



EAST CONTRA COSTA FIRE PROTECTION DISTRICT

Board of Directors Regular Meeting

Monday May 2, 2016

***** SPECIAL MEETING TIME 5:30 PM for Workshop *****

6:30 PM for Remainder of Agenda

Meeting Location: 3231 Main Street, Oakley

BOARD OF DIRECTORS		
Steve Barr	Joel Bryant-President	Randy Pope
Meghan Bell	Ronald Johansen-Vice President	Erick Stonebarger
Robert Kenny	Cheryl Morgan	Joe Young

AGENDA

5:30 PM CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

ORGANIZATION OF THE EAST CONTRA COSTA FIRE PROTECTION DISTRICT BOARD OF DIRECTORS

A.1 Administration of Oath of Office for Director Bell, who has been appointed to the Board of Directors by the Oakley City Council

WORKSHOP

1. Master Plan Standard of Coverage and Headquarters Staffing

6:30 PM or Following the Workshop, whichever is later

PUBLIC COMMENTS

At this time the public may address the District Board on subject matters pertaining to District business listed on the Consent Calendar, Closed Session, Future Agenda Items, or items *not* listed on the agenda. Remarks may be limited to 3-minutes subject to the discretion of the Board President and with the concurrence of the Board of Directors. Members of the public wishing to address the Board may submit a "Public Comment Speaker Card" to the District Clerk. While the District encourages your comments, State law prevents the Board from discussing items that are not set forth on this meeting agenda. The Board and staff take your comments very seriously and, if appropriate, will follow up on them.

CONSENT CALENDAR

Consent Calendar items are considered routine in nature and will be enacted by the Board in one motion. If discussion or public comment is required, any Board Member may request the item be removed from the Consent Calendar and considered separately.

C.1 Approve Minutes from April 4, 2016 Regular Board of Directors Meeting

DISCUSSION ITEMS

D.1 Receive Update from the Multi-Jurisdictional Fire Task Force

D.2 Receive Legal Analysis and Consider Proposal to Seek Property Tax Revenue Transfers from Other Agencies in the ECCFPD Service Area

D.3 Adopt Resolution Entering into a Joint Community Facilities Agreement with the California Statewide Communities Development Authority to form a Community Facilities District for the Delta Coves Project

D.4 Adopt Resolution Authorizing Execution of an Agreement to Lease Closed Fire Station 58 (1535 Discovery Bay Boulevard, Discovery Bay, California) to the Town of Discovery Bay

D.5 Receive Operational Update for April 2016

INFORMATIONAL STAFF REPORTS

1. Receive Update on New Firefighters and Recruitment

DIRECTORS' COMMENTS

INFORMATIONAL REPORTS AND REQUESTS FOR FUTURE AGENDA ITEMS FROM BOARD MEMBERS

This portion of the agenda shall provide an opportunity for Board Members to report on activities, committee or event attendance pertaining to District business or to request a future item to be placed on the agenda.

ADJOURN TO THE REGULAR BOARD MEETING SCHEDULED: June 6, 2016

All items appearing on the agenda are subject to action by the Board.

POSTING STATEMENT

A copy of this agenda was posted **April 29, 2016 at the East Contra Costa Fire Protection District Administrative Office, 134 Oak Street, Brentwood, CA 94513**. Pursuant to CA Government Code §54957.5, disclosable public records and writings related to an agenda item distributed to all or a majority of the Board of Directors including such records and writing distributed less than 72 hours prior to this meeting are available for public inspection at the East Contra Costa Fire Protection District Administrative Office, 134 Oak Street, Brentwood, CA 94513.

NOTICE In compliance with the Americans with Disabilities Act, any individuals requesting special accommodation to attend and/or participate in District Board meetings may contact the District Administrative Office at (925) 634-3400. Notification 48 hours prior to the meeting will enable the District to make reasonable accommodations.



EAST CONTRA COSTA FIRE PROTECTION DISTRICT

Meeting Minutes Board of Directors Regular Meeting

Monday April 4, 2016 – 6:30 P.M.

Meeting Location: 3231 Main Street, Oakley

BOARD OF DIRECTORS		
Steve Barr	Joel Bryant-President	Randy Pope
Robert Kenny	Ronald Johansen-Vice President	Erick Stonebarger
	Cheryl Morgan	Joe Young

CALL TO ORDER: (6:31 P.M.)

PLEDGE OF ALLEGIANCE: (6:31 P.M.)

ROLL CALL: (6:32 P.M.)

Directors Present: Barr, Bryant, Kenny, Johansen, Morgan, Stonebarger, Young

Directors Absent: Pope

President Bryant announced the resignation of Director Jonathan Michaelson, and recognized and thanked him for his service to the community as a member of this Board.

PRESENTATION: (6:33 P.M.)

Hal Bray from East County Voters for Equal Protection made a presentation on “Funding a Sustainable ECCFPD,” and a proposed reallocation of property tax funds from all other public agencies in the District’s jurisdiction. Mr. Bray answered questions and responded to input from the Board.

