



Santa Cruz Local Agency Formation Commission

Date: February 9, 2022
To: LAFCO Commissioners
From: Joe Serrano, Executive Officer
Subject: **“Opal Cliffs Recreation District Reorganization” (Project No. RO 21-18)**

SUMMARY OF RECOMMENDATION

The Opal Cliffs Recreation District adopted a resolution requesting that LAFCO dissolve the District and concurrently annex the dissolved area into County Service Area 11. The District consists of 440 parcels and encompasses approximately 67 acres. The annexation will exclude 11 parcels that currently overlap with the City of Capitola. If approved, the reorganization will preserve the current levels of service and maintain local demand expectations by the Opal Cliffs community.

It is recommended that the Commission adopt the draft resolution (LAFCO No. 2022-02) approving the reorganization involving the Opal Cliffs Recreation District and County Service Area 11 (County Parks).

EXECUTIVE OFFICER’S REPORT:

The State Legislature gave LAFCOs broad authority when it comes to considering boundary changes for cities and special districts. LAFCO powers are delineated in the Cortese-Knox-Hertzberg Act. Under this Act, the Commission can deny or approve, with or without conditions, a wide range of boundary changes to local governments, including annexations, dissolutions, detachments, formations, reorganizations and consolidations. A reorganization is the type of action that the Opal Cliffs Recreation District has requested for Commission consideration. The Commission has also adopted a policy to implement the State law in the manner that best encourages orderly growth based upon local conditions within Santa Cruz County (refer to **Attachment 1**).

Reorganization Overview

Pursuant to Government Code Section 56826, a reorganization shall provide for one or more changes of organization of any type for each of the subject districts. In this case, Opal Cliffs Recreation District (“OCRD”) will be dissolved and the dissolved area will be concurrently annexed into County Service Area 11 (“CSA 11”) in one application. It is important to note that on and after the effective date of a reorganization, CSA 11 succeeds to all of the powers, rights, duties, obligations, functions, and properties from OCRD. The territory of the annexed area, all inhabitants within that territory, and all persons entitled to vote by reason of residing or owning land within the territory are subject to the jurisdiction of CSA 11 and have the same rights and duties as if they had originally been part of CSA 11. In summary, a reorganization is legally two actions rolled into one: the dissolution of OCRD, and the subsequent annexation of land that encompasses the entirety of the service area previously under OCRD, with the exception of 11 parcels that overlap with the City of Capitola. This report will analyze the proposed reorganization, provide an overview of the LAFCO process, and include a detailed resolution for consideration. **Figures A and B** on pages 2 and 3 show current and future boundaries based on the proposed reorganization.

