SYNOPSIS

This is a request by the City of Martinez to provide municipal water service outside its jurisdictional boundary to two parcels (APNs 368-060-005 & 372-140-001) located southwest of 22 Carquinez Scenic Drive (Carquinez Strait Regional Shoreline) – see Attachment 1. The land is owned by the East Bay Regional Park District (EBRPD) and is part of the District’s public land system. The parkland is used for recreational activities (e.g., hiking, biking, fishing and equestrian activities). The land also provides essential wildlife habitat and is grazed by livestock to maintain grasslands and reduce fire fuel loads. Approximately 40-50 pairs of cattle currently graze on 1,573 acres on the Carquinez Strait Regional Shoreline. The only source of water for the livestock is seasonal ponds which have proven to be an inadequate source for livestock and have resulted in underutilized forage and vast amounts of herbaceous fuel loads.

The subject property is located outside both the City’s sphere of influence (SOI) and the voter approved Urban Limit Line (ULL). The subject and surrounding areas have a County General Plan designation of “Parks and Recreation” and the area is zoned “General Agriculture” (A-2 – Parcel 5 acre minimum).

DISCUSSION

Statutory Framework – Out of Agency Service – The Government Code (GC) and local LAFCO policies regulate the extension of out of agency service. GC §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 authorizes LAFCO to allow 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.

City of Martinez - Prior, Current and Future Commitment to Annexations – As noted in LAFCO’s previous Municipal Service Reviews (MSRs), the City is providing water services beyond its corporate limits to an estimated 1,500 water connections. Since 2012, the City of Martinez has submitted 15 out of agency service applications to LAFCO most of which have been in the Alhambra Valley, Mountain View and Pacheco areas.

The LAFCO MSRs recommend that the City of Martinez annex areas receiving city services, as appropriate. In response to LAFCO’s concerns regarding the use of out of agency service, the Martinez City Council has taken actions demonstrating its commitment to future annexation of these areas, including the following:

- In 2012, the City successfully annexed a portion of the Alhambra Valley, and attempted to annex North Pacheco however, this annexation was rejected by the voters.
The City Council adopted resolutions stating the City’s intent to pursue annexation of the Alhambra Valley area by 2020, and annexation of the Pacheco Boulevard corridor including the Mt. View area by the year 2030.

In June 2019, the City provided LAFCO with an update indicating that the City Council identified annexations as one of its top five goals over the next two years, and within the next year will explore an annexation study for the Mt. View/Pacheco Corridor and the Alhambra Valley areas.

On October 23, 2019, the Martinez City Council hosted a community workshop to discuss annexation of the Alhambra Valley, Mountain View, North Pacheco and Vine Hill areas. The City Council agreed to move forward with an annexation study.

Consistency with LAFCO Statutes and Policies – The City has applied to LAFCO to extend out of agency water service to the subject property, which is outside the City SOI and the voter approved ULL.

As noted above, GC §56133 allows LAFCO to authorize out of agency service to a city or district if the subject territory is either: 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.

Further, the statute provides that “if consistent with adopted policy, the commission may authorize a city or district to provide new or extended services outside its jurisdictional boundary and outside its sphere of influence to respond to an existing or impending threat to the health or safety of the public or the residents of the affected territory, if both of the following requirements are met: (1) The entity applying for approval has provided the commission with documentation of a threat to the health and safety of the public or the affected residents; and (2) The commission has notified any alternate service provider, including any water corporation as defined in Section 241 of the Public Utilities Code, that has filed a map and a statement of its service capabilities with the commission.

Contra Costa LAFCO’s out of agency service policies are included in Section 2.1 - POLICIES AND STANDARDS (J. Policies for Out of Agency Service Agreements) (Attachment 2), and are consistent with GC §56133, in that out of agency service can be extended either in response to a threat to the health and safety of the public (e.g., failed septic system, contaminated or dry well, etc.), or in anticipation of annexation.

