

CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION  
EXECUTIVE OFFICER'S REPORT

April 13, 2022 (Agenda)

**April 13, 2022  
Agenda Item 8**

LAFCO 21-07 Annexation to Town of Discovery Bay Community Services District (DBCSD) – Pantages Project

APPLICANT DBCSD

SYNOPSIS This is an application to annex nine parcels and adjacent roadway totaling 205.21± acres to DBCSD. The subject areas include vacant land (subdivision site) located at the eastern terminus of Point of Timber Road (east of Bixler Road), along with the Newport Well site located at the intersection of Newport Drive and Bolinas Place, and Wastewater Plant No. 2 site located at 17501 Highway 4 (Discovery Bay). These areas are adjacent to the DBCSD service boundary as shown on the attached map (Exhibit A). The annexation does not include APN 004-010-006 that was part of the SOI amendment. This parcel will be transferred to ECCID for future maintenance of the ECCID facilities.

The purpose of the proposal is to allow for the extension of municipal services including water, wastewater, levee maintenance, parks and recreation, lighting, and landscaping to the subject areas. Currently, the parcels are vacant. Proposed development includes construction of 277 single-family residential homes (Pantages subdivision) various amenities including two lakes with bio-retention areas, public roads, open space areas, parks, two trail systems, a future clubhouse, and a recreation area in accordance with the project as approved by Contra Costa County.

On March 9, 2022, the Commission approved the expansion of the DBCSD sphere of influence to include the subject area.

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 DBCSD as amended by the Commission on March 9, 2022.

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

The subject areas are located within the voter approved Urban Limit Line. The project area is considered infill development as it is surrounded to the south, east and west by residential development. The County’s General Plan and Zoning designations for the subject areas are shown in the table below:

Area	General Plan	Zoning
Pantages (Subdivision)	Single-Family High (SH); Parks & Recreation (PR); Water (WA); Open Space (OS)	Planned Unit District (P-1) and Urban Farm Animal Exclusion Overlay (UE)
Newport Well site	Public/Semi-public (PS)	Agricultural (A-3)
Wastewater Plant No. 2 site	Public/Semi-public (PS)	Agricultural (A-3)

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

The project site was previously zoned "General Agricultural District" (A-2) and Heavy Agricultural District (A-3). The County's 2013 Draft Environmental Impact Report (DEIR) determined that the project site did not contain Prime Farmland, Unique Farmland, Farmland of Statewide Importance, forest land, or land under a Williamson Act contract. LAFCO statutes include specific definitions for prime agricultural, agricultural, and open space lands.

As a Responsible Agency pursuant to the California Environmental Quality Act (CEQA), LAFCO staff provided various comment letters in response to the County's environmental documents, noting the importance to LAFCO of preserving agricultural and open space lands. One of the factors LAFCO must consider in its review of a proposal is impacts to *agricultural lands* (GC section 56016), *prime agricultural land* (GC section 56064), and *open space land* (GC section 56059). The County's DEIR noted the conversion of agricultural land to urban uses was *considerable and unavoidable*. The DEIR also noted that the subject parcels are not under a Williamson Act Land contract, and the project does not meet the definition of *prime agricultural land* as defined in GC section 56064. The County's CEQA documents did not require any specific conditions relating to agricultural/open space.

The developer notes that the project retains 66± acres of open space and adds parks along the northern edge of the future home sites. In addition, a 23-acre lake will be built in the interior of the project's overall footprint, thus providing open space. Also, there will be a trail system through the parks and along Kellogg Creek that will provide the public access to Kellogg Creek.

Surrounding land uses include Kellogg Creek and residential uses to the east, residential subdivisions to the west, an East Contra Costa Irrigation District channel to the north, and Kellogg Creek and residential uses to the south.

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

The Pantages site is mostly flat, except for shallow depressions that host seasonal wetlands, and a relatively deep depression in the north that contains emergent marsh and areas of disturbance. The application indicates that the wetland resources will be avoided, and fill will be brought into the disturbed areas to raise a portion of the site to accommodate the development. The project was modified in 2020 to avoid or minimize impacts to aquatic resources including wetland complexes and Kellogg Creek. As modified, the project will preserve on-site wetland features, will be set back from Kellogg Creek (by approximately 70 feet), and will not increase boat activity in the area. The Newport Well Site is flat with no significant natural features; and the Wastewater Plant No. 2 site is mostly flat with no significant natural features.

