EL DORADO LAFCO

LOCAL AGENCY FORMATION COMMISSION

RESOLUTION NUMBER L-2014-03

Malcolm Dixon Estates Reorganization to the El Dorado Irrigation District (EID) and the El Dorado Hills Count Water District (EDH Fire)
LAFCO Project No. 2013-01

WHEREAS, on April 2, 2013, Diamante Development, LLC, owner of 100% of the assessed value of the land originally included in the proposal, submitted a landowner petition ("petition") requesting the reorganization of APN 126-100-23 into the El Dorado Irrigation District (EID) and El Dorado Hills County Water District (EDH Fire); and

WHEREAS, on August 14, 2013 APN 126-100-23 was split into two parcels, APNs 126-490-01 and 126-490-02, shown in "Exhibit A" (hereinafter referred to as the "subject territory"); and

WHEREAS, APN 126-490-01 is owned by Christopher LaBarbera and APN 126-490-02 is owned by Diamante Development, LLC, of which Mr. LaBarbera is a managing partner; and

WHEREAS, on January 27, 2014, Diamante Development, LLC and Christopher LaBarbera ("petitioners") submitted a written statement affirming, and consenting to, the inclusion of the subject territory in the reorganization petition in conformance with Government Code §56864.3; and

WHEREAS, the petitioners, as 100% of the number of landowners of the subject territory, owning 100% of the assessed value of the land within the subject territory initiated the petition in conformance with Government Code §56864; and

WHEREAS, the petition is in conformance with Government Code §56650 et seq.; and

WHEREAS, the proposal was assigned LAFCO Project No. 2013-01 and is referred to as the "Malcolm Dixon Estates Reorganization to the El Dorado Irrigation District and El Dorado Hills County Water District"; and

WHEREAS, the subject territory, consists of a total of approximately 40.65 acres; and

WHEREAS, the petition requests the annexation of the subject territory, into EID and EDH Fire for the provision of water and fire protection services; and

DRAFT

WHEREAS, Revenue and Taxation Code §99 requires an agreement for the exchange of property tax revenues in the event of a jurisdictional change of local agencies; and

WHEREAS, property tax exchange negotiations were completed and approved by the County of El Dorado ("the County") on July 16, 2013, by EID on July 17, 2013, and by EDH Fire on July 18, 2013; and

WHEREAS, EID and EDH Fire requested termination of the informational hearing proceedings pursuant to Government Code §56857(b); and

WHEREAS, pursuant to Government Code §56857(c) the Commission terminated the informational hearing proceedings; and

WHEREAS, a Mitigated Negative Declaration of Environmental Impact (MND) has been prepared for the project by El Dorado County, as outlined by the California Environmental Quality Act ("CEQA"); and

WHEREAS, the El Dorado Local Agency Formation Commission ("LAFCO") has reviewed said MND, a copy of which is filed at the LAFCO office; and

WHEREAS, within the scope of this environmental review, any potential environmental impacts of the project were considered and addressed; and

WHEREAS, the Executive Officer has examined the petition, certified that it is adequate and has accepted the petition for filing on February 4, 2014; and

WHEREAS, the Executive Officer set a public hearing for March 26, 2014 for consideration of the petition and the MND and caused Notice thereof to be posted, published and mailed at the times and in the manner required by law at least twenty-one (21) days in advance of that date; and

WHEREAS, said Notice stated that the petition and the MND would be considered by this Commission at the hearing; and

WHEREAS, the Executive Officer, pursuant to Government Code §56665, has reviewed this petition and prepared and distributed a report, including recommendations, and has furnished a copy of this report to each person entitled to a copy at least five (5) days prior to the March 26, 2014 meeting during which the petition was considered; and

WHEREAS**,** on March 26, 2014, the matter came on regularly for hearing before this Commission, at the time and place specified in the Notice of the Public Hearing; and

DRAFT

***WHEREAS*,** at said hearing, the petition, MND, and the Executive Officer's Report and Recommendations were reviewed and considered; and

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

WHEREAS, this Commission has received, heard, discussed and considered all oral and written testimony related to the petition, including, but not limited to, protests and objections, the Executive Officer's report and recommendations, the MND and determinations, plans for providing service, spheres of influence, applicable General and Specific Plans, each of the policies, priorities and functions set forth in the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, including those set forth in Government Code §§56377, 56668 and 56668.3, LAFCO's Policies and Guidelines and all other materials presented as prescribed by law.

