



BOARD MEETING AGENDA SUBMITTAL

TO: GCSB Board of Directors

FROM: Peter Kampa, General Manager

DATE: October 13, 2020

SUBJECT: Agenda Item 6D: Consideration of Draft Language for a Joint Powers Authority with Tuolumne County Fire Protection Agencies for the Purpose of Development and Implementation of a Countywide Fire Funding Measure

RECOMMENDED ACTION:

Staff recommends the following action:

I Move to Approve the Initial Draft JPA Language and Direct Staff to Continue Development of the Final Tuolumne County Fire Joint Powers Authority Agreement to be Considered by the Board.

BACKGROUND:

Since July, staff have been working with the fire districts throughout the County and the City of Sonora to develop a JPA agreement to hold a special election in June 2021 in order to levy a special parcel tax for fire services. County Counsel, City Counsel and Counsel from Groveland Community Services District worked to develop the draft JPA agreement. The fire chiefs and administrative staff from all the entities then met to discuss the draft and provide additional input and edits.

The draft JPA agreement is attached for your consideration and input. Once all the entity Boards and City Council have reviewed this draft document, staff will then come back to your Board with a final document for your approval in December. At that meeting staff will also request your Board appoint a representative to the JPA Board.

Tax Rate Details

The details of the tax measure, including tax rates per parcel, are not contained in this JPA document. Once the JPA agreement is approved and the JPA is formed, the JPA will approve the tax ordinance and call for the special election.

There is general consensus that each JPA member will receive the amount proportionate to the number of parcels within its boundary. Staff will come back to your Board at a separate meeting to further discuss the details of the parcel tax.

Details of the Draft JPA Agreement

This draft JPA agreement contains standard language found in most other JPA agreements. Below are specific sections from the agreement for your Board's consideration and input:

Purpose and Membership

The purpose of the JPA would be to jointly levy a special parcel tax for fire services. If the tax measure fails, the JPA agreement would be terminated.

At this time, the JPA would be comprised of the following members:

- City of Sonora
- County of Tuolumne
- Columbia Fire Protection District
- Groveland Community Services District
- Jamestown Fire Protection District
- Tuolumne Fire Protection District
- Twain Harte Community Services District and Mi-Wuk Sugar Pine Fire Protection District have not yet committed but are participating in the staff discussions. Each entity has until December 31st to opt in or out of the JPA.

Board of Directors

The draft agreement states the JPA would be governed by a Board of Directors comprised of either 1 elected official or the Chief Executive Officer or designee from each member, whichever is preferred by each member.

The JPA would be required to hold two regular meetings in February and March 2021 to approve bylaws, a conflict of interest code and approve the ordinance and resolution for the tax. After that, the Board would be required to meet at least twice a year. The main purpose of a Board meeting would be to approve an annual budget to administer the JPA.

Powers of the Authority

The purpose of the JPA is to exercise the common power to levy, collect and distribute a special tax for fire services, if approved at a June 2021 special election.

As a legal entity with its own administrative needs, the Authority would also have the power to enter into contracts, retain consultants or legal counsel, invest money in the treasury and lease property, among other authorities. However, because its functions are limited to administering a tax, use of these additional authorities are not expected to be frequent or common. These authorities are standard among JPAs and give the JPA the flexibility in making fiscally sound decisions if they are necessary and subject to majority vote of the JPA Directors.

Funding

Each member of the JPA would be required to contribute a small portion of the Tax Measure proceeds toward administrative costs. Since the authority of the JPA is extremely limited, it is expected the administrative costs would be limited as well. This is something the JPA Board would determine once it holds its first in January 2021.

Each member of the JPA would have the authority to spend its Tax Measure proceeds as it sees fit. However, each member will also be required to certify that the Tax Measure proceeds are used for the specific purpose fire emergency response, prevention and suppression services.

Duties of Treasurer and Auditor

The Tuolumne County Treasurer will serve as the Treasurer for the JPA and will have custody of all Authority funds. The Tuolumne County Auditor will serve as the Authority's Auditor and will be required to give a complete written report of all financial activities to each member 120 days after the close of each fiscal year.

FISCAL IMPACT:

There is no direct fiscal impact of considering the JPA language, however the GCSD is incurring legal expense by assisting in JPA preparation, and will incur expense related to tax election in the future.

