



KENSINGTON FIRE PROTECTION DISTRICT

DATE: April 13, 2022

TO: Board of Directors
Kensington Fire Protection District

RE: **Agenda Item 5a**
Fire Services Contract Fourth Amendment

SUBMITTED BY: Bill Hansell, General Manager
Michael Pigoni, Fire Chief
Karen Pinkos, City Manager

ACTION REQUESTED

Adopt a Resolution approving the Fourth Amendment to the Agreement for Services between the Kensington Fire Protection District and the City of El Cerrito that establishes a six-month financial reserve.

BACKGROUND

The Agreement for Services provides the foundation for the provision of fire prevention, fire suppression, and emergency services by the City of El Cerrito to the Kensington Fire Protection District. Generally, the agreement covers the scope of services the City provides and specifies the determination of the annual fee paid by the Kensington Fire Protection District. This Agreement for Services has been in effect for nearly 25 years and has been mutually beneficial to both the El Cerrito and Kensington communities.

The Kensington Fire Protection District (KFPD) and the City of El Cerrito first entered into an agreement in August of 1995 for the provision of fire services. In July 2005, the term of the Agreement was extended for an additional ten (10) years and the First Amendment to the Agreement was completed. The City and KFPD entered into the Second Amendment to the Agreement in 2009 extending the Agreement through June 2020, and entered into the Third Amendment to the Agreement in 2019 extending the Agreement through June 2030.

Subsection VI.J of the original 1995 agreement established a requirement that the District would establish a capital reserves account as well as a financial reserve account. At that time, the financial reserve account was "*to provide sufficient financial resources to pay for the fire protection services provided for herein for a period of six months.*" In the Second Amendment in 2009, this subsection was revised so that the financial reserve amount was increased to a period of twelve months.

KFPD has been working diligently to plan the renovation of the Kensington Public Safety Building at 217 Arlington Avenue for several years, so that the El Cerrito-Kensington Fire personnel at Station 65 will be housed in a seismically safe structure with the resources and space needs of a contemporary essential services facility. Seismic and safety issues

were identified during renovations in the late 1990s, and updated geotechnical reports in 2016 with further analysis in 2021 confirmed the seismic vulnerability of the structure and danger to its occupants. Evidence of the Building's movement due to the slow-motion geologic slide of the site is visible in various locations, the instability of the soil conditions exacerbates the building's vulnerability to seismic damage, and engineers have determined that substantial portions of the building must be removed and replaced in order to stabilize the structure. More information and details on the Building's renovation can be found on the KFPD website at www.kensingtonfire.org/public-safety-building. The District hopes to finalize the building permit by the summer, and have the temporary facilities ready for a Fall construction start date.

KFPD staff has worked with NHA Advisors, who have previously worked with the City on various financing issuances, on their financing strategy for renovating the Public Safety Building. While the District has built substantial cash reserves through good fiscal stewardship for this very purpose, construction inflation over the last couple of years has increased the estimated building cost dramatically. However, KFPD's use of reserves is limited by the amount that KFPD is required to maintain per the Agreement for Services with the City. During the NHA analysis, it became clear that reducing the amount of the required financial reserve and using those funds for the renovation, would reduce the District's financing costs.

ANALYSIS

NHA Advisors provided a presentation to the KFPD Board of Directors showing the base strategy, in which the District maintains the current level of twelve months of reserves (approximately \$3.2M) and employs the remaining available reserve to fund the project. The result would be:

- \$4,860,000 Reserves + \$4,640,000 Bond (30yr) =
\$9,500,000 Project Cost
- \$9,500,000 Project Cost + \$4,052,000 Interest, Fees, etc. =
\$13,552,000 Total Cost

However, if the requirement for financial reserves was reduced to the original Agreement amount of six months (approximately \$1.5M), and the balance was used for the project, the reduced bond would save \$941,000 over 30 years, or an average of \$31,367 per year, as follows:

- \$6,000,000 Reserves + \$3,500,000 Bond (30yr) =
\$9,500,000 Project Cost
- \$9,500,000 Project Cost + \$3,111,000 Interest, Fees, etc. =
\$12,611,000 Total Cost

By amending the Agreement to allow for a six-month reserve instead of twelve months, the lower bond results in an annual debt service of \$229,000 per year for the District, compared to \$300,000 per year for the higher bond. The \$71,000 saved each year would

create a larger cushion between revenues and expenditures, thereby leading to higher reserves for unexpected costs and/or other projects over the next three decades.

KFPD has been financially stable for many years and the NHA projections show that that they can continue to reliably pay the Agreement fee, maintain prudent reserves, and afford the renovation expense. City staff agrees with KFPD staff that a six-month operating reserve is more than adequate, indeed the reduced amount of \$1.5 million would represent 33% of their FY 2021-22 expenditure budget—well above the GFOA recommended 17% for government agencies.

All other provisions of the Agreement would remain in effect.

This Fourth Amendment was heard by the City Council of El Cerrito and approved at its regular meeting on April 5, 2022.