The area surrounding the Pantages site is mostly flat; and to the west there are residential subdivisions. The rest of the proposal area is surrounded by water - Kellogg Creek and the ECCID dredge cut (i.e., channel). The area surrounding the Newport Well Site is mostly flat with residential properties to the East. The area surrounding Wastewater Plant No. 2 is mostly flat with residential properties to the north-west across Highway 4.

### **5. Population:**

The average household size in Discovery Bay is 2.95 people, with an average family size of 3.20 people (Data Source: 2019 American Community Survey, 5-year estimates). With 277 single family homes, the population increase is approximately 817 people.

## 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 project description states that of the 277 units, 15% (41 units) will be affordable. Of the 41 units, 80% (33 units) will be affordable to “moderate” income households and 20% (eight) will be affordable to “low” income households. The project will add to the County’s housing stock.

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

If a proposal for a change of organization or reorganization is submitted, the applicant shall also submit a plan for providing services within the affected territory (GC §56653). The plan for services is included with the application. The plan shall include all 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 and East Contra Costa Fire Protection District.

DBCSD provides water supply, sewage collection, treatment, and disposal; parks and recreation, lighting, landscaping, maintenance, and levee maintenance services to approximately 15,000 residents.

Regarding **wastewater**, the District’s wastewater collection system consists of 50 miles of sewer mains, 15 lift stations, and two wastewater treatment plants; both plants are operational with one plant as a back-up. Maximum flow of both plants combined is 2.35 million gallons per day (mgd). Current demand is 1.4 mgd. The primary disposal method is secondary treatment, UV disinfection, and discharge into Old River.

The sewer connections are gravity flow to a single pump station. The proposed development will include a new sewer lift station that will collect all wastewater from the subdivision and pump it to the existing sewer system and eventually to the District’s wastewater treatment plant.

Based on the proposed development of 277 single-family residential units, the estimated demand for sewer service is approximately 230 gallons of wastewater per day (gpd) per house totaling 63,710 gpd. DBCSD has infrastructure in the area and serves surrounding properties.

## 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.

Regarding **water service**, DBCSD provides potable water services within its service area. Water infrastructure includes two water treatment plants (WTPs) that feed into one distribution system, four

water storage tanks, booster pumps, and 46 miles of mainland pipe. Storage capacity at the Willow Lake WTP is 1.5 million gallons (MG) and storage capacity at the Newport WTP is 1.0 MG. The primary source of water is through six groundwater supply wells, with mobile generators for backup power as needed. Discovery Bay groundwater is in the newly designated East Contra Costa Sub-basin (formerly called the Tracy Sub-basin).

Based on the proposed development of 277 single-family residential units, the estimated demand for water service is approximately 1,196 gpd per house totaling 400,781 gpd including park area water needs. This water demand was accounted for in DBCSD's 2020 Urban Water Management Plan.

The project will include a water system of networks consisting of water mains, service laterals, and fire hydrants that will be constructed to the District's standards and sized to meet the domestic and fire safety demands of the Pantages development project. DBCSD is currently in the beginning stages of designing a new water well which is expected to be in service by Fall 2023. The new well will enhance water system dependability and will be in service in time to meet full buildout demand of the Pantages project.

DBCSD staff indicates they have the capacity to provide wastewater, water, and other municipal services to the project. Costs associated with wastewater and water infrastructure, including capital improvements, operation, and ongoing maintenance will be funded by the developer, homeowner's association, and DBCSD.

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

The annexation area is within tax rate areas 60013, 60049, and 60022. The assessed value for the annexation area is \$7,953,693 (2020-21 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:**

In conjunction with the Pantages development project, Contra Costa County, as Lead Agency, prepared and certified an Environmental Impact Report (EIR) and addendums in conjunction with the Pantages Bays Residential Development Project. In addition, DBCSD prepared a Notice of Exemption in conjunction with annexation of areas containing the existing Newport Water Treatment Plant and Wastewater Plant No. 2.

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

The DBCSD is the applicant and has consented to the proposed annexation. Further, the sole landowner has consented to the annexation.

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

The annexation area is within DBCSD's SOI as approved by the Commission on March 9, 2022. A map and legal description to implement the proposed annexation were 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:**

Pursuant to LAFCO law, all registered voters and landowners within the proposal area and within 300 feet of the exterior boundaries of the area(s) were sent written notice of the LAFCO hearing. County Elections confirmed there are zero registered voters in the subject area; therefore, the subject area is considered uninhabited. The affected landowner consents to the annexation.

