# Moraga-Orinda Fire District

## Board of Directors

REGULAR MEETING
May 4, 2016
**6:00 p.m. CLOSED SESSION**
**7:00 p.m. OPEN SESSION**

**PLEASE NOTE NEW MEETING ADDRESS:**
Sarge Littlehale Community Room
22 Orinda Way
Orinda, CA 94563

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1. OPENING CEREMONIES
   - 1.1. Call the meeting to Order
   - 1.2. Roll Call
   - 1.3. Core Values – Service, Honor, Integrity

2. PUBLIC COMMENT
   The public is invited to speak on any matter not appearing on the agenda including Closed Session, and within the subject matter jurisdiction of the District. Comments should be limited to three minutes. Please state your name and address for the record.

3. CLOSED SESSION
   - 3.1. **Conference with Real Property Negotiators**
     (Government Code Section 54956.8)
     Agency Negotiator: Stephen Healy
     Under Negotiations: Instructions to negotiator will concern price and terms of payment.
     Real Property: 1035 Lorinda Lane, Lafayette, CA
   - 3.2. **Conference with Real Property Negotiators**
     (Government Code Section 54956.8)
     Agency Negotiator: Stephen Healy
     Under Negotiations: Instructions to negotiator will concern price and terms of payment.
     Real Property: 4268 El Nido Ranch Road, Lafayette, CA

4. RECONVENE THE MEETING
   - 4.1. Call the meeting to Order
   - 4.2. Pledge of Allegiance

5. REPORT OF CLOSED SESSION ACTION

6. PUBLIC COMMENT
   The public is invited to speak on any matter not appearing on the agenda, and within the subject matter jurisdiction of the District. Comments should be limited to three minutes. Please state your name and address for the record.

7. CONSENT AGENDA
   - 7.1. **MOFD Board of Directors Meeting Minutes – April 20, 2016**
     **MOFD Board of Directors Special Meeting Minutes – April 27, 2016**
     Staff Recommendation: Receive and File
   - 7.2. **Quarterly Treasurer's Report**
     Staff Recommendation: Receive and File
   - 7.3. **Quarterly Ambulance Billing Report**
     Staff Recommendation: Receive and File
   - 7.4. **Regular Board Meetings Locations**
     Staff Recommendation: Approve the meeting location schedule
   - 7.5. **Capital Projects Fund 2015/2016 Budget Adjustment**
     Staff Recommendation: Approve an increase in the Capital Projects Fund revenue budget in the amount of $4,070,000 and an increase in the Capital Projects Fund expenditures budget in the amount of $69,698

8. REGULAR CALENDAR
   - 8.1. **Lorinda Lane Trail Easement**
     Staff will present information to the Board regarding the Lorinda Lane trail easement.
     Staff Recommendation: 1) Discuss; 2) Deliberate; 3) Authorize staff to execute completion of the easement
   - 8.2. **Resolution 16-08 Establishing the 2016/17 Fire Flow Tax Rates for the Orinda and Moraga Service Zones**
     Staff will present information to the Board regarding Resolution 16-08 Establishing the 2016/17 Fire Flow Tax Rates for the Orinda and Moraga Service Zones.
     Staff Recommendation: 1) Review; 2) Discuss; 3) Adopt Resolution 16-08 Establishing the 2016/17 Fire Flow Tax Rates for the Orinda and Moraga Service Zones
   - 8.3. **Resolution 16-09 Adopting a Modified Schedule of Cost Recovery Fees for Emergency Medical Services**
     Staff will present information to the Board regarding Resolution 16-09 Adopting a Modified Schedule of Cost Recovery Fees for Emergency Medical Services.
     Staff Recommendation: 1) Receive report; 2) Deliberate; 3) Adopt Resolution 16-09 Adopting a Modified Schedule of Cost Recovery Fees for Emergency Medical Services
   - 8.4. **Resolution 16-10 Approving the Amendment and Restatement to the Flexible Benefits Plan**
     Staff will present information to the Board regarding Resolution 16-10 Approving the Amendment and Restatement to the Flexible Benefits Plan.
     Staff Recommendation: 1) Discuss; 2) Deliberate; 3) Adopt Resolution No. 16-10 Approving the Amendment and Restatement of the Flexible Benefits Plan
   - 8.5. **Contra Costa County Employee's Retirement Association (CCCERA) Economic Assumptions and Rates**
     Staff will present information to the Board regarding the Contra Costa County Employee's Retirement Association (CCCERA) Economic Assumptions and Rates
     Staff Recommendation: 1) No action required; Informational purposes only
   - 8.6. **Palos Colorados Mitigation Agreement**
     Staff will present information to the Board regarding the Palos Colorados Mitigation Agreement.
     Staff Recommendation: 1) Discuss; 2) Deliberate; 3) Authorize staff to execute agreement between the District and the Richfield Real Estate Corporation and the Bigbury Company

9. COMMITTEE REPORTS
   - 9.1. **Finance Committee *(Directors Barber & Weil)***

10. ANNOUNCEMENTS
    - 10.1. **Brief information only reports related to meetings attended by a Director at District expense** (Government Code Section 53232.3(d))
    - 10.2. **Questions and informational comments from Board members and Staff**

11. ADJOURNMENT

*The Moraga-Orinda Fire Protection District ("District"), in complying with the Americans with Disabilities Act ("ADA"), requests individuals who require special accommodations to access, attend and/or participate in District Board meetings due to a disability, to please contact the District Chief's office, (925) 258-4599, at least one business day prior to the scheduled District Board meeting to ensure that we may assist you.*

Any disclosable public records related to an open session item on a regular meeting agenda and distributed by the Moraga-Orinda Fire District to a majority of members of the Board of Directors less than 72 hours prior to that meeting are available for public inspections at 1280 Moraga Way, Moraga, during normal business hours.

I hereby certify that this agenda in its entirety was posted on April 29, 2016, at the Moraga and Orinda Fire Administration offices, Stations 41, 42, 43, 44, and 45. Agenda provided to the Moraga Town Office (Hacienda) and Orinda City Hall.

Grace Santos, District Clerk

# Moraga-Orinda Fire Protection District

**BOARD OF DIRECTORS**
**REGULAR BOARD MEETING MINUTES**
April 20, 2016

**1. Opening Ceremonies**

The Board of Directors convened in Open Session at 7:07 P.M. on April 20, 2016 in the Moraga Library Community Room, 1500 Saint Mary's Road, Moraga, California. Director Evans was absent. President Anderson called the meeting to order.

Present were the following Directors and Staff:

| | | |
|---|---|---|
| Director Anderson | Director Weil | Grace Santos, District Clerk |
| Director Barber | Stephen Healy, Fire Chief | Sean Perkins, Battalion Chief |
| Director Famulener | Gloriann Sasser, Admin Srvcs Director | |

**2. Public Comment**

There were no comments.

**3. Consent Agenda**

Motion by Director Famulener and seconded by Director Barber to receive and file Items 5.1 – Meeting Minutes, 5.2 – Monthly Incident Report, 5.3 – Monthly Financial Reports, 5.4 – Approval of Payment for Dispatching and Communications Services. Said motion carried a unanimous 4-0 roll-call vote (Ayes: Anderson, Barber, Famulener and Weil; Absent: Evans).

**4. Regular Calendar**

**6.1 Comprehensive Annual Financial Report Award for the Fiscal Year Ended June 30, 2015**

The District prepared a Comprehensive Annual Financial Report (CAFR) for the fiscal year ended June 30, 2015. The CAFR is designed to meet the requirements of the Government Finance Officers Association (GFOA). In 1945, the GFOA established the Certificate of Achievement for Excellence in Financial Reporting Program to encourage and assist state and local governments to go beyond the minimum requirements of generally accepted accounting principles and to prepare comprehensive annual financial reports that evidence the spirit of transparency and full disclosure. The GFOA then recognizes individual governments that succeed in achieving this goal. The District's CAFR was submitted to the GFOA for consideration of a Certificate of Achievement for Excellence in Financial Reporting.

The CAFR includes three sections: Introductory, Financial and Statistical. The Introductory Section includes a letter of transmittal to the Board. The Financial Section includes Management's Discussion and Analysis, which provides an overview and analysis of the financial activities of the District. The CAFR concludes with a Statistical Section that provides operational, economic and historical data to provide context for assessing the District's economic condition.

After reviewing the District's CAFR in comparison to an extensive 109 page check list, GFOA has recognized the District with a Certificate of Achievement for Excellence in Financial Reporting for the fiscal year ended June 30, 2015. This is the second year the District has earned this recognition.

There are 495 California public agencies that received this award (4,181 nationwide). There are 41 special districts (9 fire districts) in California that received the award. The District is the seventh California fire district to receive this award.

The Board congratulated Administrative Services Director Gloriann Sasser for all her hard work on the CAFR.

**6.2 Approve the JP Morgan Chase 15-year/4-year Call Proposal and Adopt Resolution No. 16-07 Approving the Forms of and Authorizing the Execution and Delivery of a Site Lease and a Lease/Purchase Agreement and Authorizing Related Matters**

On October 21, 2015, the Board authorized Phases 1 and 2 of the Station-43 rebuild construction project. During October and November, staff met with Brandis Tallman LLC ("BTLLC"), a full service investment banking firm, to discuss financing options. Brandis Tallman identified two methods of sale for issuance of the District's financing: direct placement or public offering.

At its November 18, 2015 meeting, the Board considered financing options and authorized the District to contract with BTLLC to issue a direct placement lease agreement in the amount of $4,000,000 for a 20-year term.

At its March 16, 2016 meeting, the Board adopted Resolution No. 16-06 "Approving the formation of the Moraga-Orinda Fire Protection District Public Facilities Financing Corporation as a California nonprofit public benefit corporation and related matters". The purpose of the newly formed financing corporation is to facilitate the 2016 financing and any future financing needs of the District.

On March 23rd, BTLLC sent a request for proposal ("RFP") to 11 lenders interested in this financing type, size, and term, to obtain the most favorable financing provisions and interest rates. The RFP requested interest rates for a 10-year, 15-year, and 20-year term to provide the District with a range of options given current market conditions. On April 11th, BTLLC received bids from seven lenders and summarized results for discussion with District staff. As discussed between staff and BTLLC, the results based on the lowest interest rates are summarized below:

**10-Year Term**
**JP Morgan Chase - lowest rate out of 7 responses received**
Rate: 1.79%
(4-year prepayment option)
Average FY Debt Service: $452,400
Total Debt Service: $4,455,900

Rate: 1.68%
(non-callable option)
Average FY Debt Service: $449,900
Total Debt Service: $4,431,400

**15-Year Term**
**JP Morgan Chase - lowest rate out of 7 responses received**
Rate: 2.02%
(4-year prepayment option)
Average FY Debt Service: $318,500
Total Debt Service: $4,729,500

Rate: 1.92%
(10-year prepayment option)
Average FY Debt Service: $316,200
Total Debt Service: $4,695,600

The above rates proposed by Chase are good for about 24 hours. Chase's rates will be updated April 20th for discussion during the Board meeting, and will expire in the afternoon of the 21st. However, once the term sheet is signed, breakage fees do apply to the Chase proposal if interest rates go down and the transaction does not close. Based on Chase's proposal of April 11th, if rates were to decrease by 25 basis points and the transaction did not close, the breakage fees would be about $53,000 for the 10-year term and $78,000 for the 15-year term.

**20-Year Term**
**Municipal Finance Corp./City National Bank - lowest rate out of 4 responses received**
Rate: 3.15%
(4-year prepayment option)
Average FY Debt Service: $276,700
Total Debt Service: $5,491,100
Rate is locked for 60 days, no breakage fees apply

If the Board approves the Resolution before it tonight and selects a lender and proposal, the financing team will work with the staff and the selected lender to finalize and execute the documents.

Staff recommended the Board approve JP Morgan Chase 15-year term with a 4-year call option at a rate of 2.02% (rate to be updated at the Board meeting). Compared to the 20-year term, the 15-year option will result in $761,000 less in interest costs to the District. The annual debt service payment of $319,000 for the 15-year option can be maintained throughout the Long Range Financial Plan. The 4-year call option provides added flexibility to the District.

Nikki Tallman, from Brandis Tallman, gave a PowerPoint presentation and answered some questions on the seven proposals that were received.

Motion by Director Weil and seconded by Director Barber to approve the JP Morgan Chase 15-year/4-year call proposal, adopt Resolution No. 16-07 a Resolution of the Board of Directors of the Moraga-Orinda Fire Protection District Approving the Forms of and Authorizing the Execution and Delivery of a Site Lease and a Lease/Purchase Agreement and Authorizing Related Matters. Said motion carried a unanimous 4-0 roll-call vote (Ayes: Anderson, Barber, Famulener and Weil; Absent: Evans).

**6.3 Regular Board Meeting Locations**

At the March 16, 2016 Board meeting, staff was directed to find a balance between meeting in Moraga and Orinda, to find a permanent meeting location (preferably without a stage), look at other locations, and bring back recommendations at the next meeting.

Staff looked into various public facilities in Moraga and Orinda that meet the ADA requirements of the Brown Act. Based on the research conducted, staff recommended the Sarge Littlehale Conference Room for Orinda meetings, and either the Moraga Library Community Room or the Hacienda Mosaic Room for Moraga meetings.

At the April 6, 2016 Board meeting, the Board directed staff to reserve the Orinda Library Auditorium and Garden Room in Orinda and the Hacienda Mosaic and Garden Rooms in Moraga for the second meeting of each month.

Because of scheduling conflicts, staff was only able to secure the Library Auditorium and Garden Room on July 6 and August 3, 2016. The Board will continue to meet in the Sarge Littlehale Room on May 4, June 1, September 7, October 5, November 2, and December 7, 2016.

Staff reserved the Hacienda Mosaic and Garden Rooms for the May 18, June 15, July 20, August 17, September 21, October 19, November 16, and December 21, 2016 meetings.

After a brief discussion, the Board directed staff to inquire on the availability of the Orinda Library Auditorium and the Garden Room on May 18, June 15, July 20, August 17, September 21, October 19, November 16 and December 21, 2016. They also asked staff to inquire on the availability of the Moraga Mosaic Room on May 4, June 1, July 6, August 3, September 7, October 5, November 9 and December 7. They asked for a report at the next meeting.

**6.4 Lorinda Lane Grant of Trail Easement to the City of Lafayette, CA for the Benefit of the General Public**

In January of 2016, staff was approached by the City of Lafayette, who asked the District to consider granting a walking easement that overlaid two existing easements on the lower portion of Lorinda Lane.

On April 14, 2016, the City of Lafayette approved negotiating instructions for the Lafayette City Manager, who subsequently offered $10,000 for the easement. Staff reached a tentative agreement with the City of Lafayette on price and language for the easement. Board approval is required because an easement is a non-possessory transfer of property.

Staff recommended approval of the Easement for the purposes of a walking trail on land owned by the District for the price of $10,000.

Richard Olsen, Moraga resident, asked the board if they have visited the site of the easement, and if they read the City of Lafayette's staff report on the subject. Mr. Olsen stated that there were three major issues to prospective buyers of the property: privacy, security, and the narrow road.

Mark Debusshere, homeowner of 1046 Lorinda Lane, asked the Board not to go through with selling the easement to the City of Lafayette, or at least consider changing the wording on the contract.

The Board directed staff to wait until the May 4 meeting to allow time to review more information before making a decision.

District Counsel John Bakker stated that rather than holding it over, the Board give direction to include the sale of the easement and make it part of escrow so that the transfer to the City of Lafayette and the payment of the $10,000 only occurred if the sale was consummated with a buyer. The easement would be transfer to the City of Lafayette after the sale of the property closed.

Chief Healy stated that interested parties will be informed of the deadline to submit offers during the open house on April 23 and 24, and a Special Board Meeting would be scheduled on either April 26 or 27 to discuss the offers.

President Anderson asked District Counsel John Bakker if the City of Lafayette had any legal grounds to stop the sale. District Counsel Bakker stated that the City of Lafayette has the potential ability to do so, but was not sure if they would or not. He felt that the City of Lafayette would not have any particular concerns about waiting until after the District receives all offers and agrees upon a price.

The Board stated that they needed more time to study the information and would like to wait until the next regular meeting to make a decision. The Board directed District Counsel Bakker to inform the City of Lafayette that the Board approved of the price and form of the easement,

but would like to wait until after receiving bids on the property before making a decision on the easement.

**5. Committee Reports**

**7.1 Finance Committee *(Directors Barber & Weil)***

There was nothing to report.

**6. Announcements**

**8.1 Brief information only reports related to meetings attended by a Director at District expense**

(Government Code Section 53232.3(d))
There was nothing to report.

**8.2 Questions and informational comments from Board members and Staff**

Chief Healy asked if the Board preferred to schedule a special meeting on April 26 or 27 to discuss offers on the properties. The Board unanimously agreed to schedule the meeting on Wednesday, April 27, 2016 at 7:00 P.M.

Director Weil thanked Nick Marnell, writer for the Lamorinda Weekly, for the article he wrote on Matt Stamley.

**7. Adjournment**

At 9:00 P.M., President Anderson called for adjournment of the regular meeting.

Grace Santos
Secretary to the Board

# Moraga-Orinda Fire Protection District

**BOARD OF DIRECTORS**
**SPECIAL BOARD MEETING MINUTES**
April 27, 2016

**1. Opening Ceremonies**

The Board of Directors convened in Open Session at 7:00 P.M. on April 27, 2016 in the Orinda Library Gallery Room, 26 Orinda Way, Orinda, California. President Anderson was absent. Director Weil called the meeting to order.

Present were the following Directors and Staff:

| | | |
|---|---|---|
| Director Barber | Director Weil | Gloriann Sasser, Admin Services Director |
| Director Evans | Stephen Healy, Fire Chief | |
| Director Famulener | John Bakker, District Counsel | |

**2. Public Comment**

There were no comments.

**3. Closed Sesstion**

At 7:03 P.M., the Board adjourned into Closed Session.

**4. Reconvene The Meeting**

Director Weil reconvened the regular business meeting of the Moraga-Orinda Fire District Board of Directors at 7:29 P.M. Present were the following Directors and Staff:

| | | |
|---|---|---|
| Director Barber | Director Weil | Gloriann Sasser, Admin Services Director |
| Director Evans | Stephen Healy, Fire Chief | |
| Director Famulener | John Bakker, District Counsel | |

**5. Report of Closed Session Action**

Director Weil reported that for Item 3.1 – Conference with Real Property Negotiators, the Board voted 4-0 (Ayes: Barber, Evans, Famulener and Weil; Absent: Anderson) to approve the sale of 1035 Lorinda Lane, Lafayette to Jayantilal Patel for a sale price of $1,225,000.

For Item 3.2 – Conference with Real Property Negotiators, the Board voted 4-0 (Ayes: Barber, Evans, Famulener and Weil; Absent: Anderson) to approve the sale of 4268 El Nido Ranch Road, Lafayette to Burk Holdings LLP for a purchase price of $449,000.

**6. Public Comment**

There were no comments.

**7. Adjournment**

At 7:30 P.M., Director Weil called for adjournment of the special meeting.

Grace Santos
Secretary to the Board

**MORAGA-ORINDA FIRE DISTRICT**
**TREASURER'S QUARTERLY INVESTMENT REPORT**
**MARCH 31, 2016**

| Type of Investment | Financial Institution | Date of Maturity | Par Value/ Original | Market Value | Rate of Interest | Fiscal Year-to-Date Income |
|---|---|---|---|---|---|---|
| | | | | | | |
| Cash | Contra Costa County | N/A | 1,170,527 | 1,170,527 | 0.00% | 0 |
| Cash | Citibank | N/A | 273,476 | 273,476 | 0.00% | 0 |
| Cash | Citibank | N/A | 111,320 | 111,320 | 0.00% | 0 |
| Local Agency Investment Fund | Local Agency Investment Fund | N/A | 15,078 | 15,082 | 0.46% | 1,049 |
| Money Market | Wells Fargo Bank Advantage Cash Investment Fund | N/A | 2,585,820 | 2,585,820 | 0.01% | 1,010 |
| Money Market | Deutsche Bank Lease Escrow | N/A | 0 | 0 | 0.01% | 26 |
| | | | | | | |
| Total | | | 4,156,221 | 4,156,225 | | 2,085 |

Average Weighted Yield 0.01%

Market values obtained from monthly statements issued by Citibank and Wells Fargo Bank

Sufficient funds exist to meet the Districts financial obligations for the next six months using the County of Contra Costa's "Teeter Plan". In 1949, the California Legislature enacted an alternative method for the distribution of secured property taxes to local agencies known as the "Teeter Plan". The "Teeter Plan" is a tax distribution procedure by which secured tax tolls are distributed to the District on the basis of the tax levy, rather than on the basis of actual tax collections. While the County bears the risk of loss on delinquent taxes that go unpaid, it benefits from the penalties associated with these delinquent taxes when they are paid. In turn, the "Teeter Plan" provides the District with stable cash flow and the elimination of collection risk.

The March 2016 investments are in accordance with the District adopted investment policy.

G. Sasser 4-22-2016

Gloriann Sasser Date
Administrative Services Director

Wittman Enterprises LLC
Moraga-Orinda Fire District
Ambulance Billing-Fiscal Year 2015/2016-Revenue to Date
as of 03/31/16

| | GROSS REVENUE(1) | MEDICARE WRITE OFFS (2) | MEDI-CAL WRITE OFFS (3) | RESIDENT WRITE OFFS (4) | OTHER CONTRACTUAL WRITE OFFS (5) | NET REVENUE (6) | CASH RECEIPTS (7) | REFUNDS (8) | NET RECEIPTS (9) | BAD DEBT WRITE OFFS (10) | ADJUSTMENTS (11) | NEW A/R BALANCE (12) |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| JULY '15 | $ 205,317.60 | $ 88,399.25 | $ 8,053.87 | $ 30,052.49 | $ 2,929.58 | $ 75,882.41 | $ 85,589.65 | | $ 85,589.65 | $ 8,236.65 | $ (0.63) | $ 394,924.26 |
| AUGUST '15 | $ 165,251.85 | $ 71,948.99 | $ 5,136.59 | $ 15,455.33 | | $ 72,710.94 | $ 75,790.41 | $ 293.25 | $ 75,497.16 | $ 4,346.37 | $ 4.44 | $ 387,796.11 |
| SEPTEMBER '15 | $ 244,477.60 | $ 104,584.80 | $ 9,101.42 | $ 7,648.83 | $ 1,928.64 | $ 121,213.91 | $ 62,953.24 | $ 333.27 | $ 62,619.97 | $ 9,086.93 | | $ 437,303.12 |
| OCTOBER '15 | $ 187,897.85 | $ 63,288.90 | $ 10,892.55 | $ 16,571.89 | | $ 97,144.51 | $ 96,168.82 | | $ 96,168.82 | $ 2,627.00 | $ 50.44 | $ 435,702.25 |
| NOVEMBER '15 | $ 182,868.50 | $ 85,100.64 | $ 5,496.57 | $ 4,557.60 | $ 1,079.27 | $ 86,634.42 | $ 72,712.22 | $ 2,489.08 | $ 70,223.14 | | $ (440.30) | $ 451,673.23 |
| DECEMBER '15 | $ 148,614.05 | $ 63,177.80 | $ 11,630.59 | $ 18,337.73 | $ 1,149.85 | $ 54,318.08 | $ 88,963.88 | | $ 88,963.88 | $ (435.00) | $ (359.47) | $ 417,102.96 |
| JANUARY '16 | $ 208,666.85 | $ 84,528.62 | $ 12,039.70 | $ 14,661.96 | | $ 97,436.57 | $ 61,238.98 | | $ 61,238.98 | | $ (116.54) | $ 453,184.01 |
| FEBRUARY '16 | $ 147,001.00 | $ 57,425.96 | $ 9,976.04 | $ 15,591.16 | | $ 64,007.84 | $ 76,179.80 | $ 1,979.91 | $ 74,199.89 | $ 19,502.32 | | $ 423,489.64 |
| MARCH '16 | $ 205,588.70 | $ 86,976.48 | $ 5,771.21 | $ 15,805.47 | $ 1,510.61 | $ 95,524.93 | $ 56,986.76 | | $ 56,986.76 | | $ 144.23 | $ 462,172.04 |
| APRIL '16 | | | | | | | | | | | | |
| MAY '16 | | | | | | | | | | | | |
| JUNE '16 | | | | | | | | | | | | |
| | | | | | | | | | | | | |
| **YEAR TO DATE TOTALS** | $ 1,695,684.00 | $ 705,431.44 | $ 78,098.54 | $ 138,682.46 | $ 8,597.95 | $ 764,873.61 | $ 676,583.76 | $ 5,095.51 | $ 671,488.25 | $ 43,364.27 | $ (717.83) | |
| | | | | | | | | | | | | |
| **YTD PERCENTAGE OF REVENUE** | | 41.60% | 4.61% | 8.18% | 0.51% | 45.11% | 39.90% | 0.30% | 39.60% | 2.56% | -0.04% | |
| | | | | | | | | | | | | |
| **YTD PERCENTAGE OF NET REVENUE** | | | | | | | | | 87.79% | | | |

1. GROSS REVENUE – Charges billed within the month.
2. MEDICARE WRITE OFFS – Contractual write down that MOFD is obligated to take as a Medicare provider
3. MEDI-CAL WRITE OFFS - Contractual write down that MOFD is obligated to take as a Medi-Cal provider
4. RESIDENT WRITE OFFS – Write Downs that are taken according to MOFD's resident policy
5. OTHER CONTRACTRUAL WRITE OFFS – Contractual write downs that are taken for other federal or state agencies
6. NET REVENUE – Revenue after all contractual obligations are taken
7. CASH RECEIPTS – Payments that are received in month.
8. REFUNDS – Overpayments that are refunded.
9. NET RECEIPTS – Payments after refunds have been removed.
10. BAD DEBT – Accounts that have been sent to the collection agency.
11. ADJUSTMENTS – Any adjustment that has been made to a previously billed account, (for example, incorrect mileage).
12. NEW A/R BALANCE – Balance of all accounts in system at the end of the month and in general ledger account #1051-Receivables – Ambulance Billing.

