

CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION  
EXECUTIVE OFFICER'S REPORT

August 13, 2014 (Agenda)

August 13, 2014  
Agenda Item 8

LAFCO 14-03

City of Martinez - Out of Agency Service Request (Ashley Place)

## SYNOPSIS

This is a request by the City of Martinez to provide water service outside its jurisdictional boundary to two lots located south of Pacheco Boulevard in the unincorporated Mountain View area. The two parcels (10 and 20 Ashley Place) total 0.24± acres (APNs 375-221-025 and -026) (Attachment 1). The lots are currently vacant and are part of a minor subdivision recorded in 1990. In August 2013, the County approved the owner's request to construct two single family homes on the lots. In March 2014, the County issued building permits and the homes are currently under construction.

The County zoning is Residential (R-6) with a General Plan designation of Single Family Residential High Density. The subject parcel is located inside the County's voter-approved Urban Limit Line. The City's rezoning designation for the property is R-6 (single family, 6,000 sf minimum lot size). Surrounding uses include single family residential to the north, south, east and west. The two parcels are within the City of Martinez sphere of influence (SOI).

The City of Martinez is currently providing water service to all of the surrounding developed properties. The area is within the Mt. View Sanitary District (MVSD) service boundary.

## DISCUSSION

Statutory Framework – Out of Agency Service - The Government Code and local LAFCO policies regulate the extension of out of agency service. Government Code §56133 states that “A city or district may provide new or extended services by contract or agreement outside of its jurisdictional boundary only if it first requests and receives written approval from the Commission.” Further, the law provides that LAFCO may authorize a city or district to provide new or extended services under specific circumstances: a) outside the agency's jurisdictional boundary but within its SOI in anticipation of a future annexation; or b) outside its jurisdictional boundary and outside its SOI in response to an existing or impending threat to the public health or safety.

The Commission's current policies regarding out of agency service are consistent with State law in that annexations to cities and special districts are generally preferred for providing municipal services. However, there may be situations where health and safety, emergency service, or other concerns warrant out of agency service. Historically, out of agency service is considered a temporary measure, typically in response to an existing or impending public health and safety threat (e.g., failing septic system, contaminated well); or in anticipation of a future annexation.

Out of Agency Service Request by City of Martinez and Background – As noted in the both the 2014 and 2008 *Water/Wastewater* and the 2009 *Central County Sub-regional* LAFCO Municipal Service Reviews (MSRs), the City is providing water services beyond its corporate limits to 1,500± water connections. These 1,500 water connections represent residents who do not have representation concerning policy or governance of their water supply. The MSRs recommend that the City of Martinez annex areas receiving city services, as appropriate.

The City has an active annexation program. In 2011, the City submitted an application to annex 393± acres (139 parcels) in the Alhambra Valley. In response to community input and the City's request, LAFCO approved a slightly reduced boundary comprised of 316± acres (104 parcels). Also, in 2011, the City submitted a proposal to annex the North Pacheco area. LAFCO approved the annexation; however, the voters rejected it.

The City recently embarked on a fiscal analysis to study potential annexation areas including the North Pacheco, Mt. View and Vine Hill areas. Further, the City recently reaffirmed its commitment to annex the Alhambra Valley.

The law permits LAFCO to authorize the City to extend services outside its jurisdictional boundary in specific situations as described above. The request by the City to provide water service to the properties on Ashley Place is in anticipation of a future annexation.

Other actions the City has taken in furtherance of future annexation efforts include the following:

- The City's General Plan includes policies and land use designations supporting annexation of various unincorporated areas.
- The City has prezoned all areas that are outside the City limits but within the City's SOI and within the boundaries of City of Martinez water service area, including the Mt. View community.
- The City recently initiated a study to review the fiscal impacts of annexing the North Pacheco, Mt. View and Vine Hill areas.
- The City requires property owners to execute a deferred annexation agreement in order to receive City water service.

**Water Supply to the Project Area** – The Mt. View area is mostly developed and characterized by primarily residential with some commercial, industrial and public uses. Most of the developed properties in the Mt. View area receive water service through the City of Martinez.

The City indicates that it has adequate water to serve the two parcels on Ashley Place. According to the City, water service will be provided to the parcels from the City's existing six-inch water line on Veal Avenue. Each water service will consist of approximately 20 linear feet of one-inch diameter pipe, a water meter, and a backflow pretension device. The service lines will be used for domestic and fire supply.