LAFCO received several letters from surrounding landowners/voters objecting to the annexation. These comments are noted for the record. However, given these property owners/voters do not reside within the annexation area, the protest hearing is hereby waived pursuant to GC §56663.

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

In its review of a proposal, LAFCO shall consider a regional transportation plan adopted pursuant to GC §65080 [GC §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 sub regional basis (GC §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 (ABAG) and the Metropolitan Transportation Commission (MTC), 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 October 2021, ABAG and MTC adopted *Plan Bay Area 2050*, which serves as the Bay Area's official long-range plan for housing, economic development, transportation, and environmental resilience for the next four years. While prior iterations of *Plan Bay Area* focused on transportation and housing, the 2050 plan expands the scope introducing strategies for long-term economic development and environmental resilience, while meeting federal and state requirements.

**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** Adopt this report and approve LAFCO Resolution No. 21-07 (Attachment 1), making CEQA findings and approving the proposal, to be known as *Annexation to Town of Discovery Bay Community Services District – Pantages Project*.

**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

Exhibit

Annexation Map – Exhibit A

Attachment

1 – Draft LAFCO Resolution 21-07

c: Dina Breitstein, General Manager, Town of Discovery Bay Community Services District (DBCSD)  
Trevor Smith, Pantages Project, Lazares Companies  
Mike Yeraka, DBCSD  
Aaron Trott, General Manager, East Contra Costa Irrigation District

**RESOLUTION NO. 21-07**

**RESOLUTION OF THE CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION  
MAKING DETERMINATIONS AND APPROVING  
ANNEXATION TO TOWN OF DISCOVERY BAY  
COMMUNITY SERVICES DISTRICT – PANTAGES PROJECT**

**WHEREAS**, the above-referenced 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 (§56000 et seq. of the Gov. Code); and

**WHEREAS**, the Executive Officer 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 gave notice of the Commission's consideration of the proposal; and

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

**WHEREAS**, at a public hearing held on April 13, 2022, 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 recommendations, the environmental documents and determinations, applicable General and Specific Plans, consistency with the sphere of influence, and related factors and information including those contained in Gov. Code §56668; and

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

**WHEREAS**, the applicant delivered to LAFCO an executed indemnification agreement providing for the applicant to indemnify LAFCO against any expenses arising from any legal actions challenging the annexation; 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. The Commission is a Responsible Agency under the California Environmental Quality Act (CEQA), and in accordance with CEQA, makes the following findings and determinations:
  - a. As to the Pantages subdivision area of the project, the Commission has considered the environmental effects of the project as shown in Contra Costa County's CEQA documents: Environmental Impact Report (2013) and two Addendums (2015 and 2021). The Commission finds that all changes or alterations in the project that avoid or substantially lessen its significant environmental effects are within the responsibility and jurisdiction of the County and not LAFCO, and that these changes have been, and can and should be, adopted by the County as the lead agency.

Contra Costa LAFCO  
Resolution No. 21-07

- b. As to the well site and wastewater site (parcels B and C), the Commission finds that the annexation of parcels B and C is categorically exempt from CEQA pursuant to Class 19 – Annexations of Existing Facilities [CEQA Guidelines section 15319(a)] and CEQA Guidelines section 15601(b)(3).
- 2. Annexation to Town of Discovery Bay Community Services District of 205.21± acres to extend water, wastewater, levee maintenance, parks and recreation, and lighting and landscaping services to the subject area is hereby approved.
- 3. The subject proposal is assigned the distinctive short-form designation:  
**ANNEXATION TO TOWN OF DISCOVERY BAY COMMUNITY SERVICES DISTRICT – PANTAGES PROJECT**
- 4. The boundary of the subject area is found to be definite and certain as approved and set forth in Exhibit A, attached hereto and made a part hereof.
- 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 area is uninhabited pursuant to Gov. Code §56079.5.
- 7. No affected landowners or registered voters within the subject area object to the proposal, and the conducting authority (protest) proceedings are hereby waived.
- 8. 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 13<sup>th</sup> day of April 2022, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

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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.*

Dated: April 13, 2022

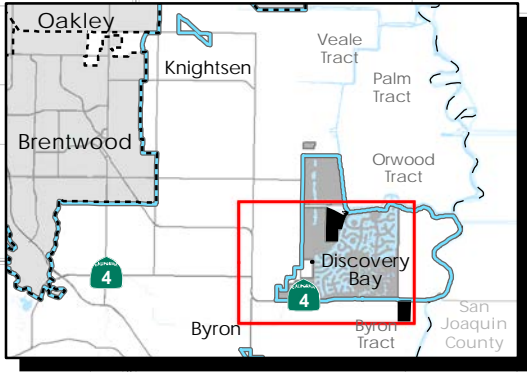
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Lou Ann Texeira, Executive Officer