PUBLIC COMMENTS: (7:27 P.M.)

There was one (1) Public Speaker – Mark Whitlock

CONSENT CALENDAR

C.1 Approve Minutes from March 7, 2016 Regular Board of Directors Meeting: (7:30 P.M.)

Motion by: Director Kenny to approve consent item C.1

Second by: Director: Young

Vote: Motion carried: 7:0:0
Ayes: Barr, Bryant, Johansen, Kenny, Morgan, Stonebarger, Young
Noes:
Abstained:
Absent: Pope

DISCUSSION ITEMS

D.1 Receive Update from the Multi-Jurisdictional Fire Task Force: (7:31 P.M.)

There were two (2) Public Speakers – Hal Bray, Bob Mankin

D.2 Adopt Policy for Public Records Requests : (8:18 P.M.)

There were no (0) Public Speakers

Motion by: Director Barr to adopt Policy for Public Records Requests
Second by: Director: Young
Vote: Motion carried: 7:0:0
Ayes: Barr, Bryant, Johansen, Kenny, Morgan, Stonebarger, Young
Noes:
Abstained:
Absent: Pope

D.3 Elect to Become Subject to the Uniform Public Construction Cost Accounting Act for Building and Maintenance and Introduce and Waive First Reading of Ordinance to Provide Informal Bidding Procedures for Construction Contracts: (8:25 P.M.)

There were no (0) Public Speakers

Motion by: Director Johansen to table item D.3 and refer the matter to the Finance Committee for further discussion on the Bidding Process and Procedures.
Second by: Director: Young
Vote: Motion carried: 6:1:0
Ayes: Barr, Bryant, Johansen, Morgan, Stonebarger, Young
Noes: Kenny
Abstained:
Absent: Pope

D.4 Receive Operational Update for March 2016: (8:44 P.M.)

Chief Henderson gave an update on the Operations for March 2016

There were no (0) Public Speakers

INFORMATIONAL STAFF REPORTS

Receive Update on Firefighter Recruitment: (8:48 P.M.)

Chief Henderson gave an update on the Firefighter Recruitment.

DIRECTORS' COMMENTS: (8:51 P.M.)

Director Morgan requested that additional Directors join the Outreach Committee.

INFORMATIONAL REPORTS AND REQUESTS FOR FUTURE AGENDA ITEMS FROM BOARD MEMBERS: (8:51 P.M.)

Director Barr requested a the Finance Committee agendize further discussion of the proposed property tax transfer presented tonight by Hay Bray so that a recommendation may be made to the full Board.

RECESS TO CLOSED SESSION ON THE FOLLOWING MATTERS: : (8:52 P.M.)

1. Conference With Labor Negotiator Pursuant to Government Code Section 54957.6
Agency Designated Representatives: Fire Chief and Glenn Berkheimer
Employee Organization: East Contra Costa Battalion Chiefs Association
2. Coference with Real Property Negotiator Pursuant to Government Code Section 54956.8
Property: 1535 Discovery Bay Boulevard, Discovery Bay, California
Agency Negotiator: Fire Chief
Negotiating party: Town of Discovery Bay Interim General Manager Catherine Kutsuris
Under negotiation: Price and terms of payment

REPORT ON THE CLOSED SESSIONS: (9:33 P.M.)

Director Bryant announced that direction was provided to the relevant negotiators for Items 1 and 2.

ADJOURN TO THE REGULAR BOARD MEETING SCHEDULED: May 2, 2016: (9:33 P.M.)

BOARD OF DIRECTORS AGENDA ITEM NO. D-2

Meeting Date: May 2, 2016

Subject/Title: Receive Legal Analysis and Consider the District's Position on a Proposal to Seek Property Tax Revenue Transfers from Other Agencies

Submitted by: Hugh Henderson, Fire Chief
Shayna van Hoften, Legal Counsel

RECOMMENDATION FOR ACTION

1. Receive legal analysis on a proposal from East County Voters for Equal Protection (ECV) for the East Contra Costa Fire Protection District (District) to accept or seek property tax revenue transfers from other agencies in its service area (the Plan).
2. Take action by motion to adopt a neutral position on the Plan, and direct Staff not to expend resources to support, pursue or oppose the Plan at this time.

PRIOR ACTION

On April 4, 2016, Mr. Harold Bray made a presentation to this Board on behalf of ECV regarding the Plan. Members of the Board requested that Legal Counsel prepare an analysis of the legality of a property tax transfer proposal.

SUBJECT BACKGROUND

Over the past several months, a local citizens group formed and named itself East County Voters for Equal Protection. ECV has been conducting extensive media and public outreach around a proposal for the other local agencies in the District's jurisdiction to voluntarily transfer a portion of their property tax revenues to the District to fund additional fire and medical emergency response, and to signify to the State legislature a willingness to support a State law change to reallocate property taxes in East County.

In response to requests made during the April Board meeting, the District's Legal Counsel has prepared a memo, attached, addressing the legality of the Plan, and identifying hurdles to its implementation.

