



CITY OF MARTINEZ

**CITY COUNCIL AGENDA
October 19, 2011**

TO: Mayor and City Council
FROM: Michael Chandler, Senior Management Analyst
SUBJECT: North Pacheco Annexation Tax Sharing Agreement
DATE: October 14, 2011

RECOMMENDATION:

Adopt resolution approving Property Tax Exchange and Sales Tax Apportionment Agreement with Contra Costa County for North Pacheco Annexation to the City of Martinez.

BACKGROUND:

The City Council held a public hearing on January 19, 2011 to consider annexation of a portion of Contra Costa County referred to as North Pacheco. The Council took several actions at the public hearing (and, as respects the Municipal Code revisions, at the February 2, 2011 Council Meeting), necessary for LAFCO to process the annexation, including:

- Adopted a Negative Declaration;
- Amended the Martinez General Plan (John Muir Parkway Specific Area Plan) Land Use Map to show the annexation area within the City limits and the new associated designations;
- Amended the Zoning Ordinance to include new designation P-1 (Planned Unit Development) to allow for Contra Costa County's Planned Unit Development designation and approved Planned Developments to be incorporated into the City's Zoning Ordinance and Map;
- Amended the Zoning Map to show the annexation area within the City limits and the new Zoning Districts for the annexation area;
- Approved pre-zonings and General Plan Land Use designations of the properties to be annexed; and
- Directed staff to submit an application to the Local Agency Formation Commission (LAFCO).

Before LAFCO can deem the annexation application complete and schedule the public hearing for the Commission's consideration of the annexation, the City and Contra Costa County must reach formal agreement on the tax exchange between the parties. Staff first initiated discussions in March 2010 with the County Administrator's Office regarding the "tax sharing" agreement, and has met with the County a total of eight times to finalize the terms.

The parties agreed to apply the same calculations for property tax exchange as those expressed in the Master Property Tax Transfer Agreement (County Resolution 80-1373, adopted on December 2, 1980, and included as Attachment B); however, the parties also opted to negotiate several terms

outside the scope of the master agreement, which added to the length and complexity of the process, but ultimately resulted in terms beneficial to the City. In particular, the City achieved agreement with the County on the City's retention of 55% of the sales tax in North Pacheco, with 45% going to the County on a permanent basis.

In exchange for the sales tax advantage in North Pacheco, the City has agreed to allow the County to continue processing, for a period of up to 5 years from the effective date of annexation, the residential developments in the northwest portion of North Pacheco consisting of the Belmont Terrace/KB Homes project of 110 homes (SD-8984), of which approximately 75% have been completed; a 20-lot development owned by First National Bank with tentative map approved and infrastructure built (SD-7418); and an 8-lot development owned by William Kelleher, with tentative map approved (SD-8944).

The County has invested years of effort on these developments; approved the maps, entitlements, and conditions; and allowing the County to see these projects through to completion – within a reasonable timeframe – makes sense. This action also satisfies two developers (O'Brien Homes and Kelleher) whose respective legal counsels requested no additional impacts on their projects result from the annexation. A City zoning map depicting the locations of the aforementioned developments is included as Attachment C.

The County plans to follow the Council's action by adopting its tax sharing resolution for the North Pacheco annexation at its October 25, 2011 Board Meeting. Once LAFCO has received copies of both the City and the County's adopted resolutions, LAFCO will be able to schedule the annexations upon the City's request, subject to a requisite 21-day public noticing period for all affected landowners, registered voters within the annexation area, and those within 300 feet of the annexation area. LAFCO meets once each month on the 2nd Wednesday. Due to the lengthy noticing requirements, the first available LAFCO hearing date will be Wednesday, December 14th. LAFCO's Executive Director informed the City that the earliest that LAFCO could record and file the annexation with the State Board of Equalization (SBOE) for property and sales tax reporting purposes is 30 days thereafter.