The property owners are responsible for all site development, improvement and start-up costs including those associated with the domestic water system; operational and maintenance costs will be funded through water service and water usage fees collected by the City of Martinez.

**Environmental Review** – Contra Costa County, as Lead Agency, found the construction of the two single family homes to be exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15303. Subsequently, the City found the extension of water service to the two single family homes to also be exempt under section 15303 and has filed a Notice of Exemption. The LAFCO Environmental Coordinator has reviewed the documents and finds they are adequate for LAFCO purposes.

#### ALTERNATIVES FOR COMMISSION ACTION

LAFCOs were formed for the primary purpose of promoting orderly development through the logical formation and determination of local agency boundaries, and facilitating the efficient provision of public services. The CKH provides that LAFCO can approve with or without amendments, wholly, partially, or conditionally, or deny a proposal. The statute also provides LAFCO with broad discretion in terms of imposing terms and conditions. The following options and recommended terms and conditions are presented for the Commission's consideration.

**Option 1**      **Approve** the out of agency service request with the following terms and conditions.

- A. Find that the project is exempt pursuant to section 15303 of the CEQA Guidelines, consistent with the determination of Contra Costa County acting as Lead Agency.
- B. Authorize the City of Martinez to extend water service outside its jurisdictional boundary to the APNs 375-221-025 and -026) located at 10 and 20 Ashley Place in unincorporated Contra Costa County subject to the following terms and conditions:
  - 1. Water infrastructure and service is limited to the two proposed single family dwelling units, and
  - 2. The City of Martinez has delivered to LAFCO executed and recorded deferred annexation agreements, and
  - 3. The City of Martinez has delivered to LAFCO an executed indemnification agreement providing for the City to indemnify LAFCO against any expenses arising from any legal actions to challenging the out of agency service.

**Option 2**      **Deny** the request, thereby prohibiting the City of Martinez from providing water service to the project site.

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

## **RECOMMENDATION**

### **Option 1 – Approve out of agency service request**

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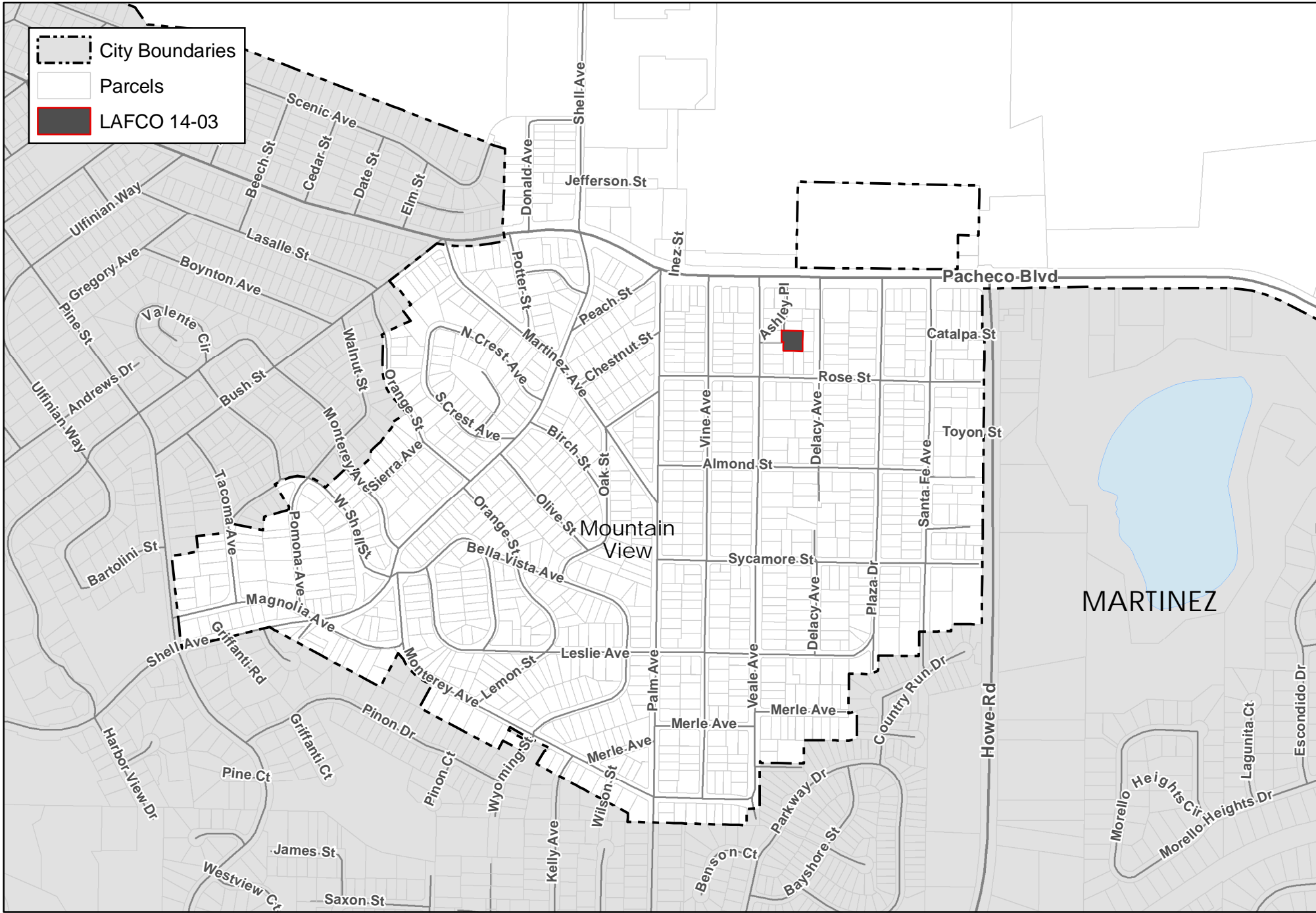
LOU ANN TEXEIRA, EXECUTIVE OFFICER  
CONTRA COSTA LAFCO