# Moraga-Orinda Fire District

**TO:** Board of Directors

**FROM:** Grace Santos, District Clerk

**DATE:** May 4, 2016

**SUBJECT:** Item 7.4 – Regular Board Meeting Locations

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## BACKGROUND

At the March 16, 2016 Board meeting, staff was directed to find a balance between meeting in Moraga and Orinda, to find a permanent meeting location (preferably without a stage), look at other locations, and bring back recommendations at the next meeting.

Staff looked into various public facilities in Moraga and Orinda that meet the ADA requirements of the Brown Act. Based on the research conducted, staff recommended the Sarge Littlehale Conference Room for Orinda meetings, and either the Moraga Library Community Room or the Hacienda Mosaic Room for Moraga meetings.

At the April 6, 2016 Board meeting, the Board directed staff to reserve the Orinda Library Auditorium and Garden Room for the first meeting of each month, and the Hacienda Mosaic and Garden Rooms in Moraga for the second meeting of each month.

Staff reserved the Hacienda Mosaic and Garden Rooms for the first Board meeting of each month. Due to previously scheduled events at the Orinda Library Auditorium and Garden Room, staff was only able to reserve the rooms on July 6 and August 3. The remaining meetings that occurred on the second Wednesday of each month will be in the Sarge Littlehale Room.

At the April 20, 2016 Board meeting, the Board directed staff to switch the room reservations around and secure the Orinda Library Auditorium and Garden Room for the first meetings of each month, and the Hacienda Mosaic and Garden Rooms for the second meetings of each month.

Staff followed the Board's direction but was not able to secure the rooms on all the dates requested. The recommended meeting schedule is as follows:

| Regular Board Meeting Dates | Location |
|---|---|
| May 4 | Sarge Littlehale |
| May 18 | Hacienda Mosaic & Garden Room |
| June 1 | Sarge Littlehale |
| June 15 | Hacienda Mosaic & Garden Room |
| July 6 | Orinda Library Auditorium & Garden Room |
| July 20 | Hacienda Mosaic & Garden Room |

| | |
|---|---|
| August 3 | Orinda Library Auditorium & Garden Room |
| August 17 | Hacienda Mosaic & Garden Room |
| September 7 | Sarge Littlehale |
| September 21 | Hacienda Mosaic & Garden Room |
| October 5 | Sarge Littlehale |
| October 19 | Hacienda Mosaic & Garden Room |
| November 2 | Sarge Littlehale |
| November 16 | Hacienda Mosaic & Garden Room |
| December 7 | Sarge Littlehale |
| December 21 | Hacienda Mosaic & Garden Room |

**RECOMMENDATION**

1) Discuss; 2) Deliberate; 3) Approve the meeting location schedule.

# Moraga-Orinda Fire District

**TO:** Board of Directors

**FROM:** Gloriann Sasser, Administrative Services Director

**DATE:** May 4, 2016

**SUBJECT:** Item 7.5 – Capital Projects Fund 2015/2016 Budget Adjustment

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## BACKGROUND

On April 20, 2016, the Board authorized issuance of lease financing with JP Morgan Chase Bank in the amount of $4,070,000 for the Station-43 rebuild construction project. The lease is for a 15-year term with an interest rate of 2.14%. A Capital Projects Fund 2015/2016 budget adjustment is necessary to reflect the lease financing as follows:

- Increase Capital Projects Fund revenue $4,070,000
- Increase Capital Projects Fund expenditures $69,698 for cost of issuance

## RECOMMENDATION

1) Review 2) Discuss 3) Approve an increase in the Capital Projects Fund revenue budget in the amount of $4,070,000 and an increase in the Capital Projects Fund expenditures budget in the amount of $69,698.

## ATTACHMENT

1) Attachment A – Sources and Uses of Funds
2) Attachment B – Cost of Issuance

Sources and Uses of Funds

Moraga-Orinda Fire Protection District

Fire Station Financing ($4 Million - 15 Year - Direct Placement) CHASE-4year call

| Sources: | | |
|---|---|---|
| Bond Proceeds: | | |
| | Par Amount | 4,070,000.00 |
| | | 4,070,000.00 |

| Uses: | | |
|---|---|---|
| Project Fund Deposits: | | |
| | Project Fund | 4,000,000.00 |
| Delivery Date Expenses: | | |
| | Cost of Issuance | 69,698.00 |
| Other Uses of Funds: | | |
| | Additional Proceeds | 302.00 |
| | | 4,070,000.00 |

Cost of Issuance

Moraga-Orinda Fire Protection District

Fire Station Financing ($4 Million - 15 Year - Direct Placement) CHASE-4year call

| Cost of Issuance | Amount |
|---|---|
| Bond Counsel | 31,000.00 |
| Placement Agent | 22,500.00 |
| Title | 5,087.50 |
| Lender's Legal | 8,500.00 |
| CDIAC | 610.50 |
| Miscellaneous Contingency | 2,000.00 |
| | 69,698.00 |

# Moraga-Orinda Fire District

**TO:** Board of Directors

**FROM:** Stephen Healy, Fire Chief

**DATE:** May 4, 2016

**SUBJECT:** Item 8.1 – Lorinda Lane Trail Easement

---

## BACKGROUND

In January of 2016, staff was approached by the City of Lafayette, who asked the District to consider granting a walking easement that overlays two existing easements on the lower portion of Lorinda Lane.

On April 14, 2016, the City of Lafayette approved negotiating instructions for the Lafayette City Manager, who subsequently offered $10,000 for the easement. Staff reached a tentative agreement with the City of Lafayette on price and language for the easement. Board approval is required because an easement is a non-possessory transfer of property.

Staff recommends approval of the Easement for the purposes of a walking trail on land owned by the District and described as: certain real property in the City of Lafayette, County of Contra Costa, State of California, identified as Lots A and B (together APN 249-150-017) in the Certificate of Compliance for Lot Line Revision file number LLR02-14 (DOC-2014-0152780-00) as more particularly described in Exhibit “A” and shown in Exhibit “B” attached hereto and made a part hereof (“Grantor Property”) for the price of $10,000.

## RECOMMENDATION

1) Discuss, 2) Deliberate, 3) Authorize staff to execute completion of the easement as described above and in the attachment.

## ATTACHMENTS

1) Attachment-A – Lorinda Lane Plot Map
2) Attachment-B – Walking Trail Easement

**EXHIBIT "A"**
**GRANTOR PROPERTY**

*Two Sheets Behind This Page*

# EXHIBIT 'A'

## LOT LINE ADJUSTMENT #02-14

### LOT 'A': MORAGA ORINDA FIRE DISTICT
### Portion of: (A.P.N. 249-150-017)

Real Property situated in the City of Lafayette, County of Contra Costa, State of California, described as follows:

All of Parcel Three and a portion of Parcel One, as said parcels are described in the Grant Deed to the Moraga Orinda Fire District, recorded July 25, 2013, at Series #2013-0185693), Contra Costa County Records, being further described as follows:

**Beginning at Station 'A'**, said Station 'A' being the Southwest Corner of said Parcel One (2013-0185693); thence leaving said Point of Beginning northerly along the West Line of said Parcel One (2013-0185693) North 00°36'27" East, 377.03 feet; thence leaving said West Line along the "New Lot Lines" the following courses and distances: South 89°23'33" East, 38.37 feet; thence South 44°32'50" East, 126.47 feet; thence South 00°36'27" West, 56.50 feet; thence South 35°15'10" West, 88.65 feet; thence South 00°36'27" West, 12.94 feet; thence South 35°15'25" East, 50.61 feet; thence North 85°53'11" East, 165.62 feet to a point on the East Line of said Parcel One (2013-0185693); thence southerly along said East Line South 16°17'42" East, 71.66 feet to the Northwest Corner of said Parcel Three (2013-0185693); thence along the perimeter of said Parcel Three (2013-0185693) the following courses and distances: North 83°07'52" East, 24.73 feet to the Northeast Corner of said Parcel Three (2013-0185693); thence South 01°34'00" West, 26.54 feet to Southeast Corner of said Parcel Three (2013-0185693); thence along the South Line of said Parcel Three and said Parcel One (2013-0185693), said South Line being common with the North Line of El Nido Ranch Road, a public road, South 85°53'11" West, 318.34 feet **To the Point of Beginning**.

Subject to any and all existing easements.

See Exhibit 'B' (plat maps) attached hereto and made a part hereof:

End of Description.

# EXHIBIT 'A'

## LOT LINE ADJUSTMENT #02-14

### LOT 'B': MORAGA ORINDA FIRE DISTICT
### Portion of: (A.P.N. 249-150-017)

Real Property situated in the City of Lafayette, County of Contra Costa, State of California, described as follows:

A Portion of Parcel One, as said parcel is described in the Grant Deed to the Moraga Orinda Fire District, recorded July 25, 2013, at Series #2013-0185693), Contra Costa County Records, being further described as follows:

**Commencing at Station 'A'**, said Station 'A' being the Southwest Corner of said Parcel One (2013-0185693); thence leaving said Point of Commencement northerly along the West Line of said Parcel One (2013-0185693) North 00°36'27" East, 377.03 feet **to the True Point of Beginning**; thence leaving said True Point of Beginning and continuing northerly along said West Line North 00°36'27" East, 128.38 feet to the Northwest Corner of said Parcel One (2013-0185693); thence leaving said Northwest Corner easterly along the North Line of said Parcel One (2013-0185693) South 89°05'02" East, 154.91 feet to the Northeast Corner of said Parcel One (2013-185693); thence leaving said Northeast Corner southerly along the East Line of said Parcel One (2013-0185693) South 16°17'42" West, 403.94 feet **to Station 'B'**, said Station 'B' being a point on the East Line of said Parcel One (2013-0185693) and bearing North 16°17'42" West, 71.66 feet from the Northwest Corner of the aforesaid Parcel Three (2013-0186693); thence leaving said Station 'B' and said East Line along the "New Lot Lines" the following courses and distances: South 85°53'11" West, 165.62 feet; thence North 35°15'25" West, 50.61 feet; thence North 00°36'27" East, 12.94 feet; thence North 35°15'10" East, 88.65 feet; thence North 00°36'27" East, 56.50 feet; thence North 44°32'50" West, 126.47 feet; thence North 89°23'33" West, 38.37 feet **to the True Point of Beginning**.

Subject to any and all existing easements.

See Exhibit 'B' (plat maps) attached hereto and made a part hereof:

End of Description.

**EXHIBIT "A-1"**
**DECRIPTION OF TRAIL EASEMENT**

*One Sheet Behind This Page*

# EXHIBIT 'A-1'

## PUBLIC TRAIL EASEMENT

Real property situated in the City of Lafayette, County of Contra Costa, State of California, being described as follows:

All of that Portion of Lorinda Lane lying within the Parcels of Land described in the Grant Deed to the Moraga Orinda Fire District, recorded July 25, 2013, at Series #2013-0185693, Contra Costa County Records, being further described as being a portion of Lot 'A' and a portion of Lot 'B' as said Lots are described and shown on the Certificate of Compliance for Lot Line Adjustment #02-14, recorded September 9, 2014, at Series #2014-0152780, Contra Costa County Records, being further described as follows:

**Beginning** at the northeast corner of said Lot 'B' (2014-0152780); thence leaving said Point of Beginning southerly along the east property lines of said Lot 'A' and said Lot 'B' (2014-0152780) the following courses and distances: South 16°17'42" East, 475.60 feet; thence North 83°07'52" East, 24.73 feet; thence South 01°34'00" West, 26.54 feet to the southeast corner of said Lot 'A' (2014-0152780); thence leaving said southeast corner westerly along the south line of said Lot 'A' (2014-0152780) South 85°53'11" West, 50.25 feet; thence leaving said south line northerly along the west easement lines of Lorinda Lane as shown on said Certificate of Compliance for Lot Line Adjustment #02-14 (2014-0152780) the following courses and distances: North 01°34'00" East, 25.63 feet; thence North 16°17'42" West, 477.66 feet to a point on the north line of said Lot 'B' (2014-0152780); thence easterly along said north line South 89°05'02" East, 26.17 feet **to the Point of Beginning.**

See Exhibit 'B' (plat map) attached hereto and made a part hereof:

A.P.N. 249-150-017 (a portion of)

End of Description.

By: _____
Howard G. Martin, LS #6690

LICENSED LAND SURVEYOR
HOWARD G. MARTIN
Exp. 6 30 16
No. 6690
STATE OF CALIFORNIA

Schell & Martin, Inc.
Civil Engineering & Land Surveying
Lafayette, California

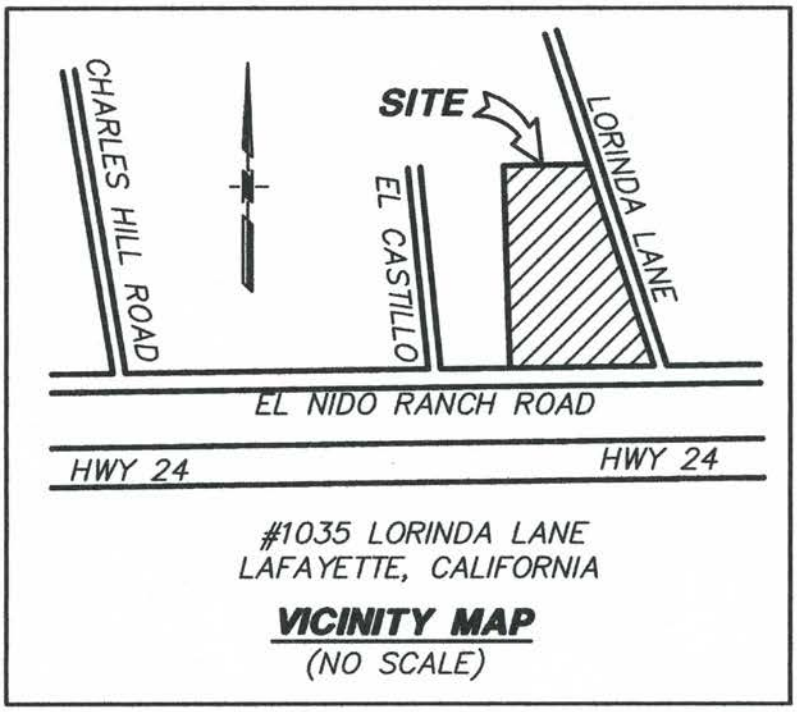
**EXHIBIT "B"**
**MAP OF TRAIL EASEMENT**

*Two Sheets Behind This Page*

Attachment A

# EXHIBIT 'B' (PLAT MAP)

SITE BOUNDARY PER:
MORAGA ORINDA FIRE DISTRICT
DEED (2013–0185693)




#1035 LORINDA LANE
LAFAYETTE, CALIFORNIA

**VICINITY MAP**
(NO SCALE)

LEGEND
TE = DENOTES "TRAIL EASEMENT"

REFERENCE DATA:

A. MORAGA ORINDA FIRE DISTRICT DEED (SERIES 2013–0185693).
B. SUBDIVISION 5251 (222 M 34).
C. SUBD. MS 44–77 (70 PM 19).
D. SUBD. MS 501–95 (172 PM 9).
E. LLA #02–14 (2014–0152780).

LICENSED LAND SURVEYOR
HOWARD G. MARTIN
EXP. 6-30-16
No. 6690
STATE OF CALIFORNIA

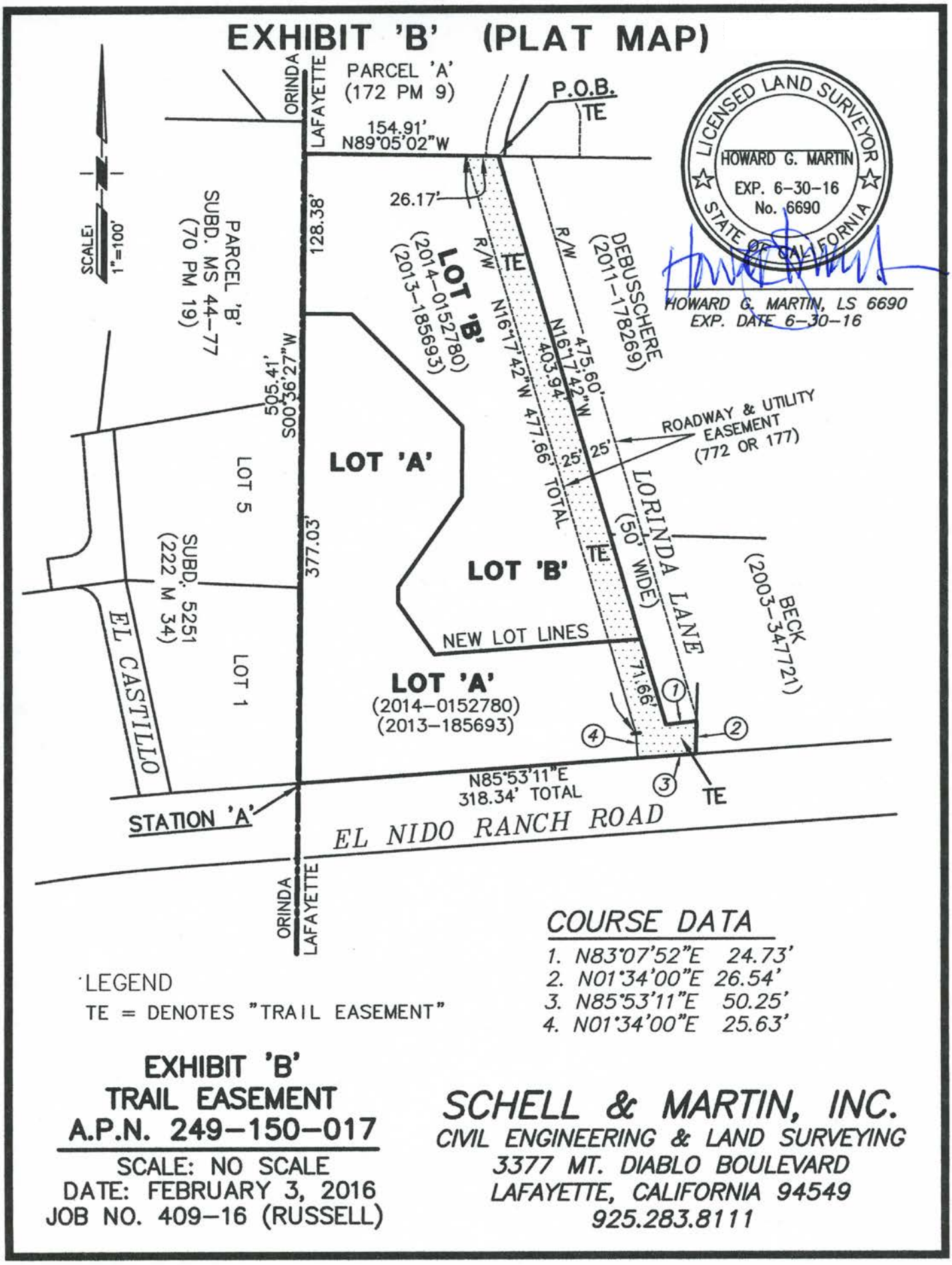
HOWARD G. MARTIN, LS 6690
EXP. DATE 6-30-16

**EXHIBIT 'B'**
**TRAIL EASEMENT**
**A.P.N. 249–150–017**

SCALE: NO SCALE
DATE: FEBRUARY 3, 2016
JOB NO. 409–16 (RUSSELL)


*SCHELL & MARTIN, INC.*
*CIVIL ENGINEERING & LAND SURVEYING*
*3377 MT. DIABLO BOULEVARD*
*LAFAYETTE, CALIFORNIA 94549*
*925.283.8111*

Attachment A



**RECORDING REQUESTED BY AND**
**WHEN RECORDED MAIL TO:**

City of Lafayette
3675 Mt. Diablo Blvd., Suite 210
Lafayette, California 94549
Attention: City Clerk/GW

No Recording Fee--Exempt

---

The undersigned Grantor(s) declare(s): City of Lafayette is exempt from property taxes. (Rev & Tax Code 11922)

Documentary transfer tax is $___-0-____.

- ☐ Computed on full value of property conveyed, or
- ☐ Computed on full value less value of liens and encumbrances remaining at time of sale.
- ☐ Unincorporated area ☒ City of Lafayette

**GRANT OF TRAIL EASEMENT**

MORAGA-ORINDA Fire District, together with its successors and assigns, ("Grantor"), is the owner in fee of that certain real property in the City of Lafayette, County of Contra Costa, State of California, identified as Lots A and B (together APN 249-150-017) in the Certificate of Compliance for Lot Line Revision file number LLR02-14 (DOC-2014-0152780-00) as more particularly described in Exhibit "A" and shown in Exhibit "B" attached hereto and made a part hereof ("Grantor Property"). The City of Lafayette is a California municipal corporation, together with its successors and assigns, ("Grantee").

FOR VALUABLE CONSIDERATION, the receipt and sufficiency of which are hereby acknowledged, by this Grant of Trail Easement (this "Easement Agreement"), Grantor does hereby GRANT to Grantee, for the benefit of Grantee, and the general public, a permanent irrevocable, non-exclusive easement, in, to, over, across, under and through those portions of Grantor Property identified as "Trail Easement" as more particularly described in Exhibit "A-1" and depicted in Exhibit "B" attached hereto and incorporated by this reference (the "Trail Easement") for the purpose of entering upon the Trail Easement to conduct activities related to the maintenance and repair of the pedestrian trail ("Trail") and for the use thereof by the general public for recreational purposes, together with the right to grant all or a portion thereof to third parties subject to the requirements set forth below. The Trail is intended to be on the existing paved, private road, known as Lorinda Lane.

1. Force Majeure Events. Notwithstanding the attached description of the Trail Easement, both Grantor and Grantee acknowledge that the Trail Easement is subject to movement, degradation, erosion and destruction from various influences including, without limitation, earthquakes, floods, wind, rain or other acts of God or events beyond the control of Grantor or Grantee (collectively, and as applicable, "Force Majeure Events"). Accordingly, Grantor and Grantee agree that the Trail Easement described herein is subject to movement and relocation as a result of any such Force Majeure Events. Upon the occurrence of any Force Majeure Event that results in the movement of the Trail Easement or otherwise results in the total or partial destruction of the Trail Easement granted hereby, Grantor and

Grantee agree to reasonably cooperate with each other in good faith in relocating the Trail Easement or otherwise establishing a new location for the Trail Easement. In furtherance of the foregoing, Grantor and Grantee agree to execute and record an amendment to this Easement Agreement identifying and establishing the revised Trail Easement.

2. Use of Trail Easement. The Trail Easement shall only be used by the public for ingress and egress over the Trail by pedestrians, emergency vehicles and those vehicles and equipment necessary for the maintenance and repair of the Trail Easement by the City. Public use of the Trail shall be governed by the rules and etiquette for such usage as specified in the Municipal Code for the City of Lafayette, Chapter 8-22, Article 3.

3. Prohibited Uses. Any activity on or use of the Trail Easement inconsistent with the purposes of the Trail Easement is prohibited. Without limiting the generality of the foregoing, the following uses are expressly prohibited on/in the Trail Easement:

(a) The Trail Easement is not to be further encroached upon by fences, vegetation, earth mounds, drainage ditches, sheds, animal houses or structures of any kind, unless approved by the Planning and Building Department.

(b) There shall be no dumping of rubbish, building materials, garden clippings, run off water, etc. on the Trail Easement.

(c) Any vegetation shall be planted at sufficient distance from the Trail Easement to ensure that present or future branches do not interfere with safe passage. If said branches do interfere with safe passage and Grantor does not remove them after being requested to do so by the City, the City shall have the right to remove said branches or growth at Grantor's expense.

(d) This Trail Easement is over a private road. If the owner wishes to post signs indicating "Private", then trail signs may also be posted by the Parks, Trails & Recreation Department indicating the Trail and showing appropriate identification and directions for the Trail, including the City of Lafayette logo.

(e) Public passage over the Trail shall not be restricted or obstructed in any manner.

4. Successors and Assignment. The Trail Easement granted hereby shall run with the land and all of the rights and obligations of Grantor and Grantee under this Easement Agreement shall inure to the benefit of their respective successors, transferees and assigns. Grantee shall have the right to assign its rights and obligations under this Easement Agreement, provided that such assignment shall be in writing and shall specifically recite the assignee's agreement to all of the terms and conditions of this Easement Agreement.

5. Grantee's Responsibilities. Grantee shall not block or otherwise constrain the use, maintenance, repair or replacement of the paved roadway that lies on the Trail Easement. Vehicular traffic shall be allowed to access the private properties along the roadway or at the end of the roadway at all times. Any public descriptions of the Trail will remind users of the Trail to respect the private property rights of the owners, to obey the rules for trail usage and to be aware of possible vehicular traffic on this section of the Trail that lies within the Trail Easement being granted herein.

