



TOWN OF DISCOVERY BAY

RESOLUTION NO. 2004-01

2002 Resources Bond Act

URBAN PARK ACT OF 2001 PROGRAM

RESOLUTION OF THE Town of Discovery Bay

**APPROVING THE APPLICATION FOR GRANT FUNDS FOR THE
URBAN PARK ACT OF 2001 PROGRAM UNDER THE CALIFORNIA CLEAN
WATER, CLEAN AIR, SAFE NEIGHBORHOOD PARKS, AND COASTAL
PROTECTION ACT OF 2002**

For Discovery Bay Community Center

WHEREAS, the people of the State of California have enacted the CALIFORNIA CLEAN WATER, CLEAN AIR, SAFE NEIGHBORHOOD PARKS, AND COASTAL PROTECTION ACT OF 2002, which provides funds to the State of California for grants to eligible Applicants; and

WHEREAS, the California Department of Parks and Recreation has been delegated the responsibility for the administration of the Urban Park Act of 2001 Program and the grant Project shown above within the State, setting up necessary procedures, and

WHEREAS, said procedures established by the California Department of Parks and Recreation require the Applicant's Governing Body to certify by resolution the approval of the Application before submission of said Application to the State, and

WHEREAS, the Applicant will enter into a Contract with the State of California for the Project;

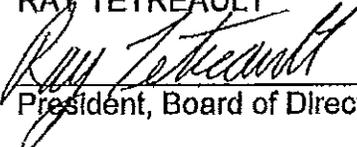
NOW, THEREFORE, BE IT RESOLVED that the Town of Discovery Bay Board of hereby:

1. Approves the filing of an Application for local assistance funds from the Urban Park Act of 2001 Program under the California Clean Water, Clean Air, Safe Neighborhood Parks and Coastal Protection Act of 2002; and

2. Certifies that the Applicant has or will have sufficient funds to operate and maintain the Project; and
3. Certifies that the Applicant has reviewed, understands, and agrees to the General Provisions contained in the Contract shown in the Procedural Guide; and
4. Certifies that the Grantee has or will have available, prior to commencement of any work on the Project, the proportional Match; and
5. Certifies that the Project conforms to the recreation element of any applicable city or county general plan; and
6. Appoints the General Manager, or his designee, as agent to conduct all negotiations, execute and submit all documents including, but not limited to, Applications, agreements, payment requests and so on, which may be necessary for the completion of the Project.
7. Effective Date: This resolution shall take effect immediately upon its passage.

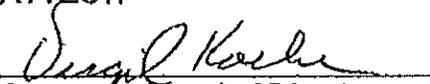
PASSED AND ADOPTED by the Board of Directors of the Town of Discovery Bay, at their regular meeting thereof, held on January 21, 2004, by the following vote:

Ayes: 4
Noes: 0
Abstentions: 0
Absent: 1

RAY TETREULT


President, Board of Directors

ATTEST:



Secretary, Board of Directors



Town of Discovery Bay
RESOLUTION NO. 2004-02

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE TOWN OF DISCOVERY BAY, A COMMUNITY SERVICES DISTRICT TO DELETE FORMER DIRECTOR, GARY HESS AND ADD CURRENT DIRECTORS THOMAS B. HINDS AND DAVID PIEPHO ON THE BANK OF AGRICULTURE AND COMMERCE BANK ACCOUNTS TO SIGN ON CHECKS WRITTEN FROM THE TOWN OF DISCOVERY BAY CHECKING ACCOUNTS

WHEREAS, the Town of Discovery Bay desires to delete former director, Gary Hess and add current directors Thomas B. Hinds and David Piepho on their (4) public bank accounts with Bank of Agriculture and Commerce to sign on checks written from the Town of Discovery Bay Checking Accounts which are listed below:

- 50017249 – Water, Wastewater and Recreation (CSD)
- 50024288 – Discovery Bay Youth Council Committee
- 50020290 – Discovery Bay Municipal Advisory Committee
- 50020304 – Discovery Bay Community Center Committee

NOW, THEREFORE, BE IT RESOLVED that the Town of Discovery Bay does the following:

1. The Bank of Agriculture and Commerce, Discovery Bay Branch, 14804-A Highway 4, Discovery Bay, CA 94514, is hereby requested to delete former director Gary Hess, and add the current director's names, Thomas B. Hinds and David Piepho on the above (4) checking accounts to be able to sign on checks written from these accounts.
2. The Town of Discovery Bay Board of Directors require that valid signatures on checks written from these accounts be two of the three elected officers of the Town of Discovery Bay Board of Directors (President and Treasurer, or by one of them, and one other Director).

PASSED AND ADOPTED by the Board of Directors of the Town of Discovery Bay, at their regular meeting thereof, held on January 21, 2004 by the following vote:

AYES: 4
NOES: 0
ABSENT: 1
ABSTENTION: 0

RAY TETREULT

Ray Tetreault
President, Board of Directors

ATTEST:

Virgil Koehler
Secretary, Board of Directors



TOWN OF DISCOVERY BAY

RESOLUTION NO. 2004-03

**RESOLUTION OF THE BOARD OF DIRECTORS
OF THE TOWN OF DISCOVERY BAY
ESTABLISHING CAPACITY CHARGES FOR WATER AND
WASTEWATER SERVICE**

WHEREAS, the Town of Discovery Bay ("Town") has identified new facilities to be constructed in the future to provide continued water and wastewater service within the existing Town service area as identified in the attached Exhibit "A" entitled "Explanation of Projects for Capacity Charges" incorporated herein by reference (identified herein after as "New Facilities");

WHEREAS, the total estimated reasonable cost of constructing the New Facilities to provide the continued water and wastewater service is six million six hundred thousand dollars (\$6,600,000);

WHEREAS, the Town prepared a report entitled "Basis of Capacity Fee" attached hereto as Exhibit "B" and incorporated herein by reference proposing a capacity charge for wastewater and water service for facilities in existence at the time the charge is proposed and for the New Facilities to be constructed in the future;

WHEREAS, the Town prepared the necessary reports and notices to adopt a capacity charge in compliance Government Code section 66016, including notice to any interested party who filed a written request for notice of meetings of new or increased fees or service charges;

WHEREAS, a properly noticed public hearing was held by the Town on February 18, 2004, in which oral and written presentations could be made to the Town regarding the proposed capacity charge;

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. The Board finds and declares that the above recitals are true and correct and incorporated herein.
2. The Board hereby adopts pursuant to Government Code section 66013 a capacity charge to apply to (1) all new water permits requesting service from the Town in the amount of two hundred ninety-seven dollars (\$297.00) and (2) all new wastewater permits requesting service from the

Town in the amount of two thousand seven hundred eighty-nine dollars (\$2,789.00). Said capacity charge shall be due and payable to the Town upon submitting a permit application to the Town for water and wastewater service.

3. The Board finds and declares the adoption of the capacity charge is exempt from the California Environmental Quality Act (CEQA) pursuant to section 15273(a)(4) of Title 14 of the Code of California Regulations and directs the General Manager to file a Notice of Exemption.
4. The General Manager and Attorney of the Town are hereby authorized and directed to make such filings and reports as may be required to carry out the intent of this Resolution.
5. This Resolution shall be effective immediately.

PASSED AND ADOPTED by the Board of Directors of the Town of Discovery Bay, at their regular meeting thereof, held on February 18, 2004, by the following vote:

AYES: 5
NOES: 0
ABSTENTIONS: 0
ABSENT: 0

RAY TETREAULT



President, Board of Directors

ATTEST:



Secretary, Board of Directors

Explanation of Projects for Capacity Charges

Wastewater Related

1. Discharge Pipeline Project: Est. Cost: \$2m

Based on a requirement of the District's latest NPDES permit, which is needed to operate any wastewater treatment facilities, the NPDES permit provides the purpose of and time in which this project must be completed. The construction of the Discharge Pipeline project is also a requirement of a Cease and Decist Order placed onto the Town of Discovery Bay by the California Regional Water Quality Control Board. This project will consist of building an export pump station, installing approximately 1-mile of 14-inch pipe, penetrating though an existing levee and construction of an approximate 105-foot long diffuser pipe place on the bottom of Old River. This project should be completed during the 4th quarter of 2004.

2. Bio-Solids Building: Est. Cost: \$1.7m

Sewage sludge is a by-product of processing raw wastewater, and the Town of Discovery Bay currently must dredge and either land apply or dispose of the sludge at a landfill site, of which either method is expensive to the community. The construction of the bio-solids buildings would allow the sewage sludge to be dredged from the District's sludge lagoons at about 5-percent solids and the rest water, into two (2) "greenhouse" type buildings, where based on the outdoor temperature and the heat captured within these buildings would cause the sludge to dry to about 75-percent solids. During the drying process the sludge would be heated in these buildings causing any and all human viruses to be eliminated and the dry sludge could be used as compose in public areas, thus saving the community cost to disposed sewage sludge. This project should be completed during the 2nd quarter of 2004.

3. Wetlands Project: Est. Cost: \$2.5m

The object of building or constructing approximately 30 acres of man-made wetlands that would contain various types of aqua plants would be used to remove various pollutants from the community's wastewater final effluent flows. This project would consist of various embankments or dams that would allow the wastewater effluent to pass through the various aqua plants then flow back to the WWTP for final processing. The cost of this project would be used for grading, constructing embankments or dams, building one or two pump stations, some piping and for the purchase and planting of various types of aqua plants.

Water Related

1. Booster Pump Station: Est. Cost: \$400,000

In order to resolve some of our current complaints about, poor water pressure, mainly in the early morning hours, one or two small booster pumps package stations will need to be installed to increase the water pressure issue.

Town of Discovery Bay

Basis of Capacity Fee

Wastewater	Project Type or Name	Estimated Cost
	Discharge Pipeline (Under Development)	\$2,000,000.00
	Bio-Solids	\$1,700,000.00
	Wetlands	\$2,500,000.00
		\$6,200,000.00
Water		
	Future Upgrades (Purchase of Land, Pumps, Etc.)	\$400,000.00
	Sub -Total	\$6,600,000.00
	Current Residents Contribution via Usage Fees (4851)	(\$2,510,000.00)
		\$4,090,000.00
	No. of Lots For Future Development	
	Discovery Bay - 100	
	Discovery Bay West - 1000	
	Ravenswood - 203	
	Pantages - 300	
	Total = 1603	
	\$4,090,000 divided by (1603) =	\$2,551
Other	Existing Facilities	
Wastewater	UV System	\$676,000.00
	1988 Improvements	\$2,250,000.00
	Generators Portable	\$60,000.00
	Vac Truck	\$25,000.00
	SCADA System	\$132,500.00
	Sub-total	\$3,143,500.00
	Divide by Total Bulldout of (6454) =	\$487.00
Water	Well 5 Generator & Transfer Switch	\$106,000.00
	Abandon of Wells 1a & 3	\$60,000.00
	Fencing of Future Well Site	\$12,000.00
	SCADA System	\$132,500.00
	Sub-total	\$310,500.00
	Divide by Total Bulldout of (6454) =	\$48.00
	Grand Total of Wastewater & Water	\$3,454,000.00
	Divide by Total Bulldout of (6454) =	\$535.00
	Total Capacity Charge / Fee	\$3,086.00

Update 02/23/04

Town of Discovery Bay

Basis of Capacity Fee

Wastewater	Project Type or Name	Estimated Cost
	Discharge Pipeline (Under Development)	\$2,000,000.00
	Bio-Solids	\$1,700,000.00
	Wellands	\$2,500,000.00
		\$6,200,000.00
Water		
	Future Upgrades (Purchase of Land, Pumps, Etc.)	\$400,000.00
	Sub -Total	\$6,600,000.00
	Current Residents Contribution via Usage Fees (4851)	(\$2,510,000.00)
		\$4,090,000.00
	No. of Lots For Future Development	
	Discovery Bay - 100	
	Discovery Bay West - 1000	
	Ravenswood - 203	
	Pantages - 300	
	Total = 1603	
	\$4,090,000 divided by (1603) =	\$2,551
Other	Existing Facilities	
	Well 5 Generator & Transfer Switch	\$106,000.00
	Abandon of Wells 1a & 3	\$60,000.00
	Fencing of Future Well Site	\$12,000.00
	UV System	\$676,000.00
	1988 Improvements	\$2,250,000.00
	SCADA System	\$265,000.00
	Generators Portable	\$60,000.00
	Vac Truck	\$25,000.00
		\$3,454,000.00
	Divide by Total Buildout of (6454) =	\$535.00
	Total Capacity Charge / Fee	\$3,086.00

