

JOINT COMMUNITY FACILITIES AGREEMENT  
BETWEEN THE CITY OF PITTSBURG AND THE  
CONTRA COSTA COUNTY FIRE PROTECTION DISTRICT

CITY OF PITTSBURG  
COMMUNITY FACILITIES DISTRICT NO. 2016-1  
(Name)

This Joint Community Facilities Agreement (this “**Agreement**”) between the City of Pittsburg, a California municipal corporation (the “**City**”), and the Contra Costa County Fire Protection District, a fire protection district created pursuant to the Fire Protection District Law of 1987 (California Health & Safety Code §§ 13800, *et seq.*) (“**CCCFPD**”), is made and entered into this \_\_\_\_\_, 2016, under Government Code § 53316.2. The parties hereto may be referred to individually as a “Party” and collectively as the “Parties.”

RECITALS

WHEREAS, pursuant to Government Code § 53316.2, the City intends to conduct proceedings under the Mello-Roos Community Facilities Act of 1982 (California Government Code §§ 53311, *et seq.*, the “**Act**”) to form Community Facilities District No. 2016-1 (Name) (the “**CFD**”), and to authorize the levy of special taxes under the Act to pay for supplemental CCCFPD fire protection and suppression services and facilities within, or to primarily benefit, residents of the City of Pittsburg (as further described in Exhibit A attached to and incorporated into this Agreement, the “**Supplemental Services and Facilities**”); and

WHEREAS, each of the City Council of the City and the Board of Directors of CCCFPD have, prior to the execution of this Agreement, duly considered the contents

of this Agreement and have each determined, by resolution, that the execution of this Agreement would be beneficial to them; and

WHEREAS, CCCFPD is willing to cooperate with the City's financing of Supplemental Services and Facilities through the CFD; and

WHEREAS, the Parties agree that the funds raised by the CFD through the levy of special taxes ("**CFD Funds**") are solely intended to finance the Supplemental Services and Facilities.

NOW, THEREFORE, the Parties agree as follows:

1. **Recitals.** The above recitals are true and correct and are hereby incorporated in this Agreement.

2. **Public Interest.** This Agreement is determined to be beneficial to recipients of CCCFPD services, and in the best interests of the City and the future residents of the area within the CFD.

3. **Creation and Administration of CFD.**

a. Pursuant to Government Code § 53316.2, the City will conduct proceedings under the Act to form the CFD and to authorize the levy of special taxes under the Act to finance the Supplemental Services and Facilities.

b. The City shall administer all aspects of the CFD, including employing and paying all consultants, and annually levying the special tax. CCCFPD will not participate in nor be considered a participant in the CFD proceedings (other than as a Party to this Agreement). CCCFPD shall have no obligation or responsibility whatsoever with respect to the levy of the special taxes being raised by the CFD to finance the Supplemental Services and Facilities. All amounts of special taxes shall be

collected by the Contra Costa County Treasurer-Tax Collector for and on behalf of the City.

c. The City agrees to have prepared, and keep available to CCCFPD, records of all proceedings of the CFD, including but not limited to the administration of the various funds and accounts to be established with respect to the CFD for the management of the special tax proceeds and the investment earnings thereon, if any.

d. CCCFPD hereby consents to the formation of the CFD in conformance with this Agreement and consents to the assumption of jurisdiction for the proceedings by the City with the understanding that the City may hereafter take each and every step required for or suitable for consummation of the proceedings and the levying, collecting and enforcement of the special taxes.

e. Subject to Section 4(c) below, the City will transfer the CFD Funds to CCCFPD within sixty (60) days of the City Manager's written notice of approval of proposed expenditures, and after deduction of three percent (3%) for the City's administrative costs.

**4. CCCFPD Use and Administration of CFD Funds.**

a. CCCFPD shall use the CFD Funds solely to provide Supplemental Services and Facilities within, or primarily benefitting, the City. CCCFPD expressly agrees that prior to its use of any CFD Funds, CCCFPD shall submit to the City Manager an itemized list of proposed expenditures. The City Manager will review the proposed expenditures to confirm that they will be used for Supplemental Services and Facilities as required by this Agreement and may, in his or her sole discretion, approve or disapprove the proposed expenditures and provide written notice of such decision to

CCCFPD. If the City Manager does not provide his or her written approval, in whole or in part, within thirty (30) days of notice of the proposed expenditures, the City Manager and Fire Chief (or their designees) may meet to discuss proposed expenditures that have not been approved. Notwithstanding any other provision of this Agreement, CCCFPD shall not make use of any CFD Funds absent written approval of the City Manager.

b. The Supplemental Services and Facilities shall be in addition to, and not supplant, those services and facilities CCCFPD would provide within the City of Pittsburg absent the CFD Funds.

c. If the City, in its sole discretion, concludes that CCCFPD has used, or is using, CFD Funds in a manner inconsistent with the terms and conditions of this Agreement, City may suspend the transfer of CFD Funds to CCCFPD until such time as City is reasonably satisfied that CCCFPD will comply with the terms and conditions of this Agreement.

d. CCCFPD agrees to own, operate, and maintain any real property facilities or personal property that may be acquired or constructed using CFD Funds.

e. All funds or other property acquired by CCCFPD as a result of this Agreement shall be used in the manner required by law and in accordance with this Agreement. Within six (6) months after the close of each CCCFPD fiscal year, CCCFPD shall provide to the City an accounting of CFD Funds provided to and used by CCCFPD during the previous fiscal year. CCCFPD shall audit CFD Funds as an adjunct to CCCFPD's annual audit of its own funds, and CCCFPD shall provide a copy of the audit report to the City.

f. CCCFPD's Fire Chief shall provide the City with an annual written report on CCCFPD's use of CFD Funds to finance Supplemental Services and Facilities.

