

CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
EXECUTIVE OFFICER'S REPORT

July 8, 2009 (Agenda)

LAFCO 09-08 City of Martinez - Out of Agency Service Agreement (5274 Alhambra Valley Road)

RECOMMENDATION Authorize the City to extend water service outside of its boundaries and within its sphere of influence (SOI) to a 2.67± acre parcel located at 5274 Alhambra Valley Road in unincorporated Martinez (APN 367-150-045).

ANALYSIS

1. LAFCO Approval is Required

State law requires LAFCO review and approval of boundary changes and extensions of service without boundary changes.

Specifically, Government Code §56133 states that “A city or district may provide new or extended services by contract or agreement outside of its jurisdictional boundaries only if it first requests and receives written approval from the Commission.”

Further, the law provides that the Commission may authorize a city or district to provide new or extended services: a) outside its jurisdictional boundaries but within its SOI in anticipation of a later change of organization; or b) outside its jurisdictional boundaries and outside its SOI to respond to an existing or impending threat to the public health or safety.

The City’s application meets the above criteria as it is located outside the City’s boundary, within the City’s SOI, and in anticipation of a future annexation.

2. Request by City of Martinez

The City requests authorization to provide water service outside of its boundaries and within its SOI to property located at 5274 Alhambra Valley Road in the unincorporated Martinez area.

The service is proposed in order to serve a future single-family residential dwelling unit. The application for a building permit is currently being processed by the County. In June 2008, the County granted approval of a small lot design review for a new residence on this parcel.

Historically, the City has provided treated water service to unincorporated areas outside the City’s corporate boundaries based the City’s ultimate water service boundary, first adopted in 1969 and reaffirmed in 1987. The City currently serves an estimated 1,500 accounts that are outside the City’s corporate boundaries; the majority of which were established prior to 2001. A number of these accounts are located in the Alhambra Valley area (e.g., Deer Creek Road, Stonehurst, etc.).

LAFCO law relating to out of agency service has changed significantly since 1969. In 1994, a provision was added to the Government Code requiring local agencies to receive approval from LAFCO to extend municipal services outside their jurisdictional boundary (Government Code §56133).

3. Existing Commission Policy Regarding Out of Agency Services

The Commission's current policy regarding out of agency service is consistent with State law in that annexations to cities and special districts are generally preferred for providing public services. However, there may be situations where health and safety, emergency service, or other concerns, warrant out of agency service.

Out of agency service agreements are a temporary measure, typically considered in response to an existing or impending public health and safety threat (e.g., failing septic system); or when annexation is not immediately feasible, and in anticipation of a future annexation.

As indicated above, this application is in anticipation of a future annexation.

In addition, County Environmental Health staff indicates that there are a number of challenges in the area. The ridge area north of Alhambra Valley Road is known to be a groundwater short area. Another challenge is that shallow water from zones less than 50 feet are not acceptable due to the County's 50-foot minimum seal requirement that is intended to protect the public from surface water and the potential health risks associated with drinking it.

4. Agreement Consenting to Annex

Whenever an affected property is ultimately annexed to an agency providing services through an out of agency service agreement, a standard condition is to require the landowner to record an agreement consenting to the annexation. The property owner has submitted a notarized agreement consenting to the future annexation of the parcel; the agreement runs with the land.

5. Impact on Planning and Land Use

The project site is located in the Alhambra Valley area. The property is surrounded by low density single family residential development to the north, south and east and a vacant lot to the west. According to the City, properties to the north, northeast, and south have City municipal water service.

The lot is currently vacant. In accordance with the County General Plan, the site is designated Agricultural Land (AL) and zoned General Agricultural (A-2: 5-acre minimum). In 1985, the Board of Supervisors approved a small subdivision (i.e., Parcel Map) that resulted in the creation of the subject property (Minor Subdivision File #MS 68-84). The Board granted an exception (i.e., variance) to the zoning parcel size limit for this parcel. Further, the approval also provided that:

- The developer would contribute fees to fund local infrastructure improvements including domestic water supply (pump stations, reservoirs, and mains to reservoirs).
- The subdivider obtain the necessary approval from the County Health Dept. for provision of a water supply. Prior to approval of the Parcel Map (in March 1991), the subdivider provided evidence that the County Environmental Health had approved the project to have water supply by the City of Martinez.