In sum, Legal Counsel concluded that the Plan, as presented, would violate California Revenue and Taxation Code section 99.02, absent a change in the law.

Staff recommends that the Board of Directors consider whether the District should take a formal position on the Plan. If desired, the Board and District may take no position, take a support position, take an oppose position or take a neutral position.

While Staff appreciates the extensive investment of time and energy being committed to developing and sharing information on ECV's Plan, Staff recommends the District take a neutral

position on the Plan given that (1) the Plan presents significant legal concerns and (2) pursuit of the Plan could distract the District and the public from more viable short- and long-term solutions to the District's financial crisis. Staff further recommends the Board direct Staff not to expend resources to support, pursue or oppose the Plan at this time.

Attachments: Legal Memorandum

Memorandum

TO: East Contra Costa Fire Protection District Board of Directors
Hugh Henderson, Fire Chief

FROM: Shayna M. van Hoften, Legal Counsel
Samir Abdelnour

DATE: April 29, 2016

RE: **Legal Analysis of Proposal to Receive Property Tax Revenue Transfers from Other Agencies in the ECCFPD Service Area**

At its April 4, 2016 regular meeting, the East Contra Costa Fire Protection District (District) Board of Directors requested Legal Counsel to prepare an analysis of the legality of a property tax transfer proposal presented by Mr. Harold Bray on behalf of a local citizens group calling itself East County Voters for Equal Protection (ECV).

In sum, we conclude that the proposed voluntary property tax transfers from other agencies to the District, as presented, would violate Revenue and Taxation Code section 99.02, absent a change in the law.

I. Background

East Contra Costa Fire Protection District serves approximately 110,000 residents in an area covering 249 square miles. The District receives 7.5% of the property tax revenue generated within its boundaries – also stated as “7 cents of each tax dollar” – as compared to the other fire protection agencies in the County receiving 12 to over 30 cents per property tax dollar collected in their jurisdictions.

The District’s current revenues allow it to operate three fire stations and fund operation of the CalFire Sunshine station during non-fire season, down from nine stations in 2010. In June 2012, voters in the District rejected a ballot measure to enact a \$197 parcel tax for a total of \$4.2 million in additional funds to allow District operation of six stations. Then, in April 2015, property owners in the District rejected a proposed benefit assessment that would have funded District operation of five stations.

In recognition of the District’s structural financial crisis, and resulting inability to provide sufficient fire and medical emergency response services, a multi-jurisdictional taskforce was convened to address the problem. As a result, in November 2015, the City of Brentwood, the City of Oakley, and Contra Costa County adopted resolutions to enter into a Memorandum of Understanding (MOU) with each other and the District to provide funding to the District totaling approximately \$2.2 million over two fiscal years to allow the District to re-open and operate a fourth station

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through June 30, 2017, and to allow the taskforce members to engage outside expertise to assist with developing long-term funding solutions for the District, including through extensive public engagement. Long-term options may include increasing local taxes or assessments to create dedicated funding for fire protection and fire and medical emergency response in East Contra Costa County.

II. ECV Proposal

ECV has proposed a plan to raise \$7.8 million in additional revenue to the District through the voluntary transfer of property tax revenues from other public agencies (the "Plan"). ECV's Plan calls for all public entities within the District's boundaries to agree to transfer 5.2% of their property tax revenues to the District for 3 fiscal years or budget cycles. According to ECV, the Plan would generate sufficient revenue to allow the District to operate six fire stations, without raising taxes on District residents.

Law concerning property tax transfers

Under Revenue and Taxation Code section 99.02 (Section 99.02), a public agency may "transfer any portion of its property tax revenues that is allocable to one or more tax rate areas within the local agency to one or more other local agencies having the same tax rate area or tax rate areas." (Rev. & Tax. C. § 99.02(b).) However, there are four enumerated limitations on property tax transfers under Section 99.02, which require the transferring agency to make the following determinations:

- (1) that revenues are available for the transfer;
 - (2) that the transfer will not increase the ratio between the transferring agency's revenues generated by regulatory licenses, use charges, user fees, or assessments and revenues used to finance services provided by the transferring agency;
 - (3) that the transfer will not impair the transferring agency's ability to provide existing services; and
 - (4) that property tax revenues to school entities will not be reduced.
- (Rev. & Tax. C. § 99.02(f).)

This means that the transferring agency, as a precursor to agreeing to the transfer, must declare that the lost property tax will not result in service cuts or in increased use charges, fees or assessments to offset the contemplated property tax transfer.

Legal concerns with ECV's short-term proposal

ECV's proposal presents significant legal concerns.

ECV's presentation materials regarding the Plan call for "equal participation by all public entities" in the property tax funding re-allocation proposal, including school districts. However, under current law, school districts would need to be excluded from the Plan to avoid running afoul of the limitation on transfers in Section 99.02(f)(4).

