

CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION  
EXECUTIVE OFFICER'S REPORT

August 10, 2022 (Agenda)

August 10, 2022  
Agenda Item 9

LAFCO 21-09 Annexation to East Bay Municipal Utility District (EBMUD) – 285 Lark Lane - Alamo  
APPLICANT Taso Tsakos, Managing Member, EBH South Avenue Owner, LLC, Owner/Applicant

SYNOPSIS The applicant proposes to annex one parcel (APN 198-230-017) to EBMUD. The parcels total 18.38± acres and is located at 285 Lark Lane in unincorporated Alamo-see attached map (Exhibit A).

The purpose of the proposal is to allow for the extension of municipal water service to facilitate development of one single-family home. The landowner reports that numerous attempts at local well drilling were unsuccessful. The proposed development is consistent with the County's land use designations as described below.

In February 2022, the EBMUD New Business Manager provided LAFCO with a letter indicating that water service to the subject property will be available contingent upon evidence of annexation to EBMUD and compliance with EBMUD's regulations.

BACKGROUND

In September 2021, the landowner applied to Contra Costa LAFCO to expand EBMUD's sphere of influence (SOI) and annex the subject property 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 related to EBMUD matters. The "principal county" for LAFCO proceedings 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 (GC) §56066].

On November 10, 2021, the Commission authorized staff to send a request to Alameda LAFCO to transfer jurisdiction to Contra Costa LAFCO. On January 13, 2022, Alameda LAFCO approved the request.

On June 8, 2022, Contra Costa LAFCO approved the SOI expansion. On August 10, 2022, the Commission will be asked to approve the corresponding annexation as described below.

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 parcel proposed for annexation is within EBMUD's SOI as approved by the Commission on June 8, 2022. EBMUD staff does not oppose the proposed annexation.

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

The project property is vacant undeveloped land. The planned land use is construction of a single-family home which is consistent with the County land use designations. The County General Plan designation for the subject parcel is *Agricultural Land* (AL) and the zoning designation is *General Agricultural* five acre minimum (A-2). The parcel is inside the Contra Costa County Urban Limit Line.

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

The subject parcel does not meet the LAFCO definitions of "prime agricultural land" (GC §56064) or "agricultural" land" (GC §56016), and the parcel is vacant with no current agricultural activity. The

subject parcel is not under an active Williamson Act contract. There are lands under Williamson Act contracts south and southwest of the subject parcel.

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

The subject parcel is located in the unincorporated community of Alamo. The subject parcel is gently sloped at the easter end of the parcel with a slope density of approximately 20%. The general topography of the area is hillside primarily above 500 feet. The surrounding areas are similar to the subject parcel. The area to the east is lower in elevation, and the area to the west rises more steeply than the annexation area. Land cover in the area consists of native grass, trees, and shrubs.

**5. Population:**

The estimated population increase is approximately 2.9 people based on the US Census Bureau 5-year estimates (2016-2020) or three persons per one new dwelling unit.

**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:**

In conjunction with an annexation application, the applicant must 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 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.

The annexation area is currently within the service boundaries of various local agencies including, but not limited to, Contra Costa County, Central Contra Costa Sanitary District, San Ramon Valley Fire Protection District, Alamo Lafayette Cemetery District, various school districts, and other local and regional agencies.

The proposal before the Commission is annexation of one parcel to EBMUD to support one proposed single-family home.

**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 one new single-family dwelling unit, the estimated demand for service is approximately 300 gallons per day. Water will be pumped from the existing 8-inch EBMUD water main on South Avenue. No additional public/EBMUD infrastructure is needed to serve the subject property. EBMUD staff 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 66077. The assessed value for the annexation area is \$709,227 (2021-22 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:**

The proposed annexation of the subject parcel is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines §§15303(a) and (d).

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

According to County Elections, there are fewer than 12 registered voters on the subject property; thus, the area proposed for annexation is, by statute, considered uninhabited. The property

owner/applicant consents 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 boundary of the subject parcel were sent notice of the LAFCO hearing.

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

The property proposed for annexation is within EBMUD's SOI. 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:**

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 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 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. This proposal is consistent with *Plan Bay Area*.

#### ALTERNATIVES FOR COMMISSION ACTION

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

#### RECOMMENDED ACTION: Approve Option 1

**Option 1** Approve the annexation as proposed.

- A. Find that the project is exempt from CEQA pursuant to §§15303(a) and (d) of the CEQA Guidelines.
- B. Adopt this report, approve LAFCO Resolution No. 21-09 (Attachment 1), and approve the proposal, to be known as *Annexation to East Bay Municipal Utility District (EBMUD) – 285 Lark Lane - Alamo* subject to the terms and conditions in Resolution No. 21-09.

