

**ADVISORY BOARD OF DIRECTORS**

**AGENDA**

Regular Monthly Meeting-Zoom  
Wednesday, December 15, 2021 at 6 pm



**Mission Oaks Recreation and Park District Advisory Board of Directors Meeting will be held remotely via Zoom Meetings (The Zoom platform is ADA compliant).**

Meeting materials may be obtained online at MORPD.com.

**The public may attend and make a public comment by visiting:**

**<https://us02web.zoom.us/j/82403160291?pwd=QWZMTysveW1yQ2hrNIRPK1hKVtQzdz09>**

**Meeting ID: 824 0316 0291, Passcode: 354614**

**You may also call in to 1-669-900-9128 (*long distance rates may apply*)**

**At the beginning of the remote meeting the Board Clerk will ask if anyone wishes to comment on either a specific agenda item or an item not on the agenda but within the jurisdiction of the board. If you need assistance or have questions, please call Debra Tierney at 916-359-1601 prior to 4 pm.**

**Call to Order: 6 pm**

**Pledge of Allegiance:**

**Roll Call:**

**Chairperson's Comments:**

**Board Comments/Discussion:**

**Public Comment:** Members of the public may address the Board on District topics not listed on this agenda. It is a violation of state law for the Board to discuss or act on non-agenda items. Board members may only briefly ask clarifying questions or refer matters to staff. Speakers are limited to three (3) minutes.

***\*Denotes agenda items with attached information***

**Consent:**

1. Approve Resolution 2021-10, Authorizing Remote Teleconference Meetings for December 16, 2021 to January 15, 2022 \*

**Action:**

2. Approve MORPD entering a three (3) year contract with Emerald Green Landscaping Service \*

**Discussion:**

3. Advisory Board proposed meeting schedule 2022 \*
4. Reserve Budget workshop \*

**Staff Comments/Reports:**

**Next Regular Meeting:** Tuesday, January 11, 2022. As of the date of this notice, social distancing measures are in effect due to the COVID-19 pandemic. Parties interested in participating in the public hearing should visit the District's website at <https://www.morpd.com/advisory-board-meetings> for current information on how to provide public comment.

*Mission Oaks Recreation and Park District does not discriminate against persons with disabilities and offers an accessible facility. If you wish to attend this meeting and will require assistance to participate, please contact Debra Tierney at 916-359-1601 no later than 24 hours prior to the meeting.*

This agenda was posted and available for public review at the District Office, 3344 Mission Avenue, Carmichael, CA 95608; at Mission Oaks Community Center, 4701 Gibbons Dr., Carmichael, CA 95608; and at Swanston Community Center, 2350 Northrop Way, Sacramento, CA 95825 at least 72 hours in advance of the Regular Meeting, in accordance with the Ralph M. Brown Act. The agenda is also available online at MORPD.com. *Signed December 10, 2021, Debra Tierney, Clerk of the Board.*

## STAFF REPORT



DATE: December 8, 2021

TO: Advisory Board of Directors

FROM: Daniel Barton, District Administrator

SUBJECT: Approve Resolution 2021-10 Authorizing Remote Teleconference Meetings for December 16, 2021 to January 15, 2022

### **BACKGROUND:**

On September 16, 2021 Governor Newsom signed AB 361 (Attachment A) that allows a legislative body subject to the Brown Act to continue to meet without fully complying with the teleconferencing rules in the Brown Act. To take advantage of the AB 361, the Governor has offered a compromise that during a State of Emergency, the Advisory Board has the option to conduct meetings using the flexibility afforded by the Act.

California and the District remains under the Governor's Emergency Declaration due to COVID-19. Other declarations exist in areas devastated by wildfires, but not applicable to MORPD. The Health Office of the County of Sacramento, also issued an Order on July 29, 2021 effective July 30, 2021, based on findings that the average daily incident case rate has increased exponentially demonstrated in testing positivity rates and hospitalizations from COVID-19 in Sacramento County. The significantly more transmissible Delta variant of the SARS-CoV-2 virus has become the predominant strain.

To apply the provisions of AB 361 for meetings after September 30, 2021, the Advisory Board must adopt Resolution 2021-10 authorizing remote teleconference meetings (Attachment B). Subsequent Resolutions may come before you at your regular monthly meetings to extend these provisions for as long as the Emergency exists and/or January 1, 2024, unless extended further. Staff plans to include the initial or subsequent Resolutions in the Consent Items each month for the duration of the State of Emergency. The Resolution is only effective for 30 days.

If the initial Resolution lapses it must be reapproved.

Here are the provisions of AB 361 which apply, as follows:

- Option of participating from a remote location within or outside MORPD boundaries;
- Option of conducting a meeting with/without Board members present in-person; otherwise, a quorum would have to attend in-person;
- Due to plans to host a hybrid format, posting the Agenda of the primary location and Zoom connection link only; not the location of Board members participating remotely.
- The Board members would not have to post the Agenda at their location nor invite public participation in their remote location.

**STAFF RECOMMENDATION:**

Staff recommends that the Advisory Board of Directors adopt Resolution #2021-10, ratifying the Governor's Proclamations that State and Local Emergencies exist throughout the State and District; and authorizing remote teleconference meetings of the Advisory Board of Directors of the Mission Oaks Recreation and Park District for the period December 16, 2021 to January 15, 2022, pursuant to the Brown Act provisions.

## Assembly Bill No. 361

### CHAPTER 165

An act to add and repeal Section 89305.6 of the Education Code, and to amend, repeal, and add Section 54953 of, and to add and repeal Section 11133 of, the Government Code, relating to open meetings, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 16, 2021. Filed with Secretary of State September 16, 2021.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 361, Robert Rivas. Open meetings: state and local agencies: teleconferences.

(1) Existing law, the Ralph M. Brown Act requires, with specified exceptions, that all meetings of a legislative body of a local agency, as those terms are defined, be open and public and that all persons be permitted to attend and participate. The act contains specified provisions regarding the timelines for posting an agenda and providing for the ability of the public to directly address the legislative body on any item of interest to the public. The act generally requires all regular and special meetings of the legislative body be held within the boundaries of the territory over which the local agency exercises jurisdiction, subject to certain exceptions. The act allows for meetings to occur via teleconferencing subject to certain requirements, particularly that the legislative body notice each teleconference location of each member that will be participating in the public meeting, that each teleconference location be accessible to the public, that members of the public be allowed to address the legislative body at each teleconference location, that the legislative body post an agenda at each teleconference location, and that at least a quorum of the legislative body participate from locations within the boundaries of the local agency's jurisdiction. The act provides an exemption to the jurisdictional requirement for health authorities, as defined. The act authorizes the district attorney or any interested person, subject to certain provisions, to commence an action by mandamus or injunction for the purpose of obtaining a judicial determination that specified actions taken by a legislative body are null and void.

Existing law, the California Emergency Services Act, authorizes the Governor, or the Director of Emergency Services when the governor is inaccessible, to proclaim a state of emergency under specified circumstances.

Executive Order No. N-29-20 suspends the Ralph M. Brown Act's requirements for teleconferencing during the COVID-19 pandemic provided that notice and accessibility requirements are met, the public members are allowed to observe and address the legislative body at the meeting, and that a legislative body of a local agency has a procedure for receiving and swiftly

resolving requests for reasonable accommodation for individuals with disabilities, as specified.

This bill, until January 1, 2024, would authorize a local agency to use teleconferencing without complying with the teleconferencing requirements imposed by the Ralph M. Brown Act when a legislative body of a local agency holds a meeting during a declared state of emergency, as that term is defined, when state or local health officials have imposed or recommended measures to promote social distancing, during a proclaimed state of emergency held for the purpose of determining, by majority vote, whether meeting in person would present imminent risks to the health or safety of attendees, and during a proclaimed state of emergency when the legislative body has determined that meeting in person would present imminent risks to the health or safety of attendees, as provided.

This bill would require legislative bodies that hold teleconferenced meetings under these abbreviated teleconferencing procedures to give notice of the meeting and post agendas, as described, to allow members of the public to access the meeting and address the legislative body, to give notice of the means by which members of the public may access the meeting and offer public comment, including an opportunity for all persons to attend via a call-in option or an internet-based service option, and to conduct the meeting in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body. The bill would require the legislative body to take no further action on agenda items when there is a disruption which prevents the public agency from broadcasting the meeting, or in the event of a disruption within the local agency's control which prevents members of the public from offering public comments, until public access is restored. The bill would specify that actions taken during the disruption are subject to challenge proceedings, as specified.

This bill would prohibit the legislative body from requiring public comments to be submitted in advance of the meeting and would specify that the legislative body must provide an opportunity for the public to address the legislative body and offer comment in real time. The bill would prohibit the legislative body from closing the public comment period and the opportunity to register to provide public comment, until the public comment period has elapsed or until a reasonable amount of time has elapsed, as specified. When there is a continuing state of emergency, or when state or local officials have imposed or recommended measures to promote social distancing, the bill would require a legislative body to make specified findings not later than 30 days after the first teleconferenced meeting pursuant to these provisions, and to make those findings every 30 days thereafter, in order to continue to meet under these abbreviated teleconferencing procedures.

Existing law prohibits a legislative body from requiring, as a condition to attend a meeting, a person to register the person's name, or to provide other information, or to fulfill any condition precedent to the person's attendance.

This bill would exclude from that prohibition, a registration requirement imposed by a third-party internet website or other online platform not under the control of the legislative body.

(2) Existing law, the Bagley-Keene Open Meeting Act, requires, with specified exceptions, that all meetings of a state body be open and public and all persons be permitted to attend any meeting of a state body. The act requires at least one member of the state body to be physically present at the location specified in the notice of the meeting.

The Governor's Executive Order No. N-29-20 suspends the requirements of the Bagley-Keene Open Meeting Act for teleconferencing during the COVID-19 pandemic, provided that notice and accessibility requirements are met, the public members are allowed to observe and address the state body at the meeting, and that a state body has a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, as specified.

This bill, until January 31, 2022, would authorize, subject to specified notice and accessibility requirements, a state body to hold public meetings through teleconferencing and to make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the state body. With respect to a state body holding a public meeting pursuant to these provisions, the bill would suspend certain requirements of existing law, including the requirements that each teleconference location be accessible to the public and that members of the public be able to address the state body at each teleconference location. Under the bill, a state body that holds a meeting through teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically would satisfy any requirement that the state body allow members of the public to attend the meeting and offer public comment. The bill would require that each state body that holds a meeting through teleconferencing provide notice of the meeting, and post the agenda, as provided. The bill would urge state bodies utilizing these teleconferencing procedures in the bill to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to existing law, as provided.

(3) Existing law establishes the various campuses of the California State University under the administration of the Trustees of the California State University, and authorizes the establishment of student body organizations in connection with the operations of California State University campuses.

The Gloria Romero Open Meetings Act of 2000 generally requires a legislative body, as defined, of a student body organization to conduct its business in a meeting that is open and public. The act authorizes the legislative body to use teleconferencing, as defined, for the benefit of the public and the legislative body in connection with any meeting or proceeding authorized by law.

This bill, until January 31, 2022, would authorize, subject to specified notice and accessibility requirements, a legislative body, as defined for purposes of the act, to hold public meetings through teleconferencing and

to make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the legislative body. With respect to a legislative body holding a public meeting pursuant to these provisions, the bill would suspend certain requirements of existing law, including the requirements that each teleconference location be accessible to the public and that members of the public be able to address the legislative body at each teleconference location. Under the bill, a legislative body that holds a meeting through teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically would satisfy any requirement that the legislative body allow members of the public to attend the meeting and offer public comment. The bill would require that each legislative body that holds a meeting through teleconferencing provide notice of the meeting, and post the agenda, as provided. The bill would urge legislative bodies utilizing these teleconferencing procedures in the bill to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to existing law, as provided.

(4) This bill would declare the Legislature's intent, consistent with the Governor's Executive Order No. N-29-20, to improve and enhance public access to state and local agency meetings during the COVID-19 pandemic and future emergencies by allowing broader access through teleconferencing options.

(5) This bill would incorporate additional changes to Section 54953 of the Government Code proposed by AB 339 to be operative only if this bill and AB 339 are enacted and this bill is enacted last.

(6) The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

(7) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

(8) This bill would declare that it is to take effect immediately as an urgency statute.

*The people of the State of California do enact as follows:*

SECTION 1. Section 89305.6 is added to the Education Code, to read:  
89305.6. (a) Notwithstanding any other provision of this article, and subject to the notice and accessibility requirements in subdivisions (d) and (e), a legislative body may hold public meetings through teleconferencing



and make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the legislative body.

(b) (1) For a legislative body holding a public meeting through teleconferencing pursuant to this section, all requirements in this article requiring the physical presence of members, the clerk or other personnel of the legislative body, or the public, as a condition of participation in or quorum for a public meeting, are hereby suspended.

(2) For a legislative body holding a public meeting through teleconferencing pursuant to this section, all of the following requirements in this article are suspended:

(A) Each teleconference location from which a member will be participating in a public meeting or proceeding be identified in the notice and agenda of the public meeting or proceeding.

(B) Each teleconference location be accessible to the public.

(C) Members of the public may address the legislative body at each teleconference conference location.

(D) Post agendas at all teleconference locations.

(E) At least one member of the legislative body be physically present at the location specified in the notice of the meeting.

(c) A legislative body that holds a meeting through teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically, consistent with the notice and accessibility requirements in subdivisions (d) and (e), shall have satisfied any requirement that the legislative body allow members of the public to attend the meeting and offer public comment. A legislative body need not make available any physical location from which members of the public may observe the meeting and offer public comment.

(d) If a legislative body holds a meeting through teleconferencing pursuant to this section and allows members of the public to observe and address the meeting telephonically or otherwise electronically, the legislative body shall also do both of the following:

(1) Implement a procedure for receiving and swiftly resolving requests for reasonable modification or accommodation from individuals with disabilities, consistent with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.), and resolving any doubt whatsoever in favor of accessibility.

(2) Advertise that procedure each time notice is given of the means by which members of the public may observe the meeting and offer public comment, pursuant to paragraph (2) of subdivision (e).

(e) Except to the extent this section provides otherwise, each legislative body that holds a meeting through teleconferencing pursuant to this section shall do both of the following:

(1) Give advance notice of the time of, and post the agenda for, each public meeting according to the timeframes otherwise prescribed by this article, and using the means otherwise prescribed by this article, as applicable.

(2) In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, also give notice of the means by which members of the public may observe the meeting and offer public comment. As to any instance in which there is a change in the means of public observation and comment, or any instance prior to the effective date of this section in which the time of the meeting has been noticed or the agenda for the meeting has been posted without also including notice of the means of public observation and comment, a legislative body may satisfy this requirement by advertising the means of public observation and comment using the most rapid means of communication available at the time. Advertising the means of public observation and comment using the most rapid means of communication available at the time shall include, but need not be limited to, posting such means on the legislative body's internet website.

(f) All legislative bodies utilizing the teleconferencing procedures in this section are urged to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to the otherwise applicable provisions of this article, in order to maximize transparency and provide the public access to legislative body meetings.

(g) This section shall remain in effect only until January 31, 2022, and as of that date is repealed.

SEC. 2. Section 11133 is added to the Government Code, to read:

11133. (a) Notwithstanding any other provision of this article, and subject to the notice and accessibility requirements in subdivisions (d) and (e), a state body may hold public meetings through teleconferencing and make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the state body.

(b) (1) For a state body holding a public meeting through teleconferencing pursuant to this section, all requirements in this article requiring the physical presence of members, the clerk or other personnel of the state body, or the public, as a condition of participation in or quorum for a public meeting, are hereby suspended.

(2) For a state body holding a public meeting through teleconferencing pursuant to this section, all of the following requirements in this article are suspended:

(A) Each teleconference location from which a member will be participating in a public meeting or proceeding be identified in the notice and agenda of the public meeting or proceeding.

(B) Each teleconference location be accessible to the public.

(C) Members of the public may address the state body at each teleconference conference location.

(D) Post agendas at all teleconference locations.

(E) At least one member of the state body be physically present at the location specified in the notice of the meeting.

(c) A state body that holds a meeting through teleconferencing and allows members of the public to observe and address the meeting telephonically

or otherwise electronically, consistent with the notice and accessibility requirements in subdivisions (d) and (e), shall have satisfied any requirement that the state body allow members of the public to attend the meeting and offer public comment. A state body need not make available any physical location from which members of the public may observe the meeting and offer public comment.

(d) If a state body holds a meeting through teleconferencing pursuant to this section and allows members of the public to observe and address the meeting telephonically or otherwise electronically, the state body shall also do both of the following:

(1) Implement a procedure for receiving and swiftly resolving requests for reasonable modification or accommodation from individuals with disabilities, consistent with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.), and resolving any doubt whatsoever in favor of accessibility.

(2) Advertise that procedure each time notice is given of the means by which members of the public may observe the meeting and offer public comment, pursuant to paragraph (2) of subdivision (e).