NOW, THEREFORE, IT IS HEREBY RESOLVED, DETERMINED, ORDERED AND FOUND by the El Dorado Local Agency Formation Commission as follows:

1. Each of the foregoing recitals is true and correct.

2. This resolution making determinations is made pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, California Government Code §56000 et seq.

3. The following agencies and districts were notified concerning this petition: El Dorado Irrigation District; El Dorado Hills County Water District; El Dorado County CSA 7, 9, 9 Zone 17, 10 and 10 Zone E; El Dorado Hills Community Services District; El Dorado County Water Agency; El Dorado County Resource Conservation District; El Dorado County Department of Agriculture; El Dorado County Office of Education; Rescue Union School District; El Dorado Union High School District; Los Rios Community College District; El Dorado County Planning Department; El Dorado County Surveyor's Office; the Farm Bureau; El Dorado County Sheriff's Department; El Dorado County Elections Department; El Dorado County Assessor's Office; El Dorado County Auditor's Office; and the U.S. Bureau of Reclamation.

4. There are no registered voters in the subject territory; therefore, the subject territory is considered uninhabited per Government Code §56046.

5. Diamante Development, LLC and Christopher LaBarbera, as owners of 100% of the assessed value of the land within the subject territory, have given written consent to the reorganization.

DRAFT

6. EID and EDH Fire, as the subject agencies, have not requested in writing or otherwise that LAFCO hold protest proceedings on this petition.

7. The Conducting Authority proceedings are hereby waived in accordance with Government Code §56663(c).

8. On June 15, 2010, the Board of Supervisors approved the Malcolm Dixon Estates Tentative Subdivision Map to create eight single-family residential lots, including a request to rezone the subject territory from Exclusive Agricultural (AE) to Estate Residential Five-Acre (RE-5).

9. One of the conditions placed on the Malcolm Dixon Estates Tentative Subdivision Map is annexation into EID and EDH Fire, prior to filing the Final Map.

10. On February 11, 2013, the Board of Supervisors approved a revision to the approved Tentative Subdivision Map to include a two-phase Phasing Plan. Phase 1 includes Lot 8; Phase 2 includes Lots 1-7.

11. By approving the Phasing Plan, the conditions of approval for the Malcolm Dixon Estates Subdivision, including annexation into EID and EDH Fire, were deferred until Phase 2.

12. APN 126-490-02 (35.29 acres, Lots 1-7) is currently undeveloped; APN 126-490-01 (5.36 acres, Lot 8) contains existing development, consisting of a single family residence served by private well and septic system, a swimming pool, several outbuildings, and extensive paved and graded areas.

13. The petition is consistent with the County's 2004 General Plan.

14. The subject territory is within the EID sphere of influence and is contiguous to the existing EID service area.

15. The subject territory is within the EDH Fire sphere of influence and is contiguous to the existing EDH Fire service area.

16. The subject territory consists of a single tax rate area and is currently within TRA 100-190.

17. At the time of reorganization initiation, the total assessed value of the subject territory (APN 126-100-23) was $2,244,000.

18. According to the El Dorado County Assessor's website, the current combined total assessed value of the subject territory (APNs 126-490-01 and 126-490-02) is $2,369,548.

DRAFT

19. The petition will assist the County's ability to meet its Regional Housing Needs Assessment allocations as determined by the Sacramento Area Council of Governments for moderate to high income groups.

20. Upon completion of the approval proceedings, EID shall provide water service to the subject territory.

21. EID has planned for the provision of water to the subject territory and has developed a fee schedule, bonding funds, and assessments to provide funding for that service.

22. Upon completion of the approval proceedings, EDH Fire shall provide fire protection services to the subject territory.

23. EDH Fire has planned for the provision of fire protection services to the subject territory and has developed a fee schedule, bonding funds, and assessments to provide funding for that service.

24. The petition meets the intent, policies, and priorities of this Commission, and the laws and policies within its jurisdiction and authority, including but not limited to the EID and EDH Fire spheres of influence and the El Dorado LAFCO Policies and Guidelines.