6. Use at Own Risk. The Trail Easement shall be used by members of the public at their own risk. Nothing in this Easement Agreement creates a duty of care by or for Grantor or basis or liability for personal injury or for damage to personal property in connection with the use of the Trail Easement. Grantor and Grantee acknowledge that per California Civil Code § 846, Grantor is relieved of liability associated with allowing the public onto Grantor's property, except as provided for in section 846.

7. Indemnification. City shall indemnify, defend (with counsel reasonably acceptable to Grantor) and hold harmless Grantor from and against any and all claims, losses, liabilities or damages, including payment of reasonable attorneys' fees, arising out of or relating to City's use of the Easement, except that the City shall not be liable for or be required to indemnify, defend or hold harmless Grantor for any claims, losses, liabilities or damages to the extent they arise out of or result from the willful misconduct or gross negligence of Grantor.

8. Grantee's Remedies. If Grantee determines that Grantor is in violation of the terms of this Easement Agreement or that a violation is threatened, Grantee shall give written notice to Grantor of such violation and demand corrective action sufficient to cure the violation and, where the violation involves injury to the Easement Area resulting from any use or activity inconsistent with the purpose of this Easement Agreement, to restore the portion of the Easement Area so injured. If Grantor fails to cure the violation within 30 days after receipt of notice thereof from Grantee, or under circumstances where the violation cannot reasonably be cured within a 30-day period, fails to begin curing such violation within the 30-day period, or fails to continue diligently to cure such violation until finally cured, Grantee may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Easement Agreement, to enjoin the violation by temporary or permanent injunction, to recover any damages to which it may be entitled for violation of the terms of this Easement Agreement or injury to any protected values, including damages for any loss thereof, and to require the restoration of the Easement Area to the condition that existed prior to any such injury. If Grantee, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the protected values of the Easement Area, Grantee may pursue its remedies under this paragraph without waiting for the period provided for cure to expire. Grantee's rights under this paragraph apply equally in the event of either actual or threatened violations of the terms of this Easement Agreement, and Grantor agrees that Grantee's remedies at law for any violation of the terms of this Easement Agreement are inadequate and that Grantee shall be entitled to the injunctive relief described in this paragraph, both prohibitive and mandatory, in addition to such other relief to which Grantee may be entitled, including specific performance of the terms of this Easement Agreement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. Grantee's remedies described in this paragraph shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.

9. Enforcement; Attorneys' Fees. In the event that either party believes the other party has failed to comply with the terms of this Easement Agreement or wishes to discuss any operational issues concerning the Trail Easement, the parties agree to meet and confer within thirty (30) days of receipt of a written request for consultation. In the event that informal efforts to resolve the dispute are unsuccessful and court proceedings are initiated, the prevailing party in any action to enforce this Agreement shall be entitled to its reasonable attorneys' fees and costs.

10. Grantee's Discretion. Enforcement of the terms of this Easement Agreement shall be at the discretion of Grantee, and any forbearance by Grantee to exercise its rights under this Easement Agreement in the event of any breach of any term of this Easement Agreement by Grantor shall not be

deemed or construed to be a waiver by Grantee of such term or of any subsequent breach of the same or any other term of this Easement Agreement or of any of Grantee's rights under this Easement Agreement. No delay or omission by Grantee in the exercise of any right or remedy on any breach by Grantor shall impair such right or remedy or be construed as a waiver.

11. General Provisions.

(a) Controlling Law. The interpretation and performance of this Easement Agreement shall be governed by the laws of the State of California.

(b) Severability. If any provision of this Easement Agreement, or the application thereof to any person or circumstance, is found to be invalid, the remainder of the provisions of this Easement Agreement, or the application of such provision to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected thereby.

(c) Entire Agreement. This instrument sets forth the entire agreement of the parties with respect to the Easement Agreement and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Easement Agreement, all of which are merged herein.

IN WITNESS WHEREOF, Grantor and Grantee have executed this Trail Easement on _____ .

"GRANTOR"*

ORINDA-MORAGA FIRE DISTRICT

_____

Fire Chief

Print Name: _____

"GRANTEE"

CITY OF LAFAYETTE, A MUNICIPAL CORPORATION

_____

Steven Falk, City Manager

*Signature must be notarized.

ATTACHMENTS:

Exhibit “A” - Grantor Property
Exhibit “A-1” - Trail Easement
Exhibit “B” - Map of Trail Easement

# Moraga-Orinda Fire District

**TO:** Board of Directors

**FROM:** Gloriann Sasser, Administrative Services Director

**DATE:** May 4, 2016

**SUBJECT:** Item 8.2 – Resolution 16-08 Establishing the 2016/17 Fire Flow Tax Rates for the Orinda and Moraga Service Zones

---

## BACKGROUND

Every year the District is required to set the rate for the Fire Flow Tax in each of the District's two service zones. In order to place the tax on the County Assessor's rolls for fiscal year 2016/17, the tax rate must be established by Board action and then levied against each parcel.

The 2015/16 Fire Flow Tax Rate was established at six cents ($.06) in both Moraga and Orinda and yielded:

| | Orinda Service Zone | Moraga Service Zone | Total 2015/16 |
|---|---|---|---|
| Fire Flow Tax Revenue | $539,863 | $530,351 | $1,070,214 |

## RECOMMENDATION

1) Discuss; 2) Deliberate; 3) Adopt Resolution No. 16-08 adopting the Fire Flow Tax rate of six cents ($.06) in both the Moraga and Orinda service zones.

## ATTATCHMENT

1) Attachment A – Resolution 16-08 - Adopting Fire Flow Tax Rates of Six Cents ($.06) in the Moraga Service Zone and Six Cents ($.06) in the Orinda Service Zone, for Fiscal Year 2016/17

**RESOLUTION NO. 16-08**

**RESOLUTION OF MORAGA-ORINDA FIRE DISTRICT ("DISTRICT") ADOPTING FIRE FLOW TAX RATES OF SIX CENTS ($.06) IN THE MORAGA SERVICE ZONE AND SIX CENTS ($.06) IN THE ORINDA SERVICE ZONE, FOR FISCAL YEAR 2016/17**

WHEREAS, prior to 1997, the existing fire flow tax rate for what is presently the Moraga Service Zone of the Moraga - Orinda Fire District ("District") was set at a range from zero ($0.00) to thirty cents ($.30) for the predecessor to the District the dependent Moraga Fire Protection District; and

WHEREAS, by Resolution 97-16 of the Contra Costa County Board of Supervisors dated January 14, 1997, the continuation of the fire flow tax within the Moraga Service Zone of the District was made a condition of approval for the consolidation of the two dependent predecessor districts (Moraga Fire Protection District and Orinda Fire Protection District) to form the District; and,

WHEREAS, in 1997, the City of Orinda submitted a ballot measure in the regular statewide election of June 3, 1997, for adoption of a new fire flow tax in what is now the Orinda Service Zone of the District; and,

WHEREAS, the fire flow tax for the Orinda Service Zone was approved by two-thirds of the voters at the June 3, 1997 election in an amount not to exceed six cents ($.06), and the fire flow tax was lawfully adopted under both Article XIIIA (adopted by Proposition 13) and Article XIIID (adopted by the passage of Proposition 218) of the State Constitution; and,

WHEREAS, the District's respective fire flow taxes are special taxes on property on the secured tax roll, which provide additional funds for fire protection, prevention and suppression and emergency medical services, equipment and related facilities, including water distribution facilities, for fire suppression purposes and for paying the salaries and benefits of firefighting personnel; and,

WHEREAS, all services provided to residents by the District are funded by the fire flow tax, proportional share of property tax revenues, ambulance transport fees, and other service fees; and,

WHEREAS, the specific amount of the fire flow tax in both the Moraga Service Zone and the Orinda Service Zone of the District is to be determined annually by the District Board of Directors after notice and public hearing; and,

WHEREAS, on or about this date, the District Board considered the establishment of the rate of the fire flow special tax for the Orinda Service Zone and the Moraga Service Zone of the District, for Fiscal Year 2016/17; and,

WHEREAS, the District Chief has recommended that the Board adopt this resolution to establish the fire flow tax at a rate of 6.0 cents, in the Moraga Service Zone and 6.0 cents in the Orinda Service Zone for fiscal year 2016/17 and,

NOW THEREFORE BE IT RESOLVED, the District Board hereby adopts and approves the continuation of the fire flow tax rate of 6.0 cents for the Moraga Service Zone and 6.0 cents for the Orinda Service Zone in Fiscal Year 2016/17.

PASSED, APPROVED and ADOPTED this 4th day of May, 2016 at a regular meeting of the District Board of Directors held on May 4, 2016, at 22 Orinda Way, Orinda, California 94563, on motion made by Director , seconded by Director , and duly carried with the following roll call vote.

AYES:

NOES:

ABSENT:

ABSTAIN:

Dated: May 4, 2016

_____

Stephen L. Anderson, President
Board of Directors

ATTEST:

_____

Grace Santos, District Clerk

# Moraga-Orinda Fire District

**TO:** Board of Directors

**FROM:** Gloriann Sasser, Administrative Services Director

**DATE:** May 4, 2016

**SUBJECT:** Item 8.3 – Resolution No. 16-09 Adopting a Modified Schedule of Cost Recovery Fees for Emergency Medical Services

## BACKGROUND

Emergency medical services are partially paid for by ambulance transport cost recovery fees and non-transport emergency medical services cost recovery fees. District Resolution No. 13-02, approved in May 2013, adopted a modified schedule of fees. This Resolution and the District's Ambulance Service Agreement with Contra Costa County include a provision for an annual modification to emergency medical services fees.

Staff recommends the Board increase ambulance transport fees based on the Consumer Price Index (CPI) for the San Francisco – Oakland – San Jose, CA area. The February 2016 CPI increased 3.02%. Staff recommends ambulance transport and non-transport cost recovery fees effective July 1, 2016 as follows:

| Fee Description | | Current Fee | | Recommended Fee 2.45% Increase |
|---|---|---|---|---|
| Basic Life Support Transport (BLS) | | $1,068 | | $1,100 |
| Advanced Life Support Transport | | $1,525 | | $1,571 |
| Advanced Life Support 2 Transport | | $1,755 | | $1,808 |
| First Responder Assessment | | $446 | | $459 |
| Mileage | | $28 | | $29 |

Below is a comparison of ambulance transport fees for other agencies in Contra Costa County:

| Agency | | BLS | | ALS/ALS2 | First Responder | Mileage |
|---|---|---|---|---|---|---|
| Contra Costa County Fire | | $2,100 | | $2,100 | $450 | $50 |
| San Ramon Valley Fire | | $1,055 | | $1,490/$1,579 | $459 | $29 |

## RECOMMENDATION

1) Discuss; 2) Deliberate; 3) Adopt Resolution 16-09 Establishing a Modified Schedule of Cost Recovery Fees for Emergency Medical Services.

## ATTACHMENT

1) Attachment A – Resolution 16-09 – Adopting a Modified Schedule of Cost Recovery Fees for Emergency Medical Services

**RESOLUTION NO. 16-09**

**A RESOLUTION OF THE MORAGA-ORINDA FIRE DISTRICT ADOPTING A MODIFIED SCHEDULE OF COST RECOVERY FEES FOR EMERGENCY MEDICAL SERVICES**

WHEREAS, on October 17, 2001, the Moraga-Orinda Fire District of Contra Costa County ("District") enacted District Ordinance No. 01-01 (the "Ordinance"), which authorized the formulation of a schedule of fees and collection policies as provided in Health & Safety Code section 13916, a portion of the Fire Protection District Law of 1987 (Health & Safety Code sections 13800 *et seq*.); and,

WHEREAS, the Ordinance provides that the Ordinance Fee Schedule may be modified on an annual basis by a Resolution of the District Board; and,

WHEREAS, notice has been given for the consideration of the modified fees set forth herein below, consistent with applicable law; and,

WHEREAS, because of Medicare fee reductions and the actual costs expended by the District for providing ambulance and emergency medical services have increased; and,

WHEREAS, the District is authorized under Health & Safety Code section 13916 to recover its actual costs in association with the furnishing of ambulance service and other authorized service of the District; and,

NOW THEREFORE, BE IT RESOLVED that the fees for ambulance transport as adopted in a Master Fee Schedule of the District for ambulance transport are modified to provide for the imposition of the following fees upon rendering of the described service effective July 1, 2016:

- Increase Base Rates as follows:
  - BLS 1 from $1,068 to $1,100
  - ALS 1 from $1,525 to $1,571
  - ALS 2 from $1,755 to $1,808
  - Mileage from to $28 per mile to $29 per mile

MOFD currently bills for non-transport emergency medical services when patients are assessed and treated on scene but decline transport services. Current industry standards support cost recovery for non-transport services and the First Responder Assessment Fee cost recovery schedule is increased from $446 to $459 effective July 1, 2016; and,

BE IT FURTHER RESOLVED, that the District Board finds that the increases in emergency medical services fees are necessary to offset increased costs and the Medicare fee reductions, and are reasonable in the amount adopted.

PASSED, APPROVED and ADOPTED this 4th day of May, 2016 at the regular meeting of the District Board of Directors held on May 4, 2016 at 22 Orinda Way, Orinda, California, 94563, on motion made by Director , seconded by Director , and duly carried with the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Dated: May 4, 2016

Stephen L. Anderson, President
Board of Directors

ATTEST:

Grace Santos, District Clerk

# Moraga-Orinda Fire District

**TO:** Board of Directors

**FROM:** Gloriann Sasser, Administrative Services Director

**DATE:** May 4, 2016

**SUBJECT:** Item 8.4 – Resolution No. 16-10 Amendment and Restatement of the Flexible Benefit Plan

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## BACKGROUND

The District has contracted with Benefit Administration Corporation (BAC) since 1998 to provide an employee funded Flexible Benefit Plan (Plan). The Plan allows employees to fund the following expenses using money excludable from the employee's taxable income (tax-free dollars) as allowable under the Internal Revenue Code:

- dependent care expenses
- unreimbursed health expenses
- health insurance benefit – employee share
- dental insurance benefit – employee share

Effective May 1, 2016, the District is contracting with American Fidelity Assurance Company to provide the Plan. American Fidelity provides improved services including:

- Optional supplemental insurance products (accident, life and cancer insurance)
- Optional health debit cards for participants
- Direct deposit services for participants
- Improved technology including on-line claim filing capabilities and a mobile application for filing reimbursement claims.
- Annual one-on-one meetings with employees to discuss benefit options and make enrollment elections.

It is necessary to approve an amendment and restatement of the flexible benefit plan to reflect the change in administrators and to add the additional available optional benefits.

The District was paying BAC $720 per year to administer the plan. The cost to the District to contract with American Fidelity is $0, thus reducing costs $720 per year.

## RECOMMENDATION

1) Discuss; 2) Deliberate; 3) Adopt Resolution No. 16-10 Approving the Amendment and Restatement of the Flexible Benefit Plan.

**ATTACHMENT**

1) Attachment A – Resolution 16-10 – Amendment and Restatement of the Flexible Benefits Plan
2) Attachment B – Flexible Benefit Plan of Moraga Orinda Fire Protection District

**RESOLUTION NO. 16-10**

**RESOLUTION OF MORAGA-ORINDA FIRE DISTRICT APPROVING THE AMENDMENT AND RESTATEMENT TO THE FLEXIBLE BENEFITS PLAN OF THE MORAGA-ORINDA FIRE DISTRICT**

WHEREAS, the Moraga-Orinda Fire District ("District") maintains a Cafeteria Plan including a Health Flexible Spending Account and Dependent Care Flexible Spending Account (the "Flexible Benefits Plan" or the "Plan") pursuant to Section 125 of the Internal Revenue Code; and

WHEREAS, the District desires to contract with American Fidelity Assurance Company to administer the District's Flexible Benefits Plan; and

WHEREAS, American Fidelity Assurance Company has informed the District of the need to amend and restate the Flexible Benefits Plan documentation to maintain compliance with current laws and add additional available benefits.

THEREFORE, BE IT RESOLVED THAT the Board of Directors hereby approves and adopts the amendment and restatement of the Flexible Benefits Plan, and the Administrative Services Director, or designee, is hereby authorized and directed to execute and deliver the Plan to the Plan Administrator in one or more counterparts.

PASSED, APPROVED and ADOPTED this 4th day of May, 2016 at a regular meeting of the District Board of Directors held on May 4, 2016, at 22 Orinda Way, Orinda, California 94563, on motion made by Director , seconded by Director , and duly carried with the following vote.

AYES:

NOES:

ABSENT:

ABSTAIN:

Dated: May 4, 2016

Stephen L. Anderson, President
Board of Directors

ATTEST:

Grace Santos, District Clerk

# MORAGA-ORINDA FIRE PROTECTION DISTRICT

# SECTION 125

# FLEXIBLE BENEFIT PLAN

**SECTION 125 FLEXIBLE BENEFIT PLAN**
**ADOPTION AGREEMENT**

***The undersigned Employer hereby adopts the Section 125 Flexible Benefit Plan for those Employees who shall qualify as Participants hereunder. The Employer hereby selects the following Plan specifications:***

## A. EMPLOYER INFORMATION

| | |
|---|---|
| **Name of Employer:** | MORAGA ORINDA FIRE PROTECTION DISTRICT |
| **Address:** | 1280 MORAGA WAY<br>MORAGA, CA 94556 |
| **Employer Identification Number:** | 91-1830550 |
| **Nature of Business:** | MUNICIPALITY |
| **Name of Plan:** | MORAGA ORINDA FIRE PROTECTION DISTRICT FLEXIBLE BENEFIT PLAN |
| **Plan Number:** | 501 |

## B. EFFECTIVE DATE

| | |
|---|---|
| **Original effective date of the Plan:** | January 1, 1998 |
| **If Amendment to existing plan, effective date of amendment:** | May 1, 2016 |

## C. ELIGIBILITY REQUIREMENTS FOR PARTICIPATION

Eligibility requirements for each component plan under this Section 125 document will be applicable and, if different, will be listed in Item F.

| | |
|---|---|
| **Length of Service:** | First day of the month following employment. |
| **Minimum Hours:** | All employees with 20 hours of service or more each week. An hour of service is each hour for which an employee receives, or is entitled to receive, payment for performance of duties for the Employer. |
| **Age:** | Minimum age of 18 years. |

## D. PLAN YEAR

The current plan year will begin on May 1, 2016 and end on December 31, 2016. Each subsequent plan year will begin on January 1 and end on December 31.

## E. EMPLOYER CONTRIBUTIONS

**Non-Elective Contributions:**

The Employer may at its sole discretion provide a non-elective contribution to provide benefits for each Participant under the Plan. This amount will be set by the Employer each Plan Year in a uniform and non-discriminatory manner. If this non-elective contribution amount exceeds the cost of benefits elected by the Participant, excess amounts will not be paid to the Participant as taxable cash.

**Elective Contributions (Salary Reduction):**

The maximum amount available to each Participant for the purchase of elected benefits through salary reduction will be:

$24324.00 per plan year.

Each Participant may authorize the Employer to reduce his or her compensation by the amount needed for the purchase of benefits elected, less the amount of non-elective contributions. An election for salary reduction will be made on the benefit election form.

**F.** **AVAILABLE BENEFITS:** Each of the following components should be considered a plan that comprises this Plan.

**1.** **Group Medical Insurance** -- The terms, conditions, and limitations for the Group Medical Insurance will be as set forth in the insurance policy or policies described below: (See Section V of the Plan Document)

**CalPERS**

Eligibility Requirements for Participation, if different than Item C.

**2.** **Disability Income Insurance** -- The terms, conditions, and limitations for the Disability Income Insurance will be as set forth in the insurance policy or policies described below: (See Section VI of the Plan Document)

**N/A**

Eligibility Requirements for Participation, if different than Item C.

**3.** **Cancer Coverage** -- The terms, conditions, and limitations for the Cancer Coverage will be as set forth in the insurance policy or policies described below: (See Section V of the Plan Document)

**N/A**

Eligibility Requirements for Participation, if different than Item C.

**4.** **Dental/Vision Insurance** -- The terms, conditions, and limitations for the Dental/Vision Insurance will be as set forth in the insurance policy or policies described below: (See Section V of the Plan Document)

**Delta Dental**

Eligibility Requirements for Participation, if different than Item C.

**5.** **Group Life Insurance** which will be comprised of Group-term life insurance and Individual term life insurance under Section 79 of the Code.

The terms, conditions, and limitations for the Group Life Insurance will be as set forth in the insurance policy or policies described below: (See Section VII of the Plan Document)

**N/A**

Individual life coverage under Section 79 is available as a benefit, and the face amount when combined with the group-term life, if any, **N/A** exceed $50,000.

Eligibility Requirements for Participation, if different than Item C.

**6.** **Dependent Care Assistance Plan** -- The terms, conditions, and limitations for the Dependent Care Assistance Plan will be as set forth in Section IX of the Plan Document and described below:

Minimum Contribution - $ **0.00** per Plan Year

Maximum Contribution - $ **5000.00** per Plan Year

Recordkeeper: **American Fidelity Assurance Company**

Eligibility Requirements for Participation, if different than Item C.
**N/A**

**7.** **Medical Expense Reimbursement Plan** -- The terms, conditions, and limitations for the Medical Expense Reimbursement Plan will be as set forth in Section VIII of the Plan Document and described below:

Minimum Coverage - $ **0.00** per Plan Year

Maximum Coverage - $ **2550.00** per Plan Year

Recordkeeper: **American Fidelity Assurance Company**

Restrictions: **N/A**

Grace Period: The provisions in Section 8.06 of the Plan to permit a Grace Period with respect to the Medical Expense Reimbursement Plan **are not** elected.

Carryover Provision: The provisions in Section 8.07 of the Plan to permit a Carryover with respect to the Medical Expense Reimbursement Plan are elected.

HEART Act: The provisions in Section 8.08 of the Plan to permit the Qualified Reservist Distribution of the Heroes Earnings Assistance and Relief Tax Act (HEART) **are** elected.

Debit Card: The provisions in Section 8.05 of the Plan to permit the offer of the Debit Card with respect to the Medical Expense Reimbursement Plan **are** elected.

Eligibility Requirements for Participation, if different than Item C.

**8.** **Health Savings Accounts –** The Plan permits contributions to be made to a Health Savings Account on a pretax basis in accordance with Section X of the Plan and the following provisions:

HSA Trustee – **N/A**

Maximum Contribution – As indexed annually by the IRS.

Limitation on Eligible Medical Expenses – For purposes of the Medical Reimbursement Plan, Eligible Medical Expenses of a Participant that is eligible for and elects to participate in a Health Savings Account shall be limited to expenses for:

**N/A**

Eligibility Requirements for Participation, if different than Item C.

a. An Employee must complete a Certification of Health Savings Account Eligibility which confirms that the Participant is an eligible individual who is entitled to establish a Health Savings Account in accordance with Code Section 223(c)(1).
b. Eligibility for the Health Savings Account shall begin on the later of (i) first day of the month coinciding with or next following the Employee's commencement of coverage under the High Deductible Health Plan, or (ii) the first day following the end of a Grace Period available to the Employee with respect to the Medical Reimbursement Accounts that are not limited to vision and dental expenses (unless the participant has a $0.00 balance on the last day of the plan year).
c. An Employee's eligibility for the Health Savings Account shall be determined monthly.

**The Plan shall be construed, enforced, administered, and the validity determined in accordance with the applicable provisions of the Employee Retirement Income Security Act of 1974, (as amended) if applicable, the Internal Revenue Code of 1986 (as amended), and the laws of the State of California. Should any provision be determined to be void, invalid, or unenforceable by any court of competent jurisdiction, the Plan will continue to operate, and for purposes of the jurisdiction of the court only, will be deemed not to include the provision determined to be void.**

**This Plan is hereby adopted this _____ day of _____, 20__.**

**MORAGA ORINDA FIRE PROTECTION DISTRICT**
**(Name of Employer)**

**Witness:_____ By:_____**

**Title:_____ Title:_____**

**APPENDIX A**

**Related Employers that have adopted this Plan**

**Name(s):**
**N/A**

**THIS DOCUMENT IS NOT COMPLETE WITHOUT SECTIONS I THROUGH XIII**
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# SECTION 125 FLEXIBLE BENEFIT PLAN

## SECTION I

## PURPOSE

The Employer is establishing this Flexible Benefit Plan in order to make a broader range of benefits available to its Employees and their Beneficiaries. This Plan allows Employees to choose among different types of benefits and select the combination best suited to their individual goals, desires, and needs. These choices include an option to receive certain benefits in lieu of taxable compensation.

In establishing this Plan, the Employer desires to attract, reward, and retain highly qualified, competent Employees, and believes this Plan will help achieve that goal.

It is the intent of the Employer to establish this Plan in conformity with Section 125 of the Internal Revenue Code of 1986, as amended, and in compliance with applicable rules and regulations issued by the Internal Revenue Service. This Plan will grant to eligible Employees an opportunity to purchase qualified benefits which, when purchased alone by the Employer, would not be taxable.

## SECTION II

## DEFINITIONS

The following words and phrases appear in this Plan and will have the meaning indicated below unless a different meaning is plainly required by the context:

2.01 **Administrator** — The Employer unless another has been designated in writing by the Employer as Administrator within the meaning of Section 3(16) of ERISA (if applicable).

2.02 **Beneficiary** — Any person or persons designated by a participating Employee to receive any benefit payable under the Plan on account of the Employee's death.

