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September 4, 2012

The Honorable Ricardo Cordova  
Presiding Judge  
Stanislaus County Superior Court  
P.O. Box 3488  
Modesto, CA 95353

Re: Response of Stanislaus Consolidated Fire Protection District to 2011/2012 Civil Grand Jury Report

Dear Judge Cordova,

The Board of Directors of the Stanislaus Consolidated Fire Protection District ("District Board") wishes to express our appreciation to you and the 2011/12 Civil Grand Jury for your work on these issues.

The following is the District Board response to the Grand Jury's Findings and Recommendation<sup>1</sup>:

**Findings:**

F1: The Stanislaus Consolidated Fire Protection District's financial statements for the fiscal years 2009-2010 and 2010-2011 are free of material misstatements. An independent CPA firm conducted an audit by testing financial records and reviewing provisions of the law, regulations, contracts and grants relevant to the District's financial performance. The audit reports state, "The tests did not disclose any instances of noncompliance that are required to be reported under Government Auditing Standards."

*F1 Response: Agree. The District has made and continues to make considerable progress managing the finances of the agency. Staff and the Board are committed to ensuring we don't experience another fiscal crisis similar to what was experienced in 2004/05. The District and District Board work diligently to ensure District fiscal practices are sound and our auditing is timely and within Government Accounting Standards Board guidelines.*

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<sup>1</sup> The District Board response is presented consistent with the provisions of Penal Code section 933.5(a).

F2: The Board delegates a major portion of its governance responsibilities to the Fire Chief. The Fire Chief's list of responsibilities include the writing, review and approval of District policies and procedures, business and financial matters (budget and financial reports), personnel relations and issues with the Union. The 2011-2012 SCCGJ identified eight different job functions performed by the Fire Chief:

- 1) Chief Executive/Operations Officer
- 2) Policy Administrator
- 3) Clerk/Secretary of SCFPD Board
- 4) Chief Financial Officer and Board Treasurer
- 5) Chief of Oakdale and the Oakdale Rural Fire District
- 6) Human Resources/Personnel Administrator
- 7) Office Manager

The scope of responsibility given to the Fire Chief is far too much for one person to handle and can lead to conflicts of interest and ineffective, biased decision making.

The Board has abdicated its District governance responsibilities. This is a major impediment to the effective functioning of the District. Consequently, the Board is not in compliance with California Government Code Sections 61040 (e) and 61045 (g).

*F2 Response: Disagree. The Grand Jury is slightly misinformed regarding the Board's responsibilities and the Fire Chief's duties. The District utilizes a "general manager" concept which is the standard for the vast majority of fire agencies. The "general manger," or Fire Chief in this case, is responsible for ensuring the daily operations are being conducted efficiently and effectively and consistent with Board direction. The Fire Chief works directly for the Board and ensures the Board's vision and strategic goals are implemented. The Board is not responsible for the day-to-day operations, but rather delegates these duties to professional staff members.*

*Of the eight (8) items listed in Finding #2, seven (7) are directly operational duties and aren't the responsibility of the Board. The other one (Policy Administrator) is arguable depending on what the definition of "administrator" is. For clarification purposes, the Fire Chief is the Clerk of the Board and Ms. Betty Hannah is the Secretary.*

*Although it may be ideal to have additional staff to assist with these responsibilities, additional staffing is impeded by budgetary and fiscal constraints. While many small agencies struggle significantly with this issue and are unable to provide some of the listed duties due to their size, the District has been reasonably successful regarding its operations.*

*For historical purposes, at one time the District had the following chief officers:*

*Fire Chief  
Deputy Chief  
Assistant Chiefs x3  
Division Chief  
Battalion Chiefs x3*

*Due to budget reductions over the years the staffing was reduced to the three (3) battalion chiefs and the fire chief. Over the years the emphasis has been ensuring staffing for fire apparatus rather than overhead positions. The last deputy chief position was eliminated*

*when the prior fire chief left and funding for the position has proven elusive with our engine company staffing below the recommended standard. The District has also eliminated two full-time clerical positions and one part-time clerical position due to budgetary constraints.*

*Although the District has recently taken on more workload with the two Oakdale agencies, the plan is to realign some duties with the two additional chief officers in order to ensure more efficiency regarding administrative responsibilities.*

*The addition of an additional chief officer would be a significant benefit to the District, however the cost would be a significant impact to the District.*

*The District Board in not in violation of Government Code Section 61040 (e) which reads<sup>2</sup>:*

*(e) A member of the board of directors shall not be the general manager, the district treasurer, or any other compensated employee of the district, except for volunteer firefighters as provided by Section 53227.*

