



## County of Del Norte Board of Supervisors

### Board Report

**AGENDA DATE:** November 21, 2023  
**TO:** Del Norte County Board of Supervisors  
**FROM:** Neal Lopez, County Administrative Officer, Barbara Lopez, Treasurer-Tax Collector, Clinton Schaad, Auditor-Controller, Randy Hooper, Assistant County Administrative Officer  
Administration  
**SUBJECT:** Tri-Agency Economic Development Authority, Joint Powers Agreement

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#### **RECOMMENDATION FOR BOARD ACTION:**

Adjourn as the Board of Equalization, reconvene as the Board of Supervisors and (1) Consider and reject the amended Joint Powers Agreement (JPA) draft as transmitted by the Tri-Agency Economic Development Authority (Authority), and (2) consider and approve a draft version of the JPA as amended by the Del Norte County Treasurer/Tax Collector, the Del Norte County Auditor/Controller, and the County Administrative Officer and Assistant County Administrative Officer, and (3) transmit the Board's accepted version of the JPA to the Authority's Secretary.\*\*

#### **DISCUSSION/SUMMARY:**

On October 13, 2023, the Governing Board of the Tri-Agency Economic Development Authority, a Joint Powers Authority consisting of the County, the City, and the Harbor District, considered a draft version of an amendment to revise the existing Joint Powers Agreement, which includes the Authority's "by-laws". At that same meeting the Authority's Governing Board acknowledged that the draft may not be complete and approved transmitting these updated by-laws to the three member entities of the JPA for "comments and adjustments". Under Article IX (Section 9.02) of the existing JPA the "Agreement may be amended by an agreement approved by all of the entities..." As such, the draft amended JPA is now being presented to the Board of Supervisors for review and comments and adjustments, as requested by the Authority. As discussed herein, County staff have reviewed the proposed JPA amendments. Based upon that review, staff recommends that the amendments, as proposed by the Authority, be rejected and have, instead, offered a revised version of the JPA to return to the Authority for consideration by the Authority's Governing Board.

As noted, prior to scheduling the consideration of the proposed amended JPA with the Board of Supervisors, the Agreement has been reviewed by County staff. More specifically, the

Treasurer/Tax Collector, the Auditor/Controller, and the County Administrative Officer and Assistant County Administrative Officer. As part of that review, County staff have reviewed, compared, contrasted, and considered the proposed changes relative to the existing JPA with a specific focus on obligations and duties being assigned to County officers under the revised terms of the Authority's draft Agreement. As exhibits to this Board Report, County staff is providing the following materials for the Board for the purposes of full transparency:

- The Tri-Agency's draft amended JPA, as considered by the Authority's Governing Board on October 13, 2023.
- The existing JPA, as amended and ratified on October 28, 1997.
- County staff's recommended version of the draft amended JPA.

To summarize the notable changes made by Tri-Agency to the existing JPA currently in effect:

- Addition of recital language finding the need for coordination with all governmental entities, including "Indian Tribes", due to the geographic isolation of Del Norte County.
- Addition of recital language noting the passage of SB 100 ("The 100 Percent Clean Energy Act of 2018").
- Modification of the by-laws, including:
  - Deletion of Section 1.08 (Project Independence).
  - Deletion of Section 1.09 (Del Norte County Strategic Plan).
  - Deletion of Section 2.02 (Economic Development).
  - Modification of Section 4.02 (Treasurer), changing the designation of the Tri-Agency Treasurer from the Secretary to the County Treasurer pursuant to Government Code Section 6505.5.
  - Addition of new section to Article V (new Section 5.02 - Restriction Upon the Manner of Exercising Power), adding reference to Government Code Section 6509 specifying that the JPA is subject to the same restrictions on the exercise of power that are applicable to the County.
  - Addition of item (d) to Section 5.05 (Restrictions on Powers), adding language specifying that Tri-Agency shall not operate any form of lending program.
  - Modification of all sections of Article VI (Method of Procedure) to remove references to the "Project Independence" and "Del Norte County Strategic Plan" provisions stated in the Agreement.
  - Deletion of Section 6.02 (Prior Approval of Governing Body for Construction of Improvements).
  - Modification of Section 7.02 (Contributions), removing specific contribution amounts as well as deletion of language specifying that contributions shall "only be used ordinary administrative and operating expenses of the

AUTHORITY and for payment of fees and costs incurred or to be incurred by the AUTHORITY in connection with the preparation, filing and processing of one or more applications for federal financial assistance required for the implementation of the Economic Development Action Plan and Strategy as referred to hereinabove in this Agreement.”