**5. Indemnification.**

a. The City shall indemnify, defend, and hold harmless CCCFPD from the City's share of losses, liabilities, expenses, claims, suits, disputes, and damages, including attorneys' fees ("**Claims**") caused by the negligence or willful misconduct of the City to the extent such Claims arise out of or relate to the formation of the CFD, the authorization of the levy of special taxes, the administration of the CFD, or its performance of this Agreement. CCCFPD shall cooperate with the City in the defense of any action required by this subsection, and City shall have the right to settle Claims described in this subsection. The City's obligations under this subsection shall not apply to the extent any claim, cost or liability is caused in whole or in part by the negligence or willful misconduct of CCCFPD. Under no circumstances shall the City have any liability to CCCFPD or to any other person or entity, for consequential or special damages, or for any damages based on loss of use, revenue, profits or business opportunities arising from or in any way relating to the City's performance under this Agreement.

b. CCCFPD shall indemnify, defend, and hold harmless the City from CCCFPD's share of Claims caused by the negligence or willful misconduct of CCCFPD to the extent that such Claims arise out of or relate to CCCFPD's performance of this Agreement, including but not limited to a Claim arising from or related to the use or disbursement of CFD Funds or the provision of the Supplemental Services and

Facilities. The City shall cooperate with CCCFPD in the defense of any action required by this subsection, and CCCFPD shall have the right to settle Claims described in this subsection. CCCFPD's obligations under this subsection shall not apply to the extent any claim, cost or liability is caused in whole or in part by the negligence or willful misconduct of the City. Under no circumstances shall CCCFPD have any liability to the City or to any other person or entity, for consequential or special damages, or for any damages based on loss of use, revenue, profits or business opportunities arising from or in any way relating to CCCFPD's performance under this Agreement.

6. **Term; Termination.** This Agreement shall remain in full force and effect until the authority to levy the special taxes through the CFD expires. Notwithstanding the preceding sentence, either Party may terminate this Agreement with or without cause upon one hundred and eighty (180) days' written notice to the other Party. If the City terminates this Agreement, CCCFPD may terminate any Supplemental Services and Facilities being provided upon the effective date of the termination.

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

CCCFPD:                    Contra Costa County Fire Protection District  
2010 Geary Road  
Pleasant Hill, CA 94523  
Attn: Fire Chief

With a copy to:

Contra Costa County  
Office of County Counsel  
651 Pine St., 9<sup>th</sup> Floor  
Martinez, CA 94553

CITY: City of Pittsburg  
65 Civic Avenue  
Pittsburg, CA 94565  
Attn: City Manager

With a copy to:

Ruthann G. Ziegler  
City Attorney  
555 Capitol Mall, Suite 1200  
Sacramento, CA 95816

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

9. **Counterparts.** This Agreement may be executed in several counterparts, each of which shall be deemed an original, and all of which shall constitute but one and the same Agreement.

10. **Entire Agreement.** This Agreement constitutes the entire understanding of the parties regarding the subject matter hereof. This Agreement may be amended only by a writing executed by the Parties.

11. **Construction of Agreement.** Each party hereto has had an equivalent opportunity to participate in the drafting of the Agreement and/or to consult with legal counsel. Therefore, the rule of construction that ambiguities are resolved against the drafting party shall not apply hereto.

12. **No Third Party Beneficiaries.** This Agreement is made solely for the benefit of the parties hereto, with no intent to benefit any non-signatory third parties.

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

CITY OF PITTSBURG

CONTRA COSTA COUNTY FIRE PROTECTION DISTRICT

By: \_\_\_\_\_  
Joe Sbranti, City Manager

By: \_\_\_\_\_  
Jeff Carman, Fire Chief

Attest:

Attest:

\_\_\_\_\_  
Alice Evenson, City Clerk

\_\_\_\_\_  
Clerk of the Board

Approved as to Form:

Approved as to Form:  
Sharon L. Anderson, County Counsel

\_\_\_\_\_  
Ruthann G. Ziegler, City Attorney

\_\_\_\_\_  
By: Eric S. Gelston  
Deputy County Counsel

2360797.9

## EXHIBIT A

### DESCRIPTION OF FACILITIES AND SERVICES TO BE PROVIDED

CCCFPD may use CFD Funds to finance the following CCCFPD supplemental services and facilities:

1. **Services.** Emergency medical and fire protection and suppression services, including but not limited to salaries of personnel.
2. **Facilities.** Fire facilities, including but not limited to fire stations, apparatus, and facilities and equipment appurtenant thereto, including:
  - a. All costs associated therewith, including but not limited to acquisition, construction, relocation, rehabilitation, replacement, leasing, repair, maintenance, or operation thereof;
  - b. Improvements to fire facilities, including but not limited to costs of site acquisition, planning, design, engineering, soils testing, construction staking, and construction coordination and inspection; and
  - c. Furniture, fixtures and equipment therefor.