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Furthermore, the remaining transferring agencies would have to comply with Section 99.02(f)(1)-(3). To that point, ECV's presentation materials suggest that public agencies can "agree to simulate property tax allocation locally through a MOU or JPA," citing as examples the resolutions passed by Brentwood, Oakley and Contra Costa County in November 2015 to provide the District with additional funding. However, those resolutions were not adopted under Section 99.02, and did not require compliance with Section 99.02(f), which creates a significant hurdle.

In fact, Contra Costa County authorized its share of the short-term funding to the District to come from "back-owed SB90 reimbursement," which is a payment by the State to reimburse a local agency for the cost of a state-mandated new program or higher level of service, subject to certain exceptions. (Cal. Const. Art. 13B, § 6; Gov. C. § 17550 *et seq.*) Unlike under Section 99.02, agencies have "complete discretion in the expenditure of funds received" under SB90. (*Kinlaw v. State of California*, 54 Cal.3d 326, 335 (1991); Gov. C. § 17563.) The cities' contributions under the taskforce MOU are coming from one-time revenues from Community Facilities Districts, also not subject to Section 99.02.

Thus, to the extent ECV proposes that agencies "simulate property tax allocation" in a manner that does not require compliance with Section 99.02 – as Brentwood, Oakley, and Contra Costa County did with their one-time allocations – ECV's Plan fails to identify potential alternative sources of revenue, other than property tax revenues, available to agencies to transfer to the District at their discretion.

Requirements for ECV's long-term transfer or re-allocation proposal

ECV characterizes the bulk of its plan as temporary, but it states the initial elements would be a first step. ECV's presentation materials suggest that approval of the Plan will demonstrate a willingness for affected agencies to address the District's funding issues on their own, thereby making it more likely that the State legislature will approve a re-allocation to benefit the District in the future. Legislative re-allocation of property tax revenues at the State level, which may or may not result in a larger share for the District, would require a two-thirds majority of both houses of the State legislature. (Cal. Const. art. XIII, § 25.5(a)(3).) A change to Section 99.02 would require simple majority approval in the legislature. However, as with legislative re-allocation of property tax revenues, a modification of Section 99.02 would not necessarily result in lowering the hurdles for agencies to transfer property tax revenues to the District. Moreover, at this time, no legislation re-allocating property tax revenues or modifying Section 99.02 has been proposed.

If you have further questions or legal concerns regarding the ECV Plan or related matters, please contact Shayna at 415-995-5880 or svanhofen@hansonbridgett.com.

**EAST CONTRA COSTA FIRE PROTECTION DISTRICT
BOARD OF DIRECTORS AGENDA ITEM D-3**

Meeting Date: May 2, 2016

Subject/Title: Adopt Resolution Entering into a Joint Community Facilities Agreement with the California Statewide Communities Development Authority to Form a Community Facilities District for the Delta Coves Project

Submitted by: Hugh Henderson, Fire Chief

RECOMMENDATION FOR ACTION

Adopt resolution entering into a Joint Community Facilities Agreement with the California Statewide Communities Development Authority to form a Community Facilities District for the Delta Coves Project.

SUBJECT BACKGROUND

The Delta Coves project is located on Bethel Island. This project was originally planned in the early 1970s and the developer began the land use improvements in 2005. In 2008, the project was stopped during the great recession. During the past 18 months, this project has been restarted and approved for 494 single-family homes and 66 condominiums.

Delta Coves, LLC (SunCal) has requested that the Diablo Water District act as the sponsoring agency to form a Community Facilities District (CFD) with bonds being issued to finance certain facilities through the California Statewide Communities Development Authority (CSCDA). The Diablo Water District agreed, and passed the CFD Resolution on February 24, 2016. In addition, SunCal is asking the East Contra Costa Fire Protection District (District) to participate by passing a Joint Community Facilities Agreement (JCFA) to include a fire maintenance fee. Other participating local agencies will include Iron House Sanitary District and the Bethel Island Municipal Improvement District (BIMID).

The District's involvement is limited to approving the JCFA, which will allow the District to receive a \$200/unit annual fire maintenance service fee. This fee will be collected on the tax roll, and remitted to the District under the County's tax teeter program. There will be an escalator applied to the fee, and it can be applied at the discretion of the District. An estimated total fee revenue of \$113,320 will be collected during tax year 2106/17. It will escalate at a rate determined by Goodwin Consulting Group, the District's current tax consultant.

As mentioned above, the other agencies involved include Diablo Water District, which has already passed its Resolution, and BIMID and Iron House Sanitary District, which are scheduled to approve JCFA's on April 21 and May 2, respectively. CSCDA is scheduled to commence the

CFD proceedings on May 12 by passing a Resolution of Intention. The CFD will be formed on June 23 after a public hearing and landowner vote. If all goes as scheduled, this will be in time to place the special taxes for each participating local agency on the 2016/17 County tax roll.