Update 01/27/2004

*Revised
2/23/04*

Town of Discovery Bay

Input for development / capacity fee(s)

CAPACITY FEES - EXISTING

CAPITAL IMPROVEMENT

Water Related

Willow Lake Water Treatment	\$3,200,000.00
Abandonment of Wells	\$60,000.00
Well 5 Generator	\$78,000.00
Well 5 Transfer Switch	\$28,000.00
Fencing Centex Site	\$12,000.00

Sub-Total \$3,378,000.00

Wastewater Related

UV System	\$676,000.00
1988 Improvements	\$2,250,000.00
SCADA System	\$265,000.00
Generators (60kw) -2	\$60,000.00
Vac Truck	\$25,000.00

Sub-Total \$3,276,000.00

Total of Existing Improvements \$6,654,000.00

CAPACITY FEES - PLANNED/FUTURE

Water Related

Future Upgrades (Pumps, land, etc.)	\$400,000.00
-------------------------------------	--------------

Wastewater Related

Discharge Pipeline	\$2,000,000.00
Bio-Solids Building	\$1,700,000.00
Wetlands	\$2,500,000.00

Total of Planned/Future Improvements \$6,600,000.00



Town of Discovery Bay

Resolution No. 2004-04

RESOLUTION OF THE BOARD OF DIRECTORS OF THE TOWN OF DISCOVERY BAY NOMINATING RAY TETREAUULT AS THIS SPECIAL DISTRICT'S NOMINATION TO THE LOCAL AGENCY FORMATION COMMISSION (LAFCO) AS A SPECIAL DISTRICT REPRESENTATIVE

WHEREAS, pursuant to the Contra Costa County's Local Agency Formation Commission (LAFCO) request, for the call of nominations for a Special District Representative to the Contra Costa County Local Agency Formation Commission.

NOW, THEREFORE, BE IT RESOLVED that the Town of Discovery Bay, Community Services District does the following:

1. Nominate Mr. Ray Tetreault to be this Special District's Representative to the upcoming LAFCO April 19, 2004 election, for the office of Special District Representative.
2. This Resolution shall be effective immediately.

PASSED AND ADOPTED by the Board of Directors of the Town of Discovery Bay, at their regular meeting thereof, held on March 17, 2004, by the following vote:

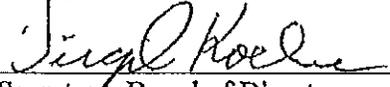
AYES:	<u>5</u>
NOES:	<u>0</u>
ABSENT:	<u>0</u>
ABSTENTION:	<u>0</u>

RAY TETREAUULT



President, Board of Directors

ATTEST:



Secretary, Board of Directors



Town of Discovery Bay
Community Services District
RESOLUTION NO. 2004-05

RESOLUTION OF THE BOARD OF DIRECTORS
OF THE TOWN OF DISCOVERY BAY
AUTHORIZING THE GENERAL MANAGER TO DECLARE
EMERGENCIES AND MAKE EMERGENCY REPAIRS

WHEREAS, the Town of Discovery Bay ("Town") is a community services district authorized by Public Contract Code sections 22050 and 20685 to repair or replace public facilities in the case of an emergency without giving notice for bids to let contracts.

WHEREAS, the Board is authorized by subsection (b) of section 22050 of the Public Contract Code to delegate by resolution to the Town General Manager the authority to declare an emergency and order emergency action.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. The Board delegates to the Town General Manager the authority to take emergency action pursuant to Government Code section 22050 if he is unable to convene an emergency meeting of the board members within 4 hours after the event occurred.
2. If the General Manager finds that an emergency exists the General Manager has the authority to make emergency repairs or replace Town facilities as may be required by the emergency without giving notice for bids to let contracts.
3. If an emergency is declared, the General Manager shall make all necessary reports to the Board as required by Public Contract Code section 22050.
4. Dollar amount not to exceed \$50,000.00.
5. This Resolution shall be effective immediately.

PASSED AND ADOPTED by the Board of Directors of the Town of Discovery Bay, at their regular meeting thereof, held on October 20, 2004, by the following vote:

AYES:	<u>4</u>
NOES:	<u>0</u>
ABSTENTIONS:	<u>0</u>
ABSENT:	<u>1</u>

RAY TETREault

President, Board of Directors

ATTEST:

Secretary, Board of Directors



TOWN OF DISCOVERY BAY

RESOLUTION NO. 2004-06

RESOLUTION OF THE BOARD OF DIRECTORS OF THE TOWN OF DISCOVERY BAY SUPPORTING AND ENDORSING MICHAEL McPOLAND FOR THE PUBLIC MEMBER POSITION FOR THE CONTRA COSTA COUNTY LOCAL AGENCY FORMATION COMMITTEE (LAFCO)

Be it resolved that the Town of Discovery Bay Board of Directors hereby supports and endorses Michael "Mike" McPoland for the position of "Public Member" to the Contra Costa County Local Agency Formation Committee (LAFCO).

Whereas, it is further recognized that Mr. McPoland has been a member of the Brentwood City Council, and during his elected terms has held both positions as Mayor and Vice Mayor.

Whereas, Mike McPoland has effectively served on various associations, committees, and boards throughout East Contra Costa County.

Whereas, Mike McPoland has demonstrated his leadership abilities during his tenure as an elected official.

Whereas, Mike McPoland possesses essential understanding in regard to public meetings, public policy, open meeting rules as well as the provisions of the Brown Act.

Whereas, Mike McPoland would lend a good balance to the Contra Costa LAFCO.

Whereas, Mike McPoland consistently displays his skills & abilities inclusive of knowledge and fairness.

Therefore as we are compelled to recommend Mr. Mike McPoland for further consideration to the Contra Costa LAFCO board as the Public Member Representative.

PASSED AND ADOPTED by the Board of Directors of the Town of Discovery Bay, at their regular meeting thereof, held on April 21, 2004, by the following vote:

AYES: 4
NOES: 0
ABSTENTIONS: 1
ABSENT: 0

RAY TETREULT

Signature of Ray Tetreault, President, Board of Directors

ATTEST:

Signature of Virginia Koehler, Secretary, Board of Directors



Town of Discovery Bay

Resolution No. 2004-07

**RESOLUTION OF THE BOARD OF DIRECTORS
OF THE TOWN OF DISCOVERY BAY
AUTHORIZING THE EXECUTION AND DELIVERY OF AN INSTALLMENT SALE
AGREEMENT, AND AUTHORIZING AND DIRECTING CERTAIN ACTIONS IN
CONNECTION WITH THE ACQUISITION AND CONSTRUCTION OF A DISCHARGE
PIPELINE AND BIOSOLIDS BUILDING**

WHEREAS, the Town of Discovery Bay Community Services District (the "District") is a community services district duly organized and existing under and pursuant to the laws of the State of California; and

WHEREAS, the District desires to provide for financing in the amount of \$2,000,000.00 for the acquisition and construction of a discharge pipeline and biosolids building (the "Project"); and

WHEREAS, Municipal Finance Corporation (the "Corporation") has proposed a cost-effective installment sale financing arrangement at a 3.45% interest rate;

NOW, THEREFORE, it is resolved by the Board of Directors of the Town of Discovery Bay Community Services District as follows:

SECTION 1. Installment Sale Agreement. The President of the Board of Directors or a designee in writing is hereby authorized to enter into an Installment Sale Agreement (the "Installment Sale") with the Corporation to finance the Project, subject to approval as to form by the District's legal counsel.

SECTION 2. Other Actions. The President of the Board of Directors and other officers of the District are each hereby authorized and directed, jointly and severally, to take any and all actions and to execute and deliver any and all documents, agreements and certificates which they may deem necessary or advisable in order to carry out, give effect to and comply with the terms of this Resolution and the Installment Sale. Such actions are hereby ratified, confirmed and approved.

SECTION 3. Qualified Tax-Exempt Obligations. The Installment Sale is hereby designated as "qualified tax-exempt obligations" within the meaning of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended (the "Code"). The District, together with all subordinate entities of the District, do not reasonably expect to issue during the calendar year in which the Installment Sale is issued more than \$10,000,000 of obligations which it could designate as "qualified tax-exempt obligations" under Section 265(b) of the Code.

SECTION 4. Reimbursement of Prior Expenditures. The District declares its official intent to be reimbursed from the proceeds of the Installment Sale approved hereby for a maximum principal amount of \$2,000,000.00 of Project expenditures occurring no earlier than sixty days prior to the adoption of this Resolution. All reimbursed expenditures will be capital expenditures as defined in Section 1.150-1(b) of the Federal Income Tax Regulations.

SECTION 5. Effect. This Resolution shall take effect immediately upon its passage.

PASSED, APPROVED AND ADOPTED this fiveth day of June, 2004, by the following vote:

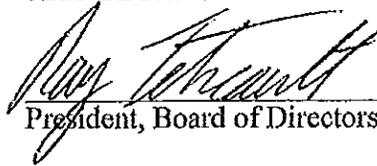
AYES: 4

NOES: 0

ABSTENTIONS: 0

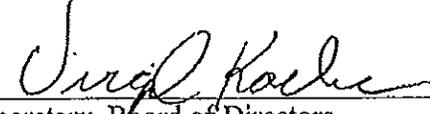
ABSENT: 1

RAY TETREAUULT



President, Board of Directors

ATTEST:



Secretary, Board of Directors



Town of Discovery Bay

Resolution No. 2004-08

**RESOLUTION OF THE BOARD OF DIRECTORS
OF THE TOWN OF DISCOVERY BAY
REPEALING RESOLUTION NO. 98-32 AND APPOINTING
BANK OF AGRICULTURE AND COMMERCE AS ALTERNATIVE DEPOSITARY FOR CERTAIN
DISTRICT FUNDS, AND APPOINTING FINANCE OFFICER**

WHEREAS, pursuant to California Government Code § 61737.01 and following, the District may appoint a bank or savings and loan association as depository for a portion of the District's funds; and

WHEREAS, while the County of Contra Costa serves as the depository for the bulk of the District's funds, it is necessary to have a revolving fund of a limited amount to more efficiently carry out the District's purposes;

NOW, THEREFORE, it is resolved by the Board of Directors of the Town of Discovery Bay Community Services District as follows:

SECTION 1. Resolution No. 98-32 is hereby repealed; and

SECTION 2. The Bank of Agriculture and Commerce, Discovery Bay Branch, 14804 A Highway 4, Discovery Bay, CA 94514, is hereby appointed as an alternative depository for District funds, which funds shall not exceed \$40,000.00; and

SECTION 3. The position of Finance Officer of the District is created, and is combined with the office of Secretary of the District, in accordance with California Government Code § 61737.04; and

SECTION 4. The Finance Officer shall carry out the requirements of California Government Code § 61731.01 through § 61737.09; and

SECTION 5. Individual payments from such account shall not exceed \$5,000.00 per payment; except for the District's payroll; and

SECTION 6. Signatures requirement for checks issued from this account shall be in accordance with Article VII of the District's Bylaws.

SECTION 7. Effect. This Resolution shall take effect immediately upon its passage.

