

YOLO LOCAL AGENCY FORMATION COMMISSION

RESOLUTION № 2019-10

Approving the Reorganization to Establish RD 900 as a Subsidiary District of the City of West Sacramento; Detach the City Portion of RD 537 and its Sphere of Influence (SOI); Annex RD 537's Detached Territory, RD 537's SOI, and the Balance of RD 900's SOI within the West Sacramento Basin Levee System into RD 900; and to Find These Actions Categorically Exempt from Review Under the California Environmental Quality Act (CEQA) (LAFCo #926)

WHEREAS, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 governs the organization and reorganization of cities and special districts by local agency formation commissions (LAFCo or Commission) established in each county, as defined and specified in Government Code Sections 56000 et seq. (unless otherwise indicated all statutory references are to the Government Code); and

WHEREAS, Section 56375 authorizes LAFCo to review and approve proposals for “changes in organization” or “reorganization” (i.e., more than one change of organization considered concurrently) consistently with policies adopted by the Commission and Section 56880 authorizes LAFCo to impose conditions on its approval of a reorganization; and

WHEREAS, Section 56021 defines “change of organization” to include “detachment from a district,” “annexation to a district,” and “establishment of a subsidiary district,” among other actions within LAFCo powers; and

WHEREAS, Section 56650 authorizes proceedings for a change of organization to be initiated by a Resolution of Application as adopted by a local agency; and

WHEREAS, on August 24, 2018, the City of West Sacramento submitted two proposal applications to: (1) detach the City portion of Reclamation District (RD) 537 and establish it as a subsidiary district (LAFCo #925); and (2) establish RD 900 as a subsidiary district (LAFCo #926); and

WHEREAS, LAFCo provided notice to the subject districts (RD 537 and RD 900) within 10 days of receiving the proposals in accordance with Government Code Section 56861; and

WHEREAS, on October 1, 2018, RD 537 and RD 900 adopted resolutions of intention to file an alternative proposal and accordingly no action on the original proposal was taken for 70 days; and

WHEREAS, on December 1, 2018, RD 900 submitted an alternative application proposal to reorganize RD 900 to annex all remaining territory within the West Sacramento Basin Levee System into RD 900, including the ring levees and territory inside the basin, transferring all interior drainage services to the City, and RD 900 would solely provide flood protection and levee maintenance for the West Sacramento Basin Levee System; and

WHEREAS, all three proposals were routed to all subject, affected, and interested agencies and no concerns or objections were received other than from the City and RD 900 on its own behalf and on behalf of RD 537; and

WHEREAS, Yolo County determined the proposals are not subject to a negotiated exchange per Revenue and Taxation Code Section 99(b)(1) because the affected districts do not receive property tax revenue, and notified RD 537 and RD 900 of this determination on March 14, 2019; and

WHEREAS, a Certificate of Filing was issued for all three proposals on July 1, 2019; and

WHEREAS, a public notice was published at least 21 days prior to the hearing as a 1/8th page display advertisement in the West Sacramento News-Ledger because the total number of notices required to be mailed exceeded 1,000; and

WHEREAS, the proposals were analyzed in accordance with all applicable sections of the Cortese-Knox-Hertzberg Act, Yolo LAFCo's Standards of Evaluation, and all other matters presented as prescribed by law; and

WHEREAS, the Executive Officer reviewed the proposals and prepared and filed a report with recommendations with this Commission at least five (5) days before the July 25, 2019, meeting during which the proposals were set to be considered simultaneously at a single hearing; and

WHEREAS, an opportunity was given to all interested persons, organizations, and agencies to present oral or written testimony, protests, objections, and any other information concerning the proposal and all related matters; and

WHEREAS, at its July 25, 2019, meeting, the Commission reviewed and considered the public testimony, CEQA exemption, and the Executive Officer's Report including all the information, recommendations, findings and conditions contained therein.

NOW, THEREFORE, BE IT RESOLVED that the Yolo Local Agency Formation Commission approves LAFCo Application #926 as follows and with the effective dates stated in the conditions of approval set forth below:

1. RD 900 is reorganized as a subsidiary district of the City of West Sacramento (Action 1);
2. That portion of RD 537's territory and its SOI within the boundaries of the City of West Sacramento is detached from the district (Action 2);
3. The SOI of RD 900 is amended to include the area detached from RD 537 and RD 537's SOI (i.e. State Maintenance Area #4) (Action 3);
4. RD 537's detached territory, RD 537's SOI, and the balance of RD 900's SOI in the West Sacramento Basin Levee System (excluding the U.S. Army Corps of Engineers' navigation levee and deep-water ship channel) are annexed into RD 900 (Action 4);
5. This reorganization is subject to the terms and conditions included in this Resolution; and,
6. The Executive Officer is directed to file a CEQA Notice of Exemption and set the conducting authority protest proceeding on this reorganization.

NOW, THEREFORE, BE IT FURTHER RESOLVED by the Yolo Local Agency Formation Commission that:

7. LAFCo Application #925 to detach the City portion of RD 537 and establish it as a subsidiary district is denied as unnecessary; and,
8. LAFCo Application #930 is denied for the reasons stated in the Executive Officer's report.