ATTACHMENTS:

1. Fire Parcel Tax Workload and Timing Process
2. Joint Exercise of Powers Agreement

**JOINT EXERCISE OF POWERS AGREEMENT
FOR
TUOLUMNE COUNTY FIRE AUTHORITY**

This Joint Exercise of Powers Agreement for Tuolumne County Fire Authority (“Agreement”) is entered into pursuant to Sections 6500 *et seq.* of the California Government Code, by and between the following local agencies: County of Tuolumne (“County”), City of Sonora (“City”), Groveland Community Services District (“GCSD”), Twain Harte Community Services District (“THCSD”), Tuolumne Fire Protection District (“Tuolumne FPD”), Jamestown Fire Protection District (“Jamestown FPD”), Columbia Fire Protection District (“Columbia FPD”), and Mi-Wuk-Sugar Pine Fire Protection District (“Mi-Wuk-Sugar Pine FPD”). “County,” “City,” and “Districts” are referred to in their individual capacities outside of this Agreement as “Local Agencies,” and are referred to for the purposes of participation in this Agreement individually as “Member” or collectively as “Members.”

RECITALS

WHEREAS, the more than 55,000 people living in Tuolumne County receive fire protection and emergency response services provided by multiple separate agencies and no single agency currently exists to coordinate those services or their funding; and

WHEREAS, the growing risk of fires in Tuolumne County does not respect jurisdictional boundaries and that risk needs immediate action and sustained commitment to better protect residents, homes, visitors and businesses; and

WHEREAS, the adequacy of fire suppression and prevention services and funding available to meet that risk also affects the cost of insurance which has added financial burden on residents and businesses; and

WHEREAS, efforts are needed to provide adequate funding in the short term and potentially coordinate and provide fire prevention and suppression services over the long-term; and

WHEREAS, each participating agency desires to form a Joint Powers Authority to maintain local services which are unique to each community and provide an additional funding mechanism to meet the growing safety risk and financial burden on the community.

NOW, THEREFORE, for and in consideration of the mutual benefits, covenants, and agreements set forth herein, the Members agree as follows:

SECTION 1. Authority and Purpose

- a. This Agreement is made under the authority of Sections 6500 through 6539.6, inclusive, of the California Government Code, among the Members.

- b. The purpose of this Agreement is to establish a Joint Powers Authority separate from the Members. This Joint Powers Authority is to be known as the Tuolumne County Fire Authority (“Authority”). Each Member individually has the statutory ability to provide fire suppression, protection, prevention and related incidental services, as well as the power to tax to fund such services. The purpose and intent of this Agreement is to jointly exercise the common taxing authority in the manner set forth herein. The Authority shall not have responsibility or duties set forth in this Agreement unless and until the tax measure is passed by the voters in a certified election.

SECTION 2. Term of Agreement

This Agreement becomes effective upon the first date that all of the Members listed above have approved this Agreement at a public meeting (“Effective Date”). The Agreement shall remain in effect until it is terminated pursuant to Section 12.

SECTION 3. Membership

- a. **Initial Membership.** To become an initial Member, a Local Agency must execute this Agreement and approve the Authority placing a tax measure to fund the authority, and fund fire prevention and suppression services in a special election in June 2021 (“Tax Measure”). A Local Agency geographically located in Tuolumne County that possesses fire management responsibilities must adopt a resolution of their governing board to become a participating signatory to this Agreement and Member of the Authority.
- b. **Successor Membership.** If, due to changes in circumstances (including, but not limited to changes in fire suppression responsibility approved by LAFCO) a Member’s fire suppression responsibility is transferred to a new or different public agency, that new or different public agency shall be admitted as a Member upon approval of such membership and this Agreement by such public agency’s governing body.
- c. Should the Tax Measure fail to pass in a special election in June 2021, this Agreement is terminated and shall be of no further effect upon certification of the election results.

SECTION 4. Board of Directors and Officers

- a. The Authority shall be governed by a Board of Directors (“Board”) comprised of elected officials or chief executive officers appointed by each Member. Each Member shall have one (1) director on the Board and one (1) alternate director. The term of office for each director and alternate shall correspond with the board director’s term of office on the legislative body he or she represents, or until such board director or alternate is removed by the legislative body making the appointment.
- b. All meetings of the Board shall be conducted in accordance with the Ralph M. Brown Act, Government Code § 54950 et seq. and at a time, place and manner as determined by its bylaws. The Board shall hold two (2) regular meetings per month in February and March 2021, and thereafter, the Board shall hold at least two (2) regular meetings each year.

- c. Minutes of the adjourned, regular and special meetings of the Board shall be kept and said minutes shall be forwarded to each member of the Board within thirty (30) days after each meeting. A majority of the membership of the Board will constitute a quorum authorized to conduct business on behalf of the Authority. In the event of a meeting of the Board with less than a quorum, the present Directors will only have the power to dismiss a meeting. All Board business shall be conducted pursuant to voting conditions set forth in Section 4(f)
- d. The Board shall elect, at its first meeting of each fiscal year, a chair and vice-chair, who shall act in the absence of the chair, and such other officers as the Board deems necessary. All officers shall serve a term of one (1) year from the date of their election or until their successors are elected. Officers may serve successive terms. The chair and vice-chair are authorized to execute all documents in the name of the Authority.
- e. Vacancies shall occur as provided for in the California Government Code for public officers. Vacancies shall be filled in the same manner as the initial appointment.
- f. **Voting.** For all votes conducted by the Board, a proposed motion subject to vote passes when a majority of the Directors present vote in favor of the motion.
- g. The Board may adopt from time to time such policies, procedures, bylaws, rules and regulations for the conduct of its affairs as deemed necessary by the Board.