PASSED, APPROVED AND ADOPTED this 16 day of June, 2004, by the following vote:

AYES:	<u>5</u>
NOES:	<u>0</u>
ABSTENTIONS:	<u>0</u>
ABSENT:	<u>0</u>

RAY YETREAU

President, Board of Directors

ATTEST:

Secretary, Board of Directors



Town of Discovery Bay

Resolution No. 2004-09

**A RESOLUTION OF THE TOWN OF DISCOVERY BAY BOARD OF DIRECTORS
AUTHORIZING PARTICIPATION IN THE SPECIAL DISTRICT RISK
MANAGEMENT WORKERS' COMPENSATION PROGRAM**

WHEREAS, Town of Discovery Bay, a special district duly organized and existing under and by virtue of the laws of the State of California (the "District"), has determined that it is in the best interest and to the advantage of the District to participate for at least three years, in the workers' compensation program offered by the Special District Risk Management Authority (the "Authority"); and

WHEREAS, California Government Code Section 6500 *et seq.*, provides that two or more public agencies may by agreement jointly exercise any power common to the contracting parties; and

WHEREAS, Special District Risk Management Authority was formed in 1986 in accordance with the provisions of California Government Code 6500 *et seq.*, for the purpose of providing its members with risk financing and risk management programs; and

WHEREAS, California Government Code Section 990.4 provides that a local public entity may self-insure, purchase insurance through an authorized carrier, or purchase insurance through a surplus lines broker, or any combination of these; and

WHEREAS, participation in Special District Risk Management Authority programs requires the District to execute and enter into a Fifth Amended Joint Powers Agreement (the "Amended JPA Agreement"); which states the purpose and powers of the Authority; and

WHEREAS, all acts, conditions and things required by the laws of the State of California to exist, to have happened and to have been performed precedent to and in connection with the consummation of the transactions authorized hereby do exist, have happened and have been performed in regular and due time, form and manner as required by law, and the District is now duly authorized and empowered, pursuant to each and every requirement of law, to consummate such transactions for the purpose, in the manner and upon the terms herein provided.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE DISTRICT AS FOLLOWS:

Section 1. Findings. The District Board of Directors hereby specifically finds and determines that the actions authorized hereby relate to the public affairs of the District.

Section 2. Fifth Amended JPA Agreement. The Amended JPA Agreement, proposed to be executed and entered into by and between the District and members of the Special District Risk Management Authority, in the form presented at this meeting and on file with the District Secretary, is hereby approved. The District Board and/or Authorized Officers ("The Authorized Officers") are hereby authorized and directed, for and in the name and on behalf of the District, to execute and deliver to the Authority the Amended JPA Agreement in substantially said form, with such changes therein as such officers may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 3. Program Participation. The District Board of Directors approves participating for three full programs years in Special District Risk Management Authority Workers' Compensation Program.

Section 4. Other Actions. The Authorized Officers of the District are each hereby authorized and directed to execute and deliver any and all documents which is necessary in order to consummate the transactions authorized hereby and all such actions heretofore taken by such officers are hereby ratified, confirmed and approved.

Section 5. Effective Date. This resolution shall take effect immediately upon its passage.

PASSED AND ADOPTED this 7th day of July, 2004 by the following vote:

AYES:	<u>4</u>
NOES:	<u>0</u>
ABSTENTIONS:	<u>0</u>
ABSENT:	<u>1</u>

RAY TETREBAULT



President, Board of Directors

ATTEST:

VIRGIL KOEHNE



Secretary, Board of Directors

Secretary, Board of Directors



Town of Discovery Bay

Resolution No. 2004-10

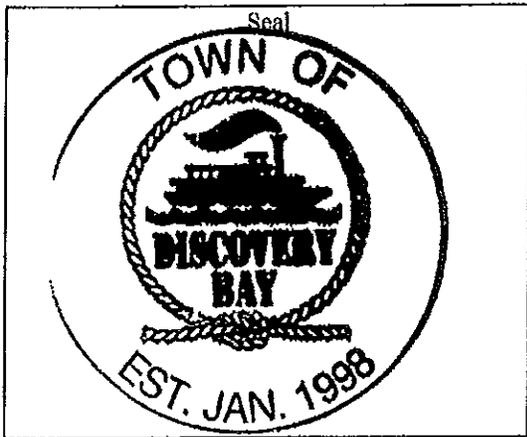
**A RESOLUTION AUTHORIZING APPLICATION
TO THE DIRECTOR OF INDUSTRIAL RELATIONS, STATE OF CALIFORNIA
FOR A CERTIFICATE OF CONSENT TO SELF INSURE**

At a meeting of the Board of Directors of the Town of Discovery Bay CSD, a Community Services District organized and existing under the laws of the State of California held on the 7th day of July 2004, the following resolution was adopted:

RESOLVED, that the Board of Directors be and they are hereby severally authorized and empowered to make application to the Director of Industrial Relations, State of California, for a Certificate of Consent to Self Insure workers' compensation liabilities on behalf of the Town of Discovery Bay CSD and to execute any and all documents required for such application.

I, Ray Tetreault, the undersigned President of the Board of the said Town of Discovery Bay, a Community Services District, hereby certify that I am the president of said Community Services District, that the foregoing is a full, true and correct copy of the resolution duly passed by the Board at the meeting of said Board held on the day and at the place therein specified and that said resolution has never been revoked, rescinded, or set aside and is now in full force and effect.

IN WITNESS WHEREOF; I have signed my name and affixed the seal of this Town of Discovery Bay CSD, this 7th day of July 2004.



Ray Tetreault
RAY TETREAUULT, BOARD PRESIDENT

PASSED AND ADOPTED this 7th day of July, 2004 by the following vote:

AYBS: 4
NOES: 0
ABSTENTIONS: 0
ABSENT: 1

ATTEST:
VIRGIL KOEHNE
Virgil Koehne
Secretary, Board of Directors



Our File: _____

APPLICATION FOR A PUBLIC ENTITY CERTIFICATE OF CONSENT TO SELF INSURE

NOTE: All questions must be answered. If not applicable, enter "N/A".
Workers' compensation insurance must be maintained until certificate is effective.

APPLICANT INFORMATION

Legal Name of Applicant (show exactly as on Charter or other official documents):

Town of Discovery Bay Community Services District

Street Address of Main Headquarters:

1800 Willow Lake Road

Mailing Address (if different from above):

same as above

Federal Tax ID No.:

68-0401578

City:

Discovery Bay

State:

CA

Zip + 4:

94514

TO WHOM DO YOU WANT CORRESPONDENCE REGARDING THIS APPLICATION ADDRESSED?

Name: Virgil Koehne

Title: General Manager

Company Name: Town of Discovery Bay Community Services District

Mailing Address: 1800 Willow Lake Road

City: Discovery Bay

State: CA

Zip + 4: 94514

Type of Public Entity (check one):

City and/or County School District Police and/or Fire District Hospital District Joint Powers Authority

Other (describe): Community Services District

Type of Application (check one):

New Application Reapplication due to Merger or Unification Reapplication due to Name Change Only

Other (specify): _____

Date Self Insurance Program will begin: July 01, 2004

CURRENT PROGRAM FOR WORKERS' COMPENSATION LIABILITIES

Currently Insured with State Compensation Insurance Fund, Policy Number: _____

Policy Expiration Date: _____ Yearly Premium: \$ _____

Current Yearly Incurred (paid & unpaid) Losses: \$ _____ (FY or CY)

Currently Self Insured, Certificate Number: _____

Name of Current Certificate Holder: _____

Other (describe): Contra Costa County Payroll

JOINT POWERS AUTHORITY

Will the applicant be a member of a workers' compensation Joint Powers Authority for the purpose of pooling workers' compensation liabilities?

Yes No If yes, then complete the following:

Effective date of JPA Membership: _____ JPA Certificate No.: 5806

Name and Title of JPA Executive Officer:

James W. Towns, CEO

Name of Joint Powers Authority Agency:

Special District Risk Management Authority

Mailing Address of JPA:

1481 River Park Drive, Suite 110

City: Sacramento State: CA Zip + 4: 95815-4501

Telephone Number: (916) 641-2773

PROPOSED CLAIMS ADMINISTRATOR

Who will be administering your agency's workers' compensation claims? (check one)

JPA will administer, JPA Certificate No.: _____

Third party agency will administer, JPA Certificate No.: 132

Public entity will self administer Insurance carrier will administer

Name of Individual Claims Administrator:

Gregory B. Bragg & Associates Jen Hamlin

Name of Administrative Agency:

Gregory B. Bragg & Associates

Mailing Address:

One Sierra Gate Plaza, Suite 345B

City: Roseville State: CA Zip + 4: 95678-6642

Telephone Number: (916) 960-0900 FAX Number: (916) 783-0334

Number of claims reporting locations to be used to handle the agency's claims: 1

Will all agency claims be handled by the administrator listed on previous page? Yes No

AGENCY EMPLOYMENT

Current Number of Agency Employees: 5

Number of Public Safety Officers (law enforcement, police or fire): 0

If a school district, number of certificated employees: 0

Will all agency employees be included in this self insurance program? Yes No

If no, explain who is not included and how workers' compensation coverage is to be provided to the excluded agency employees:

INJURY AND ILLNESS PREVENTION PROGRAM

Does the agency have a written Injury and Illness Prevention Program? Yes No

Individual responsible for agency Injury and Illness Prevention Program:

Name and Title:

Company or Agency Name:

Mailing Address:

City: _____ State: _____ Zip + 4: _____

Telephone Number: (_____) _____

SUPPLEMENTAL COVERAGE

Will your self insurance program be supplemented by any insurance or pooled coverage under a standard workers' compensation insurance policy? Yes No

If yes, then complete the following:

Name of Carrier or Excess Pool: Munich-American Reinsurance

Policy Number: 6890-0005

Effective Date of Coverage: July 1, 2004 through June 30, 2005

Will your self insurance program be supplemented by any insurance or pooled coverage under a specific excess workers' compensation insurance policy? Yes No

If yes, then complete the following:

Name of Carrier or Excess Pool: California Public Entity Insurance Authority

Policy Number: CP-03-EWC-30

Effective Date of Coverage: July 1, 2004 through June 30, 2005

Retention Limits: \$ 4,750,000

Will your self insurance program be supplemented by any insurance or pooled coverage under an aggregate excess (stop loss) workers' compensation insurance policy? Yes No

If yes, then complete the following:

Name of Carrier or Excess Pool: Munich-American Reinsurance

Policy Number: 6890-0005

Effective Date of Coverage: July 1, 2004 through June 30, 2005

Retention Limits: \$50 Million

RESOLUTION OF GOVERNING BOARD

See Attached Resolution—Page 5

CERTIFICATION

The undersigned on behalf of the applicant hereby applies for a Certificate of Consent to Self Insure the payment of workers' compensation liabilities pursuant to Labor Code Section 3700. The above information is submitted for the purpose of procuring said Certificate from the Director of Industrial Relations, State of California. If the Certificate is issued, the applicant agrees to comply with applicable California statutes and regulations pertaining to the payment of compensation that may become due to the applicant's employees covered by the Certificate.

Signature of Authorized Official:

Ray Tetreault

Typed Name:

Ray Tetreault

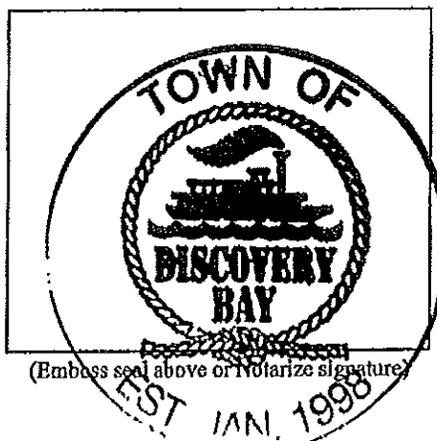
Title:

Board President

Agency Name:

Town of Discovery Bay Community Services District

Date: 7-7-04



(Emboss seal above or Notarize signature)



Town of Discovery Bay

Resolution No. 2004-11

A RESOLUTION OF THE TOWN OF DISCOVERY BAY BOARD OF DIRECTORS APPROVING THE APPLICATION FOR GRANT FUNDS FOR THE STATE URBAN PARKS AND HEALTHY COMMUNITIES PROGRAM UNDER THE CALIFORNIA CLEAN WATER, CLEAN AIR, SAFE NEIGHBORHOOD PARKS, AND COASTAL PROTECTION ACT OF 2002

WHEREAS, the people of the State of California have enacted the CALIFORNIA CLEAN WATER, CLEAN AIR, SAFE NEIGHBORHOOD PARKS, AND COASTAL PROTECTION ACT OF 2002, which provides funds to the State of California for grants to eligible Applicants; and

WHEREAS, the California Department of Parks and Recreation has been delegated the responsibility for the administration of the State Urban Parks and Healthy Communities Program and the grant Project shown above within the State, setting up necessary procedures, and

WHEREAS, said procedures established by the California Department of Parks and Recreation require the Applicant's Governing Body to certify by resolution the approval of the Application before submission of said Application to the State, and

WHEREAS, the Applicant will enter into a Contract with the State of California for the Project;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE TOWN OF DISCOVERY BAY HEREBY:

1. Approves the filing of an Application for local assistance funds from the State Urban Parks and Healthy Communities Program under the California Clean Water, Clean Air, Safe Neighborhood Parks and Coastal Protection Act of 2002; and
2. Certifies that the Applicant has or will have sufficient funds to operate and maintain the Project; and
3. Certifies that the Applicant has reviewed, understands, and agrees to the General Provisions contained in the Contract shown in the Procedural Guide; and
4. Certifies that the Grantee has or will have available, prior to commencement of any work on the Project, the required Match;
5. Certifies that the Project conforms to the recreation element of any applicable city or county general plan; and
6. Appoints the General Manager as agent to conduct all negotiations, execute and submit all documents including, but not limited to, Applications, agreements, payment requests and so on, which may be necessary for the completion of the Project.