Figure A: Current Boundaries

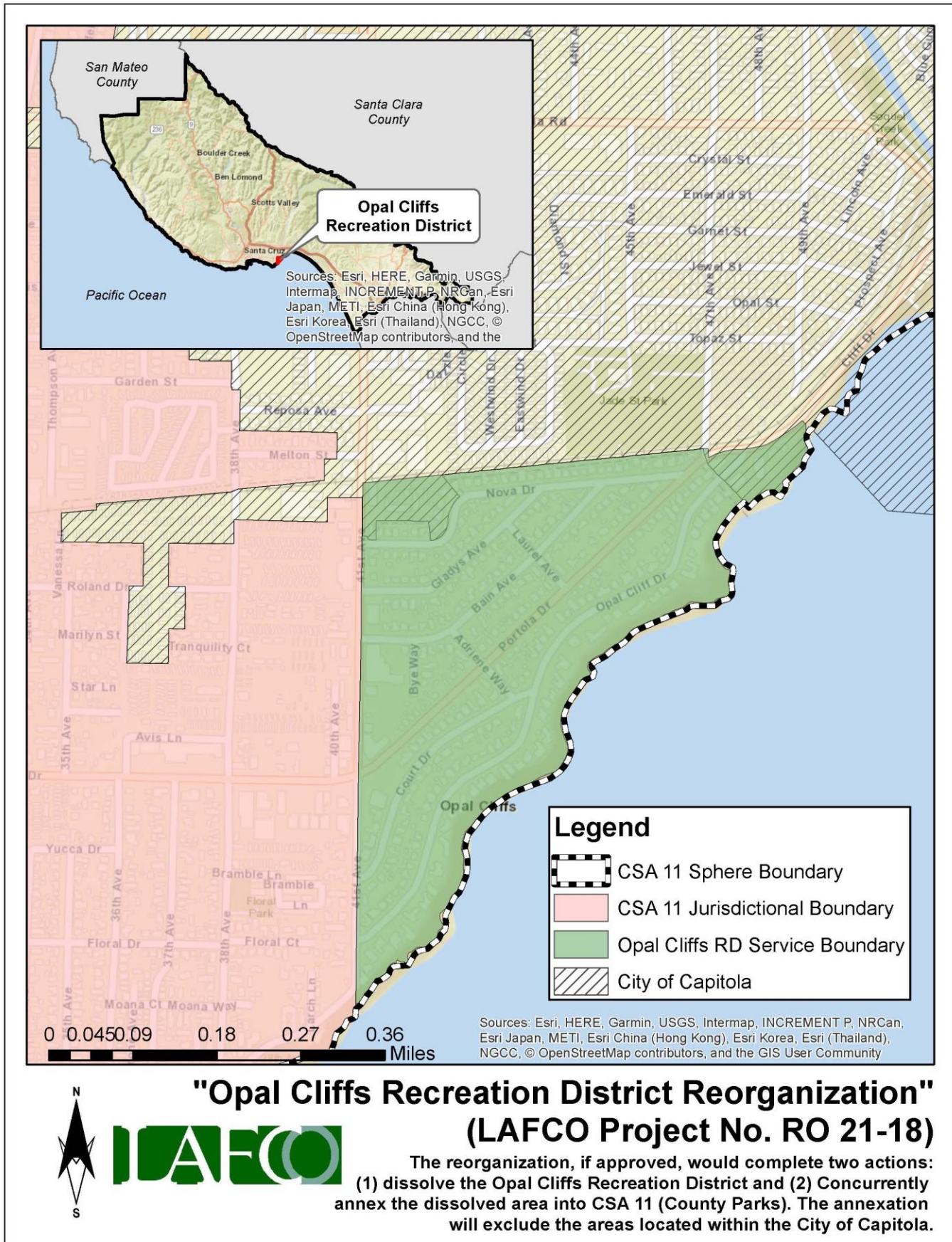
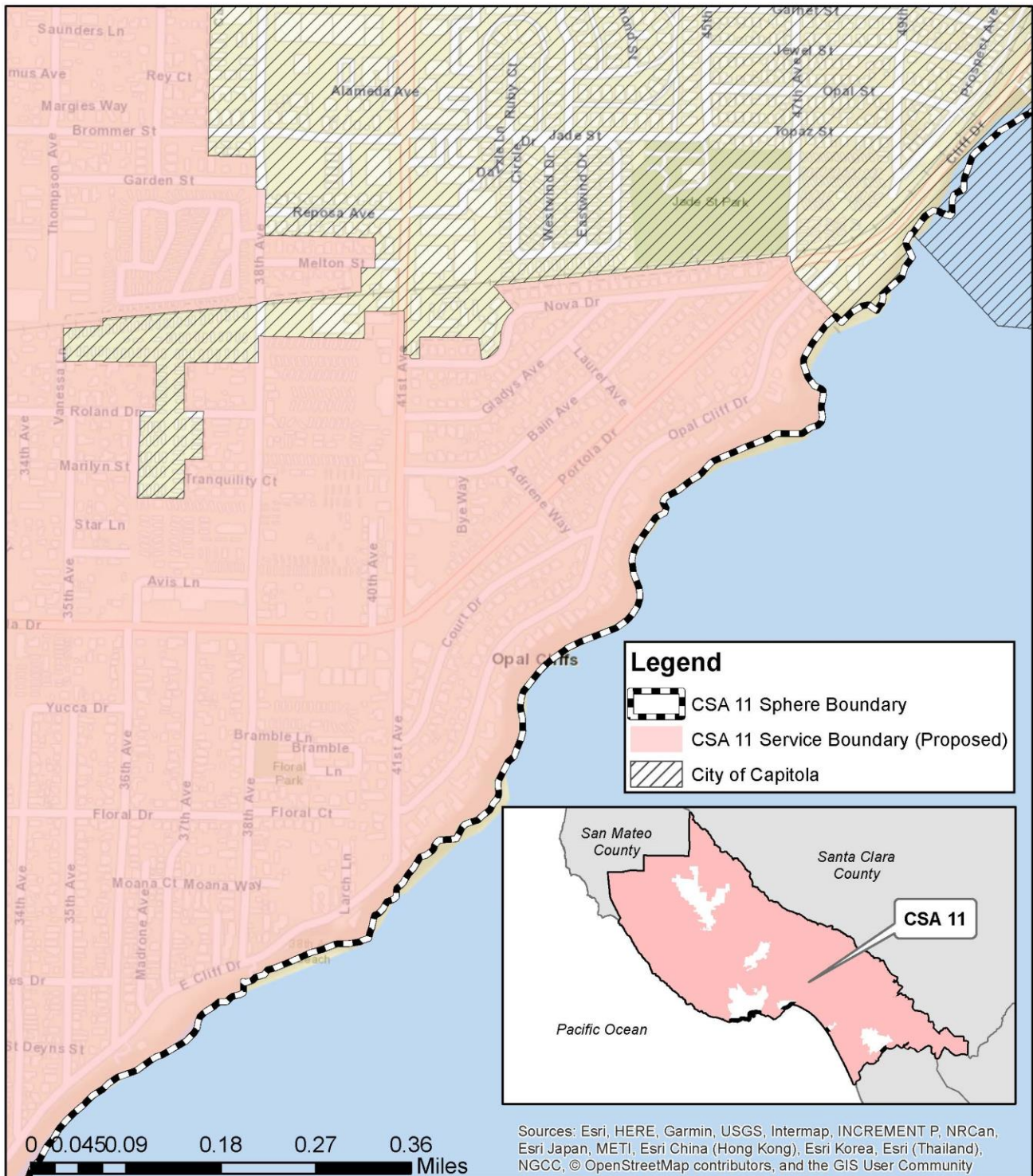


