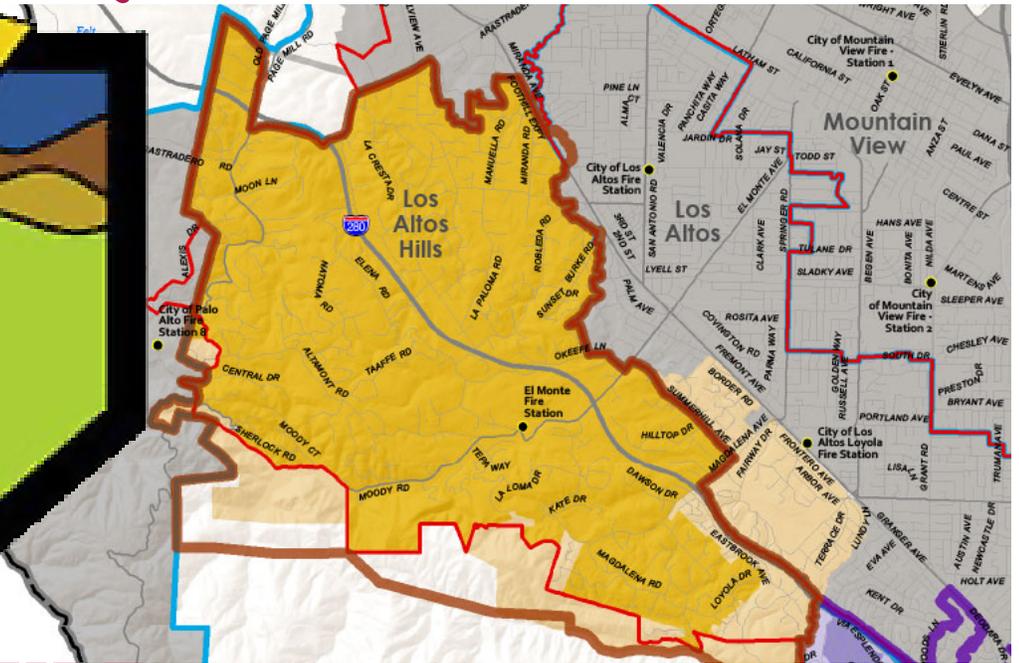


Management Audit of the Los Altos Hills County Fire District

Prepared for the Board of Supervisors of the
County of Santa Clara

May 22, 2020



COUNTY FIRE DISTRICT

Prepared by the
Board of Supervisors Management Audit Division
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May 22, 2020

Supervisor Dave Cortese, Chair
Supervisor Cindy Chavez, Vice Chair
Board of Supervisors' Finance and Government Operations Committee
70 West Hedding Street
San Jose, CA 95110

Dear Supervisors Cortese and Chavez:

We have completed the Management Audit of the Los Altos Hills County Fire District (Fire District). This audit was added to the Management Audit Division's Fiscal Year 2017-18 work plan by the Board of Supervisors of the County of Santa Clara, pursuant to the Board's power of inquiry specified in Article III, Section 302(c) of the Santa Clara County Charter. This audit was conducted in conformity with generally accepted government auditing standards as set forth in the 2011 revision of the "Yellow Book" of the U.S. Government Accountability Office. The purpose of this audit was to examine the operations, management practices and finances of the Fire District to identify opportunities to increase the Fire District's efficiency, effectiveness and economy.

The Board of Supervisors is responsible for the Fire District's expenditures. In 1980, the Board delegated most of its authority for District operations to a Fire Commission appointed by the Board. We found that the Fire Commission has for many years used that authority to make expenditures and "donations" of taxpayer funds to other public and private entities. For example, the Fire District has spent millions of dollars of taxpayer funds to upgrade infrastructure it does not own to improve provision of services it is not responsible to provide. The Fire District has spent millions more to prune and remove trees not identified as hazardous for private property owners in areas that are not identified as high risk for fire. We also identified potential Brown Act violations by the Fire Commission, establishment of procurement practices inconsistent with procurement requirements, and the maintenance of District records at private offices and residences. Lastly, the County Ordinance Code requires the Fire District to obtain its legal services from County Counsel. Instead, the Fire Commission contracts with a private law firm.

Board of Supervisors:

Mike Wasserman	Cindy Chavez	Dave Cortese	Susan Ellenberg	S. Joseph Simitian
District 1	District 2	District 3	District 4	District 5

County Executive: Jeffrey V. Smith

The report contains five findings and seven recommendations. If implemented, these recommendations would assess the legality of the Fire District's past use of taxpayer funds and ensure appropriate use of funds in the future, ensure that expenditure of public funds result in reduced fire risk, improve compliance with State law, the County Ordinance Code and County policies and improve Fire District record keeping. We note that the Board of Supervisors is ultimately responsible to ensure appropriate use of Fire District funds and have made recommendations that we believe would improve management of these monies for the benefit of Fire District taxpayers. In its written response to this audit, the Fire Commission disagrees with four recommendations and "partially agrees" with three recommendations.

In the response, the Fire District makes numerous statements that we have not vetted as these comments were not furnished at the exit conference or subsequently, until May 15 when they were submitted as the District's written response. Our publication of its response does not indicate agreement with its statements. Some of the comments in the response relate specifically to County Counsel. Because this information was not furnished to us previously, County Counsel did not have an opportunity to respond to statements the Fire Commission made in time to be included as an appendix to this report. Our understanding is that County Counsel intends to provide a separate memo in response to the Fire District's comments pertaining to County Counsel.

We wish to point out one comment in the response that is both misleading and concerning. The Fire Commission states:

"If the facts stated in the Response leave questions regarding District's authority to enter into water infrastructure agreements for fire protection of the community, the District recommends independent [legal] review from a party not affiliated with either the County or the District. Independent review would provide nonbiased and factual assessments."

First, we have not questioned the Fire District's authority to enter into contracts, including funding agreements, with other parties. Our recommendation to have County Counsel review the making of certain contracts has nothing to do with the Fire District's authority to make contracts. Second, the Board of Supervisors should construe the Fire Commission's request that the Board of Supervisors obtain legal advice from an "independent" attorney rather than County Counsel, who is also the legal officer of the Fire District per Section A22-16 of the County Ordinance Code, as a "red flag." It concerns us that the Fire Commission seeks to create an unusual process that is inconsistent with the County Ordinance Code by which the Board would exercise its due diligence.

We wish to thank the Fire Commission, the Fire District General Manager, and Fire District consultants for their assistance with this audit. We appreciate the patience the Fire Commission afforded for this audit, which was delayed by unusual factors unrelated to the Fire Commission and beyond our control.

Cheryl Solov



Management Audit Manager

CC: Board of Supervisors
James R. Williams, County Counsel
Jeffrey V. Smith, County Executive



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Executive Summary

Section 1 - Fire District Funding of Other Entities' Capital Projects

The Los Altos Hills County Fire District (Fire District) is governed by a Fire Commission appointed by the Board of Supervisors. The Board has delegated most of its authority to the Fire Commission. The Fire District's taxpayers are not responsible for upgrading or maintaining infrastructure owned by other entities. Yet the Fire District has a history of funding improvements to water supply infrastructure that is owned by Purissima Hills Water District, a public agency, and the California Water Service Company, a private water company that is publicly traded. Both the private firm and the Water District operate within the Fire District's boundaries. According to its audited financial statements, in recent years, the Fire District spent \$6.4 million to engineer and construct hydrants, tanks and water mains for the Water District and the private water company. The Fire District entered into contracts to pay millions of dollars for infrastructure projects for the Water District which expressly preclude the Fire District's taxpayers from owning the assets they purchased or upgraded. Fire District financial statements show the Fire District also made "donations" to these entities. Based on the Water District's published reports, these taxpayer subsidies have helped to defer water rate increases. As of late 2019, the Water District had plans for improvements to its infrastructure, and public records indicate potential for the Water District to seek monies from the Fire District for certain future projects. Some of these expenditures, contracts and "donations" raise legal concerns, including but not limited to whether they could constitute a "gift" of public funds that could be prohibited by the California Constitution. We recommend that the Board of Supervisors direct County Counsel to assess whether the making of agreements, donations or loans funded by the Fire District related to capital projects of other entities has been consistent with State laws and regulations and other legal requirements. Because new agreements appear likely to be proposed that would result in the Fire District expending funds for other agencies' capital projects, we recommend that the Board of Supervisors suspend its delegation of authority to the Fire Commission until the Board of Supervisors considers the results of County Counsel's review. We recommend that the Fire Commission serve in an advisory role pending the outcome of the Board of Supervisors' consideration of the legal review.

Section 2 - Use of District Funds for Private Tree Services

For many years, the Fire District has spent taxpayer funds to prune and removed trees on private property, at the discretion of the property owner. From 2003 to 2019, the District spent \$22.0 million to prune and remove trees on private parcels with the owner's consent. Pruning and removing trees at taxpayer expense is separate from the Fire District's abatement of *hazardous* vegetation, which is done by law with or without the owner's consent and which the law mandates be done solely at the owner's expense. By expending public funds on discretionary private services, the Fire District reduces the monies and administrative resources available for managing fire risks. Although tree removal may reduce fire risk in the Fire District, there is nothing in the program that requires the contractor to conduct the work for the purpose of reducing fire risk or that such risk reduction be demonstrated. Because the Fire Commission has expended tens of millions of public dollars on private tree pruning and removal that is specifically not related to reducing declared fire hazards, we recommend that the Board of Supervisors end the discretionary program in favor of services to District residents that more broadly reduce the risk of major fires in the Fire District.

Section 3 - Brown Act Compliance

The Fire Commission is a legislative body subject to the Ralph M. Brown Act (Brown Act), which is California's local government open meetings statute. Among other goals, the Brown Act is intended to guarantee the public's right to attend and participate in meetings of local legislative bodies. We identified four types of potential Brown Act violations since late 2016 by the Fire Commission: (1) Public noticing did not occur when a general manager position was created; (2) An ad hoc advisory committee created an employee position that it did not have authority to create; (3) A special meeting was inappropriately used to make salary decisions; and (4) Labor negotiators were not identified prior to closed sessions. We saw no evidence to suggest these potential violations were intentional. Several Fire Commissioners reported receiving Brown Act training from the Fire District's contracted counsel during the previous three years. The cause of these compliance problems is therefore unclear. We note that the creation of the General Manager position was the first time the Fire District ever had an employee, and thus its contractors may have lacked experience with the aspects of the Brown Act that pertain to personnel matters. The Fire Commission's potential violations of the Brown Act undermine the public's ability to be aware of, participate in, and oversee the affairs of the District, and increase the risks of litigation to the Fire District. The Board of Supervisors should bring the District's legal affairs under County Counsel, as required by the County Ordinance Code, which may reduce the risk of future Brown Act violations. The recommendation would help protect the public's ability to oversee the Fire Commission and participate in Fire District affairs.

Section 4 - Fire Prevention Programs Are Not Aligned with Fires Risks

The Santa Clara County Fire Department (Santa Clara County Central Fire Protection District or Central Fire) publishes and updates the Santa Clara County Community Wildfire Protection Plan (CWPP), which identifies wildfire risks within the County, including within the Los Altos Hills County Fire District. The Fire District runs two types of programs aimed at managing the fuel levels within the Fire District. The first and largest program is a free-of-charge service offered to all residents to remove or prune dead and living trees from their properties with a property owner's permission. The second program is aimed at brush and grass treatments and chipping services for residents. These programs are unrelated to the Fire District's legal authority to abate hazardous vegetation that constitutes a public nuisance for fire prevention purposes. The Fire District's spending does not align with the risks identified in the CWPP, the CWPP is not used as a key document in the Fire District's planning or priority processes, and the Fire District does not have an alternative assessment or plan it uses instead. In particular, the tree removal program described in Section 2 of this report appears to treat mostly low-risk areas rather than prioritize high fire risks. In the prior three years, 94 percent of trees removed by the program were in areas identified as "low risk" by the CWPP. The top 20 single-family residential properties served by the program had a median estimated home value of \$5.2 million. These residents presumably had access to capital resources that could be used to mitigate the risk on their properties without taxpayer subsidy. The misaligned programs divert resources from comprehensive wildfire prevention planning and spending within the Fire District and by extension the County as a whole. The Board of Supervisors should direct the Los Altos Hills County Fire District to use the CWPP and the advice of the Santa Clara County Fire Department to develop spending priorities and wildfire prevention programs aligned with identified risks.

Section 5 - Fire District Compliance with State and Local Procurement Requirements

The Public Contract Code (PCC) governs contracts made by fire protection districts in California. The Los Altos Hills County Fire District is required to either: 1) adhere to the County's contracting and purchasing procedures, or 2) follow contracting and purchasing procedures prescribed in the PPC. In February 2016, the Fire District adopted its own Procurement Policy and Procedures; we believe these procedures do not comport with either the County policy or the State code. In most cases, the County requires competitive procurement of most goods and services. Fire District procedures exempt procurements of up to \$10,000 from competitive bidding, and allow the Fire Commission, by a majority vote, to make procurements of greater than \$10,000 without competitive bidding. Furthermore, the County Ordinance Code prohibits the Fire District from contracting for its own legal counsel, but it has done so for many years. Additionally, procurement processes and contracts are not reviewed by County Counsel and there is generally no evidence of legal review by the Fire District's contracted attorney. The Board of Supervisors should bring the Fire District's contracting under the purview of the County Director of Procurement to ensure compliance with applicable contracting requirements and its contracts should be reviewed by County Counsel as to form and legality. The Director of Procurement should cease the Fire District's procurement of outside legal services unless authorized in writing by County Counsel as required by existing County Ordinance. Additionally, procurement-related records have been maintained at the private offices and residences of Fire District contractors. We recommend centralization of Fire District records.

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Introduction

This *Management Audit of the Los Altos Hills County Fire District* was added to the Management Audit Division's Fiscal Year 2018-19 work plan by the Board of Supervisors, pursuant to the Board's power of inquiry specified in Article III, Section 302(c) of the County of Santa Clara Charter. The Board added this audit after considering the annual County-wide risk assessment conducted by the Management Audit Division in accordance with Board policy.

PURPOSE, SCOPE, OBJECTIVES, AND TIMELINE

The purpose of the audit was to examine the operations, finances, and management practices of the Los Altos Hills County Fire District (also referred to as LAHCFD or the Fire District), and to identify opportunities to increase the efficiency, effectiveness, and economy of the District. Our scope included all aspects of Fire District operations and uses of its funds. We did not assess the quality or efficiency of fire suppression services, as those services are provided by contract from the County's central fire district. Those services are identified separately on the County's annual management audit risk assessment.

The audit's main objectives were:

- To assess the Fire District's operations, finances, and management practices;
- To assess short- and long-term planning for fire protection and emergency medical services within the Fire District;
- To evaluate procurement practices, especially those governing soliciting and contracting; and,
- To evaluate the Fire District's compliance with the Fire Protection District Law of 1987, the Brown Act, and other State laws, as well as County policies and the County Ordinance Code.

Work on this audit began with an entrance conference on August 24, 2018. The initial draft report was developed in early 2019, which coincided with the County's acquisition of multiple hospitals. This delayed the legal review required by our contract with the County. Subsequently, the Fire Commission had to create an ad hoc committee to receive the confidential draft report and provide comment at an exit conference. On September 17, 2019, the Fire District Commission created the ad hoc committee. The initial confidential draft report was issued to the Los Altos Hills County Fire District and relevant parties on October 11, 2019. An exit conference was held with the Los Altos Hills County Fire District, its General Manager and relevant contractors on November 1, 2019.

Our usual processes were altered and the report's issuance delayed by 1) requests for interim revised confidential draft reports or sub-sections from multiple parties, and 2) extraordinary circumstances of a legal nature.

Compliance with Generally Accepted Government Auditing Standards

This management audit was conducted under the requirements of the Board of Supervisors Policy Number 3.35 as amended on May 25, 2010. That policy states that management audits are to be conducted under generally accepted government auditing standards (GAGAS) issued by the U.S. Government Accountability Office. We conducted this performance audit in accordance with GAGAS as set forth in the 2011 revision of the "Yellow Book" of the U.S. Government Accountability Office. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

In accordance with these auditing standards, we performed the following procedures:

Audit Planning - The task plan for this audit was developed after reviewing our annual County-wide audit risk assessment relative to the Los Altos Hills County Fire District, financial and strategic planning documents that are publicly available on the Fire District's website, and relevant LAFCO service reviews.

Entrance Conference - An entrance conference was held August 24, 2018 with two Fire District Commissioners and selected contracted consultants to introduce the audit team, to describe the audit program and scope of review, and to respond to questions. A letter of introduction from the Board, the audit work plan, and a request for background information were also provided at the entrance conference.

Pre-Audit Survey - Audit staff reviewed documentation and other materials to obtain an overall understanding of the Fire District's operations, and to isolate audit areas that warranted more detailed assessments.

Field Work - Field work activities were conducted after completion of the pre-audit survey, and included: (a) interviews with the Fire District's General Manager, all Fire District Commissioners and; (b) interviews with applicable Fire District contractors and vendors, including Central Fire; (c) site visits to the El Monte Fire Station and points of interest within the Fire District; (d) an evaluation of Fire District soliciting and contracting practices; (e) a review of selected Fire District contracts; (e) an evaluation of Fire District spending on wildfire risks in the Fire District; and, (f) the Fire District's compliance with all State and local laws governing fire districts.

Draft Report - On October 11, 2019, a preliminary draft report was provided to the Los Altos Hills County Fire District and selected contractors to describe the audit progress, and to share general information on our preliminary findings and conclusions.

Exit Conference - An exit conference was held with three Fire Commissioners, the Fire District's General Manager and selected contracted consultants on November 1, 2019 to obtain views on the confidential report's preliminary findings, conclusions, and recommendations, and to make fact-based corrections and clarifications as appropriate. Multiple parties separately requested interim revised drafts of the entire report or sub-sections, which were furnished. As of publication, there was an outstanding matter of a legal nature which remained under review. Depending on the outcome of this review, we may or may not publish an addendum to this report at a future date.

A revised confidential draft report incorporating feedback from the exit conference and subsequent information as appropriate was issued to the Los Altos Hills County Fire District on April 24, 2020. We requested a written response from the ad hoc committee to that revised report. We received the response on May 18, 2020.

Final Report - A final report including a written response from the Fire District was issued on May 22, 2020.

AUDIT METHODOLOGY

We interviewed the General Manager of the Fire District, the President of the LAHCFD Board of Commissioners (Fire Commission), and the six other members of the Fire Commission individually. For this report, we also interviewed contractors who performed the functions of District Clerk, Fire Consultant, Financial Consultant, and District Legal Counsel. Additional fieldwork was conducted that relates to findings and conclusions not included in this report as previously described.

We interviewed command staff at Central Fire, which is contracted by LAHCFD to provide fire protection and emergency medical services within the Fire District. We also interviewed the Executive Director of the Local Agency Formation Commission (LAFCO) and the Deputy County Executive whose purview includes the County's fire districts.

We conducted a site visit to the Fire District in October 2018, guided by Central Fire personnel. During the site visit, we toured the El Monte Fire Station, located at 12355 El Monte Road, Los Altos Hills. We visited points of interest in both the rural and the more developed areas of the Fire District.

As part of our audit field work, we attended the October 16, 2018 Fire Commission meeting at the El Monte Fire Station.

We reviewed the Fire District's current and prior year budgets and actual costs. We reviewed Fire District selected soliciting and contracting practices and records. We evaluated the terms and conditions of selected Fire District contracts. We analyzed Fire District agreements with Purissima Hills Water District and other outside organizations. We evaluated wildfire risks in the Fire District and outside its boundaries.

We reviewed the Fire District's compliance with all relevant State and local laws and regulations governing fire districts, including Section 13800 et seq. of the Health and Safety Code, Section 20810 et seq. of the Public Contract Code, the County Charter and Ordinance Code and applicable County policies.

Except in written responses to the audit or the memo regarding the audited entity's accomplishments, the Management Audit Division has long had a practice of not publishing names in public audit reports. Typically, this approach applies to information that is not publicly available. However, we have adhered to this practice in this report even though it means that we have redacted names from documents that are readily available elsewhere.

DESCRIPTION OF THE LOS ALTOS HILLS COUNTY FIRE DISTRICT

District Origin, Location, and Governance

The Los Altos Hills County Fire District (Fire District) is a dependent fire protection district authorized under Section 13800 et seq. of the California Health and Safety Code. The District was established on October 23, 1939 by resolution of the County Board of Supervisors, after an election was held of the qualified electors in the Fire District to approve the formation of the District. The Board of Supervisors is the governing board of the Fire District. The District is empowered to establish, equip and maintain a fire department, including by entering into contracts for the purpose of fire protection and suppression and by performing activities necessary for the prevention of fires. The Fire District provides fire protection and emergency medical services to the Town of Los Altos Hills, and to the unincorporated areas adjacent (Loyola, Los Trancos and San Antonio Hills) to the Town. The Fire District covers 11.8 square miles and serves approximately 12,000 residents.

Pursuant to a delegation of authority from the Board of Supervisors to the Fire District Board of Commissioners (also referred to as the Fire Commission), the Los Altos Hills County Fire District is overseen by a seven-member commission (Fire Commission). Members are appointed to four-year terms by the Board of Supervisors. Appointments are to provide for equal representation to the extent possible on the basis of population of incorporated and unincorporated areas.¹ At least two commission members must reside within the Fire District's unincorporated area, and each commissioner must be a resident of the Fire District.

Over the years, the Fire District has gone by different names, including the Los Altos Fire Protection District, the Los Altos Hills County Fire Protection District and the Los Altos Hills County Fire District.

Delegation of Authority

On December 16, 1980, the Board of Supervisors adopted a resolution delegating all of its powers to the Fire Commission to manage the affairs of the District, except for the power to initiate litigation. Attachment A, page 67 of this report, is a copy of the Board's delegation of authority.

According to Board of Supervisors meeting minutes from October 28, 1980, the decision to delegate authority to the Fire Commission was driven by a ballot measure to obtain revenue, due to the passage of Proposition 13, by imposing a special tax pursuant to California Government Code Section 53978 on real property within the Fire District for fire protection and related services:

"The Town [of Los Altos Hills] is reluctant to support this ballot measure because they realize that 74% of the District is within the Town's borders but it has no control. It is felt the Town would be more inclined to support the measure if the Board delegated the authority for running the District to the residents of the fire district."

¹ Maddy Report, County of Santa Clara, Revised 2/27/2019. Page 198.

The ballot measure passed with 73% approval on November 3, 1981. Pursuant to that measure, the maximum annual special tax assessment that a parcel within the Fire District can be charged is \$50 for improved residential parcels, \$75 for improved commercial parcels, and \$15 per five acres or a fraction thereof, with a maximum of \$60, for unimproved parcels. The Fire District’s audited financial statements indicate that the Fire District has not levied this tax since 1986.² (For more information about the Fire District’s funding sources, see the District Revenues and Expenditures section of this Introduction).

Fire District Services

The Los Altos Hills County Fire District provides fire protection and emergency medical services to its residents through a contract with Central Fire. The Fire District does not employ its own fire or emergency medical staff. Under the contract in place during our fieldwork, Central Fire operated a four-person firefighting company located in the El Monte Fire Station. The Fire District also contracts for a variety of voluntary programs for residents beyond the scope of typical fire prevention and emergency medical services, including a brush chipping program, dead tree removal, a eucalyptus tree program, weed abatement, and yard waste drop-off. All of these programs are paid for by the Fire District and offered free-of-charge (in most cases) to residents.

Fire District Organizational Structure

Apart from appointing the seven members of the Fire Commission, the Santa Clara County Board of Supervisors’ involvement in – and oversight of – the management of the Los Altos Hills County Fire District is limited due to the delegation of authority mentioned above; no Fire District matters go to the Board of Supervisors, except the final approval of the annual budget adopted by the Commission, unless they involve the initiation of litigation. The Fire Commissioners are supported by a General Manager, who became the Fire District’s first employee on October 1, 2018, and by contracted consultants for legal services, financial services, fire consultation services, and administrative/clerical services and other services. The organizational structure of the Fire District is displayed in Figure I.1 below.

Figure I.1: Los Altos Hills County Fire District Organization



² Page 24 of LAHCFD’s Annual Financial Report for the Year Ended June 30, 2018.

Fire District Revenues and Expenditures

The FY 2018-19 approved budget for the Los Altos Hills County Fire District included total revenues of \$11,629,668 and total expenditures of \$11,142,998. Revenues less expenditures generated a net surplus of \$486,670, as shown in Figure I.2 below.

Figure I.2: Fire District's FY 2018-19 Budget

FY 2018-19	Budgeted Amount
Revenues	
Property Taxes - Secured	\$ 10,361,485
Property Taxes - Unsecured	698,000
Senate Bill 813	287,283
Interest - Deposits & Investments	175,000
Property Taxes - Unitary	44,900
HOPTR (Homeowner's Prop Tax Relief)	43,000
Excess ERAF	15,000
Property Rental	4,500
Other/Misc. Revenue	500
Revenues Total	11,629,668
Expenditures	
Contract Services	6,362,100
Projects and Programs	4,152,000
Professional and Specialized Services	189,000
Operating Expenditures	185,138
Salaries and Payroll Taxes	142,500
Contract Services (Consultants)	112,260
Expenditures Total	11,142,998
Revenues Less Expenditures	\$ 486,670

Source: County's SAP System, TC ZFMP003 for BU 0979, Data Pulled by Auditors on 10/12/2018

Note: Due to categorization variances between the Fire District and the County, budgeted revenue and expenditure subcategories may differ from the County's financial system, SAP, but total revenue and expenditure amounts are the same.

As shown in Figure I.1 on page 15, property taxes made up the vast majority (95.6 percent) of the Fire District's total budgeted revenues. The balance of its total revenues (4.4 percent) came from various other sources.

Contract services account for a majority (57.1 percent) of the Fire District's total budgeted expenditures. This includes the District's contract with Central Fire for fire prevention and emergency medical services (\$4.6 million or approximately 41 percent) and other contracts related to the Fire District's fire apparatus (\$1.7 million). Projects and programs are 37.3 percent of the Fire District's total budgeted expenditures. This includes free-of-charge programs for residents, and Fire District agreements with the Purissima Hills Water District and Cal Water, both of which

operate partially within the Fire District, for hydrant and water main improvements to their water systems. The Fire District's remaining budgeted expenditures (5.6 percent) relate to its General Manager, operating costs, and contracted staff. Less than half the Fire District's annual expenditures go towards core fire protection and emergency services, i.e., the contract with Central Fire.

Fire District Fund Balance

As of June 30, 2019, the Fire District's audited financial statements show that the District had a governmental fund balance of more than \$19 million, of which more than \$15 million was "unassigned," or available. This represents an increase of more than \$3 million from the prior year.

The Fire District's total fund balance increased by 40 percent between FY 2013-14 and FY 2017-18. As shown in Figure I.3 below, the most significant increases in fund balance occurred since FY 2015-16.

Figure I.3: District Fund Balance, FY 2013-14 through FY 2017-18

Fund Balance	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
Committed					
<i>Operations</i>	-	-	\$ 2,000,000	\$ 2,000,000	\$ 2,000,000
<i>Emergency Operations</i>	-	-	2,000,000	2,000,000	2,000,000
<i>Insurance</i>	-	-	100,000	100,000	-
Unassigned	\$ 11,415,721	\$ 11,491,241	7,064,565	8,755,299	11,963,918
Total Fund Balance	\$ 11,415,721	\$ 11,491,241	\$ 11,164,565	\$ 12,855,299	\$ 15,963,918

Source: LAHCFD's Audited Financial Statements for FYs 2013-14, 2014-15, 2015-16, 2016-17 & 2017-18.

FIRE DISTRICT ACCOMPLISHMENTS

Audits typically focus on opportunities for improvements within an organization, program or function. To provide additional insight into the Los Altos Hills County Fire District, we requested that it provide some of its noteworthy achievements. These are highlighted in Attachment B on page 69.

RECOMMENDATION PRIORITIES

The priority rankings shown for each recommendation in the audit report are consistent with the audit recommendation priority structure adopted by the Finance and Government Operations Committee of the Board of Supervisors, as follows:

Priority 1: Recommendations that address issues of non-compliance with federal, State and local laws, regulations, ordinances, and the County Charter; would result in increases or decreases in expenditures or revenues of \$250,000 or more; or, suggest significant changes in federal, State or local policy through amendments to existing laws, regulations, and policies.

Priority 2: Recommendations that would result in increases or decreases in expenditures or revenues of less than \$250,000; advocate changes in local policy through amendments to existing County ordinances and policies and procedures; or, would revise existing departmental or program policies and procedures for improved service delivery, increased operational efficiency, or greater program effectiveness.

Priority 3: Recommendations that address program-related policies and procedures that would not have a significant impact on revenues and expenditures but would result in modest improvements in service delivery and operating efficiency.

ACKNOWLEDGMENTS

The Management Audit Division wishes to thank the Fire District Board of Commissioners, the Fire District General Manager and contracted consultants for their assistance and cooperation with the audit. In addition, we are grateful for the assistance of the Local Agency Formation Commission of Santa Clara County and the Central Fire Protection District.

Section 1: Use of Fire District Funds

Background

The Los Altos Hills County Fire District (Fire District) is governed by a Fire Commission appointed by the Board of Supervisors. The Board has delegated most of its authority to the Fire Commission. The Fire District owns and maintains some fire hydrants, but it does not own water tanks or pipelines. The Fire District's taxpayers are not responsible for constructing or improving pipelines or tanks and are not responsible for upgrading or maintaining infrastructure owned by other entities.

Problem and Adverse Effect

According to the Fire District's audited financial statements, the Fire District has a history of funding improvements to water supply infrastructure that is owned by Purissima Hills Water District (Water District), a public agency, and the California Water Service Company, a private water company that is publicly traded. Both the private firm and the Water District operate within the Fire District's boundaries. According to its audited financial statements, in recent years, the Fire District spent \$6.4 million to engineer and construct hydrants, tanks and water mains for the Water District and the private water company. The Fire District entered into contracts to pay millions of dollars for infrastructure projects for the Water District which expressly preclude the Fire District's taxpayers from owning the assets they purchased or upgraded. Fire District financial statements show the Fire District also made "donations" to these entities, including the private company. Based on the Water District's published reports, these taxpayer subsidies have helped to defer water rate increases. As of late 2019, the Water District had plans for improvements to its infrastructure, and public records indicate potential for the Water District to seek monies from the Fire District for certain future projects. While the Board has delegated its authority to the Fire Commission to spend taxpayer monies, it cannot delegate its own responsibility to taxpayers for the use of the funds. Some of these expenditures, contracts and "donations" raise legal concerns, including whether they could constitute a "gift" of public funds that could be prohibited by the California Constitution.

Recommendations

We recommend that the Board of Supervisors direct County Counsel to assess whether the making of agreements, donations or loans funded by the Fire District related to capital projects of other entities have been consistent with State laws and regulations and other legal requirements. Because new agreements appear likely to be proposed that would result in the Fire District expending funds for other agencies' capital projects, we recommend that the Board of Supervisors suspend its delegation of authority to the Fire Commission until the Board of Supervisors considers the results of County Counsel's review. We recommend that the Fire Commission serve in an advisory role pending the outcome of the Board of Supervisors' consideration of the legal review.

Savings and Benefits

Implementation of these recommendations will ensure that the Board of Supervisors exercises due diligence in its oversight of taxpayer funds.

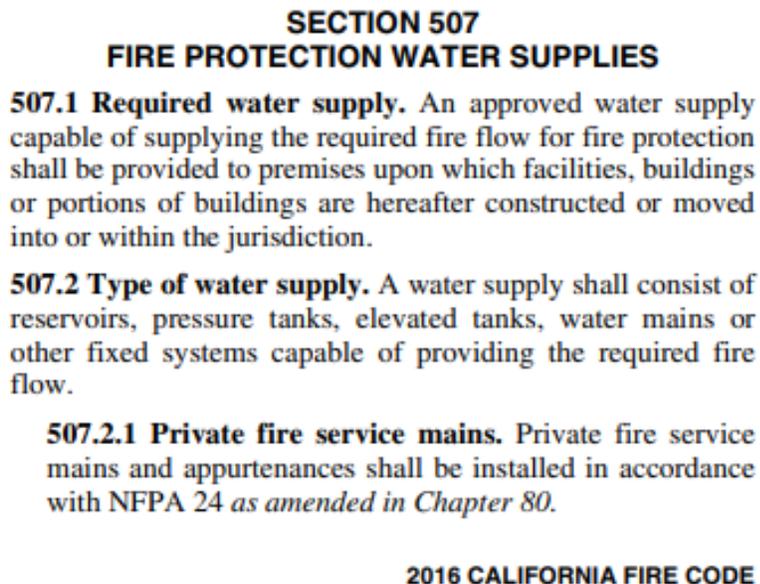
FINDING

Responsibility for Infrastructure Needed for Firefighting

The Fire District owns and maintains some fire hydrants, but it does not own water tanks or pipelines. The Fire District's taxpayers are not responsible for constructing or improving pipelines or tanks and are not responsible for upgrading or maintaining infrastructure owned by other entities.

Section 507 of the California Fire Code (shown in Figure 1.1 below) requires an adequate water supply for firefighting purposes. As defined by the code shown in the excerpt that follows, "water supply" means "reservoirs, pressure tanks, elevated tanks, water mains or other fixed systems capable of providing the required fire flow." "Fire flow" means a certain amount of water at a certain pressure for a specified minimum amount of time. The level of "fire flow" is set by the Fire Code and varies according to the type and size of buildings and other factors, such as whether a building is equipped with a fire sprinkler system.

Figure 1.1: Section 507 of the California Fire Code



The Purissima Hills Water District is authorized by State law, as shown in Figure 1.2 on page 21, to charge its ratepayers specifically for "operation, installation, capital, maintenance, repair, alteration or replacement of facilities and equipment related to supplying water for fire protection purposes."

Figure 1.2: State of California Government Code Section 53069.9



State of California

GOVERNMENT CODE

Section 53069.9

53069.9. (a) Any public agency providing water for fire protection purposes may, by ordinance or resolution, fix and collect a charge to pay the costs of operation, installation, capital, maintenance, repair, alteration, or replacement of facilities and equipment related to supplying water for fire protection purposes.

Except as provided in subdivision (b), any such charge fixed pursuant to this section, may be made on all land within the public agency to which water is made available for fire protection purposes. The legislative body of the agency which fixes such a charge may establish schedules varying the charges in different localities within the agency depending on the cost of operation, installation, capital, maintenance, repair, alteration, or replacement of facilities and equipment related to supplying water for fire protection purposes. Such charges may be collected at the same time and in the same manner as other water rates or water charges collected by the public agency.

(b) (1) A public agency providing water for fire protection purposes shall not charge, levy, assess, fix, or collect any charge, tax, fee, rate, assessment, or levy of any kind whatsoever in connection with its water system on or from any entity providing fire protection service to others for supplying water for such fire protection purposes within the service area of such entity providing fire protection service or for any costs of operation, installation, capital, maintenance, repair, alteration, or replacement of facilities and equipment related to supplying water for such fire protection purposes within the service area of such entity providing fire protection service, except pursuant to a written agreement with such entity providing fire protection service.

(2) The provisions of paragraph (1) of this subdivision shall not restrict or limit a public agency providing water for fire protection purposes from levying charges for water service or facilities, including water for fire protection purposes, on any person, property, or entity, whether public or private, other than on an entity providing fire protection service.

Such charges shall be collected from such other persons, property, or entities pursuant to existing provisions of law which authorize such charges, or from an entity providing fire protection services only pursuant to a written agreement authorizing such charges.

(c) For the purposes of this section, "entity providing fire protection services" means a city, county, or city and county, whether general law or chartered, or a fire company, fire protection district, or any other person, association, company, corporation, district, municipal corporation, or any other public or private entity,

The Fire District is not responsible for any other agency's infrastructure. Further, it does not have responsibility for "fire flow." The Fire District has nonetheless entered into agreements to furnish funds for improvements for capital assets it does not own based on resolutions stating "benefit" to the Fire District. The amount of money furnished by the Fire District to other entities was based on the "share" of the Fire District's "benefit" for the work on the other entities' infrastructure. We were unable to identify the basis for the "benefit" determination.

Fire District Spending on Other Entities' Capital Projects

According to its audited financial statements, in recent years, the Fire District spent \$6.4 million to engineer and construct hydrants, tanks and water mains for the Water District and the California Water Service Company (Cal Water), a private water company. Although the Fire District owns some hydrants, the hydrants mentioned in the projects in Figure 1.3 below are not owned by the Fire District. The water tanks and water mains are not owned by the Fire District.

Recent Fire District Spending on Capital Projects Owned by Other Entities

Figure 1.3: Fire District Spending on Capital Projects Owned by Other Entities, Fiscal Year 2014 to 2018

Fiscal Year	Amount Spent	Purpose
FY 2013-14	\$ 3,187,710	Construction of water tank and water mains for Purissima and Cal Water
FY 2014-15	\$ 569,353	Construction of water mains for Purissima and Cal Water
FY 2015-16	\$ 1,162,400	Construction of water mains for Purissima and Cal Water
FY 2016-17	\$ 1,301,771	Engineering and construction - hydrants for Purissima and Cal Water
FY 2017-18	\$ 174,447	Engineering and construction - hydrants and water mains for Purissima and Cal Water
Total	\$ 6,395,681	

Source: Los Altos Hills County Fire District Audited Financial Statements Compiled by Auditors

As shown in the excerpt reproduced in Figure 1.4 on page 23, the June 2013 audited financial statements show a "donation" of \$736,361 of taxpayer funds for a water main project to the Water District and California Water Service Company (the private firm).

Figure 1.4: Los Altos Hills County Fire District - Notes to the Basic Financial Statements
Year Ended June 30, 2013

LOS ALTOS HILLS COUNTY FIRE DISTRICT
Notes to the Basic Financial Statements
Year Ended June 30, 2013

NOTE 3. CASH AND INVESTMENTS - Continued

Governmental Accounting Standards Board, Statement No. 31, "Accounting and Financial Reporting for Certain Investment and for External Investment Pools" establishes accounting and financial reporting standards for all investments held by governmental external investment pools. The statement requires governmental entities to report investments at fair value.

Based on the County's calculations, the application of GASB, Statement No. 31, would have decreased the District's cash balance by \$42,877. However, since the effect of the application of GASB 31, in this instance, is not material, the District's cash and investments account is stated at cost.

NOTE 4. CAPITAL ASSETS

The capital asset activity for the year ended June 30, 2013 is as follows:

	Balance 6/30/12	Additions	Deletions	Balance 6/30/13
Land	\$ 4,688	\$ -	\$ -	\$ 4,688
Improvements	2,552,838	-	-	2,552,838
Fire hydrants	1,073,745	-	-	1,073,745
Furniture & equipment	55,160	-	-	55,160
Total cost	3,686,431	-	-	3,686,431
Accumulated depreciation	(1,059,382)	(76,015)	-	(1,135,397)
Total Capital Assets, Net	\$2,627,049	(\$76,015)	\$ -	\$2,551,034

Capital project expenditures for the year ended June 30, 2013 amounted to \$736,361, which represent construction costs for the water mainline donated to Purissima Hills Water District and the California Water Service Company and was not included as part of capital assets.

"Donations" of taxpayer money raise the potential for such uses to be contrary to law. We recommend that the Board of Supervisors direct County Counsel to review the legality of the making of donations and project cost-sharing agreements between the Fire District and these other entities since at least 2008.

The review should include the making of agreements related to at least the following capital projects:

1. Page Mill Tank Seismic Retrofit Agreement
In 2014, the Fire District and Water Districts agreed to retrofit the Water District's Page Mill tank to withstand a major earthquake. The scope of work included reconstructing the roof, modifying the drain and overflow pipes, constructing a new foundation with anchors, and sandblasting and repainting the interior of the tank. Under the terms of this agreement, the Fire and Water Districts agreed to pay for 64.7 percent and 35.3 percent, respectively, of total project costs (up to \$850,000), and the Water District retained sole ownership of the tank. We do not know how this percentage was determined.
2. Neary Tank Utilization Agreement
In 2012, the two districts agreed to extend a water main approximately 6,600 feet from the Water District's Neary Tank No. 1 to Altamont Court, along with eight service connections. There were no water mains in the area at that time. As part of the project, the tank was retrofitted to withstand a major earthquake. According to the terms of this agreement, the Fire District agreed to pay 80 percent of total project costs (up to \$2.4 million). Per the agreement, the Water District retained sole ownership of the tank and all facilities constructed in conjunction with the project. We do not know how this percentage was calculated.
3. Page Mill Interconnection Agreement
In 2009, the two districts agreed that the Fire District would procure services for the design and construction of an interconnection between the Water District and the City of Palo Alto's water systems.³ The scope of work included constructing a bidirectional meter, meter vaults, flushing pipes, traffic related covers, check valves and gate valves. Under the terms of this agreement, the Fire District agreed to pay for 100 percent of the total project costs, which were not estimated in the agreement. As part of the agreement, the Fire District also agreed to transfer ownership of the interconnection (once it was completed) to the Water District. We do not know how the entire "benefit" was determined to be to the Fire District for this project.
4. Altamont Pump Station Agreement
In 2008, the two districts agreed that the Water District would procure services for the design and construction of a new permanent emergency generator at the Water District's Altamont Pump Station. The scope of work included constructing a concrete pad for the generator, and purchasing and installing the generator. Under this agreement, the Fire District agreed to pay \$250,000 toward the total project costs, and the Water District agreed to pay up to \$50,000 if the total project costs exceeded \$250,000. The agreement did not address ownership of the generator.