(e) Except to the extent this section provides otherwise, each state body that holds a meeting through teleconferencing pursuant to this section shall do both of the following:

(1) Give advance notice of the time of, and post the agenda for, each public meeting according to the timeframes otherwise prescribed by this article, and using the means otherwise prescribed by this article, as applicable.

(2) In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, also give notice of the means by which members of the public may observe the meeting and offer public comment. As to any instance in which there is a change in the means of public observation and comment, or any instance prior to the effective date of this section in which the time of the meeting has been noticed or the agenda for the meeting has been posted without also including notice of the means of public observation and comment, a state body may satisfy this requirement by advertising the means of public observation and comment using the most rapid means of communication available at the time. Advertising the means of public observation and comment using the most rapid means of communication available at the time shall include, but need not be limited to, posting such means on the state body's internet website.

(f) All state bodies utilizing the teleconferencing procedures in this section are urged to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to the otherwise applicable provisions of this article, in order to maximize transparency and provide the public access to state body meetings.

(g) This section shall remain in effect only until January 31, 2022, and as of that date is repealed.

SEC. 3. Section 54953 of the Government Code is amended to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all otherwise applicable requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivisions (d) and (e). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, “teleconference” means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public’s right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) (1) A local agency may use teleconferencing without complying with the requirements of paragraph (3) of subdivision (b) if the legislative body complies with the requirements of paragraph (2) of this subdivision in any of the following circumstances:

(A) The legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing.

(B) The legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(C) The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, pursuant to subparagraph (B), that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(2) A legislative body that holds a meeting pursuant to this subdivision shall do all of the following:

(A) The legislative body shall give notice of the meeting and post agendas as otherwise required by this chapter.

(B) The legislative body shall allow members of the public to access the meeting and the agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3.

In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment. The agenda shall identify and include an opportunity for all persons to attend via a call-in option or an internet-based service option. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(C) The legislative body shall conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body of a local agency.

(D) In the event of a disruption which prevents the public agency from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency's control which prevents members of the public from offering public comments using the call-in option or internet-based service option, the body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption which prevents the public agency from broadcasting the meeting may be challenged pursuant to Section 54960.1.

(E) The legislative body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for the public to address the legislative body and offer comment in real time. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(F) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.

(G) (i) A legislative body that provides a timed public comment period for each agenda item shall not close the public comment period for the agenda item, or the opportunity to register, pursuant to subparagraph (F), to provide public comment until that timed public comment period has elapsed.

(ii) A legislative body that does not provide a timed public comment period, but takes public comment separately on each agenda item, shall allow a reasonable amount of time per agenda item to allow public members the opportunity to provide public comment, including time for members of the public to register pursuant to subparagraph (F), or otherwise be recognized for the purpose of providing public comment.

(iii) A legislative body that provides a timed general public comment period that does not correspond to a specific agenda item shall not close the public comment period or the opportunity to register, pursuant to subparagraph (F), until the timed general public comment period has elapsed.

(3) If a state of emergency remains active, or state or local officials have imposed or recommended measures to promote social distancing, in order to continue to teleconference without compliance with paragraph (3) of subdivision (b), the legislative body shall, not later than 30 days after teleconferencing for the first time pursuant to subparagraph (A), (B), or (C) of paragraph (1), and every 30 days thereafter, make the following findings by majority vote:

(A) The legislative body has reconsidered the circumstances of the state of emergency.

(B) Any of the following circumstances exist:

(i) The state of emergency continues to directly impact the ability of the members to meet safely in person.

(ii) State or local officials continue to impose or recommend measures to promote social distancing.

(4) For the purposes of this subdivision, “state of emergency” means a state of emergency proclaimed pursuant to Section 8625 of the California Emergency Services Act (Article 1 (commencing with Section 8550) of Chapter 7 of Division 1 of Title 2).

(f) This section shall remain in effect only until January 1, 2024, and as of that date is repealed.

SEC. 3.1. Section 54953 of the Government Code is amended to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency in person, except as otherwise provided in this chapter. Local agencies shall conduct meetings subject to this chapter consistent with applicable state and federal civil rights laws, including, but not limited to, any applicable language access and other nondiscrimination obligations.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all otherwise applicable requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body

shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivisions (d) and (e). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, “teleconference” means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public’s right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter



2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) (1) A local agency may use teleconferencing without complying with the requirements of paragraph (3) of subdivision (b) if the legislative body complies with the requirements of paragraph (2) of this subdivision in any of the following circumstances:

(A) The legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing.

(B) The legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(C) The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, pursuant to subparagraph (B), that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(2) A legislative body that holds a meeting pursuant to this subdivision shall do all of the following:

(A) The legislative body shall give notice of the meeting and post agendas as otherwise required by this chapter.

(B) The legislative body shall allow members of the public to access the meeting and the agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3. In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment. The agenda shall identify and include an opportunity for all persons to attend via a call-in option or an internet-based service option. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(C) The legislative body shall conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body of a local agency.

(D) In the event of a disruption which prevents the public agency from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency's control which prevents members of the public from offering public comments using the call-in option or internet-based service option, the body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption which prevents the public agency from broadcasting the meeting may be challenged pursuant to Section 54960.1.

(E) The legislative body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for

the public to address the legislative body and offer comment in real time. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(F) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.

(G) (i) A legislative body that provides a timed public comment period for each agenda item shall not close the public comment period for the agenda item, or the opportunity to register, pursuant to subparagraph (F), to provide public comment until that timed public comment period has elapsed.

(ii) A legislative body that does not provide a timed public comment period, but takes public comment separately on each agenda item, shall allow a reasonable amount of time per agenda item to allow public members the opportunity to provide public comment, including time for members of the public to register pursuant to subparagraph (F), or otherwise be recognized for the purpose of providing public comment.

(iii) A legislative body that provides a timed general public comment period that does not correspond to a specific agenda item shall not close the public comment period or the opportunity to register, pursuant to subparagraph (F), until the timed general public comment period has elapsed.

(3) If a state of emergency remains active, or state or local officials have imposed or recommended measures to promote social distancing, in order to continue to teleconference without compliance with paragraph (3) of subdivision (b), the legislative body shall, not later than 30 days after teleconferencing for the first time pursuant to subparagraph (A), (B), or (C) of paragraph (1), and every 30 days thereafter, make the following findings by majority vote:

(A) The legislative body has reconsidered the circumstances of the state of emergency.

(B) Any of the following circumstances exist:

(i) The state of emergency continues to directly impact the ability of the members to meet safely in person.

(ii) State or local officials continue to impose or recommend measures to promote social distancing.

(4) For the purposes of this subdivision, “state of emergency” means a state of emergency proclaimed pursuant to Section 8625 of the California Emergency Services Act (Article 1 (commencing with Section 8550) of Chapter 7 of Division 1 of Title 2).

(f) This section shall remain in effect only until January 1, 2024, and as of that date is repealed.

SEC. 4. Section 54953 is added to the Government Code, to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting

of the legislative body of a local agency, except as otherwise provided in this chapter.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivision (d). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, “teleconference” means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public’s right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting,

members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) This section shall become operative January 1, 2024.

SEC. 4.1. Section 54953 is added to the Government Code, to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, in person except as otherwise provided in this chapter. Local agencies shall conduct meetings subject to this chapter consistent with applicable state and federal civil rights laws, including, but not limited to, any applicable language access and other nondiscrimination obligations.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the

legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivision (d). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, “teleconference” means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public’s right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint

powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) This section shall become operative January 1, 2024.

SEC. 5. Sections 3.1 and 4.1 of this bill incorporate amendments to Section 54953 of the Government Code proposed by both this bill and Assembly Bill 339. Those sections of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2022, but this bill becomes operative first, (2) each bill amends Section 54953 of the Government Code, and (3) this bill is enacted after Assembly Bill 339, in which case Section 54953 of the Government Code, as amended by Sections 3 and 4 of this bill, shall remain operative only until the operative date of Assembly Bill 339, at which time Sections 3.1 and 4.1 of this bill shall become operative.

SEC. 6. It is the intent of the Legislature in enacting this act to improve and enhance public access to state and local agency meetings during the COVID-19 pandemic and future applicable emergencies, by allowing broader access through teleconferencing options consistent with the Governor's Executive Order No. N-29-20 dated March 17, 2020, permitting expanded use of teleconferencing during the COVID-19 pandemic.

SEC. 7. The Legislature finds and declares that Sections 3 and 4 of this act, which amend, repeal, and add Section 54953 of the Government Code, further, within the meaning of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the purposes of that constitutional section as it relates to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies. Pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the Legislature makes the following findings:

This act is necessary to ensure minimum standards for public participation and notice requirements allowing for greater public participation in teleconference meetings during applicable emergencies.

SEC. 8. (a) The Legislature finds and declares that during the COVID-19 public health emergency, certain requirements of the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code) were suspended by Executive Order N-29-20. Audio and video teleconference were widely used to conduct public meetings in lieu of physical location meetings, and public meetings conducted by teleconference during the COVID-19 public health emergency have been productive, have increased public participation by all members of the public regardless of their location in the state and ability to travel to physical meeting locations, have protected the health and safety of civil servants and the public, and have reduced travel costs incurred by members of state bodies and reduced work hours spent traveling to and from meetings.

(b) The Legislature finds and declares that Section 1 of this act, which adds and repeals Section 89305.6 of the Education Code, Section 2 of this act, which adds and repeals Section 11133 of the Government Code, and Sections 3 and 4 of this act, which amend, repeal, and add Section 54953 of the Government Code, all increase and potentially limit the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

(1) By removing the requirement that public meetings be conducted at a primary physical location with a quorum of members present, this act protects the health and safety of civil servants and the public and does not preference the experience of members of the public who might be able to attend a meeting in a physical location over members of the public who cannot travel or attend that meeting in a physical location.

(2) By removing the requirement for agendas to be placed at the location of each public official participating in a public meeting remotely, including from the member's private home or hotel room, this act protects the personal, private information of public officials and their families while preserving the public's right to access information concerning the conduct of the people's business.

SEC. 9. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that state and local agencies can continue holding public meetings while providing essential services like water, power, and fire protection to their constituents during public health, wildfire, or other states of emergencies, it is necessary that this act take effect immediately.





## RESOLUTION NO. 2021-10

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE MISSION OAKS RECREATION AND PARK DISTRICT PROCLAIMING A LOCAL EMERGENCY, RATIFYING THE PROCLAMATION OF A STATE OF EMERGENCY BY GOVERNOR ORDER N-25-20 ON MARCH 4, 2020, AND AUTHORIZING REMOTE TELECONFERENCE MEETINGS OF THE LEGISLATIVE BODIES OF MISSION OAKS RECREATION AND PARK DISTRICT FOR THE PERIOD DECEMBER 16, 2021 TO JANUARY 15, 2022 PURSUANT TO BROWN ACT PROVISIONS.

**WHEREAS**, the MISSION OAKS RECREATION AND PARK DISTRICT is committed to preserving and nurturing public access and participation in meetings of the Board of Directors; and

**WHEREAS**, all meetings of MISSION OAKS RECREATION AND PARK DISTRICT's legislative bodies are open and public, as required by the Ralph M. Brown Act (Cal. Gov. Code 54950 – 54963), so that any member of the public may attend, participate, and watch the District's legislative bodies conduct their business; and

**WHEREAS**, the Brown Act, Government Code section 54953(e), makes provisions for remote teleconferencing participation in meetings by members of a legislative body, without compliance with the requirements of Government Code section 54953(b)(3), subject to the existence of certain conditions; and

**WHEREAS**, a required condition is that a state of emergency is declared by the Governor pursuant to Government Code section 8625, proclaiming the existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by conditions as described in Government Code section 8558; and

**WHEREAS**, a proclamation is made when there is an actual incident, threat of disaster, or extreme peril to the safety of persons and property within the jurisdictions that are within the District's boundaries, caused by natural, technological, or human-caused disasters; and

**WHEREAS**, it is further required that state or local officials have imposed or recommended measures to promote social distancing, or, the legislative body meeting in person would present imminent risks to the health and safety of attendees; and

**WHEREAS**, on March 4, 2020, Governor Newsom issued a Proclamation of a State of Emergency declaring a state of emergency exists in California due to the threat of COVID-19, pursuant to the California Emergency Services Act (Government Code section 8625); and

**WHEREAS**, on March 17, 2020, Governor Newsom issued Executive Order N-29-20 that suspended the teleconferencing rules set forth in the Brown Act, provided certain requirements were met and followed; and,

**WHEREAS**, on June 11, 2021, Governor Newsom issued Executive Order N-08-21 that clarified the suspension of the teleconferencing rules set forth in the Brown Act, and further provided that those provisions would remain suspended through September 30, 2021; and

**WHEREAS**, on September 16, 2021, Governor Newsom signed AB 361 that allows a legislative body subject to the Brown Act to continue to meet without fully complying with the teleconferencing rules in the Brown Act provided the legislative body make certain findings; and

**WHEREAS**, as amended by AB 361, Government Code section 54953(e), makes provisions for remote teleconferencing participation in meetings by members of a legislative body, without compliance with the

requirements of Government Code section 54953(b)(3), subject to the existence of certain conditions and requirements; and

**WHEREAS**, a required condition of Government Code section 54953(e) is that a state of emergency is declared by the Governor pursuant to Government Code section 8625, proclaiming the existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by conditions as described in Government Code section 8558(b); and

**WHEREAS**, a further required condition of Government Code section 54953(e) is that state or local officials have imposed or recommended measures to promote social distancing, or, the legislative body holds a meeting to determine or has determined by a majority vote that meeting in person would present imminent risks to the health and safety of attendees; and

**WHEREAS**, as of the date of this Resolution, the Proclamation of a State of Emergency remains in effect as neither the Governor nor the state Legislature have exercised their respective powers pursuant to Government Code section 8629 to lift the state of emergency either by proclamation or by concurrent resolution the state Legislature; and

**WHEREAS**, the California Department of Industrial Relations has issued regulations related to COVID-19 Prevention for employees and places of employment. Title 8 of the California Code of Regulations, Section 3205(5)(D) specifically recommends physical (social) distancing as one of the measures to decrease the spread of COVID-19 based on the fact that particles containing the virus can travel more than six feet, especially indoors; and

**WHEREAS**, on September 28, 2021, the Sacramento County Public Health Officer Dr. Olivia Kasirye issued a Teleconference Recommendation which states that utilizing teleconference options for public meetings is an effective and recommended social distancing measure to facilitate participation in public affairs and encourage participants to protect themselves and other from COVID-19; and

**WHEREAS**, Advisory Board of Directors has an interest in encouraging public participation in open and public meetings while protecting the health, safety and welfare of those who participate.

**WHEREAS**, such conditions now exist in the District, specifically, A State OF Emergency has been proclaimed as a result of the threat and spread of COVID-19; and

**WHEREAS**, Advisory Board members and/or District Staff exposed to COVID-19 may be temporarily unable to attend an in-person meeting due to exposure or potential exposure, illness or quarantine related to COVID-19 or social distancing measures; and

**WHEREAS**, the Advisory Board of Directors does hereby find that COVID-19 remains active, COVID-19 has caused, and will continue to cause, conditions of peril in the safety of persons within the District, and are likely to be beyond control of services, personnel, equipment and facilities of the District, and desires to ratify the proclamation of state of emergency by the Governor of the State of California; and

**WHEREAS**, as a consequence of the local emergency, the Board of Directors does hereby find that the legislative bodies of MISSION OAKS RECREATION AND PARK DISTRICT shall conduct their meetings without compliance with paragraph (3) of subdivision (b) of Government Code section 54953, as authorized by subdivision (e) of section 54953, and that such legislative bodies shall comply with the requirements to provide the public with access to the meetings as prescribed in paragraph (2) of subdivision (e) of section 54953; and

**WHEREAS**, the Notices and Agendas for Advisory Board Meetings will be posted within timeframes required by the Brown Act and will include the time and location of the meeting and/or teleconference access link that includes Meeting ID and password for public observation and address telephonically or otherwise electronically.

NOW, THEREFORE, THE BOARD OF DIRECTORS OF MISSION OAKS RECREATION AND PARK DISTRICT DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.

Section 2. The Advisory Board hereby ratifies the Governor's proclamations that state and local emergencies exist throughout the State and District, and Advisory Board Members and/or District Staff exposed to COVID-19 may be temporarily unable to attend an in-person meeting due to exposure, illness, or quarantine related to COVID-19 or social distancing measures: and

Section 3. The Board hereby ratifies the Governor of the State of California's Proclamation of State of Emergency, effective as of its issuance date of March 4, 2020.

Section 4. The Board hereby declares that the District is authorized to conduct open and public meetings in accordance with Government Code section 54953(e) and other applicable provisions of the Brown Act, and Staff are directed to take all actions necessary to carry out the intent and purpose of this Resolution.

Section 5. The District Staff and legislative bodies of MISSION OAKS RECREATION AND PARK DISTRICT are hereby authorized and directed to take all actions necessary to carry out the intent and purpose of this Resolution including, conducting open and public meetings in accordance with Government Code section 54953(e) and other applicable provisions of the Brown Act.