Figure B: Proposed Boundaries



"Opal Cliffs Recreation District Reorganization" (LAFCO Project No. RO 21-18)



The reorganization, if approved, would complete two actions:
(1) dissolve the Opal Cliffs Recreation District and (2) Concurrently annex the dissolved area into CSA 11 (County Parks). The annexation will exclude the areas located within the City of Capitola.

Reason for Request

The reorganization was initiated by the Opal Cliffs Recreation District's Board of Directors following the adoption of a resolution on August 17, 2021, as shown in **Attachment 2**. LAFCO received a signed application, with the adopted resolution, on October 11, 2021. As shown in **Figures A and B**, the annexation area will exclude 11 parcels which overlap between the City of Capitola and OCRD. The City of Capitola has its own park and recreation department and therefore those 11 parcels should not be annexed into CSA 11. It is important to note that the reorganization is a direct result of LAFCO's recent Countywide Park & Recreation Service and Sphere Review. The following section summarizes the steps taken prior to submittal of an application.

Countywide Service & Sphere Review

State law requires LAFCOs to conduct municipal service reviews and sphere of influence updates for each city and special district under LAFCO's jurisdiction. As part of the Commission's Multi-Year Work Program, LAFCO staff analyzed the four park and recreation districts in Santa Cruz County under one report. This report was presented and ultimately adopted by the Commission on August 4, 2021. Based on LAFCO's analysis, it was determined that OCRD did not have a general manager, any staff members, a physical office location, or a legally-required website. LAFCO also identified several statutory violations. In addition, the District ended with a deficit in three of the last six fiscal years. What was more prevalent was the fact that total revenue had dramatically decreased over the years since 2015. LAFCO projected that this negative trend would continue unless a more stable public agency assumed the service responsibilities for the Opal Cliffs community.

Sphere Designation

Santa Cruz LAFCO adopted OCRD's first sphere of influence on October 5, 1988. Unlike the other park and recreation districts in Santa Cruz County, OCRD received a zero sphere of influence during its original adoption. A "zero" sphere of influence (encompassing no territory) is adopted by LAFCO when the Commission has determined that the service functions of the affected agency are either: nonexistent, no longer needed, or should be reallocated to some other local government. The adoption of a "zero" sphere indicates the public agency should ultimately be dissolved and service responsibilities be transferred to another local agency.

As part of the 2021 report, LAFCO reaffirmed the zero sphere with the condition that the District initiate dissolution or develop a strategic plan no later than December 31, 2021. If no application or strategic plan is submitted by the December deadline, the Commission had justification to initiate dissolution in accordance with Government Code Section 56375(a)(2)(B).