In addition, the LAFCO policies contain the following provisions which are relevant to this proposal:

b) Requests Due to Health or Safety Emergency

The Commission may authorize a city or district to provide new or extended services outside their jurisdictional boundary and outside or inside their SOI in response to an existing or impending threat to public health or safety (“emergency” – e.g., failing well or septic system) with documentation from the County Environmental Health Division, and in accordance with §56133(c) and LAFCO procedures. If LAFCO approves an emergency out of agency service request, and the city or district fails to initiate the provision of services within six months of the Commission’s approval, the out of agency service approval shall expire, unless otherwise specified by LAFCO.
Comments: Included with the City’s application are letters from the EBRPD Fire Chief (Attachment 3), EBRPD Chief of Stewardship (Attachment 4) and Board President, Contra Costa Resource Conservation District (Attachment 5) all indicating the need for a reliable source of water to allow the livestock to more effectively reduce the fuel loading and associated fire hazard. LAFCO staff believes that the attached documentation demonstrates compliance with LAFCO law and Contra Costa LAFCO’s policies.

Comment: City staff indicates that it will initiate the provision of services within six months of the Commission’s approval. Further, no feasible alternative water service provider was identified.

Water Supply to the Subject Property – The subject property is adjacent to the City boundary. Existing infrastructure in and around the subject parcels includes the City’s Highest Tank” which is the City’s Public Water Tank. Proposed infrastructure in and around the subject parcels includes a 5,000 gallon tank, three 350 gallon troughs, various pump and gravity lines, HP solar pump, 5/8 inch water meter with backflow device, and 1,000 gallon holding tank.

The City is currently providing water service to an existing tank in the vicinity of EBRPD lands. Infrastructure needed to serve the parcels included installation of a water meter, a 2,500 gallon tank, and backflow and water gap systems. The City indicates that it has adequate water to serve the subject property.

Environmental Review – The City of Martinez found the extension of water service to the subject exempt pursuant to the California Environmental Quality Act (CEQA) Guidelines sections 15303(d) and 15301(b) has filed a Notice of Exemption. The LAFCO Environmental Coordinator has reviewed the City’s CEQA documentation and finds its adequate for LAFCO purposes.

ALTERNATIVES FOR COMMISSION ACTION

LAFCOs were formed for the primary purpose of promoting orderly development through the logical formation 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 as proposed and approve Resolution No. 19-06 (Attachment 2).

A.  Find that the project is exempt pursuant to sections 15303(d) and 15301(b) of the CEQA Guidelines, consistent with the determinations of the City of Martinez.

B.  Authorize the City of Martinez to extend water service outside its jurisdictional boundary to APNs 368-060-005 & 372-140-001 subject to the following terms and conditions:

1. Water infrastructure and service is limited to serving livestock and grazing activities; and

2. The City of Martinez has delivered to LAFCO an executed deferred annexation agreement (DAA), and the DAA was recorded as prescribed by law and runs with the land so that future landowners have constructive notice that their property is encumbered by the DAA; 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; and

4. The City of Martinez has delivered to LAFCO an executed Agreement to Extend Water Services to the subject properties.
Option 2  Deny the request, thereby prohibiting the City of Martinez from providing water service to the subject property.

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

RECOMMENDATION

Option 1 – Approve out of agency service request with conditions as noted.

LOU ANN TEXEIRA, EXECUTIVE OFFICER
CONTRA COSTA LAFCO

Attachments
1. Map of Subject Property (APNs 368-060-005 & 372-140-001)
2. Contra Costa LAFCO Policies - Section 2.1 POLICIES AND STANDARDS (subsection J. Policies for Out of Agency Service Agreements)
3. Letter from the EBRPD Fire Chief
4. Letter from EBRPD Chief of Stewardship
5. Letter from Board President, Contra Costa Resource Conservation District
6. Draft LAFCO Resolution 19-06

c:  Peter Wollman, City of Martinez
    Scott Alman, City of Martinez
    Randy Leptien, City of Martinez
    Christina Ratcliffe, City of Martinez
    Allison Rofe, EBRPD
2.1 POLICIES AND STANDARDS

J. Policies for Out of Agency Service Agreements

1) Introduction

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH) requires a city or special district to obtain written approval from LAFCO prior to providing new or extended service outside its jurisdictional boundary, with certain exceptions (Gov. Code §56133). This section of the CKH sets forth a two-pronged test or criteria under which requests for out of agency services may be approved: either in response to an existing or impending threat to the health or safety of the public, or in anticipation of a later change in organization (i.e., annexation) for areas within the subject agency’s sphere of influence (SOI). Specific procedures for submitting an out of agency service application can be found in Contra Costa LAFCO’s Commissioner Handbook, section 3.15 Provision of Services by Contract.

