



Legislation Text

File #: 17-0812, **Version:** 1

County Counsel recommending the Board authorize the Chair to sign the Indemnity, Hold Harmless, Estoppel, and Defense Agreement between El Dorado County and Joe Harn, individually and as the Auditor-Controller of the County of El Dorado relating to the transfer of park and recreation development impact mitigation fees in the amount of \$1,738,070.04 to the El Dorado Hills Community Services District.

FUNDING: General Fund.

DEPARTMENT RECOMMENDATION:

County Counsel recommending the Board authorize the Chair to sign the Indemnity, Hold Harmless, Estoppel, and Defense Agreement between El Dorado County and Joe Harn, individually and as the Auditor-Controller of the County of El Dorado relating to the transfer of park and recreation development impact mitigation fees in the amount of \$1,738,070.04 to the El Dorado Hills Community Services District

DISCUSSION / BACKGROUND:

In 1995, the County of El Dorado passed Ordinance No. 4404, establishing "CSD and Parks and Recreation Impact Mitigation Fees," which authorizes the El Dorado County Board of Supervisors to adopt fees on behalf of community services districts within the County to offset the impacts of new development on parks and recreation services equipment and capital facilities.

In 1997, the County began collecting fees on behalf of EDH/CSD, pursuant to Resolution 112-97, and thereafter began disbursing those fees to EDH/CSD upon request and in accordance with law.

On August 18, 2016 the County and the EDH/CSD entered into a Settlement, Indemnity, and Hold Harmless Agreement whereby the County agreed to transfer the amount of verified expenditures from the EDH/CSD Development Impact Fee account to a EDH/CSD operating account within 15 days of the County confirming the expenditures and in exchange, the EDH/CSD agreed to indemnify the County in the event a court determined that any funds so transferred were subject to refund.

On May 4, 2017 the EDH/CSD made a request for disbursement of funds in the amount of One million three hundred six thousand eighty-six dollars and sixty-four cents (\$1,306,086.64) for prepayment of the Promontory Park lease payments.

On May 8, 2017 the EDH/CSD made a request for disbursement of funds in the amount of Four hundred thirty-one thousand nine hundred eighty-three dollars and forty cents (\$431,983.40) for the November 1, 2016 and May 1, 2017 Promontory Park lease payments (\$344,800) and February 2016 to March 2017, 2% Project Administration fee (\$87,183.40).

The County and the Auditor-Controller want to enter this agreement so that the Auditor-Controller can proceed to transfer the aforesaid money to the Operating Account of the El Dorado Hills CSD in

accordance with law and without liability.

ALTERNATIVES:

The Board of Supervisors could decline to approve this agreement and authorize the chair to sign this agreement.

OTHER DEPARTMENT / AGENCY INVOLVEMENT:

Chief Administrative Office and Auditor-Controller.

CAO RECOMMENDATION:

Approve and authorize the Chair to sign the Indemnity, Hold Harmless, Estoppel and Defense Agreement between El Dorado County and Joe Harn, individually and as the Auditor-Controller of the County of El Dorado relating to the transfer of park and recreation development impact mitigation fees in the amount of \$1,738,070.04 to the El Dorado Hills Community Services District.

FINANCIAL IMPACT:

This agreement has no financial impact on the County.

CLERK OF THE BOARD FOLLOW UP ACTIONS:

Following Board approval, the Board Clerk will forward 3 fully executed originals of the Agreement to County Counsel for distribution and administration.

STRATEGIC PLAN COMPONENT: Good governance.

CONTACT: Michael Ciccozzi.