**Final Report**

# Special Study:
# Mt. Diablo Health Care District Governance Options

Accepted by LAFCO 1/11/12

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Contra Costa LAFCO

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# 1. INTRODUCTION

## Mt. Diablo Health Care District

### Formation and Statutory Authority

The Mt. Diablo Health Care District (MDHCD) was formed pursuant to Health and Safety Code Sec. 32000 in 1948 as the Concord Hospital District by the registered voters of the District. Following the formation of the Concord Hospital District in 1948, the District built and operated the Mt. Diablo Community hospital with funding provided by property taxes.

In 1994 (SB 1169) the State Legislature amended the enabling legislation renaming hospital districts to health care districts. The definition of health care facilities was expanded to reflect the increased use and scope of outpatient services. The legislation enacted a number of other substantial regulations governing the transfer of property, conflicts of interest, health care secrets and the public meeting act, lease agreements, the sale of property and assets.

### Boundaries

The MDHCD boundaries include the cities of Martinez, Lafayette (portions), Concord, and Pleasant Hill (portions), along with the unincorporated communities of Clyde and Pacheco. **Figure 1** shows the current boundaries of the MDHCD. The MDHCD has evolved over the years both in terms of its physical boundaries and its organizational structure. The City of Martinez was annexed in 1956, before the existence of Local Agency Formation Commissions (LAFCOs). Between 1967 and 1991, there were a number of boundary changes relating to the MDHCD (i.e., annexations, detachments), as well as two proposals to dissolve the District in 1972 and 1976, both of which were denied by LAFCO. The City of Pleasant Hill attempted unsuccessfully on two occasions to detach from the District.

### Financing

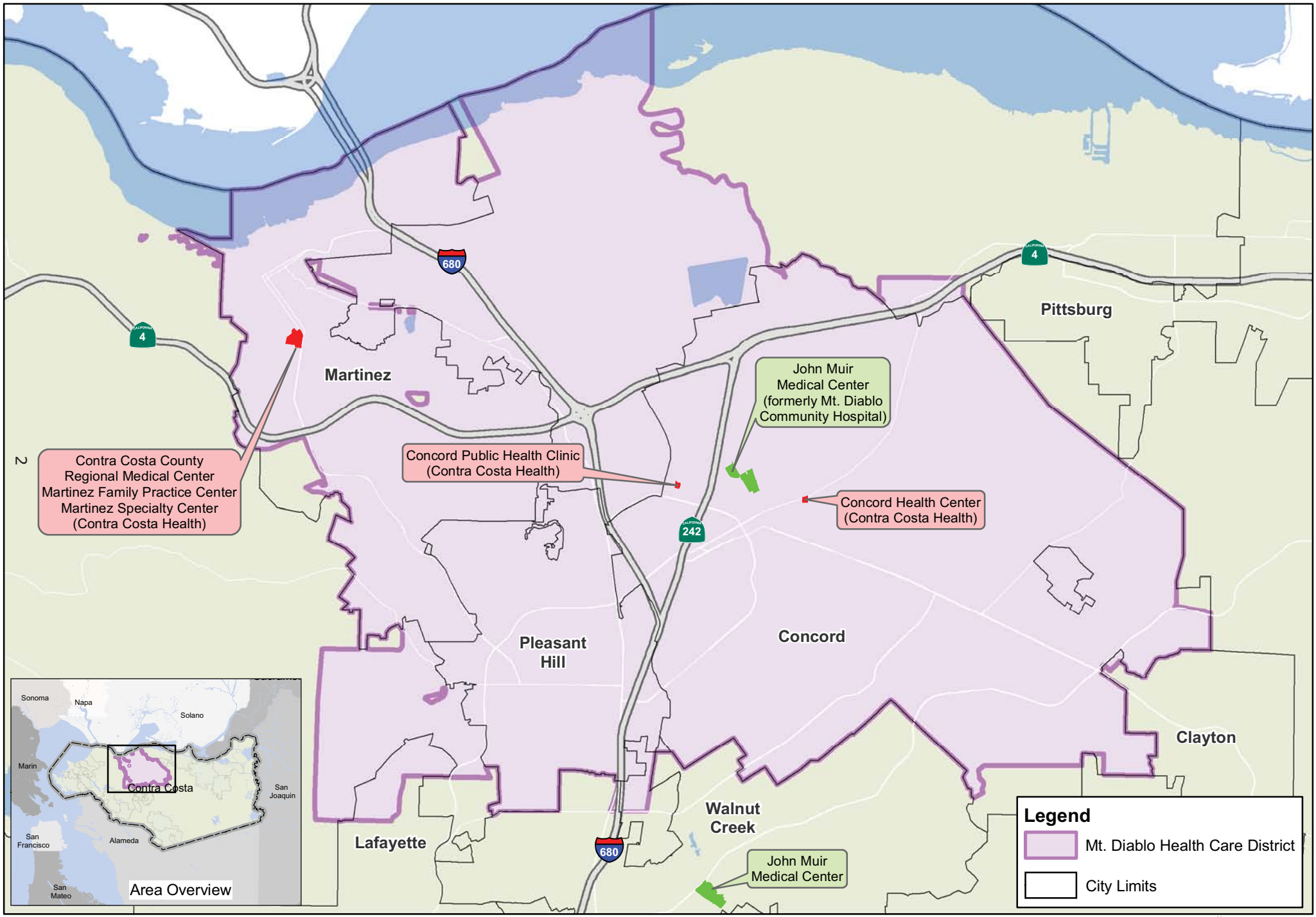
The MDHCD continues to receive property taxes to fund it operations. It currently receives approximately $245,000 annually from its property tax apportionment.

### Other Relevant History

In 1996, the MDHCD faced bankruptcy and entered into a Community Benefit Agreement (CBA) which transferred the assets of the District to John Muir Health (JMH) in exchange for certain assurances regarding health care services to be provided within the District.

The principal act for health care districts, Health and Safety (HSC) Code 32000, allows for transfer of district assets to either a private corporation or a nonprofit agency under certain conditions. HSC section 32121 (p) requires approval by the registered voters for the transfer of 50 percent or more of the district's assets. Measure MM was submitted to the voters on November 5, 1996. The measure requested approval of the merger of Mt. Diablo Medical Center and John Muir Medical Center. The transfer became effective when the voters approved Measure MM.

# Figure 1 District Boundaries MDHCD Special Study



The MDHCD has been involved in lawsuits with JMH regarding the provision of various services and facilities. During 2001 and 2002, the MDHCD spent approximately $739,000 on legal fees. The actions ultimately were settled.

In addition to the transfer of assets, the CBA also created the Community Health Fund (CHF); the CBA requires JMH to provide funding for CHF administrative expenses and to contribute $1 million per year to fund CHF programs, grants and events that address health issues and promote a healthy community. The MDHCD Directors serve on the CHF Board, ex officio (and/or appoint CHF Board representatives), along with the JMH appointees. The CHF Board makes annual allocations of the CHF to meet health care needs within the District.