7. Effective Date. This resolution shall take effect immediately upon its passage.

PASSED AND ADOPTED this 21st day of July, 2004 by the following vote:

AYES:

5

NOES:

0

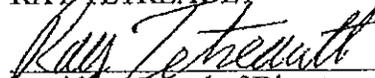
ABSTENTIONS:

0

ABSENT:

0

RAY TETREAUULT



President, Board of Directors

ATTEST:

VIRGIL KOEHNE



Secretary, Board of Directors



**Town of Discovery Bay
Community Services District
Resolution No. 2004-12**

**A RESOLUTION OF THE TOWN OF DISCOVERY BAY BOARD OF DIRECTORS AUTHORIZING
EXECUTION OF PERMIT AGREEMENT WITH RECLAMATION DISTRICT 800 (BYRON TRACT)**

WHEREAS, The Town of Discovery Bay ("Town") provides sewage treatment for the residents and businesses located within its boundaries as a community services district; and

WHEREAS, the Town is currently in the process of constructing a new sewage treatment plant and associated facilities that will enable the Town to serve both existing Discovery Bay and the Discovery Bay West development and other growth in the vicinity of the community of Discovery Bay and fully to comply with applicable water quality standards for the discharge of effluent into Old River, and;

WHEREAS, part of the construction of the new sewage treatment plant and associated facilities is the construction of a new pipeline (the "Discharge Pipeline") that will discharge treated effluent into Old River, and;

WHEREAS, the new pipeline will cross the easement of Reclamation District No. 800 (Byron Tract) (the "District") for the Old River levee, and;

WHEREAS, the District now wishes to issue a permit to the Town for the operation and maintenance of the Discharge Pipeline and for the construction of the Discharge Pipeline and the Town wishes to accept such a permit,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE TOWN OF DISCOVERY BAY HEREBY:

1. The Agreement entitled "Permit Agreement for the Construction, Operation and Maintenance of Sewer Facilities" in the form attached hereto is approved and the President of the Board of Directors is authorized and direct to execute said agreement.
2. Effective Date. This resolution shall take effect immediately upon its passage.

PASSED AND ADOPTED this 15th day of September, 2004 by the following vote:

AYES: 3
NOES: 0
ABSTENTIONS: 0
ABSENT: 1

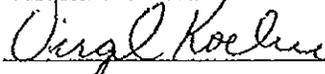
RAY TETREAU



President, Board of Directors

ATTEST:

VIRGIL KOEHNE



Secretary, Board of Directors

Secretary, Board of Directors

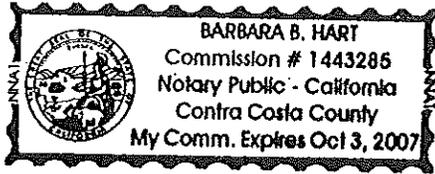
CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California }
County of Contra Costa } ss.

On January 26, 2005 before me, BARBARA B. HART
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")
personally appeared Ray TeTreault
Name(s) of Signer(s)

personally known to me
 proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

Barbara B. Hart
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Permit Agreement for Discharge Pipeline

Document Date: September 2, 2004 Number of Pages: 15

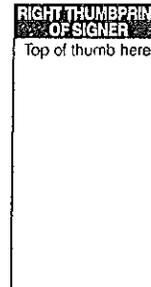
Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer

Signer's Name: Ray TeTreault

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: _____

Signer Is Representing: Town of Discovery Bay, CA



RECORDING REQUESTED BY
REQUESTED BY JEFFREY D. CONWAY
WHEN RECORDED MAIL TO

NAME Jeffrey D. Conway, District Manager
MAILING ADDRESS Reclamation District No. 800 Byron
PO Box 262
CITY, STATE ZIP CODE Byron CA 94514

(SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE)

Permit Agreement for the Operation and Maintenance of a Sewer Force Main

This Permit Agreement for the Operation and Maintenance of a Sewer Force Main (“**Agreement**”) is entered into and effective this 15th day of September, 2004, by and between Reclamation District No. 800 (Byron Tract), a reclamation district organized pursuant to Water Code sections 50000 et seq. (the “**District**”) and the Town of Discovery Bay, a community services district organized pursuant to Government Code sections 61000 et seq. (the “**Town**”). Each of the aforesaid entities may hereinafter be referred to as a “**Party**” and the District and the Town are collectively referred to as the “**Parties**.”

Recitals

- A. The Town is currently in the process of constructing a new sewage treatment plant and associated facilities that will enable the Town to serve both existing Discovery Bay and the Discovery Bay West development and other growth in the vicinity of the community of Discovery Bay and fully to comply with applicable water quality standards for the discharge of effluent into Old River.
- B. The Town has also accepted the dedication of a sewer force main (the “**Force Main**”) that transports sewage from Discovery Bay West to the Town’s treatment plant.
- C. The Force Main, which is shown in the drawings attached hereto as Exhibit A and incorporated herein by reference, encroaches upon one of the District’s elevation control easements and has not been permitted by the District.
- D. The District now wishes to issue a permit to the Town for the operation and maintenance of the Force Main and the Town wishes to accept such a permit, on the terms and conditions described hereinafter. The Force Main is sometimes referred to as the “**Project**.”

3. *Operation and Maintenance of the Project*

- a. The Town shall, at its sole cost and expense, operate, maintain, repair, replace, reconstruct, and rehabilitate the Project in a manner consistent with the plans and specifications attached hereto as Exhibit A and good engineering practices.
 - (1) If the District's Engineer reasonably determines that work is required on the Project in order to satisfy the Town's obligation under paragraph 1 above, the Town shall, upon written demand by the District, promptly perform such work at the Town's sole cost and expense within the reasonable time limits set by the District. If the Town fails to perform such work in a timely fashion, the District may perform the needed work and the Town shall pay the District's costs of such work within thirty days' of the date of the District's invoice.
 - (2) In the event that the District incurs increased costs for the performance of customary operation and maintenance of its facilities in the vicinity of the Project due, in whole or in part, to the presence of the Project, the Town shall reimburse the District for such increased costs within thirty days of the District's invoice.
- b. The Town agrees to name or cause to be named the District Parties as additional insureds by endorsement with respect to liability arising out of the operation, maintenance, repair, replacement, reconstruction and/or rehabilitation of the Project on all liability policies required of the Town's contractors and on the Town's general liability policy. Specific coverages are set forth in Exhibit C and incorporated herein by reference.
- c. The Town acknowledges that the premises comprising Byron Tract could be flooded during the operation, maintenance repair, replacement, reconstruction and rehabilitation of the Project from many causes, including, without limitation, the following:
 - (1) Levee overtopping and levee failure due to natural causes such as winds, tides, barometric pressure changes, rainfall, rainfall runoff, earthquakes, levee settlement and rodents.
 - (2) Failure of the levee and/or drainage system due to natural or man-related causes, including the negligence of any landowner, any Reclamation district, or any other governmental agency.
 - (3) Power failures, of any kind, within or outside the boundaries of the District.

The Town agrees that it will take such precautions as may be reasonably

or relating to the construction of the Force Main and/or the operation, maintenance, repair, replacement, reconstruction and/or rehabilitation of the Force Main or the Town's performance of (or failure to perform) its obligations under this Agreement, including, without limitation:

- (1) Any and all actions on the part of the District Parties to respond to emergency public safety and/or structural integrity jeopardy circumstances that involve the Project,
- (2) Any and all claims by any person alleging any and all deficiencies (whether obvious or latent) in the planning, design, construction, operation, maintenance, or other aspect of the Project, whether those deficiencies were caused, in whole or in part, by the Town, or any of their respective officers, employees, contractors, agents, or consultants, and
- (3) Any and all claims by any person relating to the discharge of sewage effluent or other wastes from the Force Main.

In the event of litigation against the District falling within the scope of this paragraph, the Town shall pay, monthly in arrears, the District's reasonable defense costs, including, without limitation, reasonable attorneys' and expert witnesses' fees, expenses and costs.

- b. *Environmental Indemnification.* Except in the case of active negligence, sole negligence, or willful misconduct by the District Parties, the Town shall indemnify, defend and hold the District Parties harmless from and against any and all environmental damage, liability, claim, demand, cost, and expense (including reasonable attorneys' and expert witnesses' fees), including, but not limited to, all costs of any required environmental clean-up, remediation, inspection or investigation that may result from the construction of the Force Main and/or the operation, maintenance, repair, replacement, reconstruction and/or rehabilitation of the Force Main.

7. *Dispute Resolution*

In order to avoid disputes relating to the operation and maintenance of the Project by the Town, the Town shall:

- a. Provide written notice to the District prior to undertaking work, or upon recognition of a potential problem, within the boundaries set forth in Exhibit B.
- b. Promptly consult with the District's Manager in the event of any disagreement relating to the subject of this Agreement.

dispute cannot be resolved by mediation within one hundred eighty days after the notice of termination, or such later date as is acceptable to both parties. In the event of a termination of this Agreement by the District, the Town shall, at its sole cost and expense, promptly remove the Force Main from the District's property and restore the District's property to reasonable pre-Project conditions.

9. *Recordation.*

The Town shall record this Agreement within five days of the date upon which this Agreement becomes effective and shall promptly provide the District with a copy of the recorded Agreement.

10. *General Provisions*

- a. *Relationship to Prior Agreements.* Nothing in this Agreement shall be construed as modifying any prior agreements between the Parties.
- b. *Jurisdiction and Venue.* The Parties agree that any litigation involving the construction of this Agreement shall be brought in the Superior Court of Contra Costa County.
- c. *Authority.* Each signatory of this Agreement represents the s/he is authorized to execute this Agreement on behalf of one of the Parties to this Agreement. Each Party represents that it has legal authority to enter into this Agreement and to perform all obligations under this Agreement. Attached as Exhibits D and E are resolutions authorizing execution of this Agreement that are signed by the governing boards of each Party.
- d. *Amendment.* This Agreement may be amended or modified only by a written instrument executed by each of the Parties to this Agreement.
- e. *Headings.* The paragraph headings used in this Agreement are intended for convenience only and shall not be used in interpreting this Agreement or in determining any of the rights or obligations of the Parties to this Agreement.
- f. *Construction and Interpretation.* This Agreement has been arrived at through negotiations and each Party has had a full and fair opportunity to revise the terms of this Agreement. As a result, the normal rule of construction that any ambiguities are to be resolved against the drafting Party shall not apply in the construction or interpretation of this Agreement.
- g. *Waiver.* No waiver of any violation or breach of this Agreement shall be considered to be a waiver or breach of any other violation or breach of this Agreement, and forbearance to enforce one or more of the remedies

- q. *Notices.* All notices, requests, demands or other communications required or permitted under this Agreement shall be in writing unless provided otherwise in this Agreement and shall be deemed to have been duly given and received on: (i) the date of service if served personally or served by facsimile transmission on the Party to whom notice is to be given at the address(es) provided below, (ii) on the first day after mailing, if mailed by Federal Express, U.S. Express Mail, or other similar overnight courier service, postage prepaid, and addressed as provided below, or (iii) on the third day after mailing if mailed to the Party to whom notice is to be given by first class mail, registered or certified, postage prepaid, addressed as follows:

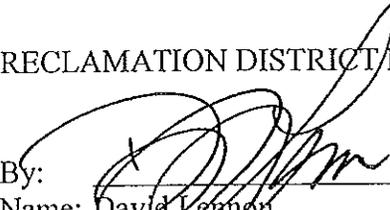
To District:

Reclamation District No. 800 (Byron Tract)
P.O. Box 262
Byron, California 94514
Telephone: (925) 634-2351
Facsimile: (925) 634-2089
Attention: District Manager

To Town:

Town of Discovery Bay
1800 Willow Lake Road
Discovery Bay, California 94514
Telephone (925)634-1131
Facsimile: (925)513-2705
Attention: General Manager

RECLAMATION DISTRICT NO. 800 (BYRON TRACT)

By: 
Name: David Lennon
Title: President, Board of Trustees

TOWN OF DISCOVERY BAY

By: _____
Name:
Title: President, Board of Directors

4. *Continuation of Coverage:*

If any of the required coverages expire during the term of this Agreement, the Town shall deliver the renewal certificate(s) to the District at least ten (10) days prior to the expiration date. In the event of cancellation for non-payment, the District may pay premiums due by the Town and deduct the paid payment from amounts then or subsequently owing to the Town.