Future Governance Deadline

The intent of the December 31st deadline was to ensure that the Opal Cliffs community receives the best level of service possible, whether through the OCRD or another local agency. Following the adoption of the report, OCRD coordinated with the County to discuss a transition plan. It was determined that CSA 11 was the most logical provider of services to the community. As a result, the OCRD Board of Directors unanimously adopted a resolution to initiate the dissolution of OCRD and concurrent annexation of the dissolved area into CSA 11. The following page summarizes the application submitted by OCRD in October 2021.

LAFCO Application

The 2021 Countywide Service and Sphere Review identified areas of improvement for OCRD and potential governance options to consider. As a result, OCRD held various public hearings to explore and discuss the potential reorganization. These discussions resulted in the submittal of an application to LAFCO. The detailed application outlines the plans for service if the reorganization is approved by LAFCO. The following section discusses each component within the application packet submitted by OCRD.

Filing Fee & Indemnification Agreement

Commission Policy requires a fee deposit of \$1,250 for any dissolution request. A deposit was included with the application packet. Following the completion of the LAFCO process, staff will conduct a cost analysis and refund any remaining balance, if available. Commission Policy also requires a signed indemnification agreement in the event that a lawsuit is filed against LAFCO's action. The filing fee and signed indemnification agreement was submitted on October 11, 2021 as part of the application packet (refer to **Attachment 3**).

General Plan/Zoning Designation

The subject area is inhabited and the County's General Plan designates the vast majority of the area as Urban Medium Residential with a small portion designated as Existing Parks and Recreation. The application does not propose any changes to the existing land use designation. The subject area is generally located east of 41st Avenue, south of Capitola Road, west of Soquel Wharf Road, and north of the Pacific Ocean. It is important to note that the District's service area also includes a portion of the City of Capitola (11 parcels in total). This portion will be excluded from the proposed annexation.

Other Municipal Services

No other change of organization is required. The proposal area will continue to receive municipal services from existing public agencies, including but not limited to water services from Soquel Creek Water District and fire protection services from Central Fire District.

Sphere Designation

Pursuant to Government Code Section 56425, the Commission designates a sphere of influence for cities and special districts. OCRD's zero sphere boundary was reaffirmed as part of the 2021 Countywide Service & Sphere Review. If the reorganization is approved, the sphere of influence for CSA 11 will not change since its current boundary is coterminous with the boundary limits of Santa Cruz County (refer to **Figure B**).

Map & Legal Description

Typically, the State Board of Equalization (BOE) requires a map and legal description when a boundary change is approved by the Commission. The metes and bounds help the BOE update the upcoming year's tax rolls. When a reorganization occurs that involves a dissolution, the BOE accepts vicinity maps created by LAFCO. The proposed jurisdictional and sphere boundaries for CSA 11 are shown in **Figure B** on page 3. This map will be submitted to the BOE if and when the reorganization is officially recorded.

LAFCO Process (Pre-Commission Action)

Once an application is submitted to LAFCO, State law requires several steps to be completed before a proposal is presented to the Commission for consideration. These steps include notifying the applicants whether the application is missing items, informing affected and interested agencies about the reorganization, requesting the consideration of a property tax exchange agreement, recording an environmental document, and conducting LAFCO staff's analysis of the reorganization. The following section summarizes those statutory requirements.

Status Letter

Pursuant to Government Code Section 56658(c), the LAFCO Executive Officer needs to determine within 30 days of receiving an application whether the application is complete and acceptable for filing or whether the application is incomplete. A letter was sent to OCRD on October 21, 2021 (see **Attachment 4**). This letter indicated the "status" of the application and outlines which steps were needed before the application could be deemed complete and ready for Commission consideration.

Referral Letter (Agency Comments)

Pursuant to Government Code Section 56658(b)(1), immediately after receiving an application and before issuing a certificate of filing, the LAFCO Executive Officer needs to give mailed notice that the application has been received to each affected local agency, the county committee on school district organization, and each school superintendent whose school district overlies the affected territory. The referral letter, shown as **Attachment 5**, was sent to the interested and affected agencies on October 21, 2021 which included a summary of the proposal and a supporting map. During this time, LAFCO staff also requested additional information from different county departments regarding existing registered voters, number of parcels, and total land value within the proposal area. Due to the confidential information, such as resident names and addresses, the requested information is not attached to this report. However, the information is available for review at the LAFCO Office.