## Purpose of the Study

LAFCO initiated this Special Study in response to past and ongoing community concerns about whether the MDHCD should continue as a special district, and in response to recommendations of the Healthcare MSR adopted by Contra Costa LAFCO in 2007. The MDHCD was the subject of Grand Jury Reports in 2001, 2003, 2008 and 2011. The Grand Jury has been concerned that the District is no longer fulfilling a useful mission and should be dissolved. Other members of the community have called on LAFCO begin the process of dissolving the District.

Under Government Code (GC) §56375(a)(3), a commission may initiate the dissolution or consolidation of a district only if that change of organization or reorganization is consistent with a recommendation or conclusion of a study prepared pursuant to §56378 (special study), §57425, (SOI update), or §56430 (MSR). This is a Special Study undertaken pursuant to Government Code §56378. That statute requires that this study include an inventory of the agency and determine the maximum service area and service capacity.

This Final Draft Report includes revisions to the Draft Report (12/2/11) based on comments received. A summary of comments and responses is included as **Appendix C**. A Final Report will be prepared following the LAFCO hearing January 11, 2012.

### Determinations Required to Dissolve or Consolidate Districts

Under §56881(b), if LAFCO initiates action to dissolve or consolidate a district the resolution making the determination must include both of the following determinations:

a. That the public service costs resulting from a dissolution or change of organization would be less than or substantially similar to the costs of alternative means of providing the service.

b. That a dissolution or change of organization would promote public access and accountability for the community services needs and financial resources.

This purpose of this study is to assist the Commission in evaluating whether it can make the required determinations.

### Evaluation of Possible Changes of Organization

This Study evaluates the relative merits of the following potential actions by the Commission:

a. Maintaining the status quo.

b. Consolidation with another "like" or "unlike" district (i.e., formed under the same or different principal acts).

c. Dissolution and appointment of a successor for winding up purposes only.

d. Dissolution and appointment of a successor to continue health care services within the district.

The options are evaluated based on relative costs of providing service, public access and accountability, and other factors related to community acceptability and provision of comparable functions and services.

## Process

The process for a change in organization includes several basic steps summarized below, pursuant to GC §57077. There may be some variations depending on what action, if any, LAFCO decides to take regarding future service in the dissolved district boundaries.

a. At a noticed public hearing, the Commission accepts the special study, considers adopting a zero SOI to signal proposed dissolution and for consistency with SOI (GC §56375.5), considers making findings in accordance with the conclusion/recommendation of the special study and considers adopting a resolution initiating dissolution.

b. LAFCO notifies State agencies per GC §56131.5 and allows a 60-day comment period.

c. At a noticed public hearing, LAFCO considers approving dissolution.

d. Following 30-day reconsideration period (GC §56895), LAFCO staff holds protest hearing in the affected territory (GC §57008). The protest hearing is a ministerial action. While the Commission is the conducting authority, it often designates the Executive Officer to conduct the hearing.

e. Absent requisite protest, Commission orders dissolution after determining whether an election is required.

f. If there is no election or the dissolution is approved by the voters, LAFCO staff records dissolution paperwork and files with the State Board of Equalization making dissolution effective.

Additional LAFCO actions are noted in subsequent chapters for each option evaluated.

# 2. SUMMARY OF FINDINGS AND RECOMMENDATIONS

In accordance with the requirements of GC §56378, this section summarizes those items to be included as part of a special study. These items are discussed in additional detail in subsequent chapters. This chapter also includes recommendations regarding change of organization.

## Findings

### 1. *Inventory of the District Assets and Liabilities*

**Assets** - The MDHCD has no physical assets, other than office equipment. The MDHCD had approximately $833,946 in fund balances at the end of 2010; the projected fund balance at the end of 2011 is $787,707.[1] This balance could change depending on actual expenditures and a final accounting for the year.

**Liabilities** – The MDHCD will be liable for contract termination costs for the newly hired interim Executive Director.[2] The MDHCD's long-term liability consists of health insurance benefits provided to two directors (one current director, one former director). As described in more detail below, the present value of the health insurance liabilities, including all potential future payments, are estimated at more than $800,000.[3] These benefits and their cost to the MDHCD have been reduced by agreement with the two directors, beginning January 1, 2012. According to the MDHCD, there are no other long-term obligations or liabilities.[4]

### 2. *Maximum Service Area and Service Capacity*

The MDHCD current service area corresponds to its SOI, which is coterminous. The MDHCD service capacity is limited primarily by its financial resources, which currently total approximately $277,000 annually including property tax and John Muir contributions, in addition to appropriation of any available fund balances. Administrative, legal, and other overhead costs including election costs consume a majority of these resources, as described below, limiting the amount available to provide or expand health care programs.

### 3. *District's Accountability for its Financial Resources*

**Funds Allocated to Purposes other than Health Care** – From 2000 through 2011, approximately 83 percent of expenditures went towards overhead and administrative costs, including office staff, health insurance benefits, legal and litigation fees, and election costs.

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[1] Comments and Questions by the Mt. Diablo Health Care District, December 27, 2011

[2] Reported to be $10,000 if termination occurs within first three months.

[3] Actuarial Report, Zacarias Consultants, December 31, 2010; file: "MDHCD OPEB Report as of 12-31-2010.pdf"

[4] Roy Larkin, MDHCD Secretary/Treasurer, email transmittal received by EPS 10/21/11.

A significant portion of the $740,000 in legal fees spent in 2001-2002 was for litigation pursued in furtherance of the MDHCD's mission.

In 2011, overhead and administrative expenditures accounted for about 38 percent of total expenditures. However, after fund balances are drawn down and unavailable, overhead and administrative costs could equal at least 45 percent of total expenditures (before accounting for increases in staff costs, reduced health insurance costs, and potential added legal costs in 2012). After adding election costs, overhead will consume nearly all of the MDHCD's annual operating revenues (before including the use of any available fund balances).

**Funds Allocated to Health Care** – From 2000 through 2011, approximately 17 percent of MDHCD expenditures were allocated to its Community Action programs, including grants and direct services (e.g., its CPR program). As noted above, a significant portion of the $740,000 in legal fees spent in 2001-2002 were for litigation pursued in furtherance of the MDHCD's mission.

In 2011, the MDHCD budgeted about $620,000, or 80 percent of its expenditures to Community Action programs; however, actual expenditures for Community Action programs totaled $162,000 or about 50 percent of total expenditures.

2011 budgeted expenditures slightly exceed annual revenues by drawing upon current fund balances. After those fund balances are substantially reduced, which could occur in about one to two years depending on future expenditures, MDHCD expenditures will be limited to current annual revenues of approximately $277,000 including property tax and John Muir contributions.