If the effective date of annexation is in 2012 (provided that it is prior to December 1, 2012) as is anticipated, the annexed area will not be reflected on the SBOE rolls until July 1, 2013, for property tax purposes. However, sales tax will begin accruing to the City upon the effective date of annexation. Each year thereafter, the City will be responsible for reporting to the County the sales tax revenues it receives from the annexed area during the preceding tax year. The County will in turn reduce the City's share of property tax revenues by an amount equaling 45% of the sales tax revenue received by the City from the annexed area during the preceding tax year.

FISCAL IMPACT:

- A. Property tax estimates from the July 2010, Annexation Analysis Final Report were based upon the expected application of the Master Tax Sharing Agreement and projected to be \$13,510 per year. The City and County have agreed to use this figure as the basis (from the first full month after the effective date of annexation) for the Property Tax revenue that the City will receive from the County prior to the SBOE recognizing the area on its rolls for Martinez on July 1, 2013, with payments due to the City by June 30, 2012 and June 30, 2013.

- B. Sales tax estimates from the July 2010 EPS report at annexation were based on an expected 50%-50% split between City and County. Although the City will receive 55% of the sales tax revenues per this agreement, staff anticipates the revenue estimate of \$25,000 per year at annexation remains accurate.

ACTION:

Motion to adopt resolution approving Property Tax Exchange and Sales Tax Apportionment Agreement with Contra Costa County for North Pacheco Annexation to the City of Martinez.



APPROVED BY:

City Manager

Attachments:

- A. Resolution approving Property Tax Exchange and Sales Tax Apportionment Agreement
- B. Master Property Tax Transfer Agreement
- C. Zoning Map Depicting County-retained Developments

RESOLUTION NO. -11

APPROVING PROPERTY TAX EXCHANGE AND SALES TAX APPORTIONMENT
AGREEMENT WITH CONTRA COSTA COUNTY FOR THE NORTH PACHECO
ANNEXATION TO THE CITY OF MARTINEZ

WHEREAS, Section 99 of the Revenue and Taxation Code provides that the City and Contra Costa County shall agree by resolution to exchange property tax revenues among themselves and any affected agencies in the event of a jurisdictional change; and

WHEREAS, the North Pacheco Annexation (LAFC 11-05) involving annexation of territory to the City of Martinez is excluded from the application of the Master Property Tax Transfer Agreement, County Resolution 80-1373 adopted December 2, 1980 ("Master Agreement") between the City and the County because the assessed value of the affected territory exceeds \$10,000,000 and the sales tax revenue from the affected territory exceeds \$5,000 per year; and

WHEREAS, the City of Martinez and the County have agreed that, notwithstanding the amount of the assessed value and the sales tax revenue generated in the territory of the subject annexation, the Master Agreement shall apply to the annexation; and

WHEREAS, the City of Martinez and the County, in anticipation that the annexation will facilitate future economic revitalization of the proposed annexation area, have agreed to a City of Martinez 55% and County 45% sales tax apportionment; and

WHEREAS, the application of the Master Agreement shall be subject to the condition that the total amount of the property tax revenues the City is to receive in any tax year after the effective date of the annexation shall be reduced by an amount equal to 45% of the sales tax revenue received by the City during the preceding tax year from the area annexed; and

WHEREAS, the total amount of sales tax received by the City during the preceding tax year, as specified above, shall be reported to the County Auditor-Controller by August 1 of each year, and the Auditor-Controller shall have the right to audit the City's books to verify such amount; and

WHEREAS, the City and the County, in recognition of the time, effort, and expenses that the County has invested in development projects in the proposed annexation area, have agreed that the County will retain, for a period of up to 5 years from the

effective date of annexation, responsibility for processing of building permits and associated fees for subdivisions SD-8984, SD-7418, and SD-8944 in the annexation area; and

WHEREAS, the North Pacheco Annexation (LAFC 11-05) will be recorded and considered complete after January 1, 2012, and the City of Martinez responsible for services at time of completion and recording, resulting in the State Board of Equalization ("SBOE") processing the annexation; and

WHEREAS, the SBOE will reflect the annexation immediately for sales tax reporting purposes, but not until July 1, 2013 for property tax reporting purposes; and