3 The Fire District entered into a similar agreement with the City of Palo Alto for construction of the interconnection. This small portion of Palo Alto is in the Fire District boundaries.

Purissima Hills Water District's Capital Investments

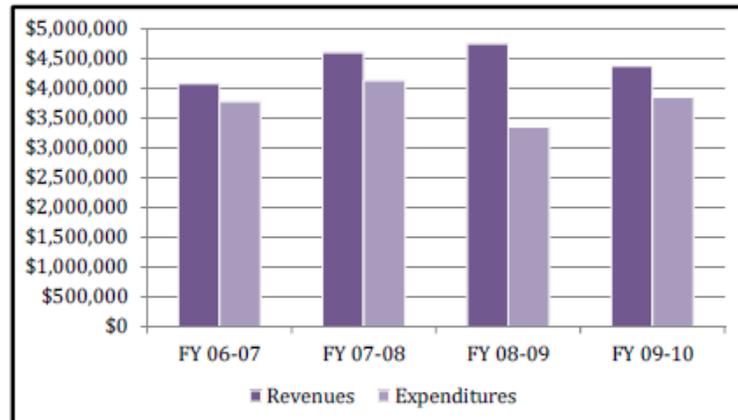
As shown in the following excerpt, in its 2011 Countywide Water Service Review, the Local Agency Formation Commission (LAFCO) observed that the Water District's capital asset investments "greatly exceeds wear and tear."

Figure 1.5: 2011 Countywide Water Service Review

PURISSIMA HILLS WATER DISTRICT

Figure 5-3: Expenditures and Revenues (FYs 07-10)

District expenditures and revenues over the last four fiscal years are shown in Figure 5-3. Revenues peaked in FY 08-09, and have slightly declined since then. Revenues have exceeded district expenditures every year.

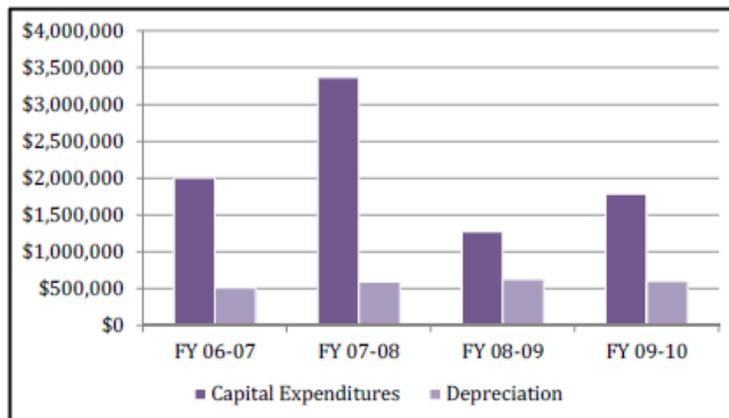


Capital Outlays

The District plans for its capital improvement needs in its five-year capital improvement plan. The District uses a "pay as you go" approach, financing the majority of infrastructure projects out of reserves. The District has also taken out loans to finance previous capital improvement projects.

Figure 5-4: Capital Outlays and Depreciation (FYs 07-10)

The District's capital outlays and estimated depreciation of assets is shown in Figure 5-4. The capital outlays shown here reflect both the District's direct expenditures and capital contributions. Given that capital outlays have exceeded depreciation in each of the last four fiscal years, it appears that the District regularly reinvests in its capital assets at a rate that greatly exceeds wear and tear.



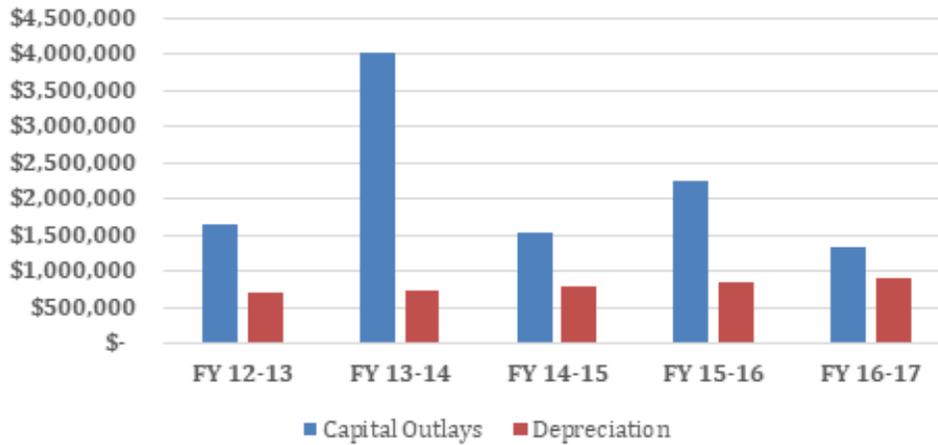
Long-term Debt

At the end of FY 09-10, the District had \$1.6 million in long-term debt in the form of two loans used to finance capital improvements.

In 2007, PHWD took out a \$500,000, 3-year loan to assist in financing the construction of the administration building. Principal and interest payments of \$90,396 were payable semi-annually at a rate of 4.75 percent. On June 30, 2010, the loan was paid in full.

Figures in the Water District’s audited financial statements since LAFCO’s 2011 review show similar investment-to-depreciation ratios in the five fiscal years preceding the year in which our audit commenced, as shown in Figure 1.6 below prepared by auditors.

Figure 1.6: Water District Capital Outlays and Depreciation (FYs 2012-13 to 2016-17)



According to its 2018 water rate study, as shown in Figure 1.7 below, the resources of the Fire District for Water District capital projects contributed to the Water District’s ability to defer water rate increases for water ratepayers.

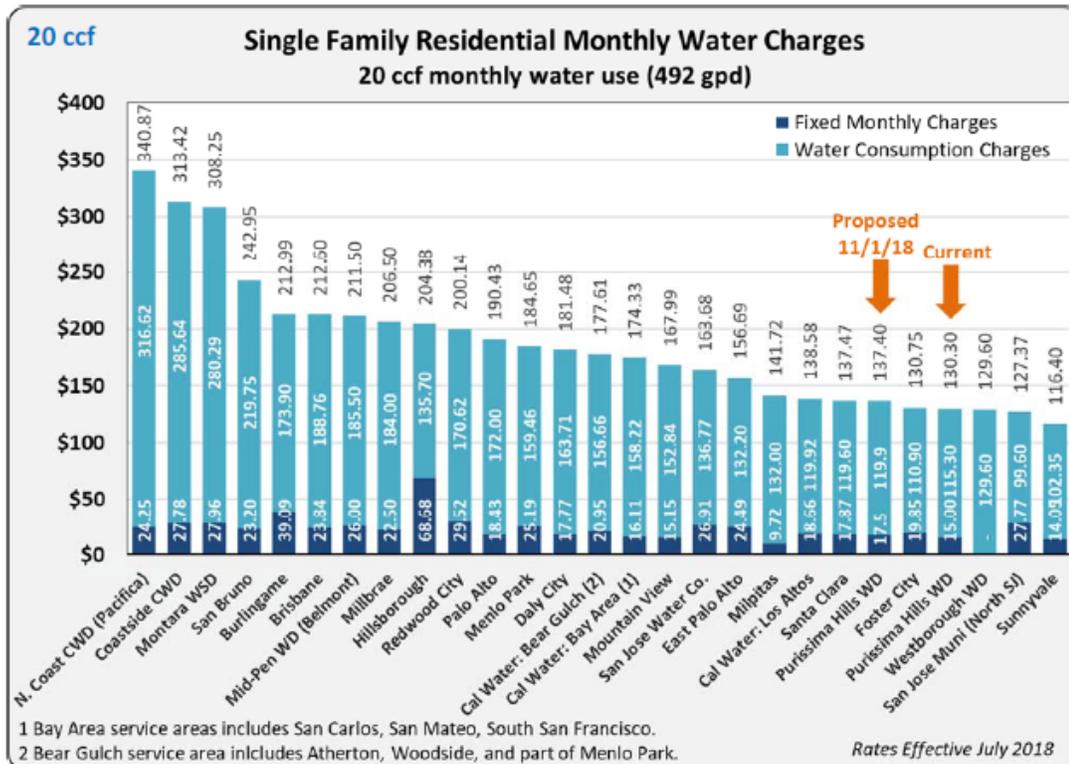
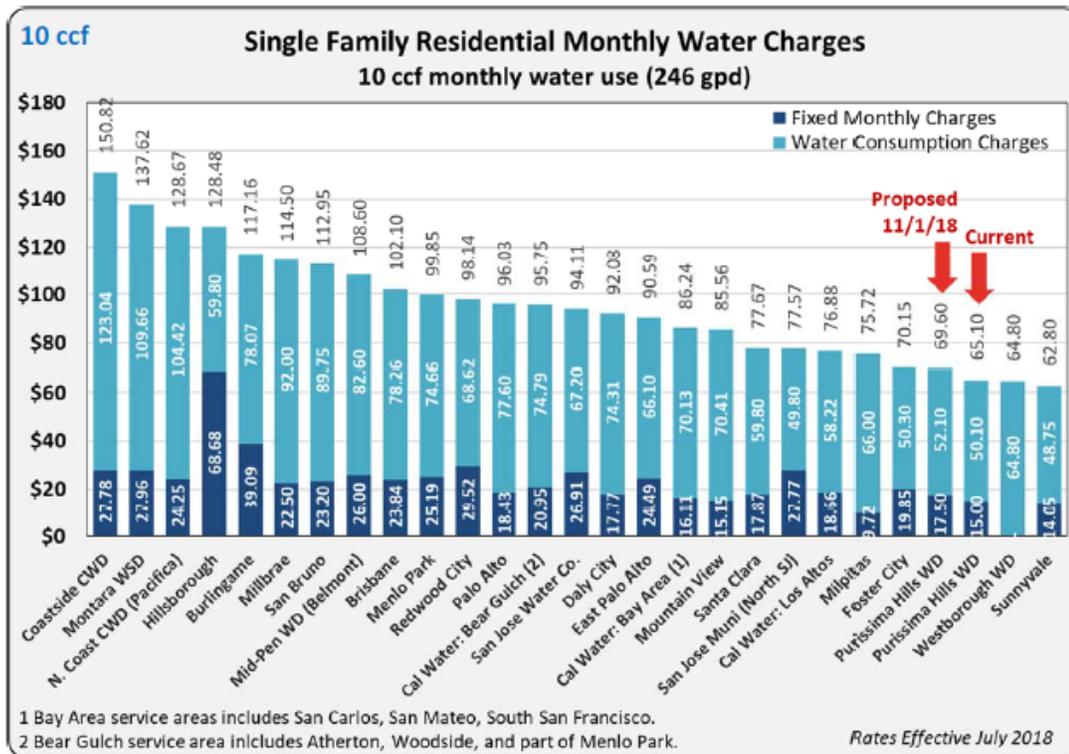
Figure 1.7: 2018 Water Rate Study, Cost Control Measures

4.6 Cost Control Measures

PHWD is committed to providing high-quality water service as cost-efficiently as possible. PHWD maintains a small staff compared to other water agencies and has implemented a number of cost-cutting measures over the years that enabled the District to 1) defer rate increases for three years from 2012 through 2015 despite significant increases in wholesale water rates over that period, and 2) avoid implementing Water Shortage Emergency Rates during the recent drought despite a roughly 35% decrease in water sales from 2013/14 through 2015/16. These cost cutting measures have included a) reducing operating costs, b) temporarily deferring some capital improvements in response to reduced revenues during the recent drought, and c) partnering with the Los Altos Hills County Fire District on funding for capital projects needed to address fire flow deficiencies and improve fire flow reliability.

The following excerpt from the Water District's 2018 rate study shows that it has among the lowest rates in the Bay Area.

Figure 1.8: 2018 Water Rate Study, Monthly Water Charges



While many Water District ratepayers are also Fire District taxpayers and vice versa, there is not complete overlap.

Ongoing Risks

While State law allows water agencies to charge ratepayers for the cost of developing and maintaining infrastructure necessary to ensure adequate fire flow, and some water agencies have charged their ratepayers or otherwise raised funds for this purpose, the Water District has funded its capital program with its existing funds and funds obtained from “donations,” loans or cost-sharing agreements funded by Fire District taxpayers. By obtaining funds for its capital improvements from the Fire District, the Water District has been able to delay rate increases for its ratepayers. Use of non-Water District funds to pay for its capital improvements may contribute to the Water District’s below-average water rates.

As of late 2019, the Water District was continuing to propose multimillion-dollar capital projects for which there were ongoing discussions between the agencies to that would potentially result in Fire District taxpayers furnishing funds. Because as of late 2019 there were ongoing proposals to fund Water District capital projects with Fire District monies, if the Fire Commission continues to have the Board of Supervisors’ authority to spend Fire District funds, the likelihood that additional taxpayer funds will be expended to improve the infrastructure of the Water District is high. Based on past practice, this would mean that Fire District taxpayers pay to build or upgrade a capital asset but do not own the asset.

Delegation of Authority

The Board of Supervisors delegated virtually all of its authority to the Fire Commission in 1980. This delegation was granted when the population of the County was significantly smaller, and the risk of ongoing wildfires was lower. Further, the delegation was granted for the purpose of making a special tax more palatable to Fire District voters. However, that tax is not currently levied (nor has it been for over three decades), so the basis for the delegation is no longer relevant. Today, the Fire District has a large and growing fund balance in the absence of the additional tax.

RECOMMENDATIONS

The Board of Supervisors should:

- 1.1 Direct County Counsel to review and report to the Board of Supervisors its assessment of whether the making of agreements, donations or loans resulting in Fire District subsidies of other entities’ capital projects has been consistent with all applicable legal requirements. This review should include any new proposed agreements or expenditures. (Priority 1)
- 1.2 Suspend its delegation of authority to the Fire Commission to ensure that Fire District does not enter into new agreements or arrangements to subsidize capital projects of other agencies while the Board exercises due diligence per Recommendation 1.1. The Fire Commission should serve in an advisory role. (Priority 1)

SAVINGS, BENEFITS, AND COSTS

Implementation of Recommendation 1.1 would require time of County Counsel's staff but would provide the Board with assurance that it is meeting its obligations to Fire District taxpayers. For example, the California Constitution prohibits "gifts" of public funds. Whether the past arrangements are or are not consistent with this prohibition is a matter that warrants review. There are numerous other provisions of law and regulations that may be applicable to the past use of Fire District funds pertaining to certain agreements and capital projects.

Implementation of Recommendation 1.2 would guarantee that while the Board exercises due diligence, no new contracts or donations are made without Board approval. As of late 2019, the Water District had proposals for new capital projects that included the potential for some project work to be funded by the Fire District. By serving in an advisory role, the Fire Commission would be able to recommend action but would need Board authorization to obligate taxpayer funds to such projects.

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Section 2: Use of District Funds for Private Tree Services

Background

The Los Altos Hills County Fire District (Fire District) was established pursuant to the authority granted by State law, which specifies the District's powers. Under the law, the District may provide the following services: fire protection, rescue, emergency medical, hazardous material emergency response, ambulance, and any other services "relating to the protection of lives and property" (Health and Safety Code sections 13801 and 13862). The District is empowered by State law to abate vegetation that poses a "fire menace" or is "noxious or dangerous," and therefore is determined to be a public nuisance. Unless directly resolved by the property owner at the owner's expense, costs for the hazard abatement and related expenses are supposed to be initially incurred by the Fire District. (In practice, these costs are borne by the County Weed Abatement program, not the Fire District.) However, State law mandates that these expenses be submitted by the Fire District to the County, which then is required to include the cost of the abatement and related expenses on the parcel owner's property tax bill as a special assessment. Ordinarily, the Board of Supervisors would adopt resolutions specifying mandatory abatement of hazards. However, in 1980, the Board delegated its powers to an appointed Fire Commission. The Commission, therefore, annually adopts resolutions which result in mandatory abatement of vegetation that poses a hazard.

Problem, Cause, and Adverse Effect

State law empowers the District to abate vegetation hazards that constitute a public nuisance at the individual property owner's expense. The law does not authorize the District to abate such hazards at taxpayer expense. It also does not authorize the District to provide discretionary pruning or other landscape maintenance work at taxpayer expense. Yet for many years, the Fire District has spent taxpayer funds to prune and removed trees on private property, at the *discretion* of the property owner. From 2003 to 2019, the District spent \$22.0 million to prune and remove trees on private parcels with the owner's consent. The FY 2018-19 budget for this work was \$2.0 million. Pruning and removing trees at taxpayer expense is separate from the Fire District's abatement of hazardous vegetation, which is done with or without the owner's consent and at the owner's expense. By expending public funds on discretionary private services, the Fire District reduces the monies and administrative resources available for managing fire risks. Although tree removal may reduce fire risk in the Fire District and is therefore potentially a "service relating to the protection of lives and property," there is nothing in the program that requires the contractor to conduct the work for the purpose of reducing fire risk or that such risk reduction be demonstrated.

Recommendations

Because the Fire Commission has expended tens of millions of public dollars on private tree pruning and removal that is specifically not related to reducing declared fire hazards, we recommend that the Board of Supervisors end the discretionary program in favor of services to District residents that more broadly reduce the risk of major fires in the Fire District as opposed to benefiting certain property owners.

Savings, Benefits, and Costs

Implementation of this recommendation would improve the nexus between expenditure of District funds and the ability of properties within the District to survive wildfires.

FINDING

District Authorization, Organization, and Powers

The Los Altos Hills County Fire District (Fire District) is a dependent special district that is funded primarily with property tax monies. The District's Board of Directors is the County Board of Supervisors. The Board of Directors in 1980 delegated almost all of its oversight of the District to an appointed commission (Fire Commission). The Fire Commission has seven members. Until it hired a General Manager in October 2018, the Fire District had no employees. The District's administrative functions were carried out by part-time contractors. Section 13862 of the Health and Safety Code authorizes the District to provide fire protection services, rescue services, emergency medical, hazardous material emergency response, ambulance services, and any other services relating to the protection of lives and property.

Abatement of Vegetation Hazards

Sections 14875, 14876, and 14880 of the California Health and Safety Code authorize the Fire District to abate vegetation that poses a "fire menace" or is "noxious or dangerous," and therefore is a public nuisance, as determined by the Fire Commission exercising its delegation of authority. Subsequent sections of the Health and Safety Code require provision of notice to property owners and a hearing to respond to a resolution by the Fire Commission declaring that a public nuisance exists on their property. Initially, abatement costs are supposed to be incurred by the Fire District.

Section 14915 requires that these abatement costs, and associated expenses, be sent by the Fire District to the County each August for placement on the affected homeowner's tax bill as a special assessment. State law does not allow for District taxpayers to pay for abatement of hazardous vegetation that constitutes a public nuisance on particular properties. Fire Commission resolutions and minutes indicate that the Los Altos Hills County Fire District is following the process defined in the law to abate hazardous vegetation, except that the actual cost of the abatement is initially borne by the County. In Calendar Year 2018, the Fire District authorized the County to abate hazards on 261 properties within its boundaries at a cumulative cost of \$51,576, or approximately \$198 per property.⁴

Tree Pruning and Removal

In addition to the abatement of hazardous vegetation, the Fire District provides tree removal, tree pruning, and wood chipping to private property owners. The service is free of charge to Fire District property owners and the work is undertaken only with the owner's permission. The District's FY 2018-19 budget for these services was \$2.0 million, or approximately 18 percent of the Fire District's total budget. Since 2003, the Fire District has spent \$22.0 million on these services.

Nothing in the Health and Safety Code authorizes a Fire District to provide these services to private property owners. The Code specifically allows abatement of vegetation hazards that constitute a public nuisance, but the Fire District's tree pruning and removal is not conducted to remove or address hazards per se, as it is entirely separate from the hazard/public nuisance abatement program. The

⁴ Data provided by the County Fire Marshal's Office, 2/7/2019.

discretionary services provided by the Fire District may provide some benefit to Fire District residents as it may reduce the amount of fuel for a fire. However, there is no guarantee that it reduces fuel, as homeowners may replace trees removed in the landscape program with other trees, other vegetation, or new structures.

Further, the removed vegetation is presumably not a fire hazard per se or it would be addressed, per law, through the hazard/public nuisance abatement program. Furthermore, removal or pruning of trees may not affect the survival of homes on the property if the property has unaddressed, non-vegetative risks or other vegetation that contributes to fire risk.

Such risks include cracks or holes in structures, single-pane windows, damaged roofing materials, lack of ember screens, flammable material in gutters, and so forth. Even if the landscaping program provides indirect reduction of hazards, there is no evidence that funds expended on the program increases the overall likelihood that a home will survive a fire. For example, nothing in the tree service contractor's agreement with the Fire District requires the work to conform to the State Board of Forestry and Fire Protection Guidelines for Creating Defensible Space⁵ or any other guidelines for ensuring that vegetation removal is carried out in a manner that would help to protect Fire District properties from fire damage.

A map of tree removals that were a part of the Fire District's discretionary tree services between July 2015 and September 2018 is shown in Section 4 on page 47 of this audit.

Delegation of Authority

The Board of Supervisors delegated virtually all of its authority to the Fire Commission in 1980. This delegation was granted when the population of the County was significantly smaller, and the risk of ongoing wildfires was lower. Further, the delegation was granted for the purpose of making a special tax more palatable to Fire District voters. However, that tax is not levied in 2020 (nor has it been for over three decades), so the basis for the delegation is not relevant today. Due to the Fire Commission's expenditure of large sums for a program that is discretionary and may not reduce the overall likelihood of property within the Fire District succumbing to wildfire, the Board of Supervisors should end the discretionary program.

A changing climate means that the County is more prone to fires in the future than it has been in the past. Recent wildfires in other counties have shown that dry, windy conditions are sufficient to enable wildfires to spread to populated areas, even those not considered "high risk." For example, portions of the City of Santa Rosa saw major damage from a wildfire in October 2017, as shown in the "before" and "after" photos in Figure 2.1 on page 34. The neighborhood shown was not classified as being at high risk for fire on State fire risk maps. That fire began in a more remote area, but was propelled into the City by high winds.

⁵ The state guidelines are only applicable to certain areas within a State Responsibility Area, and thus the LAHCFD is not required to adhere to them. Nonetheless, the guidelines and others like them represent a common-sense approach to fire risk mitigation through fuel management. There is no indication that the discretionary tree services program is specifically designed to mitigate fire risk, such as by resulting in clearance between a structure and vegetation sufficient to reduce fire risk to the structure posed by the vegetation.

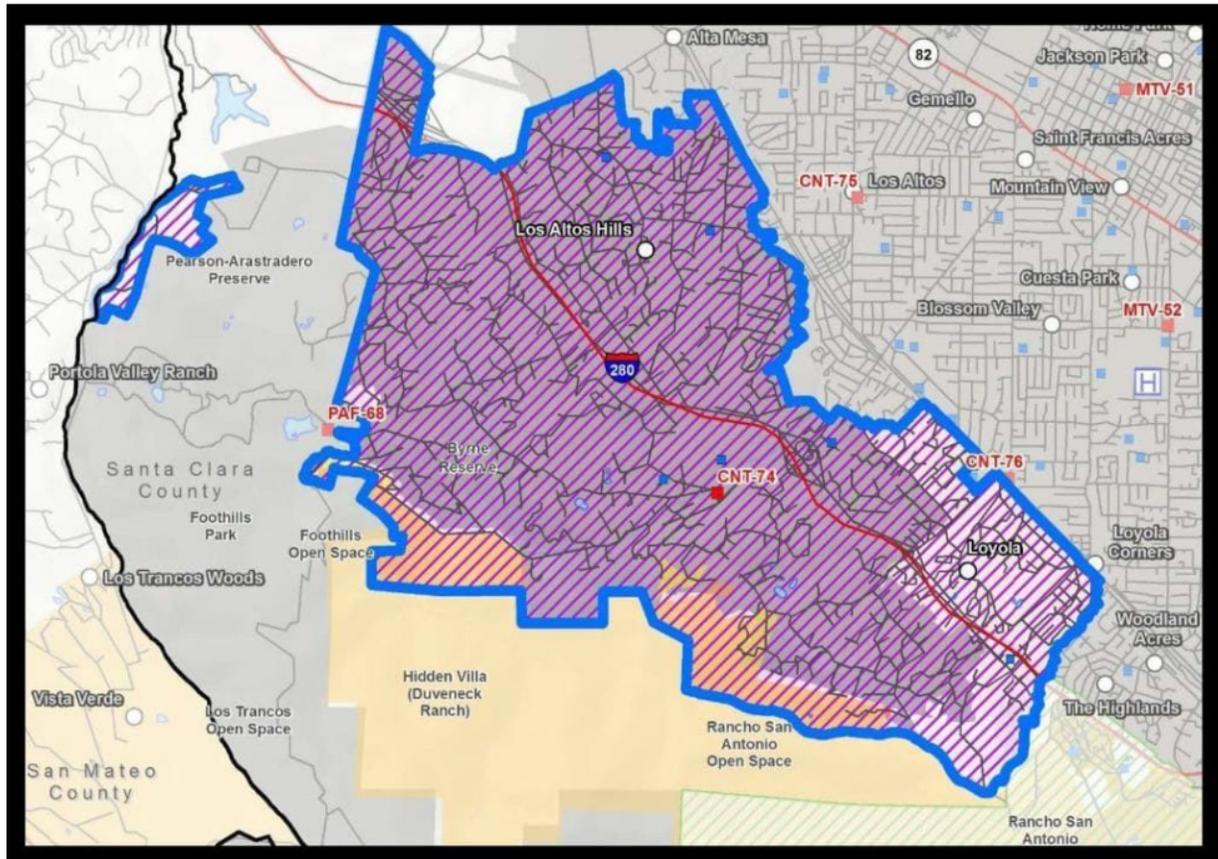
Figure 2.1: Coffey Park Neighborhood Santa Rosa
Before the October 9, 2017 Fire (above); and After the October 9, 2017 Fire (below)



The United States Geological Survey (USGS) estimates the probability of an earthquake capable of causing widespread damage occurring in the Bay Area in the next 24 years is 72 percent. According to the USGS, fallen power lines and ruptured gas mains from earthquakes can result in fires, which can be difficult to extinguish

due to other earthquake damage such as broken water lines, damaged roadways, and debris blocking roadways. Fires move according to wind, terrain, fuels, temperature, and other natural and structural conditions, without regard to political boundaries. As shown in Figure 2.2 below, a major fire within the Fire District could easily pose a fire risk to nearby open space and parklands, as well as heavily populated areas near the District, in addition to the risk posed to property and residents within the Fire District boundaries.

Figure 2.2: Los Altos Hills Fire District



Source: Los Altos Hills County Fire District.

Excluding funds allocated to municipal fire departments, the property tax monies collected by the Los Altos Hills County Fire District (\$10,719,618) in FY 2017-18 represented approximately 47 percent of all the annual property tax funds allocated to fire services (\$22,678,010) in the County. The fact that Fire Commission has allocated resources to a voluntary tree program raises the question of whether those funds could be better used to combat fire risks within the Fire District to the benefit of the Fire District as well as other areas of the County that could be affected by a fire that begins in or spreads to the Fire District.

Alternatives

Drought periods and climate change have increased the risk of major fires in California. Alternatives to maximize use of available funds to reduce the risk of major fires should be considered.

Site-Specific Mitigation Programs

There is a property-based, fire-risk mitigation program in Boulder County, Colorado that has shown promising results in that participating properties have survived wildfires. That program, called Wildfire Partners, is funded by the U.S. Federal Emergency Management Agency (FEMA), the Colorado Department of Natural Resources, Boulder County and participating property owners. The program includes a wildfire risk assessment, conducted by a specialist, of the participating property. The specialist provides the property owner with a list of mitigation recommendations specific to the property. These recommendations address vegetation, but also other risk factors, such as shingle roofs, single-paned windows, lack of ember screens, cracks in walls, mulch adjacent to house walls, firewood storage, flammable material in gutters, etc. Property owners who complete the recommended mitigations receive a certificate which they can provide to their homeowner insurance company. Identification and mitigation of specific, known fire risks to facilitate the survival of each participating home – and thus help protect adjacent properties – may be a more effective use of tax dollars than the Fire District’s current tree program, where the nexus to property survival during a fire is unclear.

Alternatively, the Board of Supervisors could establish requirements for the tree program, such that the expenditure of funds would be required to result in the creation and maintenance of “defensible space” to mitigate fire risk on each affected property.

If the Board of Supervisors continues to permit the Fire District to spend public fire protection funds on private property, it should ensure that the public will benefit. The served property should be overall more likely to survive fires as a result of those expenditures. The Board should re-assess whether the funds expended on the voluntary tree program are the best use of those dollars or whether a different mix of services is warranted to improve the likelihood that assisted properties survive in the event of a fire.

Delegation of Authority

The Board of Supervisors delegated virtually all of its authority to the Fire Commission in 1980. This delegation was granted when the population of the County was significantly smaller, and the risk of ongoing wildfires was lower. Further, the delegation was granted for the purpose of making a special tax more palatable to Fire District voters. However, that tax is not currently levied (nor has it been for over three decades), so the basis for the delegation is not relevant today. The Fire Commission has used the delegated authority to purchase discretionary services that may not reduce the overall likelihood of property within the Fire District succumbing to wildfire. The Board of Supervisors should end the discretionary program. Section 4 on page 47 of this report provides more detail on the specific spending on the tree program.

RECOMMENDATION

The Board of Supervisors should:

- 2.1 End the discretionary tree services program and re-direct the funds to services expressly designed to improve the ability of properties in the Fire District to survive wildfire. While such efforts could include tree pruning and removal to reduce the amount of flammable material, public funding of such services should result in demonstrably reduced overall fire risk within the District. (Priority 1)

A companion recommendation and additional factors related to the details of the tree program are presented in Section 4, page 47.

SAVINGS, BENEFITS, AND COSTS

Few if any new costs would arise from consideration of alternatives to the discretionary, private tree services now furnished by the Fire District. The benefits of redirecting funds from a voluntary tree pruning and removal program to services expressly designed to reduce risks would be potential improvement in the survival of Fire District properties and thus reduction of the potential for fire to spread within and through the District.

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Section 3: Brown Act Compliance

Background

The Los Altos Hills County Fire District's (Fire District) Board of Commissioners (Fire Commission) is a legislative body subject to the Ralph M. Brown Act (Brown Act), which is California's local government open meetings statute. Among other goals, the Brown Act is intended to guarantee the public's right to attend and participate in meetings of local legislative bodies.

Problem, Cause, and Adverse Effect

We identified four types of potential Brown Act violations since late 2016 by the Fire Commission: (1) Public noticing did not occur when a general manager position was created; (2) An ad hoc advisory committee created an employee position that it did not have authority to create; (3) A special meeting was inappropriately used to make salary decisions; and (4) Labor negotiators were not identified prior to closed sessions. We saw no evidence to suggest these potential violations were intentional. Several Fire Commissioners reported receiving Brown Act training from the Fire District's contracted counsel during the previous three years. The cause of these compliance problems is therefore unclear. We note that the creation of the General Manager position was the first time the Fire District ever had an employee, and thus its contractors may have lacked experience with the aspects of the Brown Act that pertain to personnel matters. The Fire Commission's potential violations of the Brown Act undermine the public's ability to be aware of, participate in, and oversee the affairs of the District, and increase the risks of litigation to the Fire District and the Board. Except for the authority to initiate litigation, the Board of Supervisors delegated all of its authority, including other legal matters, to the Fire Commission in 1980.

Recommendations

The Board of Supervisors should bring the District's legal affairs under County Counsel, which may reduce the risk of future Brown Act violations.

Savings, Benefits, and Costs

The recommendation would help protect the public's ability to oversee the Fire Commission and participate in the Fire District's affairs. It would also help prevent the risk of legal costs related to potential future Brown Act violations.

FINDING

Background

The Fire Commission is a legislative body that is governed by the Brown Ralph M. Act. The Brown Act is codified by California Government Code 54950 et seq. and has been in place since 1953. Among other goals, the Brown Act is intended to guarantee the public's right to attend and participate in meetings of local legislative bodies. The Brown Act imposes a variety of requirements for how the Fire Commissioners communicate with one another, how to set the agendas of meetings, and how meeting-related materials are distributed to the public.

Four Types of Apparent Brown Act Violations Appear to Have Occurred

We observed four types of apparent Brown Act violations by the Fire Commission. During our exit conference the Fire Commission stated that these observations were false. However, the Fire Commission was unable to provide specific meeting minutes or additional evidence that refuted our observations. The minutes from the meetings discussed below are included in Attachment C on page 73 for reference. The four observations are detailed as follows:

1. Public noticing did not occur when the Fire District created a general manager position.

The Fire District appears to have created a general manager position through an ad hoc advisory "subcommittee on general manager hiring" (subsequently referred to as the General Manager Subcommittee). The Fire Commission first created the subcommittee during a special meeting on July 25, 2017. The subcommittee was formed in an ad hoc manner during discussion on agenda of update reports from various other subcommittees. Minutes from the meeting state "the consensus was to form a new committee, hiring committee, consisting of Tyson, Price and Warren." However, the minutes do not include any mention that the formation of the subcommittee "on general manager hiring" was formally adopted by resolution of the Fire Commission. See except in Figure 3.1 below and a full copy of meeting minutes in Attachment C on page 73 of this report.

Figure 3.1: Excerpt from July 25, 2017 Special Meeting Minutes

necessary. The consensus was to form a new committee, hiring committee, consisting of [REDACTED] reviewed the two page summary of the June 2, 2017 strategic plan meeting. She said the next strategic plan elements to work on was the salary survey and the need for a Commissioner orientation program. b.) Website Update: There was no update for the District website.

Source: "Minutes of a Special Meeting of the Los Altos Hills County Fire District Board Members, Held on Tuesday, July 25, 2017 Beginning at 7:00 p.m. at the El Monte Fire Station, Foothill College Campus, 12355 El Monte Road, Los Altos Hills, California", downloaded from www.lahcfd.org on August 17, 2018.

On September 19, 2017, the General Manager Subcommittee reported to the Fire Commission that it “agreed to begin with a 20 hour a week [general manager] position”. The advisory committee did not have the legal authority to make such a decision about creating the general manager position or setting the hours required for the post.⁶

The September 19, 2017 item during which the Fire Commission agreed to move forward with the interview process for the subcommittee-created general manager position was placed on the agenda as a “General Manager Subcommittee Update,” with no indication to the public that a new position had/was being established.⁷ See except in Figure 3.2 below and a full copy of meeting minutes in the Attachment C on page 73.

No notice was given by the subcommittee itself, since it did not have to publish an agenda as a non-Brown Act body.

Figure 3.2: Excerpt from September 19, 2017 Special Meeting Minutes

g.) General Manager Subcommittee Update: ██████ discussed the GM Subcommittee Report dated “for the September 19 Board Meeting”. The subcommittee agreed to begin with a 20 hour a week position. Since this is a new position the hours may increase. He stated he spoke with the company ██████ which is an organization dedicated to providing a range of services to organizations like LAHCFD. They also looked at a potential applicant pool and had informal conversations with such candidates. ██████ summarized the Team Recommendations including: begin the process without an external recruiting agency, checking with the County for any possible restrictions, compensation based on qualifications, propose interview process be done by sub-committee and possibly bring the candidate to the November 19 Board Meeting with a projected start date of January 1, 2018. ██████ asked for Commissioner and public input. ██████ mentioned the skill set is broad and there is no mentor for this position. He questioned where the office location would be and the individual having a District-issued cell phone. ██████ stated a new budget item would have to be made. **Action:** ██████ made a motion that the Commission direct the GM sub-committee to move forward with the interview process with the intent of bringing a potential candidate to the November 19, meeting; ██████ seconded the motion. **All in Favor:** ██████ **Opposed:** None.

Source: “Minutes of a Regular Meeting of the Los Altos Hills County Fire District Board Members, held on Tuesday, September 19, 2017 Beginning at 7:00 p.m. at the El Monte Fire Station, Foothill College Campus, 12355 El Monte Road, Los Altos Hills, California”, downloaded from www.lahcfd.org on August 17, 2018.

- 6 Gov. Code Section 54952(b). For a committee to be exempt from the Brown Act’s open meeting requirements, the committee must be advisory, among other conditions. Such an advisory committee is not a legislative body and cannot make legislative decisions, such as creating new staff positions or setting staff position hours.
- 7 Gov. Code Section 54954.2(a)(1). A public agenda containing a “brief general description of each item of business to be transacted or discussed at the meeting” is required so that members of the public have notice of what will be discussed.

2. An ad hoc advisory committee created an employee position that it did not have authority to create.

As discussed above, the General Manager Subcommittee to the Fire Commission appears to have created a General Manager position when it reported to the Fire Commission on September 19, 2017 that it “agreed to begin with a 20 hour a week [general manager] position.” But as an advisory committee that is exempt from the Brown Act’s open meetings requirements, it did not have the legal authority to make such a decision, or to set the hours required for the post.⁸ See except in Figure 3.2 on page 41 and a full copy of meeting minutes in Attachment C on page 73.

3. A special meeting was inappropriately used to make salary decisions.

On March 20, 2018, the Fire Commission held a special closed meeting: “Direction to Negotiators Regarding Compensation for Position of General Manager.” However, the Fire Commission cannot make executive salary decisions in a special meeting, according to the Brown Act.⁹ See except in Figure 3.3 below and a full copy of meeting minutes in Attachment C on page 73.

Figure 3.3: Excerpt from March 20, 2018 Closed Special Meeting Minutes

2) Closed Session: Public Comment: There was no public comment on the Closed Session agenda item.

1.) Conference with Labor Negotiators (Government Code 54957.6) Direction to Negotiators Regarding Compensation for Position of General Manager (Attendees: District Commissioners, LAHCFD District Attorney)

Source: “Minutes of a Special Meeting of the Los Altos Hills County Fire District Board Members, Held on Tuesday, March 20, 2018 Beginning at 6:00 p.m. at the El Monte Fire Station, Foothill College Campus, 12355 El Monte Road, Los Altos Hills, California”, downloaded from www.lahcfd.org on August 17, 2018.

4. Labor negotiators for the general manager position were not identified prior to closed session.

The closed sessions on May 15, 2018 and March 20, 2018 included agenda items on “Conference with Labor Negotiators (Government Code 54957.6) Direction to Negotiators Regarding Compensation for Position of General Manager (Attendees: District Commissioners, Fire District Attorney).” Given the attendees listed and the inferred prior work of the General Manager Subcommittee, the Subcommittee presumably served as the labor negotiators, or the labor negotiators were not noted on the attendee list. Either way, the Brown Act requires that the Fire Commission explicitly identify labor

⁸ Government Code Section 54952(b).

⁹ Government Code section 54956(b) provides that a legislative body cannot make local agency executive salary decisions in a special meeting.

negotiators prior to closed session.¹⁰ This did not occur on either occasion. See excerpt from March 20, 2018 in Figure 3.3 on page 42 and May 15, 2018 in Figure 3.4 below and a full copy of meeting minutes in Attachment C on page 73.

Figure 3.4: Excerpt from May 15, 2018 Closed Special Meeting Minutes

2) Closed Session: Public Comment: There was no public comment on the Closed Session agenda item.

1.) Conference with Labor Negotiators (Government Code 54957.6) Direction to Negotiators Regarding Compensation for Position of General Manager (Attendees: District Commissioners, LAHCFD District Attorney)

Source: "Minutes of a Special Meeting of the Los Altos Hills County Fire District Board Members, Held on Tuesday, May 15, 2018 Beginning at 6:30 p.m. at the El Monte Fire Station, Foothill College Campus, 12355 El Monte Road, Los Altos Hills, California", downloaded from www.lahcfd.org on August 17, 2018

Use of Outside Counsel

It appears that the Fire District's contract counsel provides services on an as-needed basis. As noted elsewhere in this audit report, some of the Fire District's purchasing contracts did not show evidence of legal review, in violation of County policy. The Fire District's use of outside counsel is contrary to County Ordinance Code section A22-16, which requires use of County Counsel. The agreement between the Fire District and the outside counsel stipulates that the Fire Commission will be represented by a specific attorney. In this period when the apparent Brown Act violations occurred, the Fire District's contracted counsel invoiced the Fire District for legal services. Several Fire Commissioners reported receiving Brown Act training from the Fire District's contracted counsel during the previous three years. It appears that there may have been Brown Act violations despite the training and legal services.¹¹

Per County Ordinance, County Counsel is the legal agent for the Fire District and all other County entities under the Board of Supervisors. The County Counsel's office has extensive resources available to advise the Fire Commission to avoid preventable Brown Act violations and maintain governance standards similar to other County commissions and other bodies subject to the Brown Act within the County.

Public Oversight May Be Undermined

The Brown Act is intended to guarantee the public's right to attend and participate in meetings of local legislative bodies. Public participation is critical to oversight of any public body. The prior apparent violations of the Brown Act and the risk of any future violations undermines the public's ability to oversee the Fire District.

¹⁰ Government Code section 54957.6(a) states that a legislative body may hold closed sessions with labor negotiators to discuss compensation, but prior to the closed session, the legislative body must hold an open and public session in which it identifies its designated representatives.

¹¹ None of these violations were reported to the Fire Commission, nor did any member of the public pursue the actions required to enforce the Brown Act.

Legal Risks

The Brown Act allows a County District Attorney or any interested person to file a legal action against the Fire District in order to:¹²

- a. Stop or prevent violations or threatened violations of the Brown Act by members of a legislative body of a local agency;
- b. Determine the applicability of the Brown Act to past actions, ongoing actions, or threatened future actions of the legislative body of a local agency;
- c. Determine whether any rule or action by the legislative body of a local agency to penalize or otherwise discourage the expression of one or more of its members is valid under state or federal law; or
- d. Compel the legislative body of a local agency to audio record its closed sessions; or
- e. Secure a judicial determination that an action of a legislative body of a local agency violated the Brown Act and that the action is null and void.