Section 6. This Resolution shall take effect immediately upon its adoption and shall be effective until the earlier of (i) January 15, 2022, or such time the Advisory Board of Directors adopts a subsequent resolution in accordance with Government Code section 54953(e)(3) to extend the time during which the legislative bodies of MISSION OAKS RECREATION AND PARK DISTRICT may continue to teleconference without compliance with paragraph (3) of subdivision (b) of section 54953.

PASSED AND ADOPTED by the Board of Directors of MISSION OAKS RECREATION AND PARK DISTRICT, this 15th day of December 2021, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
Jeff Rothberg, Chair of the Mission Oaks Recreation  
And Park District Advisory Board of Directors

\_\_\_\_\_  
Debra Tierney, Clerk of the Board

## STAFF REPORT



DATE: December 7, 2021

TO: MORPD Advisory Board Directors

FROM: J.R. Hichborn, Parks Superintendent

SUBJECT: Approve MORPD entering a three (3) year contract with Emerald Green Landscaping Services

### **BACKGROUND:**

On September 3, 2020 staff issued a request for proposal (RFP) for the Districts Landscape Services contract. Eleven (11) companies attended the mandatory job walk and six (6) companies submitted bids. After going through an awarding matrix that factored in multiple aspects of the companies, Brightview was awarded a three (3) year contract with an optional fourth and fifth-year extension in the amount of \$225,548 per year. The contract began on December 1, 2020.

At the November Advisory Board meeting, the Board voted unanimously to terminate the landscape services contract with Brightview Landscaping for not being in compliance of the contract.

The Board requested that a contract be presented to them before awarding the contract to Emerald Green Landscaping. **(Attachment A)**

### **DISCUSSION:**

The runner up in the awarding process was a local company, Emerald Green Landscaping. Their bid came in at \$229,440. I have met with the owner of the company (Jim Nelson), and he is confident that Emerald Green Landscaping can sufficiently accommodate the scope of work identified in the landscape contract. Mr. Nelson will personally oversee and be the account manager for the Mission Oaks contract.

The Facilities Committee recommends that the District enter a three-year contract with Emerald Green Landscaping for the annual amount of \$229,440 with a fourth and fifth-year option.

### **RECOMMENDATION:**

Staff recommends that the Advisory Board approve entering a three (3) year contract with Emerald Green Landscaping Services, with a fourth and fifth-year option for the annual amount of \$229,440. This will result in an increase expense in the amount of \$3,892.

## CONTRACT FOR SERVICES

THIS CONTRACT is made on January 1, 2022, by and between the Mission Oaks Recreation and Park District ("District"), and Emerald Green Landscape services inc. ("Consultant").

WITNESSETH:

WHEREAS, the District desires to engage Consultant to perform Landscape Maintenance Services at various District-controlled facilities;

WHEREAS, the Consultant has presented a proposal for such services to the District, dated August 13, 2021, (attached hereto as **Exhibit "A"**) and is duly licensed, qualified and experienced to perform those services;

NOW, THEREFORE, the parties hereto mutually agree as follows:

### 1. SCOPE OF SERVICES:

A. Consultant shall do all work, attend all meetings, produce all reports and carry out all activities necessary to completion of the services described in **Exhibit "A"**. This Contract and its exhibits shall be known as the "Contract Documents." Terms set forth in any Contract Document shall be deemed to be incorporated in all Contract Documents as if set forth in full therein. In the event of conflict between terms contained in these Contract Documents, the more specific term shall control. If any portion of the Contract Documents shall be in conflict with any other portion, provisions contained in the Contract shall govern over conflicting provisions contained in the exhibits to the Contract.

B. Consultant enters into this Contract as an independent contractor and not as an employee of the District. The Consultant shall have no power or authority by this Contract to bind the District in any respect. Nothing in this Contract shall be construed to be inconsistent with this relationship or status. All employees, agents, contractors or subcontractors hired or retained by the Consultant are employees, agents, contractors or subcontractors of the Consultant and not of the District. The District shall not be obligated in any way to pay any wage claims or other claims made against Consultant by any such employees, agents, contractors or subcontractors, or any other person resulting from performance of this Contract.

C. The Consultant agrees it has satisfied itself by its own investigation and research regarding the conditions affecting the work to be done and labor and materials needed, and that its decision to execute this Contract is based on such independent investigation and research.

### 2. TERM OF CONTRACT

A. The services of Consultant are to commence upon execution of this Contract by the District, and shall be undertaken and completed in accordance with the Schedule of Performance attached hereto and incorporated herein by this reference as **Exhibit "B."**

B. Consultant's failure to complete work in accordance with the Schedule of Performance may result in delayed compensation as described in Section 3.

C. The District's Park Superintendent or his/her designee may, by written instrument signed by the Parties, extend the duration of this Contract for a period of **two (2) years** in the manner provided in Section 5, provided that the extension does not require the payment of compensation in excess of the maximum compensation set forth in Section 3, Compensation.

### **3. COMPENSATION:**

A. The Consultant shall be paid monthly for the actual fees, costs and expenses for all time and materials required and expended, but in no event shall total compensation exceed Nineteen thousand, one hundred twenty dollars (\$19,120), without District's prior written approval. Consultant's fees shall be as specified in the Schedule of Fees, which is attached hereto and incorporated herein as **Exhibit "C"**.

B. Said amount shall be paid upon submittal of a monthly billing showing completion of the tasks that month. Consultant shall furnish District with invoices for all expenses as well as for all materials authorized by this Contract. The invoices shall be submitted with the monthly billings. If Consultant's performance is not in conformity with the Schedule of Performance, payments may be delayed or denied, unless the Consultant's failure to perform in conformity with the Schedule of Performance is a documented result of the District's failure to conform with the Schedule of Performance, or if the Schedule of Performance is extended pursuant to Section 5.

C. If the work is halted at the request of the District, compensation shall be based upon the proportion that the work performed bears to the total work required by this Contract, subject to Section 4.

D. Deficiencies noted verbally or in writing and not corrected within ten (10) days may be completed by the District or a third party. These direct costs shall be forfeited and deducted from the Contractor's monthly invoice.

### **4. TERMINATION:**

A. This Contract may be terminated by either party, provided that the other party is given not less than **thirty (30)** calendar days' written notice (delivered by certified mail, return receipt requested) of intent to terminate.

B. The District may temporarily suspend this Contract, at no additional cost to District, provided that the Consultant is given written notice (delivered by certified mail, return receipt requested) of temporary suspension. If District gives such notice of temporary suspension, Consultant shall immediately suspend its activities under this Contract.

C. Notwithstanding any provisions of this Contract, Consultant shall not be relieved of liability to the District for damages sustained by the District by virtue of any breach of this Contract by Consultant, and the District may withhold any payments due to Consultant until such time as the exact amount of damages, if any, due the District from Consultant is determined.

D. In the event of termination, the Consultant shall be compensated as provided for in this Contract, except as provided in Section 4C. Upon termination, the District shall be entitled

to all work, including but not limited to, appraisals, inventories, studies, analyses, drawings and data estimates performed to that date in accordance with Section 7 hereof.

**5. AMENDMENTS, CHANGES OR MODIFICATIONS:**

Amendments, changes or modifications in the terms of this Contract may be made at any time by mutual written agreement between the parties hereto and shall be signed by the persons authorized to bind the parties hereto.

**6. EXTENSIONS OF TIME:**

Consultant may, for good cause, request extensions of time to perform the services required hereunder. Such extensions shall be authorized in advance by the District in writing and shall be incorporated in written amendments to this Contract or the attached Work Program in the manner provided in Section 5.

**7. PROPERTY OF DISTRICT:**

A. It is mutually agreed that all materials prepared by the Consultant under this Contract shall become the property of the District, and the Consultant shall have no property right therein whatsoever. Immediately upon termination, the District shall be entitled to, and the Consultant shall deliver to the District, all data, drawings, specifications, reports, estimates, summaries and other such materials as may have been prepared or accumulated to date by the Consultant in performing this Contract which is not Consultant's privileged information, as defined by law, or Consultant's personnel information, along with all other property belonging exclusively to the District which is in the Consultant's possession.

B. Additionally, it is agreed that the parties intend this to be a contract for services and each considers the products and results of the services to be rendered by Consultant hereunder (the "Work") to be a work made for hire. Consultant acknowledges and agrees that the Work (and all rights therein, including, without limitation, copyright) belongs to and shall be the sole and exclusive property of the District.

**8. COMPLIANCE WITH ALL LAWS:**

A. Consultant shall comply with all applicable laws, ordinances, and codes of federal, State and local governments, and shall commit no trespass on any public or private property in performing any of the work authorized by this Contract.

B. Consultant warrants to the District that it is licensed by all applicable governmental bodies to perform this Contract and will remain so licensed throughout the progress of the Work, and that it has, and will have, throughout the progress of the Work, the necessary experience, skill and financial resources to enable it to perform this Contract.

C. The work contemplated under this Contract is a public work for the purposes of Labor Code section 1720 and is subject to the payment of prevailing wages. Accordingly, Consultant shall comply with the provisions of Exhibit "E".

**9. WARRANTIES AND RESPONSIBILITIES - CONSULTANT:**

A. Consultant agrees and represents that it is qualified to properly provide the services set forth in **Exhibit "A"** in a manner which is consistent with the generally accepted standards of Consultant's profession.

B. Consultant agrees and represents that the work performed under this Contract shall be in accordance with applicable federal, State and local law in accordance with Section 17A hereof.

C. Consultant shall designate a project manager who at all times shall represent the Consultant before the District on all matters relating to this Contract. The project manager shall continue in such capacity unless and until he or she is removed at the request of the District, is no longer employed by Consultant, or is replaced with the written approval of the District, which approval shall not be unreasonably withheld.

D. Consultant shall provide corrective services without charge to the District for services which fail to meet the above professional and legal standards and which are reported to Consultant in writing within sixty (60) days of discovery. Should Consultant fail or refuse to perform promptly its obligations, the District may render or undertake performance thereof and the Consultant shall be liable for any expenses thereby incurred.

#### **10. SUBCONTRACTING:**

None of the services covered by this Contract shall be subcontracted without the prior written consent of the District, which will not be unreasonably withheld. Consultant shall be as fully responsible to the District for the negligent acts and omissions of its contractors and subcontractors, and of persons either directly or indirectly employed by them, as it is for the negligent acts and omissions of persons directly employed by Consultant.

#### **11. ASSIGNABILITY:**

Consultant shall not assign or transfer any interest in this Contract whether by assignment or novation, without the prior written consent of the District which will not be unreasonably withheld. However, claims for money due or to become due Consultant from the District under this Contract may be assigned to a financial institution, or to a trustee in bankruptcy, without such approval. Notice of any assignment or transfer whether voluntary or involuntary shall be furnished promptly to the District.

#### **12. INTEREST IN CONTRACT:**

Consultant covenants that neither it, nor any of its employees, agents, contractors, subcontractors have any interest, nor shall they acquire any interest, direct or indirect, in the subject of the Contract, nor any other interest which would conflict in any manner or degree with the performance of its services hereunder. Consultant shall make all disclosures required by the District's conflict of interest code in accordance with the category designated by the District, unless the District Manager determines in writing that Consultant's duties are more limited in scope than is warranted by the category designated by the District code and that a narrower disclosure category should apply. Consultant also agrees to make disclosure in compliance with the District conflict of interest code if, at any time after the execution of this Contract, District determines and notifies Consultant in writing that Consultant's duties under this Contract warrant greater disclosure by Consultant than was originally contemplated. Consultant shall make disclosures in the time, place and manner set forth in the conflict of interest code and as directed



by the District.

**13. MATERIALS CONFIDENTIAL:**

All of the materials prepared or assembled by Consultant pursuant to performance of this Contract are confidential and Consultant agrees that they shall not be made available to any individual or organization without the prior written approval of the District, except by court order.

**14. LIABILITY OF CONSULTANT-NEGLIGENCE:**

Consultant shall be responsible for performing the work under this Contract in a manner which is consistent with the generally-accepted standards of the Consultant's profession and shall be liable for its own negligence and the negligent acts of its employees, agents, contractors and subcontractors. The District shall have no right of control over the manner in which the work is to be done but only as to its outcome and shall not be charged with the responsibility of preventing risk to Consultant or its employees, agents, contractors or subcontractors.

**15. INDEMNITY AND LITIGATION COSTS:**

Consultant shall indemnify, defend, and hold harmless the District, its officers, officials, agents, and employees against all claims, damages, demands, liability, costs, losses and expenses, including without limitation court costs and reasonable attorneys' fees, arising from Consultant's negligent acts or negligent failure to act, errors, omissions or willful misconduct incident to the performance of this Contract except such loss or damage caused by the active negligence, sole negligence, or willful misconduct of the District. The provisions of this paragraph shall survive termination or suspension of this Contract.

**16. CONSULTANT TO PROVIDE INSURANCE:**

A. Consultant shall not commence any work before obtaining, and shall maintain in force at all times during the duration and performance of this Contract, the policies of insurance specified in this Section. Such insurance must have the approval of the District as to limit, form, and amount, and shall be placed with insurers with a current A.M. Best's rating of no less than A VII (an NR rating is acceptable for Worker's Compensation insurance written with the State Compensation Insurance Fund of California).

B. Prior to execution of this Contract and prior to commencement of any work, the Consultant shall furnish the District with certificates of insurance and copies of endorsements providing evidence of coverage for all policies required by the Contract. The Consultant and its contractors and subcontractors shall, at their expense, maintain in effect at all times during the performance of work under the Contract not less than the following coverage and limits of insurance, which shall be maintained with insurers and under forms of policy satisfactory to the District. The maintenance by Consultant and its contractors and subcontractors of the following coverage and limits of insurance is a material element of this Contract. The failure of Consultant or of any of its contractors or subcontractors to maintain or renew coverage or to provide evidence of renewal may be treated by the District as a material breach of this Contract. Approval of the insurance by the District shall not relieve or decrease any liability of Consultant.

1. Worker's Compensation and Employer's Liability Insurance

a. Worker's Compensation - Insurance to protect the Consultant, its contractors and subcontractors from all claims under Worker's Compensation and Employer's Liability Acts, including Longshoremen's and Harbor Worker's Act ("Acts"), if applicable. Such coverage shall be maintained, in type and amount, in strict compliance with all applicable state and Federal statutes and regulations. The Consultant shall execute a certificate in compliance with Labor Code Section 1861, on the form provided in the Contract Documents.

b. Consultant shall provide a Waiver of Subrogation endorsement in favor of the District, its officers, officials, employees, agents and volunteers for losses arising from work performed by the Consultant.

## 2. Commercial General Liability Insurance

a. The insurance shall be provided on form CG0001, or its equivalent, and shall include coverage for claims for bodily injury or property damage arising out of premises/operations, products/completed operations, contractual liability, and subconsultant's work and personal and advertising injury resulting from actions, failures to act, or operations of the insured, or by its employees or agents, or by anyone directly or indirectly employed by the insured. The amount of insurance coverage shall not be less than **[\$1,000,000.00]** per occurrence and **[\$2,000,000]** general and products/completed operations aggregates.

b. The commercial general liability insurance shall also include the following:

i. Endorsement equivalent to CG 2010 1185 naming the District, its officers, officials, employees, agents, and volunteers as additional insureds. The endorsement shall contain no special limitations on the scope of protection afforded to the District, its officers, officials, employees or volunteers.

ii. Endorsement stating insurance provided to the District shall be primary as respects the District, its officers, officials, employees and any insurance or self insurance maintained by the District, its officers, officials, employees or volunteers shall be in excess of the Consultant's insurance and shall not contribute with it, to the payment or satisfaction of any defense expenses, loss, or judgment.

iii. Provision or endorsement stating that the Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

## 3. Commercial Automobile Insurance

a. The insurance shall include, but shall not be limited to, coverage for claims for bodily injury or property damage for owned, non-owned, and hired automobiles resulting from actions, failures to act, or operations of the insured, or by its employees or agents, or by anyone directly or indirectly employed by the

insured. The amount of insurance coverage shall not be less than **[\$1,000,000.00]** per accident.

b. The commercial automobile insurance shall include the same endorsements required for the commercial general liability policy (see Section 16.B.2.b).

4. Professional Liability. The Consultant and its contractors and subcontractors shall secure and maintain in full force, during the term of this Contract and for five years thereafter, professional liability insurance policies appropriate to the respective professions and the work to be performed as specified in this Contract. The limits of such professional liability insurance coverage shall not be less than **[\$1,000,000]** per claim.

C. In addition to any other remedy the District may have, if Consultant fails to maintain the insurance coverage as required in this Section, the District may obtain such insurance coverage as is not being maintained, in form and amount substantially the same as is required herein, and the District may deduct the cost of such insurance from any amounts due or which may become due Consultant under this Contract.

D. No policy required by this Contract shall be suspended, cancelled, terminated by either party, or reduced in coverage or in limits unless Consultant has provided thirty (30) days prior written notice by certified mail, return receipt requested, to the District.