WHEREAS, in consideration of the delay in property tax reporting by the SBOE, the parties have reached agreement whereby the County will provide the City a pro-rated portion of the annual property tax estimated for the City at annexation of \$13,510 in the *July 2010, Annexation Analysis Final Report* for Fiscal Year 2011-12, and the full portion for Fiscal Year 2012-13; and

WHEREAS, the City desires to enact the terms stated below based on the City's understanding that the County will adopt a resolution enacting the same terms and conditions of agreement as set forth by this Resolution at a meeting of the Board of Supervisors on a later date.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Martinez that, (1) in accordance with Section 99 of the Revenue and Taxation Code, the property tax transfer for the affected agencies in the area of the North Pacheco Annexation (LAFC 11-05) shall be in accordance with the Master Property Tax Transfer Agreement, and (2) all sales and use tax revenue collected by the City from the North Pacheco Annexation Area shall be apportioned 55% to City and 45% to County on a permanent basis, and (3) the County will retain responsibility for processing building permits and associated fees for subdivisions SD-8984, SD-7418, SD-8944 within the annexation area for a period of up to five years from the effective date of annexation, and (4) the County will, until the State Board of Equalization corrects the property tax roll to reflect the annexation, by June 30, 2012, provide the City a pro-rated portion, and, by June 30, 2013, provide the City a full portion of the City's annual share of property tax from the first full month following the effective date of annexation, using the amount of \$13,510 per year as estimated in the *July 2010 Annexation Analysis Final Report* as the basis; and

BE IT FURTHER RESOLVED that, the enactment of this resolution is contingent upon the adoption of a resolution by the County Board of Supervisors setting forth the same terms and conditions of agreement between the City and County and shall only take effect upon the adoption of the County's resolution enacting these same terms and conditions of agreement between the City and County.

* * * * *

I HEREBY CERTIFY that the foregoing is a true and correct copy of a resolution duly adopted by the City Council of the City of Martinez at a Regular Meeting of said Council held on the 19th day of October, 2011, by the following vote:

AYES:

NOES:

ABSENT:

RICHARD G. HERNANDEZ, CITY CLERK
CITY OF MARTINEZ

ATTACHMENT B
IN THE BOARD OF SUPERVISORS
OF
CONTRA COSTA COUNTY, STATE OF CALIFORNIA

Ex A
06-01-10

In the Matter of

Adopting a Master Property Tax Transfer Agreement for the Allocation of Property Taxes Between the County of Contra Costa and the City of Martinez

RESOLUTION NO. 80/1373

IT IS BY THE BOARD OF SUPERVISORS RESOLVED that:

1. Under the authority of Revenue and Taxation Code Section 99(d), it hereby adopts a Master Property Tax Transfer Agreement for the allocation of property taxes between the County of Contra Costa and the City of Martinez upon jurisdictional changes, which is incorporated herein as Exhibit "A", and
2. The Chairwoman of the Board of Supervisors is authorized to execute the above referred agreement on behalf of the County.

PASSED by the Board on December 2, 1980.

CERTIFIED COPY

I certify that this is a full, true & correct copy of the original document which is on file in my office, and that it was passed & adopted by the Board of Supervisors of Contra Costa County, California, on the date shown. ATTEST: J. R. OLSSON, County Clerk & ex-officio Clerk of said Board of Supervisors, by Deputy Clerk.

Helen H. Kent on DEC. 2 1980
Helen H. Kent

Orig: County Administrator
cc: City of Martinez
Auditor-Controller
County Counsel
Local Agency Formation Commission

RESOLUTION NO. 80/ 1373

ATTACHMENT B

MASTER PROPERTY TAX TRANSFER AGREEMENT FOR ALLOCATION OF PROPERTY
TAX BETWEEN THE COUNTY OF CONTRA COSTA AND
CITY OF MARTINEZ UPON JURISDICTIONAL CHANGES
(R.&T.C. §99(d))

By Resolution 80-1373, adopted by the Board of Supervisors of the County of Contra Costa, and by Resolution 241-80, adopted by the City Council of Martinez, the County of Contra Costa (County) and the City of Martinez (City) agree as follows:

1. This Agreement is a master property tax transfer agreement, under authority of Revenue and Taxation Code §99(d) (Section 11, Chapter 801 of the Statutes of 1980), between the County and the City for the purpose of specifying the allocation of property tax revenues upon a jurisdictional change in which the City is an affected City and the County is an affected County.