Two Windows for Legal Action Against the Fire District

There are two windows of time following a Brown Act violation when the legislative body could become vulnerable to a legal action. First, actions that were taken in violation of the Brown Act could be invalidated if a person who believes that a violation has occurred sends a written “cure or correct” demand to the legislative body. This demand must be sent within 90 days of the alleged violation, or 30 days if the action was taken in open session but in violation of the agenda notice and posting requirements. The legislative body then has up to 30 days to cure and correct its action. If it does not act, a lawsuit may be filed within 15 days after the 30-day period to cure or correct the violation has expired.¹³ This window has passed for all of the violations noted in the audit. However, if future actions were challenged and invalidated, it could disrupt the Fire District’s operations and delay prior plans of the Fire Commission to re-hear invalidated actions, and result in significant additional legal costs to the Fire District.

A second window exists up to nine months after a violation occurs during which a district attorney or individual can submit a “cease and desist” letter to the legislative body, clearly describing the past action and the nature of the alleged violation. The legislative body has 30 days after receipt of the letter to provide an unconditional commitment to cease and desist from the past action. If the body fails to take any action within the 30-day period or takes an action other than an unconditional commitment, a lawsuit may be filed within 60 days.¹⁴ The most recent violation occurred in May 2018, which means that the window for legal action using a cease and desist letter closed in January 2019.

The legal risks would include the cost of the Fire District’s legal defense, and, if found in violation, the Fire District would be responsible for both party’s attorney fees and court costs. California law affords the courts wide discretion in awarding or denying compensation for legal fees for these types of violations.

¹² Gov. Code Sections 54960(a), 54960.1(a).

¹³ Gov. Code Section 54960.1(b)-(c)(4).

¹⁴ Gov. Code Section 54960.2.

Potential Violation by the Fire Commission Related to the Town of Los Altos Hills Averted

In addition to the four potential types of Brown Act violations detailed above, there is a risk of a fifth violation that could occur among the three Fire Commissioners who also serve as councilmembers of the Town of Los Altos Hills (Town). Traditionally, two of the commissioners are also councilmembers of the Town. This was the case throughout 2018. As of January 1, 2019, a new Commissioner was elected and sworn in as a councilmember, resulting in three commissioners who were also councilmembers of the Town. The Town of Los Altos Hills City Council (City Council) is composed of five members, meaning the three District Commissioners represent a majority of the City councilmembers.

When the Fire Commission met on January 15, 2019, only two of the three councilmembers were present and a violation was avoided. State code allows these three City councilmembers to all attend the Fire Commission's meeting, but it prohibits discussion and action on "business of a specific nature that is within the subject matter jurisdiction of the legislative body of the local agency."¹⁵ In this instance, the local agency is the City Council. It is very likely that to conduct regular business regarding the District Commission, all three commissioners could inadvertently discuss topics that overlap with the Town's subject matter jurisdiction. The District offers services that are unusual for a fire district to offer. These include a free-of-charge tree trimming program, the subsidization of water main construction and maintenance, and other actions that could easily overlap with the Town's business. Ultimately, the potential violation was avoided by the resignation of a Fire Commission member who was also a member of the City Council of the Town.

CONCLUSION

The Fire Commission's apparent violations of the Brown Act undermine the public's ability to participate in and oversee the Fire District. Further it places the District at risk of legal actions, which if taken to trial could include significant legal costs. The likely cause of the violations is the Fire District's use of outside counsel instead of County Counsel, whose office has extensive legal experience representing the County in matters related to the Brown Act. The apparent violations have occurred despite the existing legal assistance from contracted counsel.

RECOMMENDATIONS

The Board of Supervisors should:

- 3.1 Direct the Fire Commission to use County Counsel as its legal representative, consistent with Ordinance Code section A22-16, to help prevent future Brown Act violations. If this recommendation is implemented and potential Brown Act violations continue, County Counsel should report these violations to the Board of Supervisors promptly. (Priority 1)

¹⁵ Gov. Code Section 54952.2(c)(2).

SAVINGS, BENEFITS, AND COSTS

This recommendation would either prevent the violations in the first place, or at least provide the Board of Supervisors with notice of violations so that further action could be taken. This would help protect the public's ability to oversee the Fire Commission and participate in the activities of the Fire District. It would also help prevent the risk of legal costs related to future Brown Act violations that could occur. The additional cost of utilizing County Counsel for legal services would be marginal.

Section 4: Fire Prevention Programs Are Not Aligned with Fires Risks

Background

In August 2016, the Santa Clara County Fire Department (Santa Clara County Central Fire Protection District or Central Fire) published the Santa Clara County Community Wildfire Protection Plan (CWPP). The CWPP includes County-wide analysis and an annex with plans focused solely on the Los Altos Hills County Fire District (Fire District). The CWPP identified a range of wildfire risks within the Fire District. The Santa Clara County Central Fire Protection District updated its County-wide wildfire risk and response plan in June 2019 after this audit was drafted. The update did not materially change its conclusions from the 2016 version.

The Fire District runs two types of programs aimed at managing the fuel levels within the Fire District. The first and largest program is a free-of-charge service offered to all residents to remove or prune dead and living trees from their properties with a property owner's permission. The second program is aimed at brush and grass treatments and chipping services for residents. These programs are unrelated to the Fire District's legal authority to abate hazardous vegetation that constitutes a public nuisance for fire prevention purposes. In sum, for these voluntary programs, the Fire District budgeted almost \$2.5 million in FY 2018-19.

Problem, Cause, and Adverse Effect

The Fire District's spending does not align with the risks identified in the CWPP, the CWPP is not used as a key document in the Fire District's planning or priority processes, and the Fire District does not have an alternative assessment or plan it uses instead. In particular, the tree removal program described in Section 2, page 31, of this report appears to treat mostly low-risk areas rather than prioritize high fire risks. In the prior three years, 94 percent of trees removed by the program were in areas identified as low-risk by the CWPP. The top 20 single-family residential properties served by the program had a median estimated home value of \$5.2 million. These residents presumably had access to capital resources that could be used to mitigate the risk on their properties without taxpayer subsidy. The misaligned programs divert resources from comprehensive wildfire prevention planning and spending within the Fire District and by extension the County as a whole.

Recommendations

The Board of Supervisors should direct the Los Altos Hills County Fire District to use the CWPP and the advice of the Santa Clara County Fire Department to develop spending priorities and wildfire prevention programs aligned with the risks and recommendations identified by both sources.

Savings, Benefits, and Costs

Aligning the Fire District's wildfire prevention programs with the risks identified in the CWPP and the advice of the Santa Clara County Fire Department would help reduce the probability and magnitude of wildfires within the Fire District. This would help further protect lives and property within the Fire District and protect neighboring communities where fire could spread from the Fire District during a wildfire. These changes could be implemented at no additional cost to the Fire District.

FINDING

Background

The Fire District runs two types of programs aimed at managing the fuel levels of burnable plant material to reduce the fire risk within the Fire District. The first and largest is a free-of-charge service offered to all residents to remove or prune dead and living trees from their properties. This service is entirely voluntary, and is not related to the Fire District's authority under State law to abate vegetation that presents a fire hazard/public nuisance. The second program is aimed at brush and grass treatments. These programs include yard waste pick up of already cleared brush, waste drop-off locations, and a goat grazing program for an open space preserve owned by the Town of Los Altos Hills. These two programs were budgeted at almost \$2.5 million in FY 2018-19.

Tree removal and brush chipping are one of many types of fuel management techniques, or fuel treatments, that fire services nationwide offer. These treatments will not eliminate the threat of wildfires, but they may "lower the risk of catastrophic wildfires," according to the California Department of Forestry and Fire Protection (CAL FIRE).¹⁶ Some examples of other treatments used elsewhere include the building of fire breaks, prescribed burns, or use of fire-resistant landscaping. The efficacy of any of these treatments depends on many variables, such as moisture, topography, weather, and species of the local vegetation.¹⁷

Fire District Spending Is Not Informed by The County's Wildfire Protection Plan

In August 2016, the Santa Clara County Fire Department published the Santa Clara County Community Wildfire Protection Plan (CWPP). The CWPP includes County-wide analysis and an annex plan focused solely on the Fire District. The plan uses a mix of assessments conducted for the plan, and data from CAL FIRE's 2005 Fire Resource and Assessment Program. The CWPP produced the risk matrix shown in Figure 4.1 on page 49, and 21 recommendations based on the risks identified. Generally, the Fire District's spending does not align with the risks identified in the CWPP Annex for the Fire District, the CWPP is not a key document in the Fire District's planning or priority processes, and the Fire District does not have an alternative assessment or plan it uses instead.

¹⁶ California Department of Forestry and Fire Protection (CAL FIRE), Fuel Treatment, http://www.calfire.ca.gov/resource_mgt/resource_mgt_EPRP_FuelsTreatment, last accessed on April 22, 2019.

¹⁷ Philip N. Omi, Theory and Practice of Wildland Fuels Management, Current Forestry Reports, Published online: 28 April 2015.

Figure 4.1: Risk Levels Identified in the Fire District by the Santa Clara County Community Wildfire Protection Plan

Parameter	Condition	Rating
Access	Two roads in and out but access still concern	+/-
	Narrow road width	-
	Surfaced road with greater than 5% grade	+
	Poor fire access, dead end spurs, lack turnaround	-
	Street signs are present, some are non-reflective	+/-
Vegetation	Adjacent fuels: Medium	+/-
	Defensible space: >30 feet <70 feet around structure	+/-
Topography within 300 feet of structure	21% to 30 %	-
Topographic features	Moderate to high concern	+/-
History of high fire occurrence	Low	+
Severe fire weather potential	Low	+
Separation of adjacent structures	Good separation	+
Roofing assembly	Class C	-
Building construction	Combustible siding and deck	-
	Building set back <30 feet to slope	-
Available fire protection	Water: hydrants present with variable pressure	+
	Response: Station <5 miles from structure	+
	Internal sprinklers: some newer 7A compliant homes	+/-
Utilities	One above and one below ground	+/-
Risk Rating- High		

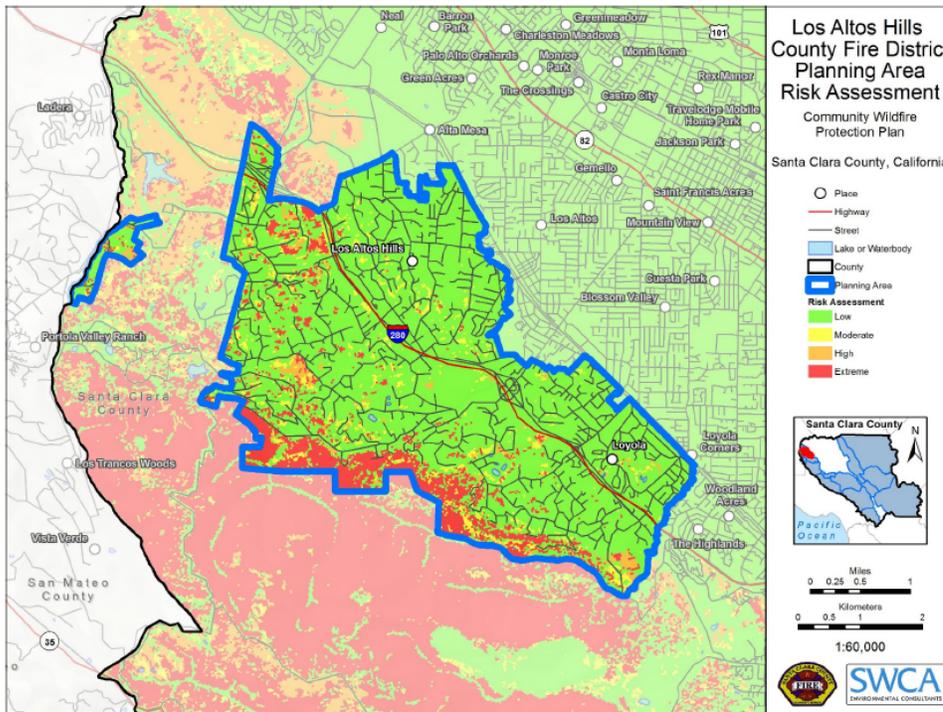
Source: Santa Clara County Community Wildfire Protection Plan Annex 4 – Los Altos Hills County Fire Protection District, August 2016.

Tree Removal Has Not Targeted Highest Risk Areas

The CWPP identified vegetation as medium risk within the Fire District. The risk assessment was conducted by SWCA Environmental Consultants in 2016 and combines a geographic information system model of hazards and risks, community input on their values, and an on-the-ground assessment. The risk assessment found the majority of the Fire District's area as low risk, with more extreme risk in specific clusters and along the western border of the Fire District. Figure 4.2 on page 50 shows a map of the risk assessment from the CWPP. Figure 4.3 on page 51 then maps the locations of trees removed by the Fire District between July 2015 and September 2018 with the risk areas from the CWPP. Nearly all trees (94 percent) removed in this period were in the low threat area. Even after the publication of the CWPP in August 2016 when the Fire District had this risk assessment available, the

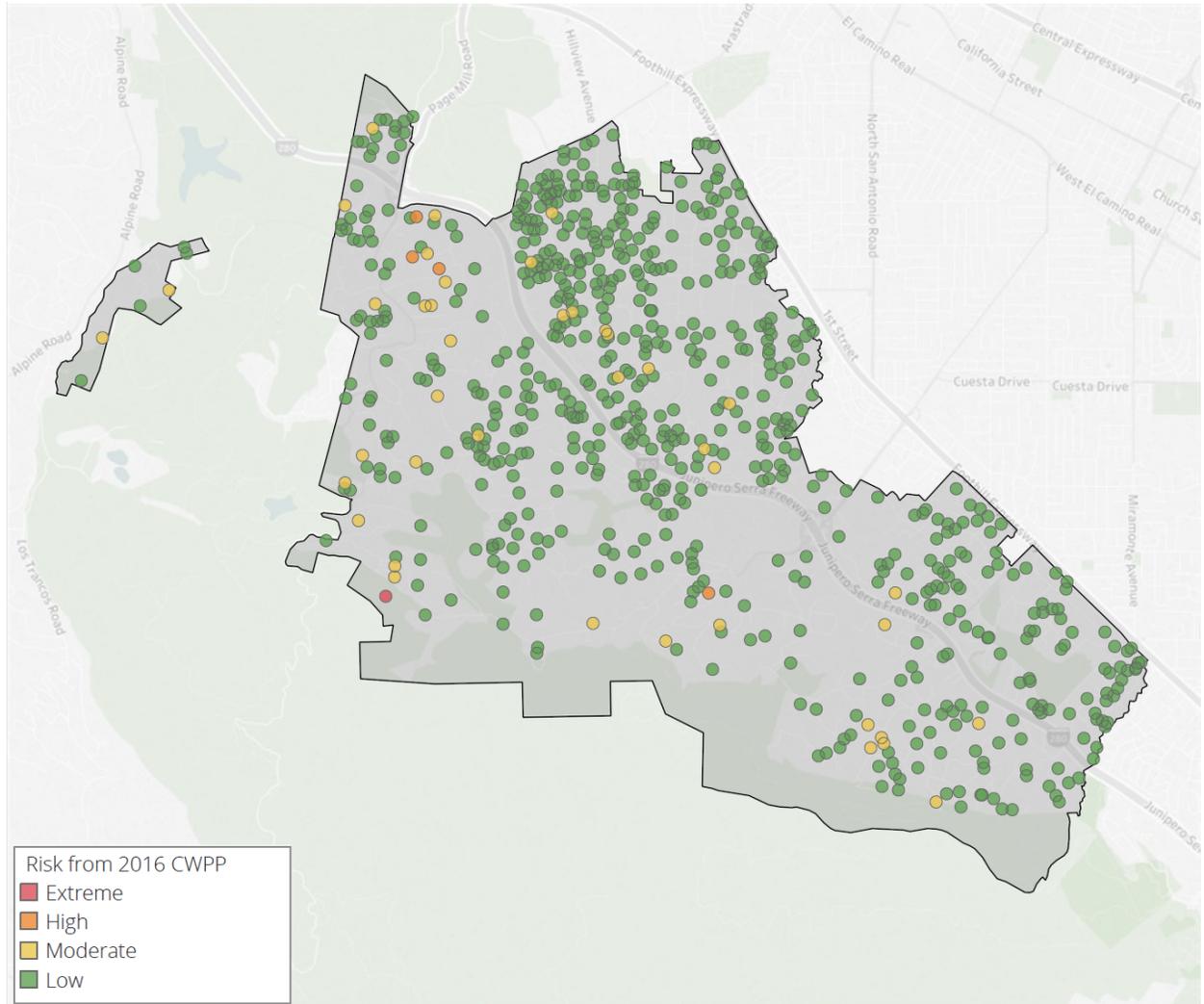
Fire District continued prioritizing removal of trees in the lowest risk area. In fact, after the publication of the CWPP, only 12 trees were removed from the area designated as extreme risk. Figure 4.2 below through Figure 4.5 on page 52 detail risk and response by the District.

Figure 4.2: Risk Assessment from County’s Community Wildfire Protection Plan



Source: Santa Clara County Community Wildfire Protection Plan, Annex 4 – Los Altos Hills County Fire Protection District, August 2016.

Figure 4.3: Location of Trees Removed by the Fire District between July 2015 to September 2018



Source: Management Audit Division analysis of District's records compared with Santa Clara County Community Wildfire Protection Plan, Annex 4 – Los Altos Hills County Fire Protection District, August 2016. The location of tree removals is derived from all invoices issued by the Fire District's tree removal vendor from July 29, 2015 to September 27, 2018. The Management Audit Division digitized 48 invoices from this period that the Fire District provided and geocoded the street addresses. The resulting latitude and longitude of the tree removal locations were compared to the geographic information system locations of risk areas from Santa Clara County Fire Department's Santa Clara County Community Wildfire Protection Plan (CWPP).

Figure 4.4: Count of Trees Removed Within the Fire District's Hazard Zones Trees removed between July 2015 to September 2018

Fire Hazard Severity Zone	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19 (July to Sept.)	Total
Extreme				6	6
High	4	10	4		18
Moderate	63	38	59	3	163
Low	1,359	581	842	169	2,951
Total	1,426	629	905	178	3,138

Source: Management Audit Division analysis of District's records compared with Santa Clara County Community Wildfire Protection Plan, Annex 4 – Los Altos Hills County Fire Protection District, August 2016. The location of tree removals is derived from all invoices issued by the Fire District's tree removal vendor from July 29, 2015 to September 27, 2018. The Management Audit Division digitized 48 invoices from this period that the Fire District provided and geocoded the street addresses. The resulting latitude and longitude of the tree removal locations were compared to the geographic information system locations of risk areas from Santa Clara County Fire Department's Santa Clara County Community Wildfire Protection Plan (CWPP).

Figure 4.5: Cost of Trees Removed Within the Fire District's Hazard Zones Trees removed between July 2015 to September 2018

Fire Hazard Severity Zone	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19 (July to Sept.)	Total
Extreme				11,690	11,690
High	4,200	37,400	3,961		45,561
Moderate	92,100	48,924	60,553	7,690	209,267
Low	2,353,440	810,132	922,068	475,450	4,561,090
Total	\$2,449,740	\$896,456	\$986,583	\$494,830	\$4,827,609

Source: Management Audit Division analysis of District's records compared with Santa Clara County Community Wildfire Protection Plan, Annex 4 – Los Altos Hills County Fire Protection District, August 2016. The location of tree removals is derived from all invoices issued by the Fire District's tree removal vendor from July 29, 2015 to September 27, 2018. The Management Audit Division digitized 48 invoices from this period that the Fire District provided and geocoded the street addresses. The resulting latitude and longitude of the tree removal locations were compared to the geographic information system locations of risk areas from Santa Clara County Fire Department's Santa Clara County Community Wildfire Protection Plan (CWPP).

Many of the Fire District's highest users of its tree removal services are for highly valued properties. For example, the top 20 single-family residential properties served by the program had a median estimated home value of \$5.2 million. These top 20 properties accounted for 13 percent¹⁸ of all trees removed. See Figure 4.6 on page 53 for a detailed list of the highest users of the tree removal program. The owners of these properties presumably have the means to manage the trees and other fire hazards on their own lands. This further calls into question the efficacy of the tree removal program. If the money supporting the program were spent on more strategic uses, then property owners within the Fire District would still be required to mitigate fire risk under the County's weed abatement program, and other higher-risk needs could be addressed with existing Fire District funds.

¹⁸ 424 trees were removed for the top 20 individual single-family homes out of 3,154 total trees removed by the program from July 2015 to September 2018.

Figure 4.6: Highest Users of the Fire District's Free-of-Charge Tree Removal Service
Trees removed between July 2015 to September 2018

Overall Rank	Property Type	Number of Trees Removed	Estimated Cost of Tree Services Provided Based on Invoices	Average Estimated Value of Property*
1	Religious Institution	51	\$6,100	
2	Religious Institution	37	\$43,708	
3	Single Family Residential #1	32	\$22,185	\$6,908,651
4	Vacant Lot	30	\$77,700	
5	Single Family Residential #2	30	\$47,900	\$5,542,146
6	Single Family Residential #3	29	\$99,800	\$4,473,773
7	Single Family Residential #4	27	\$11,900	\$3,656,025
8	Single Family Residential #5	25	\$17,800	\$3,795,532
9	Single Family Residential #6	24	\$35,900	\$5,306,253
10	Single Family Residential #7	23	\$15,700	\$5,681,748
11	Single Family Residential #8	21	\$19,156	\$6,305,722
12	Single Family Residential #9	20	\$19,591	\$7,946,120
13	Single Family Residential #10	19	\$34,113	\$4,207,482
14	Single Family Residential #11	19	\$22,600	\$3,868,214
15	Single Family Residential #12	19	\$14,000	\$6,251,544
16	Single Family Residential #13	19	\$28,000	\$9,062,307
17	Single Family Residential #14	19	\$8,169	\$3,271,881
18	Agricultural	18	\$49,000	
19	Single Family Residential #15	17	\$11,103	\$5,123,819
20	Single Family Residential #16	17	\$14,741	\$5,562,673
21	Single Family Residential #17	17	\$16,911	\$5,565,629
22	Single Family Residential #18	16	\$32,700	\$4,646,472
23	Single Family Residential #19	16	\$8,962	\$3,810,667
24	Single Family Residential #20	16	\$23,296	\$4,401,415

Source: Management Audit Division analysis of the Fire District's records compared with property value estimates from Zillow.com and Redfin.com. The estimated cost of services provided are derived from all invoice issued by the Fire District's tree removal vendor from July 29, 2015 to September 27, 2018. The Management Audit Division digitized 48 invoices from this period that the Fire District provided and calculated the total for each unique address. Actual addresses are not shown here to protect the privacy of the residents.

Note: *Zillow and Redfin as of October 2018.

Weed Abatement

The County's Department of Agriculture manages a weed abatement program that is distinct from the Fire District's Tree Removal Services and not related to it or other Fire District programs. The Fire District is authorized by State law to abate hazardous vegetation that constitutes a public nuisance,¹⁹ including trees. Under this authority, after notice, a hearing, and a resolution by the Fire Commission declaring that a public nuisance exists, property owners are obligated to pay the cost of the abatement. The law requires that the abatement initially occur at Fire District expense, with the cost placed on the property owner's property tax bill as a special assessment that reimburses Fire District taxpayers.²⁰ In practice, abatement of such hazards/public nuisances is carried out by the County and subsequently reimbursed by the property owner. For Fire District property, the Fire Commission adopts a resolution annually to abate the hazards it declares to be a public nuisance. These hazards are abated by the County with reimbursement charges placed on the property owner's tax bill.

Brush and Grass Management Is Not Prioritized

Trees, brush and grasses have different fuel characteristics during a fire, but all pose a threat to the Fire District. The Fire District addresses the fire risk posed by brush and grasses to some extent with three programs. First, the brush chipping program offers a twice-a-year service by which the Fire District's contractor comes to residents' properties and removes prepared brush and tree branches from residents' curbs to be chipped for recycling. Second, the Fire District has partnered with the Town of Los Altos Hills to offer a free-of-charge monthly yard waste drop off site. Third, in FY 2016-17, the Fire District began using goats to reduce brush in the Byrne Reserve, an open space preserve owned and managed by the Town of Los Altos Hills.

These programs at least partially address some of risk related to brush and grasses in the Fire District. However, they represent roughly one third of the spending compared to the tree (landscaping) program. For example, in the FY 2017-18 budget, the chipping, yard waste, and goat programs were budgeted for a total of \$347,000, compared to the tree/landscaping program budgeted at \$1,000,000. The FY 2018-19 budget increased spending on the tree program to \$2,000,000, but only increased to \$420,000 the three brush-related programs combined. Research in the field of fire science makes clear that the efficacy of any fuel treatment is circumstantial and varied. Even with this in mind, the higher spending on tree removal, 94 percent of which is spent in lower-risk areas of the Fire District, could be more effectively applied to other uses and treatment types aligned with identified risks within the Fire District.

Expert Support Available from the Santa Clara County Fire Department

The Santa Clara County Fire Department is contracted to provide the Fire District's fire protection and emergency medical services. Part of the agreement includes the provision of technical information, advice, and recommendations related to fire prevention and other topics. In addition, the Santa Clara County Fire Department's Chief attends all regular Fire Commission meetings, and other meetings, upon

¹⁹ Sections 14875 and 14876 of the California Health and Safety Code.

²⁰ Health and Safety Code Section 14915.

request. The Chief and the Department's staff of 288 personnel, plus 30 volunteers, represent an extensive pool of fire prevention expertise available to the Fire District. These resources could support the Fire District in interpreting and applying the CWPP to its prevention programs and spending.

CONCLUSION

The Fire District's wildfire prevention programs are not aligned with identified fire risks within the Fire District. In particular, the tree/landscaping program appears to treat mostly low-risk areas rather than use a strategic or targeted approach to tree removal and landscaping assistance. The Fire District should use the CWPP and any subsequent risk analyses to develop spending priorities and programs for the Fire District's wildfire prevention programs.

RECOMMENDATIONS

The Board of Supervisors should:

- 4.1 Direct the Fire District to use the Santa Clara County Community Wildfire Protection Plan Annex 4 – Los Altos Hills County Fire Protection District published in August 2016, any subsequent iterations of the CWPP, and the expert advice of the Santa Clara County Fire Department to develop spending priorities and wildfire prevention programs aligned with the risks and recommendations identified by both sources. (Priority 1)

SAVINGS, BENEFITS, AND COSTS

Aligning the Fire District's wildfire prevention programs with the risks identified in the CWPP and the advice of the Santa Clara County Fire Department would help reduce the probability and magnitude of wildfires within the District. This would help further protect lives and property within the Fire District and protect neighboring communities where fire could spread from the District during a wildfire.

These changes could be implemented at no additional cost to the Fire District. The CWPP has already been produced and released as of August 2016. The technical support from the Santa Clara County Fire Department is already included and paid for in the existing service agreement that was updated in 2016. Neither recommendation would save the Fire District money, as the expectation is that existing spending would be re-prioritized to more strategic uses.

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Section 5: Fire District Compliance with State and Local Procurement Requirements

Background

The Public Contract Code (PCC) governs contracts made by fire protection districts in California. As a fire protection district, the Los Altos Hills County Fire District (Fire District) is required by the PCC to either: 1) adhere to its county government's contracting and purchasing procedures, which in this case are set forth in Chapter 5 of the Board of Supervisors' Policy Manual (Chapter 5, or 2) follow contracting and purchasing procedures prescribed in the PPC. The PPC provides no other options.

Problem, Cause, and Adverse Effect

In February 2016, the Fire District adopted its own Procurement Policy and Procedures, which are included as Attachment D on page 87 to this audit section. We reviewed these procedures, compared them to Chapter 5 and PPC procedures, and noted that they do not comport with either Chapter 5 or PPC procedures. Chapter 5 procedures require the County of Santa Clara to procure most goods and services on a competitive basis, with certain exemptions, whereas Fire District procedures exempt procurements of up to \$10,000 from competitive bidding, and allow the District, by a majority vote, to make procurements of greater than \$10,000 without competitive bidding. Furthermore, the County Ordinance Code prohibits the Fire District from contracting for its own legal counsel, but it has done so for many years. Additionally, procurement processes and contracts are not reviewed by County Counsel and there is generally no evidence of legal review by the Fire District's contracted attorney. Generally speaking, competitive bidding prevents inflated contractor pricing and ensures taxpayer dollars are maximized. However, we noted several instances of the Fire District exempting large-dollar procurements from competitive bidding in the recent past.

Recommendations

The Board of Supervisors should bring the Fire District's contracting under the purview of the County Director of Procurement to ensure compliance with applicable contracting requirements and its contracts should be reviewed by County Counsel as to form and legality. The Director of Procurement should cease the Fire District's procurement of outside legal services unless authorized in writing by County Counsel as required by existing County Ordinance.

Savings, Benefits, and Costs

Implementing these recommendations would improve the resources available to the Fire District to procure goods and services at the lowest prices and ensure that the District's procurement methods are consistent with State and local requirements and that its contracts are reviewed by the appropriate legal authority and that such review is documented.

FINDING

Background

In California, contracts by fire protection districts, including the Los Altos Hills County Fire District, are governed by Sections 20810 - 20813 of the State's Public Contract Code (PCC). PPC Section 20812(b) states:

"In the case of a district which has a final budget in excess of one million dollars (\$1,000,000), the district shall follow the contracting and purchasing procedures which apply to the county government of its principal county, or the procedures in subdivision (c)." [of this section].

Because its total expenditures exceed \$1.0 million per year, the Fire District has the option to follow the County's procedures set forth in Chapter 5 of the Board of Supervisors' Policy Manual, or to follow Public Contract Code procedures, but it cannot establish its own procedures to follow. Yet, this is precisely what it did. On February 16, 2016, the Fire District's Board of Commissioners (Fire Commission) adopted the Fire District's Procurement Policy and Procedures (Attachment D on page 87). The Fire District's contracted counsel advised us that he attempted unsuccessfully to seek feedback from the County Executive's Office on these procedures. Subsequent to adoption, however, the meeting minutes reflect that the procedures were to be sent to the County Executive's Office.

Had the County Executive's Office or County Counsel reviewed the procedures before they were approved by the Fire Commission, we believe they would have been rejected as non-compliant with State law, specifically PPC Section 20812(b).

Figure 5.1: LAHCFD Board of Commissioners February 16, 2016 Meeting Minutes

5) Procurement Ad Hoc Committee Update and Possible Adoption of Policy. Waldeck reviewed the procurement policy dated February 11, 2016. He discussed the four bullet points concerning expenditures, competitive bidding, contract and cost tracking. The policy was written with input from Commissioners Tyson, Johnson and Waldeck. Price suggested the policy be reviewed by the County Executive's Office. Price had questions about 6 d. dual or multiple sourcing. **Action:** Waldeck made a motion to accept the policy with minor changes in the introductory language; Price seconded the motion. Siegel agreed to send a cover letter with the adopted Procurement Policy to the County Executive's Office, Mr. James Williams; Siegel will report back at the March 22, 2016 meeting. **All in Favor:** Price, Dexter, Vaughn, Tyson, Johnson and Waldeck. **Opposed:** None.

We reviewed Fire District procedures, compared them to Chapter 5 and PPC procedures and noted that they do not comport with either Chapter 5 or PPC procedures. For example, Chapter 5 procedures require the County to procure most goods and services on a competitive basis, with notable exemptions. Under Fire District procedures, the estimated cost of a contract determines if a competitive bidding process is required. That is, competitive bidding is not required on contracts that are less than or equal to \$10,000. Furthermore, if the cost of a contract is between \$10,000 and \$300,000, or greater than \$300,000, the Fire District has the discretion to make the contract on a competitive basis, or "to issue a contract without competitive bidding". These and other key differences among procedures are summarized in Figure 5.2 on page 59.

Figure 5.2: Comparison of Procurement Policies and Procedures

	Type of Goods & Services	Type of Procurement	Contract Size	Competitive Procurement
Fire District	<i>n/a</i>	<i>n/a</i>	Less than or equal to \$10,000	No
	<i>n/a</i>	<i>n/a</i>	Between \$10,000 and \$300,000	"Normally", except if Fire Commission decides otherwise
	<i>n/a</i>	<i>n/a</i>	Greater than \$300,000	Yes, except if Fire Commission decides otherwise
BOS Policy Manual Chapter 5	Goods & related services and non-professional services	Formal	<i>n/a</i>	Yes, "with exemptions for certain goods, services, and classes of procurement"
	Professional services	Formal	<i>n/a</i>	Yes, "unless another type of procurement is required for that particular type of service"
	Goods & related services and non-professional services	Informal	Up to \$100,000	No, but agency/department must follow procedures set forth by the Director of Procurement
	Professional services	Informal	Up to \$100,000 per budget unit per fiscal year	No, "unless a particular method of procurement is required for that type of service"
	Utility services, educational services, intergovernmental agreements, etc.	Non-competitive	<i>n/a</i>	No
PCC Section 20812(c)	<i>n/a</i>	<i>n/a</i>	Greater than \$25,000	Yes

Source: Management Audit Division review of the three sets of procedures

Procurement of Vendor Services

For this analysis of the Fire District's procurement of vendor services, we judgmentally sampled from the Fire District's vendors. Three vendors were selected based on contract size (large-, medium- and small-dollar value contracts). These vendors are anonymized in this report (Vendor A and B). We requested, and the Fire District provided, current contracts and related bids and documents pertaining to each vendor A, B, and C. We reviewed original RFPs, proposals submitted, bid analyses and results, as well as correspondences between the Fire District and these vendors to the extent available. We did not have comments regarding Vendor C.

Vendor A

Vendor A is a private tree services company. The Fire District has contracted with Vendor A since 2003, with total payments exceeding \$22.0 million. Beginning in FY 2017-18, the District executed a series of four contracts with Vendor A for:

1. removal and trimming of trees in Fire District Areas 5 & 6;
2. rolling tree removal;
3. brush and wood chipping; and,
4. emergency tree removal.

Upon reviewing the District's bid analyses and results, we noted that Vendor A did not submit the lowest bid for rolling tree removal. Yet, Vendor A was awarded the contract based on evaluation criteria set forth in the RFP. Upon reviewing that criteria, we noted that the District assigned weight to each criterion, and that less than half of the weight (40 percent) was assigned to the cost proposal. Most weight was assigned to criteria unrelated to price or cost, such as "firm profile, background, experience, & financial stability," among others. Had the Fire District followed Chapter 5 or PPC procedures, it would have been required to award the contract to the lowest bidder, which in this case was not Vendor A, as shown in Figure 5.3 below.²¹

Figure 5.3: RFP Results and Ranking Rolling Tree Removal Program

Fiscal Year	Scope of Work	Bidders	Bid Cost	Rank
FY 2018-19	Rolling Tree Removal	Vendor X	\$ 97,650	1
		Vendor A	\$ 130,585	2
		Vendor Y	\$ 294,200	3

Source: 2018 Rolling Tree Removal Program, RFP Results and Award Notification, LAHCFD

Vendor B

Neither a contract nor a purchase order exists for this vendor, even though the Fire District has used Vendor B periodically for graphic design services for several years. For example, in 2017, the Fire District hired Vendor B to prepare fire-safety brochures, but without a contract or other documentation.

Legal Representation Involving Vendor A

A law firm serves as contracted legal counsel for both the Fire District and Vendor A. In a letter dated November 10, 2012, the law firm asked the Fire District to waive any actual or potential conflict of interest in the firm's representation of both parties with respect to their contracts with each other. The Fire Commission President at the time acknowledged and agreed to this waiver by signing the letter, a copy of which is included as Attachment E on page 91 to this audit section. The letter indicates that the law firm would procure a similar waiver from Vendor A. The letter also indicates that if any actual dispute between the Fire District and Vendor A arises, the law firm would not continue to represent *either party*. This could leave the Fire District without any legal representation at precisely the time when it could need representation (i.e., during a dispute).

²¹ P.C.C. 20812 (C)(1) or Chapter 5 in force at the time – Section (B)(2).

Lack of Legal Review

We examined certain of the Fire District's executed contracts and found that they generally are not signed by the District's contracted attorney. This suggests that they were not reviewed for legal matters. For example, the June 19, 2018 agreement between the Fire District and Vendor A for brush and wood chipping services, which is included as Attachment F on page 93 to this audit section. As can be seen, it is signed by the "District President", "District Secretary" and Vendor A's "COO" or Chief Operating Officer, but not by the Fire District's contracted attorney or any other legal counsel. At the exit conference for this audit, we were advised that the documents were prepared by the Fire District's private contracted attorney. The Fire District's contracted attorney told us that the location of each agreement on his computer drive is printed in the footer of each agreement and these footers were said to be evidence of the attorney's engagement. We subsequently re-examined these footers but found no evidence that they relate to the contracted attorney's computer. Neither his personal name nor his law firm's name appear anywhere in the footer.

Figure 5.4: Example of Reported Evidence of Legal Review

N:\DATA\Clients\LLAHC\FD\Projects\McClenahan\2018-06-19R Brush Chipping Contract.doc

Legal Services

The County Ordinance Code prohibits the Fire District from contracting for its own legal services without authorization from County Counsel. This prohibition is not reflected in the Fire District's procurement policies, and, as indicated above, the Fire District in fact contracts for these services. Section A22-16 of the Ordinance Code states:

"The County Counsel shall act as the legal officer of the departments, institutions, boards, commissions and districts of the County government. No such agency shall employ or consult any attorney for legal advice or counsel in any civil affair of the County Government unless the County Counsel shall certify in writing to the County Executive that he is unable to act in behalf on the County."

We recommend termination of the Fire District's procurement of outside legal services unless authorized in writing by County Counsel as required by existing County Ordinance.

Vendors with No Contracts

The contracted District Clerk provided us with a list of 27 companies and individuals that the Fire District conducted business in Calendar Years 2017 and 2018. The clerk reported that written contracts or purchase orders did not exist for four of the 27 companies and individuals (or approximately 15 percent), as follows in Figure 5.5 below:

Figure 5.5: Fire District Vendors with No Contracts

Vendor	Services Procured
1. AID Mailing & Fulfillment	Brush chipping notice mailings
2. Alexander Atkins Design	Occasional printer of brochures/mailings
3. Craftsmen Printing	Occasional printer of brochures/mailings
4. An individual	Records scanning and indexing

Source: LAHCFD List of Vendors and Contractors dated September 7, 2018

No Central Repository for Records

The Fire District lacks a central repository for its crucial records. We were advised by the District's contractors that the District allowed them to store official Fire District records at their personal residences and offices. Figure 5.6 below describes the types of records stored, by whom, and where.

Figure 5.6: Fire District Record Retention Practices

Type of Record	Staff Responsible	Storage Location
Agreements and contracts, agendas & agenda packets, audio digital recordings, deeds, property titles, fixed assets, California Fair Political Practices Commission (FPPC) 700 Series Forms, historical records, ordinances, resolutions, software licenses.	District contracted clerk	Private residence
Project administration, Capital Improvement Plan (CIP) files, bid notices, RFPs, change orders.	District contracted fire consultant	Private residence
Project administration, CIP files, bid notices, RFPs, change orders.	District contracted counsel	Law firm office
Bank deposits, budgets, invoices, County vouchers, fiscal reports.	District contracted financial consultant	Financial consultant office
Various other records.	District consultants	Consultant offices
Minutes: Fire District Commissioners, non-active documents.	District contracted clerk	Private residence

Source: Management Audit Division interviews with relevant contractors

Records were not Routinely Scanned or Stored Electronically

None of the Fire District records were routinely scanned and stored in an electronic database, which impedes the District's ability to retrieve records and other information in an efficient and timely manner. The District's contracted clerk advised us that she was in the process of inventorying records in her possession, and intends to provide them to a third-party vendor for scanning and electronic storing. We also noted that contracts are neither provided to the County's Procurement Department nor uploaded to the County's SAP accounting system.

CONCLUSION

We noted instances of the Fire District exempting procurements from competitive bidding in the recent past. This suggests that the Fire District is not maximizing taxpayer dollars. The Fire District's procurement policies are inconsistent with existing requirements, and its actual contracting for legal services appears to violate the Ordinance Code. Official Fire District records were reportedly stored at the personal residences and private offices of contractors.

RECOMMENDATIONS**The Board of Supervisors should:**

- 5.1 Reduce the risk of inconsistent or non-compliant contracting or contracting for prohibited services, by bringing the Fire District's contracting under the purview of the County Director of Procurement with review by County Counsel as to form and legality. The County Procurement Director should bring the Fire District's contracting and procurement practices into compliance with State law, County policies and the County Ordinance Code, including ending the Fire District's unauthorized use of private counsel. (Priority 1)

The Fire District should:

- 5.2 Regularly scan and store its official records – including bids for contracts – in an electronic database or other central repository, and ensure that they are not held at contractors' residences or private offices or not retained at all. (Priority 2)

SAVINGS, BENEFITS, AND COSTS

Implementation of Recommendation 5.1 would improve the resources available to the Fire District to procure goods and services at the lowest prices and ensure that the District's procurement methods are consistent with State law.

Implementation of Recommendation 5.2 would ensure Fire District records are adequately preserved and stored, and not held at contractors' residences. We estimate the cost associated with scanning and electronically storing documents is marginal at between \$3,000 and \$5,000 per year.

