

RESOLUTION NO. 2017 08 28

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE CALAVERAS CONSOLIDATED FIRE PROTECTION DISTRICT ACCEPTING THE TERMS OF COUNTY CODE CHAPTER 15.08 FOR THE ESTABLISHMENT OF A NEW FIRE IMPACT FEE PROGRAM FOR THE DISTRICT**

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**WHEREAS**, the Calaveras Consolidated Fire Protection District (“District”) Board of Directors (“Board”) provides fire protection, fire suppression, and emergency response services to the residents and businesses within their service area; and

**WHEREAS**, AB 1600 was adopted and codified in California Government Code Section 66000 allowing the establishing, increasing or imposing of a development fee as a condition of approval where the purpose and use of the fee were identified, and reasonable relationship to the development project was demonstrated; and

**WHEREAS**, the County of Calaveras (“County”), on behalf of the District, currently collects “exaction fees for acquisition of fire suppression service equipment” in the amount of \$300 per new dwelling unit, and \$100 per 1,000 square feet of new commercial or industrial non-dwelling units in the previous service area of the Jenny Lind Fire Protection District; and

**WHEREAS**, the County, on behalf of the District, currently collects “fees” in the amount of \$300 per new residential unit, and \$0.75 per square foot of new multifamily residential and commercial/industrial construction in the previous service area of the Foothill Fire Protection District; and

**WHEREAS**, on June 22, 2015, the District Board by their Resolution No. 06222015.2 approved a new fire impact program, requested that the Calaveras County Board of Supervisors (“County Board”) adopt and establish the fire impact fees program on behalf of the District, agreed to be responsible for proper accounting for and expenditure of the new fire impact fee, and agreed to hold the County harmless from and to defend it from any action, claim or damage related to said fees, including any challenge to the validity of or use thereof; and

**WHEREAS**, prior to the adoption of Resolution No. 06222015.2, the Board conducted a public hearing at which oral and written presentations were made, as part of the Board's regularly scheduled June 22, 2015, meeting. Notice of the time and place of the meeting, including a general explanation of the matter to be considered, was published twice in a newspaper in accordance with Government Code sections 66004, 66018, and 6062, subdivision (a); and

**WHEREAS**, in December 2015, at the request of County Chief Administrative Officer, the District assisted the County with the preparation of an enabling ordinance for fire impact fees for County fire protection districts; and

**WHEREAS**, on March 8, 2016, the County Board adopted Ordinance No. 3068, adding section 15.08 to the Municipal Calaveras County Code relating to fire impact and mitigation fees; and

**WHEREAS**, the District Board desires no further delay in the establishment of a new fire impact fee program for the District.

**NOW, THEREFORE, IT IS HEREBY RESOLVED** by the Board of Directors of the Calaveras Consolidated Fire Protection District that:

- 1) The District Board requests that the County Board waive the requirement described in County Code Section 15.08.130 that a request for proposal be issued by the County to secure engineering consultants or vendors to prepare the Nexus Study.
- 2) The District Board request that the County Board designate SCI Consulting Group as the District's impact fee consultant to prepare the Nexus Study and fee program.
- 3) The District Board accepts the other terms of Calaveras County Code Chapter 15.08 conditional upon District Board approval of the final fire impact program.
- 4) To the fullest extent permitted by law, the District, upon District Board approval of the final fire impact program, agrees to defend, indemnify, and hold harmless the County, its officers and employees, agents and assigns for all claim, demands or liability (including reasonable attorney's fees) arising out of or in connection with implementation of Calaveras County Code Chapter 15.08, including legal defense costs resulting from a third party suit, except to the proportionate extent of all such losses caused by any negligent act or failure to act by the County. In the event legal defense counsel is required, the District agrees to sign a joint defense agreement if deemed legally necessary by retained counsel.
- 5) Pursuant to County Code Chapter 15.08, District agrees to pay all costs of nexus study consultant and third-party outside counsel, of the County's unilateral choosing, who shall review any nexus study for legal defensibility. District agrees to be invoiced directly from consultant and third-party outside counsel and agrees to be legally responsible for payment.
- 6) District agrees that County has unilateral right not to proceed with mitigation fee collection upon finding by outside counsel that the nexus study submitted is legally indefensible.

**APPROVED, PASSED AND ADOPTED** at a regular meeting of the Board of Directors of the Calaveras Consolidated Fire Protection District this 28<sup>th</sup> day of August 2017 by the following vote:

AYES: Kim Olson, Pat Garrahan, Keith Hafley, Sam Harris  
NOES: Tim Ronion, Ken Glissman, Chris Allen, Pat Brown  
Ø Marcus Ombin.

ABSENT:

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ABSTAIN:

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Chair, Board of Directors

ATTEST:

  
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Secretary, Board of Directors