Basic water distribution infrastructure is already in place with sufficient capacity to serve this property. The City indicates that there is presently an 8" water main located on an existing easement on the property. Following LAFCO's approval, the City will connect the property to the 8" water main via a standard one inch service line and meter.

6. Environmental Impact of the Proposal

In September 1984, Contra Costa County, as Lead Agency, prepared an Initial Study/Negative Declaration relating to Minor Subdivision 68-84. The project assumed that water service would be provided by the City of Martinez.

The LAFCO Environmental Coordinator reviewed the proposal to provide water service to the site. There are no proposed changes in land use or other environmental impacts related to this approval. Therefore, the proposed project is exempt from CEQA pursuant to Government Code §15061(b)(3).

ALTERNATIVES FOR COMMISSION ACTION:

Option 1 Approve the request for out of agency service.

- A. Find the proposal to be exempt from CEQA pursuant to Government Code §15061(b)(3).
- B. Authorize the City of Martinez to extend water service outside the City's boundary to the existing single family residential dwelling unit located at 5274 Alhambra Valley Road in the unincorporated Martinez area.

Option 2 Deny the request, thereby prohibiting the City from providing water service to the site prior to annexation.

Option 3 Continue this matter to a future meeting in order to obtain more information.

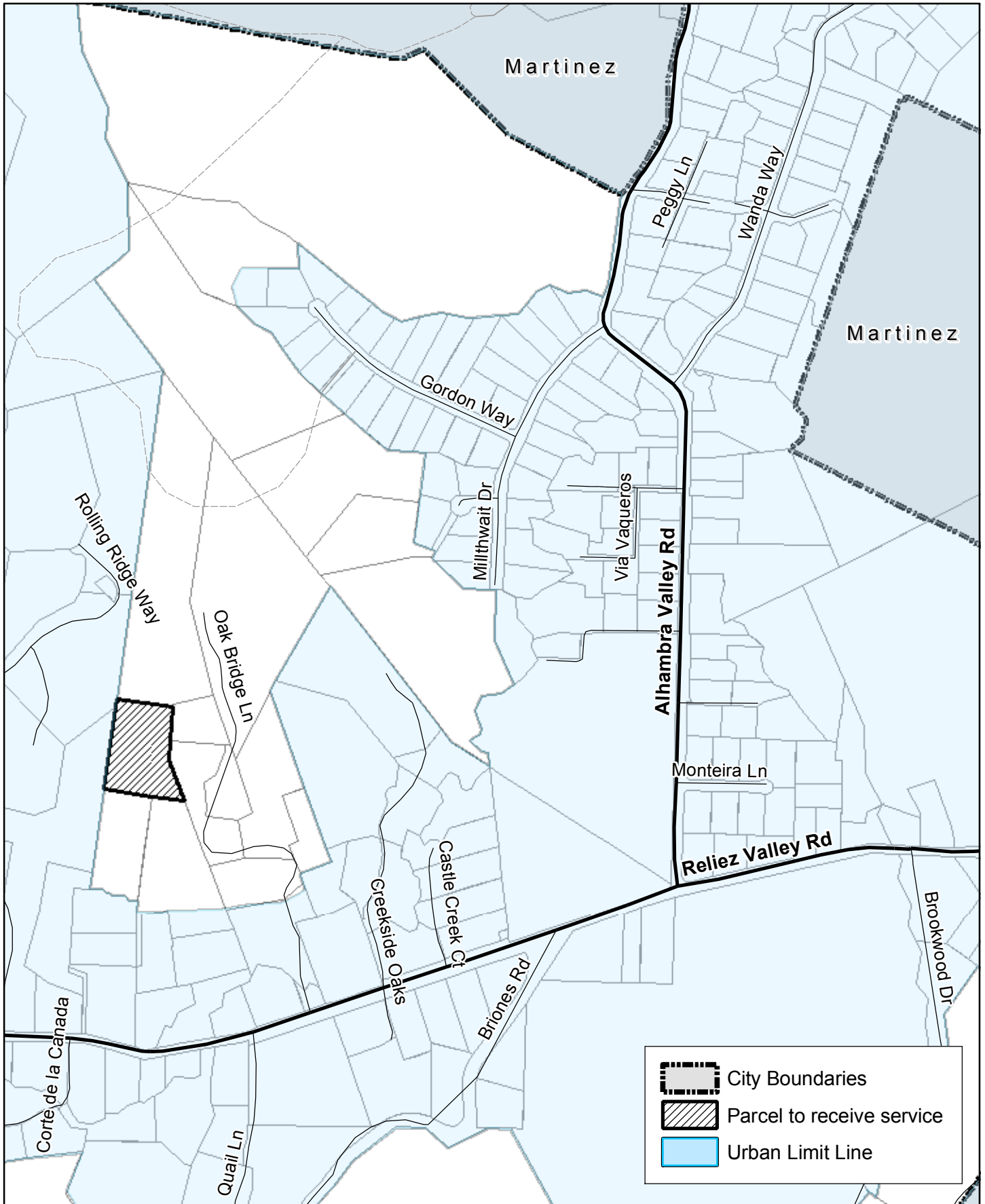
RECOMMENDED ACTION:




Approve Option 1.

LOU ANN TEXEIRA
EXECUTIVE OFFICER
LOCAL AGENCY FORMATION COMMISSION

c: Distribution

LACFO No. 09-08: City of Martinez Out of Area Service Agreement (5274 Alhambra Valley Road)



	City Boundaries
	Parcel to receive service
	Urban Limit Line



RESOLUTION NO. 09-08

**RESOLUTION OF THE CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
AUTHORIZING THE CITY OF MARTINEZ TO PROVIDE
OUT-OF-AGENCY SERVICES (5274 ALHAMBRA VALLEY ROAD)**

WHEREAS, the above-referenced request has been filed with the Executive Officer of the Contra Costa Local Agency Formation Commission pursuant to the Cortese/Knox/Hertzberg Local Government Reorganization Act (Section 56000 et seq. of the Government Code); and

WHEREAS, at the time and in the manner required by law the Executive Officer has given notice of the Commission's consideration of this request, and

WHEREAS, the Commission heard, discussed and considered all oral and written testimony related to this request including, but not limited to, the Executive Officer's report and recommendation, and

WHEREAS, the project approval is needed to comply with a water supply condition, and

WHEREAS, the property owner has signed a pre-annexation agreement consenting to a future annexation of the property to the City of Martinez, and

WHEREAS, there is no potential for significant adverse environmental impacts.

NOW, THEREFORE, BE IT RESOLVED DETERMINED AND ORDERED by the Contra Costa Local Agency Formation Commission as follows:

- (1) The proposal is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3).
- (2) The City is hereby authorized to extend city water services outside of the City to property located at 5274 Alhambra Valley Road in unincorporated Martinez subject to the following conditions:
 - a. Water infrastructure and service is limited to one single-family residential dwelling unit to be served by a 1" service line (with meter) connecting to an existing 8" water main; and
 - b. Prior to the extension of service, the City shall deliver an executed indemnification agreement providing for the City to indemnify LAFCO against any expenses arising from any legal actions challenging the extension of out of agency service.
- (3) Approval to extend City services beyond those specifically noted herein is withheld and is subject to future LAFCO review.

* * * * *

PASSED AND ADOPTED THIS 8th day of July 2009, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

GAYLE UILKEMA, 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 above.

Dated: July 8, 2009

Lou Ann Texeira, Executive Officer