2. Except for the exclusions specified herein, the jurisdictional changes governed by this Agreement are those local agency boundary changes defined in R.&T.C. §95(e) as jurisdictional changes, occurring during the applicable period of this Agreement, where the County is the affected County and the City is an affected City. The following jurisdictional changes are to be excluded from this Agreement: 1) boundary changes involving city incorporations or formations of districts (e.g., reorganizations involving concurrent formation of a special district and annexation to a city), 2) jurisdictional changes which would result in a special district providing one or more services to an area where such services have not been previously provided by any local agency and to which Section 99.1 of the Revenue and Taxation Code applies, 3) jurisdictional changes in which the total of the full values of all property in all tax rate areas comprising the affected territory exceed \$10,000,000, as shown on the latest equalized assessment rolls at the time the application is filed with the Local Agency Formation Commission, and 4) any jurisdictional change for which the sales tax revenue from the affected territory exceeds \$5000 for one or more of the three fiscal years preceding the date that the application is filed with the Local Agency Formation Commission.

3. The allocations specified herein (Paragraph 7, below) shall be made for any jurisdictional change governed by this Agreement as specified in Paragraph 2, above, if proceedings for the jurisdictional change have been or are completed after June 30, 1978; provided, however, that in the case of any such jurisdictional change for which proceedings are completed after December 31, 1902 this Agreement shall not apply if either of the parties hereto notifies the other in writing of the non-applicability of this Agreement and delivers such notification prior to the date that the petition or resolution for Local Agency Formation Commission approval of the jurisdictional change is accepted for filing by the

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Commission or its Executive Officer. Notwithstanding any of the foregoing, any property tax revenue allocated prior to the date this Agreement is signed by both parties hereto shall not be subject to reallocation, but this Agreement shall apply to all future allocations for the jurisdictional change.

4. For any property tax allocation to be made under this Agreement, the Auditor-Controller of Contra Costa County shall first apply Paragraph 7 herein and first allocate the property tax revenues thereunder for the fiscal year for which the State Board of Equalization makes the tax rate area change(s) for the jurisdictional change. Such fiscal year shall be known as the "initial year" and all later fiscal years as "subsequent years". Such allocation shall continue indefinitely thereafter unless changed by agreement of both parties hereto or until changed under the terms of this Agreement upon a subsequent jurisdictional change involving one or more of the tax rate areas within the affected territory of the prior jurisdictional change.

5. The following definitions shall apply to this Agreement. The references to code sections in these definitions shall mean the code sections in effect on October 1, 1980.

- a. "Base tax" shall mean those property tax revenues specified as being subject to allocation in R.&T.C. §§96(a) and 96(d) for fiscal year 1979-80 and R.&T.C. §§97(a) and (b) for fiscal year 1980-81 and later fiscal years. For the fiscal years after the initial year in which property taxes are allocated under this Agreement for a jurisdictional change, the annual tax increment for the prior fiscal year shall be included in the base tax for the succeeding year. Notwithstanding the foregoing, base tax shall not include any property tax revenues allocated to any County free library.
- b. "Annual tax increment" shall mean those property tax revenues specified as being subject to allocation in R.&T.C. §96(c) for fiscal year 1979-80 and R.&T.C. §97(c) for fiscal year 1980-81 and later fiscal years. Annual tax increment shall include revenues accruing due to the increase in assessed valuation for the preceding fiscal year because of changes of ownership and new construction and because of the inflation adjustment authorized by Section 2(b) of Article XIII A of the California Constitution.
- c. "Annual tax increment allocation factor" shall mean the numerical factor, expressed as a percent, that is used to accomplish the proportionate allocation of the annual tax increment, as specified in R.&T.C. §98(e).