County Elections Office – LAFCO staff requested a list of the most recent registered voters within OCRD. The Elections Department identified 634 registered voters within the proposal area as of December 21, 2021.

County Assessor Office – LAFCO staff requested a list of all the parcels within OCRD as well as the assessed value for those parcels. The Assessor's Office identified 429 parcels within the proposal area.

County Auditor-Controller Office – LAFCO staff requested a list of all the tax rate areas (TRAs) within OCRD. The Auditor-Controller identified one TRA with a property tax value of approximately \$3.3 million. This information was used to help determine the percentage OCRD currently receives from the total property tax value. The current percentage would then be transferred over to CSA 11 through a property tax exchange agreement.

County Administrative Office – LAFCO staff requested that a property tax exchange agreement be placed on a future agenda for adoption by the County Board of Supervisors. The County Administrative Office scheduled the proposed tax agreement for January 25, 2022, as discussed in the next segment.

Property Tax Exchange Agreement

California Revenue and Taxation Code Section 99(b)(6) requires the adoption of a property tax exchange agreement involving the affected agencies before LAFCO can consider a jurisdictional change. The Board of Supervisors acting as the authorizing body for OCRD regarding property tax adjustments adopted a property tax exchange agreement on January 25, 2022. A copy of the adopted resolution is available in **Attachment 6**.

Plan for Service

Pursuant to Government Code Section 56653, the applicants shall submit a plan for providing services within the affected territory. The Plan for Service includes all of the following information and any additional information required by LAFCO: (1) An enumeration and description of the services currently provided or 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, if new services are proposed, (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, and (5) Information with respect to how those services will be financed.

The Plan for Service for the proposed reorganization is fulfilled through three documents: (1) the detailed application submitted by OCRD, (2) the countywide service and sphere review adopted by LAFCO, and (3) the memorandum of understanding (“MOU”) between OCRD and the County of Santa Cruz. OCRD and the County entered into a MOU in December 2019 to help the District function as a public agency. In accordance with this MOU, staff members from the County Parks Department have been acting as the District’s unofficial employees to help the District Board conduct public meetings, provide maintenance duties, deliver security services, and provide administrative support. **Attachment 7** provides a copy of the current MOU.

Letter of Support

The County has expressed support towards the proposed reorganization throughout the entire LAFCO process. Staff members from the County Parks Department played a key role in helping the District complete the LAFCO application and have worked closely with LAFCO staff during the last several months to complete the statutory requirements. The County provided a letter of support on January 3, 2022, as shown in **Attachment 8**.

Environmental Review

Commission Policy indicates that all matters that are reviewable pursuant to environmental regulations are subject to the applicable provisions of the California Environmental Quality Act (CEQA). LAFCO, as the Lead Agency, will record a Notice of Exemption pursuant to State CEQA Guidelines Section 15320, Class 20(b): Changes in the organization or reorganization of local governmental agencies where the changes do not change the geographical area in which previously existing powers are exercised, including but not limited to consolidations or reorganizations. The Notice of Exemption is scheduled to be recorded after Commission approval. A draft version of the environmental document is shown in **Attachment 9**.

Local & Statutory Factors

Pursuant to Government Code Section 56668, several factors are considered when reviewing a proposal. Additionally, the Commission has adopted a policy to implement the State law in the manner that best encourages orderly growth based upon local conditions within Santa Cruz County. These analyzed factors are shown in **Attachment 10**. In addition to these statutory factors, the following section examines additional local factors identified by LAFCO staff:

Population Projection

Official growth projections are typically not available for special districts. The Association of Bay Area Governments (ABAG) and the Association of Monterey Bay Area Governments (AMBAG) provide population projections for cities and counties in the Coastal Region. In general, the Coastal Region is anticipated to have a slow growth over the next twenty years. The average rate of change is expected to be 0.86%. Based on staff's analysis, the population within OCRD is approximately 700 and may reach to 726 by 2040. The County has indicated that they are willing and capable of serving current and future residents under CSA 11.

Level of Service

The Commission requires that the successor agency provide the same or better level of service following a reorganization. The two affected districts have indicated that operations will remain the same as a result of the reorganization. Park and recreation services will continue to be handled by the same County employees identified in the existing MOU. Operations are expected to improve by maximizing current personnel and eliminating procedural barriers that limit flexibility in deploying scarce resources. Based on LAFCO staff's analysis, operations will be streamlined with improved management oversight, which may result in a higher level of service in the near future.