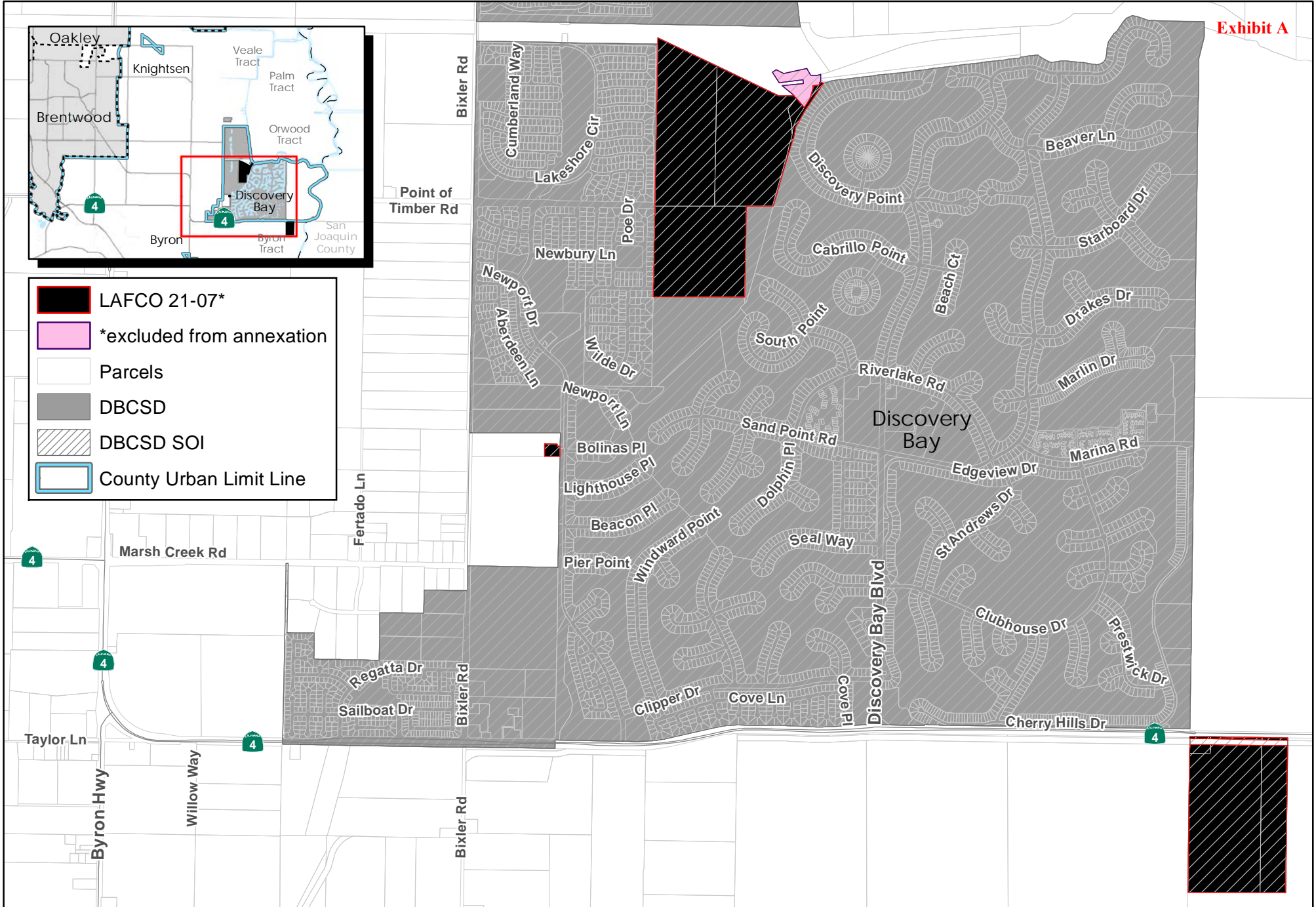


# LAFCO 21-07 Annexation to Discovery Bay Community Services District (DBCSD) (Pantages)

Exhibit A



- LAFCO 21-07\*
- \*excluded from annexation
- Parcels
- DBCSD
- DBCSD SOI
- County Urban Limit Line



Map created 04/05/2022  
 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.