Attachments:

Resolution

RESOLUTION NO. 2016-07

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE EAST CONTRA COSTA FIRE PROTECTION DISTRICT

AUTHORIZING THE EXECUTION AND DELIVERY OF A JOINT COMMUNITY FACILITIES AGREEMENT WITH THE COMMUNITY STATEWIDE COMMUNITIES DEVELOPMENT AUTHORITY TO FORM A COMMUNITY FACILITIES DISTRICT TO FINANCE CERTAIN PUBLIC SERVICES; AUTHORIZING STAFF TO COOPERATE WITH THE AUTHORITY AND ITS CONSULTANTS IN CONNECTION THEREWITH.

WHEREAS, the East Contra Costa Fire Protection District (the “Local Agency”) is a special district duly organized and existing under and by virtue of the laws of the State of California (the “State”);

WHEREAS, the California Statewide Communities Development Authority (the “Authority”) is a California joint-exercise of powers authority lawfully formed and operating within the State pursuant to an agreement (the “Joint Powers Agreement”) entered into as of June 1, 1988 under the authority of Title 1, Division 7, Chapter 5 (commencing with Section 6500) of the California Government Code;

WHEREAS, the “Mello-Roos Community Facilities Act of 1982,” being Chapter 2.5, Part 1, Division 2, Title 5 (beginning with Section 53311) of the Government Code of the State (the “Act”) is an applicable provision of State law available to, among other things, finance public improvements and public services necessary to meet increased demands placed upon local agencies as a result of development;

WHEREAS, there is a development project known as Delta Coves owned by SDC Delta Coves LLC (respectively, the “Development Project” and the “Developer”) and the Developer has requested the Local Agency to consider formation of a community facilities district for the Development Project under the Act;

WHEREAS, both the Authority and the Local Agency are “local agencies” under the Act;

WHEREAS, the Act permits two or more local agencies to enter into a joint community facilities agreement to exercise any power authorized by the Act;

WHEREAS, the Local Agency desires to enter into such an agreement with the Authority to authorize the Authority to form a community facilities district within the territorial limits of the Local Agency to finance public improvements, fees and services required of the Development Project;

WHEREAS, the Board of Directors is fully advised in this matter;

NOW THEREFORE, BE IT RESOLVED by the Board of Directors of the East Contra Costa Fire Protection District that it does hereby find, determine, declare and resolve as follows:

Section 1. The form of the Joint Community Facilities Agreement attached hereto as Exhibit A is hereby approved and the Chair of the Board, the Fire Chief (the “Authorized Officer”) or such officer’s designee is authorized to execute and deliver to the Authority the Joint Community Facilities Agreement in substantially that form, with such changes as shall be approved by the Authorized Officer after consultation with counsel to the Local Agency and the Authority’s bond counsel, such approval to be conclusively evidenced by the execution and delivery thereof. The Board finds and determines that the Joint Community Facilities Agreement is beneficial to the residents/customers of the Local Agency and is in the best interest of the Local Agency and of the future residents of the area within the proposed community facilities district.

Section 2. The Board of Directors hereby authorizes and directs the Fire Chief and other appropriate Local Agency staff to cooperate with the Authority and its consultants and to do all things necessary and appropriate to carry out the intent of this resolution and the community facilities district financing, and to execute any and all certificates and documents in connection with the bond issuance as shall be approved by the Fire Chief after consultation with the Local Agency’s Attorney and the Authority’s bond counsel.

Section 3. The Board of Directors hereby approves delivery of a certified copy of this resolution to the Authority’s Bond Counsel, Orrick, Herrington & Sutcliffe LLP.

Section 4. This Resolution shall take effect upon its adoption.

PASSED AND ADOPTED this 2nd day of May, 2016 by the following vote, to wit:

AYES: Board Members _____

NOES: Board Members _____

ABSENT: Board Members _____

ABSTAIN: Board Members _____

Joel Bryant
President, Board of Directors

| ATTEST:

Hugh Henderson
Clerk of the Board

EXHIBIT A

FORM OF JOINT COMMUNITY FACILITIES AGREEMENT

JOINT COMMUNITY FACILITIES AGREEMENT

between

THE CALIFORNIA STATEWIDE COMMUNITIES DEVELOPMENT AUTHORITY

and

East Contra Costa Fire Protection District

for the

DELTA COVES PROJECT

This Agreement, dated as of May 1, 2016, between the East Contra Costa Fire Protection District (the “Local Agency”) and the California Statewide Communities Development Authority (the “Authority”) (collectively referred to herein as the “Parties” and individually as a “Party”) is made under the authority of California Government Code Section 53316.2.

WHEREAS, it is proposed that the Authority conduct proceedings under the Mello-Roos Community Facilities Act of 1982 (the “Act”) to form a community facilities district (the “Community Facilities District”) and to issue debt to finance certain public facilities (such facilities hereinafter called the “Improvements”) either directly or by financing the payment of development impact fees (referred to herein as “Fees”), and to finance certain public services (such services hereinafter called the “Services”) which include certain Services to be provided by the Local Agency (the “Local Agency Services”), and certain Improvements to be owned and operated, and Services to be provided, by other local agencies that enter into a joint community facilities agreement with the Authority (the “Other Local Agencies”); and

WHEREAS, the Board of the Local Agency and the Commission of the Authority have, prior to the execution of this Agreement, duly considered the contents of this Agreement and have each determined, by resolution, that the execution of this Agreement would be beneficial; and

WHEREAS, the Local Agency is willing to cooperate with the Authority in accomplishing the financing of the Local Agency Services to be authorized by the Community Facilities District; and

WHEREAS, the Parties wish to provide that the funds provided through the Community Facilities District proceedings are solely for the purpose of payment for the Local Agency Services and other Fees, Improvements and Services, and that each local agency shall be solely and separately responsible for all other aspects of planning, acquiring, constructing,

reconstructing, rehabilitating, furnishing, equipping, and owning its own Improvements and delivery of its own Services.