**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

#### Attachment

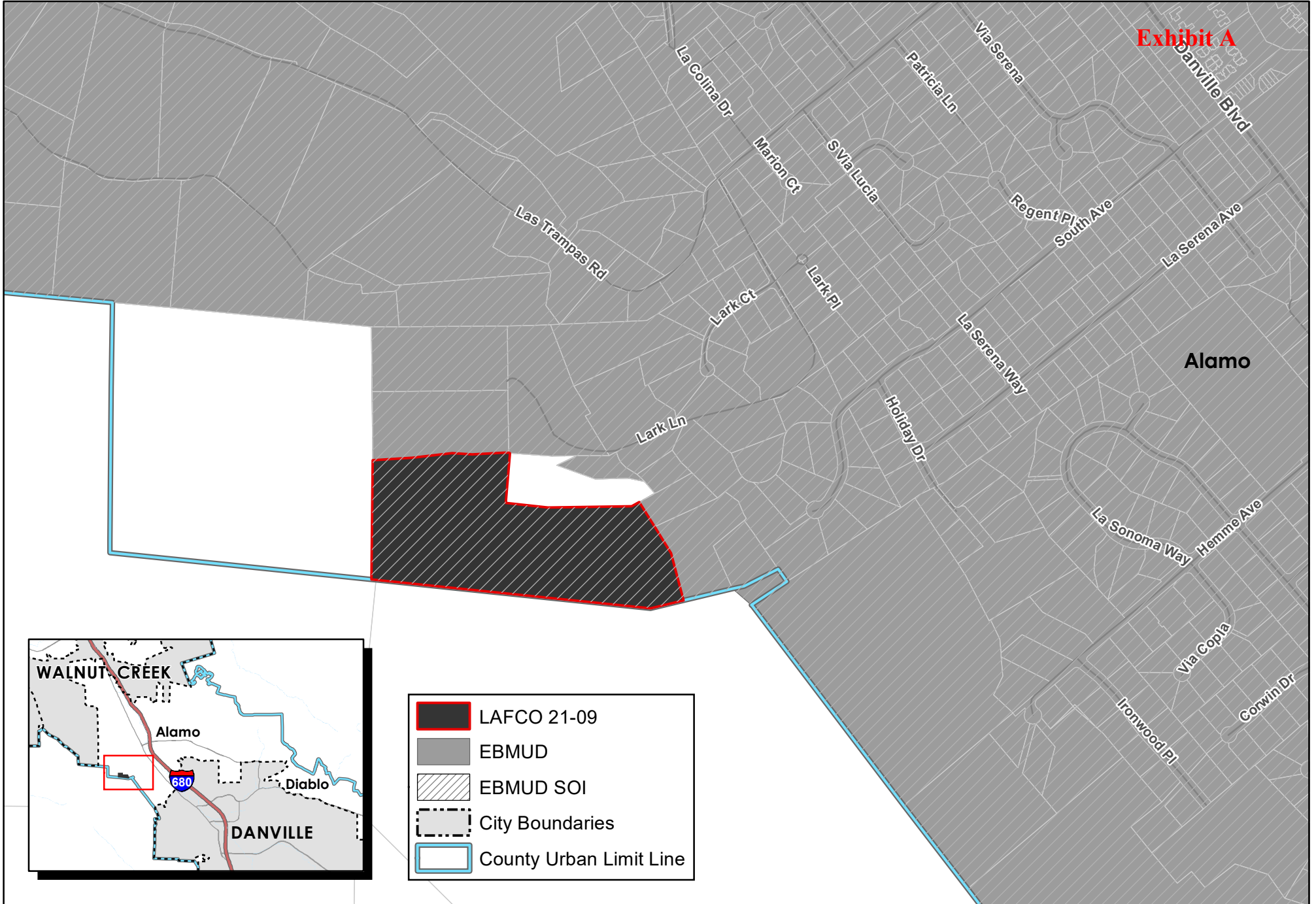
Draft LAFCO Resolution 21-09

#### Exhibit

Annexation Map – 285 Lark Lane

c: Taso Tsakos, Managing Member, EBH South Avenue Owner, LLC, Owner/Applicant  
Jack Flynn, EBMUD  
John Mellar, Aliquot Engineers

# LAFCO No. 21-09 Annexation to East Bay Municipal Utility District (EBMUD) - 285 Lark Lane, Alamo



**RESOLUTION NO. 21-09**

**RESOLUTION OF THE CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION  
MAKING DETERMINATIONS AND APPROVING  
ANNEXATION TO EAST BAY MUNICIPAL UTILITY DISTRICT (EBMUD)  
285 LARK LANE - ALAMO**

**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 August 10, 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 document 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 subject 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 to challenge 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 finds that the annexation to EBMUD is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines sections 15300(a) and (d).
2. Annexation to East Bay Municipal Utility District of one parcel (APN 198-230-017) totaling 18.38± acres located at 285 Lark Lane in Alamo is approved.

- 3. The subject proposal is assigned the distinctive short-form designation:  
**ANNEXATION TO EAST BAY MUNICIPAL UTILITY DISTRICT – 285 LARK LANE ALAMO**
- 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 area is liable for any authorized or existing taxes, charges, and assessments currently being levies on comparable properties within the annexing agency.
- 6. The subject area is uninhabited.
- 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. Water service is conditioned upon EBMUD receiving acceptance for inclusion of the annexed area from the United States Bureau of Reclamation (USBR), pursuant to the requirements in EBMUD’s contract with USBR for supplemental water supply from the Central Valley Project.
- 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 10<sup>th</sup> day of August 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: August 10, 2022

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Lou Ann Texeira, Executive Officer