2.02A **Carryover** — The amount equal to the lesser of (a) any unused amounts from the immediately preceding Plan Year or (b) five hundred dollars ($500), except that in no event may the Carryover be less than five dollars ($5).

2.03 **Code** — Internal Revenue Code of 1986, as amended.

2.04 **Dependent** — Any of the following:

(a) Tax Dependent: A Dependent includes a Participant's spouse and any other person who is a Participant's dependent within the meaning of Code Section 152, provided that, with respect to any plan that provides benefits that are excluded from an Employee's income under Code Section 105, a Participant's dependent (i) is any person within the meaning of Code Section 152, determined without regard to Subsections (b)(1), (b)(2), and (d)(1)(B) thereof, and (ii) includes any child of the Participant to whom

Code Section 152(e) applies (such child will be treated as a dependent of both divorced parents).

(b) Student on a Medically Necessary Leave of Absence: With respect to any plan that is considered a group health plan under Michelle's Law (and not a HIPAA excepted benefit under Code Sections 9831(b), (c) and 9832(c)) and to the extent the Employer is required by Michelle's Law to provide continuation coverage, a Dependent includes a child who qualifies as a Tax Dependent (defined in Section 2.04(a)) because of his or her full-time student status, is enrolled in a group health plan, and is on a medically necessary leave of absence from school. The child will continue to be a Dependent if the medically necessary leave of absence commences while the child is suffering from a serious illness or injury, is medically necessary, and causes the child to lose student status for purposes of the group health plan's benefits coverage. Written physician certification that the child is suffering from a serious illness or injury and that the leave of absence is medically necessary is required at the Administrator's request. The child will no longer be considered a Dependent as of the earliest date that the child is no longer on a medically necessary leave of absence, the date that is one year after the first day of the medically necessary leave of absence, or the date benefits would otherwise terminate under either the group health plan or this Plan. Terms related to Michelle's Law, and not otherwise defined, will have the meaning provided under the Michelle's Law provisions of Code Section 9813.

(c) Adult Children: With respect to any plan that provides benefits that are excluded from an Employee's income under Code Section 105, a Dependent includes a child of a Participant who as of the end of the calendar year has not attained age 27. A 'child' for purpose of this Section 2.04(c) means an individual who is a son, daughter, stepson, or stepdaughter of the Participant, a legally adopted individual of the Participant, an individual who is lawfully placed with the Participant for legal adoption by the Participant, or an eligible foster child who is placed with the Participant by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction. An adult child described in this Section 2.04(c) is only a Dependent with respect to benefits provided after March 30, 2010 (subject to any other limitations of the Plan).

Dependent for purposes of the Dependent Care Reimbursement Plan is defined in Section 9.04(a).

| | | |
|---|---|---|
| 2.05 | **Effective Date** | The effective date of this Plan as shown in Item B of the Adoption Agreement. |
| 2.06 | **Elective Contribution** | The amount the Participant authorizes the Employer to reduce compensation for the purchase of benefits elected. |
| 2.07 | **Eligible Employee** | Employee meeting the eligibility requirements for participation as shown in Item C of the Adoption Agreement. |
| 2.08 | **Employee** | Any person employed by the Employer on or after the Effective Date. |
| 2.09 | **Employer** | The entity shown in Item A of the Adoption Agreement, and any Related Employers authorized to participate in the Plan with the approval of the Employer. Related Employers who participate in this Plan are listed in Appendix A to the Adoption Agreement. For the purposes of Section 11.01 and 11.02, only the Employer as shown in Item A of the Adoption Agreement may amend or terminate the Plan. |
| 2.10 | **Employer Contributions** | Amounts that have not been actually received by the Participant and are available to the Participant for the purpose of selecting benefits under the Plan. This term includes Non-Elective Contributions and Elective Contributions through salary reduction. |
| 2.11 | **Entry Date** | The date that an Employee is eligible to participate in the Plan. |
| 2.12 | **ERISA** | The Employee Retirement Income Security Act of 1974, Public Law 93-406 and all regulations and rulings issued thereunder, as amended (if applicable). |
| 2.13 | **Fiduciary** | The named fiduciary shall mean the Employer, the Administrator and other parties designated as such, but only with respect to any specific duties of each for the Plan as may be set forth in a written agreement. |
| 2.14 | **Health Savings Account** | A “health savings account” as defined in Section 223(d) of the Internal Revenue Code of 1986, as amended established by the Participant with the HSA Trustee. |
| 2.15 | **HSA Trustee** | The Trustee of the Health Savings Account which is designated in Section F.8 of the Adoption Agreement. |
| 2.16 | **Highly Compensated** | Any Employee who at any time during the Plan Year is a "highly compensated employee" as defined in Section 414(q) of the Code. |
| 2.17 | **High Deductible Health Plan** | A health plan that meets the statutory requirements for annual deductibles and out-of-pocket expenses set forth in Code section 223(c)(2). |
| 2.18 | **HIPAA** | The Health Insurance Portability and Accountability Act of 1996, as amended. |

2.19 **Insurer** Any insurance company that has issued a policy pursuant to the terms of this Plan.

2.20 **Key Employee** Any Participant who is a "key employee" as defined in Section 416(i) of the Code.

2.21 **Non-Elective Contribution** A contribution amount made available by the Employer for the purchase of benefits elected by the Participant.

2.22 **Participant** An Employee who has qualified for Plan participation as provided in Item C of the Adoption Agreement.

2.23 **Plan** The Plan referred to in Item A of the Adoption Agreement as may be amended from time to time.

2.24 **Plan Year** The Plan Year as specified in Item D of the Adoption Agreement.

2.25 **Policy** An insurance policy issued as a part of this Plan.

2.26 **Preventative Care** Medical expenses which meet the safe harbor definition of "preventative care" set forth in IRS Notice 2004-23, which includes, but is not limited to, the following: (i) periodic health evaluations, such as annual physicals (and the tests and diagnostic procedures ordered in conjunction with such evaluations); (ii) well-baby and/or well-child care; (iii) immunizations for adults and children; (iv) tobacco cessation and obesity weight-loss programs; and (v) screening devices. However, preventative care does not generally include any service or benefit intended to treat an existing illness, injury or condition.

2.27 **Recordkeeper** The person designated by the Employer to perform recordkeeping and other ministerial duties with respect to the Medical Expense Reimbursement Plan and/or the Dependent Care Reimbursement Plan.

2.28 **Related Employer** Any employer that is a member of a related group of organizations with the Employer shown in Item A of the Adoption Agreement, and as specified under Code Section 414(b), (c) or (m).

## SECTION III

## ELIGIBILITY, ENROLLMENT, AND PARTICIPATION

3.01 ELIGIBILITY: Each Employee of the Employer who has met the eligibility requirements of Item C of the Adoption Agreement will be eligible to participate in the Plan on the Entry Date specified or the Effective Date of the Plan, whichever is later. Dependent eligibility to receive benefits under any of the plans listed in Item F of the Adoption Agreement will be described in the documents governing those benefit plans. To the extent a Dependent is eligible to receive benefits under a plan listed in Item F, an Eligible Employee may elect coverage under this Plan with respect to such Dependent.

Notwithstanding the foregoing, life insurance coverage on the life of a Dependent may not be elected under this Plan.

3.02 ENROLLMENT: An eligible Employee may enroll (or re-enroll) in the Plan by submitting to the Employer, during an enrollment period, an Election Form which specifies his or her benefit elections for the Plan Year and which meets such standards for completeness and accuracy as the Employer may establish. A Participant's Election Form shall be completed prior to the beginning of the Plan Year, and shall not be effective prior to the date such form is submitted to the Employer. Any Election Form submitted by a Participant in accordance with this Section shall remain in effect until the earlier of the following dates: the date the Participant terminates participation in the Plan; or, the effective date of a subsequently filed Election Form.

A Participant's right to elect certain benefit coverage shall be limited hereunder to the extent such rights are limited in the Policy. Furthermore, a Participant will not be entitled to revoke an election after a period of coverage has commenced and to make a new election with respect to the remainder of the period of coverage unless both the revocation and the new election are on account of and consistent with a change in status, or other allowable events, as determined by Section 125 of the Internal Revenue Code and the regulations thereunder.

3.03 TERMINATION OF PARTICIPATION: A Participant shall continue to participate in the Plan until the earlier of the following dates:

(a) The date the Participant terminates employment by death, disability, retirement or other separation from service; or
(b) The date the Participant ceases to work for the Employer as an eligible Employee; or
(c) The date of termination of the Plan; or
(d) The first date a Participant fails to pay required contributions while on a leave of absence.

3.05 SEPARATION FROM SERVICE: The existing elections of an Employee who separates from the employment service of the Employer shall be deemed to be automatically terminated and the Employee will not receive benefits for the remaining portion of the Plan Year.

3.06 QUALIFYING LEAVE UNDER FAMILY LEAVE ACT: Notwithstanding any provision to the contrary in this Plan, if a Participant goes on a qualifying unpaid leave under the Family and Medical Leave Act of 1993 (FMLA), to the extent required by the FMLA, the Employer will continue to maintain the Participant's existing coverage under the Plan with respect to benefits under Section V and Section VIII of the Plan on the same terms and conditions as though he were still an active Employee. If the Employee opts to continue his coverage, the Employee may pay his Elective Contribution with after-tax dollars while on leave (or pre-tax dollars to the extent he receives compensation during the leave), or the Employee may be given the option to pre-pay all or a portion of his Elective Contribution for the expected duration of the leave on a pre-tax salary reduction basis out of his pre-leave compensation (including unused sick days or vacation) by making a special election to that effect prior to the date such compensation would normally be made available to him (provided, however, that pre-tax dollars may not be utilized to fund coverage during the next plan year), or via other arrangements agreed upon between the Employee and the Administrator (e.g., the Administrator may fund coverage during the leave and withhold amounts upon the Employee's return). Upon return from such leave, the Employee will be permitted to reenter the Plan on the same basis the Employee was participating in the Plan prior to his leave, or as otherwise required by the FMLA.

## SECTION IV

## CONTRIBUTIONS

4.01 EMPLOYER CONTRIBUTIONS: The Employer may pay the costs of the benefits elected under the Plan with funds from the sources indicated in Item E of the Adoption Agreement. The Employer Contribution may be made up of Non-Elective Contributions and/or Elective Contributions authorized by each Participant on a salary reduction basis.

4.02 IRREVOCABILITY OF ELECTIONS: A Participant may file a written election form with the Administrator before the end of the current Plan Year revising the rate of his contributions or discontinuing such contributions effective as of the first day of the next following Plan Year. The Participant's Elective Contributions will automatically terminate as of the date his employment terminates. Except as provided in this Section 4.02 and Section 4.03, a Participant's election under the Plan is irrevocable for the duration of the plan year to which it relates. The exceptions to the irrevocability requirement which would permit a mid-year election change in benefits and the salary reduction amount elected are set out in the Treasury regulations promulgated under Code Section 125, which include the following:

(a) Change in Status. A Participant may change or revoke his election under the Plan upon the occurrence of a valid change in status, but only if such change or termination is made on account of, and is consistent with, the change in status in accordance with the Treasury regulations promulgated under Section 125. The Employer, in its sole discretion as Administrator, shall determine whether a requested change is on account of and consistent with a change in status, as follows:

(1) Change in Employee's legal marital status, including marriage, divorce, death of spouse, legal separation, and annulment;
(2) Change in number of Dependents, including birth, adoption, placement for adoption, and death;
(3) Change in employment status, including any employment status change affecting benefit eligibility of the Employee, spouse or Dependent, such as termination or commencement of employment, change in hours, strike or lockout, a commencement or return from an unpaid leave of absence, and a change in work site. If the eligibility for either the cafeteria Plan or any underlying benefit plans of the Employer of the Employee, spouse or Dependent relies on the employment status of that individual, and there is a change in that individual's employment status resulting in gaining or losing eligibility under the Plan, this constitutes a valid change in status. This category only applies if benefit eligibility is lost or gained as a result of the event. If an Employee terminates and is rehired within 30 days, the Employee is required to step back into his previous election. If the Employee terminates and is rehired after 30 days, the Employee may either step back into the previous election or make a new election;
(4) Dependent satisfies, or ceases to satisfy, Dependent eligibility requirements due to attainment of age, gain or loss of student status, marriage or any similar circumstances; and
(5) Residence change of Employee, spouse or Dependent, affecting the Employee's eligibility for coverage.

(b) Special Enrollment Rights. If a Participant or his or her spouse or Dependent is entitled to special enrollment rights under a group health plan (other than an excepted benefit), as required by HIPAA under Code Section 9801(f) or Section 2701(f) of the Public Health Service Act, then a Participant may revoke a prior election for group health plan coverage and make a new election, provided that

the election change corresponds with such HIPAA special enrollment right. As required by HIPAA, a special enrollment right will arise in the following circumstances: (i) a Participant or his or her spouse or Dependent declined to enroll in group health plan coverage because he or she had coverage, and eligibility for such coverage is subsequently lost because the coverage was provided under COBRA and the COBRA coverage was exhausted, or the coverage was non-COBRA coverage and the coverage terminated due to loss of eligibility for coverage or the employer contributions for the coverage were terminated; (ii) a new Dependent is acquired as a result of marriage, birth, adoption, or placement for adoption; (iii) the Participant's or his or her spouse's or Dependent's coverage under a Medicaid plan or under a children's health insurance program (CHIP) is terminated as a result of loss of eligibility for such coverage and the Participant requests coverage under the group health plan not later than 60 days after the date of termination of such coverage; or (iv) the Participant, his or her spouse or Dependent becomes eligible for a state premium assistance subsidy from a Medicaid plan or through a state children's insurance program with respect to coverage under the group health plan and the Participant requests coverage under the group health plan not later than 60 days after the date the Participant, his or her spouse or Dependent is determined to be eligible for such assistance. An election change under (iii) or (iv) of this provision must be requested within 60 days after the termination of Medicaid or state health plan coverage or the determination of eligibility for a state premium assistance subsidy, as applicable. Special enrollment rights under the health insurance plan will be determined by the terms of the health insurance plan.

(c) Certain Judgments, Decrees or Orders. If a judgment, decree or order resulting from a divorce, legal separation, annulment or change in legal custody (including a qualified medical child support order [QMCSO]) requires accident or health coverage for a Participant's child or for a foster child who is a dependent of the Participant, the Participant may have a mid-year election change to add or drop coverage consistent with the Order.

(d) Entitlement to Medicare or Medicaid. If a Participant, Participant's spouse or Participant's Dependent who is enrolled in an accident or health plan of the Employer becomes entitled to Medicare or Medicaid (other than coverage consisting solely of benefits under Section 1928 of the Social Security Act providing for pediatric vaccines), the Participant may cancel or reduce health coverage under the Employer's Plan. Loss of Medicare or Medicaid entitlement would allow the Participant to add health coverage under the Employer's Plan.

(e) Family Medical Leave Act. If an Employee is taking leave under the rules of the Family Medical Leave Act, the Employee may revoke previous elections and re-elect benefits upon return to work.

(f) COBRA Qualifying Event. If an Employee has a COBRA qualifying event (a reduction in hours of the Employee, or a Dependent ceases eligibility), the Employee may increase his pre-tax contributions for coverage under the Employer's Plan if a COBRA event occurs with respect to the Employee, the Employee's spouse or Dependent. The COBRA rule does not apply to COBRA coverage under another Employer's Plan.

(g) Changes in Eligibility for Adult Children. To the extent the Employer amends a plan listed in Item F of the Adoption Agreement that provides benefits that are excluded from an Employee's income under Code Section 105 to provide that Adult Children (as defined in Section 2.04(c)) are eligible to receive benefits under the plan, an Eligible Employee may make or change an election under this Plan to add coverage for the Adult Child and to make any corresponding change to the Eligible Employee's coverage that is consistent with adding coverage for the Adult Child.

(h) Cancellation due to reduction in hours of service. A Participant may cancel group health plan (as that term is defined in Code Section 9832(a)) coverage, except Health FSA coverage, under the Employer's Plan if both of the following conditions are met:

(i) The Participant has been in an employment status under which the Participant was reasonably expected to average at least 30 hours of service per week and there is a change in that Participant's status so that the Participant will reasonably be expected to average less than 30 hours of service per week after the change, even if that reduction does not result in the Participant ceasing to be eligible under the group health plan; and

(ii) The cancellation of the election of coverage under the Employer's group health plan coverage corresponds to the intended enrollment of the Participant, and any related individuals who cease coverage due to the cancellation, in another plan that provides minimum essential coverage with the new coverage effective no later than the first day of the second month following the month that includes the date the original coverage is cancelled.

(i) Cancellation due to enrollment in a Qualified Health Plan. A participant may cancel group health plan (as that term is defined in Code Section 9832(a)) coverage, except Health FSA coverage, under the Employer's Plan if both of the following conditions are met:

(i) The Participant is eligible for a Special Enrollment Period (as defined in Code Section 9801(f)) to enroll in a Qualified Health Plan(as described in section 1311 of the Patient Protection and Affordable Care Act (PPACA)) through a competitive marketplace established under section 1311(c) of PPACA (Marketplace), pursuant to guidance issued by the Department of Health and Human Services and any other applicable guidance, or the Participant seeks to enroll in a Qualified Health Plan through a Marketplace during the Marketplace's annual open enrollment period; and

(ii) The cancellation of the election of coverage under the Employer's group health plan coverage corresponds to the intended enrollment of the Participant and any related individuals who cease coverage due to the cancellation in a Qualified Health Plan through a Marketplace for new coverage that is effective beginning no later than the day immediately following the last day of the original coverage that is cancelled.

4.03 OTHER EXCEPTIONS TO IRREVOCABILITY OF ELECTIONS. Other exceptions to the irrevocability of election requirement permit mid-year election changes and apply to all qualified benefits except for Medical Expense Reimbursement Plans, as follows:

(a) Change in Cost. If the cost of a benefit package option under the Plan significantly increases during the plan year, Participants may (i) make a corresponding increase in their salary reduction amount, (ii) revoke their elections and make a prospective election under another benefit option offering similar coverage, or (iii) revoke election completely if no similar coverage is available, including in spouse or dependent's plan. If the cost significantly decreases, employees may elect coverage even if they had not previously participated and may drop their previous election for a similar coverage option in order to elect the benefit package option that has decreased in cost during the year. If the

increased or decreased cost of a benefit package option under the Plan is insignificant, the participant's salary reduction amount shall be automatically adjusted.

(b) Significant curtailment of coverage.

(i) With no loss of coverage. If the coverage under a benefit package option is significantly curtailed or ceases during the Plan Year, affected Participants may revoke their elections for the curtailed coverage and make a new prospective election for coverage under another benefit package option providing similar coverage.

(ii) With loss of coverage. If there is a significant curtailment of coverage with loss of coverage, affected Participants may revoke election for curtailed coverage and make a new prospective election for coverage under another benefit package option providing similar coverage, or drop coverage if no similar benefit package option is available.

(c) Addition or Significant Improvement of Benefit Package Option. If during the Plan Year a new benefit package option is added or significantly improved, eligible employees, whether currently participating or not, may revoke their existing election and elect the newly added or newly improved option.

(d) Change in Coverage of a Spouse or Dependent Under Another Employer's Plan. If there is a change in coverage of a spouse, former spouse, or Dependent under another employer's plan, a Participant may make a prospective election change that is on account of and corresponds with a change made under the plan of the spouse or Dependent. This rule applies if (1) mandatory changes in coverage are initiated by either the insurer of spouse's plan or by the spouse's employer, or (2) optional changes are initiated by the spouse's employer or by the spouse through open enrollment.

(e) Loss of coverage under other group health coverage. If during the Plan Year coverage is lost under any group health coverage sponsored by a governmental or educational institution, a Participant may prospectively change his or her election to add group health coverage for the affected Participant or his or her spouse or dependent.

4.04 CASH BENEFIT: Available amounts not used for the purchase of benefits under this Plan may be considered a cash benefit under the Plan payable to the Participant as taxable income to the extent indicated in Item E of the Adoption Agreement.

4.05 PAYMENT FROM EMPLOYER'S GENERAL ASSETS: Payment of benefits under this Plan shall be made by the Employer from Elective Contributions which shall be held as a part of its general assets.

4.06 EMPLOYER MAY HOLD ELECTIVE CONTRIBUTIONS: Pending payment of benefits in accordance with the terms of this Plan, Elective Contributions may be retained by the Employer in a separate account or, if elected by the Employer and as permitted or required by regulations of the Internal Revenue Service, Department of Labor or other governmental agency, such amounts of Elective Contributions may be held in a trust pending payment.

4.07 MAXIMUM EMPLOYER CONTRIBUTIONS: With respect to each Participant, the maximum amount made available to pay benefits for any Plan Year shall not exceed the Employer's Contribution specified in the Adoption Agreement and as provided in this Plan.

## SECTION V

## GROUP MEDICAL INSURANCE BENEFIT PLAN

5.01 PURPOSE: These benefits provide the group medical insurance benefits to Participants.

5.02 ELIGIBILITY: Eligibility will be as required in Items F(1), F(3), and F(4) of the Adoption Agreement.

5.03 DESCRIPTION OF BENEFITS: The benefits available under this Plan will be as defined in Items F(1), F(3), and F(4) of the Adoption Agreement.

5.04 TERMS, CONDITIONS AND LIMITATIONS: The terms, conditions and limitations of the benefits offered shall be as specifically described in the Policy identified in the Adoption Agreement.

5.05 COBRA: To the extent required by Section 4980B of the Code and Sections 601 through 607 of ERISA, Participants and Dependents shall be entitled to continued participation in this Group Medical Insurance Benefit Plan by contributing monthly (from their personal assets previously subject to taxation) 102% of the amount of the premium for the desired benefit during the period that such individual is entitled to elect continuation coverage, provided, however, in the event the continuation period is extended to 29 months due to disability, the premium to be paid for continuation coverage for the 11 month extension period shall be 150% of the applicable premium.

5.06 SECTION 105 AND 106 PLAN: It is the intention of the Employer that these benefits shall be eligible for exclusion from the gross income of the Participants covered by this benefit plan, as provided in Code Sections 105 and 106, and all provisions of this benefit plan shall be construed in a manner consistent with that intention. It is also the intention of the Employer to comply with the provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985 as outlined in the policies identified in the Adoption Agreement.

5.07 CONTRIBUTIONS: Contributions for these benefits will be provided by the Employer on behalf of a Participant as provided for in Item E of the Adoption Agreement.

5.08 UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT: Notwithstanding anything to the contrary herein, the Group Medical Insurance Benefit Plan shall comply with the applicable provisions of the Uniformed Services Employment and Reemployment Rights Act of 1994 (Public Law 103-353).

## SECTION VI

## DISABILITY INCOME BENEFIT PLAN

6.01 PURPOSE: This benefit provides disability insurance designated to provide income to Participants during periods of absence from employment because of disability.

6.02 ELIGIBILITY: Eligibility will be as required in Item F(2) of the Adoption Agreement.

6.03 DESCRIPTION OF BENEFITS: The benefits available under this Plan will be as defined in Item F(2) of the Adoption Agreement.

6.04 TERMS, CONDITIONS AND LIMITATIONS: The terms, conditions and limitations of the Disability Income Benefits offered shall be as specifically described in the Policy identified in the Adoption Agreement.

6.05 SECTION 104 AND 106 PLAN: It is the intention of the Employer that the premiums paid for these benefits shall be eligible for exclusion from the gross income of the Participants covered by this benefit plan, as provided in Code Sections 104 and 106, and all provisions of this benefit plan shall be construed in a manner consistent with that intention.

6.06 CONTRIBUTIONS: Contributions for this benefit will be provided by the Employer on behalf of a Participant as provided for in Item E of the Adoption Agreement.

## SECTION VII

## GROUP AND INDIVIDUAL LIFE INSURANCE PLAN

7.01 PURPOSE: This benefit provides group life insurance benefits to Participants and may provide certain individual policies as provided for in Item F(5) of the Adoption Agreement.

7.02 ELIGIBILITY: Eligibility will be as required in Item F(5) of the Adoption Agreement.

7.03 DESCRIPTION OF BENEFITS: The benefits available under this Plan will be as defined in Item F(5) of the Adoption Agreement.

7.04 TERMS, CONDITIONS, AND LIMITATIONS: The terms, conditions, and limitations of the group life insurance are specifically described in the Policy identified in the Adoption Agreement.

7.05 SECTION 79 PLAN: It is the intention of the Employer that the premiums paid for the benefits described in Item F(5) of the Adoption Agreement shall be eligible for exclusion from the gross income of the Participants covered by this benefit plan to the extent provided in Code Section 79, and all provisions of this benefit plan shall be construed in a manner consistent with that intention.

7.06 CONTRIBUTIONS: Contributions for this benefit will be provided by the Employer on behalf of a Participant as provided for in Item E of the Adoption Agreement. Any individual policies purchased by the Employer for the Participant will be owned by the Participant.

## SECTION VIII

## MEDICAL EXPENSE REIMBURSEMENT PLAN

8.01 PURPOSE: The Medical Expense Reimbursement Plan is designed to provide for reimbursement of Eligible Medical Expenses (as defined in Section 8.04) that are not reimbursed under an insurance plan, through damages, or from any other source. It is the intention of the Employer that amounts allocated for this benefit shall be eligible for exclusion from gross income, as provided in Code Sections 105 and 106, for Participants who elect this benefit and all provisions of this Section VIII shall be construed in a manner consistent with that intention.