NOW, THEREFORE, the Parties agree as follows:

Section 1. This Agreement is determined to be beneficial to residents/customers of the Local Agency and in the best interests of the Authority and the future residents of the area within the Community Facilities District.

Section 2. The above recitals are agreed to by the Parties.

Section 3. Pursuant to Government Code Section 53316.2, the Authority will conduct proceedings under the Act to form the Community Facilities District and to issue debt, by and through the Community Facilities Agreement (the “Bonds”), to authorize the financing of, among other Fees, Improvements and Services, the Local Agency Services, which Local Agency Services shall be those shown on Exhibit A.

Section 4. This agreement is determined to be in the best interests of the residents of the Local Agency, and of the future residents of the area within the Community Facilities District.

Section 5. For Fees paid or to be paid to any Other Local Agency, the Authority will obtain the written consent of that Other Local Agency before issuing bonds to fund such Fees, as required by the Act. For the Improvements to be owned by an Other Local Agency and Services to be provided by an Other Local Agency, the Authority will separately identify each in its proceedings, and will enter into joint community facilities agreements with each Other Local Agency prior to issuing bonds to finance such Improvements, as required by the Act. Each joint community facilities agreement with an Other Local Agency will contain a provision that the Other Local Agency will provide indemnification to the Local Agency to the same extent that the Local Agency provides indemnification to the Other Local Agency under the terms of this resolution.

Section 6. The Local Agency certifies to the Commission of the Authority that all of the Local Agency Services are necessary to meet increased demands placed upon the Local Agency as a result of development occurring or expected to occur within the proposed Community Facilities District. Joint community facilities agreements with each Other Local Agency shall each contain a certification with respect to the Improvements to be owned by, Fees paid or to be paid to, and Services to be provided by, such Other Local Agency equivalent to that made by the Local Agency in this paragraph.

Section 7. For any Fees and Improvements to be financed through the Community Facilities District, the Authority will apply the special tax collections initially as required by the documents under which any bonds are issued; and thereafter, to the extent not provided in the bond documents, may pay its own reasonable administrative costs incurred in the administration of the Community Facilities District. The Authority will remit any special tax revenues remaining after the final retirement of all bonds to the Local Agency and to the respective Other Local Agency in the proportions specified in the Authority’s proceedings. The Local Agency will apply any such special tax revenues it receives for authorized Local Agency

Services and its own administrative costs only as permitted by the Act. The joint community facilities agreements with each Other Local Agency shall require such Other Local Agency to apply the special tax revenues they receive for their authorized Improvements and Fees under the Community Facilities District and for their own related administrative costs only as permitted by the Act.

Section 8. The Authority will administer the Community Facilities District, including employing and paying all consultants, annually levying the special tax and all aspects of paying and administering the bonds, and complying with all State and Federal requirements appertaining to the proceedings, including the requirements of the United States Internal Revenue Code. The Local Agency will cooperate fully with the Authority in respect of the requirements of the Internal Revenue Code and to the extent information is required of the Local Agency to enable the Authority to perform its disclosure and continuing disclosure obligations with respect to the bonds, although the Local Agency will not participate in nor be considered to be a participant in the proceedings respecting the Community Facilities District (other than as a party to the agreement embodied by this resolution) nor will the Local Agency be or be considered to be an issuer of the bonds. The Authority shall obtain a provision equivalent to this paragraph in the joint community facilities agreement with each Other Local Agency.

Section 9. Once the Authority forms the Community Facilities District and, with the concurrence of the Local Agency, begins collecting the special tax therein for the Local Agency Services, the Authority shall establish and maintain a special fund for that purpose (the "Services Fund") and shall deposit all special taxes collected for the Local Agency Services in such fund. The Services Fund may be pledged to the payment of debt service on Bonds and may be held under and pursuant to a bond indenture. As respects the Authority and the Other Local Agencies, the Local Agency agrees to fully administer, and to take full governmental responsibility for, the provision of the Local Agency Services, and the Authority and the Other Local Agencies shall have no responsibility whatsoever in that regard. The Authority shall apply the amounts on deposit in the Services Fund, at the direction of the Local Agency, to fund the provision of the Local Agency Services. Under no circumstances will the Authority or any Other Local Agency have any obligation for the Local Agency Services beyond depositing special tax revenues collected, if any, in the Services Fund. The Local Agency reserves the right, as respects the Developer, to require the Developer to contract with the Local Agency to assume any portion or all of this responsibility. The Authority shall obtain provisions equivalent to this paragraph in the joint community facilities agreement with each Other Local Agency.