5. *Workers Compensation Insurance:*

The Town agrees to provide workers' compensation insurance as required by law for the Town's employees and agents, and agrees to hold harmless and indemnify the District for any and all claims arising out of injury, disability or death of the Town's employees or agents. The Town agrees to carry workers' compensation (statutory limits) and employer's liability insurance of \$1,000,000. By its signature to this Agreement, the Town certifies that it is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that Code, and it will comply with such provisions before commencing the performance of the work of this Agreement. The Town and its contractors and subcontractors will keep workers' compensation insurance for their employees in effect during all work covered by this Agreement and shall file the certificate required by Labor Code section 3700 with the District prior to the commencement of such work.

6. *Commercial General Liability Insurance:*

The Town further agrees to obtain and maintain during the full term of this Agreement, commercial general liability insurance covering third party liability arising out of the Town's operation and maintenance of the Force Main including, but not limited to, the repair, replacement, reconstruction and/or rehabilitation of the Pipeline including, but not limited to, coverage for bodily injury, property damage, contractual liability, premises/operations, products and completed operations, and explosion, collapse and underground damage hazard, which shall have limits of liability of not less than the following:

- | | | |
|----|-------------------------------|---|
| 1. | Bodily Injury/Property Damage | \$ 2,000,000 per occurrence
\$ 2,000,000 aggregate |
| 2. | Products Completed Operations | \$ 2,000,000 per occurrence |

The Town shall furnish to the District upon execution of this Agreement an endorsement in a form satisfactory to District confirming that the District Parties are added as additional insureds with respect to liability arising out of the operation, maintenance, repair, replacement, reconstruction and/or rehabilitation of the Force Main.

F4

WATER USAGE CHARGES FOR LARGE CONSTRUCTION DEVELOPMENTS

There are various options available to collect for any and all water usage that is consumed for large developments and they are as follows:

1. Charge annual fee of \$400.00 via County Tax Rolls per undeveloped lot
 - This option has a very low impact onto the District in the way of collecting these funds.
 - District may be losing some revenue if this lot is using more than the average customer.

2. Charge for actual water usage, using water meters
 - Water meters must be installed before construction of a home is started.
 - A method of reading water meters must be determined.
 - A billing method for usage of water meters must be developed.
 - A method for handling of customer inquiries must be developed, mainly possible incorrect meter readings.
 - Should the billing be done quarterly or monthly?
 - When the new home is built and the owner has taken title, then the lot reverts to current District billing process (currently done by lot size) via County tax roll.



**Town of Discovery Bay
Community Services District
Resolution No. 2004-13**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE
TOWN OF DISCOVERY BAY REQUIRING THAT ELECTIONS
FOR THE BOARD OF DIRECTORS BE HELD ON THE SAME DAY
AS THE STATEWIDE GENERAL ELECTION**

WHEREAS, the Board of Directors of the Town of Discovery Bay desires to reduce election expenditures, and to increase the opportunity for voters to participate in the election of director; and

WHEREAS, pursuant to California Elections Code Sections 1303(b) and 10404, the Board of Directors ("Board") of the Town of Discovery Bay ("Town") may, with the concurrence of the Board of Supervisors of Contra Costa County, change its election date from the present date in odd-numbered years, to the same day as the statewide general election; and

WHEREAS, the Board finds and declares that consolidating the present election date with the statewide general election will take advantage of greater voter turnout, thereby increasing the opportunity for voters to participate in the election of directors, and will reduce election expenses;

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

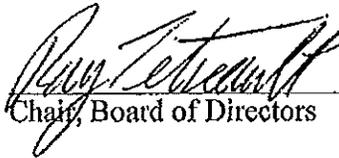
1. The above recitals are true and correct
2. The election for directors of the Board of the Town shall be held on the same day as the statewide general election, which is the first Tuesday after the first Monday in November of even numbered years, commencing in 2006.
3. The Secretary of the Town shall, on or before the 125th day before the election date set forth in Section 2 of this resolution ("Election Date"), deliver to the county election official the notice specified in California Elections Code ("Code") Section 10509; additionally, forms for declarations of candidacy shall first be available on the 113th day prior to the Election Date and shall be filed no later than 5 p.m. on the 88th day prior to the Election Date, pursuant to Code Section 10510, unless such deadline is extended to the 83rd day before the Election Date, pursuant to Code Section 10516; additionally, each candidate shall set forth in full the oath or affirmation as required by Code Section 10512; additionally, candidates for office who choose to submit a candidate's statement shall file such statements with the county elections official, in accordance with Code Section 13307, no later than the 88th day before the Election Date; additionally, the county elections official shall commence the canvass of the election returns no later than the first Thursday following the Election Date, pursuant to Code Section 10547, and the canvass shall be made in public pursuant to Code

Section 10548; additionally, as soon as the result of the canvass is declared, the county elections official shall mail the statement of result of the Secretary of the Town pursuant to Code Section 10550; additionally, no later than the Monday before the first Friday in December following the Election Date, the county; elections official shall declare the elected candidate or candidates pursuant to Code Section 10551, and no later than December 31 following the Election Date, shall file with the Secretary of State the statement required by Code Section 10552; additionally the county elections official shall immediately make and deliver to each person elected a certificate of election pursuant to Code Section 10553; additionally, members of the Board elected at the election shall take the official oath; and shall take office at noon on the first Friday in December next following the election, pursuant to Code Section 10554; additionally, all requirements of the Uniform District Election Law (Code Sections 10500 and following) and all applicable requirements of the Code shall be followed.

PASSED AND ADOPTED by the Board of Directors of the Town of Discovery Bay, at their regular meeting thereof, held on September 15th, 2004, by the following vote:

AYES: 3
NOES: 0
ABSTENTIONS: 0
ABSENT: 1

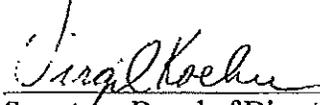
RAY TETREAULT



Chair, Board of Directors

ATTEST:

VIRGIL KOEHNE



Secretary, Board of Directors



**Town of Discovery Bay
Community Services District
Resolution No. 2004-14**

**A RESOLUTION OF THE TOWN OF DISCOVERY BAY BOARD OF DIRECTORS AUTHORIZING
EXECUTION OF PERMIT AGREEMENT WITH RECLAMATION DISTRICT 800 (BYRON TRACT)**

WHEREAS, The Town of Discovery Bay ("Town") provides sewage treatment for the residents and businesses located within its boundaries as a community services district; and

WHEREAS, the Town is currently in the process of constructing a new sewage treatment plant and associated facilities that will enable the Town to serve both existing Discovery Bay and the Discovery Bay West development and other growth in the vicinity of the community of Discovery Bay and fully to comply with applicable water quality standards for the discharge of effluent into Old River, and;

WHEREAS, the Town has also accepted the dedication of a sewer force main (the "Force Main") that transports sewage from Discovery Bay West to the Town's treatment plant; and

WHEREAS, the Force Main encroaches upon one of the elevation control easements owned by Reclamation District No. 800 (Byron Tract) (the "District") and has not been permitted by the District; and

WHEREAS, the District now wishes to issue a permit to the Town for the operation and maintenance of the Force Main and the Town wishes to accept such a permit, on the terms and conditions described hereinafter.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE TOWN OF DISCOVERY BAY HEREBY:

1. The Agreement entitled "Permit Agreement for the Construction, Operation and Maintenance of Sewer Force Main" in the form attached hereto is approved and the President of the Board of Directors is authorized and direct to execute said agreement.
2. Effective Date. This resolution shall take effect immediately upon its passage.

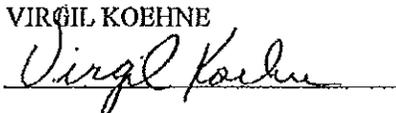
PASSED AND ADOPTED this 15th day of September, 2004 by the following vote:

AYES: 3
NOES: 0
ABSTENTIONS: 0
ABSENT: 1

RAY DETREBALET

President, Board of Directors

ATTEST:

VIRGIL KOEHNE

Secretary, Board of Directors

Office Copy

RECORDING REQUESTED BY
REQUESTED BY JEFFREY D. CONWAY
WHEN RECORDED MAIL TO

NAME Jeffrey D. Conway, District Manager
MAILING ADDRESS Reclamation District No. 800 Byron
PO Box 262
CITY, STATE ZIP CODE Byron CA 94514

(SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE)

**Permit Agreement for the
Construction, Operation and Maintenance of Sewer Facilities**

This Permit Agreement for the Construction, Operation and Maintenance of Sewer Facilities ("Agreement") is entered into and effective this 2nd day of September, 2004, by and between Reclamation District No. 800 (Byron Tract), a reclamation district organized pursuant to Water Code sections 50000 et seq. (the "District") and the Town of Discovery Bay, a community services district organized pursuant to Government Code sections 61000 et seq. (the "Town"). Each of the aforesaid entities may hereinafter be referred to as a "Party" and the District and the Town are collectively referred to as the "Parties."

Recitals

- A. The Town is currently in the process of constructing a new sewage treatment plant and associated facilities that will enable the Town to serve both existing Discovery Bay and the Discovery Bay West development and other growth in the vicinity of the community of Discovery Bay and fully to comply with applicable water quality standards for the discharge of effluent into Old River.
- B. Part of the construction of the new sewage treatment plant and associated facilities is the construction of a new pipeline (the "Discharge Pipeline") that will discharge treated effluent into Old River.
- C. The new pipeline, which is shown in the drawings attached hereto as Exhibit A and incorporated herein by reference, will cross the District's easement for the Old River levee.

- D. The District now wishes to issue a permit to the Town for the operation and maintenance of the Discharge Pipeline and for the construction of the Discharge Pipeline and the Town wishes to accept such a permit, on the terms and conditions described hereinafter. The Discharge Pipeline is sometimes referred to as the “Project.”

Agreements

In consideration of the Parties’ mutual promises, covenants, warranties and representations provided for herein and other good and valuable consideration, the receipt of which is hereby acknowledged, the Parties agree as follows:

1. *Issuance of Permits*

- a. *Temporary Construction Permit.* The District hereby issues the Town a temporary construction permit for the non-exclusive use of a workspace of 50 feet in width for the purpose of constructing the Discharge Pipeline, which workspace is more particularly shown in Exhibit B which is attached hereto and incorporated herein by reference, across, over and through the District’s levee. This temporary construction permit shall terminate thirty days after the date upon which the Town files a Notice of Completion for the Discharge Pipeline or December 31, 2004, whichever is earlier.
- b. *Permit for the Operation and Maintenance of the Discharge Pipeline.* The District hereby grants the Town a permit for the non-exclusive use of a workspace of 20 feet in width for the purposes of operating, maintaining, repairing, replacing, reconstructing and rehabilitating the Discharge Pipeline, which workspace is more particularly shown in Exhibit C which is attached hereto and incorporated herein by reference, together with the rights of ingress and egress thereto over District property during normal business hours. The Town shall provide the District with at least five business days’ prior written notice of any non-emergency operation or maintenance work (other than routine inspections) that requires access over or across District property. Upon the Town’s presentation of the “as-built” drawings described below in paragraph 3 to the District, the Discharge Pipeline shall serve as the centerline of the workspace that is the subject of this permit and the Town shall record a survey prepared by a licensed surveyor to memorialize the location of that workspace.
- c. *Reservation of Rights by District; Superior District Rights.* The District reserves all rights to the full use and enjoyment of its real property interests and facilities, save as expressly set forth in this Agreement. The District reserves the right to use its property and facilities for any and all

reclamation district purposes, which right is hereby understood to be superior to all rights granted to the Town pursuant to this Agreement. If it is necessary, in the reasonable discretion of the District's Engineer, to alter or relocate the Discharge Pipeline in order for the District to carry out its responsibilities, the District will notify the Town of this fact and the Town shall reasonably promptly accomplish such alteration or relocation at the sole cost and expense of the Town. If the Town fails to accomplish such alteration or relocation in a reasonable period of time, the District may undertake such alteration or relocation and recover the costs of such work from the Town by submitting an invoice for such work to the Town, which invoice shall be paid by the Town within sixty days of the date of the invoice.