E. Any deductibles or self-insured retentions in excess of \$10,000 must be declared to, and approved by, the District.

F. The requirement as to types, limits, and the District's approval of insurance coverage to be maintained by Consultant are not intended to, and shall not in any manner, limit or qualify the liabilities and obligations assumed by Consultant under the Contract.

## **17. MISCELLANEOUS PROVISIONS:**

A. Consultant shall keep itself fully informed of, shall observe and comply with, and shall cause any and all persons, firms or corporations employed by it or under its control to observe and comply with, applicable federal, state, county and municipal laws, ordinances, regulations, orders and decrees which in any manner affect those engaged or employed on the work described by this Contract or the materials used or which in any way affect the conduct of the work.

B. Consultant shall not engage in unlawful employment discrimination. Such unlawful employment discrimination includes, but is not limited to, employment discrimination based upon a person's race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, gender, citizenship, or sexual orientation.

C. Consultant shall maintain and make available for inspection by the District and its auditors accurate records of all of its costs, disbursements and receipts with respect to any work under this Contract. Such inspections may be made during regular office hours at any time until six (6) months after the final payments under this Contract are made to the Consultant.

D. This Contract constitutes the entire agreement between the parties relative to the services specified herein and no modification hereof shall be effective unless and until such modification is evidenced by a writing signed by both parties to this Contract. There are no understandings, agreements, conditions, representations, warranties or promises, with respect to this Contract, except those contained in or referred to in the writing.

E. All notices that are required to be given by one party to the other under this Contract shall be in writing and shall be deemed to have been given if delivered personally or enclosed in a properly addressed envelope and deposited in a United States Post Office for delivery by registered or certified mail addressed to the parties at the following addresses:

District: J.R. Hichborn, Parks Superintendent  
Mission Oaks Recreation and Park District  
3344 Mission Avenue  
Carmichael, CA 95608

Consultant: Jim Nelson, CEO  
  
Emerald Green Landscape services, INC.  
  
3422 Auburn Blvd  
Sacramento, 95821

F. This Contract shall be interpreted and governed by the laws of the State of California.

G. Any action arising out of this Contract shall be brought and maintained in Sacramento County California, regardless of where else venue may lie.

H. In any action brought by either party to enforce the terms of this Contract, each party shall be bear responsibility for its attorney's fees and all costs regardless of whether one party is determined to be the prevailing party.

[Signatures on following page]

Mission Oaks Recreation and Park District

By: \_\_\_\_\_  
Daniel Barton, District Administrator

ATTEST:

By: \_\_\_\_\_  
J.R. Hichborn, Parks Superintendent

APPROVED AS TO FORM:

By: \_\_\_\_\_

\_\_\_\_\_, General Counsel  
[General Counsel's name]

CONSULTANT

By: Jim Nelson  
Jim Nelson

Title: CEO

CEO, Emerald Green Landscape services INC.

EXHIBITS

*(insert at time of contract execution)*

**PROPOSAL FORM  
MISSION OAKS RECREATION AND PARK DISTRICT  
FOR**

**Landscape Maintenance Services**

<b>GENERAL MAINTENANCE COSTS PER LOCATION</b>	<b>Monthly Amount Years 1-3 General Maintenance</b>	<b>Monthly Amount Years 4-5 (optional) General Maintenance</b>
Swanston Community Park	\$ 2157.00	\$ 2,265.00
Oak Meadow Park	\$ 994.50	\$ 1,044.22
Ashton Park	\$ 1875.00	\$ 1,968.75
Valley Oak Park	\$ 2065.25	\$ 2,168.51
Sheffield Park	\$ 990.25	\$ 1,039.76
Maddox Park	\$ 1300.50	\$ 1,365.52
Windemere Park	\$ 463.50	\$ 486.67
Orville Wright Park	\$ 894.00	\$ 938.70
Hazelwood Greens	\$ 560.00	\$ 588.00
Eastern Oak Park	\$ 875.00	\$ 918.75
Mission North Park	\$ 2600.00	\$ 2,730.00
Gibbons Community Park	\$ 3400.00	\$ 3,570.00
Cowan Park	\$ 470.00	\$ 493.50
Sierra Oaks School	\$ 470.00	\$ 493.50
<b>TOTAL COST PER MONTH</b>	\$ 19,120.00	\$ 20,070.88
<b>TOTAL COST PER YEAR</b>	\$ 229,440.00	\$ 240,850.56

Bidder's Signature: James E. Nelson Date: 8-13-21





**EXHIBIT A**

**Consultant Proposal/Scope of Work**

*(insert at time of contract execution)*



## Scope of work

### SECTION 9: MAINTENANCE SPECIFICATIONS

#### 9.1 Maintenance Specifications

##### 1. General Maintenance

###### i. Mowing:

###### a. Irrigated Turf Areas

All turf areas shall be policed for trash before mowing. Paper, rubbish and debris shall be removed. Flail type mowers shall not be used. All clippings are to be disposed of away from the park sites at the Contractor's expense. The Contractor is responsible for collecting and disposing of clippings. All clippings shall be efficiently mulched to leave no visible trace or picked up and removed to a designated dumping site provided by the contractor. At no time shall unsightly clippings be left before vacating site following mowing operation. The mowing schedule shall be consistent from week to week and must be approved by the District. All turf located under portable backstops and bleachers shall be mowed.

###### b. Non-irrigated Grass/Natural Areas

Several of the parks and other areas have, within their boundaries, areas which are undeveloped or natural in condition. Most of these areas will require periodic maintenance throughout the year for appearance and safety reasons. General Specifications for this work are as follows;

1. Height of native grasses, where mowing/weed eating is specified shall be maintained at a maximum height of 4 inches.
2. Borders for transitions between developed and native areas shall be a minimum of 24 inches wide unless otherwise specified in the contract.
3. Borders for firebreaks between District Property, shall be maintained at a minimum in compliance with Sacramento County requirements
4. The Contractor shall thoroughly clean equipment used to cut native grass prior to using on turf areas.

###### ii. Edging/Weed-eating:

All lawns, low-growing ground cover areas, paved areas, concrete pads, and curbs will be edged weekly, except for the period between November 1 through February 14, during which time, edging shall be performed as needed.

Weed-eaters are not to be used around the base of trees or shrubs. Turf shall be maintained no less than 24 inches from trunk of tree or shrub.

Grass and other debris shall be removed from sidewalks, picnic table pads, tennis courts, and all other hard surface areas, after mowing and edging.

###### iii. Policing and Garbage Disposal:

A clean and tidy appearance of all landscaped areas is essential to the success of the project. Excessive cleanliness is required, with no trash, litter or other debris permitted in any landscape areas. Any rubbish or debris shall be disposed of by the Contractor at the dumpsite designated by the District. The following repetitive tasks are required:

- a. All areas, including tennis courts and dog park, shall be kept free of all litter, including broken glass or other such debris.
- b. Planted areas shall be kept free of trimming and grass cuttings.
- c. Leaves shall be removed in all areas and disposed of as necessary to maintain a neat appearance.
- d. Picnic areas shall be maintained in a clean and sanitary condition. Litter, glass, and other debris shall be placed in trash containers. Concrete pads, shall be cleaned of debris after mowing and edging.
- e. Sidewalks, gutters and paved areas shall be swept and cleaned of any dirt or soil that might be washed from adjacent slopes or planted areas. Grass clippings shall be blown off walks and curbs. All plant growth shall be prevented in any cracks in walkways, curbs, street gutters, or along paved areas such as basketball court.
- f. Parking lots, basketball courts, and all other hard surface areas, excluding tennis courts, shall be thoroughly cleaned (swept, washed, vacuumed or blown) every two weeks or more frequently, as directed.

iv. Hazards:

Hazards, such as a broken or unsanitary drinking fountains, broken bleachers, benches, playground equipment, pot holes on ground, standing water, ropes tied to tree limbs, tree houses, tunnels, excavations, and unsecured material, such as wood, wire, metal, etc., shall be brought to the attention of the Parks Superintendent or authorized District representative within 24 hours. If required, the Contractor shall provide the appropriate remedy.

v. Vandalism:

Any acts of vandalism shall be reported in writing to the Parks Superintendent or authorized District representative within 24 hours.

2. Disease and Pest Control

The Contractor shall regularly inspect all landscape areas for presence of disease, insect or rodent infestation. The Contractor shall advise the Parks Superintendent or his authorized representative within four (4) days of disease, insect or rodent infestation and specify control measures to be taken. A proposal shall be submitted to the District for consideration. If approved by the District, the Contractor shall implement the approved control measures, exercising extreme caution in the application of all spray materials, dusts or other materials utilized.

3. Trees, Shrubs, Ground Cover

- i. The latest edition of the Sunset Western Garden Book shall be the general guidelines and reference tool for care and maintenance of all plant material.

- ii. Trees, shrubs, and ground cover shall be pruned as needed to insure proper growth. All clippings must be disposed of at the contractors expense. The scope of the pruning shall include all work performed to a height of 15 feet. Work beyond the 15 foot mark shall be the responsibility of the District.
- iii. The Contractor shall maintain existing stakes and ties on all trees until such time as they are no longer needed for support, as determined by the District. Stakes and ties shall be inspected at least twice yearly to prevent girdling of trunks and branches and to prevent rubbing that causes bark wounds. District shall be responsible for needed additional stakes and ties. Contractor shall be responsible for installation and maintenance.
- iv. Pruning: shall apply to all shrubs and trees. Shrubs shall be pruned as needed to maintain established height and form. Trees shall be checked annually and pruned as needed to insure proper growth in compliance with the following guidelines.
  - a. All pruning shall be done by qualified professional personnel using recognized and approved I.S.A. standards and techniques.
    - 1. Excessive stubbing back will not be permitted.
    - 2. All pruning cuts shall be made without cutting into the branch bark ridge and collar or leaving a protruding stub. They shall be cleanly cut with no tearing of the bark.
    - 3. Shearing of shrubs and ground cover will be done only after approval of the District. Shrubs and ground cover shall be headed back to prevent growth onto sidewalks and curbs while maintaining a formal landscaped appearance shape of the plant wherever possible. The contractor will be responsible for removing trimming debris from underneath shrubs.
    - 4. Shrub pruning shall be done in a manner that maintains balled or boxed forms unless otherwise directed by the District.
    - 5. Only skilled workmen shall perform pruning work in accordance with standard horticultural pruning practices. Remove from the project all pruned branches and material. Contractor will remove and replace any plant material excessively pruned or deformed as a result of improper pruning practices at no additional costs to the District.
    - 6. All gas or electric powered equipment shall not be operated before 6:30 a.m., unless specified.
  - b. Young trees shall be pruned to select and develop permanent scaffold branches that are smaller in diameter than the trunk or branch to which they are attached, which have vertical spacing of from 18 to 48 inches and radical orientation so as not to overlay one another.
  - c. Under no circumstances will stripping of lower branches ("raising up") of young trees be permitted. Lower branches shall be retained in a "tipped back" or pinched condition with as much foliage as possible to promote caliper trunk growth, tapered trunk. Lower branches can be cut with the trunk only after the tree is able to stand erect without staking or other support.
  - d. Evergreen trees shall be thinned and shaped when necessary to prevent wind and storm damage. Mature trees may not be "raised up" without the approval of the Parks Superintendent or authorized representative.
  - e. Maintenance pruning of all trees, regardless of their size, within the formal landscape shall be covered under this contract. The exception to this is

the large native Oaks. Pruning of trees and shrubs shall be done as needed to achieve the following:

1. To shape, particularly to correct misshaping caused by wind.
  2. To raise the lower branches of trees above head height wherever they overhang walks.
  3. To cut back shrubs where they encroach on the walks and the paved areas.
  4. To remove suckers, waterspouts, and other undesirable growth on trees.
  5. To remove all dead or damaged branches.
  6. Pruning to remove all hazards shall be done immediately.
- f. Shrub, pruning and care guidelines:
1. Where pruning is required, shrubs shall be pruned into balled or boxed forms unless otherwise directed by the District.
  2. The preferred method of pruning for shrubs is thinning or tip pruning branches. By caring for shrubs in this manner, fewer new shoots will be produced and the overall need for pruning will be reduced.
  3. Deciduous shrubs shall be pruned in the dormant season after the leaves have fallen. Prune back errant growth and crossing branches to accentuate the shrubs natural form.
- g. Groundcover care guidelines:
1. Groundcover areas have been planted either with small shrubs that are intended to mass together to act as a solid mat/blanket or with plants that were grown in flats and are more vine-like in nature.
  2. Where shrubby groundcovers exist, they shall be pruned in the same manner as other shrubs: by tip pruning and thinning. It is preferred that edging be accomplished by means of hand shearing, to eliminate sharp, boxed edges against walks and curbs and where different plant types grow together. Shrubs are to be tapered back at approximately a 30-degree angle from the ground in a generally loose configuration.
  3. Where vine-like groundcovers abut walks, trees and limits of planting areas edging will be allowed, however only 1" of bare space will be allowed between the edge of the pavement or curb and the beginning of the groundcover plants. Woody portions of viney plants will be removed to keep plants thriving and from matting up on each other.
  4. A 24" diameter clear space will be required around all tree trunks to reduce the competition for nutrients and allow for a neat appearance. No clear space is intended to occur around the foliage (drip line) of shrubs in groundcover areas.
- l. All vegetation shall be removed from utility box areas and caged in Point of connection areas, so that access may be granted, and utility box doors may swing open unobstructed.

#### 4. Weed Control and Chemical Application

##### i. Weed Control:

All landscaped areas within the specified maintenance area including but not limited to shrub and ground cover beds, tree wells, and area covered with ornamental rocks shall be kept 95% free of all weeds at all times. This means: removal of weed growth shall be accomplished on a continuing basis as weeds appear, and not just once each 30 days. For the purpose of the specification, a weed will be considered as "any undesirable or misplaced plant". Weeds shall be controlled either by hand, mechanical or chemical methods. The use of long-term control through the use of pre-emergent is strongly recommended. The Park Superintendent or authorized representative may restrict the use of chemical weed control in certain areas.

Weeding shall also include the removal of weeds in all paved or unpaved surfaces within maintenance area boundaries.

All fences, light standards, tree wells, and sound wall structures, shall be free of any plant growth. Chemicals may be used upon receiving prior approval. All quick couplers, valves, electrical boxes and sewer clean outs, shall be maintained in a manner that will provide easy location and access.

Pre-emergent and post-emergent shall be applied to shrub and groundcover areas to control weeds. Weeds shall be removed by hand as necessary to maintain an attractive appearance. Mechanical removal of weeds should be minimized, since this may result in root damage and breaks the seal of the pre-emergent.

All trees in turf shall have a 24-inch band of open soil maintained around the base of the trunk. String trimmers shall NOT be used around the base of the trees.

Prevent weeds or plant growth from growing in cracks in sidewalks, street gutters or along paved areas.

ii. Chemical Application:

Any herbicide/pesticide used must be named on the California Department of Agriculture's approved list and must be applied in accordance with state, federal and local laws. The Contractor or subcontractor must have on file with the District, a copy of the appropriate permits and licenses prior to any application of chemicals. The Parks Superintendent shall be notified one week prior to the desired date of application, with the following information: area, date, time, location and items in park, and chemical(s) to be applied.

Prior to application, the Contractor shall have and provide to the District the appropriate Pesticide Advisor's Recommendation Report. Upon completion of work, the Contractor shall provide Pesticide Use Report Form #39-060 to the County with a copy to the District.

Herbicides/Pesticides must be brought to the work site in properly labeled with guarantee analysis. All spraying shall be done with extreme care by a qualified appropriately licensed applicator, to avoid any hazard to any person or animal in the area, adjacent areas, or cause any property damage. Applicator must wear

required personal protective equipment when working. The District may require signage upon completion of application.

Extreme care shall be observed not to damage any other plants, if non-selective weed killers are used. Spraying shall be done only at times when the wind speed does not exceed five miles per hour, and with the prior approval of the Parks Superintendent.

No chemicals shall be applied within the boundaries of play structures or the dog park. All unwanted growth shall be removed manually or mechanically.

Any damage to public or private property resulting from negligence by the Contractor in the selection or application of herbicides shall be charged against the contract payment unless repairs are made by the contractor to the satisfaction of the Parks Superintendent.

The non-selective herbicide "Round-up" **Shall not** be used on any District site for the use of vegetation control. Other glyphosate-based alternatives are acceptable.

iii. Pedestrian Paths and Wetland Trails:

DG or concrete pedestrian path surfaces shall be kept clean and free of weeds at all times. In order to maintain a clear pedestrian path, all grass and weed growth (over 2" ht.) shall be kept clear from path edges by (1) foot (on both sides). Edge clearing (by string trimming) shall be done a minimum of two (2) times per year. Prune plants encroaching on paths as needed.

Decomposed granite (wetland) trail surfaces shall be kept in a weed free condition. Hand pulling of weeds will affect the surface stability of the compacted "D.G." and is not an acceptable means of removal, unless otherwise approved by the District. Spot spraying of "environmentally approved" herbicides will be required. In order to maintain a clear pedestrian trail, all grass and weed growth (over 2" ht.) shall be kept clear from trail edges by (1) foot (on both sides). Edge clearing (by string trimming) shall be done a minimum of two (2) times per year. Prune plants encroaching on paths as needed.

