

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS  
ACTION AGENDA SUMMARY

DEPT: Parks and Recreation

BOARD AGENDA # \*B-1

Urgent

*MR*  
Routine

AGENDA DATE July 10, 2012

CEO Concurs with Recommendation YES  NO

4/5 Vote Required YES  NO

*dx*  
(Information Attached)

SUBJECT:

Approval for Stanislaus Consolidated Fire Protection District to Use the Regional Water Safety Training Center in Empire for Operations Training

STAFF RECOMMENDATIONS:

1. Approve the use by the Stanislaus Consolidated Fire Protection District of the Regional Water Safety Training Center in Empire for Operations Training for a period of five years.
2. Authorize the Director of the Department of Parks and Recreation, or their designee, to sign Agreement number A071511 with Stanislaus Consolidated Fire Protection District, for use of the Regional Water Safety Training Center for operations training for a period of five years.
3. Authorize the Director of the Department of Parks and Recreation, or their designee, to sign future amendments and extensions to the contract so long as there is no change to the compensation terms.

FISCAL IMPACT:

Maintenance costs for the operation of the Regional Water Safety Training Center are included in the Adopted Proposed Budget for Parks and Recreation for Fiscal Year 2012-2013. The proposed use of the facility, at no charge to the Stanislaus Consolidated Fire Protection District, would occur during designated periods when it is not being used by the public for recreational or instructional swimming. Annually, the designated use by the District of the facility will be evaluated based on the resources available for the swim programs.  
(Continued on Page 2)

BOARD ACTION AS FOLLOWS:

No. 2012-350

On motion of Supervisor Withdraw, Seconded by Supervisor Monteith  
and approved by the following vote,

Ayes: Supervisors: Chiesa, Withdraw, Monteith, De Martini, and Chairman O'Brien

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1) X Approved as recommended

2) \_\_\_\_\_ Denied

3) \_\_\_\_\_ Approved as amended

4) \_\_\_\_\_ Other:

MOTION:

*Christine Ferraro*

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

File No.

## Approval for Stanislaus Consolidated Fire Protection District to Use the Regional Water Safety Training Center in Empire for Operations Training

### FISCAL IMPACT (Continued):

The Department of Parks and Recreation is actively working with the Chief Executive Office, the Stanislaus County Police Activities League, local partners (Empire Municipal Advisory Council and Empire School District) and other organizations and residents to develop a sustainable plan for maintaining operations and programming at the Regional Water Safety Training Center.

### DISCUSSION:

The Stanislaus Consolidated Fire Protection District (SCFPD) provides fire protection, fire prevention, fire safety education, emergency medical aid, and other emergency response services to various locations throughout Stanislaus County including the communities of Empire, Hickman and LaGrange and the cities of Riverbank and Waterford. The varied demographics of the District provide the opportunity for its personnel to respond to emergencies in rural, suburban, and urban settings. The wide diversity of emergency incidents require firefighters to be proficient in wild land firefighting, structural firefighting, vehicle extrication, technical rescue, swiftwater rescue, hazardous material mitigation, and emergency medical services.

The SCFPD desires to have exclusive use of the Regional Water Safety Training Center (RWSTC), located in Empire, during designated periods for the purpose of conducting physical conditioning and/or water rescue awareness and operations training. The Agreement would permit the use of the RWSTC during designated periods when the swimming pool facility is not being used by the Stanislaus County Police Activities League, or when it is not open to the general public. The use of the RWSTC would be limited to a maximum of one hour of swimming time per day. The Agreement would be for a period of five (5) years, from 2012 to 2017, effective from the date the contract is fully executed.

The Agreement (Attachment A) may be renewed at Stanislaus County's option for a period of five (5) years from the expiration of the original term under same terms and conditions. The Stanislaus County Parks and Recreation Department has had a long-standing relationship with the SCFPD. Over the years, the District has responded to emergency calls/incidents at neighborhood, community and regional parks and provided aid as needed. Additionally, the SCFPD has actively promoted water safety and education through their support of local fundraising efforts during the construction and ongoing operations and programming for the RWSTC, their popular life jacket loaner program and by providing CPR/First Aid classes for residents, business owners and day care providers. The District also actively provides instructional presentations at local schools and keeps the community abreast of their call activity and operations through outreach with local municipal advisory councils and other community groups.

### POLICY ISSUE:

Approval of this agenda item authorizing the Agreement between Stanislaus Consolidated Fire Protection District and the Department of Parks and Recreation for the use of the Regional

## Approval for Stanislaus Consolidated Fire Protection District to Use the Regional Water Safety Training Center in Empire for Operations Training

Water Safety Training Center for training purposes is consistent with the Board's priorities of A Safe Community and Effective Partnerships. The ability for Parks and Recreation and Stanislaus Consolidated Fire to work in partnership to provide a place for training increases the experience and knowledge of local firefighters to ensure a safer community.