2. *Construction of the Discharge Pipeline*

In constructing the Discharge Pipeline, the Town shall comply with the following terms and conditions:

- a. The Town shall obtain any additional permits, easements and/or rights of way that may be necessary to complete the Discharge Project in a timely fashion from other adjacent and/or abutting landowners and/or agencies. The Town shall be responsible for obtaining any and all local, state, and federal permits that may be necessary to complete the Discharge Pipeline.
- b. Upon completion of the Discharge Pipeline, the Town shall cause conditions within the area covered by Paragraphs 1a. and 1b. of this Agreement to be returned to pre-Discharge Pipeline conditions, save for the existence of the Discharge Pipeline.
- c. In completion of the Discharge Pipeline, the Town shall comply with the plans and specifications attached hereto as Exhibit D and, in particular, shall bury the Discharge Pipeline a minimum depth as specified in such plans and specifications.
- d. The Town shall provide written notice via facsimile transmission to the District's Engineer, Kjeldsen, Sinnock & Neudeck, Inc., five business days before initiating any construction activity associated with the Discharge Pipeline. If there is no construction activity for a period of five consecutive business days, then the Town shall provide the District's Engineer with at least twenty-four hours' written notice via facsimile transmission prior to the resumption of construction activities.
- e. The Town agrees to name or cause to be named the District, its Board of Trustees, officers, agents, employees, contractors and authorized volunteers (collectively, the "District Parties") as additional insureds by

endorsement with respect to liability arising out of the construction of the Discharge Pipeline including ongoing operations at the Project location and completed operations on all liability policies required of the Town's contractors and on the Town's general liability policy. Specific coverages are set forth in Exhibit E and incorporated herein by reference.

- f. The Town acknowledges that the premises comprising Byron Tract could be flooded during construction of the Discharge Pipeline from many causes, including, without limitation, the following:
- (1) Levee overtopping and levee failure due to natural causes such as winds, tides, barometric pressure changes, rainfall, rainfall runoff, earthquakes, levee settlement and rodents.
 - (2) Failure of the levee and/or drainage system due to natural or man-related causes, including the negligence of any landowner, any reclamation district, or any other governmental agency.
 - (3) Power failures, of any kind, within or outside the boundaries of the District.

The Town agrees that it will take such precautions as may be reasonably necessary during construction to avoid contributing to such flooding and to mitigate any damages that may result from such flooding.

- g. Except in the case of active negligence, sole negligence and/or willful misconduct by the District Parties, the Town hereby expressly assumes any and all risks of damage or loss to its property or to the property of its contractors, employees and agents arising from or related to the construction of the Discharge Pipeline. All such damages or losses shall be treated as within the scope of the indemnification described in paragraph 7 below.
3. *As-Built Drawings and Surveys.* The Town shall, within sixty days of the completion of the Discharge Pipeline, supply the District with approved "as-built" drawings of the Discharge Pipeline and with surveys, prepared by a licensed surveyor, showing the location of the pipeline and the permitted right of way issued to the Town pursuant to paragraphs 1 and 2 above.
4. *Operation and Maintenance of the Project*
- a. The Town shall, at its sole cost and expense, operate, maintain, repair, replace, reconstruct, and rehabilitate the Project in a manner consistent with the plans and specifications attached hereto as Exhibits A and D and good engineering practices.

- (1) If the District's Engineer reasonably determines that work is required on the Project in order to satisfy the Town's obligation under paragraph 1.c. above, the Town shall, upon written demand by the District, promptly perform such work at the Town's sole cost and expense within the reasonable time limits set by the District. If the Town fails to perform such work in a timely fashion, the District may perform the needed work and the Town shall pay the District's costs of such work within thirty days' of the date of the District's invoice.
 - (2) In the event that the District incurs increased costs for the performance of customary operation and maintenance of its facilities in the vicinity of the Project due, in whole or in part, to the presence of the Project, the Town shall reimburse the District for such increased costs within thirty days of the District's invoice.
- b. The Town agrees to name or cause to be named the District Parties as additional insureds by endorsement with respect to liability arising out of the operation, maintenance, repair, replacement, reconstruction and/or rehabilitation of the Project on all liability policies required of the Town's contractors and on the Town's general liability policy. Specific coverages are set forth in Exhibit E and incorporated herein by reference.
- c. The Town acknowledges that the premises comprising Byron Tract could be flooded during the operation, maintenance repair, replacement, reconstruction and rehabilitation of the Project from many causes, including, without limitation, the following:
- (1) Levee overtopping and levee failure due to natural causes such as winds, tides, barometric pressure changes, rainfall, rainfall runoff, earthquakes, levee settlement and rodents.
 - (2) Failure of the levee and/or drainage system due to natural or man-related causes, including the negligence of any landowner, any Reclamation district, or any other governmental agency.
 - (3) Power failures, of any kind, within or outside the boundaries of the District.

The Town agrees that it will take such precautions as may be reasonably necessary during the operation, maintenance, repair, replacement, reconstruction and rehabilitation of the Project to avoid contributing to such flooding and to mitigate any damages that may result from such flooding.

- d. Except in the case of active negligence, sole negligence and/or willful misconduct by the District Parties, the Town hereby expressly assumes any and all risks of damage or loss to its property or to the property of its contractors, employees and agents arising from or related to the operation, maintenance, repair, replacement, reconstruction and rehabilitation of the Project. All such damages or losses shall be treated as within the scope of the indemnification described in paragraph 7 below.

5. *Ownership of Project Facilities*

The Discharge Pipeline shall, at all times, remain the property of the Town and the Town may remove those facilities in whole or in part at any time, provided that the Town shall provide thirty days' notice of such removal to the District.

6. *Abandonment of Discharge Pipeline.*

If the Town permanently abandons the Discharge Pipeline, the Town shall, at the District's option, either remove the Discharge Pipeline and restore (including the removal or on-site remediation of any contaminated earth caused by the activities of the Town, its contractors or agents) the District's levee to its pre-Discharge Pipeline condition or leave the Discharge Pipeline in place, capping it as it enters and exits the District's levee and filling it with an inert substance. Such work shall be completed to the reasonable satisfaction of the District, as determined in the sole discretion of the District Engineer. In case the Town delays acting upon any such order of the District upon abandonment, the District may proceed to perform the required work and the cost thereof shall be paid by the Town. The parties agree that non-use of the Discharge Pipeline for a continuous period of one year shall constitute the permanent abandonment of the Discharge Pipeline by the Town. The Town shall further notify the District within 90 days of any period of non-use of the Discharge Pipeline exceeding one year. In the event of a dispute regarding the period of continuous use, it shall be the obligation of the Town to demonstrate that use has been made within the preceding year. Abandonment of the Discharge Pipeline shall not, absent appropriate termination of this Agreement, relieve the Town from compliance with the remaining terms of this Agreement.

7. *Indemnification*

- a. *Generally.* Except in the case of active negligence, sole negligence and/or willful misconduct by the District Parties, the Town agrees to save, defend, indemnify, and hold the District Parties harmless from and against any and all damages, liabilities, claims, demands, costs, and expenses (including reasonable attorneys' and expert witnesses' fees) arising out of or relating to the construction of the Discharge Pipeline and/or the operation, maintenance, repair, replacement, reconstruction and/or rehabilitation of the Discharge Pipeline or the Town's performance of (or

failure to perform) its obligations under this Agreement, including, without limitation:

- (1) Any and all actions on the part of the District Parties to respond to emergency public safety and/or structural integrity jeopardy circumstances that involve the Project,
- (2) Any and all claims by any person alleging any and all deficiencies (whether obvious or latent) in the planning, design, construction, operation, maintenance, or other aspect of the Project, whether those deficiencies were caused, in whole or in part, by the Town, or any of their respective officers, employees, contractors, agents, or consultants, and
- (3) Any and all claims by any person relating to the discharge of sewage effluent or other wastes from the Discharge Pipeline.

In the event of litigation against the District falling within the scope of this paragraph, the Town shall pay, monthly in arrears, the District's reasonable defense costs, including, without limitation, reasonable attorneys' and expert witnesses' fees, expenses and costs.

- b. *Environmental Indemnification.* Except in the case of active negligence, sole negligence, or willful misconduct by the District Parties, the Town shall indemnify, defend and hold the District Parties harmless from and against any and all environmental damage, liability, claim, demand, cost, and expense (including reasonable attorneys' and expert witnesses' fees), including, but not limited to, all costs of any required environmental clean-up, remediation, inspection or investigation that may result from the construction of the Discharge Pipeline and/or the operation, maintenance, repair, replacement, reconstruction and/or rehabilitation of the Discharge Pipeline.

8. *Dispute Resolution*

- a. *Construction Disputes.* If, in the reasonable discretion of the District's Engineer, construction of the Discharge Pipeline: (i) poses a serious threat to the District's facilities in the vicinity of the Discharge Pipeline, (ii) departs materially from the standards contained in the plans and specifications for the Discharge Pipeline, or (iii) poses an immediate threat to public safety, the District Engineer, in exercising his reasonable discretion, may order that the Town take any and all actions, including but not limited to, immediately stopping construction, in order to address these problems. Any order to stop work shall be in writing and shall be given to the Town's on-site representative and to its contractor. The District and

the Town shall so provide in their directions to their consultants and/or contractors. If a written order to shut down any portion of the construction of the Discharge Pipeline is issued by the District's Engineer, a meeting will be held on-site within twenty-four hours to agree on the conditions under which construction can be restarted. If a disagreement arises between the District and the Town at such meeting, then a third-party engineer (Siegfried Engineering, Inc., 4045 Coronado Avenue, Stockton, CA 95204 [209.943.2021]) will be called in within twenty-four hours of the conclusion of the meeting to arbitrate the dispute and will render a decision that shall be binding on the parties within forty-eight hours after conducting the arbitration. All direct and reasonable costs of the work by the third-party engineer shall be borne by the Town. In addition, the Town shall, within thirty days from the date of the District's invoice, reimburse the District for all direct and reasonable costs incurred by the District under the provisions of this paragraph.

- b. *Post-Construction Disputes.* In order to avoid disputes relating to the operation and maintenance of the Project by the Town, the Town shall:
- (1) Provide written notice to the District prior to undertaking work, or upon recognition of a potential problem, within the boundaries set forth in Exhibit C.
 - (2) Promptly consult with the District's Manager in the event of any disagreement relating to the subject of this Agreement.
 - (3) In the event a disagreement among the Parties cannot be resolved by the Parties' General Managers, the Parties shall promptly submit the dispute to a mediator, mutually selected by the Parties, with experience in water-related disputes. The costs of any mediation shall be divided evenly between the Parties.
 - (4) Nothing in this subparagraph 8.b. nor in subparagraph 8.a. above, shall be construed to limit the Parties' legal or equitable remedies in the event of a breach of this Agreement, an immediate threat to public safety, or a serious threat to a Party's facilities in the vicinity of the Project.