- Deletion of Section 7.03 (Advances).
- Modification of Section 7.04 (Annual Budget) to remove the following (struck through) language from Section 7.04.C: “After submission of the budget estimate, the GOVERNING BOARD shall fix a time and a place for hearing by the GOVERNING BOARD thereon. ~~The GOVERNING BOARD shall cause notice of such hearing to be published at least ten (10) days prior to the date set for hearing in a newspaper of general circulation in the area pursuant to Sections 6060 and 6061 of the Government Code of the State of California, and shall give mailed notice of such hearing to each party to this Agreement.~~”
- Modification of Section 7.05 (Records and Accounts) to change the designation of the Authority’s Secretary as having the responsibility of causing the books of account and other financial records of the Authority to be audited annually to assign that responsibility to the “Auditor”. Pursuant to Government Code Section 6505.5, which states “The officer performing the functions of auditor or controller shall be of the same public agency as the treasurer designated as depositary pursuant to this section.”, this statute, coupled with the designation of the County Treasurer as the Authority’s Treasurer in Section 4.02 has the practical effect of imposing the duties of auditor to the Authority upon the County Auditor.

Having identified the key differences between the draft version of the JPA forwarded by the Authority’s Governing Board with the currently effective JPA, as summarized above, this report will now aim to inform the Board on the key differences between the Authority’s proposed draft amended JPA with a version of the JPA recommended by County staff. Generally, the version proposed by the Authority’s Governing Board is acceptable to County staff, however some very key differences are of concern to the County staff and should be resolved, as summarized below:

- Modification of Section 4.02 (Treasurer), we recommend that that the Authority’s Secretary continue to be designated as the Authority’s Treasurer as provided for in the current Agreement. Moreover, we also recommend that this section be retitled to “Treasurer/Auditor” and that the Authority Secretary should also be designated as the Authority’s Auditor, as authorized pursuant to Government Code Section 6505.6.
- Modification of Section 5.05 (Specific Powers), we recommend to remove the language related to the investment of Authority funds in the “treasury” within subsection 5.05.I of the draft JPA, so as to not be conflated with authorization for the deposit of

Authority funds in the "Treasury", which is commonly understood to be the County Treasury. The language recommended by staff clarifies this and still provides for the ability of the Authority to invest funds in the Authority's own Treasury, in the same manner and upon the same conditions as local agencies as provided for in statute (Government Code Sec. 53600).

- Modification of Section 7.04 (Annual Budget)
  - We recommend to remove the language from existing Agreement that is retained in the Authority's draft version which specifies that the Authority's budget "...may be published with the County budget" as this language could contribute to misunderstanding that the Authority budget is part of the County budget, which it is not.
  - We recommend to reinsert the language that is proposed to be deleted in the Authority's draft version of the Agreement from Section 7.04.C: "After submission of the budget estimate, the GOVERNING BOARD shall fix a time and a place for hearing by the GOVERNING BOARD thereon. The GOVERNING BOARD shall cause notice of such hearing to be published at least ten (10) days prior to the date set for hearing in a newspaper of general circulation in the area pursuant to Sections 6060 and 6061 of the Government Code of the State of California, and shall give mailed notice of such hearing to each party to this Agreement." We feel it is more transparent and a better service to the public to retain this language in the JPA so that the public is aware of the Authority's budget hearings as they are with other local agency budget hearings.
- Reversion of language in Section 7.05 (Records and Accounts). We recommend that the Authority's Secretary remain the officer designated as the party responsible for causing the books of account and other financial records of the Authority to be audited annually, as provided for in the existing Agreement, particularly if the Secretary retains the responsibility of Authority Treasurer as is recommended by County staff.

As previously noted, the draft version of the amended Agreement was acknowledged by the Tri-Agency's Governing Board as likely not being a complete or final draft and the action taken by the Governing Board at the meeting in which the JPA was taken up was an action to approve transmitting the draft to the Authority members for "comments and adjustments". As such, County staff has considered the proposed changes and has determined that several of the terms proposed by the Authority should be rejected by the County after careful consideration. It is not clear whether the City or Harbor District, as the other two members of the JPA, will provide input on the Tri Agency's proposed draft Agreement however the hope of County staff is that the Board will consider this recommendation and provide direction for staff to return the proposed version as rejected, and instead, direct staff to transmit the version of the JPA recommended by staff.

### **ALTERNATIVES:**

Approve the Tri Agency transmitted version of the draft JPA or provide alternative direction.

**FINANCING:**

N/A

**OTHER AGENCY INVOLVEMENT:**

City of Crescent City, Crescent City Harbor District, and the Tri-Agency Economic Development Authority

**CHILDREN'S IMPACT STATEMENT:**

**This section meets the following outcome measures for children in Del Norte County:**

- No impact to Children as a result of this action.

**ATTACHMENTS:**

1. 2023-11-21 Tri Agency JPA Amendment - Exhibit

**APPROVALS:**

Neal Lopez, County Administrative Officer  
Nikole Trinidad, Legal Secretary  
Kylie Goughnour , Clerk of the Board

Approved - 11/14/2023  
Approved - 11/16/2023  
Final Approval - 11/16/2023