



**Contra
Costa
County**

To: Board of Supervisors

From: John Kopchik, Director, Conservation & Development Department

Date: May 11, 2021

Subject: Tolling Agreement with Discovery Builders, Inc. West Coast Builders, Inc. and the East CC Fire Protection District

RECOMMENDATION(S):

RATIFY the Conservation and Development Director's execution of an amendment to extend a tolling agreement with Discovery Builders, Inc., West Coast Home Builders, Inc., and the East Contra Costa Fire Protection District to toll the limitations period for potential litigation related to fire protection facilities fees through April 30, 2022.

FISCAL IMPACT:

None.

BACKGROUND:

On November 3, 2020, the Board of Supervisors adopted Ordinance No. 2020-27, an ordinance that establishes fire protection facilities fees for that portion of the County that is located within the boundaries of the East Contra Costa Fire Protection District. The ordinance authorizes the County to impose the fees and authorizes the Fire District to collect, retain, and expend the fees. Fee amounts are specified in the ordinance and must be paid before a building permit is issued for new residential or commercial construction. At the same meeting, the Board also approved a fee administration agreement between the County and the Fire District that establishes the terms and conditions for the Fire District to

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

Action of Board On: **05/11/2021** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Candace Andersen, District II Supervisor
Diane Burgis, District III Supervisor
Karen Mitchoff, District IV Supervisor
Federal D. Glover, District V Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: May 11, 2021

Monica Nino, County Administrator and Clerk of the Board of Supervisors

By: June McHuen, Deputy

Contact: John Kopchik 925
655-2780

cc:

collect, retain,

BACKGROUND: (CONT'D)

and expend the fees. Under the fee administration agreement, the Fire District is required to indemnify the County against all lawsuits related to the fees and the fee ordinance, including any challenge to the validity of the fees, any challenge to the Fire District's use of the fees, and any challenge related to compliance with the Mitigation Fee Act.

The Fire District, Discovery Builders, Inc., and West Coast Home Builders, Inc., are currently in a dispute over the fee amounts in the ordinance. These parties are engaged in discussions to try to resolve their differences without incurring the cost and expense of litigation. At the request of the parties, the County previously entered into a tolling agreement to toll (suspend) the statutory limitations period for filing a lawsuit related to fire protection facilities fees from February 24, 2021, through April 30, 2021. The parties have since requested that the County agree to amend the tolling agreement to extend the tolling period through April 30, 2022. The amendment to the tolling agreement was executed by the Conservation and Development Director on April 30, 2021.

CONSEQUENCE OF NEGATIVE ACTION:

The Conservation and Development Director's execution of the amendment to extend the tolling agreement would not be ratified.