## 5. Weed Abatement/Fire Breaks

The general specification for this section is as follows:

- i. Open space areas will be maintained at a minimum in compliance with the Sacramento County standards

Definition – weeds: All weeds growing upon streets, sidewalks, or private property, including any of the following:

- Weeds which bear seeds of a downy or wingy nature.
- Sagebrush, chaparral, and any other brush or weed which attains such large growth as to become, when dry, a fire menace to adjacent improved property.
- Weeds that are otherwise noxious or dangerous.



- Poison oak or poison ivy when the conditions are such as to constitute a menace to public health.
  - Dry grass, stubble, brush, litter, or other flammable materials that endanger the public safety by creating a fire hazard.
- a. **Acceptable Methods of Abatement**
1. **Mowing:** Height of vegetation shall not exceed two inches at completion. Mowing shall include weed eaters, flail, and rotary mowers. Unless otherwise specified, mowing frequency shall be twice annually.
  2. **Chemical Applications:** Refer to Section 5, Items 1-3.
- b. **Debris Removal**
1. All brush or woody vegetation debris shall be chipped or removed from the property. Any non-vegetative debris (i.e. construction) shall be removed from the property.

# Swanston Community Park

2350 Northrop Avenue

Swanston Community Park is located on Northrop Avenue, between Fulton Avenue and Howe Avenue.

## Landscaping Requirements:

- **Mowing-** All turf areas shall be mowed per the specifications in Section 9.1 Maintenance Specifications.
- The following mowing specifications shall be followed:
  - Maintain a uniform height of not less than 2” and not higher than 3” yearly. In general, this will require weekly mowing except for the period of December 1 through March 1, during which time mowing will be required every two weeks, or as needed, depending on growing conditions (at the Parks Superintendent’s discretion).
- **Pruning-** All shrubs and groundcover shall be pruned per industry standards defined in Section 9.1.4 Trees, Shrubs, Ground Cover no less than once every 8 weeks, or as needed.
- **General cleanup-** All trash and debris shall be removed from the site 1 time per week per the specifications in Section 9.1.1 General Maintenance.
- **Edging/Weed-eating-** Edging/Weed eating shall be in accordance with Section 9.1.1 General Maintenance.
- **Children’s Play Equipment Areas –** All children play equipment areas shall be policed weekly to be kept free of weeds and leaves. No chemical application shall be applied, and all unwanted growth shall be removed manually or mechanically.
  - Excess sand on sidewalks from sand pits shall be cleaned weekly
- **Chemical application-** All herbicides shall be applied by Contractor per the specifications in Section 9.1.5 Weed Control and Chemical Application.
  - Chemical applications are only to occur once contractor has provided written notice of chemical use to District staff at least 72 hours in advance.
- **Tennis courts-** Tennis courts shall always be blown off weekly and be free of vegetation.

## **Oak Meadow Park**

2734 American River Drive

Oak Meadow Park is located on American River Drive, between Clunie Drive and Moffatt Way.

### Landscaping Requirements:

- **Mowing-** All turf areas shall be mowed per the specifications in Section 9.1 Maintenance Specifications.  
The following mowing specifications shall be followed:  
Maintain a uniform height of not less than 2” and not higher than 3” yearly. In general, this will require weekly mowing except for the period of December 1 through March 1, during which time mowing will be required every two weeks, or as needed, depending on growing conditions (at the Parks Superintendent’s discretion).
- **Pruning-** All shrubs and groundcover shall be pruned per industry standards defined in Section 9.1.4 Trees, Shrubs, Ground Cover no less than once every 8 weeks, or as needed.
  - All shrubs shall be pruned to height of 8’. At no time is it acceptable for the shrub height to exceed 10’
- **General cleanup-** All trash and debris shall be removed from the site once per week per the specifications in Section 9.1.1 General Maintenance.
- **Edging/Weed-eating-** Edging/Weed eating shall be in accordance with Section 9.1.1 General Maintenance.
- **Children’s Play Equipment Areas –** All children play equipment areas shall be policed weekly to be kept free of weeds and leaves. No chemical application shall be applied, and all unwanted growth shall be removed manually or mechanically.
- **Chemical application-** All herbicides shall be applied by Contractor per the specifications in Section 9.1.5 Weed Control and Chemical Application.

# Ashton Park

4251 Ashton Drive

Ashton Park is located off of Ashton Drive, in between American River Drive and Alton Court.

## Landscaping Requirements:

- **Mowing-** All turf areas shall be mowed per the specifications in Section 9.1 Maintenance Specifications.  
The following specifications will apply to the Bermuda athletic field:
  - Field will be mowed twice weekly on Monday and Friday during the period of April 1 through October 30.
  - Bermuda Turf will be mowed at a height not to exceed 1 ½”.
  - Bermuda Turf shall be mowed with a “reel mower” not a traditional “rotary mower”
  - All cool season turf during the spring and summer months maintain a uniform height of 2” – 3” and during the winter months maintain a uniform height of 2.5”.
- **Pruning-** All shrubs and groundcover shall be pruned per industry standards defined in Section 9.1.4 Trees, Shrubs, Ground Cover no less than once every 12 weeks, or as needed.
- **General cleanup-** All trash and debris shall be addressed per the specifications in Section 9.1.1 General Maintenance.
- **Edging/Weed-eating-** Edging/Weed eating shall be in accordance with Section 9.1.1 General Maintenance.
- **Children’s Play Equipment Areas** – All children play equipment areas shall be policed weekly to be kept free of weeds and leaves. No chemical application shall be applied, and all unwanted growth shall be removed manually or mechanically.
- **Chemical application-** All herbicides shall be applied by Contractor per the specifications in Section 9.1.5 Weed Control and Chemical Application.
- **Tennis courts-** Tennis courts shall always be blown off weekly and be free of vegetation.

# Valley Oak Park

1150 Eastern Avenue

Valley Oak Park is located on Eastern Avenue, in between Lantzy Court and La Salle Drive.

## Landscaping Requirements:

- **Mowing-** All turf areas shall be mowed per the specifications in Section 9.1 Maintenance Specifications.  
Turf shall be mowed to maintain a uniform height of not less than 2” and not higher than 3”. This will require weekly mowing except for the period of December 1 through March 1, during which time mowing will be required every two weeks, or as needed, depending on growing conditions (at the District’s discretion).
  - The Bermuda turf infields in all three baseball fields are maintained by Arden little league and are **NOT** to be maintained by the contractor
- **Pruning-** All shrubs and groundcover shall be pruned per industry standards defined in Section 9.1.4 Trees, Shrubs, Ground Cover no less than once every 12 weeks, or as needed.
- **General cleanup-** All trash and debris shall be addressed per week per the specifications in Section 9.1.1 General Maintenance.
- **Edging/Weed-eating-** Edging/Weed eating shall be in accordance with Section 9.1.1 General Maintenance.
- **Children’s Play Equipment Areas –** All children play equipment areas shall be policed weekly to be kept free of weeds and leaves. No chemical application shall be applied, and all unwanted growth shall be removed manually or mechanically.
- **Chemical application-** All herbicides shall be applied by Contractor per the specifications in Section 9.1.5 Weed Control and Chemical Application.
- **Native grasses-** Height of native grasses located on the parcel, where mowing/weed eating is specified shall be maintained at a maximum height of 4 inches. The Contractor shall thoroughly clean equipment used to cut native grass prior to using on turf areas.
- **Borders-** Borders for transitions between developed and native areas shall be a minimum of 24 inches wide unless otherwise specified in the contract.
- **Open Space/Weed Abatement-** All work completed shall be in conformance with Section 9.1 Maintenance Specifications. Contractor is to remove all combustible vegetation that is located within the designated defensible space. Vegetation shall be removed or cut to a maximum height of 2 inches and shall include the removal of tree limbs to a height of six feet above ground level. All downed trees, branches or woody debris smaller than 8 inches in diameter located in the designated defensible space shall also be removed. Designated defensible space shall be defined as 50 feet off of the fence line in the “nature area” located on the Northern and eastern end of the Park.

## Shelfield Park

1849 Suffolk Way

Shelfield Park is located on Suffolk way, between Shelfield Drive and Linda Lane.

### Landscaping Requirements:

- **Mowing-** All turf areas shall be mowed per the specifications in Section 9.1 Maintenance Specifications.  
Turf shall be mowed to maintain a uniform height of not less than 2" and not higher than 3". This will require weekly mowing except for the period of December 1 through March 1, during which time mowing will be required every two weeks, or as needed, depending on growing conditions (at the District's discretion).
- **Pruning-** All shrubs and groundcover shall be pruned per industry standards defined in Section 9.1.4 Trees, Shrubs, Ground Cover no less than once every 8 weeks, or as needed.
- **General cleanup-** All trash and debris shall be addressed per the specifications in Section 9.1.1 General Maintenance.
- **Edging/Weed-eating-** Edging/Weed eating shall be in accordance with Section 9.1.1 General Maintenance.
- **Children's Play Equipment Areas** – All children play equipment areas shall be policed weekly to be kept free of weeds and leaves. No chemical application shall be applied, and all unwanted growth shall be removed manually or mechanically.
- **Chemical application-** All herbicides shall be applied by Contractor per the specifications in Section 9.1.5 Weed Control and Chemical Application.
- **Tennis courts-** Tennis courts shall always be blown off weekly and be free of vegetation.

## **Maddox Park**

4821 Thor Way

Maddox Park is located on Thor way, between Walnut Avenue and Mission Avenue.

### Landscaping Requirements:

- **Mowing-** All turf areas shall be mowed per the specifications in Section 9.1 Maintenance Specifications.  
Turf shall be mowed to maintain a uniform height of not less than 2” and not higher than 3”. This will require weekly mowing except for the period of December 1 through March 1, during which time mowing will be required every two weeks, or as needed, depending on growing conditions (at the District’s discretion).
- **Pruning-** All shrubs and groundcover shall be pruned per industry standards defined in Section 9.1.4 Trees, Shrubs, Ground Cover no less than once every 12 weeks, or as needed.
- **General cleanup-** All trash and debris shall be addressed per the specifications in Section 9.1.1 General Maintenance.
- **Edging/Weed-eating-** Edging/Weed eating shall be in accordance with Section 9.1.1 General Maintenance.
- **Children’s Play Equipment Areas –** All children play equipment areas shall be policed weekly to be kept free of weeds and leaves. No chemical application shall be applied, and all unwanted growth shall be removed manually or mechanically.
- **Chemical application-** All herbicides shall be applied by Contractor per the specifications in Section 9.1.5 Weed Control and Chemical Application.
- **Native grasses-** Height of native grasses located on the parcel, where mowing/weed eating is specified shall be maintained at a maximum height of 4 inches. The Contractor shall thoroughly clean equipment used to cut native grass prior to using on turf areas.

# Windemere Park

Windemere Park is located on the corner of Windemere lane and rolling hills road

## Landscaping Requirements:

- **Mowing-** All turf areas shall be mowed per the specifications in Section 9.1 Maintenance Specifications.  
Turf shall be mowed to maintain a uniform height of not less than 2” and not higher than 3”. This will require weekly mowing except for the period of December 1 through March 1, during which time mowing will be required every two weeks, or as needed, depending on growing conditions (at the District’s discretion).
- **Pruning-** All shrubs and groundcover shall be pruned per industry standards defined in Section 9.1.4 Trees, Shrubs, Ground Cover no less than once every 8 weeks, or as needed.
- **General cleanup-** All trash and debris shall be addressed per the specifications in Section 9.1.1 General Maintenance.
- **Edging/Weed-eating-** Edging/Weed eating shall be in accordance with Section 9.1.1 General Maintenance.
- **Children’s Play Equipment Areas –** All children play equipment areas shall be policed weekly to be kept free of weeds and leaves. No chemical application shall be applied, and all unwanted growth shall be removed manually or mechanically.
- **Chemical application-** All herbicides shall be applied by Contractor per the specifications in Section 9.1.5 Weed Control and Chemical Application.



## **Orville Wright Park**

2331 Saint Marks way

Orville Wright Park is located on Saint Marks Way between Lusk Drive and Maryal Drive

### Landscaping Requirements:

- **Mowing-** All turf areas shall be mowed per the specifications in Section 9.1 Maintenance Specifications.  
Turf shall be mowed to maintain a uniform height of not less than 2" and not higher than 3". This will require weekly mowing except for the period of December 1 through March 1, during which time mowing will be required every two weeks, or as needed, depending on growing conditions (at the District's discretion).
- **Pruning-** All shrubs and groundcover shall be pruned per industry standards defined in Section 9.1.4 Trees, Shrubs, Ground Cover no less than once every 8 weeks, or as needed.
- **General cleanup-** All trash and debris shall be addressed per the specifications in Section 9.1.1 General Maintenance.
- **Edging/Weed-eating-** Edging/Weed eating shall be in accordance with Section 9.1.1 General Maintenance.
- **Children's Play Equipment Areas –** All children play equipment areas shall be policed weekly to be kept free of weeds and leaves. No chemical application shall be applied, and all unwanted growth shall be removed manually or mechanically.
- **Chemical application-** All herbicides shall be applied by Contractor per the specifications in Section 9.1.5 Weed Control and Chemical Application.

## Hazelwood Greens

4604 Hazelwood Ave

Hazelwood Greens is located on Hazelwood Avenue between Mission and Greenwood Avenue

### Landscaping Requirements:

- **Mowing-** All turf areas shall be mowed per the specifications in Section 9.1 Maintenance Specifications.  
Turf shall be mowed to maintain a uniform height of not less than 2" and not higher than 3". This will require weekly mowing except for the period of December 1 through March 1, during which time mowing will be required every two weeks, or as needed, depending on growing conditions (at the District's discretion).
- **Pruning-** All shrubs and groundcover shall be pruned per industry standards defined in Section 9.1.4 Trees, Shrubs, Ground Cover no less than once every 8 weeks, or as needed.
- **General cleanup-** All trash and debris shall be removed from the site once per week per the specifications in Section 9.1.1 General Maintenance.
- **Edging/Weed-eating-** Edging/Weed eating shall be in accordance with Section 9.1.1 General Maintenance. Contractor will not edge baseball/softball infields or warning tracks.
- **Chemical application-** All herbicides shall be applied by Contractor per the specifications in Section 9.1.5 Weed Control and Chemical Application.

## Eastern Oak Park

3127 Eastern Avenue

### Landscaping Requirements:

- **Mowing-** All turf areas shall be mowed per the specifications in Section 9.1 Maintenance Specifications.
- Turf shall be mowed to maintain a uniform height of not less than 2” and not higher than 3”. This will require weekly mowing except for the period of December 1 through March 1, during which time mowing will be required every two weeks, or as needed, depending on growing conditions (at the District’s discretion).
- **Pruning-** All shrubs and groundcover shall be pruned per industry standards defined in Section 9.1.4 Trees, Shrubs, Ground Cover no less than once every 8 weeks, or as needed.
- **General cleanup-** All trash and debris shall be removed from the site once per week per the specifications in Section 9.1.1 General Maintenance.
- **Edging/Weed-eating-** Edging/Weed eating shall be in accordance with Section 9.1.1 General Maintenance. Contractor will not edge baseball/softball infields or warning tracks.
- **Children’s Play Equipment Areas –** All children’s play equipment areas shall be policed twice per week to be kept free of weeds, trash and leaves. No chemical application shall be applied, and all unwanted growth shall be removed manually or mechanically.
- **Chemical application-** All herbicides shall be applied by Contractor per the specifications in Section 9.1.5 Weed Control and Chemical Application.
- **Dog Park-**The dog park located Eastern Oak Park shall be policed weekly to be kept free of weeds, trash and leaves. No chemical application shall be applied inside fenced areas, and all unwanted growth shall be removed manually or mechanically.
- **Pickle Ball courts-** Pickle ball courts shall always be blown off weekly and be free of vegetation.

## Mission North Park

3344 Mission Avenue

Mission North park is the home of the District office. It is located on Mission Avenue, between Whitney Avenue and North Avenue.

### Landscaping Requirements:

- **Mowing-** All turf areas shall be mowed per the specifications in Section 9.1 Maintenance Specifications.  
Maintain a uniform height of not less than 2" and not higher than 3" yearly. In general, this will require weekly mowing except for the period of December 1 through March 1, during which time mowing will be required every two weeks, or as needed, depending on growing conditions (at the Parks Superintendent's discretion).
- **Pruning-** All shrubs and groundcover shall be pruned per industry standards defined in Section 9.1.4 Trees, Shrubs, Ground Cover no less than once every 8 weeks, or as needed.
- **General cleanup-** All trash and debris shall be removed from the site once per week per the specifications in Section 9.1.1 General Maintenance.
- **Edging/Weed-eating-** Edging/Weed eating shall be in accordance with Section 9.1.1 General Maintenance.
- **Children's Play Equipment Areas –** All children's play equipment areas shall be policed weekly to be kept free of weeds, trash and leaves. No chemical application shall be applied, and all unwanted growth shall be removed manually or mechanically.
- **Chemical application-** All herbicides shall be applied by Contractor per the specifications in Section 9.1.5 Weed Control and Chemical Application.