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**RESOLUTION OF THE BOARD OF DIRECTORS OF THE
LOS ALTOS FIRE PROTECTION DISTRICT INCREASING
MEMBERSHIP OF COMMISSION TO SEVEN, AND DELE-
GATING ALL OF ITS POWERS THERETO**

DATE 11/12/81

BE IT RESOLVED by the Board of Directors of the Los Altos Fire Protection District as follows:

1. The five-member commission heretofore established for the Los Altos Fire Protection District pursuant to Health and Safety Code section 13884 is hereby increased to seven commissioners effective January 5, 1981.

2. The four-year term of office of the current five-member commission will expire as follows: January, 1981 (two); January, 1982 (two); January, 1984(one).

The terms for the two newly-created commission offices shall also be four years and until their respective successors are appointed and qualified, with the initial terms to commence on January 5, 1981.

3. Appointments to the commission shall be made to provide for equal representation as close as possible on the basis of population as between residents of incorporated and unincorporated territories, respectively. Commissioners may be council members of cities within the district; in the event a council member is appointed commissioner and thereafter ceases to be a council member, the office of commissioner shall thereby automatically become vacant.

4. A commissioner must be a resident of the district. If a commissioner ceases to meet such residence requirement, the office shall become vacant, and the Board of Directors shall so declare. Commissioners are subject to removal by the Board of Directors for cause.

5. Effective January 5, 1981, the Board of Directors delegates all of its powers to the commission to manage the affairs of the district, provided, however, that the commission shall not

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initiate litigation without the prior approval of the Board of Supervisors.

PASSED AND ADOPTED by the Board of Supervisors, County of Santa Clara, as Board of Directors for the Los Altos Fire Protection District on DEC 16 1980, by the following vote:

AYES: Supervisors [REDACTED]
NOES: Supervisors NONE
ABSENT: Supervisors NONE

[REDACTED SIGNATURE]
[REDACTED SIGNATURE]
Chairperson
Board of Supervisors

ATTEST: [REDACTED] Clerk
[REDACTED]

[REDACTED SIGNATURE]
Deputy County Counsel



Los Altos Hills County Fire District
Providing Services to Los Altos Hills and Nearby Unincorporated Areas
PO Box 1766
Los Altos, CA 94023-1766

February 21, 2019

To: Cheryl Solov, Contract Management Audit Manager
Santa Clara County Board of Supervisors, Management Audit Division
Gabe Cabrera, Contract Senior Manager
County of Santa Clara Board of Supervisors
70 West Hedding Street
San Jose, CA 95110

From: Mark Warren, President Los Altos Hills County Fire District

CC: J. Logan, General Manager Los Altos Hills Fire District

Subject: **Los Altos Hills County Fire District Accomplishments: Prepared for Management Audit of the Los Altos Hills County Fire District**

The Los Altos Hills County Fire District (District) appreciates the opportunity to provide a description of the District's many accomplishments and contributions for achieving its mission to protect the lives, property and environment of the community from fires, disasters and emergencies through education, prevention and emergency response services.

The District, by contract with the Santa Clara County Central Fire Protection District, provides core services of fire suppression, emergency medical services, basic and technical rescue, hazardous material mitigation, fire prevention, inspection and investigation, public education domestic preparedness planning and response for the Town of Los Altos Hills and the unincorporated areas in Santa Clara County known as Loyola, Los Trancos, and San Antonio Hills.

Strategic Plan Developed with Residents. In addition to providing these core fire department services, the District and resident representatives developed the 2015-2020 Strategic Plan (SP). The SP with its foundation based with community input, revisited the agency's pillars (Mission, Values, and Vision) and set forth a continuous improvement plan for a justifiable and sustainable future.

District Board adoption of the annual District budget, allocation of funds for implementation of programs, projects and services were focused by the SP Goals and Objectives. These efforts resulted in the achievements set forth below.

The District takes great pride in its service as a local Special District to benefit residents and the public. The Commission forwards this memorandum and the list of Accomplishments below to be included in the introduction section of the Management Audit Final Report and for consideration at the Exit Conference meeting, date to be determined.

**Key Accomplishments
Los Altos Hills County Fire District
February 21, 2019**

- 1. Development of a 2015-2020 Strategic Plan, Goals and Objectives** with collaboration and input from resident representatives:
Goals 1. Develop a comprehensive personnel management plan; Goal 2. Establish effective district administration; Goal 3. Provide sound financial and contract management plans and practices; Goal 4. Develop a plan to identify hazards and risks in order to reduce, eliminate and mitigate them; Goal 5. Maintain awareness of current and future knowledge of technologies that affect the district's mission
- 2. Renewed 10-year contract with Santa Clara County Central Fire Protection District** for fire protection and emergency medical service
- 3. Hands-on and engaged governance:** Commission meetings are well-attended by both Commissioners and the public. These meetings allow close tracking of County Fire oversight, projects, and finances, resulting in watchful and proactive local management of our resources to fulfill our mission.
- 4. Fire Hydrant Replacement Project** to standardize fittings, equipment and replace aged hydrants across the District to ensure operational fitness for use by firefighters during firefighting efforts to save persons, property and the environment
- 5. Residential Programs** – tree, brush, vegetation removal, weed abatement, yard waste pick-up. These programs address SP Goal 4 *Reduce, Eliminate, Mitigate Hazards* by reduction of fuel loads for fire prevention and mitigation.

6. **Goat program** for removal of vegetation, in hard to access areas, at optimum times of the year
7. **Specialized summer seasonal high-fire danger firefighter patrol and engine** are additional contract services from County Fire to increase readiness and responsive measures in event of vegetation or structure fires in high-fire danger climates and conditions. The crew and engine patrols neighborhoods during shifts.
8. **Year-round, 24/7, additional Battalion Chief Services** are additional contract services to increase readiness, expertise and supervision at the El Monte Fire Station
9. **Hydrant Flow and Pipeline Resiliency Project** with Purissima Hills Water District (PHWD). Project is designed to improve hydrant fire flow and improve pipeline resiliency to ensure stability and reliability of water pipelines in event of fires earthquakes or disasters.
10. **Zone 2.5 Main Improvement** in PHWD – This project upgraded most of the mains in the area from existing 21/2 inch PVC, 4, 6, and 8 inch AC to 12 inch DIP allowing for a pressure and flow increase and also provide a northern transmission quality and seismically hardened connection to Zone 3
11. **Neary Tank Utilization Project** and seismic retrofit project with PHWD--- As part of this project, Neary Tank 2 was seismically retrofitted to withstand a 975-year earthquake and provide adequate water for fire fighting. This design was to provide a higher level of motion than essential structures in California and correlates to the recently completed design criteria of the SFPUC Hetch Hetchy Seismic Upgrade Project. The seismic improvements included installing a foundation underneath the tank, anchoring the tank to the foundation and welding additional support to the tank interior.
12. **Page Mill seismic upgrades** for fire protection in PHWD-- Project enabled by the LAHCFD-funded intertie with the City of Palo Alto that allowed the tank to be out of service for the duration of the project. The intertie provides a necessary redundancy for our Zone 4 and has been used on numerous occasions.
13. **Deer Creek and Altamont Generator Projects** with PHWD– These two projects consisted of the installation of a dedicated diesel generator at both the Deer Creek and Altamont pump stations. Prior to the installation, the district used portable generators to supply back up power.
14. **Community Emergency Response Team Program, CERT** – training provided for approximately 200 CERT members and supervisors. Maintain a CERT Arc trailer with emergency supplies
15. **Partner with LAH Town, City of Los Altos and Fire Department** to provide classes, neighborhood network and training to residents in personal emergency preparedness, CERT and refresher training, Cardio Pulmonary Resuscitation; participate in Disaster Council tabletop evacuation exercise
16. **Publication of articles** in Los Altos Hills “Our Town” quarterly newsletter and direct mailings informing residents of fire safety issues and LAHCFD

recommendations; development of brochures for mailing and handouts at community events

17. **Creation of comprehensive Orientation Materials** package for new LAHCFD commissioners explaining history, organization, processes, and related agencies
18. **Hired part-time General Manger** to manage and administer the District's operations, projects and programs, fiscal operations and daily activities, contract consultants; vendors and local partner activities; enhance public outreach, education and communications; create systems and best practices; review and develop policy, practices and procedures for an efficient and effective delivery of service
19. **Revised Commission Agenda** format to include written Agenda Report Summaries (aka Staff Reports) and written General Manager Reports for public transparency and to develop a record of policy decisions, fiscal impacts and options and actions taken by the Board
20. **Developed a more robust budget process and Budget Narrative document** to provide transparency to the public of revenues, expenditures, operating funds and accounts; provides an Introduction and Budget Overview; links to the District's Strategic Plan Goals and Objectives; provides rationale for each account fund allocations
21. **Purchase of insurance protection** for the District and Board of Commissioners for CGL and property coverage through FAIRA (Fire Agencies Insurance risk Authority)
22. **Developed LAHCFD Website** content about Fire District, Mission, Board of Commissioners, Strategic Plan, Resident Programs, Emergency Preparedness, Online Forms, *Contact Us* communications to the District, Agendas and Minutes, Financial Reports, FAQs, Calendar and *Find Public Document* index
23. Developed a LAHCFD.org email system for communications, responses to residents, public, agencies and staff
24. **Public transparency** - Produce meeting agendas, Staff Reports, materials and minutes, budget documents; create online forms for tree and brush removal requests; *Contact Us* page for communications to District and General Manager; links to Fire Department and emergency preparedness materials, schedules and information; responses to Public Records Requests
25. **Scanning and secure storage** for all current and archived District documents, agenda, resolutions, minutes, contracts and Agreements; District is in the process of scanning and securing its paper files

Los Altos Hills County Fire District

Minutes of a Special Meeting of the Los Altos Hills County Fire District Board Members, Held on Tuesday, July 25, 2017 Beginning at 7:00 p.m. at the El Monte Fire Station, Foothill College Campus, 12355 El Monte Road, Los Altos Hills, California

President [REDACTED] called the meeting to order at 7:00 p.m.

1) **Roll Call:** **PRESENT:** Commissioners [REDACTED]

ABSENT: None

ALSO PRESENT [REDACTED]

2) **Public Comment:** A resident from Sherlock Road expressed her appreciation of the Fire Departments' handling of the recent fire in Byrne Preserve on July 20, 2017. She mentioned the open space area and importance of fire roads. [REDACTED], City Manager of Los Altos Hills, complimented the Fire Department on their quick response in extinguishing the Byrne Preserve fire. He explained how many resources were used to quickly contain the fire. He handed the Chief written notes of thanks. [REDACTED] asked for a round of applause for the courageous fire department and their expert handling of this fire.

3) **Resolution of the Board of the Los Altos Hills County Fire District Adopting Weed Abatement Report and Ordering Cost of Abatement to be a Special Assessment on the Respective Properties. Resolution 17-13:** [REDACTED], inspector for the Weed Abatement

Division, explained the properties on the list are monitored for three consecutive years and program information is sent to all residents on the list. He explained the weed abatement program stating the minimum fee charged to the resident is \$60.00. [REDACTED] thanked Mr. [REDACTED] for his presentation.

Action: The public hearing was opened. No members of the public spoke. The public hearing was closed. A motion was made by Vaughn to approve the resolution of the Board of the Los Altos Hills County Fire District adopting weed abatement report and ordering cost of abatement to be a special assessment on the respective properties; [REDACTED] seconded the motion. **All in Favor:** Commissioner [REDACTED]. **Opposed:** None.

4) **CERT Report:** a.) Calendar of Events for July/August: [REDACTED] pointed out the calendar of events and the CERT meeting and training occurring in August. CERT training program is managed by the Office of Emergency Management; [REDACTED], Deputy Director of

Emergency Management, is the contact person. Personal Emergency Preparedness training would remain in the Community Education Services Division; [REDACTED], Assistant Deputy Director, is the contact.

5) Chief's Report: a.) Monthly Report for June, 2017 Chief [REDACTED] referred to the handout distributed with response times in excess of 8 minutes in date range of June 4-June 26. Chief [REDACTED] discussed the grass fire that occurred on Altamont Road at Black Mountain on July 20, 2017. The fire occurred in Byrne Preserve near Westwind Barn. It was a field mower that struck a rock and ignited the fire. Grasses are ready, available fuel. The Battalion Chief responded from the El Monte Station.

Battalion Chief [REDACTED] gave an overview of the entire fire. He listened to several radio frequencies and was assisted by helicopters, aircraft and bulldozer support. Cal Fire added support with a helicopter and hand crews. Rescue 74 was assigned to fire-watch that evening and early morning. Engine 374 continued checking the area for hot spots. [REDACTED] mentioned the need to contact the Sheriff's Department so that they can provide traffic control.

6) Consultant Report: a.) Projects Update Dated July 1, 2017 [REDACTED] stated the chipping program area 1-6 finished in June and was to begin again, in areas 1-6, July through December. The tree program area 3 & 4 is 59% completed and should finish up in September. The hydrant program originally had 124 hydrants to be replaced. Two hydrants on Duval Way were not to be changed at this time due to the Purissima Hills Water District capital improvement project on that street. A hydrant on Duval Way developed a leak – the hydrant was shut off and is out of service. Estimates were given for repair or replacement; replacement was recommended. Farwell said the estimated cost of the replacement is \$12,800. The Commissioner consensus was to replace the hydrant. This will be accomplished with a change order.

7) Resolution of the Board of the Los Altos Hills County Fire District Declaring Brush Growing on Certain Described Properties To Be A Public Nuisance and Potential Fire Hazard and Setting Hearing for Objections to Proposed Removal. Resolution 17-14:

Action: [REDACTED] made a motion to approve the resolution of the Board of the Los Altos Hills County Fire District declaring brush growing on certain described properties to be a public nuisance and potential fire hazard and setting September 19 at 7:00 p.m. for the hearing for objections to proposed removal; [REDACTED]k seconded the motion. **All in Favor:** [REDACTED], [REDACTED]. **Opposed:** None. Warren questioned whose responsibility was the freeway 280 corridor for brush/weed abatement? He sees it as a hazard. Public member [REDACTED] suggested a letter be written to the proper State representative, [REDACTED] offered to follow up with Caltrans.

8) Resolution of the Board of Commissioners of the Los Altos Hills County Fire District Authorizing Execution of Professional Services Agreement for Removal and Trimming of Trees in Areas 5 & 6 of the District: Resolution #17- 15 Tyson explained the program. He discussed how the project was advertised, how request for proposals were solicited and the intricacies of the RFP Assessment as outlined in the Tree Subcommittee Report-Tree Program – RFP Assessment Areas 5&6. He explained that the program was to reduce the fire load in our

District. [REDACTED] reviewed details about the RFP process, ascertaining that the proposers were qualified and arriving at the recommendation using a profile which included the following criteria: firm profile, background 20%, key personnel and staffing 20%, approach to scope of work 20% and cost proposal 40%. This was a methodical process and one not just based on price. [REDACTED] stated he reached out to the Foundation for Fair Contracting regarding the bid protest/advisory they had submitted on July 19, 2017. He referenced the OSHA Inspection Detail they provided.

[REDACTED] summarized the [REDACTED] bid protest letter that was submitted today July 25, 2017). [REDACTED] expressed that the WCA letter stated it was an unbalanced bid and they did not feel the work could be done under the prevailing wage classification.

[REDACTED] opened the hearing up to the Commissioners to comment. Comments included: a history with [REDACTED], meeting the District's needs with their skills and organization, using proper equipment, responding to our requests and coming in consistently at a lower cost. [REDACTED] opened up the public hearing for public comment reminding the audience of the three minute time frame to speak. Members of LiUNA!, the Laborers' International Union of North America, individually spoke. [REDACTED], business manager for Laborers Local 270, was the first to speak and stated his organization felt that [REDACTED] did not comply with fair, prevailing wage costs associated with this project. He mentioned his organization contracts with 400 organizations in California. Other public speakers voiced concerns such as: look at prevailing wage and see where disparity comes from, quality of work, prevailing wage essential for working families struggling, workers compensation-profit-overhead. Resident [REDACTED] expressed that [REDACTED] was well managed, has proper equipment and experienced personnel.

[REDACTED], [REDACTED], spoke and stated his company was a fourth generation family business. Many of his workers had been with the company over 15 years; they ramp up their skill set and work with the tree contractors. They have a safety program and training program. They meet or exceed prevailing wage.

Further comments included: union labor go to labor school for safety and accuracy, importance of organized labor to live in this valley, possibly mis-classifying workers, responsible bid is not always cheapest bid, lowest bidder is not always responsible bidder, want District to relook at the proposals.

[REDACTED] summarized all that was said reviewing the major points of the public speakers. He emphasized that [REDACTED] had been efficient, courteous and may be less expensive because they are local. He stated he believes it is a fair proposal. An information card from the Foundation for Fair Contracting listing Craft, Classification and Area was distributed by public member [REDACTED]. [REDACTED] expressed that rate and job classifications will be checked.

[REDACTED] expressed was glad that the audience came to this; he likes to see the competition and is very willing to listen. He is agreeable to look into their concerns.

[REDACTED] likes the idea to look at the data; she is prepared to vote.

██████████ felt we had received the best result at the lowest price. He wanted to move forward on the item with the proviso to look into rate and job classification.

Action: Motion made by ██████████ approve resolution #17-15 of the Board of Commissioners of the Los Altos Hills County Fire District Authorizing Execution for a professional services agreement for removal and trimming of trees in area 5 & 6 of the District with ██████████ Company conditioned upon the District's confirmation, within thirty (30) days, that the appropriate prevailing wage rate and classification were used; ██████████ seconded the motion.

All in Favor: ██████████

Opposed: None.

9) Resolution of the Los Altos Hills County Fire District Approving and Authorizing Execution of Agreement Between the Los Altos Hills County Fire District and ██████████

██████████ Resolution #17-16 ██████████ explained the change in the ██████████ agreement distributed. ██████████ billing rates will increase beginning September 1, 2017. There is a change in professional services that require a change in fault and indemnification. It is current now but is expected to change again.

Action: ██████████ made a motion to approve Resolution #17-16 a resolution of the Los Altos Hills County Fire District approving and authorizing execution of agreement between the Los Altos Hills County Fire District and ██████████ for Consulting Services; ██████████ seconded the motion. **All in Favor:** ██████████

Opposed: None.

10) Resolution of the Board of Commissioners of the Los Altos Hills County Fire District Authorizing Execution of Agreement with ██████████ for Professional Consulting Services Related to Management of Proposed Fire Flow Improvement Projects.

Resolution 17-17 ██████████ summarized the District's desire to hire ██████████ Inc. to assist the District in developing a plan to responsibly fund water fire flow improvement projects that would improve public safety. **Action:** Motion was made by ██████████ to approve Resolution 17-17 a resolution of the Board of Commissioners of the Los Altos Hills County Fire District authorizing execution of agreement with ██████████ for professional consulting services related to Management of proposed fire flow improvement projects; ██████████ seconded the motion. **All in Favor:** ██████████

Opposed: None.

11) Resolution of the Los Altos Hills County Fire District Amending Resolution 15-6 and Committing Funds for Fiscal Year 2017-18: Resolution 17-18 **Action:** ██████████

made a motion to approve Resolution #17-18 of the Los Altos Hills County Fire District Amending Resolution #15-6 and Committing Funds for Fiscal Year 2017-18; ██████████ seconded the motion.

All in Favor: ██████████ **Opposed:** None.

12) Sub-Committee, Contract and Non-Board Committee Reports:

a.) Strategic Plan: Spreen discussed the First Draft Management Position dated July 13, 2017. The Strategic Plan Committee said this individual should have knowledge of what the Brown Act entails also add Risk Management and Compliance to the list of responsibilities. Where

should they go from here? The Commission discussed the idea of the position being part-time or full-time; how many hours per week? What are the costs? The Clerk explained that the Commission thus far had never had a General Manager; the Commission President and Finance Officer always played a significant role along with the Fire Consultant and District Clerk. [REDACTED] said the District has expanded its' duties necessitating a possible General Manager. [REDACTED] suggested a consultant with a similar contract to the Fire Consultant, Clerk and Finance Consultant. [REDACTED] felt it would be a full-time position; [REDACTED] felt half or three-quarter time position and [REDACTED] said to begin with half-time position and build from there if necessary. The consensus was to form a new committee, hiring committee, consisting of [REDACTED]. [REDACTED] reviewed the two page summary of the June 2, 2017 strategic plan meeting. She said the next strategic plan elements to work on was the salary survey and the need for a Commissioner orientation program. b.) Website Update: There was no update for the District website.

c.) Water Supply Subcommittee Update: Discussed previously under item 10. Agreement with [REDACTED]

d.) Tree Subcommittee Report: [REDACTED] reviewed his Tree Subcommittee report for July 25, 2017. He discussed the future of tree trimming and removal with recommendations based on experience from the past three phases of RFP's. He suggested a new phase might be implemented which would include broader means of solicitation for tree removal/trimming; trees to be assessed by an Arborist; Arborist establishes a price for a suitable number of trees; the bundle of trees will be offered to a Preferred Tree Company which will have been previously identified and a contract established; initial term of process will be one year; NOTE: this is one approach to deal with future tree work and the tree subcommittee solicits ideas on other approaches. It is suggested to try this for one year. He wants the Board to think about it. Chief [REDACTED] stressed the importance of vegetation management; brush/grass this time of year is of significant concern. It is vegetation/fuel management that is essential. Looking at the location and topography and what areas pose the most risk.

The next steps of the Tree Committee include a report on the progress in Areas 5&6 and presenting a formal proposal for future management of tree removal.

Public member [REDACTED] commented that the competitive bidding process has worked in our favor; we have saved money by doing it this way.

e.) Community Wildfire Protection Plan Sub-Committee Update: [REDACTED] needs to speak to the City Council explaining what a community wildfire protection plan is and the benefits of such a plan. [REDACTED] stated he wants a review of the Byrne Preserve Fire and evaluate our programs and how they have helped. What have we learned?

f.) Current Contracts: None.

13) Consent Calendar: a.) Minutes of June 20, 2017

b.) Period Report 12, June 2017

Action: A motion was made by [REDACTED] to adopt the minutes of June 20, 2017 as submitted; Spreen seconded the motion. **All in Favor:** [REDACTED] and [REDACTED] **Opposed:** None.

b.) Period Report 12, June 2017. Cori Vargas asked that on Page 6 & 7 the date July 2016 through *May 2017* be changed to: July, 2016 through June, 2017. **Action:** Motion was made by

██████████ to approve amended Period Report 12, June, 2017 ; ██████████ seconded the motion. **All in Favor:** ██████████ **Opposed:** None.

14) Disbursements for July, 2017. ██████████ handed out a revised July 2017 disbursement list.

15) Board Member Reports: ██████████ asked that the Commissioner's read the letter from resident ██████████ concerning CERT coverage areas and sphere of influence for a later discussion.

16) Adjournment. By consensus, the next meeting of August 15, 2017 was cancelled; the next regular meeting will be September 19, 2017. Also by consensus the meeting was adjourned at 9:55 p.m.

Prepared by,

██████████
District Clerk

Approved 9/19/17

Los Altos Hills County Fire District

Minutes of a Regular Meeting of the Los Altos Hills County Fire District Board Members, Held on Tuesday, September 19, 2017 Beginning at 7:00 p.m. at the El Monte Fire Station, Foothill College Campus, 12355 El Monte Road, Los Altos Hills, California

President [REDACTED] called the meeting to order at 7:00 p.m.

1) Roll Call: PRESENT: Commissioners [REDACTED]

ABSENT: Commissioners [REDACTED]

ALSO PRESENT: Fire Chief [REDACTED], Fire District Attorney [REDACTED],
Financial Consultant [REDACTED], Fire Consultant [REDACTED]

Public Comment: There was no public comment.

3) Resolution of the Board of the Los Altos Hills County Fire District to Proceed with the Abatement of Brush. Resolution 17-19: President [REDACTED] stated there was no public nuisance or brush violators and therefore nothing for the County Fire Marshal to abate.

Action: [REDACTED] made a motion to approve the resolution of the Board of the Los Altos Hills County Fire District to proceed with the abatement of brush; [REDACTED] seconded the motion. **All in Favor:** Commissioner [REDACTED]. **Opposed:** None.

4) Review and Possible Acceptance of the 2016/17 Audit: [REDACTED] distributed a two page list of proposed changes to the 2016/17 audit. [REDACTED] did a brief review of the audit mentioning the U.S. Standards and the Government Auditing Standards. He stated there were no findings and it was a clean report. [REDACTED] introduced [REDACTED] who would be taking his place for the 2017/18 audit season. [REDACTED] asked for comments from the Commissioners and comments from the public; there were no comments.

Action: [REDACTED] made a motion for conditional approval of the draft 2016/17 audit incorporating the proposed changes as recommended by Financial Consultant [REDACTED]; [REDACTED] seconded the motion. **All in Favor:** [REDACTED]. **Opposed:** None

5) CERT Report: a.) Ham Radio Proposal. The Commissioners discussed the memo written by [REDACTED], Director of Emergency Management, regarding one-time funding of \$1,700 for ham radios and on-going funding of \$700 per fiscal year. These radios would be for LAHCFD CERTS that have received their Technicians Ham Radio License. They would be required to pass the FCC Ham Radio License, enroll in the RECON Orientation Class, followed by two annual field operations training drills. **Action:** Motion made by [REDACTED] to approve the one-time funding of \$1,700 and on-going funding of \$700 per fiscal year for ham radios for those CERT members who qualify; [REDACTED] seconded the motion. **All in Favor:** [REDACTED]. **Opposed:** None.

b.) CERT Calendar August/September : ██████████ mentioned the meeting and training that had occurred in August as well as the upcoming CERT Supervisor meeting and PEP class.

c.) Spotlight Quarterly Report: ██████████ spoke about the CERT Supervisor Incident Command System and emphasized that CERT leadership remains committed to the Community even with the transitory loss. She mentioned continuing to build depth through mentorship. ██████████ discussed the time commitment of the CERT Supervisors: graduating from a LAH CERT Supervisor Academy, attendance at 10-12 CERT Supervisor meetings a year, trained in Incident Command System (ICS) and run drills at various events and exercises.

There will be an annual October Drill for LAHCFD CERT on October 7 from 9 a.m.-12 p.m. Those in attendance will receive dated stickers. ██████████ n thanked ██████████ and ██████████ for their attendance at this meeting and summary of recent and ongoing events.

The Fire Safety flyer just produced by ██████████ contains a detailed list of upcoming PEP classes and CERT Academies. This flyer was mailed to every LAHCFD resident and is up on the website. Praise was given for the colorful, clear graphics and useful contents listing emergency notification phone numbers and how the LAHCFD serves the residents.

6) Chief's Report: a.) Monthly Report for July, 2017 b.) Monthly Report for August, 2017
 Chief ██████████ introduced Battalion Chief ██████████ who will be at the El Monte Station. He discussed the bathroom fire that occurred on Estacada Drive in July and the vehicle fire that occurred in August.

7) Consultant Report: a.) Projects Update Dated September 1, 2017. ██████████ stated that brush chipping phase one and two had been completed. Phase VIII of the hydrant replacement program was completed as of August 31, 2017 and all hydrants are in service. A fire hydrant life span is 50 years.

8) Resolution of the Board of Directors of the Los Altos Hills County Fire District Accepting as Completed the Work of the Fire Hydrant Replacement Project Phase VIII, Authorizing Final Payment Concerning Such Work, and Directing the District Clerk to File a Notice of Completion: Resolution #17- 21 **Action:** ██████████ made a motion to approve the resolution of the Board of Directors of the Los Altos Hills County Fire District accepting as completed the work of the Fire Hydrant Replacement Project Phase VIII, authorizing final payment concerning such work and directing the District Clerk to file a notice of completion.
All in Favor: ██████████.
Opposed: None.

9) Resolution of the Board of the Los Altos Hills County Fire District Adopting a Records Retention Schedule and Authorizing Destruction of Certain District Records. Resolution #17-20 The District Clerk gave a brief summary of the update to the records retention schedule and the records retention time limit for certain records scheduled to be destroyed. **Action:** ██████████ made a motion to approve Resolution #17-20 a resolution of the Board of the Los Altos Hills County Fire District adopting a records retention schedule and authorizing destruction of certain District records; ██████████ seconded the motion. **All in Favor:** ██████████.
 ██████████. **Opposed:** None.

10) Sub-Committee, Contract and Non-Board Committee Reports: a.) Strategic Plan – Update from August 25, Ad Hoc Meeting [REDACTED] gave a summary of the ad hoc committee meeting that occurred on August 25. He referred to the agenda and minutes from the meeting discussing the purpose of an orientation for new commissioners, importance of knowing the historical background of the District and knowledge of the Brown Act/Rosenberg Rules. He spoke of a written guide for commissioners.

[REDACTED] discussed the consultant compensation assessment he had composed and updated September 6, 2017. The seven page document contained methodology, compensation conclusions, descriptions of positions and a salary and benefits analysis. He used the California Special Districts Association Salary and Benefits Survey (2015/16) to assist in the analysis. He looked at three consultant positions: Fire Consultant, Accountant and Clerk and concluded with a summary of salary assessment.

b.) Website Update: [REDACTED] stated this item could be removed from future agendas.

c.) Water Supply Subcommittee Update: Currently [REDACTED] is conferring with California Water Service Company and Purissima Hills Water District; [REDACTED] stated we should have an update for the October meeting.

d.) Tree Subcommittee Report: [REDACTED] gave the following update on Area 3 & 4: 332 trees had been removed, 105 eucalyptus trees trimmed, 37 eucalyptus trees removed. [REDACTED] referred to the updated tree subcommittee report dated “for the September 19, 2017 LAHCFD Board Meeting”. He explained the process he used to confirm that [REDACTED] was paying prevailing wage and properly classifying employees. He reviewed [REDACTED] records and did not find anything amiss. [REDACTED] noted a key argument in support of continuing the recent competitive bidding process has been for the cost savings that have resulted. A counter-argument is that these savings have been driven by a different mix of trees being removed now compared to the early stages of the process noting that a given tree removal can range from \$300 to \$8,000. He reviewed the Tree Subcommittee recommendations which included that each tree be assessed by an Arborist to ensure that it qualifies according to LAHCFD standards. A contract to begin work in Area 5 & 6 was completed. In October the Commission should vote on a formal proposal for the future management of tree removal. [REDACTED] asked for comments relating to the tree program. [REDACTED] mentioned that many trees being cut down are not addressing fire prevention; let’s do things that matter from a fire prevention point of view. [REDACTED] suggested using a card as a reminder, mailing out directly; or, possibly doing a marketing campaign or putting it on the website. [REDACTED] felt a review every six months would be in order. [REDACTED] felt it would be helpful to provide zone/area maps to people. Public member [REDACTED] said people should use CERT zones as an identifier. Public member [REDACTED] said he is in favor of the competitive bidding process.

e.) Community Wildfire Protection Plan Sub-Committee Update: [REDACTED] is going to reschedule a meeting with City Council to discuss the community wildfire protection plan.

f.) Current Contracts: None.

g.) General Manager Subcommittee Update: [REDACTED] discussed the GM Subcommittee Report dated “for the September 19 Board Meeting”. The subcommittee agreed to begin with a 20 hour a week position. Since this is a new position the hours may increase. He stated he spoke with the company [REDACTED] which is an organization dedicated to providing a range of services to organizations like LAHCFD. They also looked at a potential applicant pool and had informal conversations with such candidates. [REDACTED] summarized the Team Recommendations including: begin the process without an external recruiting agency, checking with the County for any

vacancy beginning January 1, 2018; also he asked the Commission to think about selecting a President in January, 2018.

15) Adjournment: By consensus, the meeting was adjourned at 9:10 p.m.

Prepared by,



District Clerk

Approved 10/17/17

Los Altos Hills County Fire District

Minutes of a Special Meeting of the Los Altos Hills County Fire District Board Members, Held on Tuesday, March 20, 2018 Beginning at 6:00 p.m. at the El Monte Fire Station, Foothill College Campus, 12355 El Monte Road, Los Altos Hills, California

At 6:12 p.m. Commissioner [REDACTED] called the meeting to order.

1a.) Roll Call: PRESENT: Commissioners [REDACTED]

ABSENT: Commissioner [REDACTED]

ALSO PRESENT: Fire District Attorney [REDACTED], District Clerk [REDACTED]
[REDACTED] (for Open Session only)

2) Closed Session: Public Comment: There was no public comment on the Closed Session agenda item.

1.) Conference with Labor Negotiators (Government Code 54957.6) Direction to Negotiators Regarding Compensation for Position of General Manager (Attendees: District Commissioners, LAHCFD District Attorney)

3) Return to Open Session: At 6: 45 p.m. the meeting returned to Open Session. There was no reportable action. Direction was given to the General Manager Subcommittee to proceed with contract negotiations.

4) Adjournment: The meeting was adjourned at 6:50 p.m.

Prepared by,

[REDACTED]
District Clerk

Approved 4/17/18

Los Altos Hills County Fire District

Minutes of a Special Meeting of the Los Altos Hills County Fire District Board Members, Held on Tuesday, May 15, 2018 Beginning at 6:30 p.m. at the El Monte Fire Station, Foothill College Campus, 12355 El Monte Road, Los Altos Hills, California

At 6:35 p.m. Commissioner [REDACTED] called the meeting to order.

1a.) Roll Call: PRESENT: Commissioners [REDACTED]
[REDACTED]

ABSENT: None

ALSO PRESENT: Fire District Attorney [REDACTED], District Clerk [REDACTED]
[REDACTED] (for Open Session only)

2) Closed Session: Public Comment: There was no public comment on the Closed Session agenda item.

1.) Conference with Labor Negotiators (Government Code 54957.6) Direction to Negotiators Regarding Compensation for Position of General Manager (Attendees: District Commissioners, LAHCFD District Attorney)

3) Return to Open Session: At 6: 50 p.m. the meeting returned to Open Session. There was no reportable action.

4) Adjournment: The meeting was adjourned at 6:55 p.m.

Prepared by,

[REDACTED]

District Clerk

Approved 6/19/18

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Los Altos Hills Fire District

Procurement Policy and Procedures

Approved February 16, 2016

PROCUREMENT POLICY

The purpose of this policy is to demonstrate the Los Altos Hills County Fire District's commitment to:

- Establish an open and competitive process for individuals and organizations that provide services and do business with the District
- Ensure fairness and equal access to business opportunities
- Promote the most cost-effective use of taxpayer dollars and District resources in its contracting and solicitation processes

To ensure that high-quality decisions are made regarding expenditures by LAHFD, the following represent the District's Procurement Policy:

- Significant expenditures shall be brought to the Board with sufficient lead time to allow thoughtful discussion and decision-making.
- The greater the size of the expenditure (along with other factors), the greater the controls to be applied (e.g. competitive bidding).
- Once a purchasing decision has been made, it will be governed by the appropriate contract that specifies the cost and deliverables of the work planned.
- Once work is underway, the progress and cost tracking will be closely managed, with feedback to the Board at an appropriate frequency and level of detail. This will continue until the project is closed and all invoices have been received.

The Commission requires the continuing services of professional skill sets to which this Policy does not apply. These contracts will be reviewed annually at the March meeting.

PROCUREMENT PROCEDURES

Note: None of the following procedures are intended to conflict with law.

1. One of three levels of contractual action are anticipated:
 - a. Less than or equal to \$10,000
 - b. Between \$10,000 and \$300,000
 - c. Greater than \$300,000

2. For the three levels of contractual responsibility, the following actions may be taken:

a. The District President is authorized, with a limit of \$10,000, to take emergency action to contract to resolve issues of immediate need. Should such a situation occur, the action must be either pre- or post-approved by a vote of the District's Board.

b. For contractual values between \$10,000 and \$300,000, new or renewal contracts will normally be subjected to a competitive bidding process. However, the actual contractual process shall be decided by the Board.

c. For contractual values greater than \$300,000, a competitive bidding process shall be required except, the Board may, by a majority vote, decide to issue a contract without competitive bidding.

d. It is expected, that in the case of a non-competed procurement effort in either b. or c. above, that due diligence by the Board shall ascertain that the bid value is within a competitive range that has been paid for similar or equal services by the same or other agencies.

3. The District's Clerk should agendize the anticipated end of a contract at 1 year, 6 month and 3 month intervals before an expected contract end date (applies to all of the District's contractual obligations).

The purpose of this is to bring the impending termination of an existing contract to the attention of District's Commission members well in advance of the actual event to allow them to prepare for and organize an appropriate action.

4. The District then has the following action options:

a. Do nothing at that time

b. Prepare to extend the performance date of an existing contract (up to a maximum of 2 times)

c. Prepare to renew the contract with the same or new terms

d. Prepare to re-compete the contractual effort

5. Once a contract has been approved, the Board expects to be regularly apprised of the status of the work covered by the contract.

a. A monthly update shall be presented at a Board meeting covering any ongoing project that has a contract value of greater than \$10,000 and an expected duration of greater than three months.

b. This report shall give the Board sufficient information to determine if the contract is proceeding according to plan with respect to spending, schedule, and quality. Elements that should be included are: Program Name, Description, Service Provider, Start and End Dates (both planned and projected), Spending to Date, and Estimated Cost at Completion. Additional areas may be added to reflect details particular to a given contract. A graphical presentation is suggested as a means of reporting these data clearly.

6. Looking more generally at the issues covered by these Procedures, the following are considered to be “best practices” for Procurement

a. Formalizing expenditures with a contract, which specifies responsibilities, pricing, quality, liabilities, and termination.

b. Close monitoring of invoices, with comparison to contract terms and tracking of the deliverables that have been completed.

c. Regular communication with the contractor, providing feedback on service levels, change control, and any other performance issues.

d. Dual or multiple sourcing. This provides pricing competition as well as continuity in the event that one supplier has a business issue of any kind. The ideal case is to have two or more suppliers that can meet all needs, with the actual work apportioned according to ongoing pricing and service quality. A less preferred approach is one where at least two suppliers have significant overlap of capabilities, so the size of their total business is at risk, even if specific activities are not (example: tree work requiring large cranes). A least preferred approach is one where there is no overlap of these responsibilities, as the pricing and continuity benefits are reduced.

e. An open contracting process that results in strong levels of competition (normally through an RFP). This not only gives the District the benefit of best pricing/service, it also reassures the public that these goals are being achieved.

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[REDACTED]
ATTORNEYS AT LAW
[REDACTED] [REDACTED]

[REDACTED]

November 10, 2012

[REDACTED]
Los Altos Hills County Fire District
P.O. Box 1766
Los Altos, CA 94023-1766

Re: [REDACTED] Conflict of Interest

Dear President [REDACTED] and Board of Commissioners:

The Los Altos Hills County Fire District ("District") wishes to enter into contracts with [REDACTED] for tree work within the District. This firm serves as the District's counsel, and also represents [REDACTED] in corporate matters.

Rule 3-310(c) of the Rules of Professional Conduct of the California State Bar provides:

"A member shall not, without the informed written consent of each client. . . (2) accept representation of more than one client in a manner in which the interests of the client actually conflict."

Historically, District and [REDACTED] both have agreed to waive any conflicts with each other regarding the entering into of contracts between [REDACTED] and District. We are, therefore, requesting that both District and [REDACTED] waive any actual or potential conflict of interest in this firm's representation of District and [REDACTED] with respect to these contracts. If any actual dispute between District and [REDACTED] arises, this firm would not continue to represent either party.

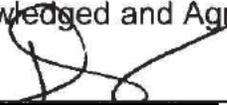

Los Altos Hills County Fire District
November 10, 2012 - Page 2

I would appreciate your signing the copy of this letter and returning it to us to acknowledge the District's agreement to the terms of this letter. We will also procure a similar letter from 

Sincerely,



Acknowledged and Agreed

By: 

, President
Los Altos Hills County Fire District

Enclosures

RESOLUTION NO. 18-16

**RESOLUTION OF THE LOS ALTOS HILLS COUNTY FIRE DISTRICT
APPROVING AND AUTHORIZING EXECUTION OF AGREEMENT BETWEEN
THE LOS ALTOS HILLS COUNTY FIRE DISTRICT AND [REDACTED]
CO., INC. FOR BRUSH AND WOOD CHIPPING [REDACTED]**

WHEREAS, the Board of the Los Altos Hills County Fire District ("District") entered into an Agreement dated June 20, 2017, for chipping combustible brush and wood cuttings with [REDACTED] ("Contractor"); and

WHEREAS, the Agreement was to run for two Fiscal Years ("FY"): 2017/2018 and 2018/2019;

WHEREAS, the demand for brush chipping services was much greater in FY 2017/2018 than it has been in previous years.

WHEREAS, the District believes the increase in District residents using the program stems from the devastating fires in the Napa and Sonoma Counties and the increased awareness of fire danger after the tragic events;

WHEREAS, the District and Contractor agree that for the accounting and convenience purposes it is best to separate the two year contract, which was approved on June 20, 2017, it would be best for a new agreement to be entered into for FY 2018/2019;

WHEREAS, the District now desires to enter into a new agreement for Brush and Wood Chipping Services effective July 1, 2018, for a term of one year; and

WHEREAS, the District has read and considered that certain new Agreement between the District and Contractor for Brush and Wood Chipping Services ("Agreement") which is attached hereto as **Exhibit A**.

NOW, THEREFORE, the District Board does **RESOLVE** as follows:

1. Public interest and convenience require the District to enter into the new Agreement described above and attached hereto as **Exhibit A**.

2. The District hereby approves the Agreement and the District Board President is hereby authorized on behalf of the District to execute the Agreement attached hereto.

PASSED AND ADOPTED this 19th day of June, 2018.

By: 
 Board President
via

ATTEST:


District Clerk

Exhibit
A.