9. *Suspension and Termination of Permits*

- a. *Suspension of Permit for Public Safety.* The District may suspend the operation of any of the permits granted herein if the continued conveyance or discharge of sewage effluent, in the reasonable discretion of the District's Engineer, poses a serious threat to the District's facilities or otherwise poses an immediate threat to public safety (e.g., as a result of a

spill of sewage effluent). In order to suspend the permit, the District shall apply, on an ex parte basis, to the Superior Court of Contra Costa County for an order authorizing the District to shut down the conveyance and/or discharge of sewage effluent and/or take any other action that the District may believe necessary in order to secure public safety. In the event that time does not permit such an application to the Superior Court without a substantial risk to public safety, the District shall make such ex parte application to the Court at the earliest possible time. The suspension of the permit shall last as long as may be necessary in order to ensure proper operation of the facilities in question and secure public safety.

b. *Suspension of Permits for Failure to Perform.* The District may suspend the operation of any of the permits granted herein if the Town fails to perform its obligations as described in this Agreement. The District shall, prior to any such suspension, provide the Town with thirty days' written notice of the failure to perform and provide the Town with a reasonable opportunity to cure the failure to perform.

c. *Termination of the Permits.* The District may terminate this Agreement upon one-year's written notice to the Town describing an alleged breach of this Agreement. Within ten days of the date of the notice of termination, representatives of the District and the Town shall meet to attempt to negotiate a resolution to the dispute other than termination. The Parties shall submit any disputes that cannot be resolved by meetings between the Parties within thirty days from the date of the notice of termination to a mediator, mutually selected by the Parties, with experience in water-related disputes. The costs of any mediation shall be divided evenly between the Parties. This Agreement shall terminate if the dispute cannot be resolved by mediation within one hundred eighty days after the notice of termination, or such later date as is acceptable to both parties. In the event of a termination of this Agreement by the District, the Town shall, at its sole cost and expense, promptly remove the Discharge Pipeline from the District's property and restore the District's property to reasonable pre-Project conditions.

10. *Recordation.*

The Town shall record this Agreement within five days of the date upon which this Agreement becomes effective and shall promptly provide the District with a copy of the recorded Agreement.

11. *General Provisions*

a. *Relationship to Prior Agreements.* Nothing in this Agreement shall be construed as modifying any prior agreements between the Parties.

- b. *Jurisdiction and Venue.* The Parties agree that any litigation involving the construction of this Agreement shall be brought in the Superior Court of Contra Costa County.
- c. *Authority.* Each signatory of this Agreement represents the s/he is authorized to execute this Agreement on behalf of one of the Parties to this Agreement. Each Party represents that it has legal authority to enter into this Agreement and to perform all obligations under this Agreement. Attached as Exhibits F and G are resolutions authorizing execution of this Agreement that are signed by the governing boards of each Party.
- d. *Amendment.* This Agreement may be amended or modified only by a written instrument executed by each of the Parties to this Agreement.
- e. *Headings.* The paragraph headings used in this Agreement are intended for convenience only and shall not be used in interpreting this Agreement or in determining any of the rights or obligations of the Parties to this Agreement.
- f. *Construction and Interpretation.* This Agreement has been arrived at through negotiations and each Party has had a full and fair opportunity to revise the terms of this Agreement. As a result, the normal rule of construction that any ambiguities are to be resolved against the drafting Party shall not apply in the construction or interpretation of this Agreement.
- g. *Waiver.* No waiver of any violation or breach of this Agreement shall be considered to be a waiver or breach of any other violation or breach of this Agreement, and forbearance to enforce one or more of the remedies provided in this Agreement shall not be deemed to be a waiver of that remedy.
- h. *Attorneys' Fees and Costs.* The prevailing Party in any litigation or other action to enforce or interpret this Agreement shall be entitled to reasonable attorneys' fees, expert witnesses' fees, costs of suit, and other and necessary disbursements in addition to any other relief.
- i. *Entire Agreement.* This Agreement constitutes the entire agreement of the Parties with respect to the subject matter of this Agreement and supersedes any prior oral or written agreement, understanding, or representation relating to the subject matter of this Agreement.
- j. *Representations and Warranties.* Each representation and warranty contained herein or made pursuant hereto shall be deemed to be material

and to have been relied upon and shall survive the execution, delivery and termination of this Agreement.

- k. *Successors and Assigns.* This Agreement shall be binding on the inure to the benefit of the successors and assigns of the respective Parties to this Agreement. No Party may assign its interests in or obligations under this Agreement without the written consent of the other Party, which consent shall not be unreasonably withheld or delayed.
- l. *Partial Invalidity.* If, after the date of execution of this Agreement, any provision of this Agreement is held to be illegal, invalid, or unenforceable under present or future laws effective during the term of this Agreement, such provision shall be fully severable. However, in lieu thereof, there shall be added a provision as similar in terms to such illegal, invalid or unenforceable provision as may be possible and be legal, valid and enforceable.
- m. *Necessary Action.* Each Party agrees to execute and deliver additional documents and instruments and to take any additional actions as may be reasonably required to carry out the proposes of this Agreement.
- n. *Compliance with Law.* In performing their respective obligations under this Agreement, the Parties shall comply with and conform to all applicable laws, rules, regulations and ordinances.
- o. *Third Party Beneficiaries.* This Agreement shall not create any right or interest in any non-Party or in any member of the public as a third party beneficiary.
- p. *Counterparts.* This Agreement may be executed in one or more counterparts, each of which shall be deemed an original.
- q. *Notices.* All notices, requests, demands or other communications required or permitted under this Agreement shall be in writing unless provided otherwise in this Agreement and shall be deemed to have been duly given and received on: (i) the date of service if served personally or served by facsimile transmission on the Party to whom notice is to be given at the address(es) provided below, (ii) on the first day after mailing, if mailed by Federal Express, U.S. Express Mail, or other similar overnight courier service, postage prepaid, and addressed as provided below, or (iii) on the third day after mailing if mailed to the Party to whom notice is to be given by first class mail, registered or certified, postage prepaid, addressed as follows:

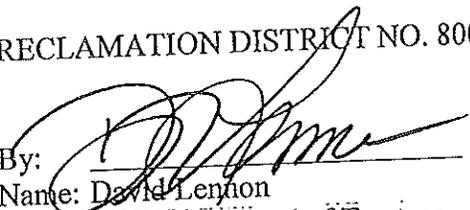
To District:

Reclamation District No. 800 (Byron Tract)
P.O. Box 262
Byron, California 94514
Telephone: (925) 634-2351
Facsimile: (925) 634-2089
Attention: District Manager

To Town:

Town of Discovery Bay
1800 Willow Lake Road
Discovery Bay, California 94514
Telephone (925)634-1131
Facsimile: (925)513-2705
Attention: General Manager

RECLAMATION DISTRICT NO. 800 (BYRON TRACT)

By: 
Name: David Lenton
Title: President, Board of Trustees

TOWN OF DISCOVERY BAY

By: 
Name:
Title: President, Board of Directors

Exhibit E: Insurance Provisions

1. *General Provisions.*

Without limiting the Town's indemnification of the District, and prior to commencement of the construction, operation and/or maintenance of the Sewer Facilities, the Town shall obtain and provide and maintain at the Town's own expense, and shall require any and all subcontractors that the Town retains, hires or enters into any construction, maintenance or operation agreement with, to carry and maintain during the terms specified in this Agreement, the herein described policies of insurance.

All of the herein described policies of insurance, except for the Workers' Compensation policy, are to contain, or be endorsed to contain, the following provisions:

a. The Towns' insurance shall be considered primary as respects any other valid and collectible insurance, including self-insured retention, the District, its Board of Trustees, officers, agents, employees, contractors and authorized volunteers (collectively, the "District Parties") may possess and any other insurance the District Parties do possess shall be considered excess insurance only.

b. The insurance policies will not be canceled, altered, or reduced without thirty (30) days' (ten (10) days for non-payment of premium) prior written notice to the District.

c. Any failure to comply with the reporting requirements or other provisions of the policies including breaches and warranties shall not affect coverage provided to the District Parties.

d. The Town'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.

Upon execution of this Agreement, the Town shall furnish to the District the endorsement(s) to such policies, the policies of insurance themselves, or such other form of certificate of coverage acceptable to the District, reflecting that the policies of insurance contain the above required provisions.

2. *Acceptability of Insurers:*

All insurance policies shall be issued by an insurance company currently authorized by the Insurance Commissioner to transact the business of insurance in the State of California, with an assigned policyholders' Rating of A (or higher) and Financial Size Category Class VII (or larger) in accordance with the latest edition of Best's Key Rating Guide, unless otherwise approved by District.

3. *Deductibles and Self-Insured Retentions:*

Any deductible or self-insured retention must be declared to and approved by the District.

The Town shall furnish to the District prior to beginning construction of the Discharge Pipeline, an endorsement in a form satisfactory to the District confirming that the District Parties are added as additional insureds with respect to liability arising out of the Subcontractor or Subcontractor(s) work and performance of the contract in connection with the construction of the Discharge Pipeline completed by or for the Town, including ongoing operations at the Project location and completed operations.

b. The Town further agrees to obtain and maintain during the full term of this Agreement, commercial general liability insurance covering third party liability arising out of the Town's operation and maintenance of the Discharge Pipeline including, but not limited to, the repair, replacement, reconstruction and/or rehabilitation of the Pipeline including, but not limited to, coverage for bodily injury, property damage, contractual liability, premises/operations, products and completed operations, and explosion, collapse and underground damage hazard, which shall have limits of liability of not less than the following:

- | | | |
|----|-------------------------------|---|
| 1. | Bodily Injury/Property Damage | \$ 2,000,000 per occurrence
\$ 2,000,000 aggregate |
| 2. | Products Completed Operations | \$ 2,000,000 per occurrence |

The Town shall furnish to the District upon execution of this Agreement an endorsement in a form satisfactory to District confirming that the District Parties are added as additional insureds with respect to liability arising out of the operation, maintenance, repair, replacement, reconstruction and/or rehabilitation of the Discharge Pipeline.

7. *Commercial Automobile Liability Insurance:*

The Town shall maintain a commercial automobile liability policy at least as broad as Insurance Service Office (ISO) Business Auto Coverage (Form CA 0001), covering Symbol 1 (any auto), for all vehicles, automobiles, trucks and equipment, including coverage for owned, hired, and non-owned automobiles with liability limits of not less than the following:

- | | | |
|----|-----------------|--|
| a. | Bodily Injury: | \$ 1,000,000 each person
\$ 5,000,000 each accident |
| b. | Property Damage | \$ 1,000,000 each accident |

Such insurance shall provide for contractual liability and owned and non-owned mobile equipment to the extent it may be excluded from the commercial general liability policy.



**Town of Discovery Bay
Community Services District
Resolution No. 2004-15**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE
TOWN OF DISCOVERY BAY SUPPORTING PROPOSITION 1A**

WHEREAS, state government annually seizes more than \$5.2 billion in local property tax funds statewide from cities, counties and special districts, costing local governments more than \$40 billion in lost revenues over the past 12 year; and

WHEREAS, these continual shifts and raids by the state of local property tax funds and other funding dedicated to local governments has seriously reduced resources available for local fire and paramedic response, law enforcement, public health and emergency medical care, roads, parks, libraries, transportation and other essential local services; and

WHEREAS, these fund raids also add pressure for local governments to increase fees and taxes to maintain basic local service levels; and

WHEREAS, this drain of local resources has continued even during periods when the state's budget has been overflowing with surpluses; and

WHEREAS, Proposition 1A is a historic measure that will appear on the November 2004 statewide ballot that would limit the State's ability to take and use local government funding; and

WHEREAS, by protecting local government funding, Proposition 1A would protect local public safety, healthcare and other essential local services; and

WHEREAS, Proposition 1A will not raise taxes and, in fact, will help reduce pressure for local fee and tax increases by limiting state raids of local government funding; and

WHEREAS, Proposition 1A does not reduce funding for schools or any other state program or service, and Proposition 1A was carefully written to allow flexibility in the event of a state budget emergency; and

WHEREAS, Proposition 1A supported by a bipartisan, diverse coalition including Governor Schwarnegger, Democrat and Republican leaders, local government officials, public safety representatives, healthcare, business, labor and community leaders;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTOR OF THE TOWN OF DISCOVERY BAY that we hereby express strong support for Proposition 1A, the statewide ballot initiative that will prevent the state from further taking local government revenues; and

RESOLVED FURTHER, that the Town of Discovery Bay officials and staff are authorized to provide impartial information materials on the initiative as may be lawfully provided by this local government's representatives. No public funds shall be used to campaign for or against the initiative; and

RESOLVED FURTHER, that we will send a copy of this resolution to Yes on 1A-Californias to Protect Local Taxpayers and Public Safety. Fax: (916) 442-3510 or 1121 L Street, #803, Sacramento, CA 95814.