8.02 ELIGIBILITY: The eligibility provisions are set forth in Item F(7) of the Adoption Agreement.

8.03 TERMS, CONDITIONS, AND LIMITATIONS:

(a) Accounts. The Reimbursement Recordkeeper shall establish a recordkeeping account for each Participant. The Reimbursement Recordkeeper shall maintain a record of each account on an on-going basis, increasing the balances as contributions are credited during the year and decreasing the balances as Eligible Medical Expenses are reimbursed. No interest shall be payable on amounts recorded in any Participant's account.

(b) Maximum benefit. The maximum amount of reimbursement for each Participant shall be limited to the amount of the Participant's Elective Contribution allocated to the program during the Plan Year, not to exceed the maximum amount set forth in Item F(7) of the Adoption Agreement.

(c) Claim Procedure. In order to be reimbursed for any medical expenses incurred during the Plan Year, the Participant shall complete the form(s) provided for such purpose by the Reimbursement Recordkeeper. The Participant shall submit the completed form to the Reimbursement Recordkeeper with an original bill or other proof of the expense acceptable to the Reimbursement Recordkeeper. No reimbursement shall be made on the basis of an incomplete form or inadequate evidence of expense as determined by the Reimbursement Recordkeeper. Forms for reimbursement of Eligible Medical Expenses must be submitted no later than the ninetieth (90th) day following the last day of the Plan Year during which the Eligible Medical Expenses were incurred. Reimbursement payments shall only be made to the Participant, or the Participant's legal representative in the event of incapacity or death of the Participant. Forms for reimbursement shall be reviewed in accordance with the claims procedure set forth in Section XII.

(d) Funding. The funding of the Medical Reimbursement Plan shall be through contributions by the Employer from its general assets to the extent of Elective Contributions directed by Participants. Such contributions shall be made by the Employer when benefit payments and account administrative expenses become due and payable under this Medical Expense Reimbursement Plan.

(e) Forfeiture. Subject to Section 8.06 and 8.07, any amounts remaining to the credit of the Participant at the end of the Plan Year and not used for Eligible Medical Expenses incurred during the Participant's participation during the Plan Year shall be forfeited and shall remain assets of the Plan. With respect to a Participant who terminates employment with the Employer and who has not elected to continue coverage under this Plan pursuant to COBRA rights referenced under Section 8.03(f) herein, such Participant shall not be entitled to reimbursement for Eligible Medical Expenses incurred after his termination date regardless if such Participant has any amounts of Employer Contributions remaining to his credit. Upon the death of any Participant who has any amounts of Employer Contributions remaining to his credit, a dependent of the Participant may elect to continue to claim reimbursement for Eligible Medical Expenses in the same manner as the Participant could have for the balance of the Plan Year.

(f) COBRA. To the extent required by Section 4980B of the Code and Sections 601 through 607 of ERISA ('COBRA"), a Participant and a Participant's Dependents shall be entitled to elect continued participation in this Medical Expense Reimbursement Plan only through the end of the plan year in which the qualifying event occurs, by contributing monthly (from their personal assets previously subject to taxation) to the Employer/Administrator, 102% of the amount of desired reimbursement through the end of the Plan Year in which the qualifying event occurs. Specifically, such individuals will be eligible for COBRA continuation coverage only if they have a positive Medical Expense Reimbursement Account balance on the date of the qualifying event. Participants who

have a deficit balance in their Medical Expense Reimbursement Account on the date of their qualifying event shall not be entitled to elect COBRA coverage. In lieu of COBRA, Participants may continue their coverage through the end of the current Plan Year by paying those premiums out of their last paycheck on a pre-tax basis.

(g) Nondiscrimination. Benefits provided under this Medical Expense Reimbursement Plan shall not be provided in a manner that discriminates in favor of Employees or Dependents who are highly compensated individuals, as provided under Section 105(h) of the Code and regulations promulgated thereunder.

(h) Uniform Coverage Rule. Notwithstanding that a Participant has not had withheld and credited to his account all of his contributions elected with respect to a particular Plan Year, the entire aggregate annual amount elected with respect to this Medical Expense Reimbursement Plan (increased by any Carryover to the Plan Year), shall be available at all times during such Plan Year to reimburse the participant for Eligible Medical Expenses with respect to this Medical Expense Reimbursement Plan. To the extent contributions with respect to this Medical Expense Reimbursement Plan are insufficient to pay such Eligible Medical Expenses, it shall be the Employer's obligation to provide adequate funds to cover any short fall for such Eligible Medical Expenses for a Participant; provided subsequent contributions with respect to this Medical Expense Reimbursement Plan by the Participant shall be available to reimburse the Employer for funds advanced to cover a previous short fall.

(i) Uniformed Services Employment and Reemployment Rights Act. Notwithstanding anything to the contrary herein, this Medical Expense Reimbursement Plan shall comply with the applicable provisions of the Uniformed Services Employment and Reemployment Rights Act of 1994 (Public Law 103-353).

(j) Proration of Limit. In the event that the Employer has purchased a uniform coverage risk policy from the Recordkeeper, then the Maximum Coverage amount specified in Section F.7 of the Adoption Agreement shall be pro rated with respect to (i) an Employee who becomes a Participant and enters the Plan during the Plan Year, and (ii) short plan years initiated by the Employer. Such Maximum Coverage amount will be pro rated by dividing the annual Maximum Coverage amount by 12, and multiplying the quotient by the number of remaining months in the Plan Year for the new Participant or the number of months in the short Plan Year, as applicable.

(k) Continuation Coverage for Certain Dependent Children. In the event that benefits under the Medical Expense Reimbursement Plan does not qualify for the exception from the portability rules of HIPAA, then, effective for Plan Years beginning on or after October 9, 2009, notwithstanding the foregoing provisions, coverage for a Dependent child who is enrolled in the Medical Expense Reimbursement Plan as a student at a post-secondary educational institution will not terminate due to a medically necessary leave of absence before a date that is the earlier of:

- the date that is one year after the first day of the medically necessary leave of absence; or
- the date on which such coverage would otherwise terminate under the terms of the Plan.

For purposes of this paragraph, “medically necessary leave of absence” means a leave of absence of the child from a post-secondary educational institution, or any other change in enrollment of the child at the institution, that: (i) commences while the child is suffering from a serious illness or injury; (ii) is medically necessary; and (iii) causes the child to lose student status for purposes of coverage under the terms of the Plan. A written certification must be provided by a treating

physician of the dependent child to the Plan in order for the continuation coverage requirement to apply. The physician's certification must state that the child is suffering from a serious illness or injury and that the leave of absence (or other change in enrollment) is medically necessary.

8.04 ELIGIBLE MEDICAL EXPENSES:

(a) (a) Eligible Medical Expense in General. The phrase 'Eligible Medical Expense' means any expense incurred by a Participant or any of his Dependents (subject to the restrictions in Sections 8.04(b) and (c)) during a Plan Year that (i) qualifies as an expense incurred by the Participant or Dependents for medical care as defined in Code Section 213(d) and meets the requirements outlined in Code Section 125, (ii) is excluded from gross income of the Participant under Code Section 105(b), and (iii) has not been and will not be paid or reimbursed by any other insurance plan, through damages, or from any other source. Notwithstanding the above, capital expenditures are not Eligible Medical Expenses under this Plan. Further, notwithstanding the above, effective January 1, 2011, only the following drugs or medicines will constitute Eligible Medical Expenses:

(i.) Drugs or medicines that require a prescription;
(ii.) Drugs or medicines that are available without a prescription ("over-the-counter drugs or medicines") and the Participant or Dependent obtains a prescription; and
(iii.) Insulin.

(b) Expenses Incurred After Commencement of Participation. Only medical care expenses incurred by a Participant or the Participant's Dependent(s) on or after the date such Participant commenced participation in the Medical Expense Reimbursement Plan shall constitute an Eligible Medical Expense.

(c) Eligible Expenses Incurred by Dependents. For purposes of this Section, Eligible Medical Expenses incurred by Dependents defined in Section 2.04(c) are eligible for reimbursement if incurred after March 30, 2010; Eligible Medical Expenses incurred by Dependents defined in Sections 2.04(a) and (b) are eligible for reimbursement if incurred either before or after March 30, 2010 (subject to the restrictions of Section 8.04(b)).

(d) Health Savings Accounts. If the Employer has elected in Item F.8 of the Adoption Agreement to allow Eligible Employees to contribute to Health Savings Accounts under the Plan, then for a Participant who is eligible for and elects to contribute to a Health Savings Accounts, Eligible Medical Expenses shall be limited as set forth in Item F.8 of the Adoption Agreement.

8.05 USE OF DEBIT CARD: In the event that the Employer elects to allow the use of debit cards ("Debit Cards") for reimbursement of Eligible Medical Expenses (other than over-the-counter drugs or medicines) under the Medical Expense Reimbursement Plan, the provisions described in this Section shall apply. However, beginning January 1, 2011, a Debit Card may not be used to purchase drugs or medicines over-the-counter.

(a) Substantiation. The following procedures shall be applied for purposes of substantiating claimed Eligible Medical Expenses after the use of a Debit Card to pay the claimed Eligible Medical Expense:

(i) If the dollar amount of the transaction at a health care provider equals the dollar amount of the co-payment for that service under the Employer's major medical plan of the specific employee-cardholder, the charge is fully substantiated without the need for submission of a receipt or further review.

(ii) If the merchant, service provider, or other independent third-party (e.g., pharmacy benefit manager), at the time and point of sale, provides information to verify to the Recordkeeper (including electronically by e-mail, the internet, intranet, or telephone) that the charge is for a medical expense, the charge is fully substantiated without the need for submission of a receipt or further review.

(b) Status of Charges. All charges to a Debit Card, other than co-payments and real-time substantiation as described in Subsection (a) above, are treated as conditional pending confirmation of the charge, and additional third-party information, such as merchant or service provider receipts, describing the service or product, the date of the service or sale, and the amount, must be submitted for review and substantiation.

(c) Correction Procedures for Improper Payments. In the event that a claim has been reimbursed and is subsequently identified as not qualifying for reimbursement, one or all of the following procedures shall apply:

(i) First, upon the Recordkeeper's identification of the improper payment, the Eligible Employee will be required to pay back to the Plan an amount equal to the improper payment.

(ii) Second, where the Eligible Employee does not pay back to the Plan the amount of the improper payment, the Employer will have the amount of the improper payment withheld from the Eligible Employee's wages or other compensation to the extent consistent with applicable law.

(iii) Third, if the improper payment still remains outstanding, the Plan may utilize a claim substitution or offset approach to resolve improper claims payments.

(iv) If the above correction efforts prove unsuccessful, or are otherwise unavailable, the Eligible Employee will remain indebted to the Employer for the amount of the improper payment. In that event and consistent with its business practices, the Employer may treat the payment as it would any other business indebtedness.

(v) In addition to the above, the Employer and the Plan may take other actions they may deem necessary, in their sole discretion, to ensure that further violations of the terms of the Debit Card do not occur, including, but not limited to, denial of access to the Debit Card until the indebtedness is repaid by the Eligible Employee.

(d) Intent to Comply with Rev. Rul. 2003-43. It is the Employer's intent that any use of Debit Cards to pay Eligible Medical Expenses shall comply with the guidelines for use of such cards set forth in Rev. Rul. 2003-43, and this Section 8.05 shall be construed and interpreted in a manner necessary to comply with such guidelines.

8.06 GRACE PERIOD: If the Employer elects in Section F.7 of the Adoption Agreement to permit a Grace Period with respect to the Medical Reimbursement Plan, the provisions of this Section 8.06 shall apply. Notwithstanding anything to the contrary herein and in accordance with Internal Revenue Service

Notice 2005-42, a Participant who has unused contributions relating to the Medical Reimbursement Plan from the immediately preceding Plan Year, and who incurs Eligible Medical Expenses for such qualified benefit during the Grace Period, may be paid or reimbursed for those Eligible Medical Expenses from the unused contributions as if the expenses had been incurred in the immediately preceding Plan Year. For purposes of this Section, 'Grace Period' shall mean the period extending to the 15th day of the third calendar month after the end of the immediately preceding Plan Year to which it relates. Eligible Medical Expenses incurred during the Grace Period shall be reimbursed first from unused contributions allocated to the Medical Reimbursement Plan for the prior Plan Year, and then from unused contributions for the current Plan Year, if participant is enrolled in current Plan Year.

8.07 Carryover: If the Employer elects in Section F.7 of the Adoption Agreement to permit a Carryover with respect to the Medical Reimbursement Plan, the provisions of this Section 8.07 shall apply. Notwithstanding anything to the contrary herein and in accordance with Internal Revenue Service Notice 2013-71, the Carryover for a Participant who has an amount remaining unused as of the end of the run-off period for the Plan Year, may be used to pay or reimburse Eligible Medical Expenses during the following entire Plan Year. The Carryover does not count against or otherwise affect the Maximum benefit set forth in Section 8.03 (b). Eligible Medical Expenses incurred during a Plan Year shall be reimbursed first from unused contributions for the current Plan Year, and then from any Carryover carried over from the preceding Plan Year. Any unused amounts from the prior Plan Year that are used to reimburse a current Plan Year expense (a) reduce the amounts available to pay prior Plan Year expenses during the run-off period, (b) must be counted against any Carryover amount from the prior Plan Year, and (c) cannot exceed the maximum Carryover from the prior Plan Year. If the Employer elects to apply Section 8.06 in Section F.7 of the Adoption Agreement, this Section 8.07 shall not apply.

8.08 QUALIFIED RESERVIST DISTRIBUTIONS: Notwithstanding anything in the Plan to the contrary, an individual who, by reason of being a member of a reserve component (as defined in 37 U.S.C. § 101), is ordered or called to active duty for a period in excess of 179 days or for an indefinite period may elect to receive a distribution of all or a portion of the unused Elective Contributions in his or her Account relating to the Medical Expense Reimbursement Plan if the distribution is made during the period beginning on the date of such order or call and ending on the last date that reimbursements could otherwise be made under the Plan for the Plan Year that includes the date of such order or call. If the distribution is for the entire amount of unused Elective Contributions available in the Medical Expense Reimbursement Plan, then no additional reimbursement requests will be processed for the remainder of the Plan Year.

## SECTION IX

## DEPENDENT CARE REIMBURSEMENT PLAN

9.01 PURPOSE: The Dependent Care Reimbursement Plan is designed to provide for reimbursement of certain employment-related dependent care expenses of the Participant. It is the intention of the Employer that amounts allocated for this benefit shall be eligible for exclusion from gross income, as provided in Code Section 129, for Participants who elect this benefit, and all provisions of this Section IX shall be construed in a manner consistent with that intention.

9.02 ELIGIBILITY: The eligibility provisions are set forth in Item F(6) of the Adoption Agreement.

9.03 TERMS, CONDITIONS, AND LIMITATIONS:

(a) Accounts. The Reimbursement Recordkeeper shall establish a recordkeeping account for each Participant. The Reimbursement Recordkeeper shall maintain a record of each account on an on-going basis, increasing the balances as contributions are credited during the year and decreasing the balances as Eligible Dependent Care Expenses are reimbursed. No interest shall be payable on amounts recorded in any Participant's account.

(b) Maximum Benefit. The maximum amount of reimbursement for each Participant shall be limited to the amount of the Participant's allocation to the program during the Plan Year not to exceed the maximum amount set forth in Item F(6) of the adoption agreement.

(c) For purpose of this Section IX, the phrase "earned income" shall mean wages, salaries, tips and other employee compensation, but only if such amounts are includible in gross income for the taxable year. A Participant's spouse who is physically or mentally incapable of self-care as described in Section 9.04(a)(ii) or a spouse who is a full-time student within the meaning of Code Section 21(e)(7) shall be deemed to have earned income for each month in which such spouse is so disabled (or a full-time student). The amount of such deemed earned income shall be $250 per month in the case of one Dependent and $500 per month in the case of two or more Dependents.

(d) Claim Procedure. In order to be reimbursed for any dependent care expenses incurred during the Plan Year, the Participant shall complete the form(s) provided for such purpose by the Reimbursement Recordkeeper. The Participant shall submit the completed form to the Reimbursement Recordkeeper with an original bill or other proof of the expense from an independent third party acceptable to the Reimbursement Recordkeeper. No reimbursement shall be made on the basis of an incomplete form or inadequate evidence of the expense as determined by the Reimbursement Recordkeeper. Claims for reimbursement of Eligible Dependent Care Expenses must be submitted no later than the ninetieth (90th) day following the last day of the Plan Year during which the Eligible Dependent Care Expenses were incurred. Reimbursement payments shall only be made to the Participant, or the Participant's legal representative in the event of the incapacity or death of the Participant. Forms for reimbursement shall be reviewed in accordance with the claims procedure set forth in Section XII.

(e) Funding. The funding of the Dependent Care Reimbursement Plan shall be through contributions by the Employer from its general assets to the extent of Elective Contributions directed by Participants. Such contributions shall be made by the Employer when benefit payments and account administration expenses become due and payable under this Dependent Care Expense Reimbursement Plan.

(f) Forfeiture. Any amounts remaining to the credit of the Participant at the end of the Plan Year and not used for Eligible Dependent Care Expenses incurred during the Plan Year shall be forfeited and remain assets of the Plan.

(g) Nondiscrimination. Benefits provided under this Dependent Care Reimbursement Plan shall not be provided in a manner that discriminates in favor of Highly Compensated Employees (as defined in Code Section 414(q)) or their dependents, as provided in Code Section 129. In addition, no more than 25 percent of the aggregate Eligible Dependent Care Expenses shall be reimbursed during a Plan Year to five percent owners, as provided in Code Section 129.

9.04 DEFINITIONS:

(a) "Dependent" (for purposes of this Section IX) means any individual who is:

(i) a Participant's qualifying child (as defined in Code Section 152 (c)) who has not attained the age of 13; or

(ii) a dependent (qualifying child or qualifying relative, as defined in Code Section 152 (c) and (d), respectively) or the spouse of a Participant who is physically or mentally incapable of self-care, and who has the same principal place of abode as the taxpayer for more than half of the taxable year. For purposes of this Dependent Care Reimbursement Plan, an individual shall be considered physically or mentally incapable of self-care if, as a result of a physical or mental defect, the individual is incapable of caring for his or her hygienic or nutritional needs, or requires full-time attention of another person for his or her own safety or the safety of others.

(b) "Dependent Care Center" (for purposes of this Section IX) shall be a facility which:

(i) provides care for more than six individuals (other than individuals who reside at the facility);

(ii) receives a fee, payment, or grant for providing services for any of the individuals (regardless of whether such facility is operated for profit); and

(iii) satisfies all applicable laws and regulations of a state or unit of local government.

(c) "Eligible Dependent Care Expenses" (for purposes of this Section IX) shall mean expenses incurred by a Participant which are:

(i) incurred for the care of a Dependent of the Participant or for related household services;

(ii) paid or payable to a Dependent Care Service Provider; and

(iii) incurred to enable the Participant to be gainfully employed for any period for which there are one or more Dependents with respect to the Participant.

"Eligible Dependent Care Expenses" shall not include expenses incurred for services outside the Participant's household for the care of a Dependent unless such Dependent is (i) a qualifying child (as defined in Code Section 152 (c)) under the age of 13, or (ii) a dependent (qualifying child or qualifying relative, as defined in Code Section 152 (c) and (d), respectively)), who is physically or mentally incapable of self-care, and who has the same principal place of abode as the Participant for more than half of the taxable year, or (iii) the spouse of a Participant who is physically or mentally incapable of self-care, and who has the same principal place of abode as the Participant for more than half of the taxable year. Eligible Dependent Care Expenses shall be deemed to be incurred at the time the services to which the expenses relate are rendered.

(d) "Dependent Care Service Provider" (for purposes of this Section IX) means:

(i) a Dependent Care Center, or

(ii) a person who provides care or other services described in Section 9.04(b) and who is not a related individual described in Section 129(c) of the Code.

## SECTION X

## HEALTH SAVINGS ACCOUNTS

10.01 PURPOSE: If elected by the Employer in Section F.8 of the Adoption Agreement, the Plan will permit pre-tax contributions to the Health Savings Account, and the provisions of this Article X shall apply.

10.02 BENEFITS: A Participant can elect benefits under the Health Savings Accounts portion of this Plan by electing to pay his or her Health Savings Account contributions on a pre-tax salary reduction basis. In addition, the Employer may make contributions to the Health Savings Account for the benefit of the Participant.

10.03 TERMS, CONDITIONS AND LIMITATION:

(a) Maximum Benefit. The maximum annual contributions that may be made to a Participant's Health Savings Account under this Plan is set forth in Section F.8 of the Adoption Agreement.

(b) Mid-Year Election Changes. Notwithstanding any to the contrary herein, a Participant election with respect to contributions for the Health Savings Account shall be revocable during the duration of the Plan Year to which the election relates. Consequently, a Participant may change his or her election with respect to contributions for the Health Savings Account at any time.

10.04 RESTRICTIONS ON MEDICAL REIMBURSEMENT PLAN: If the Employer has elected in Section F.8 of the Adoption Agreement both Health Savings Accounts under this Plan and the Medical Expense Reimbursement Plan, then the Eligible Medical Expenses that may be reimbursed under the Medical Reimbursement Plan for Participants who are eligible for and elect to participate in Health Savings Accounts shall be limited as set forth in Section F.8 of the Adoption Agreement.

10.05 NO ESTABLISHMENT OF ERISA PLAN: It is the intent of the Employer that the establishment of Health Savings Accounts are completely voluntary on the part of Participants, and that, in accordance with Department of Labor Field Assistance Bulletin 2004-1, the Health Savings Accounts are not "employee welfare benefit plans" for purposes of Title I of ERISA.

## SECTION XI

## AMENDMENT AND TERMINATION

11.01 AMENDMENT: The Employer shall have the right at any time, and from time to time, to amend, in whole or in part, any or all of the provisions of this Plan, provided that no such amendment shall change the terms and conditions of payment of any benefits to which Participants and covered dependents otherwise have become entitled to under the provisions of the Plan, unless such amendment is made to comply with federal or local laws or regulations. The Employer also shall have the right to make any amendment retroactively which is necessary to bring the Plan into conformity with the Code. In addition, the Employer may amend any provisions or any supplements to the Plan and may merge or combine supplements or add additional supplements to the Plan, or separate existing supplements into an additional number of supplements.
The Employer shall not have the right to reduce or affect the value of any Participant's Account Balance or any rights accrued under the Plan prior to amendment.

11.02 TERMINATION: The Employer shall have the right at any time to terminate this Plan, provided that such termination shall not eliminate any obligations of the Employer which therefore have arisen under the Plan.
In the event of the termination of the Plan, all Account Balances shall be disposed to or for the benefit of each Participant or Beneficiary as soon as reasonably practicable following the Plan's termination. The Employer shall not have the right to reduce or affect the value of any Participant's account or any rights accrued under the Plan prior to termination of the Plan. The Participant's or Beneficiary's written consent to the commencement of distribution shall not be required regardless of the value of his or her Account Balance.

## SECTION XII

## ADMINISTRATION

12.01 NAMED FIDUCIARIES: The Administrator shall be the fiduciary of the Plan.

12.02 APPOINTMENT OF RECORDKEEPER: The Employer may appoint a Reimbursement Recordkeeper which shall have the power and responsibility of performing recordkeeping and other ministerial duties arising under the Medical Expense Reimbursement Plan and the Dependent Care Reimbursement Plan provisions of this Plan. The Reimbursement Recordkeeper shall serve at the pleasure of, and may be removed by, the Employer without cause. The Recordkeeper shall receive reasonable compensation for its services as shall be agreed upon from time to time between the Administrator and the Recordkeeper.

12.03 POWERS AND RESPONSIBILITIES OF ADMINISTRATOR:

(a) General. The Administrator shall be vested with all powers and authority necessary in order to amend and administer the Plan, and is authorized to make such rules and regulations as it may deem necessary to carry out the provisions of the Plan. The Administrator shall determine any questions arising in the administration (including all questions of eligibility and determination of amount, time and manner of payments of benefits), construction, interpretation and application of the Plan, and the decision of the Administrator shall be final and binding on all persons.

(b) Recordkeeping. The Administrator shall keep full and complete records of the administration of the Plan. The Administrator shall prepare such reports and such information concerning the Plan and

the administration thereof by the Administrator as may be required under the Code or ERISA and the regulations promulgated thereunder.

(c) Inspection of Records. The Administrator shall, during normal business hours, make available to each Participant for examination by the Participant at the principal office of the Administrator a copy of the Plan and such records of the Administrator as may pertain to such Participant. No Participant shall have the right to inquire as to or inspect the accounts or records with respect to other Participants.

12.04 COMPENSATION AND EXPENSES OF ADMINISTRATOR: The Administrator shall serve without compensation for services as such. All expenses of the Administrator shall be paid by the Employer. Such expenses shall include any expense incident to the functioning of the Plan, including, but not limited to, attorneys' fees, accounting and clerical charges, actuary fees and other costs of administering the Plan.

12.05 LIABILITY OF ADMINISTRATOR: Except as prohibited by law, the Administrator shall not be liable personally for any loss or damage or depreciation which may result in connection with the exercise of duties or of discretion hereunder or upon any other act or omission hereunder except when due to willful misconduct. In the event the Administrator is not covered by fiduciary liability insurance or similar insurance arrangements, the Employer shall indemnify and hold harmless the Administrator from any and all claims, losses, damages, expenses (including reasonable counsel fees approved by the Administrator) and liability (including any reasonable amounts paid in settlement with the Employer's approval) arising from any act or omission of the Administrator, except when the same is determined to be due to the willful misconduct of the Administrator by a court of competent jurisdiction.