## **Gibbons community Park**

4701 Gibbons Drive

Gibbons Community Park is the home of the Mission Oaks Community Center. It is located on Gibbons Drive, between Scotty Way and Ballard Drive.

### Landscaping Requirements:

- **Mowing-** All turf areas shall be mowed per the specifications in Section 9.1 Maintenance Specifications.  
Turf shall be mowed to maintain a uniform height of not less than 2" and not higher than 3". This will require weekly mowing except for the period of December 1 through March 1, during which time mowing will be required every two weeks, or as needed, depending on growing conditions (at the District's discretion).
- **Pruning-** All shrubs and groundcover shall be pruned per industry standards defined in Section 9.1.4 Trees, Shrubs, Ground Cover no less than once every 8 weeks, or as needed.
- **General cleanup-** All trash and debris shall be removed from the site once per week per the specifications in Section 9.1.1 General Maintenance.
- **Edging/Weed-eating-** Edging/Weed eating shall be in accordance with Section 9.1.1 General Maintenance.
- **Children's Play Equipment Areas –** All children's play equipment areas shall be policed weekly to be kept free of weeds, trash and leaves. No chemical application shall be applied, and all unwanted growth shall be removed manually or mechanically.
- **Chemical application-** All herbicides shall be applied by Contractor per the specifications in Section 9.1.5 Weed Control and Chemical Application.
- **DG Trail-** The trail shall always be kept free of vegetation. The trail borders shall be edged weekly.
- **Tennis courts-** Tennis courts shall always be blown off weekly and be free of vegetation.

## Cowan Park

3350 Becerra Way

Cowan Park is attached to Cowan Elementary school. It is located on Becerra way, between Pounds Avenue and Woodcrest Road.

### Landscaping Requirements:

- **Mowing-** All turf areas shall be mowed per the specifications in Section 9.1 Maintenance Specifications.  
Maintain a uniform height of not less than 2” and not higher than 3” yearly. In general, this will require weekly mowing except for the period of December 1 through March 1, during which time mowing will be required every two weeks, or as needed, depending on growing conditions (at the Parks Superintendent’s discretion).
- **Pruning-** All shrubs and groundcover shall be pruned per industry standards defined in Section 9.1.4 Trees, Shrubs, Ground Cover no less than once every 12 weeks, or as needed.
- **General cleanup-** All trash and debris shall be removed from the site once per week per the specifications in Section 9.1.1 General Maintenance.
- **Edging/Weed-eating-** Edging/Weed eating shall be in accordance with Section 9.1.1 General Maintenance.
- **Children’s Play Equipment Areas** – All children’s play equipment areas shall be policed weekly to be kept free of weeds, trash and leaves. No chemical application shall be applied, and all unwanted growth shall be removed manually or mechanically.
- **Chemical application-** All herbicides shall be applied by Contractor per the specifications in Section 9.1.5 Weed Control and Chemical Application.

## Sierra Oaks

2762 Huntington Road

Sierra Oak is attached and utilized by Sierra Oak School. All Maintenance must be performed outside of school hours. It is the contractor's responsibility to obtain a School schedule specifying hours of operation. Sierra Oaks is located on Huntington Road, between Burbank Way and Mills Drive.

### Landscaping Requirements:

- **Mowing-** All turf areas shall be mowed per the specifications in Section 9.1 Maintenance Specifications.  
Turf shall be mowed to maintain a uniform height of not less than 2" and not higher than 3". This will require weekly mowing except for the period of December 1 through March 1, during which time mowing will be required every two weeks, or as needed, depending on growing conditions (at the District's discretion).
- While school is in session mowing shall take place on Thursdays after 1:00pm
- **Pruning-** All shrubs and groundcover shall be pruned per industry standards defined in Section 9.1.4 Trees, Shrubs, Ground Cover no less than once every 12 weeks, or as needed.
- **General cleanup-** All trash and debris shall be removed from the site once per week per the specifications in Section 9.1.1 General Maintenance.
- **Edging/Weed-eating-** Edging/Weed eating shall be in accordance with Section 9.1.1 General Maintenance.
- **Children's Play Equipment Areas –** All children's play equipment areas shall be policed weekly to be kept free of weeds, trash and leaves. No chemical application shall be applied, and all unwanted growth shall be removed manually or mechanically.
- **Chemical application-** All herbicides shall be applied by Contractor per the specifications in Section 9.1.5 Weed Control and Chemical Application.
- **Tennis courts-** Tennis courts shall always be blown off weekly and be free of vegetation.





**EXHIBIT B**

**Schedule of Performance**

*(insert at time of contract execution)*





## **Landscape maintenance schedule**

### **Monday:**

Gibbons Park, Ashton Park soccer field

### **Tuesday:**

Mission North Park, Eastern Oak Park, Orville Wright Park

### **Wednesday:**

Cowan school, Hazelwood Greens, Windemere Park, Shelfield Park

### **Thursday:**

Swanston Park, Oak Meadow Park, Sierra Oaks school

### **Friday:**

Valley Oak Park, Ashton Park, Maddox Park



**EXHIBIT C**

**Schedule of Fees**

*(insert at time of contract execution)*



**PROPOSAL FORM  
MISSION OAKS RECREATION AND PARK DISTRICT  
FOR**

**Landscape Maintenance Services**

<b>GENERAL MAINTENANCE COSTS PER LOCATION</b>	<b>Monthly Amount Years 1-3 General Maintenance</b>	<b>Monthly Amount Years 4-5 (optional) General Maintenance</b>
Swanston Community Park	\$ 2157.00	\$ 2,265.00
Oak Meadow Park	\$ 994.50	\$ 1,044.22
Ashton Park	\$ 1875.00	\$ 1,968.75
Valley Oak Park	\$ 2065.25	\$ 2,168.51
Sheffield Park	\$ 990.25	\$ 1,039.76
Maddox Park	\$ 1300.50	\$ 1,365.52
Windemere Park	\$ 463.50	\$ 486.67
Orville Wright Park	\$ 894.00	\$ 938.70
Hazelwood Greens	\$ 560.00	\$ 588.00
Eastern Oak Park	\$ 875.00	\$ 918.75
Mission North Park	\$ 2600.00	\$ 2,730.00
Gibbons Community Park	\$ 3400.00	\$ 3,570.00
Cowan Park	\$ 470.00	\$ 493.50
Sierra Oaks School	\$ 470.00	\$ 493.50
<b>TOTAL COST PER MONTH</b>	\$ 19,120.00	\$ 20,070.88
<b>TOTAL COST PER YEAR</b>	\$ 229,440.00	\$ 240,850.56

Bidder's Signature: James E. Nelson Date: 8-13-21





EXHIBIT D

CERTIFICATE OF COMPLIANCE WITH LABOR CODE § 3700  
[Labor Code § 1861]

I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract.

CONSULTANTS

By:  \_\_\_\_\_  
Jim Nelson, CEO



EXHIBIT E  
LABOR COMPLIANCE

**1. PREVAILING WAGE**

A. The Work contemplated herein constitutes a public work within the meaning of Labor Code sections 1720 and 1771. It shall be mandatory upon the Consultant and upon any Subcontractor, to pay not less than the said specified prevailing rates of wages to all workers employed by them under the Contract in accordance with Labor Code section 1774. The Director of the Department of Industrial Relations ("DIR") of the State of California has determined the general prevailing rate of wages of per diem wages in the locality in which the work is to be performed for each craft or type of worker needed to execute the Contract. The Consultant acknowledges that it has examined the prevailing rate of per diem wages as established by the DIR. Copies of the current schedules for prevailing wages are on file at District Hall, and the contents of those schedules are incorporated herein as if set forth in full. The Consultant shall post a copy of the applicable prevailing wage determinations at each job site, along with any other work place posters required by law.

B. The District will not recognize any claims for additional compensation because of the payment of prevailing wages. The possibility of wage increases is one of the elements to be considered by the Consultant in determining its proposal, and will not under any circumstances be considered as the basis of a claim against the District.

C. By executing this Contract Consultant warrants that it has registered with the Department of Industrial Relations in accordance with Labor Code section 1725.5.

**2. PREVAILING WAGE RECORDS**

A. The Consultant and each subcontractor shall keep an accurate payroll record which shows the name, address, social security number, correct work classification (in accordance with the wage decision), both straight and overtime worked each day and week, and hourly rate of pay, gross wages earned, deductions made and net wages paid to each journeyman, apprentice, worker or other employee paid by the Consultant /subcontractor in connection with the Work. These payroll records shall be certified and shall be made available at Consultant's principal office. These records shall be maintained during the course of the Work. The Consultant and all subcontractors shall make the certified payroll records available for inspection by District representatives upon request and shall permit such representatives to interview employees during the work hours on the job site.

B. The District shall notify the Consultant in writing of any discrepancies or violations that are discovered during such inspections. Written notification pursuant to this Section shall include the actions that will be necessary to resolve the discrepancies and/or violations. The Consultant shall be held entirely responsible for the prompt resolution of all non-compliances with the prevailing wage laws, including those pertaining to all subcontractors and any lower-tier subcontractors. The Consultant shall forfeit as penalty to the District the amount specified by law for each calendar day or portion thereof for each worker (whether employed by the Consultant or any subcontractor) paid less than the stipulated prevailing rates for any work done under the Contract in violation of the provisions of the Labor Code and in particular, Section 1775.

C. To the extent applicable, Consultant and subcontractors shall maintain and furnish to the Department of Industrial Relations ("DIR"), a certified copy of each weekly payroll (but no less often than monthly), with a statement of compliance signed under penalty of perjury. Such certified payroll reports shall be transmitted electronically to the DIR.

D. The District will not recognize any claims for additional compensation because of the payment of the prevailing wages. The possibility of wage increases is one of the elements to be considered by the Consultant in entering into the Contract, and will not under any circumstances, other than delays caused by the District, or the District's agents, be considered as the basis of a claim against the District.

### **3. Labor Discrimination**

Attention is directed to Section 1735 of the Labor Code, which reads as follows:

"No discrimination shall be made in the employment of persons upon public works because of their race, color, national origin or ancestry, physical handicap, mental condition, marital status, or sex of such person, except as provided in Section 12940 of the Government Code, and every General Contractor for public works violating this section is subject to all the penalties imposed for a violation of this chapter."

### **4 Eight-Hour Day Limitation**

(a) In accordance with the provisions of the Labor Code, and in particular, Sections 1810 to 1815 thereof, inclusive, incorporated herein by reference, eight hours labor shall constitute a day's work, and no worker in the employ of Consultant, or any Subcontractor, doing or contracting to do any part of the work contemplated by the Contract, shall be required or permitted to work more than eight (8) hours in any one calendar day and forty (40) hours in any one calendar week in violation of those provisions; provided that subject to Labor Code Section 1815, a worker may perform work in excess of either eight (8) hours per day or forty (40) hours during any one week upon compensation for all hours worked in excess of eight (8) hours per day or forty (40) hours during any one week at not less than one and one-half times the basic rate of pay.

(b) The Consultant and each Subcontractor shall also keep an accurate record showing the names and actual hours worked of all workers employed by them in connection with the Contract. This record shall be open at all reasonable hours to the inspection of the District. It is hereby further agreed that, except as provided in (a) above, the Consultant shall forfeit as a penalty to the District the sum of twenty-five dollars (\$25) for each worker employed in the performance of the Contract by the Consultant or by any of its Subcontractors for each calendar day during which such worker is required or permitted to labor more than eight (8) hours in and one calendar day and forty (40) hours in any one calendar week in violation of Sections 1810 through 1815.

### **5. Compliance with State Requirements for Employment of Apprentices**

(a) The Consultant's attention is directed to Section 1777.5 of the Labor Code. Provisions of said Section pertaining to employment of registered apprentices are hereby incorporated by reference into this Contract. As applicable, the Consultant or any Subcontractor

employed by the Consultant in the performance of this Contract shall take such actions as necessary to comply with the provisions of Section 1777.



## STAFF REPORT



DATE: December 7, 2021

TO: MORPD Advisory Board of Directors

FROM: Shayne Hawthorne, Clerk of the Board

SUBJECT: Discussion RE: Advisory Board of Directors proposed 2022 Meeting Schedule

### **BACKGROUND:**

The Advisory Board of Directors should adopt an annual meeting calendar each January, setting regular meeting dates to help facilitate and coordinate agenda scheduling and meeting preparation.

### **RECOMMENDATION:**

That the Board discuss the proposed 2022 Advisory Board of Directors meeting calendar.

The Ralph M. Brown Act (Gov. Code §54950 et. seq) is the open meetings law for local public agencies in California. The rules pursuant to the Brown Act provide for notice to the public before the Board meeting and opportunities for the public to participate during the meeting with exceptions prescribed within the Brown Act. Adopting an annual calendar with prescribed dates allows the public greater opportunity to participate in government meetings.

### **DISCUSSION:**

The Board holds meetings on the second Tuesday of each month beginning at 6 pm. Some meetings are scheduled for a different Tuesday during the planning process when it is known that absences will result in a loss of quorum. Occasional Special Meetings are scheduled during the year; proper notice in accordance with the Brown Act occurs. Due to the State of Emergency in California, our Advisory Board of Directors Meeting will be held remotely via Zoom Meetings until further notice. Meeting agendas are posted at the District Office, Community Centers and on the District's website 72 hours prior to each meeting.

Adopting the 2022 Advisory Board of Directors Meeting calendar (**Attachment A**) in January will allow the Clerk of the Board to plan appropriately for staffing needs to prepare agendas, schedule agenda items, and meet Brown Act noticing requirements timely and efficiently. It will also afford the public an opportunity to participate in local government.

# Attachment A

## **PROPOSED 2022 Advisory Board of Directors Meeting Schedule**

January 11, 2022

February 8, 2022

March 8, 2022

April 12, 2022

May 10, 2022

June 14, 2022

July 12, 2022

August 9, 2022

September 13, 2022

October 11, 2022

November 8, 2022

December 13, 2022



## STAFF REPORT



**DATE:** December 9, 2021

**TO:** MORPD Advisory Board of Directors

**FROM:** Darren Woodland, Finance Manager

**SUBJECT:** Reserve Budget Workshop

### **BACKGROUND:**

The Advisory Board requested information regarding the District's Reserve Funds. The California Special District Association (CSDA) provided education and training on the fundamentals of the Reserve Fund. The following information was gathered from the District Reserve Policy [\(Attachment A\)](#), CSDA's "Special District Reserve Guidelines, Second Edition" [\(Attachment B\)](#), and CSDA's "Reserve Policies for Special Districts – How Much is Enough?" [\(Attachment C\)](#).

### **DISCUSSION:**

How much does the District have in Reserve Funds? Should the District spend any Reserve Funds? If so, how should these funds be spent? What is the greatest need for Mission Oak's residents at this time?

## **BUDGET RESERVE POLICY**

Adopted February 10, 2015

### **PURPOSE**

This policy sets a formula for determining the District's annual reserves for its General and Assessment budgets.

### **BASIC POLICY AND OBJECTIVES**

The Mission Oaks Recreation and Park District reserve policy is guided by sound accounting principles. By maintaining a prudent level of financial reserves in its annual budget the District gains significant benefits including a means to accommodate savings from the previous annual budget and funds for emergency preparedness. Reserves also allow a structure for dedicating funds for future capital projects, savings for property acquisition opportunities, and be a hedge against fluctuations in property tax revenues. Should the District ever be required to borrow money, a substantial reserve will assist with its bond rating.

The District will maintain an unassigned fund balance reserve of not less than 10% of budgeted General Fund and Assessment Fund budgets. The Board may alter this amount for extenuating circumstances at the Board's discretion.

Because amounts in the nonspendable, restricted, committed and assigned categories are subject to varying constraints on their use, the Reserve for economic uncertainties consists of balances that are otherwise unassigned.

## **Glossary**

- **Nonspendable Fund Balance** – this fund balance classification includes amounts that cannot be spent because they are either not in spendable form (i.e. – prepaid expenses) or legally or contractually required to be maintained intact.
- **Restricted Fund Balance** – this fund balance classification should be reported when there are constraints placed on the use of resources externally (by creditors, grant sources, contributors, etc.) or imposed by law or enabling legislation.
- **Committed Fund Balance** – this fund balance classification can only be used for specific purposes pursuant to constraints imposed by formal action of the government's highest level of decision making authority (i.e. – fund balance designations passed by board resolution).
- **Assigned Fund Balance** – this fund balance classification are amounts that are constrained by the government's intent to be used for specific purposes, but are neither restricted nor committed.
- **Unassigned Fund Balance** – this fund balance classification is the residual classification for the general fund.



**California Special  
Districts Association**

*Districts Stronger Together*

# Special District Reserve Guidelines

SECOND EDITION





## Acknowledgements

In preparing the Special District Reserve Guidelines, the California Special Districts Association (CSDA) greatly benefited from individuals who were generous with their time and insightful with their views. Our task force consisted of finance staff and general managers from independent special districts, as well as professional financial consultants.