25. This Commission has reviewed and considered the information contained in the MND, Initial Study and administrative record for the petition.

26. This Commission finds that the MND and Initial Study contain a complete, accurate and objective reporting of the environmental impacts associated with the reorganization and reflect the independent judgment of the Commission.

27. This Commission further finds that the MND and Initial Study have been completed in compliance with CEQA, the State CEQA Guidelines and the Commission's Local CEQA Guidelines as detailed in the El Dorado LAFCO Policies and Guidelines.

28. A full and fair public hearing was held on the MND for the reorganization.

29. This Commission has considered all comments received thereon in response to the public circulation of the MND, and said MND is hereby approved and adopted as the MND for the petition.

30. The MND addressed, among other things, impacts to agricultural resources, hydrology and water quality, land use and planning, population and housing, public services, transportation and traffic, utilities and service systems, and recreation.

DRAFT

31. The MND included a Mitigation Monitoring Program that addressed measures necessary to mitigate the potentially significant effects that the project could have on the surrounding area, and identified the responsible parties and included the provisions to be followed.

32. El Dorado County, in accordance with the California Environmental Quality Act (CEQA), ultimately determined that, with the mitigation measures specified in the MND, the reorganization would not have a significant impact on the environment.

33. This Commission hereby finds on the basis of its review of the Initial Study and comments on the MND, and all other written and oral evidence presented to the Commission, there is no substantial evidence in the administrative record to support a fair argument that the proposed change of organization may result in a significant impact on the environment. This Commission further finds that the reorganization will not cause any significant environmental impacts.

34. El Dorado County's MND for the Malcolm Dixon Estates Reorganization is hereby accepted as the appropriate environmental document for this petition in accordance with CEQA.

35. The County Surveyor has agreed that the submitted legal description and maps are mathematically correct.

36. The reorganization will not result in negative impacts to the cost and adequacy of services otherwise provided in the area and it is in the best interests of the affected area and the total organization of local government agencies.

37. The area proposed for reorganization represents a justifiable extension of the EID and EDH Fire boundaries.

38. The proposal is assigned the following short form designation:

    Malcolm Dixon Estates Reorganization to the El Dorado Irrigation District and El Dorado Hills County Water District LAFCO Project No. 2013-01

39. The Malcolm Dixon Estates Reorganization to the El Dorado Irrigation District and El Dorado Hills County Water District is hereby approved, subject to the following conditions:

    (a) The subject territory shall be liable for any authorized or existing taxes, fees, service charges, assessments and any bonded indebtedness of EID and EDH Fire.

DRAFT

(b) The applicant and the real party of interest, if different, shall agree to defend, indemnify, hold harmless and release the El Dorado Local Agency Formation Commission, its agents, officers, attorney and employees from any claim, action or proceeding brought against them or any of them, the purpose of which to attack, set aside, void, condition, challenge or annul the approval of this application or adoption of the environmental document 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 applicant, arising out of, related to or in connection with the approval of this application, whether or not there is concurrent passive negligence of the part of the El Dorado Local Agency Formation Commission or its agents, officers, attorney or employees.

(c) The Certificate of Completion shall be issued and recorded subsequent to final payment of all LAFCO, State Board of Equalization and County fees, costs and charges associated with the project and necessary to complete the required filings and transmittals.

(d) The applicant shall complete all map and legal description requirements for final recording and filing, including documents required by the State Board of Equalization, within 180 days of March 26, 2014.

(e) The Certificate of Completion shall be issued and recorded subsequent to the fixing and establishment of any necessary right of use of water by El Dorado Irrigation District in the subject territory (§56886j). Nothing in this condition shall operate or be interpreted to modify priorities of use, or right of use, to water, or capacity rights in any public improvements or facilities that have been fixed and established by a court or an order of the State Water Resources Control Board.

(f) The applicant or real party of interest shall submit a written statement to the Executive Officer certifying their intention to pay all district annexation fees associated with the reorganization. The Executive Officer shall forward a copy of the statement to EID and EDH Fire.