12.06 DELEGATIONS OF RESPONSIBILITY: The Administrator shall have the authority to delegate, from time to time, all or any part of its responsibilities under the Plan to such person or persons as it may deem advisable and in the same manner to revoke any such delegation of responsibilities which shall have the same force and effect for all purposes hereunder as if such action had been taken by the Administrator. The Administrator shall not be liable for any acts or omissions of any such delegate. The delegate shall report periodically to the Administrator concerning the discharge of the delegated responsibilities.

12.07 RIGHT TO RECEIVE AND RELEASE NECESSARY INFORMATION: The Administrator may release or obtain any information necessary for the application, implementation and determination of this Plan or other Plans without consent or notice to any person. This information may be released to or obtained from any insurance company, organization, or person subject to applicable law. Any individual claiming benefits under this Plan shall furnish to the Administrator such information as may be necessary to implement this provision.

12.08 CLAIM FOR BENEFITS: To obtain payment of any benefits under the Plan a Participant must comply with the rules and procedures of the particular benefit program elected pursuant to this Plan under which the Participant claims a benefit.

12.09 GENERAL CLAIMS REVIEW PROCEDURE: This provision shall apply only to the extent that a claim for benefits is not governed by a similar provision of a benefit program available under this Plan or is not governed by Section 12.10.

(a) Initial Claim for Benefits. Each Participant may submit a claim for benefits to the Administrator as provided in Section 12.08. A Participant shall have no right to seek review of a denial of benefits,

or to bring any action in any court to enforce a claim for benefits prior to his filing a claim for benefits and exhausting his rights to review under this section.

When a claim for benefits has been filed properly, such claim for benefits shall be evaluated and the claimant shall be notified of the approval or the denial within (90) days after the receipt of such claim unless special circumstances require an extension of time for processing the claim. If such an extension of time for processing is required, written notice of the extension shall be furnished to the claimant prior to the termination of the initial ninety (90) day period which shall specify the special circumstances requiring an extension and the date by which a final decision will be reached (which date shall not be later than one hundred and eighty (180) days after the date on which the claim was filed.) A claimant shall be given a written notice in which the claimant shall be advised as to whether the claim is granted or denied, in whole or in part. If a claim is denied, in whole or in part, the claimant shall be given written notice which shall contain (a) the specific reasons for the denial, (b) references to pertinent plan provisions upon which the denial is based, (c) a description of any additional material or information necessary to perfect the claim and an explanation of why such material or information is necessary, and (d) the claimant's rights to seek review of the denial.

(b) Review of Claim Denial. If a claim is denied, in whole or in part, the claimant shall have the right to request that the Administrator review the denial, provided that the claimant files a written request for review with the Administrator within sixty (60) days after the date on which the claimant received written notification of the denial. A claimant (or his duly authorized representative) may review pertinent documents and submit issues and comments in writing to the Administrator. Within sixty (60) days after a request is received, the review shall be made and the claimant shall be advised in writing of the decision on review , unless special circumstances require an extension of time for processing the review, in which case the claimant shall be given a written notification within such initial sixty (60) day period specifying the reasons for the extension and when such review shall be completed (provided that such review shall be completed within one hundred and twenty (120) days after the date on which the request for review was filed.) The decision on review shall be forwarded to the claimant in writing and shall include specific reasons for the decision and references to plan provisions upon which the decision is based. A decision on review shall be final and binding on all persons.

(c) Exhaustion of Remedies. If a claimant fails to file a request for review in accordance with the procedures herein outlined, such claimant shall have no rights to review and shall have no right to bring action in any court and the denial of the claim shall become final and binding on all persons for all purposes.

12.10 SPECIAL CLAIMS REVIEW PROCEDURE: The provisions of this Section 12.10 shall be applicable to claims under the Group Medical Reimbursement Plan and the Group Medical Insurance Plan, effective on the first day of the first Plan Year beginning on or after July 1, 2002, but in no event later than January 1, 2003, provided such plans are subject to ERISA.

(a) Benefit Denials: The Administrator is responsible for evaluating all claims for reimbursement under the Medical Expense Reimbursement Plan and the Group Medical Insurance Plan.

The Administrator will decide a Participant’s claim within a reasonable time not longer than 30 days after it is received. This time period may be extended for an additional 15 days for matters beyond the control of the Administrator, including in cases where a claim is incomplete. The Participant will receive written notice of any extension, including the reasons for the extension and information on the date by which a decision by the Administrator is expected to be made. The Participant will

be given 45 days in which to complete an incomplete claim. The Administrator may secure independent medical or other advice and require such other evidence as it deems necessary to decide the claim.

If the Administrator denies the claim, in whole or in part, the Participant will be furnished with a written notice of adverse benefit determination setting forth:

1. the specific reason or reasons for the denial;

2. reference to the specific Plan provision on which the denial is issued;

3. a description of any additional material or information necessary for the Participant to complete his claim and an explanation of why such material or information is necessary, and

4. appropriate information as to the steps to be taken if the Participant wishes to appeal the Administrator's determination, including the participant's right to submit written comments and have them considered, his right to review (on request and at no charge) relevant documents and other information, and his right to file suit under ERISA with respect to any adverse determination after appeal of his claim.

(b) Appealing Denied Claims: If the Participant's claim is denied in whole or in part, he may appeal to the Administrator for a review of the denied claim. The appeal must be made in writing within 180 days of the Administrator's initial notice of adverse benefit determination, or else the participant will lose the right to appeal the denial. If the Participant does not appeal on time, he will also lose his right to file suit in court, as he will have failed to exhaust his internal administrative appeal rights, which is generally a prerequisite to bringing suit.

A Participant's written appeal should state the reasons that he feels his claim should not have been denied. It should include any additional facts and/or documents that the Participant feels support his claim. The Participant may also ask additional questions and make written comments, and may review (on request and at no charge) documents and other information relevant to his appeal. The Administrator will review all written comment the Participant submits with his appeal.

(c) Review of Appeal: The Administrator will review and decide the Participant's appeal within a reasonable time not longer than 60 days after it is submitted and will notify the Participant of its decision in writing. The individual who decides the appeal will not be the same individual who decided the initial claim denial and will not be that individual's subordinate. The Administrator may secure independent medical or other advice and require such other evidence as it deems necessary to decide the appeal, except that any medical expert consulted in connection with the appeal will be different from any expert consulted in connection with the initial claim. (The identity of a medical expert consulted in connection with the Participant's appeal will be provided.) If the decision on appeal affirms the initial denial of the Participant's claim, the Participant will be furnished with a notice of adverse benefit determination on review setting forth:

1. The specific reason(s) for the denial,

2. The specific Plan provision(s) on which the decision is based,

3. A statement of the Participant's right to review (on request and at no charge) relevant documents and other information,

4. If the Administrator relied on an "internal rule, guideline, protocol, or other similar criterion" in making the decision, a description of the specific rule, guideline, protocol, or other similar criterion or a statement that such a rule, guideline, protocol, or other similar criterion was relied on and that a copy of such rule, guideline, protocol, or other criterion will be provided free of charge to the Participant upon request," and

5. A statement of the Participant's right to bring suit under ERISA § 502(a).

12.11 PAYMENT TO REPRESENTATIVE: In the event that a guardian, conservator or other legal representative has been duly appointed for a Participant entitled to any payment under the Plan, any such payment due may be made to the legal representative making claim therefor, and such payment so made shall be in complete discharge of the liabilities of the Plan therefor and the obligations of the Administrator and the Employer.

12.12 PROTECTED HEALTH INFORMATION. The provisions of this Section will apply only to those portions of the Plan that are considered a group health plan for purposes of 45 CFR Parts 160 and 164. The Plan may disclose PHI to employees of the Employer, or to other persons, only to the extent such disclosure is required or permitted pursuant to 45 CFR Parts 160 and 164. The Plan has implemented administrative, physical, and technical safeguards to reasonably and appropriately protect, and restrict access to and use of, electronic PHI, in accordance with Subpart C of 45 CFR Part 164. The applicable claims procedures under the Plan shall be used to resolve any issues of non-compliance by such individuals. The Employer will:

- not use or disclose PHI other than as permitted or required by the plan documents and permitted or required by law;
- reasonably and appropriately safeguard electronic PHI created, received, maintained, or transmitted to or by it on behalf of the Plan, in accordance with Subpart C of 45 CFR Part 164;
- implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic PHI that it creates, receives, maintains, or transmits on behalf of the Plan;
- ensure that any agents including a subcontractors to whom it provides PHI received from the Plan agree to the same restrictions and conditions that apply to the Employer with respect to such information;
- not use or disclose PHI for employment-related actions and decisions or in connection with any other employee benefit plan of the Employer;
- report to the Plan any use or disclosure of the information that is inconsistent with the permitted uses or disclosures provided for of which it becomes aware;
- make available PHI in accordance with 45 CFR Section 164.524;
- make available PHI for amendment and incorporate any amendments to PHI in accordance with 45 CFR Section 164.526;
- make available the information required to provide an accounting of disclosures in accordance with 45 CFR Section 164.528;

- make its internal practices, books, and records relating to the use and disclosure of PHI received from the Plan available to the Secretary of Health and Human Services or his designee upon request for purposes of determining compliance with 45 CFR Section 164.504(f);
- if feasible, return or destroy all PHI received from the Plan that the Employer still maintains in any form and retain no copies of such information when no longer needed for the purposes for which ~~the~~ disclosure was made, except that, if such return or destruction is not feasible, limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible; and,
- ensure that the adequate separation required in paragraph (f)(2)(iii) of 45 CFR Section 164.504 is established.

For purposes of this Section, "PHI" is "Protected Health Information" as defined in 45 CFR Section 160.103, which ~~is~~ means individually identifiable health information, except as provided in paragraph (2) of the definition of "Protected Health Information" in 45 CFR Section 160.103, that is transmitted by electronic media; maintained in electronic media; or transmitted or maintained in any other form or medium by a covered entity, as defined in 45 CFR Section 164.104.

## SECTION XIII

## MISCELLANEOUS PROVISIONS

13.01 INABILITY TO LOCATE PAYEE: If the Plan Administrator is unable to make payment to any Participant or other person to whom a payment is due under the Plan because it cannot ascertain the identity or whereabouts of such Participant or other person after reasonable efforts have been made to identify or locate such person, then such payment and all subsequent payments otherwise due to such Participant or other person shall be forfeited following a reasonable time after the date any such payment first became due.

13.02 FORMS AND PROOFS: Each Participant or Participant's Beneficiary eligible to receive any benefit hereunder shall complete such forms and furnish such proofs, receipts, and releases as shall be required by the Administrator.

13.03 NO GUARANTEE OF TAX CONSEQUENCES: Neither the Administrator nor the Company makes any commitment or guarantee that any amounts paid to or for the benefit of a Participant or a Dependent under the Plan will be excludable from the Participant's or Dependent's gross income for federal or state income tax purposes, or that any other federal or state tax treatment will apply to or be available to any Participant or Dependent.

13.04 PLAN NOT CONTRACT OF EMPLOYMENT: The Plan will not be deemed to constitute a contract of employment between the Employer and any Participant nor will the Plan be considered an inducement for the employment of any Participant or employee. Nothing contained in the Plan will be deemed to give any Participant or employee the right to be retained in the service of the Employer nor to interfere with the right of the Employer to discharge any Participant or employee at any time regardless of the effect such discharge may have upon that individual as a Participant in the Plan.

13.05 NON-ASSIGNABILITY: No benefit under the Plan shall be liable for any debt, liability, contract, engagement or tort of any Participant or his Beneficiary, nor be subject to charge, anticipation, sale, assignment, transfer, encumbrance, pledge, attachment, garnishment, execution or other voluntary or involuntary alienation or other legal or equitable process, nor transferability by operation of law.

13.06 SEVERABILITY: If any provision of the Plan will be held by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions hereof will continue to be fully effective.

13.07 CONSTRUCTION:

(a) Words used herein in the masculine or feminine gender shall be construed as the feminine or masculine gender, respectively where appropriate.

(b) Words used herein in the singular or plural shall be construed as the plural or singular, respectively, where appropriate.

13.08 NONDISCRIMINATION: In accordance with Code Section 125(b)(1), (2), and (3), this Plan is intended not to discriminate in favor of Highly Compensated Participants (as defined in Code Section 125(e)(1)) as to contributions and benefits nor to provide more than 25% of all qualified benefits to Key Employees. If, in the judgment of the Administrator, more than 25% of the total nontaxable benefits are provided to Key Employees, or the Plan discriminates in any other manner (or is at risk of possible discrimination), then, notwithstanding any other provision contained herein to the contrary, and, in accordance with the applicable provisions of the Code, the Administrator shall, after written notification to affected Participants, reduce or adjust such contributions and benefits under the Plan as shall be necessary to insure that, in the judgment of the Administrator, the Plan shall not be discriminatory.

13.09 ERISA. The Plan shall be construed, enforced, and administered and the validity determined in accordance with the applicable provisions of the Employee Retirement Income Security Act of 1974 (as amended), the Internal Revenue Code of 1986 (as amended), and the laws of the State indicated in the Adoption Agreement. Notwithstanding anything to the contrary herein, the provisions of ERISA will not apply to this Plan if the Plan is exempt from coverage under ERISA. Should any provisions be determined to be void, invalid, or unenforceable by any court of competent jurisdiction, the Plan will continue to operate, and for purposes of the jurisdiction of the court only will be deemed not to include the provision determined to be void.

**PD 1214sw**

# Moraga-Orinda Fire District

**TO:** Board of Directors

**FROM:** Gloriann Sasser, Administrative Services Director

**DATE:** May 4, 2016

**SUBJECT:** Item 8.5 – Contra Costa County Employees' Retirement Association Economic Assumptions and Rates

---

## BACKGROUND

The District provides employee pension benefits through the Contra Costa County Employees' Retirement Association (CCCERA). The District's rates and costs are determined by CCCERA based on an actuarial valuation that is completed every year. The actuarial valuation is based on economic assumptions that are adopted by the CCCERA Board. Every three years the CCCERA Board reviews the economic assumptions.

The CCCERA Board met on April 27, 2016 and reviewed the economic assumptions to be used to prepare the upcoming December 31, 2015 actuarial valuation. This actuarial valuation will be used to determine the District's CCCERA rates for fiscal year 2017-18. The CCCERA actuary, Segal and Company, recommended CCCERA maintain the investment return assumption of 7.25% per year. However, the CCCERA Board majority voted to reduce the investment return assumption to 7.00% per year. This assumption change will likely significantly increase the District's contribution rates. This assumption change will also likely result in an increase to the District net pension liability.

Since the CCCERA Board's action, Staff has:

- Contacted CCCERA and requested additional information regarding the effect of this change on the District's 2017-18 rates and updated 5-year projections.
- Contacted Bartel and Associates (the District's OPEB actuary) and requested information regarding the potential impacts.
- Analyzed the effect on the District's rates of the 2012 reduction by CCCERA of the investment return assumption from 7.75% to 7.25%.
- Analyzed the potential effect of the assumption change on the District's net pension liability.

In 2012, the CCCERA Board reduced the investment return assumption from 7.75% to 7.25%. The effect on the District's rates was as follows:

District CCCERA Rates by Fiscal Year

| | 2013-14 | 2014-15 | 2015-16 | 2016-17 |
|---|---|---|---|---|
| Assumption Investment Return | 7.75% | 7.25% | 7.25% | 7.25% |
| Employer Normal Cost | 32.03% | 31.29% | 27.80% | 27.53% |
| Employer UAAL | 20.91% | 48.74% | 43.23% | 43.07% |
| Employer Total Contribution Rate | 52.94% | 80.03% | 71.03% | 70.60% |

It is important to note that there are many factors in addition to the investment return assumption that effect the District's rates and net pension liability.

Other useful information regarding this issue comes from Segal's December 31, 2014 Actuarial Valuation. This report included information regarding the sensitivity of the District's net pension liability to changes in the investment return assumption. The following presents the net pension liability as of December 31, 2014, calculated using the investment return assumption of 7.25%, as well as what the net pension liability would be if it were calculated using a discount rate that is 1-percentage-point lower (6.25%) or 1-percentage-point higher (8.25%) than the current rate:

| | 1% Decrease 6.25% | Previous Rate 7.25% | 1% Increase 8.25% |
|---|---|---|---|
| Net pension liability as of December 31, 2014 | $52,707,179 | $28,612,847 | $9,025,971 |

In addition, at the CCCERA meeting Segal told the CCCERA Board that in June 2016 Segal will be recommending a substantially longer mortality rate. The CCCERA Board will consider the non-economic assumptions in June. This change would also likely result in increased contribution rates and an increase to the net pension liability.

CCCERA has communicated that they plan to have the December 31, 2015 actuarial valuation completed and available in July 2016. After that, updated five-year projected contribution rates will be provided.

Staff will continue to monitor this situation and provide additional information as it becomes available.

## RECOMMENDATION

No action required; Informational purposes only

## ATTACHMENT

1) Attachment A – Segal Consulting Review of Economic Actuarial Assumptions for the December 31, 2015 Actuarial Valuation of the Contra Costa County Employees' Retirement Association

Attachment A

Meeting Date
04/27/16
Agenda Item
#4

# CONTRA COSTA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

## Review of Economic Actuarial Assumptions for the December 31, 2015 Actuarial Valuation

Segal Consulting


APRIL 2016

Attachment A

Segal Consulting

100 Montgomery Street Suite 500 San Francisco, CA 94104-4308
T 415.263.8200 www.segalco.com

April 19, 2016

Board of Retirement
Contra Costa County Employees' Retirement Association
1355 Willow Way, Suite 221
Concord, CA 94520

**Re: Review of Economic Actuarial Assumptions**
**For the December 31, 2015 Actuarial Valuation**

Dear Members of the Board:

We are pleased to submit this report of our review of the economic actuarial assumptions for use in the Contra Costa County Employees' Retirement Association (CCCERA) December 31, 2015 actuarial valuation. This report includes our recommendations and the analysis supporting their development.

Please note that December 31, 2015 is also the year of the CCCERA's triennial non-economic actuarial experience study. The non-economic actuarial assumption recommendations will be provided in a separate report once we complete our analysis.

We are Members of the American Academy of Actuaries and meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion herein.

We look forward to reviewing this report with you and answering any questions you may have.

Sincerely,

Paul Angelo, FSA, EA, MAAA, FCA
Senior Vice President and Actuary

John Monroe, ASA, EA, MAAA
Vice President and Actuary

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## I. INTRODUCTION, SUMMARY, AND RECOMMENDATIONS

To project the cost and liabilities of the pension fund, assumptions are made about all future events that could affect the amount and timing of the benefits to be paid and the assets to be accumulated. Each year actual experience is compared against the projected experience, and to the extent there are differences, the future contribution requirement is adjusted.

If assumptions are changed, contribution requirements are adjusted to take into account a change in the projected experience in all future years. There is a great difference in both philosophy and cost impact between recognizing the actuarial deviations as they occur annually and changing the actuarial assumptions. Taking into account one year's gains or losses without making a change in the assumptions in effect assumes that experience was temporary and that, over the long run, experience will return to what was originally assumed. Changing assumptions reflects a basic change in thinking about the future, and it has a much greater effect on the current contribution requirements than recognizing gains or losses as they occur.

The use of realistic actuarial assumptions is important to maintain adequate funding, while fulfilling benefit commitments to participants already retired and to those near retirement. The actuarial assumptions do not determine the "actual cost" of the plan. The actual cost is determined solely by the benefits and administrative expenses paid out, offset by investment income received. However, it is desirable to estimate as closely as possible what the actual cost will be so as to permit an orderly method for setting aside contributions today to provide benefits in the future, and to maintain equity among generations of participants and taxpayers.

This study was undertaken in order to review the economic actuarial assumptions. The study was performed in accordance with Actuarial Standard of Practice (ASOP) No. 27, "Selection of Economic Assumptions for Measuring Pension Obligations." This Standard of Practice puts forth guidelines for the selection of the economic actuarial assumptions utilized in a pension plan actuarial valuation.

Please note that the investment return assumption recommended in this report has been developed without taking into consideration the impact of any "excess earnings" as described in the Board's Interest crediting and Excess Earnings Policy.

We are recommending changes in the inflation and "across the board" salary increase assumptions. The merit and promotional salary increase assumptions will be reviewed in the triennial experience study of non-economic assumptions being performed this year. Our recommendations for the economic actuarial assumptions for the December 31, 2015 Actuarial Valuation are as follows:

**Inflation** – Future increases in the Consumer Price Index (CPI) which drive investment returns and active member salary increases, as well as COLA increases to retired members.
***Recommendation: Reduce the rate from 3.25% to 3.00% per annum. We also recommend decreasing the assumed COLA for those tiers with a 4.00% maximum COLA from 3.25% to 3.00% per year.***

**Investment Return** - The estimated average future rate of return, net of investment expenses, on current and future assets of CCCERA as of the valuation date. This rate is used to discount liabilities.
***Recommendation: Maintain the investment return assumption at 7.25% per annum. This would be consistent with the Board's past practice of having margin for adverse deviation under the risk-adjusted model used by Segal. We further recommend changing to an explicit treatment of administrative expenses in the selection of an investment return assumption for use both in funding and in financial reporting required by the Governmental Accounting Standards Board (GASB).***

**Individual Salary Increases** - Increases in the salary of a member between the date of the valuation and the date of separation from active service. This assumption has three components:

- Inflationary salary increases,
- Real "across the board" salary increases, and
- Merit and promotional increases.

***Recommendation: Reduce the current inflationary salary increase assumption from 3.25% per annum to 3.00% per annum and reduce the current real "across the board" salary increase assumption from 0.75% to 0.50%. This means that the combined inflationary and real "across the board" salary increases will decrease from 4.00% to 3.50%. Please note that the merit and promotional increase assumption ranges from 0.75% to 9.50% for General and 0.75% to 10.00% for Safety. The merit and promotional increases will be reviewed as part of our triennial experience study of non-economic assumptions.***

Section II provides some background on basic principles and the methodology used for the review of the economic actuarial assumptions. A detailed discussion of each of the economic assumptions and reasons behind the recommendations is found in Section III.

## II. BACKGROUND AND METHODOLOGY

For this study, we analyzed "economic" assumptions only. Our analysis of the "non-economic" assumptions for the December 31, 2015 valuation will be provided in a separate report at a later date. The primary economic assumptions are inflation, investment return and salary increases.

***Economic Assumptions***

Economic assumptions consist of:

***Inflation*** - Increases in the price of goods and services. The inflation assumption reflects the basic return that investors expect from securities markets. It also reflects the expected basic salary increase for active members and drives increases in the allowances of retired members.

***Investment Return*** – Expected long term rate of return on CCCERA's investments after expenses. This assumption has a significant impact on contribution rates.

***Salary Increases*** – In addition to inflationary increases, it is assumed that salaries will also grow by "across the board" real pay increases in excess of price inflation. It is also assumed that members will receive raises above these average increases as they advance in their careers. These are commonly referred to as promotional and merit increases. Payments to amortize any Unfunded Actuarial Accrued Liability (UAAL) are assumed to increase each year by the price inflation rate plus any "across the board" pay increases that are assumed.

The setting of these assumptions is described in Section III.

## III. ECONOMIC ASSUMPTIONS

### A. INFLATION

Unless an investment grows at least as fast as prices increase, investors will experience a reduction in the inflation-adjusted value of their investment. There may be times when "riskless" investments return more or less than inflation, but over the long term, investment market forces will generally require an issuer of fixed income securities to maintain a minimum return which protects investors from inflation.

The inflation assumption is long term in nature, so it is set using primarily historical information. Following is an analysis of 15-year and 30-year moving averages of historical inflation rates:

**Historical Consumer Price Index – 1930 to 2015**

(U.S. City Average - All Urban Consumers)

| | 25th Percentile | Median | 75th Percentile |
|---|---|---|---|
| 15-year moving averages | 2.5% | 3.4% | 4.6% |
| 30-year moving averages | 3.1% | 4.1% | 4.9% |

The average inflation rates have continued to decline gradually over the last several years due to the relatively low inflationary period over the past two decades. Also, the more recent 15-year averages are lower as they do not include the high inflation years of the mid-1970s and early 1980s.

For 2015, the public fund survey published by the National Association of State Retirement Administrators (NASRA) no longer contains the distribution of the inflation assumptions used by the responding retirement systems included in their survey. We contacted the NASRA staff and we were able to obtain the inflation assumptions used by 76 large public retirement funds in their 2014 valuations. The median value of those inflation assumptions is 3.00%. In California, CalPERS and Marin County use an inflation assumption of 2.75% while CalSTRS, LACERA, OCERS and nine other 1937 Act CERL systems use an inflation assumption of 3.00%.

CCCERA's investment consultant, Verus, anticipates an annual inflation rate of 2.10%. Note that, in general, investment consultants use a time horizon for this assumption that is shorter than the time horizon we use for the actuarial valuation. The average inflation rate used by a sample of eight investment advisory firms is 2.45%.

To find a forecast of inflation based on a longer time horizon, we referred to the 2015 report on the financial status of the Social Security program. The projected average increase in the Consumer Price Index (CPI) over the next 75 years under the intermediate cost assumptions used in that report was 2.70%. We also compared the yields on the thirty-year inflation indexed U. S. Treasury bonds to comparable traditional U. S. Treasury bonds. As of March 2016, the difference in yields is 1.69%, which provides a current measure of market expectations of inflation.