After deducting 2011 budgeted overhead costs of $160,000 (including insurance benefits), approximately $117,000 or 42 percent would remain for Community Action funding. Overhead expenditures are likely to increase in 2012 with the addition of an interim Executive Director, with offsets resulting from expected reductions in health insurance benefit costs. In addition, election costs could add a cost of $128,400[5] in 2012, pushing overhead expenditures to about $288,400 leaving no annual revenue available for health care (before utilizing fund balances or considering insurance benefits and Executive Director costs).

### *4. District's Accountability for the Community Services Needs*

The MDHCD is run by locally elected directors within the boundaries of the District. However, there have been instances where board seats were uncontested resulting in no election, and instances where vacancies have been filled by appointment. The relatively small size of the MDHCD budget and minimal financial resources (after accumulated fund balances are utilized) limit its ability to undertake significant actions and increase its visibility within the community, which otherwise might mitigate these issues.

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[5] Estimated election cost based on 102,701 registered voters within the MDHCD boundaries as of June 24, 2011, and a cost of $1.25 per voter (Contra Costa County Elections Department). If a measure to dissolve the District is also on the ballot there would be an additional $25,675 cost.

In the event of dissolution, any potential successor agency should have an established record of achieving accountability regarding its ability to meet health service needs. Potential successor agencies include the City of Concord, County Service Area EM-1, and the Los Medanos Community Healthcare District.

### *5. Public Access and Transparency of the District*

The MDHCD recently hired an Executive Director; the District anticipates that this action will help to remedy public accessibility issues, both recent and historic, i.e., compliance with open meeting laws, public records requests, development of a needs analysis and strategic plan, noticing requirements, use of a more open and explicit grant process, and grant monitoring. The current interim Executive Director has been hired for a 3-month period, and may be utilized after that period and paid on an hourly basis. The MDHCD may hire a permanent Executive Director, or similar staff position, after the current interim Executive Director's contract expires.[6]

### *6. Other Agencies Providing Similar Health Care Services*

Other agencies operating within the boundaries of the District, including both public and private organizations, provide health care services similar services similar to those provided by the MDHCD. For example, Contra Costa Emergency Services currently provides CPR training to students in partnership and with funding provided by the MDHCD. These agencies, notably, CSA EM-1, are identified in this report as being capable of providing services comparable to the MDHCD.

### *7. Public Costs and/or Savings Resulting from Dissolution or Consolidation as Compared to Maintaining the Status Quo*

Dissolution without any further continuation of service would reduce expenditures for overhead, administration, legal and election costs. Annual expenditures for ongoing health insurance benefits will remain for the life of each of the two benefiting Directors; these insurance expenditures currently are about $45,000 annually, with a total estimated liability of $800,000. Recent reductions of $17,420 negotiated by the MDHCD have reduced these annual expenditures to about $27,580. An actuarial analysis has not been conducted of the total liability assuming the reduced insurance costs, however, the liability may be reduced by as much as half.

Dissolution with the appointment of a successor to continue services would eliminate approximately $75,000, which is the amount currently spent by the MDHCD on overhead and administration (not including health insurance costs, or future increases in MDHCD staff costs for an Executive Director, and potential legal charges). In addition, there would be no need for bi-annual election expenditures of about $128,400. These administrative savings would be available for health care purposes. Potential successor agencies for continuation of services are expected to continue the District's services largely through the use of existing staff capabilities, however additional part-time staff may be required depending on the type of programs implemented, as well as the level of program oversight and management of

[6] EPS interview with Dyamon Doss, Executive Director, MDHCD, 12/30/11.

public participation. For example, CSA EM-1, which is recommended as a successor in Recommendation #3, below, estimated that it could require 0.5 to 0.8 of an additional staff position, which could equal approximately $40,000 to $60,000. Annual obligations for ongoing health insurance benefits would continue, as noted above.

For the initial years that the CSA EM-1 zone is in operation, if it is designated as successor agency, the Commission could impose a condition requiring CSA EM-1 to provide an annual report outlining how the zone funds are spent. As part of the MSR process, the Commission could consider whether annual reports are necessary and should be continued.

### *8. Certain successor responsibilities could be shared between CSA EM-1 and the City of Concord.*

One of the key successor functions, in the event of dissolution of the District, is the administration of the Community Benefit Agreement (CBA) originally established between the MDHCD and JMH as a condition of the transfer of certain assets to JMH. The CBA established the Community Health Fund (CHF) that provides for the granting of $1 million in annual funding for health care services within the CHF Service Area.

While not an issue that can be resolved through the LAFCO action, some cooperation between affected agencies as well as changes to the CBA may be in order to assure effective management, enfranchisement of the effected electorate, and continuity. For example, CSA EM-1 could work with JMH to monitor the CBA and its terms, appoint members to a newly constituted Board of the CHF, and to continue participation in CHF annual allocations of $1 million, and finally assume responsibility for other aspects of the CBA. The County would assure that obligations of the MDHCD, including payment of lifetime health insurance benefits to two directors, were met entirely through the use of MDHCD reserves and property tax revenues.

The City of Concord also could be a new signator to the CBA, in addition to the County; termination and changes to the CBA would require the concurrence of both the City, which has a vested interest in the JMH Concord campus, and the County. This arrangement would provide for local control and oversight of CBA terms, as well as for regional involvement and oversight. The John Muir Concord campus serves not only Central County (53.8 percent of patients reside in Central County) but other parts of the County as well.

Representation on the CHF Board could consist of the same membership as for the CSA EM-1 zone advisory board, i.e., to include representatives of the City of Concord, the unincorporated areas, and other cities currently within the MDHCD. This arrangement helps to maintain a local and regional perspective, which is important considering that the CHF service area includes Central County and East County.

The CBA includes a termination provision requiring 180 days written notice in advance of the end of each 50-year term (the first term ends December 31, 2049). This provision provides an opportunity for public control if John Muir Health fails to maintain its high level of service and commitment to the community. A longer notice period, e.g., five years, would minimize potential John Muir Health disinvestment in the facility that could occur due to protracted uncertainties about possible termination. The future signators to the CBA could revise terms

of the CBA as appropriate to address local concerns about the future of the JMH Concord facilities, as well as to assure long-term site of the public's interests.

## Recommendations

1. ***Justification exists for dissolution of the MDHCD, considering that over the past ten years only 17 percent of MDHCD expenditures have been applied towards community health care purposes.***

   From 2000 through 2007, virtually no funds were spent for community health care purposes (with the exception of funds spent on litigation related to the CBA). While the MDHCD recently has undertaken efforts to increase allocations to community health care, reduce insurance costs, and hire professional staff to implement a strategic plan, the latter action will also increase administrative costs and not necessarily result in additional community health programs or services.

   After the MDHCD has drawn down its fund balances, overhead expenses will account for 45 percent or more of total expenditures. Potential insurance cost savings are unlikely to offset added costs for an Executive Director, unless the Executive Director position is limited to the equivalent of approximately one day per week, or a future staff position providing similar functions is filled at a cost lower than the current interim Executive Director.