### STAFFING IMPACTS:

There are no staffing impacts associated with this item. The Department of Parks and Recreation will oversee the management of the Agreement with Stanislaus Consolidated Fire Protection District to the scope and terms specified.

### CONTACT PERSON:

Jami Aggers, Interim Director of Parks and Recreation

Telephone: 209-525-6770



DEPARTMENT OF ENVIRONMENTAL RESOURCES  
3800 Cornucopia Way, Suite C,  
Modesto, Ca 95358-9492  
Phone: (209) 525-6700  
Fax: (209) 525-6774

**PERMIT TO USE  
THE EMPIRE REGIONAL WATER SAFETY TRAINING CENTER**

The County of Stanislaus, a political subdivision of the State of California, hereinafter called the "County," hereby gives permission to Stanislaus Consolidated Fire Protection District, hereinafter called "Permittee" to use the following described County property for such purposes and upon such terms and conditions as are herein provided.

**RECITALS**

Whereas, County is the owner of the Empire Regional Water Safety Training Center; and

Whereas, Permittee desires to have exclusive use of the Empire Regional Water Safety Training Center during designated periods, as set forth below, for the purpose of conducting physical conditioning and/or water rescue awareness and operations training; and

Whereas, Stanislaus Consolidated Fire Protection District (SCFPD), Policies and Procedures, Article C-64 states that its members shall gain permission, from the jurisdiction over any public swimming pool facility, to utilize public swimming pools within the Fire District for the purposes of training and physical conditioning and not incur any financial liability for use of a public pool by the SCFPD members.

**WITNESSETH:**

Now, therefore, in consideration of the mutual promises, covenants, terms and conditions hereinafter contained, the parties hereby agree as follows:

1. **Grant and Use of Premises.** The County, grants to Permittee the exclusive right and privilege to use the Empire Regional Water Safety Training Center for physical conditioning and/or water rescue awareness and operations training during designated periods when the swimming pool facility is not being used by the Stanislaus County Police Athletic League (PAL), or when it is not open to the general public. These will be designated by the County and PAL each year.

Permittee shall at all time faithfully obey and comply with all laws, rules and regulations of Federal, State, the County or other governmental bodies or departments or officers thereof. Permittee Company Officers shall ensure that crew members are familiar with and obey the posted Rules and Regulations of the Swimming Pool Facility. Permittee shall remedy without delay any dangerous or unsanitary conditions.

Permittee shall not use, or permit the subject premises to be used in whole or in part during the term of this permit, for any purpose other than as set forth, herein, without the prior consent of the County.

Permittee Crews shall be limited to a maximum of one hour of swimming per day.

Permittee Crews shall conduct themselves in a professional manner and in accordance with the Permittee "General Conduct and Code of Ethics" policies.

The County shall not exercise any form of control, directly or indirectly, of the manner of physical conditioning or training of the Permittee members. Permittee assumes all responsibility for control and safety of its members using premises for physical conditioning and training.

No Permittee rights expressed or implied, other than those expressly given in this permit, are granted, and any other rights are hereby denied Permittee under this permit. It is understood that the privileges granted herein

are exclusive, but the County reserves the right to grant other similar or identical permits in other locations within Stanislaus County.

2. Term. The term of the permit shall be for a period of five (5) years and shall commence on signing of this Agreement and end at 11:59 p.m., five (5) years from the commencement of this Agreement. At the expiration or termination of this permit as herein provided, Permittee shall, within thirty (30) days thereafter, remove from said premises, or otherwise dispose of in a manner satisfactory to the County, all personal property belonging to Permittee located on said premises of this permit. Should Permittee fail to remove or dispose of its property as herein provided, the County may, at its election, consider such property abandoned or may dispose of the same at Permittee's expense. Also, at the expiration or termination of this permit, Permittee shall quit and surrender the said premises, including real property improvements, in a good state of repair.

2.1 Termination for Convenience. The County may terminate this Agreement at any time for its convenience and at its sole option, in whole or in part, by giving written notice to Permittee. Permittee agrees to waive any claims for damages, in the event the County terminates the Agreement as provided for in this paragraph.

3. Option to Renew. This agreement may be renewed at the option of the County for a period of five (5) years from the expiration of the original term and on the same terms and conditions. Such option shall be exercised in writing at least one (1) month prior to the termination of the existing agreement period.

4. Closure. At any time should an occurrence necessitate the closing of the property, Permittee shall have no recourse by law to the County for losses incurred.

