

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

Meeting Date: August 6, 2018

Subject/Title: Approve District Loan for the City of Oakley to Complete Its
Funding Plan for Construction of Station 55

Submitted by: Brian Helmick, Fire Chief
Shayna van Hoften, Legal Counsel

RECOMMENDATION FOR ACTION

Adopt a resolution authorizing the Fire Chief to negotiate and execute, in a form approved by legal counsel:

1. An interfund loan agreement, and any other documents he deems necessary, to effectuate a loan of \$1.9 million from the District's Operating Fund Excess to the East Contra Costa Fire Protection District's (District) Oakley Developer Fee fund.
2. A funding agreement, loan agreement and/or any other documents he deems necessary to transfer to the City of Oakley (City) \$1.9 million from the District's Oakley Developer Fee fund to complete the funding plan for the design and construction of Station 55.
3. Any documents he deems necessary to provide for the transfer of any or all fire impact fees collected by the City to the District.

PRIOR BOARD ACTION

On November 6, 2017, Board of Directors (Board) approved an agreement between the District, the City, and Shea Homes Limited Partnership LP (Shea Homes) settling a lawsuit the City filed against Shea Homes in March 2016, as set forth in more detail below.

Board President Brian Oftedal has created an ad hoc advisory committee, consisting of himself and Director Adam Langro, to address issues that arise during the design and construction of Station 55.

SUBJECT BACKGROUND

Fire Impact Fees

The City collects certain fees imposed pursuant to the Mitigation Fee Act (Gov. Code §§ 66000 *et seq.*) to mitigate the impacts of providing fire protection services to new development in the City (Oakley Developer Fees). Historically, the City has retained the Oakley Developer Fees to pay for its costs associated with providing fire protection.

Shea Homes Agreement to Build Station 55

Shea Homes had previously obtained the rights to construct the Summer Lake Project, a development with 1,429 units, in the City. In various documents executed during the entitlement process, Shea Homes agreed that in lieu of paying the Oakley Developer Fees, it would furnish a fire engine to the District, and construct a new fire station for the District on land Shea Homes would provide. In 2016, the City sued Shea Homes to enforce the various agreements.

The City, the District, and Shea Homes agreed to settle all claims by a settlement agreement the Board approved on November 6, 2017. Under the settlement agreement, Shea Homes paid \$3,120,000 to the City and dedicated a one acre parcel on the northwest corner of East Cypress Road and Summer Lake Drive to the City for the construction of a fire station. The City agreed to construct a fire station on the parcel and dedicate the station to the District. Shea Homes also agreed to pay \$623,000 with which the District will purchase a new fire engine. In return, the District agreed to waive all rights to Oakley Developer Fees from the developer of the Summer Lake Project. The District is still entitled to Oakley Developer Fees from other developers in the same specific plan area.

City of Oakley Efforts to Construct Station 55

Earlier this year, the City engaged Ascent Builders to design and construct the new fire station, which the District has designated as Station 55. The preliminary design for Station 55 is based largely on Station 53, but Station 55 will be smaller at approximately 7,500 sq. ft.. The design includes a 1,400 sq. ft. multipurpose room for trainings and meetings and a 3,080 sq. ft. bay for two engines. In addition, the design includes a separate 2,400 sq. ft. storage building for District equipment and apparatus. The station is designed for a useful life of 50 years.

The current estimated cost of the project is approximately \$5.7 million, or approximately \$2.6 million more than the funds provided under the settlement agreement. The cost overrun results from (a) an industry-wide increase in construction costs, and (b) the inclusion of the multi-purpose room and separate storage building, neither of which were included in the initial cost estimate but both of which have been requested by the District.

To City plans to address the funding gap with a combination of already-collected Oakley Developer Fees and approximately \$2 million in anticipated future Oakley Developer Fees.

City Request for District Funds to Complete Station 55 Funding Plan

The City has requested that the District provide \$1.9 million to provide "cash-flow" the bulk of the future revenues being relied up to complete the funding plan for Station 55. Without funds from the District, the City asserts that it will be unable to proceed with the design and construction of Station 55 as currently planned, and that it would have to engage in a redesign of Station 55. The District's preliminary budget for Fiscal Year 2018-17 includes \$10,227,301 in Operating Fund Excesses which were carried over from previous fiscal years. The funds are available for one-time expenses, and are sufficient to cover the shortfall in the City's funding plan for Station 55.

