

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

#### RECOMMENDED ACTION:

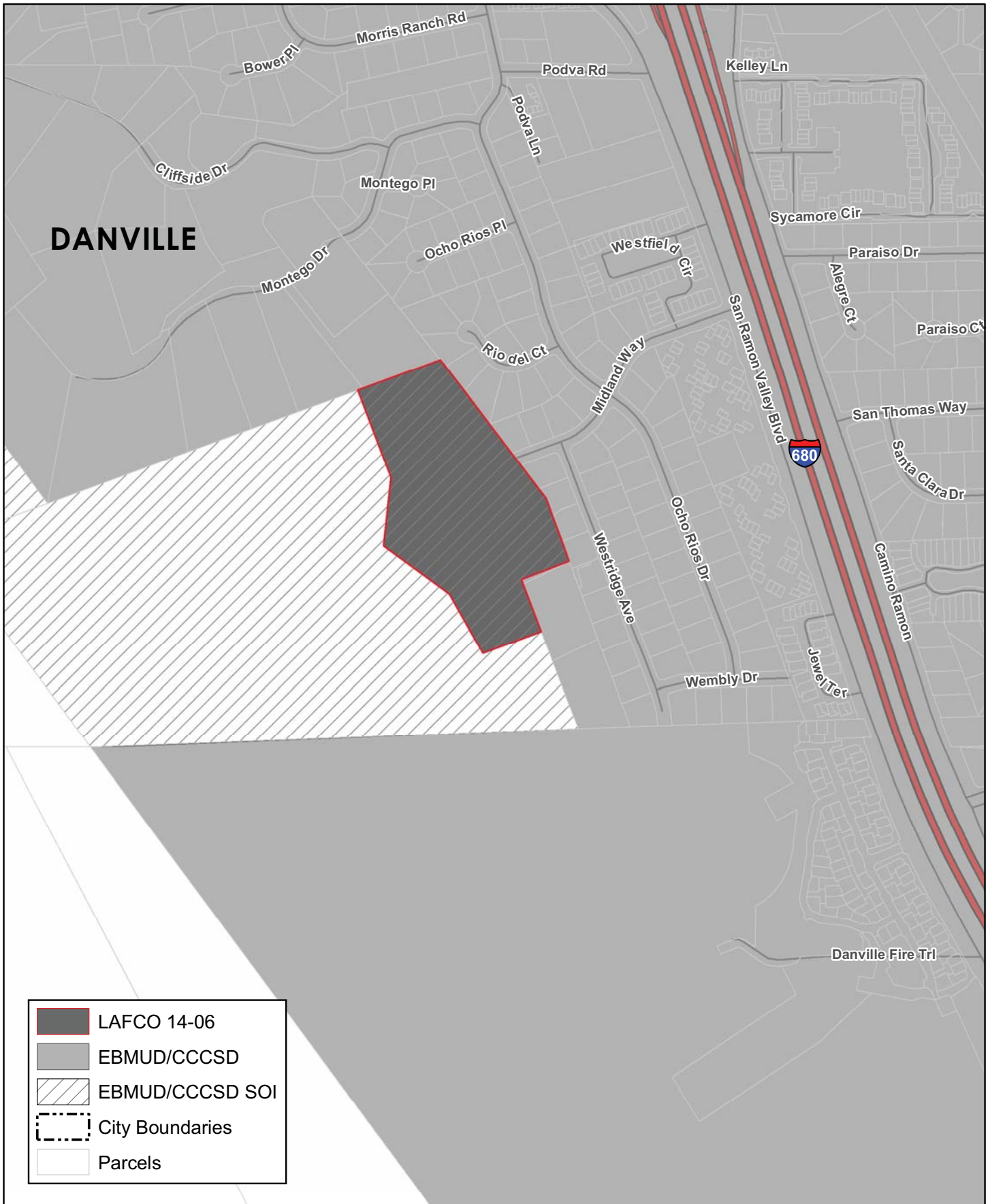
##### **Approve Option 1.**

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

#### Attachments

- 1 – CCCSD/EBMUD Annexation Map
- 2 – Draft LAFCO Resolution 14-06

LAFCO No. 14-06: Annexation 187 Povda to East Bay Municipal Utilities District and Central Contra Costa Sanitary District



**RESOLUTION NO. 14-06**

**RESOLUTION OF THE CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION  
MAKING DETERMINATIONS AND APPROVING REORGANIZATION 187 (PODVA):  
ANNEXATIONS TO CENTRAL CONTRA COSTA SANITARY DISTRICT AND  
EAST BAY MUNICIPAL UTILITY DISTRICT**

**WHEREAS**, a proposal to annex territory to both the Central Contra Costa Sanitary District (CCCSD) and the East Bay Municipal Utility District (EBMUD) was filed with Executive Officer of the Contra Costa Local Agency Formation Commission pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act (Government Code section 56000 et seq.); 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 December 10, 2014, 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, consistency with the sphere of influence, contiguity with the districts' boundaries, and related factors and information including those contained in Gov. Code §56668; and

**WHEREAS**, information satisfactory to the Commission has been presented that all the owners of land within the affected territory have given their written consent to the proposal; and

**WHEREAS**, the Local Agency Formation Commission finds the proposal to be in the best interest of the affected area and the total organization of local governmental agencies within Contra Costa County.

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

1. Find that, as a Responsible Agency under CEQA, the Commission has reviewed and considered the information contained in the Podva Property – Residential Development EIR and related environmental documents as certified by the Town of Danville on April 1, 2014; and that the Commission adopts the Town of Danville's Findings of Fact and Statement of Overriding Considerations.
2. Said reorganization is hereby approved.
3. The subject proposal is assigned the distinctive short-form designation:  
**REORGANIZATION 187: ANNEXATIONS TO THE CENTRAL CONTRA COSTA  
SANITARY DISTRICT AND EAST BAY MUNICIPAL UTILITY DISTRICT**
4. Said territory is found to be uninhabited.
5. The proposal has 100% landowner consent; the annexing agencies consent to the waiver of conducting authority proceedings; said conducting authority proceedings are hereby waived.
6. The boundaries of the affected territory are found to be definite and certain as approved and set forth in Attachment 1, attached hereto and made a part hereof.

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7. The subject territory shall be liable for any existing bonded indebtedness of the annexing agencies, if applicable.
8. The subject territory shall be liable for any authorized or existing taxes, charges, and assessments comparable to properties within the annexing agencies.
9. CCCSD delivered an executed indemnification agreement providing for the District to indemnify LAFCO against any expenses arising from any legal actions challenging the reorganization.
10. 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.

\* \* \* \* \*

PASSED AND ADOPTED THIS 10<sup>TH</sup> day of DECEMBER 2014, by the following vote:

AYES:  
NOES:  
ABSTENTIONS:  
ABSENT:

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ROB SCHRODER, INTERIM CHAIR, CONTRA COSTA LAFCO

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

Dated: December 10, 2014

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Lou Ann Texeira, Executive Officer