



BOARD MEETING AGENDA SUBMITTAL

TO: GCSB Board of Directors

FROM: Peter Kampa, General Manager

DATE: August 10, 2021

SUBJECT: Agenda Item 6B: Review and Input on Agreement with Tuolumne County for the Collection of Development Impact Fees for New Development and the Scope of Work and Fees Associated with the Process of Annexation into the Community Facilities District 2021-01, Public Services

RECOMMENDED ACTION:

No specific action of the Board is requested at this meeting as the agreement is under review by the County. The purpose of today's discussion is to receive Board input and direction on the agreement.

BACKGROUND:

At the board's July 13, 2021 board meeting, the district's first schedule of development impact fees for park and fire services were adopted unanimously by resolution. These fees apply to all new construction within the district boundaries at the time that a building permit is issued by the county. By law, the district is not authorized to collect these development impact fees as that is the responsibility of the land use authority, which is the county of Tuolumne.

We have presented the development impact fees to the county for their consideration of adoption and implementation. In order to fully implement the charging of these development impact fees, an agreement between the county and district is necessary to outline the roles and responsibilities of each agency in the collection, distribution and reporting regarding these fees. Attached is a draft agreement provided by our consultant, NBS, and reviewed/finalized by district legal counsel. This agreement has been submitted to the county for review and approval. At this meeting we will summarize the agreement and receive your input regarding its content.

ATTACHMENTS:

- Draft Development Impact Fee Agreement with Tuolumne County

**AGREEMENT BETWEEN THE COUNTY OF TUOLUMNE AND THE
GROVELAND COMMUNITY SERVICES DISTRICT REGARDING
COLLECTION OF A CAPITAL FIRE AND PARK FACILITIES FEE FOR NEW
CONSTRUCTION AND DEVELOPMENT**

THIS AGREEMENT (“Agreement”) is made and entered into as of this _____ day of _____, 2021, by and between the County of Tuolumne, a municipal corporation of the State of California, hereinafter referred to as "County," and the Groveland Community Services District, a district organized and existing under the laws of the State of California, hereinafter referred to as "District."

RECITALS

WHEREAS, on July 13, 2021, the Board of Directors of the District conducted a public hearing regarding the adoption of Development Impact Fees related to Capital Fire and Park Fees (“Fees”) for new development. At the conclusion of the hearing, the District’s Board adopted Resolution 21-2021 establishing the Fees; and

WHEREAS, California Government Code, Section 65962(b), requires a sixty (60) day waiting period before fees can become effective; and

WHEREAS, District has requested that County include the District’s Fees as part of the County’s development impact fees for those developments within the District; and

WHEREAS, District has requested that County processing of applications for building permits include the District’s Fees; and

WHEREAS, County is willing to collect the Fee as long as District pays the County its actual costs for calculating, reporting, and collecting the Fee; and

WHEREAS, County and District desire to formally define the parameters for collecting the Fee; and

WHEREAS, County and District desire to enter into this Agreement on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual promises hereinafter set forth, County and District agree as follows:

I. SCOPE

This Agreement defines the parameters for County to collect the Fee on behalf of the District within its political boundaries, for which County is either responsible for or under contract to issue building permits and collect fees associated with new construction or

development within the County, deposit District's collected funds as directed, and prepare periodic statistical information reports for District.

II. DISTRICT'S OBLIGATIONS

A. District shall, as required under California Government Code Section 66006, establish a separate capital facilities account for funds collected in accordance District Resolution 21-2021. District shall produce, at the close of its fiscal year, a report detailing the beginning and ending balance in the capital facilities account, fee revenues deposited into the account, interest earnings on the account, any other income in the account, the amount of expenditures from the account, and the amount of refunds from the account.

B. Annually, not less than sixty (60) days prior to the beginning of its fiscal year, the District shall notify the County of the per-unit amount of the fees to be collected under the District's Fee for all affected properties.

C. Annually, as part of its fiscal budget, the District shall appropriate funds, based on the County's estimates, sufficient to cover the administrative fee charged by the County to pay for its actual costs of time and materials for calculating, reporting and cashiering functions associated with collecting the Fee.

III. COUNTY'S OBLIGATIONS

A. The County shall adopt the District's Fees as part of its development impact fees which shall only be applicable to developments within the District or that will be annexed into the District.

B. The County shall develop or amend an existing building permit form that will enable it to collect a per dwelling unit, per room/space, or per square foot fee, as part of its permit process, for new construction or development at rates identified by District for a given fiscal year. The District shall accept the fee amount based on the number of dwelling units, lodging rooms or spaces permitted; or commercial square footage calculation as determined by the County.

C. The County shall deposit into a separate fund all funds collected by County in accordance with the Fee as part of the permit process.

D. To enable the District to comply with its required reporting obligations, the County shall provide to the District on a monthly basis a statement, in an electronic format, that at a minimum will report the County's permit activity by the type of property; parcel number address; rooms/spaces; square footage; fee collected; date fee collected.

E. The County shall remit to the District on a monthly basis all funds collected less the administrative fee charged to process the Fee.