40. All subsequent proceedings in connection with this reorganization shall be conducted only in compliance with the approved boundaries and conditions set forth in the attachments and any terms and conditions specified in this resolution.

41. The Executive Officer is hereby authorized and directed to file with the Clerk of the County of El Dorado, a Notice of Determination for the reorganization, pursuant to Title 14 California Code of Regulations §15075.

DRAFT

42. The effective date shall be the five (5) working days after recordation by the County Recorder of the Executive Officer's Certificate of Completion, which shall be prepared and recorded after the conditions set forth above are met.

43. Upon and after the effective date of said reorganization, the affected territory, all inhabitants within such territory, and all persons entitled to vote by reasons of residing or owning land within the territory:

    (a) Shall be subject to the jurisdiction of EID and EDH Fire, hereafter referred to as "the Districts";

    (b) Shall have the same rights and duties as if the affected territory has been a part of the Districts upon their original formation;

    (c) Shall be liable for the payment of any authorized or existing taxes, fees, assessments and any bonded indebtedness of the Districts, including amounts which shall become due on account of any outstanding or then authorized but thereafter issued obligations of the Districts;

    (d) Shall be subject to the collection of all taxes, assessments, service charges, rentals or rates as may be necessary to provide for such services;

    (e) Shall be subject to all of the rules, regulations and ordinances of the Districts as now existing or hereafter amended.

44. All interested parties, including without limitation Diamante Development, LLC and Christopher LaBarbera, agree that LAFCO retains in perpetuity the authority to enforce, through legal action or otherwise, all of the terms and conditions of the project approval.

45. The documents and materials which constitute the record of proceedings on which these findings are based are located at 550 Main Street, Suite E, Placerville, CA 95667. The custodian of these records is the Executive Officer.

PASSED AND ADOPTED by the El Dorado Local Agency Formation Commission at a regular meeting of said Commission, held March 26, 2014 by the following vote of said Commission.

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST:

_____ _____

Clerk to the Commission Chairperson

DRAFT

BOUNDARY MAP

L.A.F.C.O. PROJECT 2013-01

ANNEXATION TO
EL DORADO IRRIGATION DISTRICT AND
EL DORADO HILLS COUNTY WATER DISTRICT

THE NORTHEAST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER OF SECTION 14, TOWNSHIP 10 NORTH, RANGE 8 EAST, M.D.M.