**AGREEMENT BETWEEN THE LOS ALTOS HILLS COUNTY FIRE DISTRICT
AND S.P. MCCLENAHAN CO., INC. FOR
BRUSH AND WOOD CHIPPING SERVICES**

This Agreement for Brush and Wood Chipping Services is made and entered into on June 19, 2018, by and between the LOS ALTOS HILLS COUNTY FIRE DISTRICT ("District") and [REDACTED] ("Contractor"). In consideration of their mutual covenants, the parties hereto agree as follows:

Recitals

- A. The District desires to retain the services of Contractor to perform brush and wood chipping and related services at residences and as specified by the District or the District's authorized agent; and
- B. Contractor represents that it is fully qualified to perform such services by virtue of its experience and the training, education, and expertise of its principals and employees.

NOW THEREFORE, in consideration of performance by the parties of the promises, covenants and conditions contained herein, the parties hereby agree as follows:

1. SCOPE AND LEVEL OF SERVICES. Contractor shall provide or furnish the following services and/or materials:
 - a. Within five (5) working days from receipt of verbal or written notification, by the District or its authorized agent, Contractor shall chip combustible brush and wood cuttings up into four inches (4") in diameter. The owner of the property to be serviced shall place brush to be chipped in their driveways or adjacent to road to facilitate chipping.
 - b. The District or its authorized agent shall inform Contractor at the time it notifies Contractor of work to be performed at a property, whether the chipped material shall be left at the property to be serviced, or taken by Contractor to another site designated by the District or its authorized agent. Contractor is responsible for ensuring that the chipped material is delivered to the appropriate location at the direction of the District, or its authorized agent.
2. TERM. The services furnished under this Agreement shall commence on July 1, 2018, and shall expire on June 30, 2019, unless terminated at an earlier date pursuant to Paragraph 11 below.
3. COMPENSATION.
 - a. Contractor shall submit a bill monthly on the last day of the month, to the District for all work performed to date, based on the rates set out in Paragraph 3.b. The District shall pay Contractor within forty-five (45) days of receipt of the bill, for all work that is satisfactorily performed.

- b. Contractor's rates under this Agreement are eighty dollars (\$80.00) per hour, portal to portal, for Chipper Operator, twenty dollars (\$20.00) per use hour for Brush Chipper and fifteen dollars (\$15.00) per cubic yard for the hauling of chips not left on-site.
 - c. In no event shall the Contractor bill, for work performed under this Agreement, the District more than Three Hundred Forty-Five Thousand Dollars (\$345,000.00) in any fiscal year, without the prior written approval of the District's Board of Directors.
4. **COMPLIANCE WITH LAW.** All services rendered hereunder by Contractor shall be provided in accordance with all ordinances, resolutions, statutes, rules and regulations of the District, and any federal, state or local governmental agency having jurisdiction in effect at the time the service is rendered. Such compliance with the law shall include, but not be limited to, compliance with any and all applicable prevailing wage regulations and Department of Industrial Relations concerning registration of subcontractors.
5. **INDEPENDENT CONTRACTOR.** Contractor is, and shall at all times remain as to the District, a wholly independent contractor and not an agent or employee of District. Contractor shall receive no premium or enhanced pay for work normally understood as overtime, nor shall Contractor receive holiday pay, sick leave, administrative leave, or pay for any other time not actually worked. The intention of the parties is that Contractor shall not be eligible for benefits and shall receive no compensation from the District except as expressly set forth in this Agreement. Contractor shall have no power to incur any debt, obligation, or liability on behalf of the District or otherwise act on behalf of the District as an agent. Neither the District, nor any of its agents shall have control over the conduct of Contractor or any of Contractor's employees, except as set forth in this Agreement. Contractor shall at no time, or in any manner, represent that it or any of its agents or employees are in any manner employees of the District. Contractor agrees to pay all required taxes on amounts paid to Contractor under this Agreement, and to indemnify and hold the District harmless from any and all taxes, assessments, penalties, and interest asserted against the District by reason of the independent contractor relationship created by this Agreement. Contractor shall fully comply with the worker's compensation law regarding Contractor and Contractor's employees. Contractor further agrees to indemnify and hold the District harmless from any failure of Contractor to comply with applicable worker's compensation laws.
6. **CONFIDENTIALITY.** Contractor, in the course of its duties, may have access to financial, accounting, statistical and personal data of private individuals and employees of the District. Contractor covenants that all data, documents, discussion, or other information developed and received by Contractor or provided for performance of this Agreement are deemed confidential and shall not be disclosed by Contractor without written authorization by the District. The District shall grant such authorization if disclosure is required by law. Upon request, all District data shall be returned to the District upon the termination of this Agreement. Contractor's covenant under this Section shall survive the termination of this Agreement.

7. **CONFLICT OF INTEREST.** Contractor covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which may be affected by the services to be performed by Contractor under this Agreement, or which would conflict in any manner with the performance of its services hereunder. Contractor further covenants that, in performance of this Agreement, no person having any such interest shall be employed by it. Furthermore, Contractor shall avoid the appearance of having any interest which would conflict in any manner with the performance of its services pursuant to this Agreement. Contractor agrees not to accept any employment or representation during the term of this Agreement which is or may make Contractor "financially interested" (as provided in California Government Code Sections 1090 and 87100) in any decision made by the District on any matter in connection with which Contractor has been retained pursuant to this Agreement. Nothing in this section shall, however, preclude Contractor from accepting other engagements with the District.
8. **ASSIGNABILITY; SUBCONTRACTING.** The Parties agree that the expertise and experience of Contractor are material considerations for this Agreement. Contractor shall not assign, transfer, or subcontract any interest in this Agreement, nor the performance of any of Contractor's obligations hereunder, without the prior written consent of the District, and any attempt by Contractor to do so shall be void and of no effect and a breach of this Agreement.
9. **INDEMNIFICATION.**
- a. To the fullest extent permitted by law, Contractor shall indemnify, defend (with independent counsel approved by the District) and hold harmless the District, and its elective or appointive boards, officers, employees agents and volunteers against any claims, losses, or liability that may arise out of or result from damages to property or personal injury received by reason of, or in the course of work performed under this Agreement due to the acts or omissions of Contractor or Contractor's officers, employees, agents or subcontractors. The provisions of this Section survive completion of the services or the termination of this Agreement. The acceptance of such services shall not operate as a waiver of such right of indemnification.
 - b. The District does not and shall not waive any rights that they may possess against Contractor because of the acceptance by the District or the deposit with the District of any insurance policy or certificate required pursuant to this Agreement. This hold harmless and indemnification provision shall apply regardless of whether or not any insurance policies are determined to be applicable to the claim, demand, damage, liability, loss, cost or expense.
10. **INSURANCE REQUIREMENTS.** Contractor agrees to have and maintain the policies set forth in Exhibit A entitled "INSURANCE REQUIREMENTS," which is attached hereto and incorporated herein. All policies, endorsements, certificates, and/or binders shall be subject to approval by the District's Attorney as to form and content. These requirements are subject to amendment or waiver only if so approved in writing by the District's Attorney. Contractor agrees to provide District with a copy of said policies, certificates, and/or endorsements before work

commences under this Agreement. A lapse in any required amount or type of insurance coverage during this Agreement shall be a breach of this Agreement.

11. TERMINATION.

- a. Prior to the expiration of the Term of this Agreement, the District may terminate the Agreement, with or without cause, following twenty (20) days written notice of intention to terminate. In the event the Agreement is terminated, Contractor shall be paid for any services properly performed and authorized to the last working day the Agreement is in effect and Contractor shall not be entitled to any other compensation. Contractor shall substantiate the final cost of services by an itemized, written statement submitted to the District. The District's right of termination shall be in addition to all other remedies available under law to the District.
- b. In the event of termination, Contractor shall deliver to the District copies of all reports, documents, and other work prepared by Contractor under this Agreement, if any. If Contractor's written work is stored electronically, Contractor shall, in addition to providing a written copy of the information shall provide the District with the electronic files. District shall not pay Contractor for services performed by Contractor through the last working day the Agreement is in effect unless and until Contractor has delivered the above described items to the District.

12. CONTRACTOR'S BOOKS AND RECORDS. Contractor shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services, supplies, materials, or equipment provided to District for a minimum period of three (3) years, or for any longer period required by law, from the date of final payment to Contractor pursuant to this Agreement. Contractor understands that the Public Records Act may apply to documents created under this Agreement and Contractor covenants and agrees to assist District in responding to Public Record Act Requests at no additional cost to District. Contractor agrees that the Contractor's covenants under this Section shall survive the termination of this Agreement.

13. NON-WAIVER OF TERMS, RIGHTS AND REMEDIES. Waiver by either party of any breach or violation of any one or more terms or conditions of this Agreement shall not be deemed to be a waiver of any other term or condition contained herein or a waiver of any subsequent breach or violation of the same or any other term or condition. Acceptance by the District of the performance of any work or services by Contractor shall not be deemed to be a waiver of any term or condition of this Agreement. In no event shall the District's making of any payment to Contractor constitute or be construed as a waiver by the District of any breach of this Agreement, or any default which may then exist on the part of Contractor, and the making of any such payment by the District shall in no way impair or prejudice any right or remedy available to the District with regard to such breach or default.

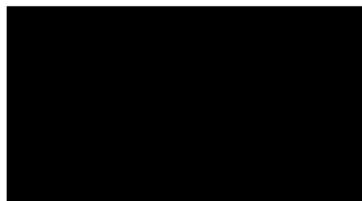
14. EXHIBITS. All documents referenced and attached as exhibits in this Agreement are hereby incorporated into this Agreement. The following attached exhibits are hereby made part of this Agreement: Exhibit A: Insurance Requirements

15. **NOTICES.** Any notices, bills, invoices, reports or other communications required or permitted to be given under this Agreement shall be given in writing by personal delivery, by facsimile transmission with verification of receipt or by U.S. mail, postage prepaid, and return receipt requested, addressed to the respective parties as follows:

To District:

President
Los Altos Hills County Fire District
P.O. Box 1766
Los Altos, CA 94023-1766

To Contractor:



Notice shall be deemed communicated on the earlier of actual receipt or forty-eight (48) hours after deposit in the U.S. mail, the date of delivery shown on deliverer's receipt, or by acknowledgment of facsimile transmission.

16. **NON-DISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY.** In the performance of this Agreement, Contractor shall not discriminate against any employee, subcontractor or applicant for employment because of race, color, creed, religion, sex, marital status, sexual orientation, national origin, ancestry, age, physical or mental handicap, or medical condition. Contractor will take affirmative action to ensure that employees are treated without regard to race, color, creed, religion, sex, marital status, sexual orientation, national origin, ancestry, age, physical or mental handicap, or medical condition.

17. **ATTORNEYS' FEES; VENUE.** In the event that any party to this Agreement commences any legal action or proceeding to enforce or interpret the provisions of this Agreement, the prevailing party in such action or proceeding shall be entitled to recover reasonable attorneys' fees and other costs incurred in that action or proceeding, in addition to any other relief to which the successful party may be entitled. The venue for any litigation shall be Santa Clara County.

18. **COOPERATION.** In the event any claim or action is brought against the District relating to Contractor's performance or services under this Agreement, Contractor shall render any reasonable assistance and cooperation which District might require.

19. **PRIOR AGREEMENTS AND AMENDMENTS; ENTIRE AGREEMENT.** This Agreement, and any other documents incorporated herein by specific reference, represent the entire and integrated agreement between the District and Contractor. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. This Agreement may only be modified by a written amendment duly executed by the parties to this Agreement.

IN WITNESS WHEREOF, the District and Contractor have executed this Agreement effective as of the date written above.

DISTRICT:

By: [Redacted]

District President

CONTRACTOR:

By: [Redacted]

[Redacted]
Co., COO
EIN: [Redacted]

ATTEST:

[Redacted]

District Secretary

EXHIBIT A**(INSURANCE REQUIREMENTS)**

Consultant shall procure and maintain for the duration of the Contract insurance against claims for injuries to persons or damages to or interference with property which may arise from, or in connection with, the performance of the work hereunder and the results of that work by the Consultant, its agents, representatives, employees or subcontractors.

1. **MINIMUM SCOPE OF INSURANCE.** Coverage shall be at least as broad as:

1.1 Insurance Services Office (ISO) Form No. CG 0001 covering Commercial General Liability on an "occurrence" basis, including products-completed operations, personal injury and advertising injury.

1.2 Insurance Services Office Form (ISO) No. CA 0001 covering Automobile Liability, Code 1 (any auto), or if Consultant has no owned autos Code 8 (hired autos) and Code 9 (non-owned autos). If Consultant does not have Commercial Automobile Liability Insurance, he must show proof of Automobile Liability Insurance in accordance with Paragraph 2.2.

1.3 Workers' Compensation Insurance as required by the Labor Code of the State of California and Employer's Liability Insurance.

1.4 Errors and Omissions Liability Insurance appropriate to the Consultant's profession. Architects' and Consultants' coverage is to be endorsed to include contractual liability.

2. **MINIMUM LIMITS OF INSURANCE.** Consultant shall maintain limits no less than:

2.1 **Commercial General Liability.** (Including products-completed operations, personal & advertising injury) One Million Dollars (\$1,000,000) per occurrence. If Commercial General Liability insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

2.2 **Automobile Liability.** One Million Dollars (\$1,000,000) combined single limit per accident for bodily injury and property damage.

2.3 **Workers' Compensation and Employer's Liability.** Workers' compensation insurance with Statutory Limits as required by the Labor Code of the State of California, and Employer's Liability Insurance with One Million Dollars (\$1,000,000) per accident for bodily injury or disease.

2.4 Errors and Omissions Liability. One Million Dollars (\$1,000,000) per occurrence or claim, Two Million Dollars (\$2,000,000) aggregate.

3. DEDUCTIBLES AND SELF-INSURED RETENTIONS. Any deductibles or self-insured retentions must be declared to, and approved by, the District. At the option of the District, either: the Consultant shall purchase insurance to reduce or eliminate such deductibles or self-insured retentions as respects the District, its officials, employees, agents and contractors; or the Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses in an amount specified by the District. The District may require the Consultant to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

4. OTHER INSURANCE PROVISIONS.

4.1 General Liability and Automobile Liability Coverages. The General Liability and Automobile Liability insurance policies required pursuant to Sections 1.1 and 1.2 shall contain the following provisions:

4.1.1 The District, its officials, employees, agents, contractors and volunteers are covered as additional insureds with respect to liability arising out of work or operations performed by, or on behalf of, the Consultant including materials, parts or equipment furnished in connection with such work or operations, and products and completed operations of the Consultant on premises owned, leased or used by the Consultant. The coverage shall be at least as broad as ISO Form CG 20 10 11 85 or both CG 20 10 and CG 23 37 if later versions used.

4.1.2 The Consultant's insurance coverage is the primary insurance as respects the District, its officials, employees, agents, contractors, and volunteers. Any insurance or self-insurance maintained by the District, its officials, employees, agents, contractors, and volunteers shall be excess of the Consultant's insurance and shall not contribute with it.

4.1.3 The Insurance Company agrees to waive all rights of subrogation against the District, its elected or appointed officers, officials, agents, and employees for losses paid under the terms of any policy which arise from work performed by the District's insurer.

4.1.4 Coverage shall not be canceled by either party, except after thirty (30) days prior written notice (10 days for non-payment) by regular mail has been given to the District.

4.1.5 Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the District, its officials, employees, agents or contractors.

4.1.6 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.

4.2 Worker's Compensation Insurance. The Worker's Compensation Policy required pursuant to Section 1.3 shall contain or be endorsed to contain the provisions set forth in subsections 4.1.3 and 4.1.4 above.

4.3 Acceptability of Insurers. All required insurance shall be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the District.

4.3 Claims Made Policies. If any of the required policies provide claims-made coverage, the District requires that coverage with a Retroactive Date prior to the contract effective date, or extended reporting period, be maintained by Consultant for a period of 5 years after completion of the contract.

5. VERIFICATION OF COVERAGE. Consultant shall furnish the District with original certificates and amendatory endorsements affecting coverage required by this clause. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements are to be received and approved by the District before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive Consultant's obligation to provide them. The District reserves the right to require complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications, at any time.

Proof of insurance shall be mailed to the following address:

Los Altos Hills County Fire District
P.O. Box 1766
Los Altos, CA 94023-1766
Attention: [REDACTED]

6. SUBCONTRACTORS. Consultant shall include all subcontractors as insureds under its policies or shall require and verify that all subcontractors maintain insurance meeting all the requirements of this contract.

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Los Altos Hills County Fire District

P.O. Box 1766, Los Altos, CA 94023-1766

Date: May 15, 2020

To: Cheryl Solov, Contract Management Audit Manager
Santa Clara County Board of Supervisors
Management Audit Division

From: Mark Warren, District President

J. Logan, District General Manager

Re: Response to Revised Confidential Draft Management Audit of the Los Altos Hills
County Fire District, dated April 26, 2020

DocuSigned by:
Mark Warren
F0FDAA9CBFA8404...
DocuSigned by:
J. Logan
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Introduction

The Los Altos Hills County Fire District (LAHCFD or District) appreciates the opportunity to respond to the Revised Confidential Draft Management Audit of the Los Altos Hills County Fire District dated Sunday, April 26, 2020, (Draft Audit) prepared by the (Board of Supervisors Management Audit Division). The District's Response to the Draft Audit (Response) is intended to be forthright and written with due diligence to present factual statements about District initiatives, operations, management, and services to the community.

The District respects the Management Audit process and procedures and has consistently demonstrated compliance with Auditor requests, requirements, and policies. The District's timely Response to the Draft Audit, despite the current pandemic and Shelter in Place Orders prohibiting in person meetings and access to the District's office, further demonstrates the District's due diligence and its dedication to operate in good faith to address the content and recommendations of the Draft Audit with forthright candor. The Response also demonstrates the importance of the District's actions to deliver the District's mission to protect the lives, property and environment within the District from fire, disasters, and medical emergencies and evidences the value of local government control.

I. Executive Summary

Preservation of the District's local control is critical to continue the District's programs which support its purpose of fire prevention and suppression. A summary of the District's Response is set forth below. Each Section of the Response provides factual details in support of these statements and demonstrates the importance of preserving local control of the District.

a. Section 1: Use of Fire District Funds to Support Firefighting Infrastructure

The District's spending on capital improvement projects that protect, expand, and improve infrastructure necessary for firefighting is legal, and ethical. Failure to participate in these projects will negligently leave the District and its residents highly susceptible to wildfire spread and without proper defense. Local control of the District and its operations is a critical factor to ensure the District can provide fire protection programs to its residents. Rescinding the local control of the District by suspending the Board of Supervisors' delegation of authority to the Commissioners will result in serious consequences to the District and its programs that ensure immediate and long-term fire protection of the District and its residents.

b. Section 2: Use of District Funds for Fire Fuel Reduction

The District uses funds for fire fuel reduction programs that are designed to improve the abilities of properties to survive fires and wildfires. District programs are aligned with the Santa Clara County Community Wildfire Protection Plan (CWPP) Annex 1 and Annex 4. The eighteen (18) Annexes, written for local agencies, value and understand that local communities in collaboration with local government will provide the necessary

methodologies and solutions to confront the threads of fires and wildfires. Local control of the District is critical for connectivity with residents to provide dialogue, education and outreach, and to use that to develop programs which are in-tune with the local community and to assess and prepare for both internal and external fire events. Local control and coordination with the community provide the best success for governance of fire-safety programs because it takes residents and the District community, acting together, to establish resiliency, foster survival skills, and embrace preventive and protective solutions. This coordination is lost if local control is revoked.

c. Section 3: District's Brown Act Compliance

The District's need to comply with the Ralph M. Brown Act is not debated or doubted, and the District strives to go above and beyond to ensure compliance with the complex requirements of the Brown Act. In response to recommendation from County Counsel in 1992 the District retained and continued use of outside legal counsel. The District relies on its outside legal counsel to provide timely advice to the District on a regular basis regarding its day-to-day operations. If the District is not able to receive timely legal advice and legal services to prepare contracts, District operations will be delayed creating a serious risk to the District's ability to ensure fire protection services and potentially increase the District's exposure to legal liability.

d. Section 4: Alignment of Fire Prevention Programs with Fire Risks and CWPP

The District uses the Santa Clara County Wildfire Protection Plan (CWPP) Annex 4-Los Altos Hills County Fire District (Annex 4) and District's Addendum to Annex 4, and collaborates with the Santa Clara County Central Fire Protection District (SCCFD or County Fire) to review and revise District programs and prepare the District's budget. District's programs and spending are aligned with risks identified in the CWPP, Annex 4, and Addendum to Annex 4. The CWPP is specifically designed for local control. The strategic value added by the Annexes for each District to engage local communities and local government to work together and understand the specific fire hazards in each jurisdiction, is a result best accomplished through local control as demonstrated by the District's current projects.

e. Section 5: Fire District Compliance with State and Local Procurement Requirements

The District's procurement practices are in compliance with State and local rules. The District relies on the Board of Supervisors delegation of authority to implement procurement practices that both comply with all laws, and meet the needs of the District to provide important critical fire protection services to its residents. A loss of local control of the District's ability to procure goods and services, will effectively inhibit the District's ability to continue its programs that are essential for current and long-term fire protections.

II. Description of the District

a. District Formation

On October 23, 1939, the Santa Clara County Board of Supervisors formed the Los Altos County Fire Protection District as a County Fire Protection District after an election was held with Three Hundred Nineteen (319) votes in favor of the formation and Forty-Five (45) votes cast in opposition.¹ About seventeen (17) years later, the Town of Los Altos Hills (LAH) incorporated. The District still operates under the same legal authority which is currently found in California's Fire Protection District Law of 1987 as set forth in the Health & Safety Code §§ 13860 et. seq., except that in 1980, the District Board of Commissioners (Fire Commission) was delegated the authority that was originally given to the Santa Clara County Board of Supervisors, as explained below. Within the District's boundaries 69% of the District population resides within the Town and 31% of the District population resides within unincorporated County.²

b. Delegation of Authority to the Commissioners

In December 1980, the Santa Clara County Board of Supervisors adopted a resolution delegating all of its powers to the Fire Commission to manage the affairs of the District except that the Commission shall not initiate litigation without prior approval from the Board of Supervisors. This delegation of authority came largely in response to serious concerns from the Town, including:

1. A \$238,000 plus, financial deficit for the District³, raising allegations that the Los Altos Hills City Council was not convinced the District had an obligation to pay the deficit, instead seeking legal advice "in regards to the County taking Fire District Bldg. Funds and using them for operational expenses instead of allotting to the District their fair share of state 'bail out' funds."⁴ At that time a Committee formed by City Council recommended that LAH withdraw from the District because "the present arrangement gave the City [LAH] no control over City [LAH] revenues or expenditures for fire protection of Los Altos Hills."⁵
2. At its September 17, 1980, meeting the LAH City Council unanimously passed a motion to adopt Resolution #1311, application of the City of the Town of Los Altos Hills of the County of Santa Clara to the Local Agency Formation Commission of Santa Clara County for the detachment of the territory with the City of the Town of Los Altos Hills from the Los Altos Hills Fire Protection District.⁶
3. A 1980 Report prepared by the Town's Ad Hoc Public Safety Study Committee resulted in communications from the Board of Supervisors making "certain

¹ Finding that Los Altos Fire District is Established and Organized as a County Fire Protection District, dated October 23, 1939.

² Numbers taken from the 2010 Census. Since the 2010 Census additional unincorporated areas of the Fire District were annexed to the Town of Los Altos Hills. The 2020 census will reflect higher percentage of Fire District residents within the Town of Los Altos Hills.

³ Town of Los Altos Hills, City Council Meeting Minutes, July 2, 1980 at Section F.3.

⁴ Town of Los Altos Hills, City Council Meeting Minutes, July 16, 1980 at Section 2.a.

⁵ Id.

⁶ Town of Los Altos Hills City Council Meeting Minutes, September 17, 1980.

4. guarantees to the Town; namely, the District would have autonomy to run the District and would have the right to contract for it after 7/1/81.”⁷
5. At its December 8, 1980, meeting the LAH City Council unanimously passed a motion “to recommend to the Santa Clara County Board of Supervisors that the Los Altos Fire Protection District remain intact with control delegated to a seven-member commission, consisting of five City Council members and to residents to be appointed from the unincorporated portion of the District. Commission members would serve four-year terms with vacancies on Council seats filled by new Councilmembers. Further all current sources of revenues will be retained with the District”.⁸

The Board of Supervisors reacted to the action and concerns of the LAH by adopting the Resolution delegating all of its powers to the Fire Commission, except the power to initiate litigation, increasing the number of Commissioners from five to seven, authorizing Commissioners to be council members of cities within the District, and requiring Commissioners to be residents of the District, on December 16, 1980. The delegation of powers was made in order to persuade the LAH not to withdraw from the District and to provide the LAH with the local control of the District and District funds which the LAH was demanding.

Separate from the 1980 delegation of the powers to the Fire Commission to provide for local control in response to the steps the LAH took during 1980 to initiate steps to withdrawal from the Fire District, an election was held in the fall of 1981 to adopt a local tax, solely within the District, in order to fund the deficit that County incurred for the District after the passage of Proposition 13 in 1978. The delegation of power to the Commission occurred prior to the tax election. The delegation was effective immediately and was not contingent on, or revocable, if the tax measure did not pass. The Board of Supervisors’ delegation of power to the Commission in 1980, was in response to the LAH initiating the process with LAFCO to withdraw from the District and was not dependent on the results of the tax election almost a year later.

Due to prudent fiscal management, budgeting, and forward thinking the District has been able to set the tax rate at zero since 1986. Each year the District agendizes a discussion of the tax and at what rate it should be implemented. While the Commission has voted to set the tax rate at zero, each year the Commission determines the tax rate and may decide in future years to set the rate at a figure other than zero. The decision at what the tax rate is set at each year is wholly separate from the delegation of power to the District. Whether the District sets the tax rate at zero or at the maximum rate, has no impact on the delegation of power made in 1980 prior to the tax election⁹.

⁷ Town of Los Altos Hills, City Council Meeting Minutes, October 30, 1980 at Section C.2.a.

⁸ Town of Los Altos Hills City Council Meeting Minutes, December 9, 1980.

⁹ The assertion that by being fiscally responsible and not needing to impose the tax since 1986 the District has somehow forfeited the delegation of powers is not logical or based in fact.

c. Operation of the District Today

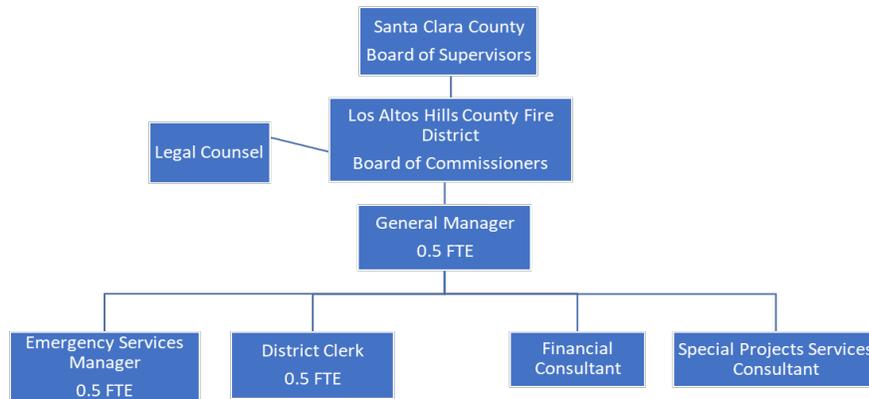
The District's Board of Commissioners continues to operate under the California Health & Safety Code and the delegation of authority from the Board of Supervisors. The Commissioners have focused on serving the local community and have consistently made prudent operational and spending decisions which have allowed the District to continue its mission to protect the residents while maintaining a strong financial position. The operational decisions that have ensured optimum fire department services include the Commissioners decision to contract for firefighting and EMS (Emergency Medical) services from Santa Clara County Central Fire Protection District, and the decision to operate until October 1, 2018, without any management or support staff. For seventy-nine (79) years, the decision for the Board of Commissioners to manage the work of the District and hire no employees, saved the District from incurring employee costs associated with debt from pension liability, personnel retirement obligations and health benefit costs. These savings continue with the decisions to hire part-time staff. The Fire District also made the operational decision to connect the Fire District hydrants to the water distribution systems of other agencies and companies. This decision financially benefits the District because while the District is not financially obligated to monitor and maintain the water lines, it may share in costs to improve the water infrastructure when those improvements benefit the purpose of the Fire District.

Staffing of the District in FY2019-2020 at 1.5 FTE

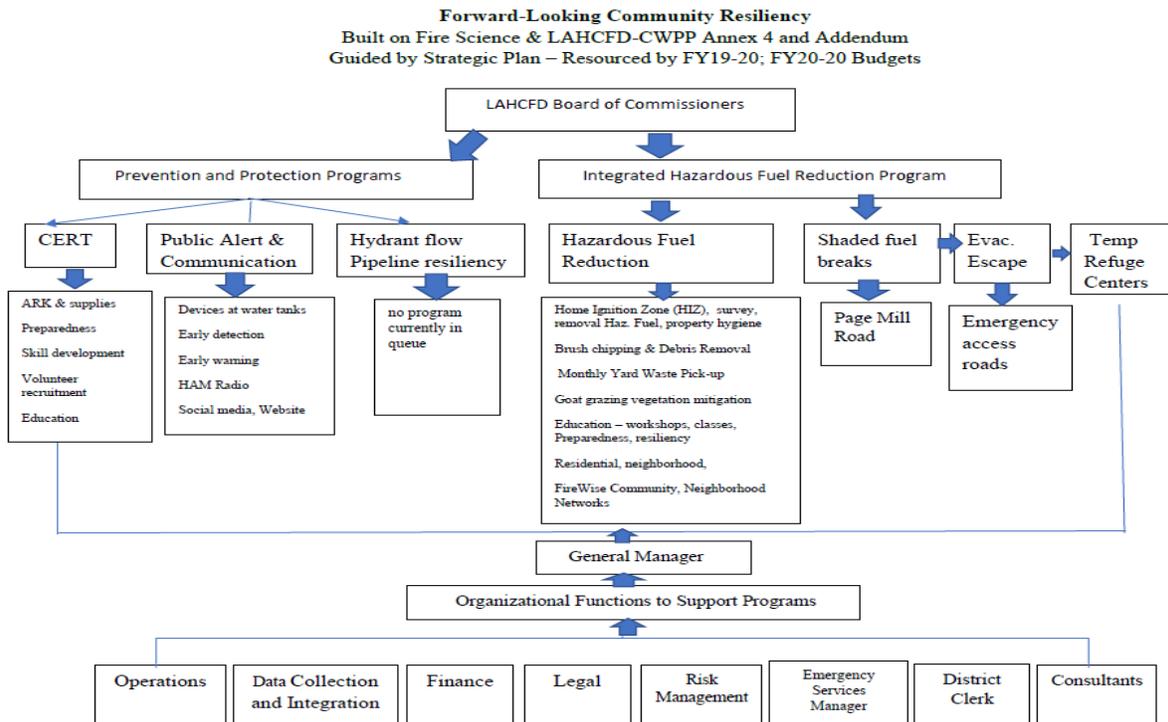
In June 2017, as part of the District's process to implement the 2015-2020 Strategic Plan the Commissioners determined that "Goal 2: Establish an effective District administration" should be prioritized. The Commissioners determined to hire a part-time (.50 FTE) employee to facilitate and oversee District management and operations. The ultimate goal for hiring an employee was to provide the District with resources and to provide the residents with stronger and more robust fire protection programs that are current with the trends, initiatives, and science for fire prevention and disaster preparedness. The Commission's agendas included these topics and discussed at public meetings throughout 2017 and into 2018. On September 11, 2018, the Commission officially created the role of General Manager who was hired, effective October 1, 2018. The General Manager is responsible for duties that include: policy development and future planning, modify programs to align with the 2015-2020 Strategic Plan, LAHCFD-CWPP Annex 4, and budget allocations, develop a new 2020-2025 Strategic Plan. General Manager is responsible for the administration, finances, personnel and operations of the District. General Manager is responsible for: building strong relationships with residents and community, collaboration with LAH, unincorporated communities, SCCFD, water districts and regional partners, delivery of CERT programs, emergency preparedness initiatives, development of FireWise Communities and Neighborhood Networks, and fosters development of self-reliant residents and resilient neighborhoods in the community in event of disaster or emergency.

With the new resource of the part-time District General Manager, the District was able to expand and improve its programs, further fulfilling the District's mission to protect the lives, property, and environment from fires, disasters, and medical emergencies and other incidents through education, prevention and emergency response services.

Currently the District is operating with 1.5 FTE. District Employees: a part-time General Manager, part-time District Clerk, and part-time Emergency Services Manager. Upon departure, the independent contractor Fire Consultant was not replaced. The Fire Consultant duties were distributed among the current employees.



With the increasing threat of wildfire and susceptible landscape of the District, its forward-looking community resiliency plans are even more important. The components of the District’s plans for FY2019-2020 and FY2020-2021 are shown on the programmatic and functional chart prepared by the District’s General Manager, below. ¹⁰



¹⁰ Presented at Feb. 18, 2020 Los Altos Hills County Fire District Meeting, General Manager Report and updated based on the District’s Adopted FY2020-2021 Budget.

III. Fire District Revenue and Expenditures

The District's budgeted expenditures for FY 2018-2019 totaled \$11,142,998. Of this, \$4,679,000 was budgeted for the contract with Central Fire for fire prevention and emergency medical services, \$1,132,000 was budgeted for the contract with Central Fire for dedicated Battalion Chief services at the El Monte Fire Station, and \$320,100 was budgeted for the contract with Central Fire for Extra Fire Season Patrol staffing. The total budgeted for these contracts with Central Fire, which are directly related to core fire protection and emergency services was \$6,131,100, or 55% of the total budgeted expenditures. Actual expenditures for FY 2018-2019 were \$9,211,690, of which \$6,131,381 (or 67%) represents the amount paid to Central Fire for core fire protection and emergency services. Neither of these calculations represent "less than half" of the Fire District's expenditures as stated in the Management Audit report, and the only amount budgeted for "fire apparatus" was \$126,000 for the Extra Fire Season Patrol engine maintenance which is nowhere near the "\$1.7 million" stated in the audit report.

IV. Timeline of Audit Events

a. Initial Contact by Auditors in August 2018 and District Responses to Requests from Auditors through February 2019

On August 20, 2018, the District received notice that the Board of Supervisors authorized a management audit of the District relative to its functions, operations, and management. Four days later, on August 24, 2018, the five members of the Management Audit Team held an Entrance Conference with the then District President, then District Vice President, and four District Consultants (two of whom are now retired). The Auditors informed the District that they expected the audit to be complete by Thanksgiving 2018. From August 2018 through December 2018, the District and its contractors received requests to meet with Auditors and produce documents. The District and its contractors timely complied with the requests. On February 13, 2019, the Auditors requested that the District produce a list of District accomplishments. The District provided this list to the Auditors on February 22, 2019.

b. No Communication from Auditors from March 2019 through August 2019

The District did not hear back from Auditors again until August 19, 2019, when the Auditors informed the District that the next steps were for the Auditors to produce a Confidential Draft Audit, intended only for District staff and not to be conveyed to the Commissioners. The draft would be discussed at the Exit Conference. No Commissioners were to be involved and Draft was confidential. Commissioners would receive the Audit Report when it was released to the public and no longer confidential.

c. Audit Process Discussed at District's September 17, 2019, Meeting

This audit process was scheduled for discussion with the Commissioners at the District's September 17, 2019, meeting and County was invited to participate.¹¹ The District felt it was critical for at least some of the Commission to be involved in the

¹¹ Los Altos Hills County Fire District Meeting, September 17, 2019, Agenda Item 4.

review and response to the Confidential Audit and suggested formation of an Ad Hoc Management Audit Subcommittee to receive to the Draft Report, attend the Exit Conference, and participate in drafting the Response. The County agreed to this procedure.

d. Provision of Confidential Draft Audit on October 9, 2019, and Post-Exit Conference Communications with Auditors

The Confidential Draft Audit was provided to the District's General Manager on October 9, 2019, and an Exit Conference with the District's Ad Hoc Management Audit Subcommittee, District Contractors, and Auditors was set for November 1, 2019. The District timely reviewed the Confidential Draft Audit and prepared for and attended the Exit Conference.

e. November 2, 2019, through April 25, 2020, Post-Exit Conference with Auditors

Two weeks after the exit conference the Auditors requested that the District produce additional documents, which were in turn provided on November 22, 2019. On December 9, 2019, the Auditors emailed the District's General Manager requesting additional documents, including the District's list of accomplishments (which was previously provided to Auditors on Feb. 22, 2019). The General Manager provided those requested documents to the Auditor on December 10, 2019. On January 16, 2020, the Auditors requested additional documents, which were produced to the Auditors on January 28, 2020.

f. District's Receipt of Revised Draft Audit on April 26, 2020

The District did not hear back from the Auditors until the evening of Sunday, April 26, 2020, when the General Manager received the Draft Audit dated Sunday, April 26, 2020. Despite the Auditors taking five months to produce the revised Draft Audit from the November 1, 2019, Exit Conference, the April 26, 2020, email requested that the District produce its response from the District no later than May 15, 2020. While under Shelter in Place Orders with no access to the District office at El Monte Fire Station, for files or office equipment, and unable to meet in-person, with all employees and contractors working remotely, the District made its best-faith effort to respond to the Draft Audit which was twenty-one (21) months in the making and significantly revised from the initial Confidential Draft Report provided to the District in October 2019. The work on the District's Response to the Draft Audit was performed without the benefit of in person meetings or being able to circulate hard copies of documents, and while preparing the Agenda and related matters for the District's May 19, 2020 Meeting.

V. The "Extraordinary Circumstances" Creating Extreme Delay to Issuance of Report Are Unrelated to the District

The District has made diligent efforts to ensure compliance with the Auditors' timelines, including the timely production of this Response to the Draft Audit within fifteen (15) business days, with the added complexity of the Shelter in Place and other executive orders prohibiting in-person meetings during the pandemic.

The Draft Audit states that “usual processes were altered and the report’s issuance delayed by 1) requests for interim revised confidential draft reports or sub-sections from multiple parties, and 2) extraordinary circumstances of a legal nature.” The District has no involvement with these actions allegedly resulting in the delay. Specifically, the District has not received an interim revised confidential draft report, nor has it been a party to or involved in any legal issues, extraordinary or otherwise.

SECTION 1: USE OF FIRE DISTRICT FUNDS TO SUPPORT FIRE FIGHTING INFRASTRUCTURE

Section 1: Use of Fire District Funds to Support Fire Fighting Infrastructure

(Responding to Draft Audit: “Section 1. Use of Fire District Funds”)

I. Background

The District is permitted by law to fund projects that support the District’s purpose. The Commissioners regularly study Fire District funds available to determine the best use for those funds in a manner that will support the Fire District’s purpose of firefighting and fire prevention. As a result of those studies, the Commissioners have supported utilization of certain Fire District funds for the purpose of improving and repairing water infrastructure, a critical tool for fighting fires. This approach is supported in the Santa Clara County Wildfire Protection Plan: Annex 4 (Annex 4). Specifically, Table 4.3 of Annex 4 “Recommended Fire Fighting Capability Projects in LAHCFD” describes the project to “Develop a coordinated approach between fire jurisdictions and water supply agencies to identify needed improvements to the water distribution system, initially focusing on areas of highest wildfire hazard and lowest hydrant flow.” Annex 4 describes the benefits of this project as to “improve fire-fighting response if water is more readily available or closest locations could be identified on a GIS map on a tablet/computer.” The importance of these projects to District residents is often highlighted in the press, for example one article highlights that “emergency preparedness needs have changed significantly since the town’s first tank, Neary No. 1 was installed in the 1960s.”¹²

The Fire District has nine-hundred forty-eight (948) fire hydrants within its boundaries that serve the residents of the Fire District in case of fire emergency. The Fire District owns five-hundred forty (540) of those hydrants and the infrastructure connecting them to the main water pipelines and is responsible for maintenance and repair of those hydrants¹³, but the Fire District relies on access to and use of all nine-hundred forty-eight (948) fire hydrants for purposes of fire suppression. The hydrants are connected to the water distribution systems of the Purissima Hills Water District (PHWD) and the California Water Service Company (Cal Water). Of those nine hundred forty-eight (948) hydrants, five hundred ninety-five (595) (or 63%) are connected to the PHWD’s water distribution system, while three hundred fifty-three (353) (or 37%) are connected to Cal Water’s water distribution system. The three hundred-fifty-three (353) hydrants in Cal Water’s jurisdiction are owned by Cal Water. PHWD does not own any hydrants.

The Fire District’s contribution to improve and repair firefighting infrastructure fluctuates from year to year as the need to address deficiencies is recognized. Like all capital

¹² Los Altos Town Crier, LAH water, fire districts working to make pipes, tanks more quake-proof, dated March 5, 2014.

¹³ Paragraph 3.9 of the Agreement between District and Santa Clara County Fire provides that Santa Clara County Fire is to annually inspect all hydrants for proper operations.

SECTION 1: USE OF FIRE DISTRICT FUNDS TO SUPPORT FIRE FIGHTING INFRASTRUCTURE

improvement projects, some years those improvements and repairs are more expensive, while other funds are conserved to ensure availability at a date when more expensive work is needed. The Commissioners' decisions focus on whether and when to fund these projects and include a focus on the useful life of infrastructure. The forward thinking of the Commissioners to conservatively spend in years leading up to the end of the useful life of important infrastructure ensures more funds are available when those major improvements and repairs are needed to ensure the District is properly equipped and prepared for fire suppression and is especially important during catastrophic events, including major fires and earthquakes.