2. ***Organizational options exist that could better utilize existing MDHCD resources.***

   In addition to the "status quo" and "dissolution", this Special Study considers consolidation with other entities currently providing health case services within or adjacent to the District boundary, including the County Service Area EM-1 (CSA EM-1) and the Los Medanos Community Healthcare District (LMCHD). These options could very likely provide comparable health care services at lower cost relative to the "status quo".

3. ***If reorganization occurs, evaluation of options considered in this Study favors dissolving the MDHCD and naming the existing CSA EM-1 as the successor agency.***

   CSA EM-1 is under the oversight of the County of Contra Costa and management of County Health Services Department. Creation of a zone coterminous with the existing MDHCD boundaries within CSA EM-1 and appointment of an advisory board would substantially eliminate existing MDHCD administrative costs and election costs (with the exception of mandatory commitments to lifetime health care benefits). This option would reduce existing overhead costs, since the County Health Services Department (which operates CSA EM-1) has the administrative and professional staff to provide services without a significant increase in their current costs, though some administrative costs may be necessary depending on programs provided.

   Public access and accountability would be promoted by use of existing County governance, finance and management structure, creation of a zone to assure the use of funds for health care needs within the existing MDHCD boundaries, and establishment of an advisory board from residents of the zone (existing District boundaries) consisting of knowledgeable, experienced professionals and members of the community. The initial membership of the advisory board could include members of the current MDHCD Board, to facilitate continuity.

# 3. HEALTH CARE DISTRICTS

## Health Care Districts in California

California at the end of World War II faced a shortage of hospital beds and acute care facilities, especially in rural areas of the state. In 1945 the Legislature enacted the Local Hospital District Law[7] to establish local agencies to provide and operate community hospitals and other health care facilities in underserved areas, and to recruit and support physicians. In 1993 the State Legislature amended the enabling legislation renaming hospital districts to health care districts. The definition of health care facilities was expanded to reflect the increased use and scope of outpatient services.

In total, 82 health care districts in California provide a variety of services. Some of the characteristics are displayed in **Table 1.** The table shows that 30 districts do not operate hospitals, five provide ambulance service, and 29 are located in rural areas. Many districts have been dissolved, and/or transferred ownership or operation of facilities to other entities.

As further described in the MSR, the health care industry "in general is going through changes, many of which are financially driven." Hospitals and their medical staffs are experiencing declining public financing through Medi-Cal and Medicare. Costs for construction and personnel are rising, and the overall emphasis by consumers and their medical providers for expensive technologies are driving costs up. In addition, human resources gaps at all health provider levels threaten the stability of providers in the provision of services, especially hospitals when attempting to staff beds. Other unique legislative parameters also face California hospital providers. California remains the only state with required nurse staffing ratios, and hospitals are continuing to grapple with the State-mandated seismic retrofit requirements due to impact the hospitals as early as 2013.[8]

Dissolution of hospital/health care districts has been considered in the past in Contra Costa County. The dissolution of the LMCHD was considered in 1999, but never completed. Other districts in Fresno, Sierra, and Plumas counties have been dissolved and/or consolidated into other districts.

[7] Health and Safety Code section 32000 et seq.

[8] Excerpted from the Public Healthcare Services MSR, 2007.

**Table 1 Overview of Health Care Districts in California**

| Statistic | Number |
|---|---|
| Health Care Districts in California | 82 |
| Counties with Health Care Districts | 40 |
| Counties with multiple Health Care Districts | 19 |
| County with most Health Care Districts | Kern (7) |
| Rural Health Care Districts | 29 |
| Health Care Districts without hospitals | 30 |
| Districts providing ambulance service | 5 |
| Districts that have declared bankruptcy | 4 |
| Districts that are dissolved or otherwise reorganized | 5 |

*Source: ACHD 2011*

Health care districts are commonly funded through a share of property taxes and by grants from public and private sources. Health care districts are special districts with the typical powers of a district such as the authority to enter into contracts, and purchase property, issue debt and hire staff. Under the HSC[9] health care districts may provide the following services:

- Health facilities, diagnostic and testing centers, and free clinics
- Outpatient programs, services, and facilities
- Retirement programs services and facilities
- Chemical dependency services, and facilities
- Other health care programs, services, and facilities
- Health education programs
- Wellness and prevention programs
- Support other health care service providers, groups, and organizations
- Ambulance or ambulance services
- Participate in or manage health insurance programs

Public health care agencies within the MDHCD that provide services similar to those authorized for health care districts are described in the following section.

[9] HSC Section 32000 et seq

## Current Public Health Care Providers in MDHCD Service Area

Within the boundaries of the MDHCD, public health care services are provided by several public and private agencies. **Table 2** shows the public agencies that provide those services relative to the MDHCD, and which have been considered as part of potential reorganization of the MDHCD. In addition, there are a number of private, nonprofit organizations providing health care and related services. Broader medical services are provided by private doctors, clinics and the major hospitals serving the area.

**Table 2**
**HCD Authorized Services Provided by Selected Public Agencies**

| Service | Agency and Services Provided | | | |
|---|---|---|---|---|
| | **MDHCD** | **LMCHD** | **Contra Costa Health Services** | **EM-1** |
| **Health facilities, diagnostic and testing centers, free clinics, and services** | None | Owns Pittsburg Health Center, which it leases to Contra Costa Health Services | Contra Costa Regional Medical Center and Family Practice Center/Martinez Specialty Center in Martinez; Concord Health Center and Public Health Clinic in Concord | None |
| **Outpatient programs, services, facilities** | None | None | Outpatient services provided at Martinez Family Practice and Center Concord Health Center | None |
| **Retirement programs, services, facilities** | None | None | CCHS Public Guardian Program; CCHS Senior Nutrition Program; Geriatric Consultation Team | None |
| **Chemical dependency programs, services, facilities** | None | None | Addiction medical services available at Concord Health Center and Martinez Family Practice Center | None |
| **Other health care programs, services, facilities** | Provides defibrillators to community facilities | Monitors legislation, participates in HCA activities, & policy briefings | Broad range of other health care programs, services and facilities (see www.cchealth.org/services/) | Supports County Trauma System, High Risk Heart Attack System, Cardiac Areas Programs, Stroke System |
| **Health education programs** | Provides CPR materials to train High School Students (w/County Health) | Website provides links to educational events and healthcare information and resources | Provides public education materials, CPR training (w/MDHCD) | Defibrillator Program provides information on developing programs; CPR & defibrillator training to 1st responders |
| **Wellness and prevention programs** | Grant programs | LMCHD Health & Wellness Funding Program provides services & grants | Community wellness and prevention programs | Child injury prevention programs, fall prvention programs |
| **Support other health care service providers, and organizations** | Grant programs; participates in Community Health Fund with JMH | Provides grant funding to community health programs | Provides information for other health care providers on various health related topics i.e. avian flu, west nile virus, nail salons | Provides EMS training in partnership with other agencies, e.g., American Red Cross |
| **Ambulances or ambulance services** | None | None | As Local Emergency Medical Services Agency, County Health provides direction, planning, and monitoring for pre-hospital EMS system; coordinates all EMS activities in County; contracts for ambulance service. | Provides EMS 1st responder training, communications, Haz Mat Program |
| **Participate in or manage health insurance programs** | None | None | Contra Costa Health Plan | None |

# 4. MT. DIABLO HEALTH CARE DISTRICT

The MDHCD boundaries encompass a population of approximately 204,700 residents, as shown in **Table 3**. The total assessed valuation within the MDHCD is $25.9 billion.