*Notwithstanding the inapplicability of the section, none of the Board Members have performed those duties, either past or present.*

*Furthermore Government Code Section 61045 (g) reads:*

*(g) The board of directors shall adopt policies for the operation of the district, including, but not limited to, administrative policies, fiscal policies, personnel policies, and the purchasing policies required by this division.*

*The Board has always participated in the adoption of the purchasing policy and any fiscal policy not relating to day-to-day operations of the office staff. Since the inception of the District, the Board has always had the Fire Chief ensure overarching District policies are implemented for the operation of the District. The District's daily operational practices have traditionally not been approved by the Board, since they are developed with employee input according to District policy. The Board has professional staff members ensuring the daily operations are performed and relies on their expertise regarding these duties.*

F3: The Fire Chief has not received a formal written annual performance review from the Board since 2008.

*F3 Response: Agree*

F4: The Board does not have a written evaluation policy for the Fire Chief, its senior manager of operations.

*F4 Response: Agree, but during the involved fiscal year the Board has initiated an evaluation of specific portions of his performance*

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<sup>2</sup> The District, like all special districts, is subject to the plenary control of the Legislature. *Eastern Municipal Utility District v. Scott*, (1991) 1 Cal.App.3d 25, 29. The enabling statutory scheme for the District is the Fire Protection District Law of 1987 (Health and Safety Code section 13800 *et seq.*) *not* the Community Services District Law (Government Code section 61000 *et seq.*).

F5: The Board has been remiss in its responsibilities regarding the review and approval of all policies. Due to the numerous functions performed by the Fire Chief, he is not able to keep the Board informed about the suggested policy and procedures, submitted by employees that could help in the performance of administrative and operational tasks. This results in a disruption of an open and orderly process.

*F5 Response: Disagree. Policies are developed with the participation of employees and there has been no issues regarding the development or implementation of District policies. The Board has always relied on the expertise of professional staff members to ensure policies are in place for the efficient operation of the District. Per District policy, employees actively participate in the development of policies and procedures and the process has worked successfully since the inception of the District. The Board participates in the development of Board policies/procedures and fiscal related issues not tied to daily operation of the District.*

*The entire policy/procedure process is open and orderly. Also, every policy is placed on the District website for easy access and review by all employees.*

F6: The frequent turnover of Board members is affecting the Board's ability to govern effectively and with continuity. Without consistent, informed, experienced leadership for a reasonable period of time, the job of governing and supporting the district is compromised and results in ineffective leadership. Currently only one member of the Board has more than two years of service, two are newly appointed, and one position is vacant.

*F6 Response: Agree, however the District has no control over this issue. The question should be directed to the Board of Supervisors and the involved City Councils who make the final decisions regarding Board appointments.*

*Moving to an elected Board will not assist regarding this issue.*

F7: Administration staff is not part of the Union MOU yet are filing complaints through the Union.

*F7 Response: Disagree. All District employees have a stand alone grievance procedure and use it at their discretion, not Management's. The Union does not represent Administrative Staff.*

F8: The Board's Directors Policy Manual outlines the full set of responsibilities for the position of Clerk of the Board. The 2011-2012 SCCGJ finds this position has been delegated to the Fire Chief and the Board's own policies are not being followed.

*F8 Response: Disagree. The Fire Chief has performed the Clerk of the Board responsibility since the inception of the District; the Secretary has always been the Fire Chief's Administrative Assistant and is responsible for taking minutes and similar duties. It is common practice for cities and counties to designate a Clerk to be responsible for development of the Council/Board agendas, and Districts are no different. Due to the time commitment regarding the process a staff member is ultimately involved..*

*The duties required by the Clerk position are being executed in compliance with the Board's policies and, without additional information regarding the basis for this Finding, a further response cannot be articulated. It is common among Fire Districts that the District Chief is also designated the District Clerk.*

F9: The Board's Directors Policy Manual with regards to financial responsibility is essentially non-existent. The Policy Manual states the following "The Board of Directors recognizes excellent fiscal planning as a key factor in attaining the District's goals and priorities. The Board seeks to engage in thorough advance planning of budgets to devise expenditures which achieve the greatest returns given the District's available resources." No further Board direction or definition of responsibility is provided.

*F9 Response: Disagree. Although the Board of Directors Policy contains a general statement without specific fiscal direction, the Board ensures fiscal direction through operational policy, planning, budgeting and annual audits. Working with professional staff, the District has made significant improvements regarding its operations, personnel safety, facilities, training, apparatus, and fiscal management.*

*The District has been very successful ensuring the service provided to the constituents has remained largely at the same level by the current economic crisis and the employees have not been negatively impacted.*

### **Recommendations:**

R1: The 2011-2012 SCCGJ recommends that the Board read and implement all provisions of the California Government Codes 61040-61048 and 61060-61070. The authority granted to the Board are the responsibility of the Board and may not be delegated to a paid employee.