The "Recent Fire District Spending on Other Entities' Capital Projects" chart for the Fiscal years ended 2014-2018 included in the Draft Audit compiles a list of capital project expenditures from the District's audited financial statements, but does not provide analysis of each project's spending or details relating to how those projects benefit the District's purpose and the community. Case law confirms that fire districts and water agencies are free to contract with each other.¹⁴ The below table breaks down the spending on each project. An explanation about how each project supports the Fire District's purpose by ensuring access to water for firefighting and fire prevention follows the chart.

- a. Spending on Projects from FY 2013-2014 through FY 2017-2018
 i. *Table 1: District's Infrastructure Fire Resiliency Spending FY 2013-2014 through FY 2017-2018*

FY 2013-2014

Amount Spent	Purpose	Asset Ownership
\$ 2,337,107	Neary Tank Utilization Project	PHWD
\$ 540,635	Phases V and VI of the Fire Hydrant Replacement Project	LAHCFD
\$ 309,968	Olive Tree Area Fire Flow Improvements	Cal Water
\$ 3,187,710	Total FY 2013-2014	

FY 2014-2015

Amount Spent	Purpose	Asset Ownership
\$ 515,064	Phases VI and VII of the Fire Hydrant Replacement Project	LAHCFD
\$ 54,289	Olive Tree Area Fire Flow Improvements	Cal Water
\$ 569,353	Total FY 2014-2015	

¹⁴ *Public Water Agencies Group, et. al. v. Consolidated Fire Protection District of Los Angeles County, et. al.* (1983) 145 Cal.App.3d 695.

SECTION 1: USE OF FIRE DISTRICT FUNDS TO SUPPORT FIRE FIGHTING INFRASTRUCTURE

FY 2015-2016

Amount Spent	Purpose	Asset Ownership
\$ 624,404	Page Mill Seismic Retrofit	PHWD
\$ 537,996	Phases VII and VIII of the Fire Hydrant Replacement Project	LAHCFD
\$ 1,162,400	Total FY 2015-2016	

FY 2016-2017

Amount Spent	Purpose	Asset Ownership
\$ 1,301,771	Phase VIII of the Fire Hydrant Replacement Project	LAHCFD
\$ 1,301,771	Total FY 2016-2017	

FY 2017-2018

Amount Spent	Purpose	Asset Ownership
\$ 121,639	Phase VIII and Inspections of the Fire Hydrant Replacement Project	LAHCFD
\$52,808	Fire Service Water Flow Improvements	PHWD & Cal Water
\$174,447	Total FY 2017-2018	

ii. Neary Tank Utilization Project

In 2011, a seismic risk assessment by an independent engineering firm established a 5-Year Capital Improvement Plan for water tank capital projects. In March 2012, parties met to review partnering for improved water flow and water capacity for the benefit of LAHCFD's fire protection service. The projects identified were the "2014 Page Mill Tank Seismic Retrofit" and capacity increase (discussed below) and the "2012 Neary Tank Utilization".

District's objective was access to water for firefighting on Altamont Court, to improve the ability of the Neary Tank to withstand an earthquake, and to increase the capacity of the Neary Tank to provide water for firefighting purposes. The Neary Tank capacity could only utilize 700,000 gallons in summer and 100,000 gallons in winter due to limitations in structural integrity and small diameter piping. According to an independent engineer, the available capacity of the tank was possibly not adequate for fire protection. After upgrades, the new tank capacity would be 2,000,000 gallons in summer and 1,000,000 gallons in winter. The improvements would significantly increase peak water flow sustainability during a major fire event.

Since the majority of the project benefitted the Fire District, the District's cost sharing for the project was 80% of the total costs. The District spent a total of \$2,337,107, which resulted in an extended water main to Altamont Court, retrofit of the Neary Tank for earthquake stabilization, and improved storage ability to allow for additional water during summer fire season use when drought and fire season dangers were at peak risk.

SECTION 1: USE OF FIRE DISTRICT FUNDS TO SUPPORT FIRE FIGHTING INFRASTRUCTURE

iii. Fire Hydrant Replacement Project

In 2010, the District began a multi-year project to replace the five-hundred twenty-five (525) fire hydrants that it owned within PHWD and to add fifteen (15) hydrants. The replacement of the District-owned hydrants was needed because:

- a. Most of the hydrants had exceeded their useful life of 50 years.
- b. There were multiple styles of hydrants (i.e. wet-barrel and dry-barrel) and different manufacturers with no standardization.
- c. Not all hydrant valves conformed to the state standard 2.5-inch coupling, meaning in the case of an emergency, fire-fighters from other jurisdictions might not be able to hook up their hoses to District hydrants, a problem that plagued fire-fighters during the 1991 Oakland Hills Fire.

The \$3,017,105 spent by the District between fiscal years 2013 and 2018 (as outlined in the table above) were the costs of construction to remove and replace the old hydrants, replace and install infrastructure, water-main tie-ins, valves, retaining walls, asphalt, curbs, various installation features, engineering and requests for proposals. Other costs included geotechnical and arborist subcontractors. This project did not provide improvement to the water mains owned by the water purveyor. The water purveyor did not own any assets or improvements, and is not required to provide any ongoing repair and maintenance to those assets. The project benefited firefighter safety and efforts during fire events, invested in vital fire system infrastructure and benefited residents and property fire safety.

iv. Olive Tree Area Fire Flow Improvements

The Olive Tree area is serviced by Cal Water. The area is a high fire hazard category bordered by the Open Space District also characterized by its highly combustible vegetation and concern of adequate water pressure and volume. In 2010, the Fire District met with Cal Water. Identified were measures increasing water pipe diameters, interconnecting two different pressure zones, installing pumps to increase water pressure and fire flow, and installing a standby generator for pump operations during electrical failure. The generator was used during the multiple Public Safety Power Shutoffs to ensure water was available for firefighting during these critical weather and wind events when power is shutoff. Santa Clara County Central Fire Protection District was also consulted on these proposed improvements and strongly supported the work. Since these improvements were only for fire protection enhancement and did not provide any benefit to Cal Water, the project was fully funded by the Fire District at a cost of \$364,257. The ownership and upkeep of the mains, pumps and generators are the responsibility of Cal Water.

v. 2014 Page Mill Tank Seismic Retrofit

In 2010, the seismic risk assessment identified the Page Mill Tank as the highest risk in the system. In 2014, the Fire District addressed the seismic deficiencies of the Page Mill Tank for firefighting and suppression and to ensure seismic resiliency. The main benefit of seismic resiliency was to ensure fire protection capabilities during seismic events. Therefore, the cost sharing on the project was 65% LAHCFD and 35% PHWD. The total cost of the project was \$971,787, with the Fire District paying \$624,404.

SECTION 1: USE OF FIRE DISTRICT FUNDS TO SUPPORT FIRE FIGHTING INFRASTRUCTURE

vi. Fire Service Water Flow Improvements

In FY 2017-2018, LAHCFD began an evaluation of the water system infrastructures in both the PHWD and Cal Water service areas to improve fire-flow standards and pipeline resiliency in the event of earthquake, fire or disaster. These improvements are important because, as Section 1 of the Draft Audit states: “the probability of an earthquake capable of causing widespread damage occurring in the Bay Area in the next 24 years is 72 percent” and “fallen power lines and ruptured gas mains from earthquakes can result in fires, which can be difficult to extinguish due to other earthquake damage such as broke water lines....”¹⁵ The District paid \$52,808 to an independent engineering firm to conduct testing and identify potential projects.

b. Older Projects Referenced in Draft Audit*vii. 2009 Page Mill Interconnection*

The Page Mill Interconnection allows for access to water through Palo Alto storage tanks located on Montebello Ridge. Before the Page Mill Interconnection, Hetch Hetchy provided the only source of water to Fire District hydrants. In 2009, the Fire District determined that access to only one water system posed a serious threat to the ability to fight fires, in particular, given the terrain of the Fire District. Adding the option for water access to Palo Alto storage tanks in the event of an emergency was critical to protect the Fire District residents. The Page Mill Interconnection ensures that access to water for firefighting purposes is not compromised in the event that water cannot be delivered to the Fire District hydrants from Hetch Hetchy.

viii. 2008 Altamont Pump Station Generator

In 2008, the Fire District supported a decision to install a generator at the Altamont Pump Station. The hilly terrain of the Fire District requires the use of pumps to transport water to tanks located at higher elevations within the Fire District. If the pumps do not work, higher elevation tanks are left without water access to fight fires. Fire District recognizes the need to ensure that backup power is available in event of power outages. Prior to the recent Public Safety Power Shutoffs (PSPS) implementation, this concern was fires causing power outages and water not being supplied to hydrants.

II. Auditor’s Recommendation. 1.1

District County Counsel to review and report to the Board of Supervisors its assessment of whether the making of agreements, donations, or loans resulting in Fire District subsidies of other entities’ capital projects has been consistent with all applicable legal requirements. This review should include any new proposed agreements or expenditures.

III. District’s Response to Recommendation 1.1

Disagree.

¹⁵ Draft Audit, Page 32.

SECTION 1: USE OF FIRE DISTRICT FUNDS TO SUPPORT FIRE FIGHTING INFRASTRUCTURE

IV. Executive Summary

For the reasons set forth in this Response to Recommendation 1.1, the District strongly believes its decisions to contribute to these projects were both ethical and legal. The District further believes for the reasons set forth in Response to Recommendation 1.2 that a failure to participate in these projects would have negligently left District residents highly susceptible to fire and without proper defense, and the Fire District and County subject to legal liability. If the facts stated in the Response leave questions regarding District's authority to enter into water infrastructure agreements for fire protection of the community, the District recommends independent review from a party not affiliated with either the County or the District. Independent review would provide nonbiased and factual assessments.

V. Support for District's Response to Recommendation 1.1

a. District's Legal Obligation to Repair and Improve Firefighting Infrastructure

Fire protection districts may exercise all rights and powers, expressed or implied, necessary to carry out the purposes and intent of the Fire Protection District Law, including, but not limited to the power to acquire property, including water facilities for providing fire protection, within the District, and to hold, manage, occupy, dispose of, convey, and encumber the property for the benefit of the District.¹⁶ Case law confirms that fire districts and water agencies are free to contract with each other.¹⁷ And further, case law provides that water agencies have "no obligation to supply free water service to a fire protection agency, and, absent a written agreement, the public water agency would have no obligation to install or maintain hydrants for the use by fire protection agency."¹⁸

Section 53069.9 of the California Government Code, as identified within the Draft Audit in support of Recommendation 1.1.¹⁹ sets forth the authority of the PHWD to charge the Fire District for "any costs of operation, installation, capital, maintenance, repair, alteration, or replacement of facilitates and equipment related to supplying water for such fire protection purposes within the service area of such entity providing fire protection services. ..." ²⁰ The Draft Audit does not clarify that PHWD is only allowed to charge the Fire District for these services when "pursuant to a written agreement with such entity providing the fire protection service."²¹

¹⁶ Health & Safety Code § 13861(b).

¹⁷ *Public Water Agencies Group, et. al. v. Consolidated Fire Protection District of Los Angeles County, et. al.* (1983) 145 Cal.App.3d 695.

¹⁸ *Id.* at 699.

¹⁹ The Audit also identifies *Section 507 Fire Protection Water Supplies*, which is not a regulation intended to explain the authority of a fire protection district, but rather, is part of the larger "Part III" of the Fire Code explaining and setting forth "Building and Equipment Design Features." Authorizations for fire protection districts are instead found within the Fire Protection District Law of 1987 (Health & Safety Code § 13860 et. seq.)

²⁰ California Government Code § 53069.9(b)(1).

²¹ *Id.*

SECTION 1: USE OF FIRE DISTRICT FUNDS TO SUPPORT FIRE FIGHTING INFRASTRUCTURE

The PHWD and Fire District have a history of entering into agreements under this authorization starting in 1956, when the Fire District first installed and connected the Fire District hydrants to the PHWD's water distribution system and continuing through those agreements identified in Section 1 of the Audit.

b. District's Hydrant Agreement with Purissima Hills Water District

In 1956 PHWD began work on installation of a water distribution system to furnish water within its boundaries. At the same time, the Fire District sought to install hydrants in order to make water from PHWD's mains available for fire protection. PHWD and the County of Santa Clara Board of Supervisors, on behalf of the Fire District, entered into an agreement on October 29, 1956, to allow the Fire District to attach fire hydrants to the PHWD's water mains.²² Under the terms of the 1956 Agreement, the Fire District owns the hydrants and is responsible for keeping the hydrants in good repair.²³ "Hydrants" include "all connections, valves, pipes, and fittings."²⁴ Further, the Agreement protects the PHWD from liability to Fire District by not giving "any representations or warranty as to the volume of water available in its system, or as to the pressures available in its system."²⁵

In August 1980, the PHWD and Santa Clara County Board of Supervisors, on behalf of the Fire District, entered into another agreement to formally "specify their respective rights and obligations in connection with the provision of those water-related services that are necessary for fire protection purpose."²⁶ At this time, the Fire District owned approximately three-hundred-fifty (350) fire hydrant facilities connected to the PHWD's water distribution system.²⁷ Since that time, an additional one-hundred ninety (190) hydrants have been installed by the Fire District and connected to the PHWD's water distribution system. The Agreement, which is still in effect today, requires the Fire District to ensure proper operation of the hydrants, including ensuring consistency with good water works and fire protection practices.²⁸ The PHWD is not liable or responsible for failures in the operation, maintenance, testing, replacement or removal of hydrants, except when arising out of the fault or neglect of the PHWD. Hydrants include the connections, valves, pipes, and fittings appurtenant to the hydrants.

The Fire District is not only permitted to continue to contract with the PHWD for repair and improvements necessary for firefighting infrastructure, but also the Fire District is obligated under these Agreements.

²² Agreement dated October 29, 1956 between Purissima Hills Water District and County of Santa Clara on Behalf of Los Altos Fire Protection District.

²³ *Id.* at paragraph 2 and 3.

²⁴ *Id.* at paragraph 1.

²⁵ *Id.* at paragraph 5.

²⁶ Agreement dated August 12, 1980, between Purissima Hills Water District and County of Santa Clara on Behalf of Los Altos Fire Protection District.

²⁷ *Id.* at WITNESSETH: 4.

²⁸ *Id.* at paragraph 4.

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c. Fire District Contributions to Projects Furthering the Purpose of the Fire District are Not Gifts of Public Funds

The California Constitution prohibits gifts, or authorizations of gifts of any public money or thing of value to any individual, municipal or other corporation.²⁹ Contributions are legal if they serve the public purpose of the donor agency, even when there is a benefit to the local purpose of the agency receiving the funds.³⁰ Therefore, when one agency donates to another, if it is for both the purpose of the donating agency AND the general interest of the people within that entity, it is legal.³¹ All projects and funds received by the PHWD and Cal Water from the Fire District contributed to projects in support the Fire District's purpose, fire protection and prevention. The repairs and improvements to infrastructure that brings water to hydrants is not only beneficial to the Fire District's purpose, but is necessary to support the Fire District's purpose, and ensure protection of its residents.

d. Loan Agreements Between the Fire District and PHWD are Legal Business Decisions.

Interagency loan agreements are both legal and common provided that the loans meet the public purpose exception for gifts of public funds (i.e. that those loans serve the public purpose of the District).

In 2010, the Fire District and PHWD entered into an agreement by which the Fire District agreed to provide the PHWD with a \$2,000,000 loan to assist in financing the construction of the Zone 2.5 Phase II and III main projects. This project resulted in an increase in throughput and pressure to enhance fire protection and service to areas within the Fire District that previously saw low pressure and were seismically vulnerable. The agreement terms required PHWD to make competitive interest and principal payments semi-annually, maturing in 2015. The loan with competitive interest was fully repaid by PHWD to Fire District on November 17, 2014.

VI. Auditor's Recommendation 1.2

Suspend its delegation of authority to the Fire Commission to ensure that Fire District does not enter into new agreements or arrangements to subsidize capital projects of other agencies while the Board exercises due diligence per Recommendation 1.1. The Fire Commission should serve in an advisory role.

VII. District's Response to Recommendation 1.2

Disagree.

²⁹ Cal. Const art XIV, § 6

³⁰ *Golden Gate Bridge etc. Dist. v. Luehring* (1970) 4 Cal.App.3d 204, 208.

³¹ *Id.* at 209.

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VIII. Executive Summary

Local control of the Fire District and its operations is important to the Fire District residents. Taking away the Fire District's local control will result in serious consequences because local control is necessary for the Fire District to ensure immediate and long-term fire protection is provided to the District and its residents. It is also coupled with a real fear that the LAH will leave the District, if the Board of Supervisors were to revoke the delegation of authority, as evidenced in the LAH City Council meeting minutes from September 17, 1980.

The Fire District collaborated with the PHWD to repair and improve infrastructure supporting water flow to the Fire District's hydrants to ensure protection to Fire District residents during times of fires, earthquakes and drought (high fire danger weather conditions). These collaborations are part of the District's overarching goal to ensure up to date emergency preparedness plans for District residents. Suspending the Fire District's delegation of authority to the Fire Commission revokes the local control from the Commissioners to make decisions supporting the Fire District's mission of fire prevention and suppression for residents of the Fire District. Lack of local control of the Fire District is a resounding concern raised by District residents throughout the Fire District's existence.

Local control of the District has allowed the Commissioners to focus on utilization of Fire District funds to ensure strong fire protections are in place for the Fire District and its residents, including, repair and improvement of the infrastructure containing and carrying water to the Fire District's hydrants. This use of funds represents forward thinking and planning in collaboration with the region water agencies. Suspending the delegation of authority to the Fire District, in particular, with the goal of ensuring the Fire District does not enter into new agreements to subsidize capital improvement projects for firefighting infrastructure is dangerous. Failure to repair and improve this infrastructure would perpetuate inadequate fire flow, inadequate stability of access to water, and severely limit the ability to fight fires within the Fire District in case catastrophe. This is a decision that would not only result in damage and danger to life and property within the Fire District, but would also leave the Fire District and County susceptible to serious financial legal liability for improper due diligence as a result of the failure to repair and improve this infrastructure to fight fires. This potential liability is exponentially increased based on the actual knowledge of the water systems deficiencies.

IX. Support for District's Response to Recommendation 1.2**a. Local Control of the Fire District is Important**

In 1980, the Santa Clara County Board of Supervisors adopted a resolution delegating all of its power to the Fire Commission to manage the affairs of the District except that the Commission shall not initiate litigation without prior approval from the Board of Supervisors. This delegation of authority came in response to a strong desire for local control from Fire District residents.

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In 2011 that concern over local control resurfaced in response to the 2010-2011 Santa Clara County Civil Grand Jury Report. In response to the Report, the District highlighted the importance of improving resources available to District residents and the importance of a more regional approach to the District's emergency services. In its review of its largest contract, the Commissioners ensured that it met the specialized and diverse needs of the District. Since the 2010-2011 Santa Clara County Grand Jury Report and District response to the report was issued, the District has maintained the authorities granted to it by the Board of Supervisors in 1980.

b. Increased Needs for Improvements and Repair of Water Infrastructure for Firefighting Purposes

The Fire District's work with PHWD on maintaining and improving water infrastructure is important. Water is a fundamental tool used to fight fires. In 2011 Santa Clara County LAFCO conducted the 2011 Countywide Water Service Review which stated the importance of the relationship between the Fire District and PHWD for the purpose of firefighting and fire suppression.³² These examples include:

- Completion of a main replacement and extension project that enhanced fire suppression flow by augmenting pressure and seismic safety.³³
- Major main replacements to increase throughput and pressure to enhance fire protection in low pressure and seismically vulnerable areas of the Fire District.³⁴
- Engagement in joint efforts between the Fire District and PHWD to upgrade water mains and fire hydrants that improve system reliability, fire flows and circulation.³⁵

As highlighted below, historically, catastrophes have impacted water infrastructure that result in lack of water pressure, and access to water during critical times to fight fires before spread, including fires post-major earthquake. During the Loma Prieta earthquake that struck California on October 17, 1989, the La Cresta water tank ruptured and released 1,000,000 gallons of water down the hillside into homes below releasing valuable water needed for firefighting. This event highlights the importance of the seismic upgrades and additional options for water access that have resulted from the collaboration between the PHWD and Fire District. The Auditors also highlighted this concern on page 32 of the Draft Audit estimating "the probability of an earthquake capable of causing widespread damage occurring in the Bay Area in the next 24 years is 72 percent." The Audit also discusses concerns identified by the USGS that "fallen power lines and ruptured gas mains from earthquakes can result in fires, which can be difficult to extinguish due to other earthquake damage such as broken water lines...."

³² 2011 Countywide Water Service Review, LAFCO County, Section 5. Purissima Hills Water District.

³³ *Id.* at p. 148.

³⁴ *Id.* at page 156.

³⁵ *Id.* at page 158 and 161.

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c. Real Life Impacts of Failures to Repair and Improve Infrastructure

Part of the District's mission is to protect property and lives in the District. Wildfire is becoming more and more prevalent throughout the State and in Northern California. The District is not immune from wildfire. Preparation and good fortune have allowed the District to prevent, extinguish, and avoid any major wildfires since the 1985 Liddicoat Fire. This proactive preparation must continue in order to protect the residents of the District and County. In addition, to the loss of property and potentially lives, if water cannot be delivered to the firefighters due to loss of power or hydrant failure, there is significant legal liability for the failure to be prepared. Throughout California, public agencies and utilities have been sued and found liable for the damages from fire, even though they did not cause the fire. Rather they were found liable for the failure to properly be prepared for the fire.

In a lawsuit arising out of the 2008 Freeway Fire, a judge found liability in the amount of seventy million dollars (\$70,000,000) when the hydrants had no water after a pump station stopped functioning. In a 2017 class action lawsuit, it is alleged that some hydrants operated by the City of Ventura and the Casitas Municipal Water District didn't work properly because of power outages. That loss of power made it difficult for firefighters to save residents' homes. The allegations include that it was "just like somebody shut the valve off", and that the firefighters had to send their engines where there was pressure, and it was a 20-minute round trip. There are likely to be additional lawsuits arising out of last summer's fires. Courts and the public expect the District and others to be prepared.

The District has worked to prevent these types of issues by providing for emergency power, adding hydrants, and ensuring the proper functioning of hydrants. The cost of preparing relative to the cost of damage and liability supports the adage an ounce of prevention is worth a pound of cure. Although this adage is associated with health today, it originally was used by Benjamin Franklin when addressing fire safety and prevention.

SECTION 2: USE OF DISTRICT FUNDS FOR FIRE FUEL REDUCTION

Section 2: Use of District Funds for Fire Fuel Reduction

(Responding to Draft Audit: “Section 2. Use of District Funds for Private Tree Services”)

I. Background

The District program for removal of dead, dying and Eucalyptus trees was, from its inception, a program targeted to reduce hazardous fuel loading in the LAHCFD. As the tree removal program progressed, and experience from recent and numerous wildfires reinforced the principles of fire science, Federal, State and local fuel mitigation programs evolved. The District tree removal program adapted to meet these changes. District records document the tree removal program was not intended or used, as is alleged, for “discretionary pruning or other landscape maintenance work at the discretion of the property owner”.

a. Adaptation of District Programs and Alignment with 2015-2020 Strategic Plan and Community Wildfire Protection Plan

The tree removal program, no longer a stand-alone program, merged into a Hazardous Fuel Reduction Program and now is a component of the Integrated Hazardous Fuel Reduction Program (IHFR). The IHFR merges all fire fuel reduction programs into an integrated structure guided by the District 2015-2020 Strategic Plan, Los Altos Hills County Fire District CWPP (Community Wildfire Protection Plan) Annex 4 and Addendum and funded by the adopted District budget allocations.

When programs are adopted, residents are notified of advancements of tree removal qualifications by Advisories that were published and reviewed by the Board of Commissioners in public meetings, posted on the District website, and distributed to residents for education and responses to their questions.

b. County Weed Abatement Program

District Hazardous Fuel Reduction Programs are distinctly different from the weed abatement inspections conducted in conjunction with the Santa Clara County Fire Department and Santa Clara County Weed Abatement program under public nuisance codes. Unless resolved by the property owner, weed and grass vegetation determined to be a public nuisance are the property owner’s obligation to pay for services to abate that vegetation.

County inspections are regulatory, enforced by penalties and conducted by authorized personnel through drive-by visual inspections of weeds, grasses and hazardous conditions on property. In contrast, District programs are offered to residents to assist them in reducing fuel loading that they identify on their property. These programs are voluntary and intended to motivate and educate residents and neighborhoods about fire safety and hazardous fuel reduction methods in order to establish resiliency of properties and the safety of neighborhoods. Enforcement of weed abatement is merely one prong of fire safety solutions. The District’s Hazardous Fuel Reduction Programs addresses many other prongs for fuel load reduction and is a suite of fire safety methodologies for fire protection and prevention measures.

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c. District's Historic Tree Removal and Brush Chipping Initiatives

The District's tree removal program commenced April 15, 2008, influenced by the devastation of the Los Altos Hills Liddicoat Lane fire, the Summit fire, local structure fires and the Oakland Hills Fire that resulted in \$1.5 billion in economic losses and loss of lives. District April 15, 2008 records specifically state the tree removal program was to *"reduce the fuel load from canopy fires and to correct the potential safety hazard"*. Trees identified for removal were each rated by criteria that included *"close proximity to structures"*. The implementation of this tree removal program was to create defensible space around structures by removal of dead trees as a fire mitigation solution. In the spirit of local government, a resident survey was conducted that confirmed interest in establishment of the program. The program was designed to inspect and qualify certain high-fire ignition trees for removal on residents' property to create defensible space, to educate residents in fuel reduction benefits and encourage residents to maintain their property's vegetation for fire safety.

The District Brushing Chipping and Debris Removal Program commenced in 1997, again influenced by the Liddicoat Lane, Oakland Hills and surrounding fires and in recognition of the dangers of brush-filled hillsides and canyons of the Los Altos Hills terrain. Brush chipping and debris removal services encouraged residents to privately prune and remove trees, remove brush and stack brush piles along the roadside for removal. Service is provided monthly within a designated service area. The area designated for chipping services are to maximize output of chipping volume by crews and provide efficient equipment routes.

The LAHCFD Board of Commissioners has the authority under the Health and Safety Code to formulate and conduct such fuel reduction programs because the initiatives relate to the protection of lives and property and are therefore within the District's power.

II. Auditor's Recommendation 2.1

End the discretionary tree services program and re-direct the funds to services expressly designed to improve the ability of properties in the Fire District to survive wildfire. While such efforts could include tree pruning and removal to reduce the amount of flammable material, public funding of such services should result in demonstrably reduced overall fire risk within the District.

III. District Response to Recommendation 2.1

Partially Agree

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IV. Executive Summary

Disagreement with Recommendation 2.1 is because the District tree service program is not a discretionary tree service program and District funds under IHFR Program are designed to improve the abilities of properties in the District to survive fires and wildfires. The sections below describe each program and the studies that went into designing each program to ensure program deliverables would improve the ability of properties to survive fire events. Tree removal is not weed abatement and is not a stand-alone program as depicted in Draft Audit Section 2. Hazardous tree removal is a component of the District Integrated Hazardous Fuel Reduction Program founded on fire science principles enunciated in the District Strategic Plan and the LAHCFD-CWPP Annex 4 and Addendum. Budget expenditures for the District Integrated Hazardous Fuel Reduction Program are for delivery of program services directly related to the protection of lives and property under the Health and Safety Codes. The District Board of Commissioners oversees these initiatives and is responsive and responsible as a local control agency to the residents in fulfilling this part of the LAHCFD's mission.

The District disagrees with assertions that the District purchased discretionary services that may not reduce the overall likelihood of properties within the District succumbing to wildfire.

Merits of Local Control for Governance of the Integrated Hazard Fuel Reduction Program

These robust programs, services and budget allocations from local tax revenues to support the IHFR are evidence of the many fronts that must be addressed to prepare and protect the community from the serious threats of disaster that at any moment can engulf the LAHCFD jurisdiction. Local governmental connectivity is readily available to provide dialogue, education and outreach to residents, develop programs with input from residents via meetings and surveys and have the human and empathic touch that cannot be achieved from afar. Threats to fire safety and community preservation are not only internal in the jurisdiction but also external, such as from the adjoining open space district with vast portions of wildlands and from surrounding agencies. Local government representatives must be in-tune and understand local conditions to assess and prepare for both internal and external events.

The LAHCFD voters took the local control issue to the polls in 1939 to form a Fire District and again in 1980 to support a tax for the benefit of the Fire District. The result of the voters will, demonstrates the enduring fundamental belief in the value of local control and the willingness of the voter to subject themselves to governance and increased taxes. Whether or not the taxes are \$100.00 or significantly higher is irrelevant. What matters is the voters' affirmative statement. Stated in Draft Audit Section 2 is the assertion that local control delegation should be reclaimed because there were no tax dollars levied and so the basis for the delegation is not relevant today. This assertion is evidence of the misalignment that occurs when local control is not understood or valued. Unfortunately for the residents and the good of the surrounding

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communities, these misalignments can be disastrous when applied to recommendation of community safety.

The look-back period after a disastrous event is not the time to ponder such mistakes. LAHCFD Commissioners, staff and representatives have been forward-looking to establish a suite of fire and disaster prevention and protection programs, assess, educate and dialogue with the community, work with neighboring agencies and stakeholders and utilize its local tax revenues for the benefit of the persons who pay the taxes, the local residents.

An example of local control success is the Los Altos Hill CERT (Community Emergency Response Team) volunteers. The CERT Program collaborates with the Los Altos Hills (LAH) Town, LAHCFD, cadre of CERT volunteers and coordinates and trains with local and regional CERT organizations. The LAH CERT volunteers are another key element of the District's suite of fire protection and response.

The governance of fire-safety programs has the best success at the local government level of interaction with its populace. It takes each resident and neighborhood acting together to establish resiliency and survival skills and embrace preventative and protective solutions. A recommendation to banish local control, reclaim delegation of authority that the voters settled at the ballot box, dissolve and consolidate fire districts with few common features, redistribute tax revenues to unknown coffers will result in a responsibility and toll no one will wish to accept.

V. Support for District's Response to Recommendation 2.1

a. District's Non-Discretionary Dead or Dying and Eucalyptus Tree Removal Program for Fire Fuel Reduction

The details below further establish the merits of the District's use of funds for the IHFR Program that include components of tree removal and a Brush Chipping and Debris Removal Program specifically related to reducing declared fire hazards and demonstrably reducing overall fire risk within the District and surrounding communities.

i. Dead or Dying and Eucalyptus Tree Removal Program Details

On April 15, 2008, the Board of Commissioners decided, "first a survey would be done to see what interest there was in such a program. After seeing what feedback is returned from the residents, the program could develop from there. A motion was made by ... to mail a survey/questionnaire to District residents to see what interest there would be in a dead, dying or safety hazard pine tree removal program. Motion was seconded and all Commissioners in favor." ³⁶

The Santa Clara County Fire Chief was present at each meeting along with Los Altos Hills Public Safety Officer, District Fire Consultant and District Clerk. Reports of Local fires, the Summit fire, Bonnie Doon fire and dry hot weather conditions were reported.

³⁶ LAHCFD Board of Commissioner minutes April 15, 2008

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Subsequent meetings occurred with reports. An arboriculturist's Analysis Proposal was submitted July 2008. In the Analysis, 246 trees were identified for removal, inspected, photographed and rated based on criteria:

Our review of each property was completed within the following parameters:

• Determine which properties contained dead, very poor, or poor condition conifers • Provide a priority rating of 1, 2, or 3 based on condition and location • Determine species, location, diameter, height and spread of trees evaluated • Provide observations and comments to specific tree conditions • Provide costs for removal of dead and severely declining trees

In Determining Priority Rating the following factors were used:

Priority 1: Dead or very poor condition conifers in close proximity to structures.

Typically, these trees are within 30-feet or considered to be a fuel ladder to structures.

Priority 2: Dead or very poor condition conifers within 100 feet of structures. These trees are considered fuel ladders between structures.

Priority 3: Poor and very poor condition conifers posing less risk to structures than priority 1 or 2.

The initial dead tree removal criteria continued to be used as a method of assessing trees requested for removal by residents. The Dead or Dying and Eucalyptus Tree Removal Program was always based on criteria that assess each tree's fire hazard and trees were removed in a systematic operation to protect residents, neighborhoods and property from fire and wildland fire events.

ii. Arborist Retained to Qualify Trees for Removal

Residents were protective of their trees and the natural environments established on their property. The Board of Commissioners offered this District program for qualified hazardous trees to encourage residents to remove hazardous trees and to initiate an education outreach program. An arborist was contracted to evaluate each tree submitted for removal and the program began as a method to reduce the hazards of such qualified dead or dying and Eucalyptus trees. Eucalyptus trees were identified for hazardous fuel removal because of the highly explosive and flammable composition of the wood and sap. This was again an influence on the Commissioners of the lesson-learned from the Oakland Hills and the Los Altos Hills Liddicoat Lane fire where Eucalyptus trees exploded, and firefighting conditions were more severe and catastrophic.

In addition to the arborist, a tree removal contractor was retained who was an arboriculturist and had background, skills and training in identification of and hazardous tree risk assessment procedures. The program was not a random remove-any-tree program. Trees needed to qualify for removal after inspection by the arborist, a District Fire Consultant and the tree removal contractor. The tree removal program grew in acceptance by the community and became an important component for residents' understanding of the need to remove hazardous fuels and not replant removed trees with high fire danger trees.

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b. District's Brush Chipping and Debris Removal for Fire Fuel Reduction

Prior to the Tree Removal Program, the Board of Commissioners embarked on a brush removal program also influenced by the Oakland Hills Fire Disaster and by the changing climate conditions. Brush was plentiful on residential properties, neighborhood canyons and along roadways that also served as escape, evacuation and ingress and egress for emergency vehicles.

The brushing chipping program commenced in 1997. The District was divided into six quadrant areas with service to one of the areas every other month. The program was designed to motivate residents' action to clean up parcels and stack brush that qualified for removal, by the roadway for brush chipping and debris removal service. The program expanded to a monthly rotation due to its success and acceptance by the community. Thus, each area quadrant receives brush chipping and debris removal services twice a year. This organization of chipping by area assured that crews work with maximum efficiency. The tree removal program also followed the six-area quadrant organization to maximize efficient operations of crews and equipment. The District also coordinates on-call brush chipping services within another designated area schedule to ensure hazardous brush assembled for chipping is quickly chipped and removed for fire safety.

Both the Brush Chipping/Debris Removal and the Dead or Dying and Eucalyptus Tree Removal Programs were designed to reduce hazardous fuels from the environment, educate residents in the benefits of fire fuel reduction and fit squarely within the LAHCFD Strategic Plan and mission of fire protection and prevention for the community.

c. District's 2015-2020 Strategic Plan Goal

During the District's Strategic Plan development facilitated by the Center for Public Safety Excellence, an international Fire Accreditation Organization, the LAHCFD Board of Commissioners, the LAH community and stakeholders acknowledged the value of tree removal and brush chipping services as a method of fire fuel reduction. One of the five Strategic Goals established was to "*develop a plan to identify hazards and risks in order to reduce, eliminate, and mitigate them*". Hazardous tree removal and brush chipping is fundamental to the Strategic Plan Risk Mitigation Goal. Budget expenditures are allocated each year to continue these services and to achieve the Strategic Plan Goals and mission of the District.

d. Inspections and Qualifications for Tree Removal Pursuant to the Hazardous Fuel Reduction Program

The dead tree removal program was adjusted over the years to impose a limit to the costs and number of trees that could be removed per resident's property. The arborist continued to inspect each tree for tree removal. If there were doubts about the tree qualifications, District staff inspected the tree under guidelines from the District adopted LAHCFD-CWPP Annex 4 and fire science principles and then either approved or denied removal of the tree. The District staff member is uniquely qualified to make these determinations and educate residents about the standards and reasons for the District tree removal program. This methodology creates multiple learning opportunities for the

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residents to understand the program and consider private action to remove a tree that does not qualify under the District program. As an example, oak trees are no longer qualified under the Program. The District published Advisories to inform residents about the criteria and rationale applied for removal of trees.

The District created online registration capabilities for residents to request program services. This feature supports collection and sorting of data to analyze and evaluate program efficiencies, usage rates and locations, allocations of the budget and promotes systems for continuous improvement of program design.

e. Hazardous Fuel Reduction Programs Aligned to Fire District's CWPP Annex 4

To promote and educate residents, the District developed and published The Tree Removal Program Advisories and FAQs. Below are sections from the Advisory guidelines:

Property owners are responsible for the care, safety and removal of trees on their property. The District's current Tree Removal Program is designed as a measure to augment fire prevention. It is not a guarantee for individual property owner's dead tree removal. The Program does not replace property owners' obligations for maintenance, safety and removal of dead or dying trees on their property

The Advisory FAQ clarifies:

Q - What are the resources and programs for residents to prepare their property and protect from wildfires?

A- Residents are receiving frequent information about preparedness for wildfire and fire hazards from the media and various sources on the importance of using techniques of property hygiene on their property to reduce threat and damages from wildfires. Residents recognize with the recent house fires in Los Altos Hills that embers drift and with certain wind conditions can ignite other homes, trees and brush to create the spread of fire. The District recommends residents learn about how to manage their property hygiene and create defensible space around their residence as a method of protection to their property and life and to the property and life of neighbors.

Residents are encouraged to contact an arborist or tree company for an evaluation of their trees and an estimate for removal. The District is not accepting requests for tree removal service at this time.

Q - What are LAHCFD-CWPP Guidelines?

A - Dead or dying and Eucalyptus tree removal by the District's Tree Removal Program and allocation of funds will be closely aligned with the LAHCFD- CWPP guidelines. The guidelines look at many factors for fuel reduction that includes removal of dead and dying trees, Eucalyptus and brush in a manner that supports

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wildfire mitigation, protection and prevention. Removal of a specific dead, dying or Eucalyptus trees on private property may or may not be in accordance with these guidelines. The objective of the Fuel Reduction Program is to utilize fire science to assess and determine removal of fuel sources (trees, brush, vegetation) in a manner that impedes the path and intensity of fires based on geography and topology of the surroundings. Not all dead, dying or Eucalyptus trees fit these guidelines. Not all such trees can be removed by the limited funds and resources allocated by the Fire District. That said, trees eligible for removal by the District will depend on the location, surroundings and assessment of fire science guidelines to evaluate removal of the tree by the Fire District.

f. District's Program Advancements Result in an Integrated Hazardous Fuel Reduction Program

The District developed the IHFR Program. The IHFR is based on the LAHCFD-CWPP Annex 4 guidelines and Fire Science Principles. IHFR includes a suite of programs for residential properties and neighborhood areas that include components of Home Ignition Zones, Dead/Dying and Eucalyptus Tree, Trimming and Brush Removal, Community Outreach and Education, Shaded Fuel Breaks and other components enumerated below.

i. *2019 Home Ignition Zone (HIZ) Services*

The District is delivering services for HIZ surveys at residents' properties. The HIZ Survey, conducted with the resident and a trained District representative, provides an assessment of the property's hazardous fuel fire risks. The survey assesses trees, brush and plantings and merits of structures such as venting, windows, roofing and siding materials, decks and fences. Included in the survey are proposed steps to mitigate these risks in an effort to reduce damage and destruction to homes, buildings, property during fires, provide defensible space for firefighters to combat a fire, and reduce the spread of fires to neighboring properties.

Residents are also informed about plants that are fire-resistant such as shrubs and less flammable hardwood trees that can be planted in appropriate locations. Staff is expert in this area and engaged with Los Altos Hills organizations and groups to provide presentations on fire-resistant plants. The District serves as a resource on this topic. Once residents are educated from the HIZ survey and remediation begins, residents are provided with solutions for replanting and repairing vegetation that was removed with fire-resistant alternatives.

ii. *Integrated Hazardous Fuel Reduction Residential Program*

The IHFR Residential Program will introduce the resident to resources, provide workshops for fire fuel reduction and encourage resident to utilize the current no-cost brush chipping and debris removal services. These integrated fire fuel reduction programs are offered to encourage residents to take action after participation in the HIZ survey and receipt of the proposed steps to mitigate risks to their property and that of neighbors.

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By participating in the IHFR Residential Program, residents learn: 1) how to identify hazardous fuels; 2) about resources for removal of fuels to harden their property as a defense against destruction of homes, buildings and neighborhoods in event of wildfire; 3) how to create and maintain a defensible zone around structures on property, and 4) how to establish hazardous fuel mitigation as a neighborhood effort through principles of Firewise USA.

iii. Integrated Hazardous Fuel Reduction Neighborhood Program

Residents are encouraged to meet and work with their neighbors to identify hazardous fuel areas of brush and trees in their neighborhood. Request for neighborhood HIZ are provided on a limited basis to assist contiguous neighbors to reduce identified fuel sources. These efforts are important steps to protect resident's property within a neighborhood and establish Firewise USA programs that teach residents how to adapt to living with wildfire and encourages neighbors to work together and take action to mitigate losses. These programs and actions will result in more informed residents, safer neighborhoods and will enable residents to prepare their property to be more resilient in the event of fires and wildfires.

iv. Community Outreach and Education Program

Los Altos Hills is one of fourteen communities in Santa Clara County that has been identified as being at risk for wildfires by the California Fire Alliance. The District's territory is susceptible to wildfire due to an abundance of fuel load, the steep topography of the District's hillside areas, and the local climate conditions. To address this risk, in 2019, the District, in coordination with Santa Clara County FireSafe Council conducted education workshops, identified and administered processes and support for up to four Firewise communities with the goal of recognition approval by Firewise USA.