**Table 3 MDHCD Assessed Value and Population by Jurisdiction**

| Jurisdiction within MDHCD | MDHCD | | | |
|---|---|---|---|---|
| | Assessed Value | % | Population | % |
| **Concord** | 11,541,837,426 | 44.5% | 119,859 | 58.5% |
| **Martinez** | 4,214,778,686 | 16.2% | 35,538 | 17.4% |
| **Walnut Creek (portion)** | 10,120,279 | 0.0% | 66 | 0.0% |
| **Pleasant Hill** | 4,386,936,836 | 16.9% | 33,152 | 16.2% |
| **Clayton (portion)** | 19,328,121 | 0.1% | 28 | 0.0% |
| **Lafayette (portion)** | 190,157,016 | 0.7% | 728 | 0.4% |
| **Subtotal, Incorporated** | 20,363,158,364 | 78.5% | 189,371 | 92.5% |
| **Unincorporated** | 5,578,655,447 | 21.5% | 15,344 | 7.5% |
| **TOTAL MDHCD** | 25,941,813,811 | 100.0% | 204,715 | 100.0% |

Source: Contra Costa County Auditor-Controller (Rpt. EA3211, proc. 8/1/11) for FY11-12
Includes land, improvements, personal property, and local exemptions.

As stated in the MSR, the MDHCD Board sees its role as being: (1) an overseer of the CBA and monitoring District assets that have been transferred to John Muir, (2) promoting community health improvement, (3) facilitating community health partnerships, (4) advocating for the community's interests, and (5) serving as a liaison from the community to the JMH Board. The MDHCD has undertaken various Community Action programs and awarded grants in furtherance of its mission. These functions are described further in this chapter, as well as the related expenditures, sources of funding, assets and liabilities.

### Monitoring of Community Benefits Agreement

In exchange for the facilities and equipment transferred from the MDHCD to John Muir (referred to as the "System" in the CBA), the CBA requires the System to agree to a number of terms. Key terms include the following:[10]

1. Operate and maintain District's health care facilities and its assets for the benefit of the communities served by the District,
2. Maintain basic emergency services at the Hospital and Medical Center,
3. Maintain acute care hospital licenses for the Hospital and Medical Center, and
4. Establish and operate a Community Benefit Corporation.[11]

The MDHCD monitors those key terms to assure compliance by the System.

### Participation in Community Health Fund

In the CBA, the System agreed to transfer $1 million annually (or more, at its discretion) to the CHF, and up to $200,000 for administrative expenses, to fund unmet community health care needs within a defined service area.[12] The service area of the CHF encompasses most of eastern Contra Costa County, an area much broader than the MDHCD boundaries (see **Attachment A**). Five members of the 10-member board of directors are appointed by the MDHCD.

Since inception in 1997 through 2010, the CHF has granted over $20 million to local health care projects and collaborative health initiatives. Initiatives include increased access to dental care, expansion of services to an aging population, women's cancer services, and an initiative integrating behavioral health care with primary care at clinics in central and east Contra Costa.[13]

### Community Action Program (Grants and Other Programs)

The MDHCD web site includes a list of focus areas and funding priorities, which it identifies as its "Strategic Plan". The Strategic Plan's five categories are healthy lifestyle, health services, health access, support services, and workforce development. The Plan contains no further information or analysis regarding health needs within its service area, specific goals or targets for addressing those needs, or strategies for achieving goals. The MDHCD recently hired an Interim Executive

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[10] Article 7, Sections 7.1-7.4 and 7.7, Community Benefit Agreement by and between Mt. Diablo Health Care District and John Muir Medical Center, August 9, 1996.

[11] Also referred to as the "Community Health Corporation".

[12] Section 5.6, Attachment 2.5 (System Bylaws) to the Community Benefit Agreement

[13] Fact Sheet for the Community Health Fund, John Muir/Mt. Diablo Community Health Fund, 10/25/11.

Director who will be responsible for developing and implementing a strategic plan for addressing unmet health needs.[14]

The MDHCD has provided grants to numerous community organizations which fit within their targeted categories. During 2011, the MDHCD spent $80,000 on grants.[15] Additional grant requests are under review. The MDHCD budgeted, and has spent, approximately $80,000 in 2011 for its "CPR Anytime" program, which provides CPR kits to high school students. At the start of 2011, the MDHCD budgeted to spend nearly $500,000 in 2011, including its grants and CPR program.

The MDHCD has provided CPR kits as a part of CPR training program for high school students, in association with the American Heart Association and Contra Costa Emergency Medical Services. In 2011, the MDHCD spent approximately $80,000 to support the program.

## MDHCD Financial Resources

**Figure 2** illustrates MDHCD expenditures and revenues since 2000. As shown, expenditures for Community Action were minimal through the majority of the decade until recent years. Overhead and administrative costs accounted for much of the annual expenditures. During 2001 and 2002, the MDHCD initiated litigation against John Muir Health to protect the MDHCD's interests and mission; these expenditures account for the significant increase in non-Community Action grants and direct service expenditures in those years. In certain years, including the budgeted 2011 year, expenditures exceeded revenues because reserves were available. These reserves accumulated in years in which expenditures were less than revenues.

**Table 4** shows annual revenues to the MDHCD from 2000 to the present. Operating revenues for 2011 totaled $276,000. The District is funded primarily by property tax revenues (ad valorem). The 2011 revenues included $246,800 in property tax revenues, which represent approximately 90 percent of annual operating revenues. An additional $25,000 was received from payments from John Muir pursuant to the Community Benefits Agreement. Another $4,700 of income came from interest earnings.