*R1 Response: Recommendation has not been implemented and will not be implemented as the referenced sections are not applicable to the District, a fire protection district. The District does comply with the mandatory duties of AB 1234 which deals with many of the concepts referenced in the Community Services District Law, such as "ethics" – conflict of interest, incompatible offices, etc.*

*The continued education of District Board Members regarding their responsibilities is paramount to the continued success of the District. As a point of clarification, the Board doesn't believe delegation has occurred beyond what is normal to ensure the successful operation of the District.*

R2: The Board should review the Directors Policy Manual to insure it is in full compliance with California Government Codes 61040-61048 and 61060-61070. The Directors Policy Manual should define the Board's responsibilities in detail.

*R2 Response: Recommendation has not been implemented, but will be implemented in the future, noting again, that the Grand Jury's concerns to substantially address is required AB 1234 training.*

*The Board will review, make appropriate changes to the Board of Directors Manual and implement by the end of the 2012 calendar year.*

R3: The Board must approve all District policies. Implementation of the approved policies is the responsibility of the Fire Chief.

*R3 Response: Recommendation will not be implemented.*

*While overarching policies are decided by the Board, the District's day-to-day policies/procedures already have an approved system for ensuring business operates effectively and efficiently. Staff Members who routinely perform these duties are better prepared to develop sound practices regarding daily operations of the District. Board approval should be sought for financial, purchasing and long-term goal oriented policies.*

R4: Final approval or rejection of new or changed policies should be completed in a timely manner and parties involved notified of their acceptance or rejection.

*R4 Response: Recommendation has been implemented.*

The District has remained consistent with the District's Policy & Procedure implementation system.

R5: The Board should develop a written policy for the annual Board evaluation of the Fire Chief, its senior manager of operations.

*R5 Response: Recommendation has not been implemented, but will be in the future.*

*The Board will develop a policy for the evaluation of the Fire Chief and implement by the end of the 2012 calendar year.*

R6: The Board should complete and deliver a written performance evaluation to the Fire Chief annually. A "catch up" review should be completed by September 30, 2012.

*R6 Response: Recommendation has been partially implemented, as the District Board has implemented an evaluation of specific areas of performance, or lack thereof.*

*The Fire Chief will receive an evaluation of his performance after the policy has been developed.*

*A "catch up" review may be problematic with the recent Board turnover. If possible the Board may be able to contact prior Board Members to assist with this process.*

R7: The Administrative Staff is not part of the Union MOU with the District. Since no in-house Human Resources position exists, any administrative staff personnel complaints should be referred directly to the Board and not through the Union grievance process.

*R7 Response: Recommend not to implement: This is an issue to be determined by the District Administrative Staff as to who represents them, if anyone. Regarding complaints directed against the Fire Chief, a direct route to the Board may be appropriate. However, as is standard for fire agencies, there is a process for all other complaints and it follows the chain-of-command. The Board should not be involved directly with personnel issues, this is not in their scope of responsibilities. Doing so impacts the Board Members objectivity regarding disciplinary actions, opens Members up for possible liability and has the potential to be a very costly way to handle personnel issues.*

R8: At least three of the members of the Board should be elected (per Government Code Section 61008). One of the elected members should be named as Clerk for the Board and another be named as Treasurer. There should be a job description outlining minimum qualifications for each position. The District's Directors Policy Manual provides a full job description for Clerk of the Board. The Treasurer should understand accounting and

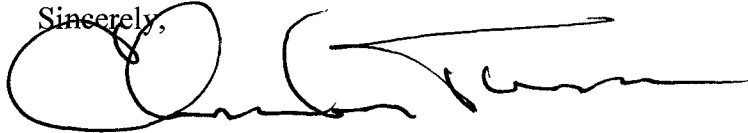
auditing procedures and should be responsible for reviewing the budget and the quarterly financial position of the District.

*R8 Response: Recommend not to implement as the law referenced is not applicable to the District. The procedure for an elected Fire Protection District Board is contained in the Fire Protection District Law of 1987.*

The Board establishes District Board officers annually as required by the Fire Protection District Law of 1987.

Thank you for your cooperation.

Sincerely,

A handwritten signature in black ink, appearing to read "Charles Turner". The signature is written in a cursive style with a large initial "C" and a long horizontal stroke extending to the right.

Charles Turner, Board President  
Stanislaus Consolidated Fire Protection District