

CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION  
EXECUTIVE OFFICER'S REPORT

August 14, 2019 (Agenda)

August 14, 2019 Agenda Item 6
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<u>LAFCO 18-04</u>	Wang Reorganization: Annexation to City of El Cerrito and Detachment from City of Richmond
<u>PROPONENT</u>	Kevin Wang, Landowner
<u>SYNOPSIS</u>	This is an application to annex 0.07± acres (APN 509-110-017) to the City of El Cerrito and detach the same property from the City of Richmond. The property is located on Jefferson Avenue in the City of Richmond (Exhibit 1). The boundary changes will ensure a more logical boundary to support future development in the area as described below.

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:**

On July 10, 2019, the Commission added the subject property to the City of El Cerrito's SOI and removed the same area from the City of Richmond's SOI. The proposed annexation and corresponding detachment are consistent with the amended SOIs. The subject property is within the County's Urban Limit Line.

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

The existing land use includes a one-story retail building and surface parking. The current zoning designations include TOMIMU (Transit Oriented Mid-Intensity Mixed Use) - City of El Cerrito, and RM-1(Medium Density Multi-Family Residential) - City of Richmond; and the General Plan designations include TOMIMU - City of El Cerrito, and Medium Density Residential - City of Richmond.

In 2014, the City of El Cerrito adopted the San Pablo Avenue Specific Plan (SPASP) which provides guidance for the future development along a stretch of San Pablo Avenue. The SPASP provides the basis for future development of 1,706 residential units, and 243,112 square feet of commercial space. The proposed development on the subject parcel and adjacent parcel includes commercial use, parking, 50 residential units, and related amenities. The cities of El Cerrito and Richmond have provisions for dealing with development in accordance with the SPASP relating to parcels that cross jurisdictional boundaries, land acreage and design review.

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

The current and future land use on the subject property is mixed use (e.g., commercial, residential) and will have no impact agricultural and open space lands. The subject property is not subject to a Williamson Act contract.

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

The subject property is in an urban neighborhood located near the intersection of Jefferson Avenue and San Pablo Avenue. The area is surrounded by streetscapes, buildings and trees. There are no significant natural features in the area.

**5. Population:**

The current population in the area is zero, as the land use is retail and parking. The proposed land use includes construction of 50 units of multi-family housing with ground floor retail. The potential population resulting from this proposal is approximately 126 based on U.S. Census Bureau; American Community Survey, 5-Year Estimates 2013-2017.

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

In its review of a proposal, LAFCO must consider the extent to which the proposal will assist the receiving entity in achieving its fair share of the regional housing needs as determined by the regional council of governments. Regional housing needs are determined by the State Department of Housing and Community Development; and the councils of government throughout the State allocate to each jurisdiction a "fair share" of the regional housing needs (GC §65584).

In Contra Costa County, the Association of Bay Area Governments (ABAG) determines each city's fair share of regional housing needs. Each jurisdiction is required, in turn, to incorporate its fair share of the regional housing needs into the housing element of its General Plan. On July 18, 2013, ABAG adopted the 2015-2023 Regional Housing Needs Allocation (RHNA) Plan for the San Francisco Bay Area. The RHNA Plan includes the following allocations for the City of El Cerrito: total RHNA is calculated at 398 units, including 166 above moderate, 69 moderate, 63 low and 100 very low-income units.

The proposed annexation includes 50 multi-family housing units, all of which will be at market rate. These dwelling units will contribute to meeting the overall share of housing units allocated to the City of El Cerrito.

**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 subject property is within the boundaries of various municipal service agencies including the City of Richmond and East Bay Municipal Utility District (EBMUD). The subject parcel is not within the Stege Sanitary District (SSD) boundary. If sewer service is needed, an SOI amendment and corresponding annexation to the SSD is required.

The proposed boundary changes will bring the subject area into the service boundary of the City of El Cerrito to enable the City of El Cerrito to extend city services to the subject property.