SECTION 5. Powers of the Authority

- a. The Authority shall have all the necessary powers and authorities granted by law to exercise the common power to authorize taxes pursuant to Government Code Sections 50075 et seq., 53978, or any successor statutes, as approved by voters in a special election held in June 2021. No subsequent taxes or fees may be raised by the Authority without approval of Members.
- b. As necessary to carry out the authority in Section 5(a), the Authority may make and enter into contracts; incur debts, liabilities and obligations; adopt budgets; employ and retain agents and personnel; retain legal counsel; retain consultants and engineers; acquire grants; acquire, hold, lease and dispose of real and personal property; accept donations; sue and be sued; and possess and exercise all other powers common to the Members. The intent of this provision is to allow the Authority flexibility in making fiscally sound staffing decisions.
- c. The Authority may exercise the powers permitted pursuant to Government Code section 6504 or any successor statute. Pursuant to Government Code Section 6509.5, the Authority is entitled to invest any money in the treasury that is not required for the immediate necessities of the Authority.

- d. The Authority may do all things necessary and lawful to carry out the purpose of this Agreement.
- e. As required by Government Code Section 6509, one Member must be designated such that the power of the Authority is subject to the restrictions upon the manner of exercising power possessed by that Member. The County of Tuolumne is designated as the Government Code Section 6509 public entity.

SECTION 6. Funding

- a. The Board shall adopt an annual budget for the Authority’s activities (“Administrative Costs”) within ninety (90) days of the date the Elections Office certifies the successful passage of the Tax Measure proposed concurrently with this Agreement to fund this Authority, and by June 1 of each succeeding year.
- b. The Tax Measure proceeds, after deduction of the Administrative Costs of the Authority, shall be allocated to each Member in proportion to revenue raised in each Member’s respective tax rate areas. Members must certify that the Tax Measure proceeds are used for provision of fire emergency response, prevention and suppression services.

SECTION 7. Exemptions

The Authority shall be responsible for technical tax adjustments, consistent with the ballot measure. Whenever possible, the Authority must defer to reasonable requests from the Tuolumne County Auditor to accommodate exemptions for parcels that are roads or creek beds, as wells as split parcels ineligible for an assessor parcel combination solely because the parcels are not in the same tax rate area.

SECTION 8. Designation and Duties of Treasurer and Auditor

- a. The Treasurer of the Authority shall be the Tuolumne County Treasurer and shall serve as the depository and have custody of all Authority funds and shall comply with the requirements of Government Code section 6505.6.
- b. The Auditor and Controller of the Authority shall be the Tuolumne County Auditor.
- c. The Auditor shall maintain such books, records, funds, and accounts as may be required by generally accepted accounting practice, shall cause an independent annual audit of the accounts and records and comply with all requirements of Government Code Sections 6505, 6505.1, 6505.5 and 6505.6. The Auditor shall file an official bond with the authority in the amount set by resolution of the Board.
- d. The Auditor, within one hundred and twenty (120) days after the close of each fiscal year ending on June 30, shall give a complete written report of all financial activities for such fiscal year to the Members.

SECTION 9. Debts and Liabilities

As permitted pursuant to Government Code Section 6508.1, no debt, liability, or obligation of the Authority shall constitute a debt, liability, or obligation of any Member and each Member's obligation hereunder is expressly limited only to the appropriation and contribution of such funds as may be levied pursuant to this Agreement or as the Member may agree.

SECTION 10. Insurance and Indemnification

The Authority shall acquire such insurance protection as is needed to protect the interests of the Authority and the Members. The Authority may use self-insurance and may contract with a Member for insurance services. The Authority shall defend and indemnify and hold harmless the Members and each of their respective officers, agents and employees, from all claims, losses, damages, costs, injury and liability of every kind, nature and description directly or indirectly arising from the performance of any of the activities of the Authority or the activities undertaken pursuant to this Agreement.

SECTION 11. Privileges, Immunities and Other Benefits

In accordance with California Government Code Section 6513, all of the privileges and immunities from liability, all exemptions from laws, ordinances and rules, and all pension, relief, disability, workmen's compensation, and other benefits which apply to the activity of the trustees, officers, employees or agents of the Members when performing their functions shall apply to the same degree and extent while engaged in the performance of any of their functions and duties for the Authority.