**Based on all of the above information, we recommend that the current 3.25% annual inflation assumption be reduced to 3.00% for the December 31, 2015 actuarial valuation.**

***Retiree Cost-of-Living Increases***

We are also recommending a change to the assumptions we use to value the post-retirement COLA benefit. We recommend decreasing the assumed COLA for tiers with a maximum 4% COLA from 3.25% to 3.00% per year. The current and proposed COLA assumptions are shown below:

| Maximum COLA | Current Assumption | Proposed Assumption |
|---|---|---|
| 2% | 2.00% | 2.00% |
| 3% | 3.00% | 3.00% |
| 4% | 3.25% | 3.00% |

In developing the COLA assumption, we also considered the results of a stochastic approach that would attempt to account for the possible impact of low inflation that could occur before COLA banks are able to be established for the member. Although the results of this type of analysis might justify the use of a lower COLA assumption, we are not recommending that at this time. The reasons for this conclusion include the following:

- The results of the stochastic modeling are significantly dependent on assuming that lower levels of inflation will persist in the early years of the projections. If this is not assumed, then the stochastic modeling will produce results similar to our proposed COLA assumption.
- Using a lower long-term COLA assumption based on a stochastic analysis would mean that an actuarial loss would occur even when the inflation assumption of 3.00% is met in a year. We question the reasonableness of this result.

We do not see the stochastic possibility of COLAs averaging less than those predicted by the assumed rate of inflation as a reliable source of cost savings that should be anticipated in our COLA assumptions. Therefore, we continue to recommend setting the COLA assumption based on the long-term annual inflation assumption, as we have in prior years.

## B. INVESTMENT RETURN

The investment return assumption is comprised of two primary components, inflation and real rate of investment return, with adjustments for expenses and risk.

### *Real Rate of Investment Return*

This component represents the portfolio's incremental investment market returns over inflation. Theory has it that as an investor takes a greater investment risk, the return on the investment is expected to also be greater, at least in the long run. This additional return is expected to vary by asset class and empirical data supports that expectation. For that reason, the real rate of return assumptions are developed by asset class. Therefore, the real rate of return assumption for a retirement association's portfolio will vary with the Board's asset allocation among asset classes.

Following is CCCERA's current target asset allocation and the assumed real rate of return assumptions by asset class. The first column of real rate of return assumptions are determined by reducing Verus' total or "nominal" return assumptions by their assumed 2.10% inflation rate in their December 2015 report. The second column of returns (except for Short-Term Govt/Credit, U.S. Treasury, Risk Diversifying Strategies, Private Credit and Private Equity) represents the average of a sample of real rate of return assumptions, where each firm's nominal returns have been reduced by that firm's assumed inflation rate. The sample includes the expected annual real rates of return provided to us by Verus and by seven other investment advisory firms retained by Segal's California public sector retirement clients. We believe these averages are a reasonable consensus forecast of long term future market returns in excess of inflation.[1]

[1] Note that, just as for the inflation assumption, in general the time horizon used by the investment consultants in determining the real rate of return assumptions is shorter than the time horizon we use for the actuarial valuation.

**CCCERA's Target Asset Allocation and Assumed Arithmetic Real Rate of Return Assumptions by Asset Class and for the Portfolio**

| Asset Class | Percentage of Portfolio | Verus' Assumed Real Rate of Return[1] | Average Real Rate of Return from a Sample of Consultants to Segal's California Public Sector Clients[2] |
|---|---|---|---|
| Large Cap U.S. Equity | 6% | 4.60% | 5.75% |
| Developed International Equity | 10% | 8.90% | 6.99% |
| Emerging Markets Equity | 14% | 11.80% | 8.95% |
| Short-Term Govt/Credit | 24% | 0.20% | 0.20%[3] |
| U.S. Treasury | 2% | 0.30% | 0.30%[3] |
| Real Estate | 7% | 3.80% | 4.45% |
| Cash & Equivalents | 1% | 0.00% | -0.46% |
| Risk Diversifying Strategies | 2% | 4.30% | 4.30%[3] |
| Private Credit | 17% | 6.30% | 6.30%[3] |
| Private Equity | 17% | 8.10% | 8.10%[3] |
| Total Portfolio | 100% | 5.67% | 5.19% |

(1) *Derived by reducing Verus' total rate of return assumptions by their assumed 2.10% inflation rate.*

(2) *These are based on the projected arithmetic real returns provided by the investment advisory firms serving the county retirement associations of Contra Costa, Sonoma, Alameda, Mendocino, Ventura, the LA City Employees' Retirement System, the East Bay Municipal Utility District Retirement Plan and the LA Fire & Police Pensions. These return assumptions are gross of any applicable investment expenses.*

(3) *For these asset classes, the Verus' assumption is applied in lieu of the average because either this is an unique asset class from the firms survey or there exists a large disparity in returns for these asset classes among firms surveyed and because using Verus' assumption should more closely reflect the underlying investments made specifically for CCCERA.*

The above are representative of "indexed" returns and do not include any additional returns ("alpha") from active management. This is consistent with the Actuarial Standard of Practice (ASOP) No. 27, Section 3.8.3.d, which states:

> "Investment Manager Performance - Anticipating superior (or inferior) investment manager performance may be unduly optimistic (pessimistic). The actuary should not assume that superior or inferior returns will be achieved, net of investment expenses, from an active investment management strategy compared to a passive investment management strategy unless the actuary believe, based on relevant supporting data, that such superior or inferior returns represent a reasonable expectation over the measurement period."

The following are some observations about the returns provided above:

1. The investment consultants to our California public sector clients have each provided us with their expected real rates of return for each asset class, over various future periods of time. However, in general, the returns available from investment consultants are projected over time periods shorter than the duration of a retirement plan's liabilities.

2. Using a sample average of expected real rates of return allows CCCERA's investment return assumption to reflect a broader range of capital market information and should help reduce year to year volatility in CCCERA's investment return assumption.

3. Therefore, we recommend that the 5.19% portfolio real rate of return be used to determine CCCERA's investment return assumption. This is 0.29% higher than the return that was used three years ago in the review to prepare the recommended investment return assumption for the December 31, 2012 valuation. The difference is due to changes in CCCERA's target asset allocation (+0.33%), changes in the real rate of return assumptions provided to us by the investment advisory firms (-0.09%) and the effect of the interaction between those two changes[2] (+0.05%).

***Association Expenses***

For funding purposes, the real rate of return assumption for the portfolio needs to be adjusted for investment expenses expected to be paid from investment income. As further discussed later in this report, current practice for CCCERA also adjusts for expected administrative expenses. The following table provides these expenses in relation to the actuarial value of assets for the five years ending December 31, 2014.

[2] This includes the joint effect of the changes in CCCERA's target asset allocation and the changes in the average real rate of return assumptions for each asset category as provided to us by the investment advisory firms.

**Administrative and Investment Expenses as a Percentage of Actuarial Value of Assets**
**(All dollars in 000's)**

| FYE | Actuarial Value of Assets[1] | Administrative Expenses | Investment Expenses[2] | Administrative % | Investment % | Total % |
|---|---|---|---|---|---|---|
| 2010 | $5,355,971 | $5,283 | $30,475 | 0.10% | 0.57% | 0.67% |
| 2011 | 5,441,120 | 6,290 | 30,694 | 0.12 | 0.56 | 0.68 |
| 2012 | 5,497,194 | 6,030 | 34,363 | 0.11 | 0.63 | 0.74 |
| 2013 | 5,922,449 | 6,776 | 38,158 | 0.11 | 0.64 | 0.75 |
| 2014 | 6,572,560 | 6,980 | 41,600 | 0.11 | 0.63 | 0.74 |
| Average | | | | 0.11% | 0.61% | 0.72% |

(1) *As of end of plan year*

(2) *Excludes securities lending expenses. Because we do not assume any additional net return for this program, we effectively assume that any securities lending expenses will be offset by related income.*

The average expense percentage over this five year period is 0.72%. Based on this experience, we have increased the future expense component from 0.65% to 0.75%. This assumption will be re-examined in subsequent assumption reviews as new data becomes available.

Note related to investment expenses paid to active managers – As cited above, under Section 3.8.3.d of ASOP No. 27, the effect of an active investment management strategy should be considered "net of investment expenses…unless the actuary believes, based on relevant data, that such superior or inferior returns represent a reasonable expectation over the measurement period."

We have not performed a detailed analysis to measure how much of the investment expenses paid to active managers might have been offset by additional returns ("alpha") earned by that active management. We believe that such a review would not have a significant impact on the recommended investment return assumption developed using the above expense assumption. For now, we will continue to use the current approach of treating any "alpha" that may be identified as an increase in the risk adjustment and corresponding confidence level in developing the investment return assumption rather than as an offset to any related active management expenses.[3]

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3 As noted earlier, Actuarial Standard of Practice (ASOP) No. 27, Section 3.8.3.d states "Investment Manager Performance - Anticipating superior (or inferior) investment manager performance may be unduly optimistic (pessimistic). The actuary should not assume that superior or inferior returns will be achieved, **net of investment expenses**, from an active investment management strategy compared to a passive investment management strategy unless the actuary believe, based on relevant supporting data, that such superior or inferior returns represent a reasonable expectation over the measurement period." (emphasis added). We believe this means that assuming only enough superior return to cover related investment expenses would not require the relevant supporting data referenced in ASOP No. 27.

***Adjustment to Exclude Administrative Expenses in Developing Investment Return Assumption for use in GASB Financial Reporting***

In 2012, GASB adopted Statements 67 and 68 that replace Statements 25 and 27 for financial reporting purposes. GASB Statements 67 and 68 are effective for plan year 2014 for the Retirement Association and fiscal year 2014/2015 for the employer[4].

According to GASB, the investment return assumption for use in financial reporting purposes should be based on the long-term expected rate of return on a retirement system's investments and should be net of investment expenses but not of administrative expenses (i.e., without reduction for administrative expenses). As can be observed from the above development of the expense assumption, if the Board wishes to develop a single investment return assumption for both funding and financial reporting purposes, then it would be necessary to exclude the roughly 0.11% administrative expense from the above development and to develop a separate treatment of administrative expenses.

The issues associated with eliminating the consideration of administrative expenses when developing the investment return assumption used for funding, and the alternatives that are available to the Board in developing the investment return assumption for use in GASB financial reporting purposes are provided at the end of this Section. While we do recommend that the Board adopt an investment return for funding that is gross of administrative expenses (as discussed in the end of this Section), the preliminary discussion that follows has first been completed on a net of administrative expenses basis, to allow an "apples to apples" comparison with the current assumption.

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4 The new Statements (67 and 68) will require more rapid recognition for investment gains or losses and much shorter amortization for actuarial gains or losses. Because of the more rapid recognition of those changes, retirement systems that have generally utilized the previous Statements (25 and 27) as a guideline to establish the employer's contribution amounts for both funding and financial reporting purposes would now have to prepare two sets of cost results, one for contributions and one for financial reporting under the new Statements.

***Risk Adjustment***

The real rate of return assumption for the portfolio is adjusted to reflect the potential risk of shortfalls in the return assumptions. CCCERA's asset allocation determines this portfolio risk, since risk levels are driven by the variability of returns for the various asset classes and the correlation of returns among those asset classes. This portfolio risk is incorporated into the real rate of return assumption through a risk adjustment.

The purpose of the risk adjustment (as measured by the corresponding confidence level) is to increase the likelihood of achieving the actuarial investment return assumption in the long term.[5] The 5.19% expected real rate of return developed earlier in this report was based on expected mean or average arithmetic returns. This means there is a 50% chance of the actual return in each year being at least as great as the average (assuming a symmetrical distribution of future returns). The risk adjustment is intended to increase that probability somewhat above the 50% level. This is consistent with our experience that retirement plan fiduciaries would generally prefer that returns exceed the assumed rate more often than not. Note that, based on the investment return assumptions recently adopted by systems that have been analyzed under this model, we observe a confidence level generally in the range of 50% to 60%.

Three years ago in the last full review of the economic assumptions, the Board adopted an investment return assumption of 7.25%. That return implied a risk adjustment of 0.25%, reflecting a confidence level of 53% that the actual average return over 15 years would not fall below the assumed return, assuming that the distribution of returns over that period follows the normal statistical distribution.[6]

In our model, the confidence level associated with a particular risk adjustment represents the likelihood that the actual average return would equal or exceed the assumed value over a 15-year period. For example, if we set our real rate of return assumption using a risk adjustment that produces a confidence level of 60%, then there would be a 60% chance (6 out of 10) that the average return over 15 years will be equal to or greater than the assumed value. The 15-year time horizon represents an approximation of the "duration" of the fund's liabilities, where the duration of a liability represents the sensitivity of that liability to interest rate variations.

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[5] This type of risk adjustment is sometimes referred to as a "margin for adverse deviation."

[6] Based on an annual portfolio return standard deviation of 12.44% provided by Milliman USA in 2013. Strictly speaking, future compounded long-term investment returns will tend to follow a log-normal distribution. However, we believe the Normal distribution assumption is reasonable for purposes of setting this type of risk adjustment.

If we use the same 53% confidence level to set this year's risk adjustment, based on the current long-term portfolio standard deviation of 10.80% provided by Verus, the corresponding risk adjustment would be 0.22%. Together with the other investment return components, this produces a net investment return assumption of 7.22%, which is slightly lower than the current assumption of 7.25%. This result supports maintaining the current assumption of 7.25% that would include a risk adjustment of 0.19% and confidence level of 53%.

The table below shows CCCERA's investment return assumptions and, for the years when an analysis was performed, the risk adjustments and corresponding confidence levels as determined in those prior studies.

**Historical Investment Return Assumptions, Risk Adjustments and Confidence Levels Based on Assumptions Adopted by the Board**

| Year Ending December 31 | Investment Return | Risk Adjustment | Corresponding Confidence Level |
|---|---|---|---|
| 2005 | 7.90% | 0.84% | 60% |
| 2006 - 2008 | 7.80% | 0.86% | 60% |
| 2009 - 2011 | 7.75% | 0.41% | 55% |
| 2012 - 2014 | 7.25% | 0.25% | 53% |
| 2015 (Recommended) | 7.25% | 0.19% | 53% |

As we have discussed in prior years, the risk adjustment model and associated confidence level is most useful as a means for comparing how CCCERA has positioned itself relative to risk over periods of time[7]. The use of a 53% confidence level should be considered in context with other factors, including:

- As noted above, the confidence level is more of a relative measure than an absolute measure, and so can be reevaluated and reset for future comparisons.

- The confidence level is based on the standard deviation of the portfolio that is determined and provided to us by Verus. The standard deviation is a statistical measure of the future volatility of the portfolio and so is itself based on assumptions about future portfolio volatility and can be considered somewhat of a "soft" number.

7 In particular, it would not be appropriate to use this type of risk adjustment as a measure of determining an investment return rate that is "risk-free."

- A lower level of inflation should reduce the overall risk of failing to meet the investment return assumption. Maintaining or even lowering the confidence level to some extent could be justified as consistent with the change in the inflation assumption.

- While a confidence level of 53% is within the range of about 50% to 60% that corresponds to the risk adjustments used by most of Segal's other California public retirement system clients, we want to note that most public retirement systems that have recently reviewed their investment return assumptions have considered adopting more conservative investment return assumptions for their valuations, in part to maintain some likelihood that future actual market return will meet or exceed the investment return assumption.

- As with any model, the results of the risk adjustment model should be evaluated for reasonableness and consistency. This is discussed in the later section on "Comparison with Other Public Retirement Systems".

Taking into account the factors above, our preliminary recommendation is to maintain the net investment return assumption at 7.25%. As noted above, this return implies a 0.19% risk adjustment, reflecting a confidence level of 53% that the actual average return over 15 years would not fall below the assumed return.

***Preliminary Recommended Investment Return Assumption***

The following table summarizes the components of the preliminary investment return assumption developed in the previous discussion. For comparison purposes, we have also included similar values from the last study.

**Calculation of Net Investment Return Assumption**

| Assumption Component | December 31, 2015 Preliminary Recommended Value | December 31, 2012 Adopted Value |
|---|---|---|
| Inflation | 3.00% | 3.25% |
| Plus Portfolio Real Rate of Return | 5.19% | 4.90% |
| Minus Expense Adjustment | (0.75%) | (0.65%) |
| Minus Risk Adjustment | (0.19%) | (0.25%) |
| Total | 7.25% | 7.25% |
| Confidence Level | 53% | 53% |

**Based on this analysis, our preliminary recommendation is to maintain the investment return assumption at 7.25% per annum. Our final recommendation follows later in this section after discussion regarding a recommended change in how expected administrative expenses are handled.**

***Comparing with Other Public Retirement Systems***

One final test of the recommended investment return assumption is to compare it against those used by other public retirement systems, both in California and nationwide.

We note that 7.25% is still one of the most common investment return assumptions among those California public sector retirement systems. In particular, the 7.25% assumption is used by seven county employees retirement systems (including CCCERA's current assumption). To our knowledge, there is only one California county employees retirement system who has recently adopted a 7.00% investment return assumption.

The following table compares the CCCERA recommended net investment return assumptions against those of the nationwide public retirement systems that participated in the NASRA 2015 Public Fund Survey for 125 large public retirement funds in their 2014 valuations:

| **Assumption** | **CCCERA** | **NASRA 2015 Public Fund Survey** | | |
|---|---|---|---|---|
| | | Low | Median | High |
| Net Investment Return | 7.25% | 6.50% | 7.75% | 8.50% |

The detailed survey results show that more than one-half of the systems that have an investment return assumption in the range of 6.75% to 7.75%. The survey also notes that several plans have reduced their investment return assumption during the last year, and others are considering doing so. State systems outside of California tend to change their economic assumptions less frequently and so may lag behind emerging practices in this area.

The recommended assumption of 7.25% provides for some margin for adverse deviation within the risk adjustment model and is consistent with the Association's current practice relative to other public systems.

***Developing an Investment Return Assumption for use in Accounting and Financial Reporting under GASB Statement 67 and 68***

The Governmental Accounting Standards Board (GASB) has adopted Statements 67 and 68 that replace Statements 25 and 27 for financial reporting purposes. We now discuss the issues and policy alternatives available to CCCERA in developing its investment return assumptions in a manner that will allow the Plan to maintain consistency in its liability measurements for funding and financial reporting purposes.

**Background**

GASB Statement 67 governs the Plan's financial reporting and is effective for plan year 2014, while GASB Statement 68 governs the employers' financial reporting and is effective for fiscal year 2014/2015. The new Statements specify requirements for measuring both the pension liability and the annual pension expense incurred by the employers. The new GASB requirements are only for financial reporting and do not affect how the Plan determines funding requirements for its employer. Nonetheless, it is important to understand how the new financial reporting results will compare with the funding requirement results. The comparison between funding and GASB financial reporting results will differ dramatically depending on whether one is considering measures of the accumulated pension liability or measures of the current year annual pension contribution/expense:

- When measuring pension liability GASB will use the same actuarial cost method (Entry Age method) and the same type of discount rate (expected return on assets) as CCCERA uses for funding. This means that the GASB "Total Pension Liability" measure for financial reporting will be determined on generally the same basis as CCCERA's "Actuarial Accrued Liability" measure for funding. This is a generally favorable feature of the new GASB rules that should largely preclude the need to explain why CCCERA has two different measures of pension liability. We note that the same is generally true for the "Normal Cost" component of the annual plan cost for both funding and financial reporting.

- When measuring annual pension expense, GASB will require more rapid recognition of investment gains or losses and much shorter amortization of changes in the pension liability (whether due to actuarial gains or losses, actuarial assumption changes or plan amendments). Because of GASB's more rapid recognition of those changes, retirement systems that have generally used the same "annual required contribution" amount for both funding (contributions) and financial reporting (pension expense) will now have to prepare and disclose two different annual cost results, one for contributions and one for financial reporting under the new GASB Statements.

This situation will facilitate the explanation of why the funding and financial reporting results are different: the liabilities and Normal Costs are generally the same, and the differences in annual costs are due to differences in how changes in liability are recognized. However, there is one other feature that will make the liability and Normal Cost measures different unless action is taken by CCCERA.

**Treatment of Expected Administrative Expenses when Measuring Liabilities**

As noted above, according to GASB, the discount rate used for financial reporting purposes should be based on the long-term expected rate of return on a retirement system's investments, just as it is for funding. However, GASB requires that this assumption should be net of investment expenses but not net of administrative expenses (i.e., without reduction for administrative expenses). Currently, CCCERA's investment return assumption used for the annual funding valuation is developed net of both investment and administrative expenses.

While CCCERA could continue to develop its funding investment return assumption net of both investment and administrative expenses, that would mean that CCCERA would then have two slightly different investment return assumptions, one for funding and one for financial reporting. To avoid this apparent discrepancy and to maintain the consistency of liability and Normal Cost measures described above, we believe that it would be preferable to use the same investment return assumption for both funding and financial reporting purposes. This means that the assumption for funding purposes would be developed on a basis that is net of only investment expenses, with an explicit assumption for administrative expenses.

To review, using the same investment return assumption for both purposes would be easier for CCCERA's stakeholders to understand and should result in being able to report CCCERA's Actuarial Accrued Liability (AAL) for funding purposes as the Total Pension Liability (TPL) for financial reporting purposes.

**Development of Investment Return Assumption For Funding on a Gross of Administrative Expenses Basis so the Same Assumption Can Also Be Used for Financial Reporting ("Option A")**

If the Board wishes to develop a single investment return assumption for both funding and financial reporting purposes, then it would be necessary to exclude the administrative expense component of about 0.11% from development of the 7.25% investment return preliminary recommendation. Under this approach, because these economic assumptions are generally changed in ¼% increments, there would be no change in the recommended investment return assumption as developed earlier in this report. Instead,

there would be an increase in the risk adjustment of 0.11% (from 0.19% to 0.30%), with a corresponding increase in the confidence level from 53% to 54%.

Under this approach, there would also be an explicit loading for administrative expenses. There are various ways to set the explicit administrative expense load assumption, but ultimately the method should result in an assumption that is approximately equivalent to about $7 million annually, or 1.0% of payroll.

This approach and our final recommendation for the investment return assumption is presented in the following table.

**Calculation of Net Investment Return Assumption**

| Assumption Component | December 31, 2015 Recommended Values if Used only for Funding (Net of Admin. Expenses) | December 31, 2015 Recommended Values for both Funding and Financial Reporting (Gross of Admin. Expenses) |
|---|---|---|
| Inflation | 3.00% | 3.00% |
| Plus Portfolio Real Rate of Return | 5.19% | 5.19% |
| Minus Expense Adjustment | (0.75%) | (0.64%) |
| Minus Risk Adjustment | (0.19%) | (0.30%) |
| Total | 7.25% | 7.25% |
| Confidence Level | 53% | 54% |
| Increase in combined Employer and Employee Contributions Due to Explicit Load for Administrative Expenses (Cost as % of Payroll) | Not Applicable | 1.0% of payroll |

There is an additional complication associated with eliminating the administrative expenses in developing the investment return assumption used for funding that relates to the allocation of administrative expenses between the employers and members:

1. Even though GASB requires the exclusion of the administrative expenses from the investment return assumption, such expense would continue to accrue for a retirement system. For private sector retirement plans, where the investment return is developed using an approach similar to that required by GASB (i.e., without deducting administrative expenses), contribution requirements are increased explicitly by the anticipated annual administrative expense. That approach is illustrated in the table above.

2. Under CCCERA's current approach of subtracting the administrative expense in the development of the investment return assumption, such annual administrative expense is funded implicitly by effectively deducting it from future expected investment returns. Since an investment return assumption net of investment and administrative expenses has been used historically to establish both the employer's and the member's contribution requirements, these administrative expenses have been funded implicitly by both the employer and the members.

3. A switch from the method described in (2) to the method described in (1) may require a new discussion on how to allocate administrative expenses between employers and members, including possibly establishing a new method to allocate the anticipated annual administrative expense between them. Under current practice, part of the implicit funding of administrative expenses is in the Normal Cost and so is shared between the employer and the members. However, the rest of the implicit expense funding is in the (Unfunded) Actuarial Accrued Liability, which is funded solely by the employers.

4. It is not straightforward to quantify precisely the current implicit sharing of administrative expenses between employers and members. This means that an exact reproduction of that allocation on an explicit basis will be difficult to develop. This in turn means that CCCERA would need to develop a new basis for sharing the cost of administrative expenses, one that if desired, approximately reproduces the current allocation. Alternatively, CCCERA could decide to treat administrative expenses as a loading applied only to the employer contribution rates, which is the practice followed by private plans, both single employer and multi-employer.

5. As the Board is aware, legislative changes under AB 340 imposed major modifications to both the level of benefits and the cost-sharing of the funding of those benefits for county employees' retirement systems. Included in such modifications is the requirement (for future hires) to fund the Normal Cost on a 50:50 basis between the employer and the member. As noted in (3) above, under current practice, part of the implicit funding of administrative expenses is in the Normal Cost and so would be shared between the employer and the members. This would not necessarily continue when the administrative expense loading is developed separate from the Normal Cost.