CSDA extends its appreciation to its special district task force members:

- Paul Hughes of South Tahoe Public Utilities District
- Jeff Ramos of Cosumnes Community Services District
- John Rossi of Western Municipal Water District
- Rainy Selamat of Olivenhain Municipal Water District
- Ward Winchell of Southgate Recreation & Park District

To the finance professionals on our task force, who significantly contributed to the development of the principles and guidelines, CSDA extends its sincere gratitude. The contributions of the following were invaluable:

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- Jim Marta, CPA, of James Marta & Company
- Saul Rosenbaum of the investment banking firm, Prager Sealy & Co, LLC
- Tim Schaefer of the public financial advisory firm, Fieldman, Rolapp & Associates

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## The Formation of Special District Reserve Guidelines

Answering a  
Call, Fulfilling  
a Need

The genesis for CSDA's Special District Reserve Guidelines was a 2000 Little Hoover Commission report entitled, *"Special Districts: Relics of the Past or Resources for the Future?"* The report included a section on special district reserves with an introductory finding that stated: *"Hundreds of independent special districts have banked multi-million dollar reserves that are not well publicized and often not considered in regional or statewide infrastructure planning."*

The 2000 report raised a number of issues relating to special district reserves including:

- Lack of guidelines and consistency
- Lack of visibility and publication of district financial information
- Lack of understanding among constituents and policymakers of district finances
- Lack of districts incorporating reserve information into infrastructure planning

News media reacted to the Little Hoover Commission report with banner headlines claiming that "obscure" public agencies have "hoarded" billions in reserves. Legislative hearings on special district finances were held and interest was spiked among grand juries, leading them to investigate how special districts within their counties handle reserves.

Ultimately, the Little Hoover Commission recommended that guidelines for prudent reserves be established, and that investment policies and practices be reviewed to determine if additional oversight was warranted.



**...many independent special districts already have established reserve policies and most, if not all, special district officials recognize their fiduciary responsibilities and take them seriously.**

## **CSDA Reserve Guidelines Task Force**

Although special district advocacy organizations disagreed with some of the Little Hoover Commission's findings and data interpretation, CSDA concurred that the establishment of reserve guidelines would assist special district governing officials and administrators in fulfilling their fiduciary responsibilities. To accomplish this, CSDA formed a task force in 2001 to identify both the essential elements of a reserve policy and the issues to be discussed during policy development.

The Special District Reserve Guidelines were developed by the task force as a tool for special district governing officials and administrators to assist them in fulfilling their commitment to provide cost-effective and efficient public services for the communities they serve.

## **Special District Reserve Guidelines**

### **Second Edition**

Today, with over a decade having passed since CSDA convened its original task force in 2001, many special districts have utilized the guidelines to evaluate their reserve policies, develop new reserve policies, and/or promote comprehensive and easily understood policies.

Through this decade-long process, special districts have gained new insights on improved best practices. Furthermore, certain accounting practices and terminologies have evolved. Therefore, in order to ensure the most accurate and updated guidelines, and in continuance of efforts to promulgate widespread adoption, CSDA commissioned a second task force in 2012 to produce a Special District Reserve Guidelines, Second Edition. CSDA encourages district officials to incorporate these new guideline elements into their policies, where applicable, based on size and services offered.

In developing and updating the second edition, the CSDA task force recognized that many independent special districts already have established reserve policies and most, if not all, special district officials recognize their fiduciary responsibilities and take them seriously. What may have generated most of the concern regarding special district reserves in 2000 is not lack of policy, but lack of outreach to constituents and others regarding district operations. It is essential that special districts continue to promote understanding outside their boardroom and perform outreach on district financial management to facilitate understanding among the public, media and legislators.



## Introduction

Reserves are the foundation of the sustainable delivery of core services.

### *Importance of Maintaining a Reserve*

Reserves are the foundation of the sustainable delivery of core services. Through prudent reserves, special districts offer taxpayers and ratepayers significant benefits including:

1. Savings to balance budgets
2. Emergency preparedness
3. Stable rates
4. Well-maintained infrastructure
5. Investment in the future

The fundamental question in maintaining a reserve is, how much is enough? In other words, when are reserves too low and when are they too high? These can be delicate questions because unwarranted reserves could undermine taxpayer and ratepayer support, while insufficient reserves could jeopardize the district's long-term sustainability.

There is also the question of where reserve funds should be spent. Pressure to expend reserves on making current services cheaper, rather than planning for the future, is all too frequent. Adopting a reserve policy will assist your agency in answering these fundamental questions.

---



## Reasons for Adopting a Reserve Policy

In addition to the over-arching taxpayer and ratepayer benefits of reserves noted earlier, there are many specific reasons for a special district to adopt reserve policies:

### Shared Vision:

A formally adopted policy promulgates a shared understanding of the proper level and use of reserves, which facilitates healthy working relationships.

### Objectivity:

Revenue decisions represent some of the most controversial and difficult choices that governing boards must face. Utilizing reserve policies reduces political gamesmanship and promotes responsible long-term planning.

### Fiscal Justification:

Inevitably, public agencies will face scrutiny over whether to raise or reduce rates, taxes or fees. Having reserve policies in place prior to such occasions serves as a valuable tool for both making and explaining difficult decisions.

### Public Awareness:

Keeping the public informed about what you do is a fundamental responsibility for any public agency. They are the boss, after all, and all of us understand from personal experience that our jobs are a lot easier and a lot less stressful when the boss knows about and approves of what you are doing. Adopting a policy can help the district better communicate to the public the motives for adopting a reserve, as well as convey the reasons for maintaining the reserve at a certain level.



### Important questions about reserves

The fundamental question in maintaining a reserve is, how much is enough? In other words, when are reserves too low and when are they too high? These can be delicate questions because unwarranted reserves could undermine taxpayer and ratepayer support, while insufficient reserves could jeopardize the district's long-term sustainability.



## Prudent Accumulation and Management of Reserves: Developing Policy

Each special district should develop and adopt a reserve policy.

The Special District Reserve Guidelines reflect the common belief among special districts that there should be a clear and well-articulated rationale for the accumulation and management of reserve funds. Each special district should develop and adopt a reserve policy as a commitment to financial prudence and careful stewardship of community assets. It is critical to understand that a reserve fund is designated by a public agency to carry out specific purposes in a manner consistent with other financial policies, budgetary practices, district programs, and legal requirements.

### ***Reserve Policy Objectives:***

1. To provide adequate funding to meet the agency's short-term and long-term plans.
2. To minimize adverse annual and multi-year budgetary impacts from anticipated and unanticipated expenditures, thus minimizing the possibility of unplanned service fees or rate fluctuations.
3. To strengthen the financial stability of the agency against present and future uncertainties in an ever-changing environment.

### ***Foundational Elements of a Reserve Policy:***

Prior to developing a reserve policy, a district should first establish the three prerequisites below.

1. Clear, organizational philosophy/mission.
2. Policy-oriented board of directors, with long-term focus on fiscal sustainability.
3. Standardized method of financial reporting, such as Governmental Accounting Standards Board (GASB) Statement Nos. 34 and/or 54.

# Communicating regularly about district financials and reserve priorities creates trust.

## Principles for Developing a Reserve Policy:

### 1. Identify the uniqueness of the district.

- a. Consider district goals, needs and constraints.
- b. Utilize life-cycle analysis if district is capital intensive.
- c. Regularly measure condition of assets.

### 2. Form a complete understanding of the district's core business and significant cost drivers for district operations.

### 3. Engage in strategic planning.

- a. By developing, regularly evaluating and, when necessary, modifying strategic plans, districts can more efficiently plan and shape their futures. Strategic planning can help district boards anticipate and adapt to changing environmental, regulatory and demographic conditions. This assists districts in establishing appropriate reserve funds and adopting adequate target levels.
- b. Seek community input in the strategic planning process, i.e., ratepayers and taxpayers, business groups, community organizations, other public agencies serving the same constituency, etc.

### 4. Make communicating a priority.

- a. A regular newsletter and annual report are good starting points; it is critical for districts to reach out to the public and explain their financial position.
- b. Seek input through customer surveys, community meetings, and other meaningful engagement.
- c. Inform customers and constituents of output and seek their input in evaluating policies.

### 5. Recognize that a good reserve policy must be consistent with other financial policies, such as a balanced operating budget and investment policies.

### 6. Create and maintain a well-developed capital improvement plan.

### 7. Estimate the ebb and flow, or "seasonality," of cash-flow during the fiscal year and build a basic understanding of the degree of short-term borrowing necessary to meet such needs.

### 8. Clearly identify reserves—both categories and purposes. Set target levels for reserves that are consistent with the district's mission, the district's uniqueness and the philosophy of the district's board and community.

### 9. A broad reserve policy may include many elements or sub-policies. Some areas that may need sub-policies include:

- a. Rate-stabilization funds
- b. Fees and charges
- c. Debt issuance and management
- d. Deferred maintenance
- e. Level of unrestricted (contingency) funds
- f. Long-term repair and replacement



## Fund Balance and Net Position/Net Assets

Every district has unique circumstances and a proper fund balance should be considered on a case-by-case basis.

There are many factors that must be considered when establishing an appropriate fund balance and ensuring the prudent management of your district's finances. Every district has unique circumstances and a proper fund balance should be considered on a case-by-case basis. Thoughtfully accounting for variables such as your district's revenue sources and income volatility will assist your district in determining its reserve amount. On the following pages are issues that should be considered when adopting a reserve level.



# Specific Considerations for Budgeting and Allocating Fund Balance or Net Position/Net Assets

Considerations
<p>1. Define the special district’s fiscal objectives:</p> <ul style="list-style-type: none"><li>a. Short-term</li><li>b. Long-term</li><li>c. Operating</li><li>d. Capital</li></ul>
<p>2. Identify where funds are used:</p> <ul style="list-style-type: none"><li>a. Operating revenues are the general-purpose funds through which ongoing activities are funded.</li><li>b. Special-purpose revenues often are legally restricted for a particular use. For example, a special assessment for infrastructure must be separately accounted for and spent on designated infrastructure costs.</li><li>c. Debt proceeds should be used to fund costs that provide a benefit across fiscal years. The issuance of debt allows the district to allocate these costs by spreading the debt service to these periods. Debt proceeds should never be used for short-term operating costs because this would entail allocating current operating costs to future periods.</li><li>d. One-time revenues should be used for one-time expenses. If a special district gets one-time revenues and uses it to provide additional full-time positions or to fund on-going operating costs, it may lead to a budget crisis when the one-time funding runs out.</li></ul>



## One-time Revenue

According to the Government Finance Officers Association, “Examples of one-time revenue include: infrequent sales of government assets, bond refunding savings, infrequent revenues from development and grants. These revenue may be available for more than one year (e.g. , a three-year grant) but are expected to be non-recurring.”

## One-time Expenditures

According to the Government Finance Officers Association, “Examples of expenditures which a government may wish to use one-time revenue include start up costs, stabilization (e.g. to cover expenditures that temporarily exceed revenues), early debt retirement, and capital purchases.”

# Components of Fund Balance

In governmental funds, “reserves” typically comprise a portion of the total fund balance. Fund balance reporting standards play a part in describing how much of fund balance might be available for a reserve and how much is limited to other purposes. GASB Statement No. 54, *Fund Balance Reporting and Governmental Fund Type Definitions*, changes how fund balance has traditionally been reported.

In the past, reporting of fund balance focused on whether resources were available for appropriation (i.e., budgeting) and distinguished between “unreserved fund balance” (i.e., available for appropriation) and “reserved fund balance” (i.e., not available for appropriation). GASB Statement No. 54 changes the focus to the “extent to which the government is bound to honor constraints on the specific purposes for which amounts in the fund can be spent” and establishes five different components of fund balance:

## COMPONENTS OF FUND BALANCE

NONSPENDABLE FUND BALANCE	RESTRICTED FUND BALANCE	COMMITTED FUND BALANCE	ASSIGNED OR DESIGNATED FUND BALANCE	UNASSIGNED OR UNDESIGNATED FUND BALANCE
This category is inherently nonspendable, such as the long-term portion of loans receivable, the principle of an endowment and inventories.	This classification has externally enforceable limitations on the use of fund balance, imposed by parties such as creditors, grantors or laws or regulations of other governments.	This encompasses limitations imposed by the special district upon itself at its highest level of decision making (e.g., governing board through a resolution). For example, the governing board might commit a portion of fund balance to a “stabilization fund” to provide a cushion against unknown economic shocks and revenue declines.	This portion is earmarked for an intended use. The intent is established at either the highest level of decision making or by a body or official designated for that purpose. For example, a share of fund balance might be assigned to offset a gap in the budget stemming from a decline in revenues or an allotment could be assigned for an upcoming special project.	This comprises all fund balances that are left after considering the other four categories. Use is least constrained in this category of fund balance.



Unassigned fund balance is typically the primary subject of a reserve policy. However, committed and assigned fund balance may also be thought of as part of a reserve policy as the governing board or management, respectively, has some control over the balances. Conversely, restricted fund balances or nonspendable fund balances are fundamentally constrained, making it unnecessary to place parameters on them through reserve policy in order to achieve prudent savings and expenditures of public resources.

It is recommended that every district establish policies regarding minimum fund balance and spending priorities in order to communicate to users the importance of a reserve for economic uncertainties, why it consists of amounts that are unassigned and that it is not available for spending.

Districts' policies should specify the order in which fund balances are spent when more than one amount is available for a specific purpose. Where such policies do not exist, GASB 54 prescribes that the default order in which these amounts should be spent is committed, assigned, and then unassigned.



### **GASB 54**

According to the Governmental Accounting Standards Board, statement No. 54 was issued after, "...research revealed that the existing standards guiding fund balance reporting were being interpreted inconsistently by different governments. Consequently, the fund balance information reported by many governments also was inconsistent. It also became clear that the understandability of fund balance information was affected and that financial statement users were unable to readily interpret reported fund balance information."

*GASB fact sheet about Fund Balance Reporting and Governmental Fund Type Definitions*



### **Sample Policy Language**

The "X" district maintains a minimum unassigned fund balance of not less than "X" percent of budgeted general fund expenditures and other financing uses as a reserve for economic uncertainties. The district believes a reserve of this level is prudent to maintain a high bond rating and to protect the district from the effects of fluctuations in property tax revenues to which special districts are vulnerable. Because amounts in the nonspendable, restricted, committed and assigned categories are subject to varying constraints on their use, the reserve for economic uncertainties consists of balances that are otherwise unassigned.



## Reserve Level Targets

A reserve policy must set a target level of reserves to maintain. The target is typically defined in terms of unrestricted fund balance as a percentage of either regular operating revenues or regular operating expenditures. The choice between revenue and expenditures as a basis depends on which element is more predictable. A government that relies heavily on property taxes typically would choose revenues, whereas a government with a less predictable revenue portfolio might choose expenditures. In either case, the base should only reflect operating numbers and should remove the effect of unusual spikes or drops that would distort long-term trends.

With the basis of the target defined, the next step is to select a reserve-level target number. The Government Finance Officers Association (GFOA) offers guidance as to the amount of unassigned fund balance governments should maintain in their general fund operating revenues or regular general fund operating expenditures, regardless of size. As special-purpose governments, special districts should carefully balance such general advice with the unique circumstances associated with the district's operational environment.

In considering what constitutes adequate reserves, a special district may want to establish key benchmarks or ratios. Many industries have key equity target formulas or ratios that establish minimums to provide a red flag warning when equity may be too low. Some of those ratios may include the following:

- Debt to Equity
- Property Taxes to Equity
- Current Ratio
- Capital Outlay to Equity
- Capital Outlay to Operating Expenses

Certain districts may establish their own ratios based on the unique aspects of the district or an operating environment that may be different than other organizations in their industry.



### Local Conditions as a Basis

The Government Finance Officers Association notes that fund balance is ultimately a local decision based on local conditions. "...Finance staff should analyze the risks that influence the need for maintaining reserves as a hedge against uncertainty and loss."

*(p.57, GFOA, Financial Policies)*

## Articulating Financial Position and Decisions

Is this organization in good financial shape? That depends on the condition of the current assets and the short-term and long-term needs of the organization as they relate to its resources. If there exists significant current infrastructure needs, then financing may be required. Is enough set aside for contingencies? If water costs increase by 10 percent, or new environmental or health standards are issued, how will that affect total net assets?

Governmental entities collect, hold and expend resources in public trust. If too little is collected, they risk failing to meet mandated needs. If too much is collected, they overburden the public and tie up resources that taxpayers and ratepayers could use in the economy. Historically, governments have been known to spend most of their resources each year and too often fail to properly plan for long-term needs. Special districts should carefully examine their operations and budget to ensure that expenses, such as capital needs and contingencies, are anticipated and appropriate resources are set aside.

Some governments, either through good fortune or good planning, have reserved net assets for future plans and needs. What most governments have failed to do, as emphasized in the 2000 Little Hoover Commission's report, is to effectively communicate their plans for the net assets and explain why the balance is appropriate.