Governance

The current management structure for OCRD includes an elected governing board but no general manager or administrative staff. The reorganization, if approved, would designate the County Board of Supervisors as the governing body regarding park and recreation services to the Opal Cliffs community, similar to other unincorporated communities located throughout the county.

Funding Mechanism

County parks are a well-used resource by county residents and visitors. The County maintains 59 parks, beach access and open space areas encompassing over 1,400 acres. In addition, the County provides after-school programs, swim lessons, art and science enrichment, sports leagues for children, and senior programming for older residents to maintain fitness and an active lifestyle. That is why an annual \$8.50 parcel tax towards each improved parcel within CSA 11 was approved by residents in 2014 for the purpose of providing, operating, maintaining, and preserving County parks and the recreational programs. Adding the Opal Cliffs Park and its parking lot, entrance gate, and walkway down the cliff to the beach would incur additional expenses to the CSA 11's overall operations. Therefore, if approved, the reorganization will extend the previously authorized \$8.50/year parcel tax to the annexation area, pursuant to Government Code Section 57025(e), to not only ensure consistency with the other county residents but more importantly make certain that the level of service expected at the Opal Cliffs Park continues to be fulfilled by CSA 11.

Certificate of Filing

Pursuant to Government Code Section 56020.6, a certificate of filing is a document issued by the Executive Officer that confirms an application for a change of organization has met submission requirements and is ready for Commission consideration. The Executive Officer deemed the application complete and signed the certificate on January 12, 2022 as shown in **Attachment 11**. Following the issuance of the certificate of filing, the Executive Officer shall proceed to set the proposal for hearing and give published notice. The date of the hearing shall be no more than 90 days after issuance of the certificate of filing or after the application is deemed to have been accepted, whichever is earlier. Notwithstanding Government Code Section 56106, the date for conducting the hearing is mandatory.

LAFCO Process (Commission Action)

Pursuant to State law, LAFCO is required to advertise the consideration of the proposed reorganization in a newspaper at least 21-days prior to the hearing date (Government Code Section 56157[h]). After deeming the proposal complete, the Executive Officer advertised the reorganization in the Santa Cruz Sentinel on January 18, 2022. The public notice was also uploaded on LAFCO's website and circulated to interested agencies and individuals. The public notices indicated that the reorganization was scheduled for Commission consideration on February 9, 2022, included a vicinity map and provided answers to frequently asked questions. Information on how to participate in the LAFCO Meeting was also included in the public notice. A copy of the public notice is shown in **Attachment 12**. Additionally, LAFCO participated in multiple board meetings held by OCRD to discuss the proposed reorganization and answer any questions by the board or member of the public.

Commission Hearing

Pursuant to Government Code Section 56666, a hearing is required when considering a change of organization. At the hearing, the Commission shall hear and receive any oral or written protests, objections, or evidence that shall be made, presented, or filed, and consider the report of the Executive Officer and the plan for providing services to the proposal area. The February 9th LAFCO Meeting is accessible to anyone who is interested. In accordance with Assembly Bill 361, the meeting will be conducted remotely. The February 9th agenda includes steps on how to access the virtual meeting.

LAFCO Process (Post-Commission Action)

If the Commission approves the reorganization, State law requires the commencement of a request for reconsideration period and a protest proceeding. These two periods are summarized below. **Attachment 13** provides a complete overview of the entire LAFCO process schedule – from the day the application was submitted to the proposed completion date (assuming the reorganization effort is successful).

Request for Reconsideration

Pursuant to Government Code Section 56895, when the Commission adopts a resolution making determinations regarding a change of organization, any person or affected agency may file a written request with the Executive Officer requesting amendments to or reconsideration of the resolution. The request shall state the specific modification to the resolution being requested and shall state what new or different facts that could not have been presented previously are claimed to warrant the reconsideration. Individuals or agencies have up to 30 days after adoption of the resolution to submit a written request. The request for reconsideration period is scheduled for February 9 to March 9, 2022.

Protest Proceedings

Pursuant to Government Code Section 57000, when the Commission adopts a resolution making determinations regarding a change of organization, affected residents within the proposal area will have an opportunity to voice their opposition during the protest period. The Commission shall specify a timeframe between twenty-one (21) and sixty (60) days for the collection and filing of written protests pursuant to Government Code Section 56886(o), and that timeframe shall be included in the terms and conditions of an approval for a change of organization. Within thirty (35) days of the adoption of the Commission's resolution, the Executive Officer shall notice a protest hearing and, in the notice, set the hearing date as prescribed by the Commission in its terms and conditions.