These programs significantly increase community awareness, readiness and resiliency in the event of a wildfire by protecting lives, property, and the environment. Programs and projects are focused on protecting communities at risk for wildfire through the reduction of built-up hazardous fire-prone vegetation and the creation of informed communities with respect to defensible space, general wildfire safety, and fire's effect and role in the environment. Through FireSafe Council, the District utilizes SNAP (Special Needs Assistance Program) qualifications for elderly or disabled residents to receive hazardous fuel reduction services.

v. Shaded Fuel Breaks

Construction of shaded fuel breaks along major District roadways is a method of removing hazardous brush, trees, and vegetation which widen roads for evacuation, provide ingress and egress of emergency vehicles and support ground and aerial firefighting efforts.

Shaded fuel breaks, as a fire safety measure, is a favored vegetation management practice utilized by various local government agencies such as City of Palo Alto and San Mateo County and the State of California and Cal Fire. Shaded fuel breaks are placed strategically along main access roads or in other locations such as around

SECTION 2: USE OF DISTRICT FUNDS FOR FIRE FUEL REDUCTION

residential areas. Shaded fuel breaks are constructed carefully and planned for thinning of dense tree cover and removal of underlying brush. The objective of a shaded fuel break is to reduce, modify, and manage fuels within designated areas in order to enhance mitigation efforts in the event of a wildland fire situation. Goals for creating shaded fuel breaks are to control fire behavior by reducing ladder fuels, opening tree canopies, treating ground fuels, and facilitating fire suppression by ground and air.

Currently in the pre-construction phase, the planned shaded fuel break along Page Mill Road begins within the LAHCFD jurisdiction boundary and connects to the newly constructed shaded fuel break construction by the City of Palo Alto. This connectivity with the Palo Alto shaded fuel break and construction into LAHCFD section of Page Mill Road will provide a major and continuous evacuation and escape route designed to allow ingress and egress of emergency vehicles and access to ground and aerial firefighting operations.

vi. Integrated Hazardous Fuel Reduction Program Services Robust Features

1. Resident education on how to harden property by identifying and removing hazardous fuels thereby making property more defensible in the event of wildfire and increasing fire safety for the neighborhood;
2. How residents can create and maintain a defensible space around their home and structures on their property;
3. How residents can maintain property hygiene once hazardous fuels are reduced or eliminated;
4. Resource for wildland fire mitigation; how to utilize District programs and resources such as:
 - a. HIZ survey of resident's property and in neighborhoods;
 - b. Brush Chipping and Debris Removal Program;
 - c. Monthly Yard-waste drop-off services;
 - d. Emergency preparedness workshops and training for residents offered by District in conjunction with FireSafe Council and Santa Clara County Fire Department;
 - e. Neighborhood Networks to promote evacuation planning and neighborhood resiliency;
 - f. Establishment of FireWise Communities in neighborhoods;
 - g. Evacuation, escape route planning and preparedness; and
 - h. Building resilient residents and resilient neighborhoods who know how to respond to emergencies or disaster events.

SECTION 2: USE OF DISTRICT FUNDS FOR FIRE FUEL REDUCTION

vii. Additional Components of the District's Hazardous Fuel Reduction Program

Annual use of goat grazing at the Byrne Preserve. Over four-hundred goats, along with herders and dogs arrive for approximately ten days in April or May. Use of goat grazing is a key method of vegetation management that reduces fire fuels in difficult terrains of canyons and hillsides.

Monthly Yard-waste Drop-Off. Foothill College is another District program to reduce yard debris, such as drop-off and removal of brush and yard trimmings that do not qualify for the Brush Chipping Program debris removal.

Administration of Weed Abatement Regulations and Processes. Authorized at hearing held by the District Board of Commissioners.

Data Collection/Integration and Mapping for Analysis of Fire Fuel Reduction Program. The District is developing strategies and acquiring tools for mapping of completed brush chipping, HIZs, shaded fuel breaks and goat grazing vegetation mitigation routes to compile and integrate layers of data that will be analyzed and will guide planning for areas where services are needed. In combination with residents' requests, the District is developing methodologies to reach out, or push information and services to residents in areas that would benefit from the IHFR suite of programs. These tools will allow more efficient program design, target areas for community outreach and education about District fire safety resources, and tailor the IHFR Program to achieve goals identified in the upcoming 2020-2025 Strategic Plan.

SECTION 3: DISTRICT'S BROWN ACT COMPLIANCE

Section 3: District's Brown Act Compliance

(Responding to Draft Audit: "Section 3. District's Brown Act Compliance")

I. Background**a. Outside Counsel for Fire District Retained at Request of County Counsel**

As explained in the Draft Audit, "[e]xcept for the authority to initiate litigation, the Board of Supervisors delegated all of its authority, including over legal matters, to the Fire Commission in 1980." At the District's meeting on April 16, 1992, a Commissioner relayed to the Commission that "he spoke with County Counsel and their office was too busy to handle the District. They gave [Commissioner] two names of attorney firms to consult with.³⁷" About a month later, that Commissioner, on behalf of the District, executed an Agreement to retain the services of an attorney to serve as the District's legal counsel. The initial engagement letter from the attorney, dated May 1, 1992, and signed by Commissioner on May 18, 1992, states in part that the legal services will be covered by the terms of the contract with the County of Santa Clara. At the time of the District's engagement with the attorney, that attorney was the partner of a law firm located in San Jose. In 1996, that attorney joined the current law firm that represents the District. After that attorney retired in 2012, the current attorney for the District, a partner at the same firm, was hired as legal counsel for the Fire District.

b. Scope of District Counsel's Role

The District's legal counsel is an independent contractor paid on an hourly basis. The scope of work includes:

1. Preparation for and attendance at public meetings, including review of agendas and preparation of resolutions, and advice on legal questions raised prior to and during the meetings;
2. Contract review, negotiation, and drafting;
3. Provision of legal advice regarding the District's day to day activities, including legal advice about District engagement in certain work, and preparation of policies on behalf of the District;
4. Responding to Public Records Act requests, which, by law must be responded to within ten days;
5. Advice on claims made against the District, preparation of claims for reimbursement and insurance proceeds; and
6. Timely response to questions of the Commissioners and staff, including advice related to compliance with the Ralph M. Brown Act. The District's legal counsel is also the District's interface with the County Counsel's office and counsel for other public agencies.

³⁷ Los Altos County Fire Protection District, Minutes of April 16, 1992

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c. The Ralph M. Brown Act

The stated intent of the Brown Act is to ensure that public agencies deliberate and conduct their business in open public meetings that are open and accessible to the public. Government Code §§54950-54963 set forth the specific requirements of the Brown Act which generally require that all meetings of a legislative body of a local agency be open and public, and all persons must be permitted to attend any meeting of the legislative body of a local agency except as otherwise provided in the Act.³⁸

II. Auditor's Recommendation 3.1

Direct the Fire Commission to use County Counsel as its legal representative, consistent with Ordinance Code A22-16, to help prevent future Brown Act violations. If this recommendation is implemented and potential Brown Act violations continue, County Counsel should report these violations to the Board of Supervisors promptly.

III. District Response to Recommendation 3.1

Disagree.

IV. Executive Summary

The District believes that it is in the best interest of the District to retain its own legal counsel, and strongly believes it is in substantial compliance with the Brown Act. The District relies on outside legal counsel to provide timely advice to the District on a regular basis regarding its day to day operations, including drafting contracts, responding to Public Records Act requests, and preparation of Resolutions and Agendas. The District relies on its legal counsel to ensure the day-to-day operations of the District are in compliance with the law, and for reviewing and preparing contracts on behalf of the District that both protect the District from unnecessary liability, while allowing important District operations to move forward. The District is concerned that County Counsel does not have the bandwidth to provide those needed services to the District based on past correspondence with County Counsel with regard to various District issues. The District is also under the impression that County Counsel does not have an interest in representing the District because County Counsel has declined to provide advice in the past stating that it does not represent the Fire District. It is possible that County Counsel's hesitation stems from a concern that a conflict of interest exists in representing both the County and the District. If the District is not able to receive timely legal advice, and legal services to prepare contracts, District operations will be delayed creating a serious risk to the District's ability to ensure fire protection services are in place and subjecting to the District to significant legal liability.

The District's need to comply with Ralph M. Brown Act (Brown Act) is not debated or doubted. The District strives to go above and beyond to comply with the complex requirements set forth in the Brown Act and it has at the very least substantially

³⁸ Government Code § 54953

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complied those requirements. A public agency will prevail on a Brown Act allegation if the agency provides that it substantially complied with the Brown Act. As explained in the Draft Audit, the District could not be subject to a lawsuit for the allegations in the Draft Audit because well over a year has passed since the window of opportunity to initiate legal action on even the most recent allegation, closed. Regardless, the law supports the position that the District would also succeed on the merits of any such lawsuit.

V. Support for District Response to Recommendation 3.1

a. District Reservations that County Counsel Does Not Have Capacity or Interest in Acting as District Counsel

The District has, at times, requested confirmation and/or support from County Counsel with regard to certain decisions made by the District. In response to each of those requests, the District either received extremely delayed responses, no response at all, or feedback that County Counsel does not represent the District. Examples of those interactions are described below.

i. Request for County Counsel Input on District's Procurement Policy and Procedures

At the District's meeting on February 16, 2016, the Commissioners approved "Procurement Policy and Procedures." At that meeting, the Commissioners expressed desire to connect with the County Executive Office to confirm its support of the Policy.³⁹ On February 23, 2016, District's legal counsel emailed County Counsel regarding the Fire District's procurement policy. The policy was sent to County Counsel along with a request that the County confirm that it did not have any concerns or to contact District legal counsel to discuss. At the District's March 22, 2016, meeting District's legal counsel confirmed that County has not responded to the request.⁴⁰ A follow-up email was sent to County Counsel on March 22, 2016, regarding the Fire District's inquiry. No response was ever received.

ii. Request for County Counsel Input on District's Procurement Practice Consideration for Single Sourcing

In 2017, the Commission considered revision to its Procurement Policy to allow for "Single Source Procurement" of certain agreements. On November 2, 2017, the District contacted County Counsel setting forth the District's support for its consideration to Single Source certain District contracts, and requesting that County Counsel confirm that such an amendment was consistent with the District's authority.⁴¹ The letter requested confirmation prior to the District's November 21, 2017, meeting to allow the District to discuss the response at that meeting. That same day, County Counsel confirmed receipt and followed up with additional questions to which District's legal counsel provided immediate response that same day. District's legal counsel sent an

³⁹ February 16, 2016 District Meeting Minutes.

⁴⁰ March 22, 2016 District Meeting Minutes.

⁴¹ November 2, 2017 Letter to County Counsel from District's Legal Counsel.

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email request for a status update on November 8, 2017, but did not receive a response. On November 29, 2017, District's legal counsel reached out for a status update, and that same day received the response "We're still looking at this question. I should have an answer next week." On December 15, 2017, District's legal counsel reached out to request an update, after having not received update after the November 29, 2017 correspondence. Seven weeks after the initial request was made, County Counsel produced a two-sentence response confirming that the District was delegated the authority and therefore decisions should go to the Commission.⁴²

iii. Request for County Counsel Input in Engagement of the District's First Employee

In the summer of 2017, District legal counsel contacted County Counsel regarding the County's input on any limitations, requirements, or policy considerations of the County with regard to the District's hiring. District legal counsel wrote, "The District's Board is interested in feedback from the County as the District is a dependent District of the Board of Supervisors. As you may recall, the District Board is granted all powers to manage the affairs of the District, with the only limitation being that the District Board may not initiate litigation without the prior approval of the Board of Supervisors. As such it is our belief that the Board may proceed to directly hire or contract via an independent contract. However, we want to ensure that your office concurs that such power resides within the District and furthermore that District is in alignment with County policies and procedures regarding creating and filling this position."

The first response was the County Counsel's office saying that it did not represent the Fire District and that the Fire District had its own counsel. Eventually, County Counsel acknowledged that the hiring decision resides with the Fire District and did not provide any response regarding the request that they confirm that the Fire District was in alignment with County policies and procedures. In fact, the Fire District did not hear anything from the County regarding the engagement of the General Manager until the budget process when the County CEO's office reached out to the Fire District as it was not aware of the authority of the Fire District to hire a general manager. The Fire District confirmed that it had discussions with County Counsel in the late summer and fall of 2017 and the position was authorized.

The District Board of Commissioners meets once a month at regularly scheduled meetings. Timely responses to requests for information and legal advice are critical to ensuring smooth operation of the District's day to day functions.

b. County Counsel's Potential Conflict of Interest in Representing District

County Counsel's hesitation in responding to requests from the District could stem from concerns of a potential conflict of interest in the representation. Conflicts of interest arise when an attorney's current or former clients have interests that are adverse to those of the represented local agency, here the District. Such conflicts of interest generally fall into two categories: (1) simultaneous representation of clients with adverse interests; and (2) successive representation of clients with adverse interests.

⁴² Email chain dated November 2, 2017 - December 17, 2017.

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The simultaneous representation of clients with adverse interests arises when the same lawyer, firm or office concurrently represents those clients in either the same or a different matter. County Counsel's simultaneous representation of the Board of Supervisors and County Fire creates a potential conflict of interest in its representation of the District. Examples of these potential conflicts include dual representation with regard to negotiation of the District's contract with County Fire and the dual representation in budget process matters, which are ultimately determined by the Board of Supervisors. Simultaneous representation as to the very same matter is prohibited per se because it violates the attorney's duty of loyalty and confidentiality.

i. District's Contract with Santa Clara County Fire Protection District

Since 1996, District has contracted with Santa Clara County Fire to provide firefighting services to the District. The District's legal counsel represented the District in these negotiations and County Counsel represented Santa Clara County Fire. Prior to deciding to contract with Santa Clara County Fire, the District solicited responses from other local fire agencies. The original contract expired after twenty years. During those twenty years, District's legal counsel represented the District regarding amendments, negotiations and discussion over the proper amount of compensation. In 2016, the most recent contract was negotiated by District's legal counsel and County Counsel.⁴³ In 2019, the District, represented by District's legal counsel, and Santa Clara County Fire, represented by County Counsel, negotiated amendment to the Third Memorandum of Agreement between Santa Clara County Fire and the District. If County Counsel is retained as legal counsel for the District, the concern is that County Counsel may not be able to represent the District in these negotiations with Santa Clara County Fire and/or other fire service providers. With its independent counsel, there is no restriction on the ability of the District to entertain these negotiations and no overarching reservations of conflicts arising due to the dual representation.⁴⁴ The Commissioners rely on District counsel to act as a strong advocate for the District and its constituents.

ii. District's Budget Approval by County Board of Supervisors

The District begins preparation of its annual budget eight to nine months before the start of the new fiscal year (the fiscal year begins July 1 of the year to June 30 of the following year). The District's legal counsel works with the Commission's subcommittee and with the District's General Manager and Financial Consultant to discuss and analyze historical expenditures and planned District endeavors to develop a list of estimated expenditures. The Budget Subcommittee and OBA estimates are then compiled into a Draft Budget spreadsheet and agendized to be presented to the District Board of Commissioners for discussion, revisions, and approval at their January Regular Commission Meeting. Based on that public meeting a revised Draft Budget is then discussed, reviewed, and approved by the District Commissioners at their February meeting. The County's Executive Office proposes an Annual Recommended

⁴³ During all the negotiations the City of Los Altos Hills was represented by their City Attorney, so each party to the contract had their own independent counsel.

⁴⁴ The need for the District's independent counsel is also highlighted by this audit, which commenced in September 2018 and which the District has relied on its legal counsel to provide advice on the process and response throughout the last two years.

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Budget based on projected expenditures and revenues, and outlines the County Executive's recommendations for funding levels for each department. The County of Santa Clara Board of Supervisors, through its committees and public sessions reviews the County Executive's recommendations, making revisions as they see fit. The District's legal counsel works in conjunction with staff and the District's financial auditors to ensure GASB compliance and to answer questions about budget allocations and how to address concerns voiced by the County and/or Board of Supervisors. The Commissioners rely on their independent legal counsel for advice regarding how to ensure the District receives the revenue to which it is entitled, how to address questions regarding its expenditures, and other legal issues as they arise. The Commissioners are concerned that without independent counsel established for the reasons stated above, the District will not have representation that is timely or with fiduciary interest of the District in matters of District operations and the proper flow of tax revenues and budget allocations for its programs and administration.

c. District's Substantial Compliance with Ralph M. Brown Act

The consequences for violating the Brown Act is that actions taken in such violation are null and void, however, if the local body substantially complies with the requirements, the actions will not be declared as such. In determining whether an agency has substantially complied with statutory requirements, the paramount consideration is the objective of the statute. Further, in any action seeking a determination of violation by the agency, if the Court determines that the violation has been cured or corrected by subsequent action of the legislative body, the action filed must be dismissed with prejudice.⁴⁵

i. *Commissioners Created the General Manager Position at the District's Publicly Noticed September 11, 2018 Meeting*

Part of the District's 2015-2020 Strategic Plan includes Goal 2: Establish an effective District administration, and at the District's June 20, 2017, meeting, the Commissioners discussed the potential need for an effective district general manager.⁴⁶ At the July 25, 2017, meeting, the Commissioners discussed the important questions that would need to be answered about the potential of the District hiring a General Manager, including the hours per week, costs, role, and duties and formed an Ad Hoc subcommittee to further study these issues for the potential new hire. Over the course of the next year, the District met regularly and discussed the position of the General Manager at public meetings. At the District's Regular Meeting and publicly noticed meeting on September 11, 2018, the Commissioners "determined that to best suit the needs to the District it should create the new position of general manager."⁴⁷ The Commissioners also read and considered the agreement setting forth terms and conditions for employment of General Manager, including the General Manager's salary, and resolved that "[p]ublic interest and convenience require the District to enter into the Agreement" and thereby approved the Agreement authorizing the District President to sign. A copy of the

⁴⁵ Government Code § 54960.1

⁴⁶ June 20, 2017 Meeting Minutes and corresponding Report.

⁴⁷ Resolution of the Board of Commissioners of the Los Altos Hills County Fire District Authorizing Execution of General Manager Employment Agreement between the Los Altos Hills County Fire District and [REDACTED]

SECTION 3: DISTRICT'S BROWN ACT COMPLIANCE

proposed agreement was posted on the District's website, and posted at all of the public locations in which the Agenda was posted 72-hours prior to the meeting. All evidence and the District actions clearly support the District's position that the General Manager position was created by the Commission, not an ad hoc advisory committee, at the District's September 11, 2018, Regular Meeting.

ii. No Action Taken Regarding Compensation for Position of General Manager at the Special Meeting on March 20, 2018

The Brown Act prohibits a legislative body from making executive salary decisions at a special meeting. On March 20, 2018, a Special Meeting was Held in Closed Session for a conference with labor negotiators regarding compensation for the position of General Manager. No reportable action was taken in closed session or during the Special Meeting. Direction was given to the General Manager Subcommittee to proceed with contract negotiations.⁴⁸

iii. The Closed Session Agendas from March 20, 2018 and May 15, 2018 Substantially Complied with Brown Act Requirements

Government Code § 54957.6 permits a local agency to "hold closed sessions with the local agency's designated representatives regarding the salaries, salary schedules, or compensation paid in the form of fringe benefits of its represented and unrepresented employees...prior to the closed session, the legislative body of the local agency shall hold an open and public session which identifies its designated representatives."⁴⁹ The Draft Audit states that "[g]iven the attendees listed and the inferred prior work of the General Manager subcommittee, the Subcommittee presumably served as the labor negotiators..." At the same time, the Draft Audit alleges that there was a violation of Government Code § 54957.6(a), for a failure to "explicitly identify labor negotiators prior to closed session."⁵⁰

Both Closed sessions were at the very least, in substantial compliance with the requirement of Government Code § 54957.6. Substantial compliance is satisfied with respect to description of closed session items if the information is included, irrespective of format.⁵¹ Thus, actions which may be in technical violation, are not null and void if "reasonably effective efforts to notify interested persons of a public meeting serve the statutory objectives of ensuring that the [sic] actions taken and deliberations made at such meetings are open to the public."⁵² Both the May 15, 2018, and March 20, 2018, Closed Session Agendas clearly list "Attendees: District Commissioners, LAHCFD District Attorney" and the meeting minutes reflect the same. District's meeting minutes are not taken verbatim so the exact words which were said prior to the Commissioners meeting in closed session are not included, however, there was no public question or complaint with regard to this item at the time or thereafter, except as alleged in this Draft Audit.

⁴⁸ March 20, 2018, Special Meeting Minutes

⁴⁹ Government Code § 54957.6(a)

⁵⁰ Audit Report, page 39.

⁵¹ *Castaic Lake Water Agency v. Newhall County Water Dist.* (2015) 238 Cal.App.4th 1196, 1205.

⁵² *Id.*

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d. Alleged Potential Violation of Brown Act Related to the Town of Los Altos Hills Averted with Immediate Action by the Fire District

Effective January 5, 1981, the Board of Supervisors increased the membership of District Commissioners from five (5) members to seven (7) members, and delegated all of its powers to the commission to manage the affairs of the District, provided, that the Commission shall not initiate litigation without prior approval of the Board of Supervisors. This delegation of authority was in response to a strong desire by the Town of Los Altos Hills and its City Council for local control. The authorization allows for Commissioners to “be council members of cities within the District” and provides that “in the event a council member is appointed commissioner and thereafter cease to be a council member, the office of commissioner shall thereby automatically become vacant.”⁵³

The composition of the District's Commission includes two City Council members for the Town of Los Altos Hills who are appointed by the Board of Supervisors. In September 2018, the District Commissioners acting also in their capacity as the District's two City Council members were Commissioner A, and Commissioner B. On November 6, 2018, Commissioner C was elected to the City Council for the Town of Los Altos Hills. At this point, the District spent time to consider thoughtful, but immediate action to assuage any potential Brown Act violation. A timeline of events initiated by the District and that transpired is set forth below.

- a. *Cancellation of the Commissions December 2018 Meeting:* In an abundance of caution, the District canceled its regularly scheduled meeting in December 2018. The cancellation of the December 2018 meeting allowed the District to have more time to consider its options to assuage concerns for any potential Brown Act violation.
- b. *Commissioner B's Absence at January 2019 Meeting:* Commissioner B had previously scheduled out of country travel for January 2019, and had intended to not be present for the January 2019 meeting as a result. In discussion with County Counsel, it was confirmed that Commissioner B's absence at the January 2019 meeting meant the District may hold its January 2019 meeting without concerns of potential Brown Act violations. This also allotted the District more time to consider and weigh the best options to move forward.
- c. *Resignation by Commissioner B:* On February 1, 2019, Commissioner B submitted their resignation as Commissioner of the District.

With Commissioner B's resignation, any potential concerns of Brown Act violations because three City Council members were also acting as Commissioners for the Fire District, were eliminated. The Board of Supervisors of the County of Santa Clara appointed Commissioner D on May 7, 2019, to replace former Commissioner B. It is important to note that any potential violation of the Brown Act regarding members of the City Council attending Fire District meetings, was not created by the Fire District, as the Fire District has no control over who is appointed to the Commission. Rather the Fire

⁵³ Santa Clara County, Board of Supervisor Resolution dated December 16, 1980.

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District on its own, took the necessary steps to avoid the appearance of, let alone any violation of the Brown Act due to the potential attendance of three City Council members at a publicly noticed Fire District meeting.

SECTION 4: DISTRICT'S ALIGNMENT FOR FIRE PREVENTION PROGRAMS
AND BUDGET WITH THE CWPP

**Section 4: District's Alignment of Fire Prevention Programs and
Budget with the CWPP**

(Responding to Draft Audit: "Section 4. Fire Prevention Programs Are Not Aligned with
Fires Risks")

I. Background

a. Santa Clara County Community Wildfire Protection Plan (CWPP)

Recognizing influences and effects from threats of fire throughout the State and in the local area, collaboration between the Santa Clara County Central Fire Protection District (SSCFD), SWCA, Environmental Consultants and agencies within Santa Clara County resulted in the 2016 Santa Clara County CWPP. The County CWPP county-wide analysis identified a range of wildfire risks and enabled agencies to align its programs and budget to address these risks. The 2016 County CWPP was accompanied by report Annexes that address specific issues and projects by jurisdiction. The Annexes, designated for each jurisdiction, are intended to be updated separately from the main document providing greater utility for agencies to make changes to their programs. Annex 4 frames the CWPP for DISTRICT with revisions as determined by the LAHCFD Board of Commissioners in collaboration with SCCFD, Los Altos Hills (LAH) Town and surrounding agencies. LAHCFD is also included as an organization in Annex 1, Chapter 2 of the County CWPP.

b. District Fire Risk Identified and Programs and Budget Aligned to County
CWPP Annex 4

At the General Manager's second meeting, November 2018, the Board of Commissioners began a study of the County CWPP Report and Annex 4. The CWPP Ad Hoc subcommittee updated and tailored Annex 4 to address local needs, emerging conditions and trends in fire science. These revisions to Annex 4 were reviewed by executive staff of Santa Clara County Fire Department (SCCFD) (report to the Board of Commissioners in the GM Report, Nov. 13, 2018) and additional revisions provided by SCCFD were incorporated into the Revised Los Altos Hills County Fire District-CWPP Annex 4 (LAHCFD-CWPP or Annex 4).

c. Addendum to the District's CWPP Annex 4 Authored by District Staff

An Addendum guidebook, authored by District staff, was written for residents. The Addendum provides an overview of topics in the County CWPP in easy-to-understand terms. The Addendum serves as a guidebook to residents to ensure they better understand Los Altos Hills environments and conditions that are conducive to wildfire risks. The Addendum prescribes mitigation efforts and fire safety standards to protect residents' families, property and neighborhoods. The Addendum provides resources for emergency preparedness and preparation so that residents can gain self-reliance and resiliency in event of any disaster.

SECTION 4: DISTRICT'S ALIGNMENT FOR FIRE PREVENTION PROGRAMS
AND BUDGET WITH THE CWPP

d. June 2019 Adoption of District's CWPP Annex 4 and Addendum

These documents were before the Commission in public meetings in March, April, May, and June 2019 when reviews and discussions occurred. These public meetings provided study, review, and collaboration with SCCFD to ensure programs were aligned and developed. These meetings also provided for delivery of programs and budget allocations targeted to advance the principles in the LAHCFD-CWPP Annex 4. These documents supported the delivery of goals as stated in the District's 2015-2020 Strategic Plan.

i. *Excerpts from May 21, 2019, CWPP Agenda Report to District Board of Commissioners*

Excerpts from the May 21, 2019, CWPP Agenda Report to the Board of Commissioners state:

The CWPP Annex 4 and Addendum are designed to be dynamic documents that will be revisited and revised as fire science and wildfire experiences dictate new approaches and best practices. LAHCFD, in partnership with the Santa Clara Fire Department, will assess its practices and programs and makes changes in its policies to ensure continuous improvement for wildfire preparedness and protection. LAHCFD programs will be supported by the LAHCFD budget and in collaboration and partnership with other stakeholders and agencies. The Agenda Report stated a Recommendation to: Accept 2016 Santa Clara County Fire Department CWPP Report, revised Annex 4 and Addendum and provide direction for future adoption of revised Annex 4 and Addendum as the LAHCFD-CWPP. Motion to accept the Reports and prepare Resolution for adoption of the LAHCFD-CWPP Annex 4 and Addendum passed unanimously. Also, on the May 21, 2019, agenda for Commission review was the report from the SCCFD Chief with the April 2019 Report to Santa Clara County Board of Supervisors Wildfire Risk & Response pursuant to the Board of Supervisors board referral given to the County Fire Chief.

ii. *Excerpts from June 18, 2019 CWPP Agenda Report to District Board of Commissioners*

Excerpts from the June 18, 2019 CWPP Memorandum Report to the Board of Commissioners state:

The Addendum is written for residents and the community for education on wildfire risks, mitigation efforts. These documents encourage specific pre-planning actions for resiliency of property in wildfire and for self-reliance in event of disaster for residents and the community. It is hoped the Revised Annex 4 and Addendum will encourage residents to seek additional information and become more aware of the threats of wildfire and mitigation efforts for the safety of their families and as concerned residents in the community. Neither Revised Annex 4 nor the Addendum are complete or inclusive of all the information, mitigation efforts or strategies to address the threats and realities of wildfires and disasters.

SECTION 4: DISTRICT'S ALIGNMENT FOR FIRE PREVENTION PROGRAMS AND BUDGET WITH THE CWPP

SCCFD requested District adoption of Annex 4 by August 2019 to coincide with other Santa Clara County Cities and Towns that were also in process of CWPP Annex adoption.

On June 18, 2019, two months prior to the adoption timeline requested by SCCFD, the District Board of Commissioners adopted Resolution No. 19-21 to adopt Revised CWPP Annex 4 and Addendum as the Los Altos Hills County Fire District's Community Wildfire Protection Plan.

e. District's Three Pillars: 2015-2020 Strategic Plan, District's CWPP Annex 4 and Addendum, and District's Budget Authority.

LAHCFD-CWPP Annex 4 and Addendum are one of the Three Pillars referenced in District documents and in the FY 2020/21 Budget Narrative, and presentations to agencies, organizations and community groups. Reference to the LAHCFD-CWPP Annex 4 was stated during the District's remarks to the Board of Supervisors Budget hearings in 2019. The District utilizes the LAHCFD-CWPP Annex 4 and Addendum consistently and with each program evaluation, revisions and new program development.

iii. District Publishes CWPP Articles as Educational Outreach Programs to Community

One of the District Strategic Goals is communication and outreach to the community. Public information was launched to introduce the public to the LAHCFD-CWPP and begin an educational outreach program. District staff authored articles focused on how residents could use CWPP guidelines for fire prevention and protection of their property and neighborhood. As a result, interest and requests for use of District hazardous fuel reduction programs increased as did enrollments in District classes and County workshops. One resident who completed the workshop became the feature of one of the CWPP outreach articles when he submitted a photo journal to the District. The photo journal depicted before and after photos of his property. From the workshop, he now had the knowledge to create defensible space around his home and utilize the concepts of property hygiene to know where to remove and thin trees, remove low hanging branches and remove brush that are fuel ladders for fire and open up non-vegetation spaces on his property where fire would be slowed. These efforts were featured in the CWPP outreach article to encourage others in the community to prepare. The article was published during the height of the fire season. This illustrates the best success of making a difference at the grass-roots level and building community resiliency and demonstrating the value of local government service to residents.

iv. Annual Review of District-CWPP Annex 4 and Addendum

After a full year of LAHCFD-CWPP Annex 4 and Addendum implementation, the District will commence its first annual review for revisions to these documents in alignment with development of its 2020-2025 Strategic Plan. As discussed above, the LAHCFD-CWPP Annex 4 and Addendum are intended to be dynamic documents that evolve and are revised as practices for fire prevention and fuel load management change, and as Santa Clara County Fire and the LAHCFD adopt new or additional measures and

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technologies that enhance safety of property and lives from threats of wildfires. A SCCFD Chief attends and participates in all the Board of Commissioner meetings and is available as a resource for any fire related topic. The partnership forged with SCCFD is unique and valued. LAHCFD programs support the efforts of SCCFD and expand the delivery of fire protection, prevention and disaster preparation services available to the community beyond those provided by SCCFD. During the annual review, the District will collaborate with SCCFD, LAH, surrounding agencies and organizations and the public to ensure local government involvement of residents and stakeholders is included in the LAHCFD-CWPP Annex 4 and Addendum revisions.

II. Auditor Recommendation 4.1

Direct the Fire District to use the Santa Clara County Community Wildfire Protection Plan Annex 4- Los Altos Hills County Fire Protection District published in August 2016, any subsequent iterations of the CWPP, and the expert advice of the Santa Clara County Fire Department to develop spending priorities and wildfire prevention programs aligned with the risk and recommendations identified by both sources.

III. District Response to Recommendation 4.1

Partially Agree.

IV. Executive Summary

Recommendation 4.1 is accomplished as evidenced by seven-months of study (November 2018-June 21, 2019) and collaboration with SCCFD to review and revise programs and budget for alignment with the LAHCFD-CWPP Annex 4. Recommendation 4.1 is accomplished as evidenced by one year of implementation.

Disagreement with Recommendation 4.1 is predicated on the mistitle of Section 4, which states Fire Prevention Programs Are Not Aligned with Fires Risks. The entire discussion in Section 4 of the Draft Audit continues on this assumption and states: programs and spending are not aligned with the risks identified in the CWPP and the CWPP is not used as a key document in the Fire District's planning or priority process and the Fire District does not have an alternative assessment or plan it uses instead. Agreement by the District to the statements throughout Section 4 of the Draft Audit and the thesis for Recommendation 4.1 would be a disservice to the diligent planning, leadership and hours of volunteer work dedicated to the community by the District Board of Commissioner and those parties who, in good faith, were generous with their time and expertise. To Agree with Recommendation 4.1, as though no progress was made during the year, would not be legitimate or appropriate. Presented below are actual verbiage from staff reports, revisions diligently produced in collaboration with SCCFD and community stakeholders.

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Value of Local Control to implement the County CWPP via LAHCFD-CWPP Annex 4 & Addendum

The CWPP process is specifically designed for local control, as evidenced by eighteen separate Annexes in the 2016 County CWPP. The strategic value of these Annexes is to engage local communities and local government to work together and understand the fire hazards in their jurisdictions, their property, structures and in their neighborhoods and recognize solutions available to them by their local agency concern and support. Residents and agencies collaborate because of local control solutions that result in fire protection and prevention measures. Loss of delegated authority that is now conveyed to the District Board of Commissioners would be a disservice to all the prior Commissioners and to eighty-one years of accomplishments for the benefit of the public and LAHCFD mission achievements. There is no government model to replace this loss. No substantiated facts to explain this loss to the residents, public or surrounding jurisdictions that will also be impacted.

The support for the District's accomplishments in adopting the LAHCFD-CWPP Annex 4 and Addendum, alignment of program initiatives, funding of budget allocations, is detailed below.

Additional details are below to demonstrate that wildfire prevention programs funded by the District Budget are aligned and targeted with the risks and recommendations in LAHCFD-CWPP Annex 4 and Addendum and the 2016 Santa Clara County CWPP. The details below speak clearly to refute Section 4 assertions.

V. Support for District's Response to Recommendation 4.1

a. District's CWPP Annex 4 and Addendum Alignment with FY2020-FY2021 Budget

The FY 2020/21 Budget Narrative Program Descriptions align program budget allocations with the LAHCFD-CWPP Annex 4 and Addendum as described below.

FY 2020/21 Budget Narrative, page 1

In 2019, the District Board of Commissioners adopted a LAHCFD Community Wildfire Protection Plan Annex 4 and Addendum to further identify protection, prevention, and educational strategies to address the growing threats of wildfire destruction.

To achieve the goals of the Strategic Plan and the tenets of the LAHCFD CWPP, the District utilizes recent fire science principles and guidelines to create, develop, implement, manage, and evaluate a variety of residential and community programs aimed at fire prevention, preparedness, and public education. Some of these programs are: upgrades, repairs, and replacement of fire hydrants and upgrades to hydrant fire flow capacity, residential and community hazardous fuel reduction and mitigation through District funded brush chipping and debris removal services, monthly program for yard waste disposal, annual weed abatement, home ignition zone inspections to assist and

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provide resources to residents to encourage sustainable property hygiene and creation of defensive space around the perimeter of home and structures, specialized "high-risk" fire day firefighter patrol and engine, and year-round 24/7 additional Battalion Chief services assigned to the El Monte Fire Station. To educate the public for self-reliance and resiliency in the event of emergencies or disaster, the District provides regular classes and workshops in emergency preparedness including "Personal Emergency Preparedness (PEP)", "Community Emergency Response Teams (CERT)", "Cardio Pulmonary Resuscitation (CPR) and First Aid", and a series of CERT Refresher programs and workshops.

The District's structure is founded on Three Pillars of the District: 1) 2020-2025 Strategic Plan, 2) LAHCFD CWPP, and 3) District Budget authority funded by property taxes and special tax ratified by voters in 1981. The District stands on these Three Pillars along with its Mission and Vision statements to guide its initiatives, programs, operations, management, and actions on behalf of the LAHCFD community and public.

FY 2020/21 Budget Narrative describes expenditures for Hazardous Fuel Reduction and Shaded Fuel Breaks, page 13, and demonstrates the evolution of the dead or dying tree program that transitions into a more wholistic Integrated Hazardous Fuel Reduction Program (IHFR) under the Home Ignition Zone program.

Beginning in FY09, the District provided for the removal of dead or dying trees within the District at no cost to residents as part of its "Tree Removal Program". In FY20, the District entered into a contract with the Santa Clara County FireSafe Council to consult on increasing community awareness and education, and readiness and resiliency in the event of a wildfire by assisting in programs to protect lives, property and the environment. One of the FireSafe Council's existing preparedness plans is "Hazardous Fuel Reduction," which is the act of creating defensible space to improve a home's chance of surviving a wildfire by reducing or maintaining the amount of grass, trees, shrubs, and other flammable landscape around the structure. As part of its contract with the District, the FireSafe Council will provide home ignition zone inspections (see "Home Ignition Zone (HIZ) Program" below), which will provide recommendations for trees which should have priority removal in order to create defensible space. Since the new guidelines for resident tree removal will directly align with FireSafe Council's existing preparedness plan, the District has chosen to change the name of this program for FY21. Another service FireSafe Council will provide assistance with is creating "Shaded Fuel Breaks" along roadways by modifying vegetation to create defensible locations that can help reduce a wildfire's progress and create defensive areas for firefighters to attack and suppress the fire. The District began Phase 1 of the Shaded Fuel Break program along Page Mill Road during FY20 and expects to complete Phase 2 (with possible other locations) during FY21.

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b. District's CWPP Annex 4 Alignment with District Programs

Features of the LAHCFD-CWPP and Addendum. A Community Wildfire Protection Plan:

- Identifies and prioritizes areas for hazardous fuel reduction treatments, and
- Recommends the types and methods of treatment that will protect one or more at-risk communities and essential infrastructure, and
- Recommends measures to reduce structural ignitability throughout the at-risk community.
- Addresses issues such as wildfire response, hazard mitigation, community preparedness, or structure protection, or all of the above.
(Definition by NWCG (National Wildfire Coordinating Group)).

Statements from the LAHCFD-CWPP Annex 4 prepared by the County Consultant Group, SWCA Environmental Consultants:

Wildfire Jurisdiction and responsibility. The incorporated Town of Los Altos Hills is designated Local Responsibility Area (LRA), and wildfire jurisdiction and responsibility rests with the Fire District and Town of Los Altos Hills. The unincorporated area of the Fire District is designated State Responsibility Area (SRA) and, as such, the California Department of Forestry and Fire Protection (CAL FIRE) shares wildland fire protection jurisdiction and responsibility. State wildfire prevention codes, particularly defensible space codes (Public Resources Code 4290-91) apply in the unincorporated portion of the District.

Los Altos Hills is listed as a Community at Risk from wildfires on the Federal and/or California Fire Alliance list of Communities at Risk in Santa Clara County. The unincorporated portions are SRA and the incorporated portions are LRA. Wildfires occur in the vicinity of Los Altos Hills and present a danger to people and properties within the town. Increased number and severity of wildfires throughout the state since 2010 have heightened awareness of strategic approaches to best prepare LAHCFD for similar events here. The unincorporated portion of LAHCFD is a State Responsibility Area (SRA) and jurisdiction for wildland fires is shared with CAL FIRE. CAL FIRE classifies the SRA portions as high and very high fire hazard severity zones (FHSZs) (Figure 4.1). Mitigations can reduce the risk of injury and damage. Some mitigations are solely the responsibility of property owners, other mitigations require neighborhood level action, and some require town government action.

Neighborhood and Structural Characteristics: The foothills that comprise LAHCFD (Figure 4.2) are characterized by steep, windy and narrow roads that pose potential ingress and egress problems for emergency response and evacuations. Some areas may be subject to slow response times for emergency response due to narrow road conditions. There are many private roads with poor maintenance that would hinder access by large emergency apparatus. Some homes have minimal turnaround space, posing a concern to emergency responders due to potential entrapment. There are a number of dead-end roads

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and narrow driveways, for example Moody Ct., where the SCCFD has been working with the road association to provide possible mitigation measures (e.g., clearing of roadside brush). Many homes are located upslope from thick scrub fuels (Figure 4.4), with continuous canopies. Some homes are on steep slopes with often minimal set-back from the slope. Topography is a concern due to the influence steep slopes have on potential fire behavior.

Emergency Response Capacity: Water in the LAHCFD is provided by two purveyors, Purissima Hills Water District (PHWD) and Cal Water Service (CWS). The fire district owns and maintains the hydrants in the PHWD operating area and CWS owns and maintains the hydrants in its territory. LAHCFD has provided funds to assist the water districts in ensuring adequate firefighting water flow through water main upgrading, standby generator installation, hydrant upgrading, and seismic strengthening of water tanks. In addition, the district provides fuel management activities, including the monitoring and enforcement of weed and brush abatement, residential brush/chipping (twice/year), monthly yard debris drop-off, dead tree removal program, and eucalyptus tree removal.

Recommendations for property hygiene: A landscape design plan for projects in fire-prone areas shall address fire safety and prevention. A defensible space or zone around a building or structure is required per Public Resources Code (PRC) Section 4291(a) and (b). Fire-prone plant materials and highly flammable mulches must be avoided. To prevent the likelihood or severity of wildfires, create at a minimum a 30-foot fuel break area around homes using vegetation that has low flammability and is low growing. Remove dead plants and dead material from living plants in such a way so that erosion is not accelerated and flood potential increased. Trees should be kept a distance from any structure at least as wide as the mature crown. Additionally, large shrubbery under trees can create a fire ladder allowing the flames to ignite the tree foliage. Pines, junipers, cypress, and eucalyptus trees burn especially fast and should not be planted near the house.