Each special district needs to:

1. Analyze its financial position.
2. Examine its current and long-term needs, including a capital improvement plan.
3. Establish its target fund balance or net assets.
4. Outline its goals and needs through policy, budgets and enhanced financial statement note disclosures.
5. Anticipate public scrutiny of financial statements and proactively communicate how finances are being used in a manner the public can easily digest.

It is recommended that special districts, at minimum, conduct a review of their reserve policy annually to ensure it meets the needs of the district and is in compliance with any requirements/standards that may have changed.

## Conclusion

Each special district's financial and legal professionals should review reserve policies prior to adoption to ensure they are in compliance with all current laws and regulations. Reserve policy should be established based on each district's unique financial situation. Any reserve policy needs to be reviewed regularly as the financial environment within which it functions is dynamic and there may be applicable legislative or regulatory changes.

The 2000 Little Hoover Commission report concluded that there was a disconnect between special districts and their constituents and other local government entities. Therefore, it is important that each agency not only develop a reserve policy, but ensure that stakeholders know and understand the district's financial position and decision-making process.

Districts should consider preparation of a public outreach program to communicate financial and program information on a regular basis to affected or interested populations. How involved each respective public outreach program is for a district is typically determined by the size and complexity of the district. A first step may be as simple as adding the information to an agency's website or the development of an annual report. CSDA encourages districts to take the next step and proactively engage the public to ensure its awareness.

We hope you find these guidelines helpful and if you have any comments or suggestions on how we can improve this document, please contact us at 877.924.2732.



## Addendum I: Glossary

**Assigned Fund Balance:** Amounts that are intended to be used by the special district for specific purposes but do not meet the criteria to be classified as restricted or committed.

**Capital Improvement Program (CIP):** A short-range plan that identifies capital projects and equipment purchases, provides a planning schedule and identifies options for financing the plan.

**Committed Fund Balance:** Amounts that can only be used for the specific purposes as determined by a formal action of the special district's highest level of decision-making authority.

**Net assets:** The amount of assets in excess of liabilities. For non-enterprise fund types, this excess is referred to as "fund balance." For enterprise-fund types, this excess is referred to as "net assets" or, as of July 1, 2012, "net position."

**Nonspendable Fund Balance:** Amounts that cannot be spent or where cash has been spent previously to produce a fund balance – for example, inventory, pre-paid expenses or restricted assets.

**Pay-Go:** Is the practice of financing expenditures with funds that are currently available rather than borrowed.

**Restricted Fund Balance:** Amounts that can only be spent for specific purposes which are stipulated outside the control of the special districts, such as the constitution, external resource providers (such as granting entities) or enabling legislation.

**Unassigned Fund Balance:** The residual of all other funds that are not nonspendable, restricted, committed or assigned. Unassigned balances are not in special revenue, capital projects, permanent or debt service funds unless the fund is in deficit.



## Addendum II: Special District Reserves Talking Points

### **PRUDENT RESERVES MAKE FOR SOUND BUDGETING**

For countless families, saving for a rainy day is common-sense. For special districts, reserve funds are not just money in a bank; they are fundamental resources for ensuring reliable core services and community security.

#### *How Taxpayers and Ratepayers Benefit*

Special districts designate money toward savings in order to balance their budget, respond to emergencies, keep rates affordable, maintain current infrastructure and plan for future public works projects.

- **Balancing Budgets** – Over the course of the fiscal year, short-term reserves help balance the ebb and flow of revenues verse expenditures.
- **Emergency Preparation** – In the event of a disaster, communities can't afford not to have savings readily available to quickly repair critical local infrastructure and bring core services back online.
- **Affordable Rates** – With appropriate savings, special districts are able to use resources wisely and smooth out the highs and the lows of volatile economic conditions, rather than spend their entire surplus and then seek new revenue or jeopardize services.
- **Infrastructure Maintenance** – Reserves mean the pipes are fixed, roofs are patched, and worn equipment is replaced without going back to the taxpayers or ratepayers to pay for routine upkeep.
- **Planning for the Future** – A long-term, thoughtful approach to public infrastructure requires the foresight to plan for, and discipline to save for, future needs.

#### *Reserves are Much More than Liquid Assets*

- What comprises a reserve fund? Reserve fund balances and net assets are not just cash and investments. They also include the net value of capital facilities, land and equipment measured from the very inception of the district.
- Assigned funds are budgeted for specific long-term public needs as planned by the board of directors.
- Committed funds are set aside via established policies for specific uses such as cash-flow, capital improvements, contingencies, and rate stabilization.
- Restricted funds are limited by legal or contractual requirements, or cannot otherwise be spent.

#### *Best Practices for Sensible Budgets*

- Historically, governmental agencies and departments have been known to spend everything they have before the end of the fiscal year in order to justify increased future allocations from their larger bureaucracy.
- Special districts are different because they empower core local service providers with budgetary control, encouraging efficiency and fiscal restraint rather than punishing it.
- The CSDA Reserve Guidelines Task Force identified both the essential elements of reserve policies and key issues to be discussed during reserve policy development to assist districts in fulfilling their commitment to provide cost-effective and efficient public services to their communities.



## Addendum III: Capital Planning

A Capital Improvement Program (CIP), also referred to as a capital plan, exists to identify and prioritize a special district's need for capital goods. A CIP should prioritize the importance and timing of the various assets to be acquired. In addition, a CIP should contemplate how those goods will be paid for – cash (equity) or debt. A capital plan is a strategic and comprehensive plan for the acquisition and implementation of the district's capital assets over time. In that sense, it is different from a finance plan, which focuses on individual acquisitions and how to pay for them.

To fulfill their mission, every district makes capital investments. Debt, especially tax-exempt debt, is recognized as an important and continuing source of a district's capital to fund improvements necessary to achieve its mission and strategic objectives. A CIP provides the framework by which decisions will be made regarding the use of cash and debt to finance capital projects.

Debt is defined to include all short and long-term obligations, guarantees and instruments that have the effect of committing the district to future payments. The assumption of debt, both direct and indirect, is subject to the district's approval. Any debt issued by subsidiary entities is subject to these policies. In satisfying their fiduciary responsibilities, it is important that a district's board and management know the extent of debt obligations.

### **CIP Objectives**

1. To provide guidelines to management on the use of reserves and debt to support a special district's capital needs while achieving the lowest overall cost of capital.
2. To provide selected financial measures, with specific targets, to ensure that the district continues to operate within appropriate financial parameters while allowing the agency to maintain financial stability and the highest acceptable credit rating that permits it to issue debt at favorable rates.
3. To bridge the cash flow gap between the district's available funds and its capital needs when the assumption of debt is deemed prudent.

### **Creating a Capital Plan**

1. Establish goals
2. Assess needs
3. Determine pay-go or borrow
4. Identify methods available for funding
5. Design the loan—the tactical plan
6. Organize approach

*Details on the following pages.*

## ***Establish Goals***

The key elements in setting clear capital plan goals include:

- 1. Understanding the role of the planning horizon.*** Planning horizons are important considerations in well-developed capital plans. For example, it makes little sense to try to plan for a 10-year or 20-year horizon if innovation, technology, demographics or legislative threats to the plan occur frequently or on short notice. Conversely, agencies that are in low-technology businesses and stable demographic circumstances can more effectively and more appropriately plan for long periods. Planning horizons should mirror long-term repair and replacement requirements of existing facilities.
- 2. Integrating the use (or lack thereof) of reserves.*** The extent to which a particular district has accumulated reserves will dramatically impact the CIP. The development of, and adherence to, strong reserve policies can greatly simplify funding choices for a capital plan, but blind adherence to arbitrary reserve levels can be just as inhibiting as no reserves at all. The key is to make reserve accumulation, or depletion, work in harmony with the CIP, operating budget and risk management of the district.
- 3. Recognizing the repetitive nature of implementing the CIP.*** A capital plan is by its nature repetitive. For that reason, many districts choose to review and update it annually, usually as an adjunct to deliberation of the operating budget. This keeps the CIP current and tempered by present information on the priorities of the district.

## ***Assess Needs***

Every capital plan starts with a needs assessment. The assessment should be based on a comprehensive review of the agency's assets at the time an asset is recorded and an estimated useful life is assigned to each asset. This information later will be used as an indicator of when an asset is scheduled to be replaced. Estimated future replacement costs need to be obtained in order to reasonably estimate CIP fund requirements within an agency's long term financial plan.

## ***Determining Pay-Go or Borrow***

The "pay-go" method of using current revenues to pay for long-term infrastructure and other projects is often considered when sufficient revenues and reserves are available and long-term borrowing rates are higher than expected cash reserve fund earnings.

On the other side of the spectrum, the "pay-as-you-use" or "borrow" strategy limits the need for building of major amounts of equity in capital assets. Such accumulation can be less economically efficient, particularly for those districts that are capital intense and whose capital goods are "used up" over long periods of time. Similarly, financing of smaller capital goods, or those with short or uncertain useful lives, is also inefficient. The rationale behind the borrow approach is that the district's stakeholders should "pay" for the assets required to deliver the goods or services of the agency over a time period that more closely mirrors the useful life of those assets.

Most districts use a blended approach based on their debt management policy. Often, a district's approach is dictated as much by affordability as by philosophy, given that few public bodies are capable of paying cash for all capital assets.

### ***Identify Methods Available for Financing***

Once the goals have been set, the needs assessed and the decision whether to pay cash or finance the asset has been made, some thought must be given to the method of financing. For example, even if an asset is to be procured for cash, and the cash is on hand in a reserve set aside for that purpose, a decision still must be made on whether to replenish or restore that reserve, and over what time period and from what source it will be replenished.

Choosing to issue debt means that the following choices must be made: form of debt, mode (fixed or variable rate), repayment terms and method of sale. These are the tactical decisions that often blur the understanding of the strategic elements of the capital plan.

### ***Design the Loan – The Tactical Plan***

If a decision is made to borrow, an array of choices will follow. Some districts choose to borrow from banks or private lenders; others choose public offerings of debt. Lease financing may be considered as an alternate to bond financing. Some districts pool their needs with other similarly situated districts in order to reduce costs through economies of scale.

Regardless of the choice of lenders or approach matching the useful life of the financed asset to the borrowing term is an important consideration. Common sense tells us that we should hesitate to finance automobiles with 30-year bonds. By the same token, a water treatment plant with a design-life of 50 years can be safely and prudently financed over long periods of time. Still, debt issuances over 30 years are rare.

This element of the CIP should also carefully consider other needs within the strategic plan when pledging assets or revenues to lenders. A generous package to a lender on today's asset may make tomorrow's asset financing problematic or impossible. The key is to ensure that each tactical financing plan within the capital plan works harmoniously with other elements of the plan and is flexible enough to allow for the inherently changing nature of the CIP.

### ***Organize the Approach***

The successful capital planning process looks a great deal like the successful budgeting process. The end-result articulates the goals and objectives of the organization to all stakeholders and relies on an accurate and unbiased assessment of needs. It provides for an evaluation of the desired assets to distinguish between "wants" and "needs." It is written and shared with the district's stakeholders.

The capital plan is revisited often and provisions for changing or amending it are straightforward. Finally, it incorporates periodic analysis of results and achievements for management and the governing body.

## **Summary**

A CIP need not be elaborate or weighty to be effective. Many effective capital plans consist of a single spreadsheet and several paragraphs of supporting text. The development of the program is vital to the efficient use of capital. It is a key ingredient in a lender's assessment of management's effectiveness and control. It is among the most important tools an elected official possesses to discharge the duties of office.

Readers who are interested in additional information about the development of capital plans should consider a variety of books, and other information sources, on the topic. Some suggested examples are shown in the attached resource listing at the back of this document.





## Addendum IV: Resources

The Government Finance Officers Association (GFOA) is a great source for more information regarding various government financial matters, including fund balance and financial reporting. GFOA has an extensive publications department. View a list of its full offerings at [www.gfoa.org](http://www.gfoa.org). The following publications may be useful:

1. "An Elected Official's Guide to Financial Reporting"
2. "Best Practice – Replenishing Fund Balance in the General Fund"
3. "Governmental Accounting, Auditing, and Financial Reporting"
4. "Recommended Budget Practices: A Framework for Improved State and Local Government Budgeting"

The Governmental Accounting Standards Board (GASB) has a number of user guides written by the standard setter for use in many types of governments. These include:

1. *An Analyst's Guide to Government Financial Statements—revised, updated, and significantly expanded*
2. *What You Should Know about the Finances of Your Government's Business-Type Activities—a completely new guide for 2012*
3. *What You Should Know about Your Local Government's Finances*

In addition, in 2013, GASB is expecting to publish a guide directed at "Business-Type Activities." Most special districts in California are "Business-Type Activities."



**CSDA**

**California Special  
Districts Association**

*Districts Stronger Together*

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# Reserve Policies for Special Districts – How Much is Enough?

By Cindy Byerrum, MPA, CPA, Partner, Eide Bailey CPAs



**A** solid reserve policy is important to all agencies, no matter the size or type of your special district. A properly designed reserve policy sends a positive signal to the community of ratepayers, bondholders, rating agencies, and regulatory agencies that a district is committed to long-term financial health and viability.

Prudent financial management and best practices dictate that an agency maintain appropriate reserves for emergency uses, capital projects, obligations to be paid in the future, and those required as a result of legal or external requirements. The challenge for a governmental agency is to set reserve level targets that are sufficient to meet the needs of the agency now and in the future, while following the concept of inter-period equity, which means that constituents pay for the services provided

and used by them in the current period. In other words, a solid reserve policy helps avoid kicking the can down the road!

Common objectives of a strong reserve policy:

- Establish a stable fiscal foundation that ensures proper fiscal management and policies that guide future district decisions.
- Build adequate reserves over time. This action will provide the district with resources to help stabilize the agency's finances and position it to easily absorb economic downturns or large-scale emergencies.
- Help the district to meet its short-term and long-term obligations and maintain the highest possible credit rating.
- Provide for current and future replacement of existing assets as they reach the end of their useful lives.

In general, there are three primary types of reserves: operating reserves, capital reserves, and restricted reserves. Typically, operating and capital reserves are board designated through formally adopted policies, and restricted reserves are restricted by external legislation or governing board ordinances.

**Operating Reserve:** An operating reserve covers contingency funds to continue operations in the event of an unanticipated cash shortfall. This reserve ensures continuity of service during an unexpected event, whether it be an economic shortfall, natural disaster, or other forces affecting revenues or expenses.

The GFOA (Government Finance Officers Association) recommends 90 days of operating expenditures as a minimum in an operating reserve. The GFOA has also indicated that “the adequacy of unreserved fund balances should be assessed based upon a government’s own specific circumstances...and the choice of revenues or expenditures as a basis for comparison may be dictated by what is more predictable in a government’s particular circumstances. In either case, unusual items that distort trends (one-time revenues and expenditures) should be excluded...” The GFOA also recommends a “risk-based approach” to determine the threats that are unique to each agency when determining appropriate reserve levels.

In assessing a district’s operating reserve, certain districts should consider a higher operating reserve if their revenues are highly variable.

For example, water districts are subject to variable water consumption revenues, particularly in times of water conservation, and may consider a higher than average operating reserve to ensure continuity of service.

Another consideration is cash flow timing. Many types of districts rely on property tax revenue as its primary source of revenue. For example, a library or fire district that relies primarily on property tax receipts must have enough cash flow, up to six months, to sustain until the property taxes are disbursed by the County, primarily in November/December and April.

**Capital Reserves:** The amount an agency should target for capital reserves is highly dependent upon the capital needs and infrastructure of the agency. For example, a library may not normally

need a large capital reserve, however, if the library needs a major overhaul the agency may want to build its capital reserve to prepare for it.

Some districts have infrastructure that must be maintained to protect the public health and safety. Water and sewer utilities must maintain critical infrastructure to deliver water and treat sewage. Similarly, fire protection districts must maintain and replace expensive apparatus to fight fires, an ever-growing concern in California. These types of districts must maintain higher capital reserves to fund their capital improvement and replacement program to ensure continuity of service and protect the public health and safety.

**Restricted Reserves:** Certain reserves are legally mandated to be maintained. For example, often times

when an agency issues debt they are required to set aside one year of debt service in a reserve fund. Other sources of revenues might also cause restricted reserves to be maintained. For example, if a district receives developer impact fees, those funds are generally required to be held in a restricted reserve for specific operational or capital expenditures.

To sum it up, the proper amount of reserves for each agency is dependent on each agency's unique set of circumstances. Although there are general guidelines by industry, the agency should expand on the guidelines by analyzing its specific current and future needs. Regardless of agency type, adopted a sound reserve policy helps build a solid financial foundation for the agency's future.

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## Community of Ladera Benefits from Swimming Pool Renovation

The CSDA Finance Corporation recently helped Ladera Recreation District secure a \$1.2 million loan to support the much needed renovation of their 65 year-old swimming pool facilities. The district had not utilized a privately placed bank loan before. The CSDAFC consultant team from Brandis Tallman educated the district on the process and provided crucial information on the changing market during those early pandemic months of 2020. With their assistance, the district had a better understanding of when to enter the market and were able to select a lender and close the transaction in April 2021.

*"Super helpful, super professional, super informative."*  
Bob Felderman, Board President