**If, as we recommend, the Board wishes to continue to develop a single investment return assumption for both funding and financial reporting purposes, it is our recommendation that the Board adopt a change in the funding of administrative expenses from the method described in (2) above with an implicit allocation of administrative expenses to the method described in (1) above with an explicit allocation of administrative expenses.**

**In addition, we recommend that the total explicit administrative expense load assumption be set at 1.0% of payroll, which is approximately equivalent to about 0.11% of assets or $7 million annually. This assumption would be reviewed with each triennial experience study, along with the other economic assumptions.**

The more significant issues mentioned in (3), (4) and (5) above concern whether or not the costs associated with the administrative expenses should continue to be allocated to both the employers and the members. Unless the Board wishes to charge administrative expenses only to the employers, we propose a method whereby the costs associated with the explicit assumption for administrative expenses continue to be allocated to both employers and members. We recommend a straightforward way to do that in a manner generally consistent with current practice, which is to allocate expenses based on the components of the total contribution rate (before expenses) for employers and members. These components would be member Normal Cost contributions, employer Normal Cost contributions and employer UAAL contributions. **Under this recommended approach, of the total administrative expenses of about $7 million or 1.0% of payroll, about $1.6 million or 0.23% of payroll would be allocated to the members and $5.4 million or 0.77% of payroll would be allocated to the employers in the aggregate. This illustrative allocation is based on the 40.06% and 11.84% contribution rates paid by the employers and the members, respectively, in the December 31, 2014 valuation.**

**Development of Investment Return Assumption for Funding on a Net of Administrative Expenses Basis but use that Same Assumption for Financial Disclosure Development ("Option B")**

If the Board decides to leave the recommended investment return assumption of 7.25% on a net of administrative expense basis for funding purposes, we believe there still is a way to use that same 7.25% for financial reporting purposes under GASB. Under this approach, what appears to be the same 7.25% assumption would actually be used as two slightly different assumptions: an assumption net of administrative expenses for funding, and an assumption gross of administrative expenses for financial reporting. This would indirectly result in an increase in the margin for adverse deviation or "confidence level" associated with the use of the recommended 7.25% assumption from 53% as used for funding purposes to 54% only as used for financial reporting purposes.

The Board had previously adopted this Option B on an interim basis for use in performing the December 31, 2013 and 2014 actuarial valuation and the December 31, 2014 GASB 67 report.

The following table summarizes the components of the investment return assumption under this approach, using the recommended assumption for both funding (net of administration expenses) and financial reporting (gross of administration expenses):

**Calculation of Net Investment Return Assumption**

| Assumption Component | December 31, 2015 Recommended Values if Used only for Funding (Net of Admin. Expenses) | December 31, 2015 Alternative Values for Financial Reporting (Gross of Admin. Expenses) |
|---|---|---|
| Inflation | 3.00% | 3.00% |
| Plus Portfolio Real Rate of Return | 5.19% | 5.19% |
| Minus Expense Adjustment | (0.75%) | (0.64%) |
| Minus Risk Adjustment | (0.19%) | (0.30%) |
| Total | 7.25% | 7.25% |
| Confidence Level | 53% | 54% |

Note that under both Option A and Option B the confidence level for financial reporting increases from 53% to 54% (because the risk adjustment increases from 0.19% to 0.30%). The difference is that under Option A the same confidence level increase would apply for funding purposes, along with the addition of an explicit loading on the contribution rates for administrative expenses.

## C. SALARY INCREASE

Salary increases impact plan costs in two ways: (i) by increasing members' benefits (since benefits are a function of the members' highest average pay) and future normal cost collections; and (ii) by increasing total active member payroll which in turn generates lower UAAL contribution rates. These two impacts are discussed separately below.

As a member progresses through his or her career, increases in pay are expected to come from three sources:

1. Inflation – Unless pay grows at least as fast as consumer prices grow, employees will experience a reduction in their standard of living. There may be times when pay increases lag or exceed inflation, but over the long term, labor market forces will require an employer to maintain its members' standards of living.

   **As discussed earlier in this report, we are recommending that the assumed rate of inflation be reduced from 3.25% per annum to 3.00% per annum. This inflation component is used as part of the salary increase assumption.**

2. Real "Across the Board" Pay Increases – These increases are sometimes termed productivity increases since they are considered to be derived from the ability of an organization or an economy to produce goods and services in a more efficient manner. As that occurs, at least some portion of the value of these improvements can provide a source for pay increases. These increases are typically assumed to extend to all employees "across the board." The State and Local Government Workers Employment Cost Index produced by the Department of Labor provides evidence that real "across the board" pay increases have averaged about 0.6% - 0.9% annually during the last ten to twenty years.

   We also referred to the annual report on the financial status of the Social Security program published in July 2015. In that report, real "across the board" pay increases are forecast to be 1.2% per year under the intermediate assumptions.

   The real pay increase assumption is generally considered a more "macroeconomic" assumption, that is not necessarily based on individual plan experience. However, recent salary experience with public systems in California as well as anecdotal discussions with plans and plan sponsors indicate lower future real wage growth expectations for public sector employees. We note that for CCCERA's active members, the actual average inflation plus "across the board" increase (i.e., wage inflation) over the three-year period ending December 31, 2014 was actually negative, at -0.5%.

**Considering these factors, we recommend reducing the real "across the board" salary increase assumption from 0.75% to 0.50%. This means that the combined inflation and "across the board" salary increase assumption will decrease from 4.00% to 3.50%.**

3. Individual Merit and Promotional Increases – As the name implies, these increases come from a member's career advances. This form of pay increase differs from the previous two, since it is specific to the individual. For CCCERA, this assumption is structured as a function of a member's service. The assumed increases range from 0.75% to 9.50% for General members and 0.75% to 10.00% for Safety members. This assumption is derived from member-specific information as part of the triennial experience study.

**Recommended merit and promotional assumptions will be studied as part of our triennial experience analysis.**

All three of these forces will be incorporated into a salary increase assumption which is applied in the actuarial valuation to project future benefits and future normal cost contribution collections.

***Active Member Payroll***

Projected active member payrolls are used to develop the UAAL contribution rate. Future values are determined as a product of the number of employees in the workforce and the average pay for all employees. The average pay for all employees is assumed to increase only by inflation and real "across the board" pay increases. The merit and promotional increases are not an influence, because this average pay is not specific to an individual.

**We recommend that the active member payroll increase assumption be decreased from 4.00% to 3.50% annually, consistent with the combined inflation plus real "across the board" salary increase assumptions.**

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# Moraga-Orinda Fire District

**TO:** Board of Directors

**FROM:** Stephen Healy, Fire Chief

**DATE:** May 4, 2016

**SUBJECT:** Item 8.6 – Palos Colorados Mitigation Agreement

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Background

In an effort to improve fire and life safety, the Fire Marshal has been working with the developer of the Palos Colorados project in Moraga for several months. The projects includes 123 single family homes in east Moraga. (The Developers are the *Richfield Real Estate Corporation* and the *Bigbury Company*). They have collectively acknowledged that the Project may place an increased burden on the District's provision of fire protection services to the project contingent upon EBMUD's actual fire flow rates to the Project. As a result, the developer has agreed to pay the District a total of $180,000 as a fire protection services mitigation within 60 days following the issuance of the first building permit for the Project towards the purchase of a new fire engine.

Therefore, staff concurrently negotiated a one-time payment of $180,000 by the developers to be used towards the purchase of a new fire engine. The District's long-range Capital Budget Plan has two new engines scheduled for replacement in FY 2017/18. The projected cost of a new engine in 2017 is $585,000. If the Board approves receiving this money, the cost of one of the fire engines would be reduced to approximately $405,000.

Due to the fact that the first building permit may be issued towards the end of FY 2016/17, staff is bringing this agreement to the Board for approval at this time.

**RECOMMENDATION**

1) Discuss, 2) Deliberate, 3) Authorize staff to execute agreement between the District and the Richfield Real Estate Corporation and the Bigbury Company.

**ATTACHMENTS**

1) Attachment A – MOU between District and Richfield Real Estate Corporation and the Bigbury Company.

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**PALOS COLORADOS**
**MORAGA-ORINDA FIRE DISTRICT**

**MEMORANDUM OF UNDERSTANDING**

This Palos Colorados Moraga Orinda Fire District Memorandum of Understanding (the "MOU") is entered into as of the ___ day of April, 2016 by and between the MORAGA-ORINDA FIRE DISTRICT ("District"), RICHFIELD REAL ESTATE CORPORATION ("Richfield"), and BIGBURY COMPANY ("Bigbury"). Collectively, District, Richfield, and Bigbury may be referred to as the "Parties."

**RECITALS**

**A.** Richfield is successor-in-interest to Richfield Investment Corporation ("RIC") Richland Development Corporation ("Richland"), the former developers of the Palos Colorados Project as further defined below. Richfield is now the developer and the agent for Bigbury with respect to the development of the property on behalf of Bigbury. Hereinafter, all references to "Richfield" refer to Richfield, RIC, and Richland unless otherwise noted. Richfield and Bigbury shall be collectively referred to as the "Developer," unless otherwise noted below.

**B.** Developer completed the final map ("Final Map") process for the Palos Colorados project on an approximately 460-acre site in the Town of Moraga involving the development of 123 homes and the preservation of more than 400 acres of habitat and open space (the "Palos Colorados Project") on the property shown in **Exhibit A** attached hereto and incorporated herein by reference.

**C.** Following several years of litigation, on August 23, 1999 Lafayette, Moraga, Bigbury, and Richland entered into the Palos Colorados Settlement Agreement to resolve all litigation associated with the Palos Colorados Project (the "1999 Settlement Agreement"). The 1999 Settlement Agreement provided for the development, and established a process for obtaining the entitlements necessary for a 123-unit residential development project with an 18-hole golf course. Among other requirements, Richland agreed to the future golf course operator's payment of the Golf Course Municipal Fund as further defined below in Recital J.

**D.** For more than 6 years after entering into the 1999 Settlement Agreement, Richland and RIC attempted unsuccessfully to obtain approvals from the state and federal agencies related to the residential and golf course development. After failed attempts to obtain agency approvals to proceed with the project, at the request of Moraga, RIC filed an application on March 15, 2006 for approval of a General Development Plan ("GDP") for the Palos Colorados project without the golf course (hereinafter, the "Project" or "Palos Colorados Project").

**E.** Lafayette appealed Moraga's determination that elimination of the golf course was consistent with the 1999 Settlement Agreement in that it allowed Developer to proceed with

a General Development Plan application, and on August 1, 2006, Lafayette filed a Petition for Writ of Mandate and Complaint in Contra Costa County Superior Court entitled *City of Lafayette v. Bigbury Investment Corp., et al.* (Case No. N06-1149) alleging that Moraga violated the 1999 Settlement Agreement and Moraga's municipal ordinances in allowing Developer to proceed with a General Development Plan application for the Project. On September 6, 2006, Developer filed a cross-complaint alleging that Lafayette's action constituted a breach of the 1999 Settlement Agreement.

**F.** Moraga, RIC, and Lafayette then entered into a second Settlement Agreement on February 14, 2007 to resolve all litigation concerning the Palos Colorados Project (the "2007 Settlement Agreement"), and in May 2006, Moraga adopted an Addendum to the Palos Colorados EIR and approved the General Development Plan for the Project (the "General Development Plan") for the 123-unit Palos Colorados Project.

**G.** On May 7, 2007, Moraga approved the Palos Colorados Vesting Tentative Map with its adoption of Resolution 26-07PC (the "Vesting Tentative Map") which became effective on May 18, 2007, and includes conditions of approval that must be performed prior to Final Map, grading permit, building permit and specified certificates of occupancy pursuant to Moraga's approval processes set forth in the Moraga Code of Ordinances and in effect when the Vesting Tentative Map was approved. Subsequently, on May 13, 2009, Moraga approved the Palos Colorados Precise Development Plan with associated design guidelines by adopting Resolution No. 35-2009.

**H.** Prior to the Town's approval of the Project, the District submitted comments regarding the provision of fire services to the Project.

**I.** In response to the District's comments, Vesting Tentative Map Condition B.VTM.24 provides that prior to final subdivision map ("Final Map") approval, the Developer shall make pro rata fair share payments to the District in accordance with the District's Ordinance 02-02, the Standards of Coverage and the District/ applicant (aka "Developer") agreement.

**J**. In 2015, Richfield took over the completion and implementation of the Final Map. During the Final Map process, the Developer has been working with the District and East Bay Municipal Utility District ("EBMUD") to assure the provision of adequate fire protection services to the Project, and in this regard has entered into this MOU with the District regarding future payments to the District in accordance with Condition B.VTM.24.

NOW THEREFORE, in consideration of the above Recitals, which are an essential part of the Parties' MOU and are therefore incorporated by reference into the MOU set forth below, and for other good and valuable consideration, the receipt and adequacy of which is acknowledged, it is hereby agreed as follows:

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AGREEMENT

**1. Developer Partial Payment of Fire Engine.**

**1.1 Fire Services Payment**. Developer acknowledges that the Project may place an increased burden on the District's provision of fire protection services to the Project contingent upon EBMUD's actual fire flow rates to the Project. Subject to Sections 1.2 and 1.4, below, Developer hereby agrees to pay District a total amount not to exceed One Hundred and Eighty Thousand Dollars ($180,000) as a fire protection services contribution ("Fire Services Payment") payable to the District with 60 days following the issuance of the first building permit for the Project ("First Building Permit"). For purposes of this Agreement the Fire Services Payment date shall be referred to as the "Payment Date."

**1.2 Satisfaction of Fire Services Obligations.** Upon issuance of the First Building Permit, Developer shall pay District the Fire Services Payment provided that: (i) the Moraga Town Council has approved the Final Map, and (ii) EBMUD provides written confirmation to District and Developer, prior to issuance of the First Building Permit, that EBMUD will not otherwise be able to provide the original VTM fire flow rate of 2,250 gpm to the Project in accordance with Section 1.4, below. In the event that Developer is subject to the Fire Services Payment under this Section 1.2, the Fire Services Payment shall satisfy any, and all fire services-related obligations or District requirements under VTM Condition J. VTM 61 and Condition B.VTM.24, and shall offset any and all required fire flow rates for the Project, and any other applicable Fire Codes, regulations, policies and ordinances.

**1.3 Deposit to be Applied to Type 1 or Type 3 Engine**. The District shall fully apply the Fire Services Payment to a Type 1 or Type 3 engine following Developer's Fire Services Payment to the District's purchase of an engine. The District shall use its best efforts, at its sole cost and expense for the maintenance, repairs and replacement of such engine to ensure that the Type 1 or Type 3 engine is in service as part of the District's emergency fleet to service calls at the Project site, prior to the issuance of the first certificate of occupancy for a Palos Colorados residence.

**1.4 Elimination of Fire Services Payment.** The Parties acknowledge and agree that EBMUD may be able to provide higher fire flow rates in the future that would be comparable to the rates EBMUD previously agreed to supply to the Project at the time of VTM approval. In the event that EBMUD confirms to District and Developer prior to issuance of the first grading permit, that EBMUD will supply the 2,250 gpm fire flow rate to the Project, Developer shall not be obligated to fund the Fire Services Payment prior to the Payment Date. In such event, Developer shall be released from the Fire Services Payment and any and all obligations to partially fund the Type 1 or Type 3 engine, and the provision of the 2,250 gpm fire flow rate by EBMUD shall satisfy any and all fire services-related obligations under VTM Condition B.VTM.24 and J.VTM.61.

(a) In the event that District does not provide written confirmation that it will provide 2,250 gpm fire flow rate, Developer shall fund the Fire Services Payment in accordance with Section 1.1, above.

(b) District shall acknowledge and provide written confirmation, which may be in the form of a receipt of payment, that Developer's payment of the Fire Services Payment satisfies any and all required flow rates for the Project in accordance with Section 1.2, above, and Developer shall have no further obligation regarding the provision of fire services as set forth in this Section 1.

**2. Pro Rata Payments.** In accordance with the terms and conditions set forth in Vesting Tentative Map Condition B.VTM.24, Developer shall pay to the District a Two Thousand Dollar ($2,000) payment prior to the issuance of a building permit for each approved lot by the Town of Moraga ("Pro Rata Payment"). The Pro Rata Payment shall be made even if the Fire Services Payment is eliminated pursuant to Section 1.4.

**3. District Obligations**

**3.1 Fire District Review Process**. In light of the Parties' understandings regarding Developer's Fire Services Payment and the Pro Rata Payment, District hereby agrees to review and process in a timely manner any building plans with respect to the Project's provision of fire services.

**3.2 Cooperation**. District agrees that it shall exercise good faith efforts to support the Final Map, Grading Permit and any required encroachment permits, building permits, and authorizations and to coordinate with other involved public agencies in order to facilitate the completion of Bigbury's and Richfield's obligations set forth above.

**4. Force and Effect**

**4.1 Effective Date**. For purposes of this MOU, the date on which the Parties execute this MOU shall be referred to as the "**Effective Date**."

**4.2 Force and Effect**. This MOU is of no force and effect unless (i) the Town of Moraga Town Council approves the Final Map; (ii) the Town records the Final Map by April ___, 2016, and (iii) this MOU is fully executed by the Parties prior to issuance of the Project Grading Permit.

**5. Civil Code Release**

The Parties acknowledge that they are familiar with the provisions of California Civil Code Section 1542, which provides as follows:

> A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

The Parties acknowledge that they may have sustained damages, losses, costs or expenses that are presently unknown and unsuspected. Nevertheless, the Parties acknowledge that this MOU has been negotiated and agreed upon in light of this situation, and hereby expressly waive any and all rights which they have under California Civil Code Section 1542 or any other statute

or common law principle of similar effect.

**6. Attorneys' Fees**

If enforcement of this MOU is required, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs. The Parties may agree to engage in mediation of any dispute in advance of litigation, but no pre-litigation mediation shall be required and this provision shall not prevent any party from seeking injunctive relief.

**7. No Modification**

No addition to or modification of any term or provision of the MOU shall be effective unless set forth in writing and signed by the Parties.

**8. Entire Agreement**

The Parties agree that this MOU sets forth the final entire agreement between them and relating to the subject matter and that this document merges and supersedes all prior discussions, agreements, understandings, representations, and all other communications between them relating to the subject matter of this MOU. Notwithstanding the foregoing, this MOU shall not supersede or replace any other written agreements between the Parties regarding any subject matter not otherwise covered by this MOU.

**9. Warranty of Authority**

Each Party represents and warrants that it has the right, power and authority to execute this MOU. Each Party further represents and warrants that it has the exclusive right to prosecute and compromise the claims released by this MOU and that it has neither made nor suffered to be made any sale, assignment, transfer, conveyance, pledge, hypothecation, or encumbrance of any kind whatsoever of any right, claim, demand, obligation, cost, expense, sanction, grievance, action, cause of action, controversy, debt, damage, arbitration, liability, duty, penalty, attorney fee, charge, suit, punitive damage, injury, loss, agreement, contract, promise, or lien released, canceled, rescinded or discharged hereby, and that it is the sole and absolute legal and equitable owner thereof, free and clear of any interest of any other person or entity. Each Party represents and warrants that it has given any and all notices, and obtained any and all consents, powers and authorities, necessary to permit it, and the persons executing this MOU for it, to enter into this MOU.

**10. Written Waiver**

A waiver of any Party's right to enforce any provision of this MOU shall not be effective unless such a waiver is made expressly in writing. An express waiver of any one breach shall not be deemed a waiver of any other breach of the same or any other provision of this MOU.

**11. Legal Representation**

The Parties affirm that they have been represented by counsel of their own choosing regarding the preparation and negotiation of this MOU and the matters and claims set forth herein, and that each of them has read this MOU and is fully aware of its contents and its legal effect. Neither Party is relying on any statement of the other Party outside the terms set forth in this Agreement as an inducement to enter into this MOU.

**12. Joint Preparation**

The language of all parts of this MOU shall in all cases be construed as a whole, according to its fair meaning, and not strictly for or against any party. No presumptions or rules of interpretation based upon the identity of the party preparing or drafting the MOU, or any part thereof, shall be applicable or invoked.

**13. Equal Dignity**

This MOU may not be altered, amended, modified or otherwise changed except in writing duly executed by an authorized representative of each of the Parties.

**14. Transfers; Assignments**

Bigbury and Richfield may assign to successor developer(s) or owner(s) of the Property Bigbury or Richfield's rights and obligations to develop the Property and the rights and obligations under this Agreement in Bigbury's or Richfield's sole discretion. However, the Property and the rights to develop the Property shall not be assigned or transferred without assignment of the rights and obligations of this MOU. Bigbury or Richfield, as may be appropriate shall be released from any and all remaining obligations under this MOU in the event of a transfer or assignment.

**15. Binding on Successors and Assignees**

Subject to the restrictions on transfer and assignment set forth in Section 15 above, this MOU shall be binding upon and inure to the benefit of the heirs, successors and assigns of the MOU and the Property.

**16. Joint and Several**

The obligations of Bigbury and Richfield (and of any successor to Bigbury) under this MOU shall be joint and several only as to Bigbury.

**17. California Law**

This MOU shall be governed by and construed in accordance with the laws of the State of California, without reference to choice of laws principles.

**18. Counterparts**

This MOU may be executed in multiple counterparts (each of which is to be deemed original for all purposes). The parties agree that if the signature of any Party on this MOU is not an original, but is a digital, mechanical, or electronic reproduction (such as, but not limited to, a photocopy, fax, email, PDF, Adobe image, jpeg, or telecopy), then such digital, mechanical, or electronic reproduction shall be as enforceable, valid, and binding as, and the legal equivalent to, an authentic and traditional ink-on-paper original wet signature penned manually by its signatory.

**19. Captions**

Captions are included herein for ease of reference only. The captions are not intended to affect the meaning of the contents or scope of this MOU.

**20. Survival of Obligations**

None of the releases contained in this MOU is intended to release any Party from any obligation or understanding to be performed pursuant to this MOU, all of which obligations and understandings shall survive the execution hereof.

**21. Recordation**

A Memorandum of Agreement shall be recorded in the Official Records of Contra Costa County in the form of the Memorandum of Agreement attached hereto and incorporated herein as **Exhibit B**. The Memorandum of Agreement shall be recorded on the approximately 66-acre developable area comprised of Lots 1 through 123 and the roadway right-of-way as illustrated on Exhibit A.

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IN WITNESS WHEREOF this MOU is executed and agreed to by the following, as of the last date set forth below.

It is so agreed.

**RICHFIELD REAL ESTATE CORPORATION, a Delaware Corporation**

By:_____
Dominic Leung, President

Date:_____

**BIGBURY COMPANY**

By:_____
Dominic Leung, Treasurer

Date:_____

**MORAGA-ORINDA FIRE DISTRICT**

By:_____
Name:_____

Date:_____

APPROVED AS TO FORM:

_____

Date:_____

**Exhibit A**

**Description of Property**

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**Exhibit B**

| | |
|---|---|
| RECORDING REQUESTED BY<br>AND WHEN RECORDED MAIL TO:<br><br>Town of Moraga<br>329 Rheem Boulevard<br>Moraga, CA 94556<br>Attention: Town Clerk | ) |

*(Space Above This Line for Recorder's Use Only)*
Exempt from recording fee per Gov. Code § 27383.

## MEMORANDUM OF PALOS COLORADOS AGREEMENT

THIS MEMORANDUM OF PALOS COLORADOS AGREEMENT FOR PROCESSING ("Memorandum") is made on March _____, 2016, between Bigbury Company, a Delaware corporation ("Owner"), Richfield Real Estate Corporation, a Delaware corporation ("Developer") and the Moraga-Orinda Fire District, a California _____ ("District"), who agree as follows:

1. Bigbury Company is the owner of that certain real property described in Exhibit A attached hereto (the "Property").

2. Developer has submitted an application for a final subdivision map to Moraga for the subdivision of the Property for the development of the 123-lot Palos Colorados Project subdivision (the "Final Map").

3. Owner, Developer and District entered into the Palos Colorados Agreement bearing an Effective Date of ____ day of _____, 2016 (the "Agreement") which provides that following approval of the Final Map, Owner and Developer have agreed to make a Fire Services Payment and a Pro Rata Payment prior to issuance of Project building permits as further defined in the Agreement and in accordance with the terms and conditions set forth in the Agreement.

4. The purpose of this Memorandum is to give notice of the rights and obligations of the parties under the Agreement, the terms and conditions of which are incorporated herein by this reference as if the same were fully set forth herein.

5. This Memorandum is intended to be fully consistent with the Agreement. In the event of any conflict between any provision of the Agreement and any provision of this Memorandum, the provisions of the Agreement shall control.

6. This Memorandum shall automatically expire and be of no further force or effect from and following Owner and Developer's payment of money due for an individual lot with respect to the portion of the real property described in Exhibit A.

7. This Memorandum may be executed in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same Memorandum.

8. Subject to the terms and conditions of the Agreement, the Agreement and this Memorandum shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors and assigns of the parties hereto.

IN WITNESS WHEREOF, Owner, Developer and District have executed this Memorandum as of the date first hereinabove written.

**RICHFIELD REAL ESTATE CORPORATION, a Delaware Corporation**

By:_____
_____, President

Date:_____

**BIGBURY COMPANY**

By:_____
_____, Treasurer

Date:_____

**MORAGA-ORINDA FIRE DISTRICT**

By:_____
Name:_____

Date:_____

APPROVED AS TO FORM:

_____

Date:_____

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**EXHIBIT "A"**

**Legal Description of the Property**

**[to be inserted]**

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## ACKNOWLEDGEMENTS

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )

County of _____ )

On _____, before me, _____, a Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

* * * * * * * * * * * * *

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )

County of _____ )

On _____, before me, _____, a Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

## ACKNOWLEDGEMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )

County of _____ )

On _____, before me, _____, a Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____