Section 10. The Authority shall obtain provisions by which each Other Local Agency agrees to fully administer, and to take full governmental responsibility for, the construction of the Improvements for such Local Agency in the joint community facilities agreement with each Other Local Agency.

Section 11. The Authority is required to obtain a provision in each joint community facilities agreement with each Other Local Agency naming the Local Agency and its officers, agents and employees as indemnified parties with respect to such Other Local Agency's Improvements and the improvements to be constructed or acquired with the Other Local Agency's Fees.

Section 12. The Authority is required to obtain a provision in each joint community facilities agreement with each Other Local Agency to accept ownership of the Improvements of such Other Local Agency, to take maintenance responsibility for the Other Local Agency's Improvements, and to indemnify and hold harmless the indemnified parties from claims arising out of the use and maintenance of the Other Local Agency's Improvements naming the Local Agency and its officers, agents and employees as indemnified parties.

Section 13. The Local Agency accepts responsibility for and shall be responsible for identification of and for compliance with all applicable laws pertaining to the provision of the Local Agency Services. The Authority makes no representation as to the applicability or inapplicability of any laws relating to the provision of the Local Agency Services. The Local Agency agrees to indemnify and to hold the Indemnified Parties harmless from any and all claims, suits and damages (including costs and reasonable attorneys' fees) arising out of the provision of the Local Agency Services. The Local Agency reserves the right, as respects the Developer, to require the Developer to assume by contract with the Local Agency any portion or all of this responsibility. The Authority is required to obtain a provision equivalent to this paragraph in each joint community facilities agreement with each Other Local Agency naming the Local Agency and its officers, agents and employees as Indemnified Parties with respect to such Other Local Agency's Services.

Section 14. The Local Agency hereby consents to the formation of the Community Facilities District in accordance with this resolution and consents to the assumption of jurisdiction by the Authority for the proceedings respecting the Community Facilities District with the understanding that the Authority will hereafter take each and every step required for or suitable for consummation of the proceedings, the levy, collection and enforcement of the special tax, and the issuance, sale, delivery and administration of the bonds, all at no cost to the Local Agency and without binding or obligating the Local Agency's general fund or taxing authority.

Section 15. This Agreement may be amended by a writing duly authorized, executed and delivered by the Parties, except that no amendment may be made after the issuance of bonds of the Community Facilities district that would be detrimental to the interests of the bondholders without complying with all of the bondholder consent provisions for the amendment of the bond resolutions or bond indentures or like instruments governing the issuance, delivery and administration of all outstanding Bonds.

Section 16. The Other Local Agencies are express third party beneficiaries of this agreement with respect to the indemnifications extended thereto and the Local Agency's agreement to take responsibility for the Local Agency Services. Except to the extent of the indemnifications extended to the Other Local Agencies in the Agreement embodied by this resolution, and the Local Agency's agreement to take responsibility for Local Agency Services, no person or entity, including the Developer, shall be deemed to be a third party beneficiary of this resolution, and nothing in this resolution (either express or implied) is intended to confer upon any person or entity other than the Authority and the Local Agency (and their respective successors and assigns) any rights, remedies, obligations or liabilities under or by reason of this resolution.

Section 17. The Local Agency shall be identified as a third-party beneficiary of all joint community facilities agreements between the Authority and the Other Local Agencies to the extent of the indemnification provisions and the provisions whereby the Other Local Agencies agree to take responsibility for and ownership of their Improvements.

Section 18. All notices or other communications that may be given under this Agreement shall be in writing and shall be served personally, or by certified or first class mail, postage prepaid, addressed as follows, or to such other address as either party may provide to the other party in writing:

THE LOCAL AGENCY: East Contra Costa Fire Protection District
Fire Chief
134 Oak Street
Brentwood, CA 94513

AUTHORITY: California Statewide Communities Development Authority
1100 K Street, Suite 101
Sacramento, CA 95814
Attn: Chair

Section 19. Should any term or provision of this Agreement be determined to be illegal or in conflict with any law of the State of California, the validity of the remaining portions or provisions shall not be affected thereby, and each term or provision of this Agreement shall be valid and be enforced as written to the full extent permitted by law.

IN WITNESS WHEREOF the Parties have executed this Agreement as of the date first above written.

EAST CONTRA COSTA FIRE PROTECTION DISTRICT

By _____
Authorized Officer

CALIFORNIA STATEWIDE COMMUNITIES DEVELOPMENT AUTHORITY

By _____
Authorized Signatory

EXHIBIT A TO THE JOINT COMMUNITY FACILITIES AGREEMENT

AUTHORIZED SERVICES

The authorized services to be financed within the community facilities district include the following:

Services

Operations and maintenance expenses of fire facilities, including related personnel costs, as necessary to meet increased demands on the Local Agency as a result of the development of the Delta Coves project.