LAFCO staff has set forth a 21-day protest proceeding. The protest period is scheduled for March 10 to March 30, 2022. A protest hearing will be held on March 30, 2022 to collect the final petitions and hear any resident feedback. A public notice for the protest hearing will be advertised in the Sentinel and distributed to the Opal Cliffs community no later than March 9, 2022. A draft version of the protest notice is shown in **Attachment 14**.

Protest Results

Upon determination of the value of written protests filed and not withdrawn, the Executive Officer shall take one of the following actions:

- a) If less than 25% of the affected registered voters or landowners oppose the proposal, then a form of resolution making determinations and ordering the change of organization or reorganization will be adopted without an election;
- b) If 25% to 50% of the affected registered voters or landowners oppose the proposal, then a form of resolution making determinations and ordering the change of organization or reorganization will be adopted subject to confirmation by the voters; or
- c) If more than 50% of the affected registered voters or landowners oppose the proposal, then a certificate of termination will be issued, which ends the LAFCO proceedings.

For additional transparency, and to clarify the statutory requirements outlined in the Cortese-Knox-Hertzberg Act, the Commission adopted a Protest Proceedings Policy (refer to **Attachment 15**).

Certificate of Completion

A certificate of completion is the document prepared by the Executive Officer and recorded with the County Recorder that confirms the final successful completion of a change of organization, in this case the proposed reorganization. Pursuant to Government Code Section 57200, the Executive Officer will prepare and execute a certificate of completion when the following are completed:

- 1) Completion of the Request for Reconsideration and Protest Periods; and
- 2) Satisfaction of any conditions contained in the adopted resolution that required to be completed prior to filing a certificate of completion.

Pursuant to Government Code Section 57001, if a certificate of completion for a change of organization has not been filed within one year after the commission approves a proposal for that proceeding, the proceeding shall be deemed terminated unless prior to

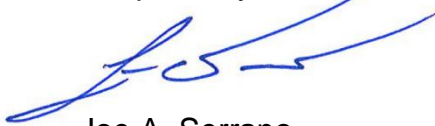
the expiration of that year the Commission authorizes an extension of time for that completion. The extension may be for any period deemed reasonable to the Commission for completion of necessary prerequisite actions by any party.

STAFF RECOMMENDATION

The Opal Cliffs Recreation District has experienced internal deficiencies and financial constraints for almost a decade now. Fortunately, the District and County developed a strategic partnership in 2019 to transition all administrative duties to the County Parks Department. After reviewing LAFCO's findings in the 2021 Countywide Service & Sphere Review, the two affected districts have decided to transition the strategic partnership into an official merger.

Under the proposed reorganization, the collaborative effort will preserve the current levels of service, maintain local demand expectations, and continue the existing funding sources while maximizing economies of scale, combining best practices, and ultimately lead to a better level of service. Therefore, staff is recommending that the Commission adopt the draft resolution, as shown in **Attachment 16**. The effective date of this reorganization, if approved, is subject to completion of terms and conditions outlined in this resolution as authorized by Government Code Sections 56886(p) and 57202 and will be effective upon issuance of the certificate of completion. Based on the attached reorganization schedule created by LAFCO staff, the effective date may occur around April-May 2022.

Respectfully Submitted,



Joe A. Serrano
Executive Officer

Attachments:

1. [Proposal Evaluation Policy](#)
2. [Initiating Resolution](#)
3. [Indemnification Agreement](#)
4. [LAFCO Status Letter](#)
5. [LAFCO Referral Letter](#)
6. [Property Tax Exchange Agreement](#)
7. [Memorandum of Understanding](#)
8. [Letter of Support](#)
9. [Notice of Exemption \(Draft Version\)](#)
10. [Statutory and Policy Factors](#)
11. [Certificate of Filing](#)
12. [Notice of Public Hearing](#)
13. [Reorganization Schedule](#)
14. [Protest Hearing Notice \(Draft Version\)](#)
15. [Protest Proceedings Policy](#)
16. [Draft Resolution No. 2022-02](#)

cc: Jenae Replogle, Opal Cliffs Recreation District
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