The 2011 budget also included $833,946 in beginning fund balances from the prior year, consistent with the amount reported by the MDHCD 2010 Financial Report (pg. 10). The fund balance accumulated during periods when the MDHCD was not funding its Community Action program (less than $1,000 was spent on Community Action programs from 2000 through 2007), or during years in which it spent less than it received in annual revenues. These fund balances are in cash or other short-term (three months or less) investments. By the end of the current year, the ending fund balance is projected to decline to $787,700.[16]

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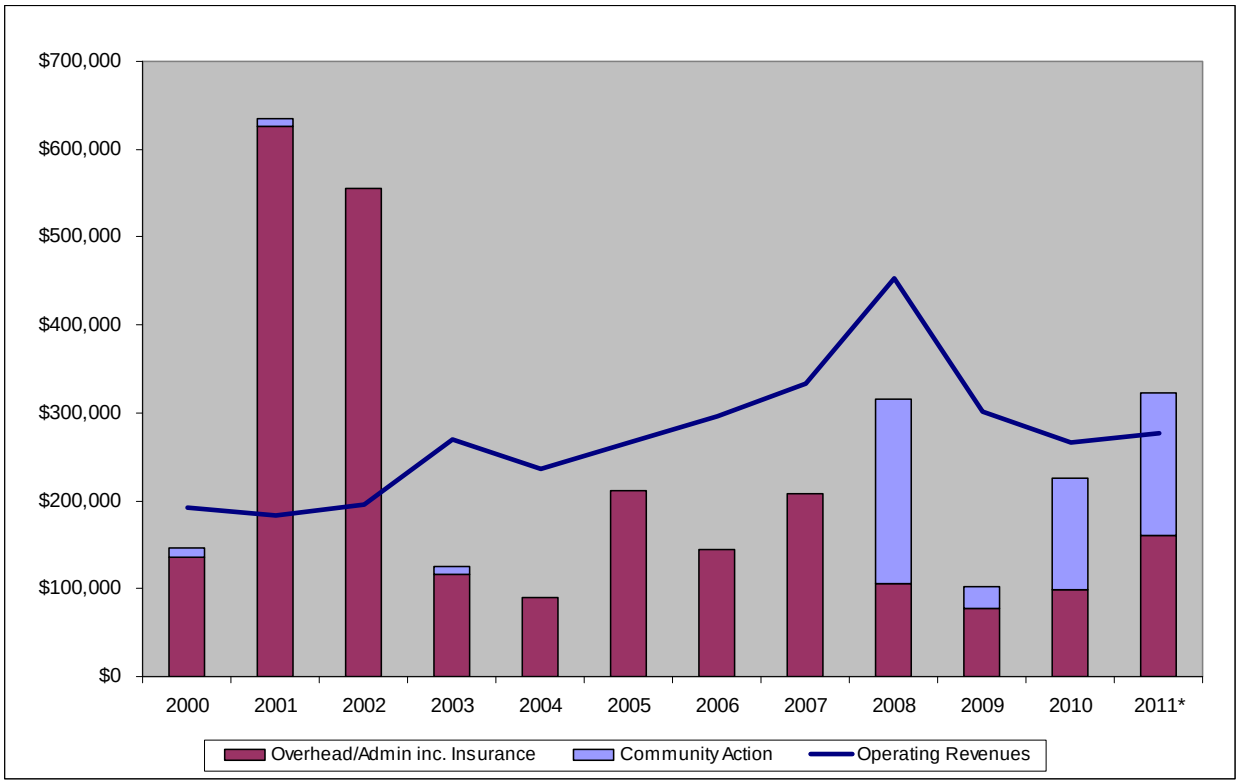
[14] MDHCD posting 10/24/11.

[15] "MCHCD Budget vs. Actual, 1/1/11 to 12/31/11.

[16] Ibid.

**Figure 2: Overview of MDHCD Expenditures and Revenues, 2000-2011**




* 2011 source: Budget vs. Actual, Jan. 1, 2011 to Dec. 31, 2011

## Property Taxes

As shown in **Table 4,** property tax represents about 90 percent of MDHCD revenues. Over the past twelve years, revenues peaked at $291,000 in 2007, then declined to the current $246,800.

Although assessed value within the MDHCD totals about $25.9 million, substantial areas within the MDHCD boundaries do not contribute incremental increases in property tax growth (or decline) to the MDHCD. Those areas do not show any Tax Increment Allocation Factors, which allocate incremental changes in property tax to specific entities serving the corresponding area. A review of Tax Rate Areas (TRAs) within the MDHCD show that substantially all of the TRAs within the City of Concord contribute incremental property tax to the MDHCD, as well as nearly all of the parcels within the City of Pleasant Hill and unincorporated areas to the north of Concord. However, none of the TRAs within the City of Martinez contributes, nor do certain unincorporated areas to the east of Martinez.

**Table 4 Summary of MDHCD Revenues (2000 to Present)**

| | REVENUES | | | |
|---|---|---|---|---|
| Year | Property Tax | John Muir Grants | Other Income | TOTAL |
| **2000** | $149,154 | $25,000 | $17,586 | $191,740 |
| **2001** | 157,037 | 25,000 | 1,459 | 183,496 |
| **2002** | 181,724 | 25,000 | (11,012) | 195,712 |
| **2003** | 194,215 | 25,000 | 50,435 | 269,650 |
| **2004** | 203,594 | 25,000 | 8,189 | 236,783 |
| **2005** | 223,369 | 25,000 | 18,500 | 266,869 |
| **2006** | 255,649 | 25,000 | 15,989 | 296,638 |
| **2007** | 290,638 | 25,000 | 17,274 | 332,912 |
| **2008** | 276,694 | 165,600 | 10,339 | 452,633 |
| **2009** | 267,630 | 25,000 | 8,635 | 301,265 |
| **2010** | 226,550 | 25,000 | 15,254 | 266,804 |
| **2011*** | 246,863 | 25,000 | 4,700 | 276,563 |
| **TOTAL** | **$2,673,117** | **$440,600** | **$157,348** | **$3,271,065** |

* 2011 source: "Budget vs. Actual, Jan. 1, 2011 to Dec. 31, 2011".

A number of factors may have contributed to the absence of increment allocations to the MDHCD. For example, at the time that AB8 created increment factors (in 1979, to implement Prop. 13), the MDHCD may not have been collecting property taxes from certain areas within its boundaries; therefore, no increment factor would have been created. Another factor may be that the MDHCD was not allocated a share of property taxes when parcels were annexed to the MDHCD. A separate study would be necessary to audit these historical factors, and the conclusions of that study would not necessarily change any current allocations or amounts of property tax to the MDHCD.

### Contributions from John Muir Health

Pursuant to the CBA, JMH contributes $25,000 annually to the MDHCD to help fund administrative expenses. In 2008, JMH provided additional funding to pay for a grants consultant to help the MDHCD establish grant criteria and process, including a system for reporting and monitoring of grants. A review of recent MDHCD minutes and public documents does not indicate that a grant criteria and review process, or monitoring system, is currently active.

### Other Revenues

The MDHCD receives miscellaneous other revenues, primarily interest earnings on deposits.

### Other Assets - Property

As a part of the CBA, the MDHCD transferred ownership of all hospital assets, including land, buildings and equipment, to JMH (referred to as the "System" in the CBA). Section 1.4 of the CBA states (as excerpted):

> **"1.4 <u>District Assets</u>**. On the Closing Date, subject to the terms and conditions of this Agreement, District shall assign, grant, convey, transfer and deliver to System, and System shall accept from District, all of District's right, title and interest in and to all of the assets and properties owned by District, of every kind, character and description, whether tangible, intangible, personal, or mixed, and wherever located including….
>
> (l) Mt. Diablo Medical Center. All rights and title in and to the land and buildings described on Exhibit 1.4(l) ("Hospital Land' and "Hospital Buildings", respectively) and all permanent fixtures and improvements to such Hospital Land and Hospital Buildings;…"

Measure MM, which was passed by MDHCD voters on November 5, 1996, approved "the transfer of District assets" in accordance with the CBA and resolution by the MDHCD. The transfer of real property from the MDHCD to "John Muir Medical Center" is also documented in the grant deed recorded December 31, 1996. The transfer of ownership was consistent with HSC 32121; had the transfer occurred as a lease, it would have been subject to a 30-year maximum term rather than the current 50-year term (plus extensions), and would not have included the provisions for reversion of assets which are part of the CBA.