F. The County shall commence collecting the fee effective _____, 2021.

IV. CONSIDERATION

In consideration for collecting the Fee, the County shall retain an annually agreed upon administration fee to cover the costs of the calculating, reporting and cashing functions.

V. REFUNDS

In the event that the County collects the Fee or a portion of the Fee in error or a building permit expires without construction taking place, the County will recalculate the correct Fee amount, process a refund to the customer if necessary, and notify the District of this action. If the fee collected has already been remitted to the District, the County will notify the District and the District will process a refund to the customer.

VI. FEE WAIVER OR ADJUSTMENT PROCEDURES

For applicants applying for a building permit to replace an occupied dwelling unit or commercial/industrial structure, the District has deemed that a credit for the structure demolished or destroyed will be applied to the new development on the same parcel. Alterations to residential structures shall be exempt from fees. Rehabilitation of commercial, industrial or hotel/B&B/RV Park facilities shall also be exempt, unless rehabilitation results in higher density commercial or industrial uses e.g., more units or square footage as determined by the County in consultation with the District.

VII. APPEAL

The District's Board of Directors shall hear all appeals for waiver or reduction in the District's Fee. The Board of Directors shall have the sole authority to grant or deny the appeal.

VIII. TERM

This Agreement shall be effective and commence as of _____, 2021 and shall end when either party terminates the agreement in accordance with Section IX.

IX. TERMINATION

Either party may terminate this Agreement by written notice served upon the other party by Certified Mail delivered not less than one hundred eighty (180) days prior to the proposed date of terminated at the address indicated in Section XIII of this Agreement.

X. SAVING CLAUSE

In the event that any portion of this Agreement shall at any time be declared invalid by any court of competent jurisdiction, or by governmental regulations or decree, such decision shall not invalidate the entire Agreement, it being the expressed intention of the parties hereto that all other provisions not declared invalid shall remain in full force and effect

XI. MODIFICATIONS

This Agreement contains the entire understanding of the parties and no alteration, amendment, variation, or waiver of the terms of this Agreement shall be valid unless made in writing and signed by both parties. Waiver by either party of any default, breach or condition precedent shall not be construed as a waiver of any other default, breach or condition precedent, or any other right hereunder.

XII. INDEMNIFICATION

The District shall defend, indemnify and hold harmless the County, its officers, directors, agents, employees and volunteers from and against all demands, claims, actions, liabilities, losses, damages, and costs, including payment of reasonable attorneys' fees, arising out of or resulting from the performance of the Agreement, caused in whole or in part by the negligent or intentional acts or omissions of the District's officers, directors, agents, employees, or subcontractors.

The County shall defend, indemnify, and hold harmless the District, its officers, directors, agents, employees, and subcontractors from and against all demands, claims, actions, liabilities, losses, damages and costs, including payment of reasonable attorneys' fees, arising out of or resulting from the performance of the Agreement, caused in whole or in part by the negligent or intentional acts or omissions of the County's officers, directors, agents, employees, or volunteers.

The District shall also defend, indemnify and hold harmless the County, its officers, directors, agents, employees, and subcontractors from and against any challenge to the Fee, including its validity, methodology, collection procedure, etc... except such challenge that is caused by the sole negligence of the County.

XIII. NOTICE

Any notice, demand, request, consent, or approval that either party hereto may or is required to give the other pursuant to this Agreement shall be in writing and shall be either personally delivered or sent by mail, addressed as follows:

The County of Tuolumne
Attn: County Administrator

_____, CA _____

Groveland Community Services District
Attn: General Manager
18966 Ferretti Rd.
Groveland, CA 95321

Either party may change the address to which subsequent notice and/or other communications can be sent by giving written notice designating a change of address to the other party, which shall be effective upon receipt.

XIV. GOVERNING LAWS AND JURISDICTION

This Agreement shall be deemed to have been executed and to be performed within the State of California and shall be construed and governed by the internal laws of the State of California. Any legal proceedings arising out of or relating to this Agreement shall be brought in Tuolumne County, California.

XV. SUCCESSORS

This Agreement shall bind the successors of the County and the District in the same manner as if they were expressly named.

XVI. INTERPRETATION

This Agreement shall be deemed to have been prepared equally by both of the parties, and the Agreement and its individual provisions shall not be construed or interpreted more favorably for one party on the basis that the other party prepared it.

XVII. ENTIRE AGREEMENT

This Agreement constitutes the entire contract between the County and the District regarding the collection, deposit and reporting of the Fee. Any prior agreements, whether oral or written, between the County and the District regarding the subject matter of this Agreement are hereby terminated effective immediately upon full execution of this Agreement.

XVIII. DUPLICATE COUNTERPARTS

This Agreement may be executed in duplicate counterparts. The Agreement shall be deemed executed when it has been signed by both parties.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year first written above.

COUNTY OF TUOLUMNE

GROVELAND COMMUNITY SERVICES DISTRICT

BY _____
Tracie Riggs, County Administrator

By _____
Peter Kampa, General Manager

DATE _____

DATE _____

Reviewed and Approved by County Counsel

Approved as to Form

BY _____
County Counsel

BY _____
General Counsel

DATE _____

DATE _____

DRAFT