**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 boundary change proposals. 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 subject property is currently served by EBMUD and will continue to be served by EBMUD following the boundary changes. The City of El Cerrito assessed the demand and capacity of EBMUD water in conjunction with the 2014 San Pablo Avenue Specific Plan Environmental Impact Report (EIR). The EIR concluded that the project would have minimal impact on water supply.

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

The annexation area is within tax rate area 08001. The assessed value for the annexation area is \$205,020 (2018-19 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.

The property tax exchange between the two cities is consistent within past practice. The County Auditor will adjust the property tax following completion of the annexation. The City of El Cerrito indicates that prior to issuance of the Certificate of Occupancy, the applicant (Kevin Wang) shall fund a study to inform a possible revenue sharing agreement between the cities of El Cerrito and Richmond.

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

In 2014, the City of El Cerrito, as Lead Agency, prepared an Environmental Impact Report (EIR) in conjunction with the SPASP. Also, in 2018, the City prepared a consistency analysis confirming that the subject area and proposed development project are within the planning area of the SPASP, and would have no new significant environmental effects nor substantially increase the severity of previously identified significant effects. Further, that no new mitigation measures are required beyond those identified in the SPASP EIR.

In conjunction with the SOI and boundary change proposals, the City of El Cerrito determined that the inclusion of APN 509-110-017 within El Cerrito's SOI/boundary and the removal of the subject parcel from the City of Richmond's SOI/boundary are actions that are exempt from further review under the California Environmental Quality Act (CEQA) pursuant to Section 15319 of the CEQA Guidelines and the general rule contained in Section 15061(b)(3).

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

All landowners within the proposal area and within 300 feet of the subject area received notice of the LAFCO hearing. The sole landowner is the applicant and has consented to the proposed annexation. County Elections reports there are no registered voters on the subject property; therefore, the subject area is considered uninhabited and the protest hearing is waived.

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

Maps and legal descriptions to implement the proposed annexations 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 a 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.

**14. Disadvantaged Communities:**

Pursuant to SB 244, local agencies and LAFCOs are required to plan for disadvantaged unincorporated communities (DUCs). Many of these communities lack basic infrastructure, including streets, sidewalks, storm drainage, clean drinking water, and adequate sewer service. LAFCO actions relating to Municipal Service Reviews, SOI reviews/ amendments, and annexations must take into consideration DUCs, and specifically the adequacy of public services, including sewer, water, and fire protection needs or deficiencies, to these communities. According to the County’s Department of Conservation and Development, the annexation area does not meet the criteria of a DUC.

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

To date LAFCO has received no comments.

**16. Regional Transportation and Regional Growth Plans:**

In its review of a proposal, LAFCO shall consider a regional transportation plan adopted pursuant to Section 65080 [Gov. Code section 56668(g)]. Further, the commission may consider the regional growth goals and policies established by a collaboration of elected officials only, formally representing their local jurisdictions in an official capacity on a regional or subregional basis (Gov. Code section 56668.5).

Regarding these sections, LAFCO looks at consistency of the proposal with the regional transportation and other regional plans affecting the Bay Area.

SB 375, a landmark state law, requires California’s regions to adopt plans and policies to reduce the generation of greenhouse gases (GHG), primarily from transportation. To implement SB 375, in July 2013, the Association of Bay Area Governments (ABAG) and the Metropolitan Transportation Commission (MTC) adopted Plan Bay Area. In 2017, ABAG/MTC released Plan Bay Area 2040, which updated the 2013 Plan Bay Area; and in August/September 2019, ABAG/MTC will kick off the Plan Bay Area 2050 process.

The Plan 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 directs future development to infill areas within the existing urban footprint and focuses most growth in self-identified Priority Development Areas (PDAs). PDAs include infill areas that are served by transit and located close to other amenities, allowing for improved transit, bicycle and pedestrian access thereby reducing GHG. The Plan also aims to protect open space and agricultural land by directing 100% of the region’s growth inside the year 2010 urban footprint, which means that all growth occurs as infill development or within established urban growth boundaries or urban limit lines. Further, the Plan designates Priority Conservation Areas (PCAs) which are regionally significant open spaces which have broad agreement for long-term protection.