The budgeted special tax is \$200 per unit per year as such amount may be increased annually by an escalation factor determined by an independent consultant.

BOARD OF DIRECTORS AGENDA ITEM NO. D- 4

Meeting Date: May 2, 2016

Subject/Title: Authorize the Fire Chief to Execute an Agreement to Lease Closed Fire Station 58 to the Town of Discovery Bay

Submitted by: Hugh Henderson, Fire Chief

RECOMMENDATION FOR ACTION

Authorize the Fire Chief to execute an agreement to lease closed Fire Station 58, located at 1535 Discovery Bay Blvd., Discover Bay, California (Premises) to the Town of Discovery Bay.

SUBJECT BACKGROUND

On June 29, 2010, by Resolution 2010-11, the Board closed Fire Station 58 on July 16, 2010 for financial reasons. Since the closure, the District has been maintaining the station, which includes landscaping, utilities and security systems.

In March 2016, the District was contacted by the Town of Discovery Bay (Town) requesting to lease the apparatus bays of Fire Station 58 for the storage of landscaping equipment.

On March 17, the Finance Committee discussed the Town's request and suggested that the lease agreement cover the entire Premises. The Finance Committee also recommended bringing the lease agreement to the Board for consideration and approval at the conclusion of negotiations by Staff.

Staff from both agencies negotiated a draft lease agreement to provide the best utilization of the Premises. The agreement provides that:

- Rents will be \$1300 a month, which is approximately one dollar per square foot for the apparatus bays, for a 24-month term;
- The Town will take financial and administrative responsibility for day-to-day maintenance of the Premises (inclusive of the real property, the fire station and all other improvements on the property), including by providing landscaping, utilities, and security of the property;
- The Premises will be taken in "as is" condition; and
- The District will retain the right to cancel the lease within 90 days' notice to re-open the Premises for fire suppression use.

Staff recommends that the Board authorize the lease of the Premises to the Town of Discovery Bay and authorize the Fire Chief to execute the lease agreement in a form acceptable to Legal Counsel and to take any other actions necessary to give effect to the attached resolution.

BUDGET IMPACT

The lease will generate rents of over \$31,000 over two years, and save District costs related to upkeep of the building, utilities, landscaping and security. The rate is in accordance with current market rates in the area for storage akin to the equipment bays provided in the station.

Attachments: Resolution

**EAST CONTRA COSTA FIRE PROTECTION DISTRICT
BOARD OF DIRECTORS
STATE OF CALIFORNIA**

* * *

RESOLUTION NO. 2016-

AUTHORIZING THE FIRE CHIEF TO ENTER INTO A 24-MONTH LEASE WITH THE TOWN OF DISCOVERY BAY FOR FIRE STATION 58, LOCATED AT 1535 DISCOVERY BAY BOULEVARD IN DISCOVERY BAY, CALIFORNIA, FOR \$1,300 PER MONTH

WHEREAS, East Contra Costa Fire Protection District's (District) Fire Station 58, located at 1535 Discovery Bay Boulevard in Discovery Bay, California (Premises) was closed for financial reasons on July 16, 2010 pursuant to Resolution 2010-11; and

WHEREAS, the District has continued to maintain the Premises, which includes landscaping, utilities and security systems; and

WHEREAS, in March 2016, the District was contacted by the Town of Discovery Bay (Town) requesting to lease the apparatus bays of Fire Station 58 for the storage of landscaping equipment; and

WHEREAS, on March 17, the Finance Committee discussed the Town's request to lease the apparatus bays, suggested that the lease agreement apply to the entire Premises rather than just the apparatus bays, and recommended bringing the lease agreement to the Board for approval following negotiations between District and Town staff; and

WHEREAS, representatives of the District and the Town have agreed upon terms including a 24-month lease, with authority for the District to terminate with 90 days' notice to reoccupy the Premises, and with the Town bearing all responsibility for day-to-day maintenance and upkeep of the Premises, which would be taken in "as is" conditions; and

WHEREAS, the Fire Chief has determined that leasing the Premises at this time would be financially prudent and in the best interest of the District; and

WHEREAS, the District desires to lease the Premises (inclusive of the real property, the fire station and all other improvements on the property) to the Town of Discovery Bay in exchange for rents of \$1300 per month for a 24-month term.

NOW, THEREFORE BE IT RESOLVED that the East Contra Costa Fire Protection District Board of Directors hereby:

1. Authorizes the Fire Chief to execute a 24-month lease with the Town of Discovery Bay for the Premises (inclusive of the real property, the fire station and all other improvements on the property), in a form approved by legal counsel, at a base rent of \$1,300 per month, totaling over \$31,000 over a 24-month period, and with additional terms consistent with this Resolution; and

2. Authorizes the Fire Chief to take whatever other actions may be necessary to give effect to the Resolution.

PASSED, APPROVED AND ADOPTED by the Board of Directors of the East Contra Costa Fire Protection District at a regular meeting held on the 2nd day of May, 2016 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Joel Bryant
President, Board of Directors

ATTEST:

Hugh Henderson
Clerk of the Board