2) Purpose

The purpose of these policies is to guide the Commission in reviewing city and district requests to provide new or extended services by agreement outside their jurisdictional boundaries. This includes establishing policies and procedures to ensure that the application meets one of the two criteria under which approval may be granted, and to ensure consistency with respect to form, review and consideration of requests.

3) Objective

The objective of these policies is to ensure that the extension of services by cities and districts outside their jurisdictional boundaries is logical and consistent with supporting orderly growth and development in Contra Costa County. Out of agency service is generally not intended to support new development.

4) Out of Agency Service Policies: General Statements

a) Annexation to cities and special districts involving territory located within the affected agency’s sphere of influence (SOI) is generally preferred to out of agency service.

b) LAFCO will consider applicable Municipal Service Reviews (MSRs) and discourage out of agency service extensions that conflict with adopted MSR determinations or recommendations.

c) Requests for out of agency service agreements are subject to the applicable provisions of the California Environmental Quality Act (CEQA).

d) Commission approval is not required for cities or districts to provide new or extended services outside their jurisdictional boundaries if any of the exemptions apply in accordance with §56133(e) – see Section 3.15 for exceptions. The Commission encourages cities and districts to work with the Executive Officer in determining when the statutory exemptions may apply.

5) Form of Request
a) All Requests

Requests to authorize out of agency service shall be filed with the Executive Officer by the affected city or district. The application shall be signed by an authorized representative of the city or district. Requests shall be made in writing with a completed LAFCO application, payment in the amount prescribed under the Commission’s adopted fee schedule, appropriate environmental document, proposed service agreement, and an executed and recorded deferred annexation agreement (DAA) and waiver of property owner protest rights. The recorded DAA shall run with the land and be binding on all future owners of the property. An indemnification agreement will be required with each application.

All requests for out of agency service are subject to the applicable provisions of CEQA.

b) Requests Due to Health or Safety Emergency

The Commission may authorize a city or district to provide new or extended services outside their jurisdictional boundary and outside or inside their SOI in response to an existing or impending threat to public health or safety (“emergency” – e.g., failing well or septic system) with documentation from the County Environmental Health Division, and in accordance with §56133(c) and LAFCO procedures. If LAFCO approves an emergency out of agency service request, and the city or district fails to initiate the provision of services within six months of the Commission’s approval, the out of agency service approval shall expire, unless otherwise specified by LAFCO.

The Commission authorizes the LAFCO Executive Officer, in consultation with the Chair or Vice Chair, to approve a city’s or district’s request for out of agency service if there is an existing or impending public health or safety emergency, as documented by the County Environmental Health Division. The Executive Officer shall report to the Commission on his or her administrative approval of any emergency out of agency service agreements at the next regularly scheduled LAFCO meeting. Such administrative approval can be made if the following criteria are met:

- The property is currently developed
- The lack of service being requested constitutes an immediate (i.e., approval needed within two months) health and safety concern as documented by County Environmental Health
- There are physical restrictions on the property that prohibit a conventional service delivery method (i.e., septic tank, private well, etc.)

C) Requests in Anticipation of Annexation

An out of agency service application must be accompanied by a change of organization or reorganization application, including an approved tax sharing agreement, in order for LAFCO to determine that the out of agency service is in anticipation of a change of organization (i.e., annexation) within the next 12 months. This dual application requirement may be waived in certain situations by the Commission if compelling justification is provided. Circumstances which may warrant such a waiver include, but are not limited to, the following:

- Lack of contiguity (e.g., city boundary) when the project was approved prior to 2011
• Service is only needed to serve a portion of a larger parcel, and annexation of the entire parcel is not desirable
• Other circumstances which are consistent with LAFCO statute and the polices of Contra Costa LAFCO

If immediate annexation (i.e., within 12 months) is not a feasible alternative, then the extension of services may be approved in anticipation of a later annexation if the agency provides LAFCO with a resolution of intent to annex, as well as appropriate assurances (e.g., prezoning, plan for annexation, deferred annexation agreement, etc.) which demonstrate that out of agency service is an intermediate steps toward eventual annexation.