### Cash and Other Liquid Assets

At the beginning of 2011, the MDHCD reported $833,946 in fund balances according to the MDHCD 2010 Financial Report (pg. 10). These fund balances are in cash or other short-term (three months or less) investments. The fund balance accumulated during periods when the MDHCD was not funding its Community Action program (less than $1,000 was spent on Community Action programs from 2000 through 2007), or during years in which it spent less than it received in annual revenues.

By the end of the current year, the ending fund balance is projected to decline to $787,700.[17]

## Expenditures

**Table 5** shows MDHCD expenditures since 2000, up through the current 2011 budget year. Overhead and administration, including insurance benefits, accounted for nearly all of the expenditures until the last four years. On average over the 12-year period, about 83 percent of expenditures were for overhead and insurance expenditures. In 2011, the ratio of overhead and insurance to total expenditures was 50 percent.

[17] ibid.

### Overhead and Management

The MDHCD currently employs one part-time office employee to assist with administrative duties. In addition, the District engaged an attorney in 2011 and recently hired an interim part-time Executive Director for a three-month term. Board members are paid a stipend, and undertake various overhead and administrative tasks. The MDHCD maintains a web site. One current board member also receives health insurance benefits (see "Liabilities", below), and the MDHCD provides health insurance benefits to one former board member.

MDHCD expenditures for overhead and management costs (including Director's stipends, post-retirement benefits, administration, and web site) totaled $160,900 in the 2011. This represents approximately 50 percent of operating expenditures.

From 2000 through 2011, approximately 83 percent of expenditures went towards overhead and administrative costs, including office staff, health insurance benefits, legal and litigation fees and election costs. A significant portion of the $740,000 in legal fees spent in 2001-2002 was for litigation pursued in furtherance of the MDHCD's mission.

After adding election costs, overhead will consume nearly all of the MDHCD's annual operating revenues (before including the use of any available fund balances or before including Executive Director costs and insurance cost savings).

**Table 5 Summary of MDHCD Expenditures (2000 to Present)**

| | EXPENDITURES | | | | | | |
|---|---|---|---|---|---|---|---|
| Year | Overhead & Admin. | Medical/Dental Insurance | Subtotal | % of Total | Community Action | TOTAL | Ending Balance |
| **2000** | $119,066 | $27,010 | $146,076 | 99.7% | $403 | $146,479 | ** |
| **2001** | 603,852 | 31,249 | 635,101 | 99.9% | 500 | 635,601 | ** |
| **2002** | 517,713 | 38,527 | 556,240 | 100.0% | 0 | 556,240 | ** |
| **2003** | 71,521 | 53,974 | 125,495 | 99.9% | 87 | 125,582 | ** |
| **2004** | 62,642 | 27,978 | 90,620 | 100.0% | 0 | 90,620 | ** |
| **2005** | 178,080 | 33,717 | 211,797 | 100.0% | 0 | 211,797 | 244,596 |
| **2006** | 103,866 | 41,190 | 145,056 | 100.0% | 0 | 145,056 | 396,178 |
| **2007** | 170,462 | 38,103 | 208,565 | 100.0% | 0 | 208,565 | 520,525 |
| **2008** | 70,060 | 34,959 | 105,019 | 33.2% | 211,000 | 316,019 | 657,139 |
| **2009** | 42,347 | 34,990 | 77,337 | 75.1% | 25,683 | 103,020 | 855,384 |
| **2010** | 53,301 | 44,937 | 98,238 | 43.5% | 127,827 | 226,065 | 833,946 |
| **2011*** | 112,386 | 48,510 | 160,896 | 49.8% | 162,186 | 323,082 | 787,707 |
| **TOTAL** | **$2,105,296** | **$455,144** | **$2,560,440** | | **$527,686** | **$3,088,126** | |
| | 68% | 15% | 83% | | 17% | 100% | |

* 2011 source: "Budget vs. Actual, Jan. 1, 2011 to Dec. 31, 2011".

** Note: Ending balances for certain years don't equal prior balance plus annual change due to adjustments in financial statements.
MDHCD adopted GASB accounting methods in 2004; ending fund balances were negative through 2004. Insurance on cash basis; prior years also included "Net periodic post-retirement" in the "Overhead & Admin." category for purposes of this table.

2002 included $326,941 in legal fees, in 2001 legal totalled $412,203. These fees were expended largely on litigation in furtherance of the MDHCD mission.

### Community Action Program (Grants and Other Programs)

From 2000 through 2007, Community Action Program expenditures totaled less than $1,000. Approximately $365,000 was spent in 2008 through 2010.

During 2011, the MDHCD spent $80,000 on grants. Additional grant requests are under review. At the start of the year, the MDHCD budgeted $620,000 for Community Action grants. The MDHCD budgeted, and has spent, approximately $80,000 in 2011 for its "CPR Anytime" program, which provides CPR kits to high school students. The CPR kits were used to train all 9th grade students in the Mt. Diablo Unified School District. Over 3,000 students per year were trained for the last two years.

## Liabilities

The MDHCD's only long-term liability consists of health insurance benefits provided to two directors (one current director, one former director). As described in more detail below, the present value of the health insurance liability, including all potential future payments, is estimated at more than $800,000.[18] These benefits and their cost to the MDHCD have been reduced by agreement with the two directors, beginning January 1, 2012. According to the MDHCD, there are no other long-term obligations or liabilities.[19]

### Lifetime Health Insurance Benefits

Government Code Section 53201(b) allows public agencies to provide health insurance benefits to former elective members of the legislative body who served in office after January 1, 1981, and whose total service at the time of termination was not less than 12 years. This allowance was discontinued by GC §53201(c) which disallows those benefits to any person first elected to a term of office that begins on or after January 1, 1995.

Currently, one former Board member and one current Board member are receiving health insurance benefits paid by the MDHCD. These benefits are projected to cost approximately $45,000 in 2011 (Budget vs. Actual, January 1, 2011 to December 31, 2011). An actuarial report prepared for the MDHCD (Zacarias Actuarial Consultants, April 14, 2011) estimated a pension liability of $806,649 as of the end of 2010. This amount represents a present value of all future payments for the provision of these health care benefits.

A resolution adopted by the MDHCD at its meeting November 15, 2011, accepted proposals from its two directors that would reduce current costs to the MDHCD. The two directors reserved their right to receive current levels of benefits in the future.