#### **Attachments**

- 1. Map of Project Site
- 2. LAFCO Resolution 14-03

c:      Tim Tucker, City of Martinez  
Gregory Goreshnik, Goldline Investments LLC

LAFCO No. 14-03 City of Martinez Out of Agency Service (10-20 Ashley Place)

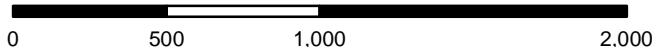


Map created 07/29/2014  
by Contra Costa County Department of  
Conservation and Development, GIS Group  
30 Muir Road, Martinez, CA 94553  
37:59:41.791N 122:07:03.756W

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Feet

Attachment 1



**RESOLUTION NO. 14-03****RESOLUTION OF THE CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION  
AUTHORIZING THE CITY OF MARTINEZ TO PROVIDE OUT-OF-AGENCY WATER SERVICE TO  
PROPERTIES LOCATED AT 10 AND 20 ASHLY PLACE (APNs 375-221-025 and -026)**

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, out of agency service approval is needed in order to provide water services to the properties in anticipation of a future annexation; and

WHEREAS, the City of Martinez and the property owners have entered into Deferred Annexation Agreements in support of the future annexation of the property to the City of Martinez.

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

- A. Find that the project is exempt pursuant to section 15303 of the CEQA Guidelines, consistent with the determination of both Contra Costa County and the City of Martinez.
- B. Authorize the City of Martinez to extend water service outside its jurisdictional boundary to two properties located at 10 and 20 Ashley Place (APNs 375-221-025 and -026) in unincorporated Contra Costa County subject to the following terms and conditions:
  - 1. Water infrastructure and service is limited to one single family dwelling unit on each parcel,
  - 2. The City of Martinez has delivered to LAFCO executed indemnification agreements providing for the City to indemnify LAFCO against any expenses arising from any legal actions to challenging the out of agency service, and
  - 3. The City of Martinez and the property owner(s) have signed deferred annexation agreements (DAAs), and that the DAAs are recorded as prescribed by law and run with the land so that future landowners have constructive notice that their property is encumbered by the DAA.
- C. Approval to extend City of Martinez services beyond those specifically noted herein is withheld and is subject to future LAFCO review.

\* \* \* \* \*

PASSED AND ADOPTED AS REVISED THIS 13<sup>th</sup> day of August 2014, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

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ROB SCHRODER, VICE 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: August 13, 2014

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Lou Ann Texeira, Executive Officer