6) Review of Request
The Executive Officer shall review the request in accordance with CKH and LAFCO’s policies and procedures.

7) Consideration of Request
Once a request is deemed complete, the Executive Officer will prepare a written report with a recommendation. The Executive Officer will present his or her report and recommendation at a public hearing for Commission consideration in accordance with CKH and LAFCO’s policies and procedures. The Executive Officer’s written report will be made available to the public for review prior to the scheduled hearing and include an evaluation of the following factors:

a) The ability of the applicant to extend the subject service to the affected land without adversely affecting current service levels within the existing service boundary.

b) If the request is to address a health or safety emergency, whether the documentation satisfactorily demonstrates compliance with CKH and LAFCO policies and procedures.

c) If the request is in anticipation of future annexation, whether the application provides adequate assurances in furtherance of a future annexation.

d) The application’s consistency with the policies and general plans of affected local agencies.

e) The application’s effect on growth and development within and adjacent to the affected land; and whether the out of agency service extension will contribute to premature development of fringe areas or development in areas designated for non-urban uses.

f) Whether the proposal contributes to the premature conversion of agricultural land or other open space land.

The Commission and the Executive Officer, as authorized by the Commission, may approve the request for out of agency service with or without conditions, or may deny the request. Unless otherwise specified in the LAFCO resolution of approval, out of agency service is allowed for the subject application only, and any future extension or expansion of service is subject to LAFCO’s approval.

If the request to provide out of agency service is approved or denied, the applicant may request reconsideration within 30 days citing the reasons for reconsideration.
To Contra Costa Local Agency Formation Commission:  

October 18th, 2019

The East Bay Regional Park District Fire Department has been recently informed of a water development project that East Bay Regional Park District Park Operations and Stewardship Departments are pursuing in order to effectively manage livestock grazing in Carquinez Strait Regional Shoreline, near Martinez. We support the installation of a reliable water source that will allow livestock to more effectively reduce the fuel loading and associated fire hazard in this area.

Livestock grazing is an effective fuels reduction method the Park District uses to reduce fuel loading in the annual grassland fuel types. Fire behavior in well grazed grasslands is significantly reduced, with a decreased rate of spread, reduced spotting potential, and lower flame lengths. Wildfires do not stop at boundaries or jurisdictions and are inherently a public safety concern, but the hazards to neighboring communities can be mitigated and reduced by fuels reduction and grazing practices.

Sincerely,

Aileen Theile, Fire Chief

Attachment 3
Dear LAFCO,

The East Bay Regional Park District (EBRPD) is a system of nearly 125,000 acres of parklands and trails in Alameda and Contra Costa counties. We acquire, manage, and preserve natural and cultural resources in perpetuity. Most of our lands are open to the public for recreational purposes.

Livestock grazing is an ecological management tool used by EBRPD to minimize wildfire potential and brush encroachment, maintain native grassland communities, enhance wildlife habitat, control weedy vegetation, and reduce soil erosion. These management goals are achieved by developing or replacing livestock infrastructure and providing clean water for grazing animals. Reliable and well distributed livestock water is essential to maintain healthy rangelands and for reducing fire fuels. Functioning, carefully designed livestock water distribution systems support balanced livestock utilization of forage across the landscape.

The current watering situation in this area of the Carquinez Strait Regional Shoreline encourages livestock (cattle) to congregate in stock ponds and loaf in drainages, rather than into the surrounding uplands. As a result, high amounts of dead standing vegetation biomass have accumulated throughout parts of the park (high fuel loads). Grazing tenant, Nick Compaglia, leases approximately 1,500 acres of Carquinez Strait Regional Shoreline. To decrease fuel loading and to draw the cattle away from the ponds and waterways, Nick is working with the Natural Resources Conservation Service (NRCS) to develop livestock water on the property. NRCS is a non-regulatory agency with the United States Department of Agriculture (USDA) that receives funding through the U.S. Farm Bill to help agricultural producers implement conservation practices within their agricultural operations. In 2017, Nick was awarded a NRCS Environmental Quality Incentives Program (EQIP) contract to help with financial assistance in developing reliable livestock water throughout the park.