NOW, THEREFORE, the Yolo Local Agency Formation Commission makes the following findings in support of the actions taken by this Resolution (“the actions”):

Findings

1. **Finding:** The actions are categorically exempt from CEQA per CEQA Guidelines Section 15320 (Class 20) which provides for a categorical exemption for changes in organization of local agencies, as well as the “common sense” exemption per CEQA Guidelines Section 15061(b)(3).

Evidence: Public Resources Code Section 15320 (Class 20) provides for a categorical exemption for changes in organization of local agencies that do not change the geographical area in which previously existing powers are exercised. The proposed detachment, annexation, and establishment of subsidiary districts are changes of organization identified in Government Code Section 56021. In addition, CEQA’s common sense exemption applies “[w]here it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.” (CEQA Guidelines § 15061(b)(3).) Only State Maintenance Area #4 is not served by a reclamation district now and adding that area to RD 900 will not change the levee and drainage improvements there or the standard of their maintenance. Nor will it immediately change the agency which provides those services, as the State will continue to provide maintenance there until an agreement between the State and RD 900 provides for a transfer of those responsibilities to RD 900. Accordingly, the actions merely change reclamation district boundaries to better reflect drainage basin, social and economic boundaries, and do not change the geographical territory which receives reclamation district services. The actions will not result in the extension of any new services that could result in environmental effects.

2. **Finding:** The proposals were considered and analyzed in accordance with the required factors listed in Government Code Section 56668 and Yolo LAFCo Standards of Evaluation for proposals (Yolo LAFCo Project Policies Section 2.0).

Evidence: A complete analysis of the Government Code Section 56668 factors and Yolo LAFCo Standards of Evaluation is provided in the staff report which is incorporated herein by this reference. The actions implement LAFCo’s 2018 Municipal Services Review (MSR) recommendation for the West Sacramento Basin. The actions support the local governmental structure of the county by changing RD 537’s and RD 900’s boundaries to better reflect existing drainage basins, to better distinguish urban and rural areas (which have different flood protection requirements), and to make a single agency responsible to maintain levees and provide drainage services in the West Sacramento drainage basin. The approved proposals promote the fair treatment of all residents and property owners in the community as the City Council will serve as *ex officio* board of an expanded RD 900 which will continue to exist as a subsidiary district of the City, instead of the existing independent board which represents landowners alone. The proposals would not affect the existing Proposition 218 assessments for benefits to the affected territory and these revenues are sufficient to provide adequate services, as existing assessments would remain enforced to fund services in the territories to which those assessments now apply. The actions comply with Yolo LAFCo Standards of Evaluation Policy 2.1 Choice of Entity and 2.2 Duplication of Authority that favor the provision of services by cities in incorporated areas rather than by special districts and to limit duplication of authority, to increase transparency, and to simplify coordination and delivery of government services. A merger of RD 537 and/or RD 900 into the city was considered as part of this hearing in accordance with Government Code Section 56118, but

was not chosen because, in this case, it is desirable to maintain the separate district for liability and accountability reasons — this will protect the City’s general fund from the extraordinary liability that can result from a failed levee under California’s inverse condemnation doctrine and can ensure that revenues for levee maintenance and drainage services are not diverted to other municipal purposes. In this case, expanding RD 900 and maintaining its existence as a subsidiary district and maintaining the existence for RD 537 as an independent special district to serve areas outside the City is the best option to serve these policies. Therefore, the actions comply with required statutory factors and local standards of evaluation.

Terms and Conditions

1. The City agrees to defend, indemnify, hold harmless and release the Yolo County Local Agency Formation Commission, its agents, officers, attorneys and employees from any claim, action or proceeding brought against any of them, the purpose of which to attack, set aside, void, or annul the approval of the actions or the environmental determination which accompanies it. This indemnification obligation shall include, but not be limited to, damages, costs, expenses, attorney fees, or expert witness fees that may be asserted by any person or entity, including the City, arising out of or in connection with the approval of the actions, whether or not there is concurrent passive negligence of the part of the Yolo County Local Agency Formation Commission its agents, officers, attorney or employees.
2. Provided the thresholds for a landowner protest and registered voter protest are not met, the Executive Officer shall immediately, following the protest hearing, record a Certificate of Completion with the County Recorder.
3. The reorganization of RD 900 as a subsidiary district of the City of West Sacramento (Action 1) shall be effective upon the recording of the Certificate of Completion. The effective date of Action 2-4 shall be as provided in Condition 7.
4. From the date of approval of this Resolution through the effective date of its establishment as a subsidiary district, pursuant to Government Code Section 56885.5(a)(4), RD 900 may not take the following actions:
 - a) Approving any increase in compensation or benefits for members of the governing board, its officers, or the executive officer of the agency.
 - b) Unless it declares that an emergency situation exists as defined in Government Code Section 54956.5, appropriating, encumbering, expending, or otherwise obligating, any revenue of the agency beyond that provided in the current budget.
5. Within 90 days of the approval of this Resolution (or such longer time as she shall reasonably deem necessary), the Executive Officer shall present the Commission with a detailed proposal to further specify the division of the assets, liabilities, revenues and expenses of RD 537 as they exist on the effective date of Actions 2-4 (as provided in Condition 7) between RD 900, as RD 537’s successor agency in the area detached from RD 537 by this Resolution, and RD 537 in its capacity as an independent special district serving the unincorporated areas which now constitute the balance of the district (“Financial Plan”). The Executive Officer will invite a joint proposal from RD 537 and RD 900 (as reorganized by this Resolution) to provide that more specific division. Should they fail to agree on a Financial Plan within this timeline, the Executive Officer may retain appropriate consulting support, at RD 900’s expense, to review the records