The subject property is located in a “PDA” and is not designated as a “PCA.”

## 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 CEQA Guidelines sections 15319 and 15061(b)(3) consistent with the determination of ECCID, as Lead Agency.
- B. Adopt this report, approve LAFCO Resolution No. 18-04 (Exhibit 2), and approve the proposal, to be known as the ***Wang Reorganization: Annexation to City of El Cerrito and Detachment from City of Richmond*** subject to the following terms and conditions:
  1. This annexation will allow the delivery of municipal services by the City of El Cerrito, as confirmed by the City.
  2. The territory being annexed shall be liable for the continuation of any authorized or existing special taxes, assessments and charges comparable to properties presently within the annexing agencies.
  3. The landowner has delivered an executed indemnification agreement providing for the landowner to indemnify LAFCO against any expenses arising from any legal actions challenging the annexation.
  4. The territory proposed for annexation is uninhabited.
  5. The proposal has 100% landowner consent, and the conducting authority (protest) proceedings are hereby waived.

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

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

## RECOMMENDED ACTION:

### **Option 1 – Approve the annexation ECCID proposed.**

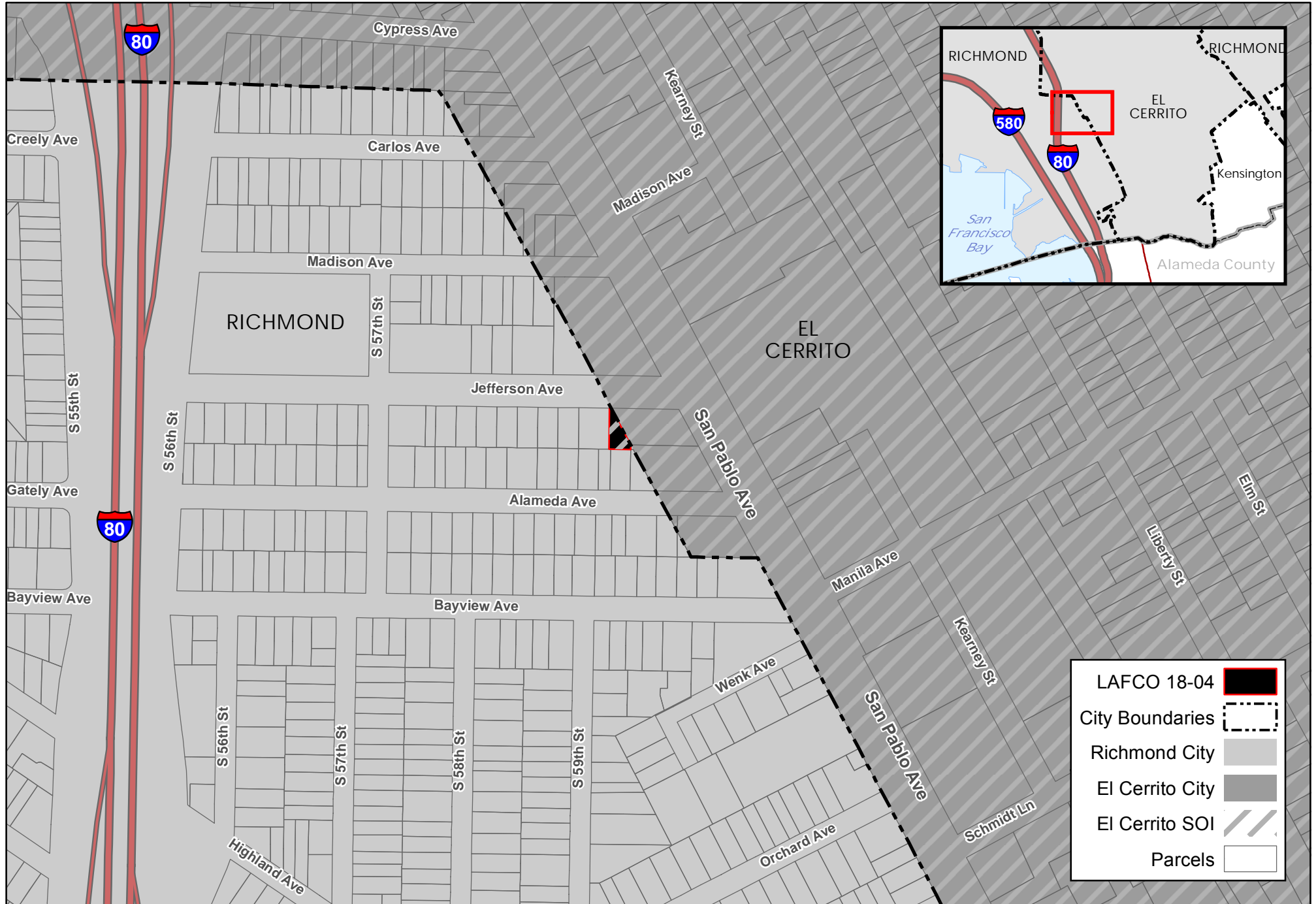
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LOU ANN TEXEIRA, EXECUTIVE OFFICER  
CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION

Exhibits:

- 1 – Annexation Map
- 2 – Draft LAFCO Resolution 18-04

c:      Kevin Wang - Landowner  
         Sean Moss, Planning Manager, City of El Cerrito  
         Lina Velasco, Director of Planning and Building Services, City of Richmond  
         Kathy Truong, Wang Bros. Investments  
         Patrick Tami, R.E.Y. Engineers, Inc.  
         Chris Martin, R.E.Y. Engineers, Inc.

# LAFCO 18-04 – Wang Reorganization: Annexation to El Cerrito, Detachment from Richmond (APN 509-110-017)



**RESOLUTION NO. 18-04**

**RESOLUTION OF THE CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION  
MAKING DETERMINATIONS AND APPROVING  
WANG REORGANIZATION: ANNEXATION TO CITY OF EL CERRITO AND  
DETACHMENT FROM CITY OF RICHMOND**

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

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

WHEREAS, the Commission held a public hearing on August 14, 2019, on the Wang Reorganization proposal; and

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

WHEREAS, no subsequent change may be made to the general plan or zoning for the annexed territory that is not in conformance to the prezoning designations for a period of two years after the completion of the annexation, unless the legislative body for the City of El Cerrito makes a finding at a public hearing that a substantial change has occurred in circumstances that necessitate a departure from the prezoning in the application to the Commission [Government Code §56375(e)].

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

1. As a Responsible Agency, find that boundary changes are exempt from review under the California Environmental Quality Act (CEQA) pursuant to Section 15319 of the CEQA Guidelines and the general rule contained in Section 15061(b)(3), consistent with the determinations made by the City of El Cerrito.
2. Said reorganization is hereby approved.
3. The subject proposal is assigned the distinctive short-form designation:  
**WANG REORGANIZATION: ANNEXATION TO CITY OF EL CERRITO AND  
DETACHMENT FROM CITY OF RICHMOND**
4. 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.
5. Approval of the Wang Reorganization is subject to the following:
  - a. The territory being annexed shall be liable for the continuation of any authorized or existing special taxes, assessments and charges comparable to properties presently within the annexing agency.
  - b. The landowner applicant has delivered an executed indemnification agreement between the landowner and Contra Costa LAFCO providing for the landowner applicant to indemnify LAFCO against any expenses arising from any legal actions challenging the Wang Reorganization.

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- c. The annexation will allow for the provision of municipal services to the subject by the City of El Cerrito, as confirmed by the City.
6. Find that the subject territory is uninhabited, the proposal has 100% landowner consent, and the conducting authority (protest) proceedings are hereby waived.
7. All subsequent proceedings in connection with the Wang Reorganization shall be conducted only in compliance with the approved boundaries set forth in this resolution.

\* \* \* \* \*

PASSED AND ADOPTED THIS 14<sup>th</sup> day of August 2019, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

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TOM BUTT, 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: August 14, 2019

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Lou Ann Texeira, Executive Officer