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- d. "Proceedings" means those actions taken pursuant to Gov.C. §§35200-35315 or Gov.C. §§56290-56443.1.
- e. "Affected territory" shall mean as specified in Gov.C. §§35024 or 56023.5.
- f. "Affected City" shall mean as specified in Gov.C. §§35021 or 56021.
- g. "Affected County" shall mean as specified in Gov.C. §§35022 or 56022.
- h. "Affected District" shall mean as specified in Gov.C. §§56023 or 35023.

6. Insofar as not inconsistent with the foregoing definitions or any other provisions of this Agreement, the definitions of Sections 95 and 2215 of the Revenue and taxation Code, as in effect on October 1, 1980, shall apply to this Agreement.

7. For a jurisdictional change for which the allocation of taxes is made under this Agreement, such allocation shall be made in accordance with the following:

a. Initial year.

- (1) Base tax. Except as provided in Paragraph 7a.(3) of this Agreement, City shall be allocated 22.845% of the County's base tax for the affected territory and the County shall be allocated the balance.
- (2) Annual tax increment. Except as provided in Paragraph 7a.(3) of this Agreement, City shall have an annual tax increment allocation factor established for each tax rate area in the affected territory equal to 45.69% of the County's annual tax increment allocation factor for the tax rate area. The County's new annual tax increment allocation factor shall be its former factor minus the City's factor as derived in the preceding sentence.
- (3) For a jurisdictional change which results in the City's providing a service that had been provided by a special district, and if the City thereby receives any property tax revenues of the district as authorized by Revenue and Taxation Code Section 99, the formula for transfer of base tax and annual tax increment allocation factors from County to City shall be as follows:

(A) Base tax.

$$A = B \times 1/2C$$

$$D = B - A$$

Where A = the amount of the County's base tax to be transferred to the City. This amount plus the base tax transferred from special district(s) becomes the City's initial base tax for the tax rate area.

B = the County's base tax before the transfer

C = the portion (expressed as a percent) of the County's annual tax increment factor that will be transferred to the City from the County as determined by the formula expressed in Paragraph 7.a. (3) (B) below.

D = the County's base tax after the transfer.

(B) Annual tax increment.

$$C = \frac{F - H}{F + G - H}$$

(If "H" is greater than "F", then C shall be zero (0).)

$$J = (E \times C) + H$$

$$K = E - (E \times C)$$

Where C = the portion (expressed as a percent) of the County's annual tax increment allocation factor that will be transferred to the City from the County.

E = the County's annual tax increment allocation factor before the transfer.

F = 21.35% (this is the City's portion of the total fiscal year 1979-80 property tax allocation within the City's boundaries.)

G = 25.38% (this is the County's portion of the total fiscal year 1979-80 property tax allocations within the City's boundaries)

H = the total of the annual tax increment allocation factors which will be transferred to the City from special districts in accordance with Revenue and Taxation Code Section 99.

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J = the City's annual tax increment allocation factor after the transfer allocation.

K = the County's annual tax increment allocation factor after the transfer calculation.

- b. Subsequent years. In each subsequent year City's and County's allocation of property taxes from the affected territory will be made as set forth in Revenue and Taxation Code Sections 97 and 98. Each agency each year will be allocated its base tax (i.e. the tax allocated to the agency in the preceding year including the previous year's annual tax increment) plus its share of the current year's annual tax increment for the affected territory, such share being calculated by multiplying the tax resulting from growth in assessed valuation in the affected territory during the year times the agency's annual tax increment allocation factor(s) for that territory as determined in Paragraph 7a(2) or 7a(3)(B) above. The result (i.e. base plus increment) becomes the base tax for the next year's tax allocation calculations. Each agency's base tax and annual tax increment allocation factors may be subsequently modified only through negotiated exchanges in accordance with Revenue and Taxation Code Sections 99 and/or 99.1 for subsequent jurisdictional changes.