5. Insurance and Indemnification.

5.1 The Permittee shall take out, and maintain during, the term of this Agreement and any extended term of this Agreement, a comprehensive general liability insurance policy covering bodily injury, personal injury, property damage with limits of no less than One Million Dollars (\$1,000,000) per incident or occurrence. If commercial general liability insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to any act or omission by Permittee under this Agreement or the general aggregate limit shall be twice the required occurrence limit.

5.2 The Permittee agrees that it will be responsible for and pay any self-insured retention or deductible and will pay any and all costs, losses, related investigations, claim administration and defense expenses related to or arising out of the Permittee's defense and indemnification obligations as set forth in this Agreement.

5.3 The Permittee's insurance coverage shall be primary insurance regarding the acts and omissions of the Permittee and its members related to the use of the Empire Regional Water Safety Training Center. Any insurance or self-insurance maintained by the County or its officers and employees shall be excess of the Permittee's insurance and shall not contribute with Permittee's insurance.

5.4 At least ten (10) days prior to the date the Permittee occupies the Premises, the Permittee shall furnish County with certificates of insurance and applicable endorsements effecting coverage required by this Agreement. County reserves the right to require complete copies of all required insurance policies and endorsements, at any time.

5.5 The limits of insurance described herein shall not limit the liability of the Permittee.

5.6 To the fullest extent permitted by law, Permittee shall indemnify, hold harmless and defend the County and its agents, officers and employees from and against all claims, damages, losses, judgments, liabilities, expenses and other costs, including litigation costs and attorneys' fees, arising out of, resulting from, or in connection with the Permittee's occupation and use of the Premises.

6. Assignment.

6.1 The parties expressly agree that the Permittee shall not assign, sublet, encumber or otherwise transfer its rights under this Agreement, or any right or interest in the Premises, without the prior written consent of the County, which consent shall not be unreasonably withheld. Any attempted assignment or transfer of this Agreement or any interest therein without the County's written consent, either by voluntary or involuntary act of Permittee, or by operation of law or otherwise, shall, at the option of County, terminate this Agreement. As a

condition of assignment, the assignee shall execute an express written assumption of all of the obligations of Permittee under this Agreement.

6.2 The County may accept performance of the Permittee's obligations from any person other than Permittee pending approval or disapproval of an assignment. Neither a delay in the approval or disapproval of such assignment nor the acceptance of any rent or performance shall constitute a waiver or estoppels of the County's right to exercise its remedies for the default or breach by the Permittee of any of the terms, covenants, or conditions of this Agreement.

6.3 The consent of the County to any assignment shall not constitute consent to any subsequent assignment by the Permittee or to any subsequent or successive assignment by the assignee. However, the County may consent to subsequent assignments of this Agreement or any amendments or modifications thereto without notifying the Permittee or anyone else liable on this Agreement and without obtaining their consent, and such action shall not relieve such persons from liability under this Agreement.

7. Miscellaneous Provisions.

7.1 Notices. All notices permitted or required by this Agreement or by law to be served on or given to either party hereto by the other party, shall be in writing and shall be effective when personally delivered to the party to whom it is directed, or in lieu of personal service, when deposited in the United States mail addressed as follows, or any other address designated by the party:

To County:  
Stanislaus County  
Department of Parks and Recreation  
Attn: Susan M. Garcia, C.P.M., A.P.P.  
3800 Cornucopia Way, Suite C  
Modesto, CA 95358

To Permittee:  
Stanislaus Consolidated Fire Protection District  
Attn: Stephen Mayotte, Fire Chief  
3324 Topeka St  
Riverbank, CA. 95367

7.2 Waiver. Waiver of any default by either party to this Agreement shall not be deemed to be waiver of any subsequent default. Waiver or breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach, and shall not be construed to be a modification of the terms of this Agreement unless this Agreement is modified or amended as provided herein.

7.3 Amendment. This agreement may be modified, amended, changed, added to or subtracted from by the mutual consent of the parties hereto if such amendment or change is in written form and executed by an officer of the Permittee and by the Director of the County Department of Parks and Recreation.

7.4 Entire Agreement. This Agreement supersedes any and all other agreements, either oral or in writing, between an of the parties herein with respect to the subject matter hereof and contains all the agreements between the parties with respect to such matter. Each party acknowledges that no representations, inducements, promises or agreements, oral or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not embodied herein, and that no other agreement, statement or promise not contained in this Agreement shall be valid or binding.

7.5 Advice of Attorney. Each party warrants and represents that in executing this Agreement, it has received independent legal advice from its attorneys or the opportunity to seek such advice.