Proposed work originally included the development of a 300 foot well to deliver water via a solar pump station and livestock pipeline system to a 5,000 gallon above ground storage tank and gravity fed to 3 (350 gallon) cement troughs. After a well driller explored the area, it was deemed infeasible and an alternative water source was desirable. The City of Martinez water tank immediately became a potential option as it is located adjacent to the grazing unit, is a guaranteed water source, and the City of Martinez is in support of this project. The new plan entails a similar design, but instead of drilling a new well, water will be delivered via a new water meter from the City of Martinez’s existing tank to a new solar pump and associated 2,500 gallon tank and a 5,000 gallon above ground storage tank, then gravity fed to 3 (350 gallon) cement troughs. It’s estimated the cattle will consume 182,500 – 365,000 gallons per year from the new tank and trough system.

This water development is for livestock use only. EBRPD acquires and maintains its land holdings for their conservation values and to provide public access for recreation. Our lands will never be developed for residential or commercial purposes. All work is being done in partnership with EBRPD, NRCS, Contra Costa Resource Conservation District (CCRCD), the grazing tenant, and City of Martinez. Biological permitting is required for implementation. The grazing tenant will acquire state and federal permits through programmatic permits held by CCRCD and NRCS.

Thank you for considering our application for Out-of-Agency Service Agreement associated with this livestock watering development project.

Sincerely,

Chief of Stewardship, Matt Graul
October 15, 2019

Lou Ann Texeira  
Executive Officer  
40 Muir Rd  
1st Floor  
Martinez, CA 94553  

To Contra Costa Local Agency Formation Commission:  

This is a letter of support for an out of area service extension application to provide Martinez City Water to East Bay Regional Park rangelands in the hills west of Martinez. This project has multiple benefits:

1. Safety: Reduction of wildfire fuel.  
2. Economic: Expanding rangeland grazing, reducing erosion and flood risk.  
3. Environmental: Helping native grasses to outcompete flammable invasives, carbon sequestration.  

This project is not conveniently classified within the most common LAFCo criteria of: public health emergency, within sphere of influence, within urban limit line or intended to be annexed soon. It is a worthy project, however, as it enhances public fire safety, agricultural productivity, California native plant diversity, sequesters carbon and helps reduce erosion and flood risk. It is very clearly NOT a project that would promote urban sprawl, as this is East Bay Regional Park land and will never be developed for other uses.

This is a brief summary of the project: Install a water meter and a solar powered pump at an existing Martinez Water District facility and distribute water to cattle troughs on East Bay Regional Park District lands on the hills west of Martinez.

At present, grazing on these lands is limited/prevented by lack of water, impairing the control of fire fuel load. The lack of water also makes grazing economically unattractive. Lack of grazing favors invasive grasses over California Native grasses and forbs.

A short number of years ago, a fire came over the hills from Highway 4 and burned to the edge of town. It threatened the County Hospital, Alhambra High School and other infrastructure (actually burning one building). It burned the soccer stadium at the high school, and threatened the liquid oxygen tanks at the County Hospital. The threat is real and will not diminish in the foreseeable future.

Contra Costa County is in the process of developing policies that favor the economic vitality of agriculture in our county. By making these lands available to grazing, this project supports agricultural economic vitality.
This project would enable Managed Rotational Grazing on these lands. Managed Rotational Grazing is short-term intensive grazing followed by an extensive rest period. The grazers “eat and move on” not to return until after the grazed land recovers. This was the grazing pattern that existed prior to the arrival of Europeans in California. Grizzly Bears and other predators kept the elk and pronghorns bunched up and moving.

Current practice is to use solar-powered portable electric fences to keep grazers bunched up and moving. This pattern favors California natives with their long roots and growing seasons. This not only benefits the rancher, but also helps California native grasses to compete against invasive plants such as Yellow Star Thistle and highly combustible invasive grasses thus reducing fire fuel availability.

Native plants’ deep root systems also help winter rains to penetrate deeper into the soil, reducing storm runoff and erosion thus helping to reduce flood risk and creek channel siltation. Native plants also store (sequester) carbon underground, helping to mitigate against climate change.

In summary, this project has multiple benefits, and is in keeping with LAFCo’s core mission. I strongly support its approval.