PASSED AND ADOPTED by the Board of Directors of the Town of Discovery Bay, at their regular meeting thereof, held on October 20, 2004, by the following vote:

AYES: 4

NOES: 0

ABSTENTIONS: 0

ABSENT: 1

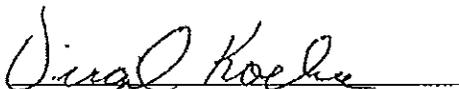
RAY TETREAULT



President, Board of Directors

ATTEST:

VIRGIL KOEHNE



Secretary, Board of Directors



**Town of Discovery Bay
Community Services District
RESOLUTION NO. 2004-16**

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE TOWN OF DISCOVERY BAY, A COMMUNITY SERVICES DISTRICT TO DELETE FORMER DIRECTOR, MAUREEN MURRAY AND ADD CURRENT DIRECTOR SHANNON MURPHY-TEIXEIRA ON THE BANK OF AGRICULTURE AND COMMERCE BANK ACCOUNTS TO SIGN ON CHECKS WRITTEN FROM THE TOWN OF DISCOVERY BAY CHECKING ACCOUNTS

WHEREAS, the Town of Discovery Bay desires to delete former director, Maureen Murray and add current director Shannon Murphy-Teixeira on their (4) public bank accounts with Bank of Agriculture and Commerce to sign on checks written from the Town of Discovery Bay Checking Accounts which are listed below:

- 50017249 -- Water, Wastewater and Recreation (CSD)
- 50024288 -- Discovery Bay Youth Council Committee
- 50020290 -- Discovery Bay Municipal Advisory Committee
- 50020304 -- Discovery Bay Community Center Committee

NOW, THEREFORE, BE IT RESOLVED that the Town of Discovery Bay does the following:

1. The Bank of Agriculture and Commerce, Discovery Bay Branch, 14804-A Highway 4, Discovery Bay, CA 94514, is hereby requested to delete former director Maureen Murray, and add the current director's name, Shannon Murphy-Teixeira on the above (4) checking accounts to be able to sign on checks written from these accounts.
2. The Town of Discovery Bay Board of Directors require that valid signatures on checks written from these accounts be two of the three elected officers of the Town of Discovery Bay Board of Directors (President and Treasurer, or by one of them, and one other Director).

PASSED AND ADOPTED by the Board of Directors of the Town of Discovery Bay, at their regular meeting thereof, held on October 20, 2004 by the following vote:

AYES: 4
 NOES: 0
 ABSTENTION: 0
 ABSENT: 1

RAY TETREAUULT

President, Board of Directors

ATTEST:

Secretary Board of Directors



**Town of Discovery Bay Community
Services District
Resolution No. 2004-17**

**2002 RESOURCES BOND ACT
STATE URBAN PARKS AND HEALTHY COMMUNITIES PROGRAM**

**RESOLUTION OF THE TOWN OF DISCOVERY BAY,
COMMUNITY SERVICES DISTRICT
APPROVING THE APPLICATION FOR GRANT FUNDS FOR THE
STATE URBAN PARKS AND HEALTHY COMMUNITIES PROGRAM
UNDER THE CALIFORNIA CLEAN WATER, CLEAN AIR, SAFE
NEIGHBORHOOD PARKS, AND COASTAL PROTECTION ACT OF 2002**

FOR THE DISCOVERY BAY COMMUNITY CENTER

WHEREAS, the people of the State of California have enacted the CALIFORNIA CLEAN WATER, CLEAN AIR, SAFE NEIGHBORHOOD PARKS, AND COASTAL PROTECTION ACT OF 2002, which provides funds to the State of California for grants to eligible Applicants; and

WHEREAS, the California Department of Parks and Recreation has been delegated the responsibility for the administration of the State Urban Parks and Healthy Communities Program and the grant Project shown above within the State, setting up necessary procedures, and

WHEREAS, said procedures established by the California Department of Parks and Recreation require the Applicant's Governing Body to certify by resolution the approval of the Application before submission of said Application to the State, and

WHEREAS, the Applicant will enter into a Contract with the State of California for the Project;

NOW, THEREFORE, BE IT RESOLVED that the Town of Discovery Bay Board of Directors hereby:

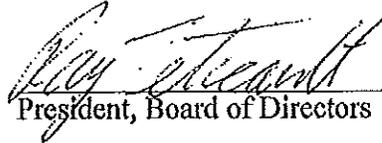
1. Approves the filing of an Application for local assistance funds from the State Urban Parks and Healthy Communities Program under the California Clean Water, Clean Air, Safe Neighborhood Parks and Coastal Protection Act of 2002; and
2. Certifies that the Applicant has or will have sufficient funds to operate and maintain the Discovery Bay Community Center Project; and

3. Certifies that the Applicant has reviewed, understands, and agrees to the General Provisions contained in the Contract shown in the Procedural Guide; and
4. Certifies that the Grantee has or will have available, prior to commencement of any work on the Discovery Bay Community Center Project, the required Match;
5. Certifies that the Discovery Bay Community Center Project conforms to the recreation element of any applicable city or county general plan; and
6. Appoints the General Manager as agent to conduct all negotiations, execute and submit all documents including, but not limited to, Applications, agreements, payment requests and so on, which may be necessary for the completion of the Discovery Bay Community Center Project.
7. Effective Date: This resolution shall take effect immediately upon its passage.

PASSED AND ADOPTED by the Board of Directors of the Town of Discovery Bay, at their regular meeting thereof, held on November 3, 2004, by the following vote:

AYES: 5
NOES: 0
ABSTENTIONS: 0
ABSENT: 0

RAY TETREAULT



President, Board of Directors

ATTEST:

VIRGIL KOEHNE



Secretary, Board of Directors



**Town of Discovery Bay Community
Services District
Resolution No. 2004-18**

**2002 RESOURCES BOND ACT
STATE URBAN PARKS AND HEALTHY COMMUNITIES PROGRAM**

**RESOLUTION OF THE TOWN OF DISCOVERY BAY,
COMMUNITY SERVICES DISTRICT
APPROVING THE APPLICATION FOR GRANT FUNDS FOR THE
STATE URBAN PARKS AND HEALTHY COMMUNITIES PROGRAM
UNDER THE CALIFORNIA CLEAN WATER, CLEAN AIR, SAFE
NEIGHBORHOOD PARKS, AND COASTAL PROTECTION ACT OF 2002**

FOR THE SKATE PARK

WHEREAS, the people of the State of California have enacted the CALIFORNIA CLEAN WATER, CLEAN AIR, SAFE NEIGHBORHOOD PARKS, AND COASTAL PROTECTION ACT OF 2002, which provides funds to the State of California for grants to eligible Applicants; and

WHEREAS, the California Department of Parks and Recreation has been delegated the responsibility for the administration of the State Urban Parks and Healthy Communities Program and the grant Project shown above within the State, setting up necessary procedures, and

WHEREAS, said procedures established by the California Department of Parks and Recreation require the Applicant's Governing Body to certify by resolution the approval of the Application before submission of said Application to the State, and

WHEREAS, the Applicant will enter into a Contract with the State of California for the Project;

NOW, THEREFORE, BE IT RESOLVED that the Town of Discovery Bay Board of Directors hereby:

1. Approves the filing of an Application for local assistance funds from the State Urban Parks and Healthy Communities Program under the California Clean Water, Clean Air, Safe Neighborhood Parks and Coastal Protection Act of 2002; and
2. Certifies that the Applicant has or will have sufficient funds to operate and maintain the Skate Park Project; and

3. Certifies that the Applicant has reviewed, understands, and agrees to the General Provisions contained in the Contract shown in the Procedural Guide; and
4. Certifies that the Grantee has or will have available, prior to commencement of any work on the Skate Park Project, the required Match;
5. Certifies that the Skate Park Project conforms to the recreation element of any applicable city or county general plan; and
6. Appoints the General Manager as agent to conduct all negotiations, execute and submit all documents including, but not limited to, Applications, agreements, payment requests and so on, which may be necessary for the completion of the Skate Park Project.
7. Effective Date: This resolution shall take effect immediately upon its passage.

PASSED AND ADOPTED by the Board of Directors of the Town of Discovery Bay, at their regular meeting thereof, held on November 3, 2004, by the following vote:

AYES: 5
NOES: 0
ABSTENTIONS: 0
ABSENT: 0

RAY TETREBAULT



President, Board of Directors

ATTEST:

VIRGIL KOEHNE



Secretary, Board of Directors



**TOWN OF DISCOVERY BAY
COMMUNITY SERVICES DISTRICT**

RESOLUTION NO. 2004- 19

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE
TOWN OF DISCOVERY BAY, COMMUNITY SERVICES DISTRICT
PROPOSING THE FORMATION
OF A LANDSCAPING, PARK, LIGHTING AND
OPEN SPACE IMPROVEMENT DISTRICT**

WHEREAS, the Board of Directors of the Town of Discovery Bay, Community Services District pursuant to an agreement with the developer of that subdivision known as Ravenswood, has indicated its desire to form a landscaping, park, lighting and open space improvement district pursuant to the authority contained in Government Code Sections 61710 and following, for the purpose of providing for the operation and maintenance of landscaping, park, street lights and open space installed in said subdivision by developer; and

WHEREAS, the Board of Directors now desires to institute the process to form such an improvement district.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Town of Discovery Bay Community Services District as follows:

1. The Board of Directors of the Town of Discovery Bay, Community Services District in order to operate and maintain landscaping, parks, street lights and open space (the "improvements") within that part of the Town know as the Ravenswood subdivision hereby proposes the formation of an improvement district pursuant to California Government Code Sections 61710 and following.
2. The improvements, the operation and maintenance of which are intended to be funded by the assessments levied by the proposed improvement district, include all expenses associated with the maintenance and operation of non-privately owned landscaping, parks, street lights, and open space in the subdivision known as Ravenswood.
3. The proposed improvement district will consist of that property generally described as Lots 2, 4, 20 & 21, as shown on Book of Maps 11 at Page 22, Contra Costa County Records.
4. The designation for the proposed improvement district is "Ravenswood Improvement District".

5. Pursuant to that certain will-serve letter by and between the Town of Discovery Bay, Community Services District and Western Pacific Housing, relating to the Development known as Ravenswood, HERWIT Engineering, of 6200 Center Street, Suite 310, Clayton, CA 94517, is hereby ordered to prepare a report for the proposed improvement district in accordance with Article 4, of Chapter 1, of Part 2, of Division 15 (commencing with § 22565), of the California Streets and Highways Code, and to file it with the Secretary of the Town of Discovery Bay, Community Services District.

6. The Board of Directors finds and declares that the formation of the improvement district, and the levy of assessments, is exempt from the requirements of the California Environmental Quality Act (CEQA), pursuant to 14 California Code of Regulations section 15273(a), in that such formation and levy is not designed to increase services, or expand a system, but is for the purpose, with respect to systems (landscaping, parks, lighting and open space) already determined to be installed pursuant to the various documents approving the Ravenswood subdivision, of meeting operating expenses, purchasing supplies, equipment and materials, meeting financial reserve needs, and obtaining funds necessary for repair and replacement to maintain such services and systems.

7. If, and when, the proposed assessment district is formed, the Secretary of the Town is authorized and directed to file a notice of exemption from CEQA.

PASSED AND ADOPTED by the Board of Directors, at a regular meeting thereof, held on December 15, 2004, by the following vote:

AYES:	<u>5</u>
NOES:	<u>0</u>
ABSENT:	<u>0</u>
ABSTENTION:	<u>0</u>


 RAY TETREAULT, President
 Board of Directors

ATTEST:


 VIRGIL KOBHNE, SECRETARY, Board of Directors