Hazard Assessment: Community hazard assessments include ratings of community conditions compared to best practices for WUI fire mitigation. Community Hazard ratings include consideration of applicable state codes, local ordinances, and recognized best practices guidelines. The National Fire Protection Association Standard 1144 (NFPA 1144) defines WUI hazards and risks at the community and parcel level. This plan utilizes components of NFPA 1144, California laws and local ordinances to evaluate neighborhood WUI hazard and risk. California PRC 4290 and 4291 sections address WUI community design and defensible space standards. The NFPA 1144 community risk assessment completed for the Los Altos Hills Community assigned the WUI community a risk rating of High with a score of 88 (40 = moderate, >70 = High, >112 = Extreme, shown in Table 4.1). Factors that contributed to the risk are illustrated below. Averages are taken across the community for each of these parameters. Note that the elimination of the WUI map by the Town of Los Altos Hills does not

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change the basis for assessing fire risk and development of subsequent fire mitigation measures. In addition to the on-the-ground hazard assessment, the CWPP also includes a Composite Fire Risk/Hazard Assessment which uses fire behavior modeling to determine potential fire behavior and is based on fuel characteristics, topography, weather, and fire history. The Composite Risk/Hazard Assessment for the planning area is shown in Figure 4.5. Note that this indicates higher levels of fire concern than the assessment in Figure 4.1.

Excerpts set forth below from the Annex 4 Table Recommendations compiled by SWCA Environmental Consultants for fuel reduction projects in LAHCFD. LAHCFD has implemented or is in planning phase of implementation of these recommended projects with adjustments appropriate to the local community.

Strategic Goal: FR 11: Create Sustainable programs for creating Defensible Space at the parcel Level.

Project Description LAH FR11.1: Develop Defensible Space Programs: Community Chipping, Drive up Chipping, At Home Chipping, Fire Safe Neighborhoods, and tree removal.

Location and land ownership: Private homes and structures throughout the County WUI.

Method: Use readily available Defensible Space Literature; Encourage homeowners to have courtesy inspections by local fire agencies and PG&E

Serves to: Increase the likelihood that a structure will survive a major wildfire

Timeline: Annual - Late Spring

Note: District is providing this program and services.

LAH FR1: Develop Task Force to seek funding sources for homeowners to reduce hazard trees

Serves to: Reduce concerns voiced at community workshops regarding costs of tree removal for hazard reduction

Timeline: Spring 2020

Note: District is providing Home Ignition Zone Surveys for residential and neighborhood services.

LAH FR2: Establish fuel breaks around neighborhoods identified as at risk.

Method: Shaded fuel break treatments as well as accumulated brush removal. May include hiring private contractors.

Serves to: Slow the spread of fire from open space lands Reduce the intensity of possible flame fronts.

Timeline: Winter 2019

Note: District contracts for construction of shaded fuel breaks. Shaded fuel break project on Page Mill Road now in progress.

Strategic goal EO3: Organize a community group made up of residents and agency personnel to develop materials and communicate relevant defensible space messages. Could coordinate with fire departments or FireSafe Council.

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Note: District partners for Community Outreach and Education services with Santa Clara County FireSafe Council, Santa Clara County Fire District and sponsors and provides its own District conducted workshops and classes to LAH CERT (Community Emergency Response Team) members and residents. Topics include: Personal Emergency Preparedness, Emergency First Aid, Evacuation Preparedness, CERT Refresher courses, and emergency readiness programs when requested by local groups and surrounding agencies.

Table 4.3. Recommended Firefighting Capability Projects in LAHCFD
Strategic goal: FC13: Develop a coordinated approach between fire jurisdictions and water supply agencies to identify needed improvements to the water distribution system, initially focusing on areas of highest wildfire hazard.

LAHFC13.1. Project Description: **Develop a coordinated approach between fire jurisdictions and water supply agencies to identify needed improvements to the water distribution system, initially focusing on areas of highest wildfire hazard and lowest hydrant flow.**

Fire Department/Agency: County Fire, CAL FIRE, Fire Safe Council, Cal Water, Purissima Hills Water District

Benefits of the Project to the community: Improve fire-fighting response if water is more readily available or closest locations could be identified on a GIS map on a tablet/computer. Within 2 years

Note: District agrees with the statement and Project recommendation by the County Consultant who prepared Annex 4. District has completed projects with the water purveyors to increase water hydrant fire flow for firefighters to combat fires and wildland fire events and to increase pipeline resiliency in event of earthquake or disaster. Additional projects with these stated goals are pending.

Strategic goal FC8: Where road systems are antiquated and do not provide for proper evacuation or two-way flow, require removal of obstructions or upgrade to minimum 2 lanes road system over time

LAHFC8.1 Widening roads. Benefits all fire agencies. Facilitates evacuation and response times. Hurdle would be the number of private roads in the planning area.

Note: District is attending to this goal with construction of shaded fuel breaks. Roads are thereby effectively widened to allow ingress and egress of emergency vehicles and allow escape and evacuation routes as well as provide areas for ground and aerial crews to stage and combat fire events.

Strategic goal FC11: Investigate and potentially install Fire Detection Robots to alert departments of a fire start in remote areas.

LAHFC11.1 Project Description: Early Warning Wildfire Detection System on open space lands.

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Benefits: This benefits the areas covered by the cameras. Fire can be detected early, data is recorded and can be used for later analysis, and fires in progress can be monitored.

Note: District has this project as a future opportunity to explore with agencies.

Additional projects identified on the LAHCFD-CWPP Annex 4 are:

LAH-S17.1: Establish and support new FireWise communities group Give residents ownership of the fire problem, provide resources and information necessary to inform and prepare the community for fire.

LAH SI16: Develop FireSafe educational programs

Note: Education and outreach programs are always in progress, review and in a continuous improvement cycle.

c. District's Addendum to CWPP Annex 4

The Addendum was authored by District staff as a guidebook to explain the LAHCFD-CWPP Annex 4. The Addendum targets CWPP principles, related District programs and communicates fire safe and mitigation principles to foster self-reliance and resilient residents and neighborhoods.

Sections from the Addendum that support program alignment with LAHCFD-CWPP Annex 4 are below:

The Addendum to the LAHCFD-CWPP Annex 4 provides suggestions and information to residents and the public and discusses:

- Factors that contribute to and influences spread of wildfire
- Self-reliance measures by residents and building managers for wildfire protection and pre-planning actions to enhance safety of persons and property
- Programs and Projects supported by the Los Altos Hills County Fire District to achieve its mission of protection of persons and property from wildfire and disaster

Safe and proper evacuation of people (residents, workers, and visitors), pets and livestock are very critical component of preparation for wildland urban interface (WUI) fires. Evacuations are the primary jurisdictional responsibility of law enforcement with assistance from fire and other agencies. However, there will likely be a shortage of public safety responders to assist in the evacuation or other stages of a fire during a serious emergency event. Residents must be prepared to react in event of wildfires by pre-planning and building knowledge and skills to be self-reliant in event of any disaster that strikes the community.

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The wildland fire environment consists of four (4) factors that influence the spread of wildfire:

- Fuels
- Topography
- Weather
- Bio-physical Factors

Understanding how these factors interact to produce a range of fire behavior is fundamental to determining treatment strategies and priorities in the WUI.

In the wildland environment, vegetation is synonymous with fuels. When sufficient fuels for continued combustion are present, the level of risk for those residing in the WUI is heightened.

Fire spreads in three ways:

1. Surface fire spread—the flaming front remains on the ground surface (in grasses, shrubs, small trees, etc.) and resistance to control is comparatively low
2. Crown fire—the surface fire “ladders” up into the upper levels of the forest canopy and spreads through the tops (or crowns) independent of or along with the surface fire, and when sustained is often beyond the capabilities of suppression resources
3. Spotting—embers are lifted and carried with the wind ahead of the main fire and ignite in receptive fuels. If embers are plentiful and/or long range (>0.5 mile), resistance to control can be very high. Spotting is often the greatest concern to communities in the path of a wildland fire. In areas where homes are situated close to timber fuels and/or denser shrubs and trees, potential spotting from woody fuels to adjacent fuels should be acknowledged.

Homes are more likely to survive a wildfire due to use of fire-resistant building materials and designs, and vegetation clearance around the dwelling, than by a reliance on fire suppression resources i.e. firefighter availability to stop the fire.

Pre-planning to lower risk of wildfire spread on property:

- remove flammable vegetation from around buildings
- construct the building of fire-resistant material

However, it must be noted that a lack of access to water supply, and roads which are too narrow to allow transport of water by fire apparatus to structures threatened by wildfire, will complicate the suppression of wildfire and the protection of structures.

Many methods are available to mitigate the available burnable fuel hazard, whether buildings or native or ornamental vegetation. Mitigations typically refer to reducing the amount of hazardous vegetation available to burn or the expected intensity of the fire when it does burn. Providing defensible space around

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structures is one example of reducing the hazard through the mitigation effort of removing and/or thinning of flammable vegetation. Structural mitigations include replacing wooden shake shingle roofs or preventing embers from entering attics through improved vent systems.

Most structure ignitions are from flying embers landing on flammable components of the building and setting the building on fire.

- The single most vulnerable area for flying ember caused ignition is wooden roofs and wooden siding
- Flammable vegetation burning adjacent to structures and igniting the building through direct flame contact is the second most common source of ignition
- The third source is from radiant heat from burning (vegetation or other burning buildings) close to the structure. Burning structures can be the most significant cause of flying ember and radiant heat generator. Embers can ignite neighboring structures, or if closer than 30 feet the radiant heat is likely to ignite the adjacent building.

WUI Defensible Space: The definition of defensible space, via state and local codes, is maintenance by homeowners, and enforcement, as needed, by fire agencies are common practice of wildfire risk mitigation. The California State Board of Forestry issued General Guidelines for Creating Defensible Space in 2008, following a change in PRC 4291 that expanded defensible space clearance requirements from 30 to 100 feet around buildings and structures in State Responsible Areas. Building codes are intended to improve the resilience of a building to ignition from either direct flame contact or from airborne embers. In incidents in which the rate of wildfire spread, and the number of homes at risk from the wildfire, exceeds fire suppression capacity. This resilience may determine whether the building survives.

The guidelines note, some aspects about WUI defensible space, are often overlooked:

- Greater defensible space may be needed due to local conditions, such as slope and fuel density
- Fuel reduction has more to do with disrupting fuel continuity so that the spread of fire is impeded, rather than creating a denuded zone around a home. For example, pruning the lower limbs of trees create a break between ground fuels and tree canopies, reducing the chances that a fire will move from a ground fire to a crown fire.
- Communities may wish to develop defensible space areas that are greater than 100 feet for even better protection. State and local codes only set a minimum distance.
- Defensible space also provides a safer environment in which firefighters can work. This environment is more than vegetation clearance; defensible space also involves emergency vehicle access, water supply, and visible street signs and addresses.

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Flammable vegetation: Ornamental landscape, particularly in foundation plantings, can expose buildings to ignition. Many ornamental plants are very flammable especially when in flower beds with flammable mulches, which serve as a receptive bed for flying embers. Plants ignite and expose siding and under eave area to direct flame contact. Reducing the loading of hazardous fuels should reduce fire intensity. This can be achieved through community-wide defensible space compliance, proper landscape plantings and maintenance of open space or common owned lands in planned unit developments, and community fuel breaks. Vegetation fuel reduction projects require compliance with all federal, state, or local environmental protection laws.

Property hygiene: Property hygiene is the presence of clutter, debris piles, firewood stacks, lumber, or other flammables within the 100-foot defensible space zone. If the community characteristics is generally poor property hygiene, the risk of fire spreading is greater. Good property hygiene reduces fire spread.

ENCOURAGEMENT TO RESIDENTS AND THE PUBLIC Residents are encouraged to prepare and pre-plan with their families an evacuation plan, alternate evacuation routes, assembled GO-Bags to quickly grab at notice of evacuation, plans for pet and livestock evacuation and a communication plan to find and gather family members once an evacuation is in process. Firefighters and emergency responders will be responding to fighting wildfires and providing emergency medical assistance to victims. It's critical that residents are aware of how to evacuate and have already ensured that their property is in the best condition, utilizing principles of property hygiene, to withstand wildfire and their property is in a defensive condition when firefighters arrive.

TRAINING AND WORKSHOPS FOR RESIDENTS AND THE PUBLIC Santa Clara County Fire Department hosts and presents workshops to assist residents in all aspects of preparation and evacuation as well as workshops on creating defensible space on property and how to harden and condition property, homes and buildings for resistance to wildfire and to be defensible if firefighters arrive.

FIRE PROTECTION AND PREVENTION PROGRAMS AVAILABLE FROM LAHCFD

Los Altos Hills County Fire District (LAHCFD) funds multiple programs and projects aimed at reducing the risk of wildfire. These programs and projects provide resources and support residents' efforts and abilities to become self-reliant in evacuation. Courses instruct residents on how to create defensible spaces on property so that structures are more resilient from devastations of wildfire.

In addition, LAHCFD provides an Emergency Services Manager (ESM) who is available to support and assist in the organization of the LAH CERT Program (Los Altos Hill Citizen Emergency Response Team). LAH CERTs are a team of volunteers available to be deployed in event of emergency, earthquake or wildfire

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and available to assist with after-incident recovery efforts. The ESM also provides support and assistance to the ham radio volunteers who provide communication support in event of emergency. These resident volunteer teams meet, learn, train and drill together as a service to their community.

LAHCFD Programs are governed by the LAHCFD Board of Commissioners and are provided to residents and the public in an effort to support the District's mission. This mission is to protect lives and property from fires, natural disasters, and hazardous material incidents for the prevention of fires through protection, prevention and education programs.

Please refer to the Fire District website at www.lahcfd.org for addition information about fire protection Residential Programs, training and workshops that are available to residents. Information on how to train and become a LAH CERT and/or ham volunteer and member are also available on the LAHCFD website.

In Summary

LAHCFD is dedicated to support all these many initiatives, programs and efforts to help ensure protection of persons and property from the devastations of wildfires and to foster the ability to respond in the event of disaster.

LAHCFD is working in partnership with the Santa Clara County Fire Department, Town of Los Altos Hills and other local agencies and personnel in its mission to provide fire prevention, protection and safety to persons and property within its jurisdiction and to the greater Bay Area region. (End of selected materials from Addendum)

SECTION 5: FIRE DISTRICT'S COMPLIANCE WITH STATE AND LOCAL PROCUREMENT REQUIREMENTS

Section 5: Fire District's Compliance with State and Local Procurement Requirements

(Responding to Draft Audit: Section 5. "Fire District Compliance with State and Local Procurement Requirements")

I. Background

The District is governed by Health & Safety Code §13800, et seq. and in 1980 the Board of Supervisors delegated all of its authority to the District's Commission to manage the affairs of the District, provided that the Commission may not initiate litigation without prior approval from the Board of Supervisors. The Health & Safety Code expressly states the powers of a fire district, which include, the power to "enter into an perform all necessary contracts...."⁵⁴ The District continues to operate under the Health & Safety Code and under the Board of Supervisors delegation, in all matters, including its contracting, purchasing policies, and procedures.

a. Authority to Solicit and Enter into Contracts

The District's has the authority to solicit and enter into certain contracts.⁵⁵ That authority is regulated by Public Contract Code § 20812, which provides that if the District's final budget is in excess of One Million Dollars (\$1,000,000), the District may either follow the contracting and purchasing procedures which apply to the county government of its principal county or it may follow the procedures for fire districts that have a final budget of less than One Million Dollars (\$1,000,000), which are set out on Public Contract Code § 20812(c). Since the District operates on a budget in excess of One Million Dollars (\$1,000,000) it has opted to utilize the Board of Supervisors of County of Santa Clara policies on soliciting and contracting for certain projects.

b. Board of Supervisors Policy for Contracting and Procurement

At the time of the adoption of the District's Procurement Policy, the Santa Clara County's Policy on Contracting and Bidding was set forth in Chapter 5 of its Policy Manual ("Policy Manual"), with the most recent version dated January 15, 2016. The Policy Manual provided that solicitation of services and goods and related services must be conducted by one of three types of procurement (1) Formal Competitive Procurement; (2) Informal Competitive Procurement; and (3) Non-Competitive Procurement.

i. *Formal Competitive Procurement*

The formal competitive procurement requirements of the Policy Manual may be satisfied through conducting either (a) Formal Bidding, or (b) Competitive Negotiated Procurement.⁵⁶

Formal Bidding. A competitive process in which prospective vendors respond to a solicitation for bids, for example, an Invitation to Bid (ITB)⁵⁷. ITBs are issued to the

⁵⁴ California Health and Safety Code § 13861(f).

⁵⁵ Id.

⁵⁶ County Policy Manual Chapter. 5.6.3.

⁵⁷ Id.

SECTION 5: FIRE DISTRICT'S COMPLIANCE WITH STATE AND LOCAL PROCUREMENT REQUIREMENTS

lowest responsive bidder and generally used when there is no substantial difference between the products or services that meet the specifications, and the only real difference between the submissions is the price.

Competitive Negotiated Procurement. A procurement process in which prospective vendors respond to a solicitation for pricing and other information, and the negotiation of contract terms occurs prior to contract award, for example, Request for Proposals (RFP).⁵⁸ RFPs are used when the end-product is unique, the customer knows what they want, but the methods and specifications aren't readily available. Thus, price isn't the only decided factor. Quality and experience are heavily weighed.

The Policy Manual directs the County Executive's Office of Countywide Contracting Management (OCCM) and the Procurement Department to develop a process for review and approval of RFPs before the RFPs are issued.⁵⁹ Since the Board of Supervisors delegated all of its authority the Commissioners, except for the authority to initiate litigation, OCCM review goes to the Commission. County Counsel has confirmed in writing to the District that the District is not required to go through OCCM review, due to the delegation from the Board of Supervisors to the Commission.⁶⁰

ii. Informal Competitive Procurement

Procurement of up to a total contract value of \$100,000 in goods and related services and non-professional services where the procurement is made in accordance with the policies and procedures set forth by the Director of Procurement. Informal competitive procurement must be obtained by advance approval from the Director of procurement. Since the Commission has been delegated this authority, the Commission acts as the Director of Procurement.

c. Different Rules for Public Works Contracts

The Policy Manual dedicates Chapter 5.7 to the unique requirements for public works contracts, including establishing a separate policy for soliciting and contracting related to public works. The County has adopted the Uniform Public Construction Cost Accounting Act, which along with the Public Contract Code, guide the preparation and bidding of the County's public works contracts. The District has also opted to become subject to the California Cost Accounting Act. Under the current California Cost Accounting Act contracts for public projects may be procured as follows:

1. Those of sixty-thousand dollars (\$60,000) or less may be procured by negotiated contract or purchase order⁶¹
2. Those of two-hundred thousand dollars (\$200,000) or less may be procured by utilizing informal bidding procedures.⁶²
3. Those that exceed two-hundred thousand dollars (\$200,000) must utilize formal bidding procedures.⁶³

⁵⁸ Id.

⁵⁹ Policy Manual Section 5.6.5.1 (A)(1)(a).

⁶⁰ December 15, 2017 email to District's legal counsel from County Counsel.

⁶¹ Public Contract Code § 22032(a).

⁶² Public Contract Code § 22032(b).

⁶³ Public Contract Code § 22032(c).

SECTION 5: FIRE DISTRICT'S COMPLIANCE WITH STATE AND LOCAL PROCUREMENT REQUIREMENTS

II. Auditor's Recommendation 5.1

Reduce the risk of inconsistent or noncompliant contracting, contracting for prohibited services, by bringing the Fire District's contracting under the purview of the County Director of Procurement with review by County Counsel as to form and legality. The County Procurement Director should bring the Fire District's contracting and procurement practices into compliance with State law, County policies and the County Ordinance Code, including ending the Fire District's unauthorized use of private counsel.

III. District Response to Recommendation 5.1

Disagree.

IV. Executive Summary

As set forth in the District's Response to the Draft Audit, it is in the best interest of the District and its residents for the District to maintain its local control so that the District is able to continue providing services to District residents in support of the District's purpose (see Sections 1, 2 and 4) and for the District to utilize outside counsel to enable procurement of those services (see Section 3)⁶⁴. The District's position is that its practices and policies for procurement comply with local and state requirements. However, the District continues to welcome suggestions from the County with regard to those practices and policies, as it has in the past. A loss of local control over its ability to procure goods and services will effectively result in a loss of local control and inhibit District's ability to continue programs that ensure current and long-term fire protections for the District and its residents.

V. Support for District's Response to Recommendation 5.1

a. District's Procurement Policy Complies with State and Local Laws

The District's Procurement Policy is a guideline for the Commission to use, along with guidance from legal counsel. The Policy itself states that "None of the following procedures are intended to conflict with law." If any part of the Policy does conflict with the law, the Commission is under no obligation to comply with the policy. The District's procurement of contracts has always been in compliance with all State and local procurement requirements.

b. The RFP Issued and Awarded to Vendor A for the Rolling Tree Removal Program Complied with County Procurement Policies

The Draft Audit incorrectly states that for the District to comply with Chapter 5 of the County Procurement Policy when awarding the Rolling Tree Removal RFP, the District "would have been required to award the contract to the lowest bidder, which in

⁶⁴ Recommendation 5.1 references "contracting for prohibited services" but beyond this reference in the Recommendation, Draft Report does not allege, define, or discuss "prohibited services."

SECTION 5: FIRE DISTRICT'S COMPLIANCE WITH STATE AND LOCAL PROCUREMENT REQUIREMENTS

this case was not Vendor A....”⁶⁵ When procuring the RFP and issuing the award for the District's Rolling Tree Program to Vendor A, the District utilized the County's Policy for Formal Competitive Procurement procedures since the contract value exceeded \$100,000. Formal Competitive Procurement allows for both Requests for Proposals, which are not required to be issued to the lowest bidder, and Invitations to Bid, which are required to be issued to the lowest responsible bidder. For the reasons described below, the District selected use of a Request for Proposal as the method to proceed with the issuance of the Rolling Tree Removal project.⁶⁶ The County's Formal Competitive Procurement Procedures do not require the District to issue an award to the lowest responsible bidder with an RFP. The options available to agencies following the County's Formal Competitive Procurement requirements are:

1. “The formal competitive procurement requirements of this policy may be satisfied through conducting either (1) Formal Bidding, or (2) Competitive Negotiated Procurement.”⁶⁷ For the Rolling Tree Program, the District opted to utilize Competitive Negotiated Procurement.
2. “Competitive Negotiated Procurement refers to a procurement process in which prospective vendors respond to a solicitation for pricing and other information, and the negotiation of contract terms occurs prior to contract award, for example, a Request for Proposals (RFP).”⁶⁸ Competitive Negotiated Procurement is differentiated from Formal Bidding because Formal Bidding is “a competitive procurement process in which prospective vendors respond to a solicitation for bids, for example, an Invitation to Bid (ITB).”⁶⁹
3. Unlike ITBs, RFPs are not required to be issued to the lowest bidder.⁷⁰ In fact, RFPs are often times issued when the selection of a proposer cannot be made solely on the basis of the lowest price. It is used to procure the most cost-effective solution based upon evaluation of criteria in the RFP. The criteria in the RFP provide content guidelines and established viability criteria to facilitate evaluation and promote informed decision making. As the Draft Audit correctly identifies, the District's Rolling Tree Program evaluation criteria included, “firm profile, background, experience, & financial stability.” These factors were considered critical to the Commission for a successful Rolling Tree Removal Program.

⁶⁵ Draft Audit at Page 56.

⁶⁶ It is important to note that although the Rolling Tree Removal project is not a “public works” project for procurement purposes, it is still subject to the requirement for payment of prevailing wage set forth in Labor Code § 1771 and therefore the District required within the RFP that proposers pay prevailing wage.

⁶⁷ County Policy Section 5.6.3.

⁶⁸ County Policy Section 5.6.3

⁶⁹ Id.

⁷⁰ Draft Audit cites to County Policy “Chapter 5- Section (B)(2)” in support of its position that the RFP was required to be issued to the lowest bidder. Nowhere in the entire Chapter 5 Policy does it state that an RFP must be awarded to the lowest bidder. This is not surprising as RFPs are not intended to be issued to lowest responsible bidders, instead Invitations to Bid are the mechanism used when the agency must award to the lowest responsible bidder.

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At the District's April 17, 2018, meeting, the Commission discussed the RFP process for the 2018 Rolling Tree Removal Program, and set the date for the RFPs to be submitted on April 27, 2018. At the District's next meeting on May 15, 2018, the Commission discussed the written RFP assessment and checklist in depth including the individual scores shown for each category for each proposer. Ultimately, the Commission determined that Vendor A was the best choice based on considerations, including that Vendor A has a strong history of positive feedback from homeowners for quality and communications, which it matched by District experience with strong communications and past experience in meeting contract requirements for timing. Another factor weighed by the Commissioners is that Vendor A is a local contractor, thereby familiar with the terrain, roads, addresses and equipment needed for accessing properties. These considerations were weighed against associated risks of the lowest responder being unknown to the District and were balanced with the respectful use of the taxpayers' money.

c. Four District Vendors with No Formal Written Contracts

Section 5 of the Draft Audit includes two subsections "Vendor B (also referred to as Vendor 2)" and "Vendors with No Contracts" both subsections identify the four District vendors for which no formal written contracts exist. All of the vendors identified are paid by the District through a County Vendor Code, as required by the County.

i. *By Law Contracts May be Oral or Written*

An important distinction should be made about the meaning of the term "contract." Formal written documents are not required to create a contract. The County Procurement Policy states "A contract is an agreement between the County and non-County entity or individual that contains a promise or set of promises or the mutual obligations of the parties.... A document need not be titled "contract" or "agreement" to be considered a contract. Examples of contracts include, **but are not limited to**, a legally-binding MOU with a non-County entity, an amendment to a contract, a field purchase order, and Non-Disclosure Agreements. A document can be considered a contract even if there is no exchange of money."⁷¹ By law, verbal agreements for certain goods and services also create binding contracts.⁷²

ii. *Best Practices for District Contracts*

While the District welcomes recommendations from the Auditors concerning the best practice for when to issue formal written contracts, the Draft Audit does not state any specific concern for or describe potential liability resulting from lack of formal written contracts with the identified vendors, nor does it prescribe a recommendation that the District issue formal written contracts for these vendors. When deciding whether to issue a formal written contract, the District balances the time, expense, term, value of the service, and potential increase in costs for services if formal contracts are required against the potential risk of having no formal written contract in place. As an example, requiring a formal written contract for short-term services, with low to now risk and low

⁷¹ County Policy Section 5.4.5.1.A **emphasis added**

⁷² California Civil Code § 1622.

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value, may increase risk, time and cost, and therefore, may not be in the best interest of the District.

The below descriptions of the vendors identified in Figure 5.6 "Fire District Vendors with No Contracts" from the Draft Audit details the District's use of each of the four vendors, and illustrates why the District proceeded without formal written contracts with these vendors.⁷³

Vendor 1: Vendor 1 prints the District's letterhead, and prints and mails the cards issued to District residents to sign up for the District's Brush Chipping Program. In the past the Vendor 1 also printed and mailed the cards and information on the District's Tree Removal Program. To initiate the process, the District sends Vendor 1 a template of cards to mail and a list of resident addresses, Vendor 1 responds with the cost per unit for printing and mailing, and the District reviews, and if in agreement with pricing, authorizes proceeding with the service.

Vendor 2: Vendor 2 (also referred to in Draft Report as Vendor B) does design work for District products, including fire safety mailers, District logo design, and ads notifying the public of the District's fire safety and fire prevention services. In Fiscal Year 2017-2018, the District used Vendor 2 once to design a Fire Safety Mailer. The District did not use Vendor 2 in Fiscal Year 2018-2019.

Vendor 3: Vendor 3 was used to print and mail the Fire Safety Mailers designed by Vendor 2 in Fiscal Year 2017-2018. The District provided Vendor 3 with a list of District resident addresses, and Vendor 3 responded with the price per unit for printing and mailing, which the District reviewed and upon approval, authorized proceeding with the services.

Vendor 4: Vendor 4, an individual, worked with the District's Clerk to organize the District's historic records in preparation to submit the records for scanning and indexing. Vendor 4 applied for a Vendor Code with the County and was approved in June 2018. Vendor 4 only performed services for the District in July, October, and November of 2018. In total payments to Vendor 4 did not exceed \$1,200.00.

d. District's Legal Counsel is Responsible for Preparation and/or Review of All District Formal Written Contracts

The Draft Audit identifies a concern that the District's contracts "are not signed by the District's contracted attorney" and "suggests that they were not reviewed for legal matters" despite the Draft Audit calling out that the Auditors were "advised that the documents were prepared by Fire District's private contracted attorney."⁷⁴ The specific example used by the Auditors is the Agreement for Brush and Wood Chipping services, dated June 19, 2018, which was approved at the District, June 19, 2018, meeting.

The District is surprised to see this allegation appear in the Draft Audit because the Auditors never informed the District or District's legal counsel that they questioned the

⁷³ Although the names of Vendors are not redacted in the Draft Audit, District's response has redacted the names to comply with the Auditor's request to keep names and identification of parties and contractors confidential.

⁷⁴ Draft Audit at page 57.

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veracity of the District's legal counsel's statement or that the Auditors wanted additional confirmation beyond Counsel's statement at the exit conference.

Even if the Auditors choose to ignore the District's legal counsel's direct statement that it did in fact prepare the contract, documents previously produced to the Auditors prove the District's position.

1. The unique footer used at District's legal counsel's firm to identify location of documents on the firm's computer drive is located on the document in question. The Draft Audit states that "neither his personal name nor his firm's name appear anywhere in the footer" and that there was "no evidence that they relate to the contracted attorney's computer."⁷⁵ Attachment 5.2 to the Draft Audit is the Conflict of Interest letter (discussed in more detail below), from the District's legal counsel's firm, on its letterhead. The footer on the Conflict of Interest letter, appearing on District's legal counsel's firm letterhead, matches the format of the footer shown in Figure 5.5 of the Draft Audit.
2. As set forth in the meeting minutes from the District's June 19, 2018, meeting, District's legal counsel explained the impact of adopting the Resolution 18-15, which terminated the existing Brush and Wood Chipping Contract, and explained the purpose and impact of approving the June 19, 2018, Brush and Wood Chipping Contract. These minutes evidence the District's legal counsel's review of the Agreement. The meeting minutes were provided to the Auditors and are posted on the District's website.

As explained to the Auditors, like many other public agencies, in light of important legal considerations and in good faith and due diligence, the District's legal counsel reviews all contracts, but only signs agreements where the other party or parties involved also have their legal counsel sign the Agreement.⁷⁶ Examples of this are the Agreements between the District and Santa Clara County Fire, which are signed by all counsel.

e. District's Legal Counsel's Firm's Representation of Vendor A in Non-District Related Matters

District's legal counsel's law firm represents Vendor A in matters not related to the District. District's legal counsel has consistently been transparent to both Vendor A and the District about the firm's representation of the other. In compliance with California Rules of Professional Conduct, the firm issues Conflict of Interest letters to both parties. The most recent Conflict of Interest letter was circulated and signed in July 2019.

For the reasons and support set forth in the District's Response to Recommendation 3.1, the District's legal representation by outside counsel is permitted under the Board of Supervisors delegation of authority in 1980. The District has public records, in the form of historic meeting minutes, summarizing discussions between the District and County Counsel from 1992 regarding County Counsel's recommendation to the District to retain outside legal counsel. The District accepted this advice and retained contract

⁷⁵ Draft Audit at page 57.

⁷⁶ There is no legal requirement for attorneys to sign Agreements.

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legal counsel. The District's ability to protect the District from potential legal liability while running its day to day operations, and to consult for legal advice without conflicting agendas that may emerge between County Counsel and the interests of the District would be jeopardized. The District's ability to continue District operations and run the programs that ensure fire protection and safety to District residents would be severely limited without outside counsel. Additional details to support this position are set forth in the District's Response to Recommendation 3.1.

VI. Auditor's Recommendation 5.2

Regularly scan and store its official records – including bids for contracts- in an electronic database or other central repository, and ensure that they are not held at contractors' residences or private offices or not retained at all.

VII. District's Response to Recommendation 5.2

Partially Agree.

VIII. Executive Summary

Disagreement with Recommendation 5.2 because the content of Auditor's recommendations based on assumptions not supported by the facts as explained in the District's Response. District records are reviewed and scanned into an electronic database and are not retained in any party's personal office. The District was only able to produce this Response while working remotely because the District records are organized and electronically accessible.

IX. Support for District's Response to Recommendation 5.2

a. District's Non-Digitalized Historic Records Stored at El Monte Fire Station Until 2017 Digitalization Project

When the Management Auditors conducted their analysis of the District (August 2018 through December 2018) a large portion of the District's historical (pre-2008) records were kept in a storage room at the El Monte Fire Station. Those records included resolutions, ordinances, contracts, maps, contractor agreements, agendas, minutes, correspondence, newspaper articles and publications, surveys and studies, insurance and warranties, invoices, and financial information dated 1939 through 2008.

b. 2008 Contract to Start the Digitalization of District Records

In 2008, the District contracted with an independent Records Management consultant for services of records review and retention. Records reviewed were: resolutions, ordinances, contracts, contractor agreements, agendas and packet materials, minutes, email correspondence, insurance and warranties, and invoices through June 2012. These records were scanned and retained for access on the Clerk's District-owned laptop. Every two years since 2008, an independent Records Management consultant reviews records with the Clerk to create a "Records Retention Schedule" (in compliance

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with Government and California public records requirements) and determines, along with the District's Legal Counsel, which records are destroyed and which are retained. The retained hardcopies were kept in the storage room at El Monte Station.

c. 2017 Contract to Digitalize All District Records, Including Historic Records

In November 2017, the District passed a Resolution to enter into an agreement that would allow the District to start planning for electronic storage of all the District's records (including historic documents dating back to 1939). The process to review, organize and index the historic records spanned from June 2018 through September 2018. In August 2018, the District's non-essential projects were put on hold to allow the District's limited staff to focus on responding to requests from Auditors⁷⁷. In May 2019 the District provided the indexed historic files to its contractor for scanning which was completed in June 2019. District records are now easily accessible by District staff through a cloud storage system. No District records are retained at private residences, and only hardcopies of invoices are kept at the private office of the District's Financial Consultant. All other hardcopies of records are kept in the storage room and District's office space, both located at the El Monte Fire Station.

⁷⁷ A detailed description of the Audit timeline of events is provided in the Introduction section of this Response.

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Conclusion

The District's Response is produced with every effort to address the recommendations in the Draft Audit, state facts to support the District's responses which disagree with those recommendations, and to state the District's case for the value and continuation of local control through the delegation of authority.

The District stands on its eighty-one-year history of contributions and dedication of its current and prior Board of Commissioners. The District is proud to be a good steward of District taxpayers' dollars, to have created no debt or liabilities that burden government, and to responsibly practice governance of local control for the benefit of its constituents. The District values its collaboration with Los Altos Hills, SCCFD, surrounding agencies and Special Districts, local clubs, organizations and stakeholders, and most importantly with the residents and community.

The District's concern each day is for the well-being and safety of residents. The District strives to provide programs, prevention and protection to the community in events of disaster, fire and wildfire and fulfil its mission. Fire protection programs that improve fire safety in communities are more urgent now due to growing limitations of State resources and budget reductions in surrounding agencies that reduce fire suppression and emergency resources. Prevention is key and when disaster occurs, much of the result is because prevention failed. The District fire safety prevention programs and disaster preparedness are key proactive measures. The District endeavors to exercise due diligence and to be forward thinking and to meet each challenge with positive solutions for the betterment of the community.

I. Draft Audit Relies on Old Programs and Information

The recommendations within the Draft Audit rely on stale information. The Draft Audit use multiple old District projects and agreements in support of its Recommendations. For example, Section 1 of the Report discusses four projects; half of those projects occurred more than a decade ago. The most recent project referenced in Section 1 is now six (6) years old. A majority of the discussion within Section 2 of the Draft Audit focuses on the District's retired Dead or Dying and Eucalyptus Tree Removal Program. With the assistance of the District's first General Manger, that the tree removal program evolved into the District's Integrated Hazardous Fuel Reduction Program which is based on the LAHCFD-CWPP Annex 4 guidelines and Fire Science Principles. The Draft Audit fails to provide an accurate portrayal of the District from 2016 to present.

The District understands from the Auditors that once the Auditors receive the District's written response to the Draft Audit, the Auditors format the revised draft and attach the District's written response in its entirety before releasing the entire response. The District also understands from the Auditors that the content of the Draft Report will not change before release to the public. It is noteworthy that the Draft Audit does not contain a Conclusion. Further, the Draft Audit states that "[d]epending on the outcome

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of [previously referenced legal] review, [the Auditors] may or may not issue and publish an addendum to this report at a future date.” The District is unable to respond to unknown recommendations and statements, and therefore the District can only address those Recommendations, statements and information available to it at the time the Draft Audit was received by the District.

II. Retaining Local Control is in the Best Interest of Residents and Community

The premise of local control is a premier value throughout the District’s Response. The history of the Los Altos Hills community demonstrates the community’s commitment to local government and supports the autonomy of a Special District dedicated solely to Fire and Disaster preparedness, prevention, protection, and response.

Most recently, the District’s immediate action in response to the current public health emergency demonstrates the importance of the District’s relationships with the public and constituents. The District Board of Commissioners demonstrated the ability to marshal solutions and understand how to organize, identify and proactively address the emerging needs. Local control delegated to the Board of Commissioners allowed the District to timely respond to the urgent and rapidly changing events.

a. District Response to Current Public Health Emergency

1. On March 17, 2020, the District successfully held its first public meeting, the March Regular Commission meeting, by teleconference in immediate response to the public health emergency and Santa Clara County Shelter in Place Order issued just one day prior. At that meeting, an emergency agenda item was added for the Commission to determine the District’s Essential Governmental Functions, in compliance with the County Shelter in Place Order. Action taken authorized continued operations, without delay, of the District’s fire fuel reduction programs and emergency programs, a vital decision with fire season approaching.
2. During the weeks of the critical PPE (Personal Protective Equipment) shortage, a donor contacted the District and the District worked with the donor to immediately facilitate conveying 1,000 N95 masks to County paramedics and El Monte Fire Station personnel.
3. When public classes for emergency preparedness were cancelled by SCCFD in light of the public health emergency, District staff immediately consulted with partner agencies to develop and schedule video streaming classes. The classes address the urgent need for District residents to prepare their families and properties in advance of fire season and review procedures and skills for emergency preparedness, readiness and self-resilience.
4. With implementation of the Shelter in Place, District staff recognized the need to support LAH CERT and HAM volunteers to gauge needed outreach services to the District’s residents. Starting in April and scheduled through the Shelter in Place period, District staff convenes and conducts weekly video conference

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check-in sessions with LAH CERTs and Town of Los Altos Hills Emergency Communications Committee members for wellness checks and to gather needs of the community. Refreshers on CERT skills and activity are reviewed during these weekly Check-ins.

The ability of the District to respond to the current public health emergency event and on-going Shelter in Place Orders without delay and with urgency to address the community's needs, demonstrates the importance, seriousness and impact of local control. Revoking that control will profoundly deter the District's ability to provide its residents with strong services needed to ensure a community highly susceptible to major fire events and its ability to timely respond to emergencies and disasters. Retaining local control allows the District to continue with its organized, prepared and immediate response to fire safety and emergency protection of the District and its residents.

The services to the community that the District provides through its fire resiliency programs and for emergency and disaster preparedness cannot be performed with the same quality, expedience, and cost efficiency, while maintaining positive community relationships, without local control. The District Response emphasizes the importance of District programs to support firefighting infrastructure and initiate fire prevention programs that align with fire risks and the local CWPP Annex 4. The District recognizes that impacts are shared regionally, and therefore mitigations and benefits should be shared regionally. In that light, the District will continue to act locally and look for opportunities to work with other local agencies for the benefit of the regional community.

The connectivity between the District, local agencies, and the community is a fundamental component to the success of these programs. This connectivity builds cohesiveness between the District, local agencies and District residents which is essential to ensure that residents, their properties and the community are prepared for a fire, wildfire, emergency or disaster event.

b. Impact of Consolidation of Fire Districts within Santa Clara County

In 2010, and now again in 2020 reports, the County proposes consolidation of the fire districts within the County's jurisdiction. The methodologies and complexities of consolidation were contested in past years and are even more complex and would be contested today. As evidenced by District's strong financial position, cost savings, and limited staff, the efficiency of the District is apparent. Since District operations are already run in an efficient manner, more cannot be done by consolidating the District to make it part of a larger organization.

Consolidation leads to fire protection decisions on a global, not local, level and these decisions cannot be attuned to needs of local constituents. Actions in response to global, not local decisions, disrupt local operations and replace sensitivities to local needs with regulations, policies, bureaucracy and a list of higher priorities that leave the local constituents without responsiveness. Consolidation would, by its nature, replace

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the value of local control with the mechanisms of large and distant bureaucratic governance.

The impact of the County Board of Supervisors accepting these recommendations would be dire not only to the District's Board of Commissioners ability to perform its mission, but also to the Los Altos Hills and the surrounding agencies that collaborate with the District. The dire effects would cascade to residents who depend on the District for vital fire and disaster protection services, emergency preparedness, community education and LAH CERT support. Revocation of the delegation of authority and commensurate loss of local control would lead to significant harm to residents of the District. In the end of this sequence of potential events by the revocation of the delegation of authority, the residents of the District would be significantly harmed by loss of its local control.

There is strong support in the community for the District to continue operation under the Board of Supervisors' delegation of authority, thereby maintaining local control. The District has shown the ability to adapt and be flexible (including and especially since 2016), and this will propel the District into the future. The District is positioned to meet the threats and challenges of providing community public safety with positive solutions.

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