Dated: 12/18/80

Nancy C. Faldin
Chairwoman, Board of Supervisors

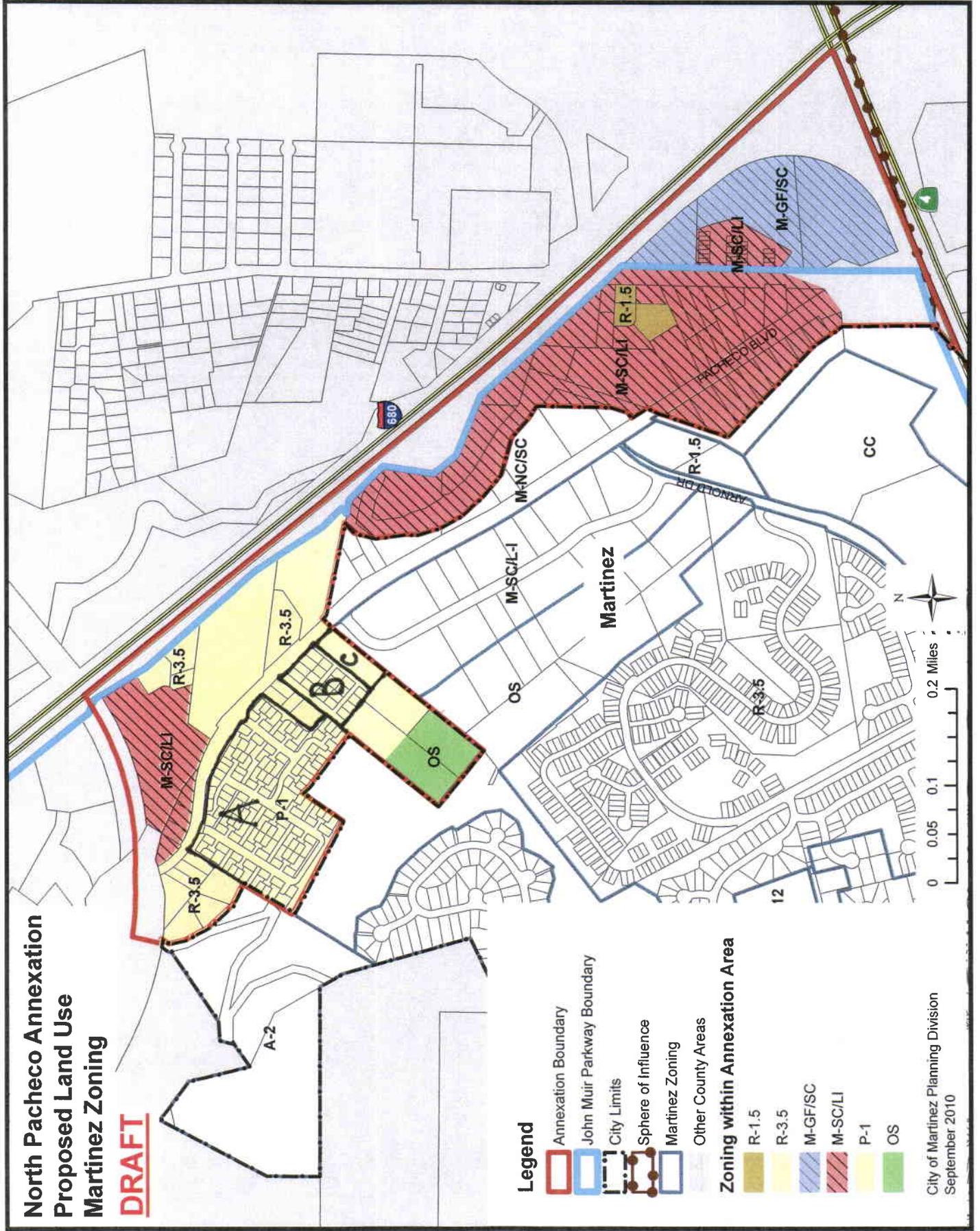
Dated: Dec. 18, 1980

[Signature]
Chairman, City Council

FORM APPROVED BY
COUNTY COUNSEL
(11-25-30)

**North Pacheco Annexation
Proposed Land Use
Martinez Zoning**

DRAFT



Legend

- Annexation Boundary
- John Muir Parkway Boundary
- City Limits
- Sphere of Influence
- Martinez Zoning
- Other County Areas

Zoning within Annexation Area

- R-1.5
- R-3.5
- M-GF/SC
- M-SC/LI
- P-1
- OS

City of Martinez Planning Division
September 2010