SECTION 12. Termination; Disposition of Assets

- a. Should the Tax Measure to be placed on the ballot at a special election in June 2021 fail to pass or is subsequently repealed, this Agreement is terminated and shall be of no further effect upon certification of the election results.
- b. In accordance with Government Code Section 6512, upon termination of this Agreement, any surplus money in possession of the Authority or on deposit in any fund or account of the Authority shall be returned in proportion to the contributions made by the taxpayers of each Member's jurisdiction. Any other property of the Authority shall be divided among the Members in such manner as shall be determined by the Authority in accordance with California law.
- c. If the Tax Measure is rescinded, all decisions of the Board with regard to determination of amounts to be transferred to Members or any successor shall be final.

SECTION 13. Severability

If any provision of the Agreement or its application to any person or circumstances is held invalid, the remainder of this Agreement and the application of the provision to other persons or

circumstances shall not be affected.

SECTION 14. No Rights to Third Parties

All of the terms, conditions, rights and duties provided for in the Agreement are, and shall always be, solely for the benefit of the Members. It is the intent of the Members that no third party shall ever be the intended beneficiary of any performance, duty or right created or required pursuant to the terms and conditions of this Agreement.

SECTION 15. Notices

Notices to Members under this Agreement shall be sufficient if delivered to the County Administrator, City Administrator or chief secretarial officer of the Member, or to any other person designated in writing by the Member.

SECTION 16. Prohibition Against Assignment

No Member may assign any right, claim, or interest it may have under this Agreement, and no creditor, assignee or third-party beneficiary of any Member shall have any right, claim or title to any part, share, interest or assets under this Agreement.

SECTION 17. Amendments

This Agreement may be amended at any time by one or more supplemental agreements executed by mutual agreement of three-fourths (3/4) of the governing boards of the Members, so long as any amendment comports with the purpose of the voter approved measure, as set forth in Section 1 of this Agreement.

SECTION 18. Agreement Complete

The foregoing constitutes the full and complete Agreement of the parties with respect to the subject matter hereof and supersedes all prior understandings or agreements whether written or verbal. There are no oral understandings or agreement not set forth in writing herein. Any such agreements merge into this Agreement.

SECTION 19. Filing with Secretary of State

The Authority shall prepare and file, within thirty (30) days of the effective date of this Agreement, a notice of agreement and a copy of this Agreement with the office of the California Secretary of State and a copy of this Agreement the California State Controller's Office, pursuant to California Government Code sections 6503.5 and 6503.6.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their proper officers thereunder duly authorized as of the date of approval by the public agencies that are parties hereto. This Agreement shall be executed in counterparts.

Agency

By: _____

DRAFT

Fire Parcel Tax Workload and Timing Process

Below is an estimated timeline of events assuming formation of a JPA choosing the June 8, 2021, special election date:

August 18- February 1: *Staff would need to:* obtain direction of respective legislative bodies on content of a JPA and details of a special parcel tax, draft the JPA agreement, bylaws, conflict of interest code, complete necessary JPA filings, and draft a tax ordinance and resolution calling an election.

Legislative bodies would need to: provide direction to staff as to all aspects of the JPA, appoint representatives for formation and to serve as directors, provide direction on details for a tax ordinance, approve a resolution adopting the JPA agreement, and potentially additional meetings to resolve differences between participating agencies.

New entity legislative body would need to: hold first meeting approving and implementing the JPA agreement and bylaws, adopt a conflict of interest code and ensure all filings are completed.

September 29, 2020: Entity Staff review draft JPA document

September 29-October 6: Entity staff provide additional input/edits via email

October 7-9: County staff incorporate edits

October 9: County staff recirculate draft JPA document as well as staff memo to other entity staff

October 12-November 3: Entity Boards meet to provide direction/additional input on Draft JPA document. Entity staff provide edits to County staff as Boards meet.

October 12-November 30: Entity staff start working on specifics of tax measure/rates

 October 20: County staff present to BOS (re: JPA, seeking direction on content, etc.)

November 3- 30: County staff incorporate changes and recirculate to entity staff for final approval, either digitally or in person

December 1-31: Entity Boards meet to approve final JPA document and appoint JPA representative

December 1:	County BOS discuss tax rates
December 15:	County BOS meeting to approve final JPA (further discussion on tax rates if necessary)
January 1-29, 2021:	JPA hold first meeting to approve bylaws and conflict of interest code
February 15, 2021:	First reading of the tax ordinance by the JPA board of directors
March 1, 2021:	Second reading of the tax ordinance and adoption of resolution calling a special election by the JPA board of directors
June 8, 2021:	Special Election