FINANCIAL CONSIDERATIONS

Approval of the amendment will lower the borrowing amount required by the District to renovate the Kensington Public Safety Building, and therefore reduce interest payments. Prior targeted reserve amounts for emergency operations, rolling-stock reserves, and contingencies will not be affected.

LEGAL CONSIDERATIONS

The Fourth Amendment to the Agreement for Services has been reviewed by the District's legal counsel.



RESOLUTION 2022-06

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE KENSINGTON FIRE PROTECTION DISTRICT APPROVING THE FOURTH AMENDMENT TO AN AGREEMENT FOR SERVICES BY AND BETWEEN THE KENSINGTON FIRE PROTECTION DISTRICT AND THE CITY OF EL CERRITO

WHEREAS, the City of El Cerrito Fire Department and the Kensington Fire Protection District began shared emergency response in 1972; and

WHEREAS, the City of El Cerrito and the Kensington Fire Protection District joined with other fire agencies in a joint emergency response system that included dispatch and training services in 1982; and

WHEREAS, the City of El Cerrito and the Kensington Fire Protection District first entered into an agreement for services in 1995; and

WHEREAS, in 2005 the City of El Cerrito and the Kensington Fire Protection District extended the term of the agreement for 10 years and approved the first amendment; and

WHEREAS, in 2009 the City of El Cerrito and the Kensington Fire Protection District extended the term of the agreement to July 1, 2020 and approved the second amendment; and

WHEREAS, in 2019 the City of El Cerrito and the Kensington Fire Protection District extended the term of the agreement to July 1, 2030 and approved the third amendment; and

WHEREAS, this Agreement for Services by and between the City of El Cerrito and the Kensington Fire Protection District has served the needs of residents, businesses, and visitors of both communities well; and

WHEREAS, the Kensington Fire Protection District seeks to renovate the Public Safety Building at 217 Arlington Avenue in order to make Station 65 a seismically safe structure with the resources and space needs of a contemporary essential services facility; and

WHEREAS, the second amendment of the agreement included a revision to require a financial reserve to provide sufficient financial resources to pay for the Fire protection services provided for a period of twelve months, an increase from the original requirement of six months; and

WHEREAS, the Kensington Fire Protection District would be able to save on financing costs to renovate the Public Safety Building if they are able to decrease the required reserve amount to the original six-month requirement; and

WHEREAS, the District Board of Directors has determined that approving this amendment is in the best interests of the community of Kensington and the City.

NOW, THEREFORE BE IT RESOLVED, that the Board of Directors of Kensington Fire Protection District hereby authorizes the Board President and the General Manager to sign the Fourth Amendment to the Agreement for Services By and Between the Kensington Fire Protection District and the City of El Cerrito, herein incorporated by reference and made a part of this resolution as Exhibit A.

BE IT FURTHER RESOLVED that this resolution shall become effective immediately upon passage and adoption

The foregoing resolution was duly adopted at a regular meeting of the Kensington Fire Protection District on the 13th day of April 2022 by the following vote of the Board.

AYES:

NOES:

ABSENT:

ABSTAIN:

Larry Nagel, President

Janice Kosel, Secretary

FOURTH AMENDMENT TO AGREEMENT FOR SERVICES
BY AND BETWEEN THE KENSINGTON FIRE PROTECTION DISTRICT
AND THE CITY OF EL CERRITO

THIS FOURTH AMENDMENT TO AGREEMENT FOR SERVICES BY AND BETWEEN THE KENSINGTON FIRE PROTECTION DISTRICT AND THE CITY OF EL CERRITO ("Fourth Amendment") is hereby entered into this ____ day of ____ 2022 by and between the City of El Cerrito, a [charter city](#) ("CITY"), and Kensington Fire Protection District, a public agency ("DISTRICT").

RECITALS

- A. CITY and DISTRICT are parties to an Agreement for Services, dated August 7, 1995, as amended by the First Amendment to said agreement, dated March 1, 2005, and the Second Amendment to said agreement, dated September 2009, and the third agreement dated July 2019 ("the Agreement").
- B. The parties desire to amend the Agreement pursuant to the terms and conditions set forth below.

NOW, THEREFORE, CITY and DISTRICT hereby agree as follows:

Section 1. Amendment to Subsection VI.J of the Agreement: Size of Reserve Account.

Subsection VI.J of the Agreement is amended to read as follows (with text in ~~strikethrough~~ indicating deletion and text in double underline indicating addition):

"J. As soon as practical, the District shall build up and maintain a capital reserves account to satisfy equipment replacement costs in consideration of the amount recommended by the El Cerrito Fire Chief. The District shall also establish to the extent practicable a reserve account to provide sufficient financial resources to pay for the fire protection services provided for herein for a period of ~~twelve~~ six months."

Section 2. All other provisions of the Agreement shall remain in effect.

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

KENSINGTON FIRE PROTECTION DISTRICT

CITY OF EL CERRITO

Larry Nagel, President

Gabriel Quinto, Mayor

Bill Hansell, General Manager

Karen Pinkos, City Manager

Approved as to form:

John Bakker, District Counsel

Sky Woodruff, City Attorney

Attest:

Holly Charléty, City Clerk

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