and assets of RD 537 to recommend a Financial Plan. If RD 537 and RD 900 (as reorganized by this Resolution) jointly propose a Financial Plan that leaves one or more issues unresolved, the Executive Officer may make a recommendation as to those issues without or without consulting support. The Executive Officer's recommendations shall be provided to RD 537 and RD 900 (as reorganized by this Resolution) with an invitation to comment before those recommendations are presented to the Commission. After a noticed public hearing, the Commission shall adopt the Financial Plan recommended by the Executive Officer in all or part, with or without conditions or amendments, and that action shall establish the rights and obligations of RD 537 and RD 900 (as reorganized by this resolution) as to the assets, liabilities, revenues and expenses of RD 537 as they exist on the date the Certificate of Completion as to Actions 2–4 is filed. Implementation of this condition is intended to divide the assets, liabilities, revenues and expenses of RD 537 as they exist on the date the Certificate of Completion as to Actions 2–4 is filed in fair proportion to the division of service responsibilities effected by this Resolution so those in the City served by RD 537 to date will have the benefit of the assets their assessments and other contributions allowed RD 537 to accumulate and the burden of the liabilities service to them required it to incur and the same will be so as to those outside the City served by RD 537.

6. Before LAFCo staff files a Statement of Boundary Change with the State Board of Equalization (SBOE), the City of West Sacramento shall prepare and submit to LAFCo a new map and boundary description for the boundaries of RD 900 approved by this Resolution.
7. Before LAFCo staff records the Statement of Boundary Change with the State Board of Equalization for the reorganization boundary changes comprised of the actions (i.e. Actions 2 – 4), the reorganization will be subject to all applicable LAFCo, State Board of Equalization, and County Clerk-Recorder fees. The City agrees to pay all fees associated with staff and attorney costs arising from the applications.
8. Following LAFCo approval of the Financial Plan and other applicable terms and conditions, LAFCo shall file the Statement of Boundary Change with the State Board of Equalization (SBOE) effective the next July 1 following timely filing with SBOE by December 1, which shall serve as the effective date of Actions 2-4. Upon this effective date of Actions 2–4, RD 900 shall succeed and/or be assigned all rights, duties, responsibilities, properties (both real and personal), contracts, equipment, assets, liabilities, obligations, functions, executory provisions, entitlements, permit and approvals for the detached City portion of RD 537 except as provided in the Finance Plan. All assessment revenues attributable to the City portion of RD 537, including delinquent assessments and any and all other collections, shall accrue and be transferred to RD 900 pursuant to Section 56886(i). RD 900 shall be vested with title to all of RD 537's real property, infrastructure, improvements, and facilities located in the detached City portion of RD 537 in "as is" condition (pursuant to Government Code Section 56886(h)) except as otherwise provided in the Financial Plan as approved by LAFCo.
9. Upon the effective date of Actions 2–4, all voter-approved special assessment revenues, received or receivable within the detached City portion of RD 537 shall be collected or collectible by RD 900, to be used for the purposes for which said taxes or special assessments were imposed as required by California Constitution, article XIII D, section 4 and as provided by Government Code sections 57529, 57531, 57532 and 57534. Such assessment revenues, received or receivable within the remainder of RD 537, shall continue to accrue to it to be used in this same fashion.
10. As of the date of approval of this Resolution through the effective date of the Statement of Boundary Change (i.e. actions 2–4), pursuant to Government Code Section 56885.5(a)(4), RD 537 may not take any of the following actions:

- a) Approving any increase in compensation or benefits for members of the governing board, its officers, or the executive officer of the agency.
- b) Unless it declares that an emergency situation exists as defined in Government Code Section 54956.5, appropriating, encumbering, expending, or otherwise obligating, any revenue of the agency beyond that provided in the current budget.

11. The Commission encourages RD 900 to continue to negotiate in good faith with the State Department of Water Resources to take over levee maintenance responsibilities for State Maintenance Area #4.

PASSED AND ADOPTED by the Yolo Local Agency Formation Commission, State of California, this 25th day of July 2019, by the following vote:

Ayes:
Noes:
Abstentions:
Absent:

Olin Woods, Chair
Yolo Local Agency Formation Commission

Attest:



Christine Crawford, Executive Officer
Yolo Local Agency Formation Commission

Approved as to form:



Eric May, Commission Counsel