Station 55 Ad Hoc Advisory Committee Recommendation

The Station 55 ad hoc advisory committee and staff have concluded that the current design of Station 55 would serve the District better than a redesign to fit the available funds from Shea Homes, and recommend that the Board authorize a loan of \$1.9 million from the District's Operating Fund Excess to the District's Oakley Developer Fee fund for use by the City to pay for completion of Station 55. The loan and subsequent transfer of funds to the City would be conditioned on repayment from future Oakley Developer Fee revenue to the Operating Fund as future Oakley Developer Fee revenues become available.

As part of Staff's negotiation of the terms of agreement to facilitate the recommended transaction, Staff would address two related terms: 1) that the City transfer all future Oakley Developer Fee revenue to the District for the District's use; and 2) that the City grant the District a fee (i.e. ownership) interest in Station 55 and the one-acre parcel transferred from Shea Homes to the City as a condition of the settlement agreement.

Authorizing this loan would limit the availability of Oakley Developer Fee revenue for other uses. The City estimates that it collects \$200,000 per year in Oakley Developer Fee revenues. Assuming current building conditions continue, and the amount of the fee remains constant, repayment of the loan principal from the District's Operating Fund Excess would take at least nine years. However, the District could draft the loan agreement to allow Oakley Developer Fees to be diverted for other expenses rather than repayment of the loan if more urgent District needs for the Oakley Developer Fee revenue arise.

Further Revisions to Fire Impact Fee Schedule

In addressing this matter, it has come to Staff's attention that the fire impact fees supporting the District may not adequately mitigate District costs associated with new development. Staff will research the issue further and may return to the Board with further recommendations regarding a fire impact fee study to ensure that fire impact fees imposed to support the District are up-to-date.

Attachment: Resolution

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

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RESOLUTION NO. 2018-__

**AUTHORIZING INTERFUND LOAN AND TRANSFER OF FUNDS TO THE CITY OF
OAKLEY FOR THE STATION 55 PROJECT**

WHEREAS, on November 6, 2016, the East Contra Costa Fire Protection District (District) approved an agreement between the District, the City of Oakley (City), and Shea Homes Limited Partnership (Shea Homes) settling a lawsuit the City filed against Shea Homes in March 2016 (Settlement Agreement); and

WHEREAS, the Settlement Agreement required Shea Homes to transfer to the City \$3,120,000 and a one acre parcel on the northwest corner of East Cypress Road and Summer Lake Drive to the City to construct a new fire station (Station 55), which the City would then dedicate to the District; and

WHEREAS, Ascent Builders, which the City engaged to design and construct Station 55, has prepared a preliminary designs for an approximately 7,500 square foot fire station including a 1,400 sq. ft. multipurpose room and a 3,080 sq. ft. bay for two engines, as well as a separate 2,400 sq. ft. storage building for district equipment and apparatus; and

WHEREAS, the projected costs for Station 55 now exceed the amount of funds transferred from Shea Homes to the City pursuant to the Settlement Agreement by approximately \$1.9 million due to increased construction costs and the District's request for additional facilities at Station 55; and

WHEREAS, the District desires to provide financial support to the City to complete the funding plan for Station 55; and

WHEREAS, the District currently has sufficient one-time monies in its Operating Fund Excess to cover the shortfall in Station 55 funds; and

WHEREAS, in exchange for this funding, the District desires to be reimbursed for the funds from future Oakley Developer Fee revenue currently collected and held by the City; and to obtain an fee interest in Station 55 and the underlying property.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the East Contra Costa Fire Protection District hereby authorizes the Fire Chief to negotiate and execute, in a form approved by legal counsel:

1. An interfund loan agreement, and any other documents he deems necessary, to effectuate a loan of \$1.9 million from the District's Operating Fund Excess to the East Contra Costa Fire Protection District's (District) Oakley Developer Fee fund.
2. A funding agreement, loan agreement and/or any other documents he deems

necessary to transfer to the City of Oakley (City) \$1.9 million from the District's Oakley Developer Fee fund to complete the funding plan for the design and construction of Station 55.

3. Any documents he deems necessary to provide for the transfer of any or all fire impact fees collected by the City to the District.

PASSED, APPROVED AND ADOPTED by the Board of Directors of the East Contra Costa Fire Protection District at a regular meeting held on the 6th day of August, 2018 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Brian J. Oftedal
President, Board of Directors

ATTEST:

Brian Helmick, Clerk of the Board