COUNTY OF EL DORADO STATE OF CALIFORNIA
SCALE: 1"=300' SHEET 1 OF 1 JANUARY, 2014

cta Engineering & Surveying
Civil Engineering ▪ Land Surveying ▪ Land Planning

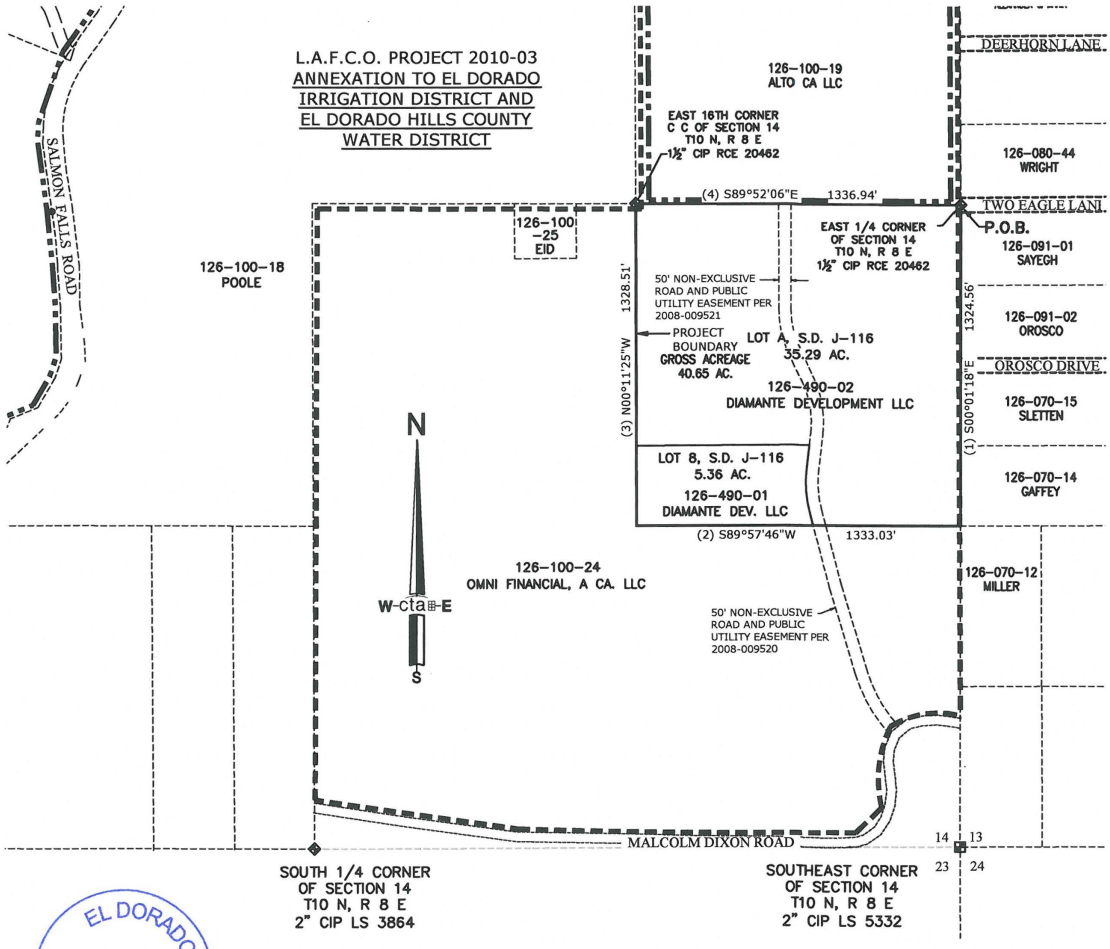
LEGEND

- DIMENSION POINT
- FOUND MONUMENT AS NOTED
- PROJECT BOUNDARY
- EL DORADO IRRIGATION DISTRICT BOUNDARY (EXISTING)
- EL DORADO HILLS CWD FPD (EXISTING)
- P.O.B. POINT OF BEGINNING

BASIS OF BEARINGS

THE BASIS OF BEARINGS FOR THIS SURVEY IS IDENTICAL WITH THAT CERTAIN RECORD OF SURVEY RECORDED IN BOOK 25 OF SURVEYS, PAGE 30 AS DETERMINED BY MONUMENTS SHOWN AS FOUND HEREON.

VICINITY MAP
NOT TO SCALE



EL DORADO JAN 29 2014 LAFCO

COUNTY SURVEYOR'S STATEMENT

THIS EXHIBIT MEETS THE REQUIREMENTS OF THE STATE BOARD OF EQUALIZATION, THE EL DORADO COUNTY RECORDERS OFFICE AND CONFORMS TO THE LINES OF ASSESSMENT.

DATED 1/29/14

RICHARD L. BRIMER, P.L.S. 5084
COUNTY SURVEYOR
COUNTY OF EL DORADO

BY: _____
PHILIP R. MOSBACHER, P.L.S. 7189
ASSOCIATE LAND SURVEYOR
COUNTY OF EL DORADO

LICENSED LAND SURVEYOR ★ PHILIP R. MOSBACHER No. 7189 ★ STATE OF CALIFORNIA

SURVEYOR'S STATEMENT

THIS EXHIBIT WAS PREPARED IN MARCH, 2013 AND IS FOR ASSESSMENT PURPOSES ONLY. THIS DESCRIPTION OF LAND IS NOT A LEGAL PROPERTY DESCRIPTION AS DEFINED IN THE SUBDIVISION MAP ACT AND MAY NOT BE USED AS THE BASIS FOR AN OFFER FOR SALE OF THE LAND DESCRIBED.

_____ 01/27/14
KEVIN A. HEENEY, P.L.S. 5914 DATE

LICENSED LAND SURVEYOR KEVIN A. HEENEY NO.5914 Exp.12-31-2014 STATE of CALIFORNIA

APPROVED BY
LOCAL AGENCY FORMATION COMMISSION
EL DORADO COUNTY CA 95667

DATE: _____

ATTEST: _____
EXECUTIVE OFFICER