Sincerely,

Igor Skaredoff
Board President
Contra Costa Resource Conservation District
November 7, 2019

Lou Ann Texeira, Executive Officer
Contra Costa Local Agency Formation Commission
40 Muir Road, 1st Floor
Martinez, CA 94553

Subject: LAFCO 19-06 City of Martinez – Out of Agency Service Request-Carquinez Strait Regional Shoreline

Dear Ms. Texeira:

The Contra Costa Local Agency Formation Commission (LAFCO) has an Out of Agency Service Request on its November 13, 2019 Agenda. The request is by the City of Martinez to extend municipal water service outside its jurisdictional boundary to two parcels owned by the East Bay Regional Park District (APN 368-060-005, 82.3 acres and 372-140-001, 70.8 acres). The City of Martinez proposes to provide water service from an adjacent water storage tank to the subject parcels to support cattle grazing as an efficient way of managing wildfire risk in this area.

The Contra Costa Water District (CCWD) is the sole wholesale (untreated) water service provider to the City of Martinez. CCWD obtains its primary water supply from the Central Valley Project (CVP) under a contract with the United States Bureau of Reclamation (Reclamation). The City of Martinez treats the water provided by CCWD and provides treated water service to retail customers within the City of Martinez.

The subject parcels that are to be provided water service by the City of Martinez are not currently within the CCWD service area boundary and have not been approved to receive water from the CVP. Under the terms of CCWD’s water service contract, CCWD must obtain approval from Reclamation through its CVP Inclusion review process before any CVP water is delivered to the subject lands. CCWD does not object to the City of Martinez serving this area, however, the City of Martinez must complete Reclamation’s CVP Inclusion process. Reclamation requires compliance with the National Environmental Policy Act and other Federal laws and may also require LAFCO approval of a separate Out of Agency Service Agreement for CCWD as the wholesale provider. Materials and documentation required as part of the Inclusion process, including any potential future LAFCO actions for wholesale service from CCWD, will be the responsibility of the City of Martinez. CCWD requests that LAFCO include the following condition in the resolution approving the out of service area agreement:

The City of Martinez will coordinate with the Contra Costa Water District to obtain Central Valley Project Inclusion review by the United States Bureau of Reclamation for the subject parcels.
Should you have any further questions please contact Mark Seedall at 925-688-8119 or mseedall@ccwater.com.

Sincerely,

Jeff Quimby
Director of Planning

JQ:kh

cc:  Christina Ratcliffe, City of Martinez
     Allison Rofe, EBRPD
RESOLUTION NO. 19-06

RESOLUTION OF THE CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
AUTHORIZING THE CITY OF MARTINEZ TO PROVIDE
OUT-OF-AGENCY WATER SERVICE TO APNs 368-060-005 and 372-140-001
(CARQUINEZ REGIONAL SHORELINE)

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 California Government Code); and

WHEREAS, at the time and in the manner required by law the Executive Officer gave 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 to provide water services to the properties owned by and under the jurisdiction of the East Bay Regional Park District (EBRPD) to support grazing activity, minimize wildfire potential, reduce soil erosion, and help maintain public parkland and rangeland; and

WHEREAS, the City of Martinez has considered the potential indirect effects associated with the requested LAFCO authorization (i.e., extension of water service to the subject properties) and has found the extension of such infrastructure to be exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to Sections 15303(d) and 15301(b).

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 sections 15303(d) and 15301(b) of the CEQA Guidelines, consistent with the determination of the City of Martinez.

B. Authorize the City of Martinez to extend water service outside its jurisdictional boundary and outside its sphere of influence to APNs 368-060-005 and 372-140-001 located southwest of 22 Carquinez Scenic Drive located in unincorporated Contra Costa County subject to the following terms and conditions:

1. Water service is limited to providing water for grazing activities and to minimize wildfire potential on the subject parcels, and

2. 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 that challenge the out of agency service, and

3. The City of Martinez and the EBRPD have signed a deferred annexation agreement (DAA), and the DAA was 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.
4. The City of Martinez will coordinate with the Contra Costa Water District to obtain Central Valley Project Inclusion review by the United States Bureau of Reclamation for the subject parcels.

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 THIS 13th day of November 2019, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

___________________________________________________________
TOM BUTT, 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.

Dated: November 13, 2019  

_____________________________  
Lou Ann Texeira, Executive Officer