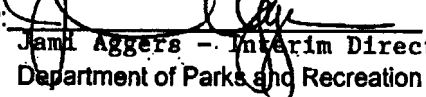
7.6 Construction. Headings or captions to the provisions of this Agreement are solely for the convenience of the parties, are not part of this Agreement, and shall not be used to interpret or determine the validity of this Agreement. Any ambiguity in this Agreement shall not be construed against the drafter, but rather the terms and provisions hereof shall be given a reasonable interpretation as if both parties had, in fact, drafted this Agreement.

7.7 Governing Law and Venue. This Agreement shall be deemed to be made under, and shall be governed by and construed in accordance with, the laws of the State of California. Any action brought to enforce the terms or provisions of this Agreement shall have venue in the County of Stanislaus, State of California.

*(signatures on the next page)*

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first hereinabove written.

COUNTY OF STANISLAUS

By:   
Jami Aggers - Interim Director  
Department of Parks and Recreation

"County"

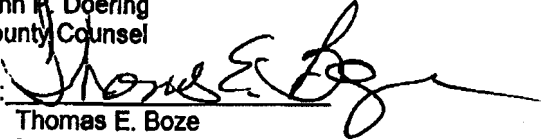
STANISLAUS CONSOLIDATED FIRE  
PROTECTION DISTRICT

By: 

"Permittee"

APPROVED AS TO FORM:

John R. Doering  
County Counsel

By:   
Thomas E. Boze  
Deputy County Counsel



DEPARTMENT OF PARKS AND RECREATION  
3800 Cornucopia Way, Suite C, Modesto, CA 95358  
Phone: (209) 525-6700  
Fax: (209) 525-6773

**AMENDMENT NO. 1**

**TO**

**PERMIT TO USE  
THE EMPIRE REGIONAL WATER SAFETY TRAINING CENTER**

This Amendment No. 1 to the Permit to Use the Empire Regional Water Safety Training Center ("Amendment No. 1") by and between the County of Stanislaus ("County") and Stanislaus Consolidated Fire Protection District, ("Permittee") is made and entered into on March 17, 2017.

Whereas, the County and Permittee entered into an Permit to Use the Empire Regional Water Safety Training Center dated July 10, 2012 ("the Permit"); and

Whereas, the initial term of the Permit commenced upon signing of the Agreement, which occurred upon Board Approval on July 10, 2012 and terminates at 11:59 p.m. on July 09, 2017; and

Whereas, Section 3 – Option to Renew of the Permit provides the County with an option to renew for a period of five years from the expiration of the original term; and

Whereas, the County has a desire to renew the Permit with the Permittee for an additional five years; and

Whereas, this amendment is for the mutual benefit of County and Permittee;

Now, therefore, the County and Permittee agree as follows:

1. Section 2 of the Permit is amended to read as follows:

"2. Term: The initial term of this Permit shall be for the period of five (5) years and shall commence on the signing of this Agreement and end at 11:59 p.m., five (5) years from the commencement of this Agreement. An extended term of the Permit shall be for a period commencing on July 10, 2017 at 12:01 a.m. and terminate on July 09, 2022, at 11:59 p.m. At the expiration or termination of this Permit as herein provided, Permittee shall, within thirty (30) days thereafter, remove from said premises, or otherwise dispose of in a manner satisfactory to the County, all personal property belonging to Permittee located on said premises of this permit. Should Permittee fail to remove or dispose of its property as herein provided, the County may, at its election, consider such property abandoned or may dispose of the same at Permittee's expense. Also at the expiration or termination of this permit, Permittee shall quit and surrender the said premises, including real property improvements, in a good state of repair."

2. Section 7.1 of the Permit, the Permittee's contact information is amended to read as follows:

**To Permittee:**  
Stanislaus Consolidated Fire Protection District  
Attn: Matt Daly, Fire Chief  
3324 Topeka Street  
Riverbank, CA 95367



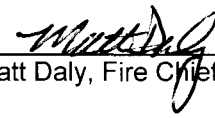
3. Except as stated herein, all other terms and conditions of the Agreement remain unchanged.

In witness whereof, the parties have executed this Amendment on the date written above.

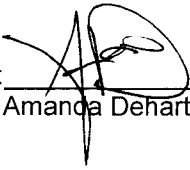
**COUNTY OF STANISLAUS**

By:   
Jami Aggers, Director  
Department of Parks and Recreation  
"County"

**STANISLAUS CONSOLIDATED FIRE  
PROTECTION DISTRICT**

By:   
Matt Daly, Fire Chief  
"Permittee"

APPROVED AS TO FORM:  
John P. Doering, County Counsel

By:   
Amanda Dehart, Deputy County Counsel