According to the resolution, one of the directors (Grace Ellis, current Director) is in the process of applying for PERSCare Supplemental/Managed Medicare, plan code 1322 at a monthly cost of $865, or an annual total of $10,380. This is compared to the current monthly cost of approximately $1,900, or current total annual cost of $22,800. The annual savings to the MDHCD is more than half of the current cost for this director, or a savings of about $12,420 annually. Ms. Ellis also agreed to evaluate less expensive dental coverage.

The other person (Ron Leone, former director) currently receiving health insurance benefits, has agreed to obtain alternative coverage if the MDHCD reimburses him approximately $580 per month, or about $7,000 annually (potentially including dental and vision). The current monthly MDHCD cost for this director is approximately $22,000 annually, so the reduction would be an annual savings of about $15,000.

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[18] Actuarial Report, Zacarias Consultants, December 31, 2010; file: "MDHCD OPEB Report as of 12-31- 2010.pdf"

[19] Roy Larkin, MDHCD Secretary/Treasurer, email transmittal received by EPS 10/21/11.

An actuarial analysis has not been conducted of the total liability assuming the reduced insurance costs; however, the liability may be reduced by as much as half.

## Facilities

Office space is provided to the MDHCD by JMH at no cost. The MDHCD has no other facilities.

# 5. *PRIOR LAFCO AND OTHER REVIEWS OF THE MDHCD*

The MDHCD has been the subject of multiple reviews, including a LAFCO MSR,[20] Grand Jury reports,[21] and other community review and comment (e.g., Contra Costa Taxpayers Association). This chapter summarizes key comments from those reviews.

## Public Health Care Services Municipal Service Review

The Public Health Care Services MSR focused on the health care services provided by agencies under LAFCO's purview, including the three health care districts: LMCHD, MDHCD, and West Contra Costa Healthcare District. The MSR, which is required by State law, provides a comprehensive review of the delivery of municipal services provided in the county.

In summary, the MSR identified a number of key issues and made the following determinations for the MDHCD. Where applicable, these determinations have been updated with more recent information.

- **Growth and Population** - The MSR expected the population within the MDHCD service area to reach 281,000 by 2035. The current population is approximately 205,000 according to the 2010 census.

- **Infrastructure Needs or Deficiencies** – As described in the MSR, the MDHCD does not own or manage any facilities. Per the terms of the 1996 CBA with JMH, all rights and title to the District's assets, including the Mt. Diablo Community Hospital, transferred to JMH. In February 2007, JMH approved a $170 million expansion of this campus, including a cardiovascular institute and expanded emergency room.

  The MSR identified significant health care issues, unmet needs, and underserved populations within the MDHCD service area. However, because of the District's financial condition, the District was not funding any health care services or programs at the time of the MSR, a deficiency which the MSR said could be addressed by refocusing MDHCD efforts from oversight of the CBA towards supporting health care services and programs. In recent years, including 2011, the MDHCD has increased its spending on health care grants and programs relative to prior years reviewed by the MSR.

- **Financing Constraints and Opportunities** – The MSR identified MDHCD financial constraints that limited the District's ability to fund health care services and programs; 43 percent of its 2006 revenues were budgeted for election and audit expenses and 22 percent to Board-related expenses. In addition, the MSR described a $760,037 unfunded liability associated with lifetime health care benefits for board. In the most recent 2011 budget year, the MDHCD budget 19 percent of its revenues for administration and health benefits, although this percentage could more than double if the MDHCD does not achieve its grant

[20] 2007.

[21] 2001, 2003, 2008 and 2011.

targets. The current unfunded health care benefit liability was approximately $800,000 at the end of 2010; however, this could be significantly reduced if the MDHCD reduces its benefit obligations (see next item).

- **Cost Avoidance Opportunities** – The MSR recommended that the MDHCD should pursue opportunities to participate in Joint Powers Insurance Agreements and other programs to reduce liability and medical insurance costs. Currently, the MDHCD provides health insurance benefits through CALPERS; the MDHCD has considered revisions to the lifetime health benefits it provides to two directors which will reduce these costs.

- **Opportunities for Rate Restructuring** – The MDHCD does not charge fees for service as they are not directly providing services.

- **Opportunities for Shared Facilities** – The MSR explained how the MDHCD participates in the decision-making process for grants provided through the John Muir/Mt. Diablo Community Health Fund. It also identified opportunities for the District to leverage its resources to support the new health center being opened by the County in the area. The MDHCD currently is considering grants to La Clinica.

- **Evaluation of Management Efficiencies** – The MSR described how the MDHCD operated under the direction of the Board of Directors with one part-time staff. Recently, the MDHCD hired an interim Executive Director to help develop and implement its strategic plan and address other recognized procedural issues.

- **Government Structure Options** – The MSR identified a number of options for re-organization, which would require further study, but did not make a recommendation. The MSR also indicated that LAFCO could maintain the status quo, and require progress reports from the MDHCD. **Chapter 6** in the current study describes these and other options in greater detail.

- **Local Accountability and Governance** – The MSR did not identify any issues or concerns; it indicated that the districts encourage public participation and make documents available, hold open and accessible public meetings, and that recent elections were contested, evidence of public interest in the health care organizations. However, the last two MDHCD elections have been uncontested.

## Grand Jury Reports

Dissolution of the MDHCD has been the subject and recommendation of four Grand Jury reports in 2001, 2003, 2008 and 2011. The Grand Jury reports have repeatedly raised the same concerns as summarized below.

- The MDHCD does not own or operate any health care facility nor provide assistance in the operation of health facilities nor any other medical services to its constituents

- Pursuant to the CBA, the MDHCD has limited duties to a) perpetuate itself as the body to reclaim the assets the District transferred in the merger, should that merger fail; b) approve payments from two pension funds to former District employees; c) nominate five members to

the board of the JMH/Mt. Diablo Health Benefit Corporation; and d) accept or reject (but not nominate) eight of the 16 JMH/Mt. Diablo Health System Directors.

- The primary source of revenue for the MDHCD is property tax revenue which is largely used to support the District's own administrative and operating expenses including lawyers, accountants, election costs, and the Board's medical benefits.
- Since the merger, the MDHCD has had little success and continues to search for some tangible health-related activity to perform. Instead of being directly involved in managing and overseeing health care programs, the District Board functions more as administrators and grant allocators.

These issues and related recommendations are further described in the LAFCO staff transmittal to the LAFCO board May 11, 2011 related to Agenda Item 11.

## Other Reviews

LAFCO received correspondence from the Contra Costa Taxpayers Association expressing concerns with the MDHCD, and requesting that LAFCO begin the process to dissolve the District.[22] The Association raised issues related to primary use of MDHCD revenue to support administrative costs; ongoing fiscal issues including granting of life-time health insurance benefits, lack of financial procedures, and alleged embezzlement; frequent board turnover and perennial internal disputes; lack of professional staff; and ongoing disputes with JMH which consume resources.

[22] Correspondence received by LAFCO, May 2, 2011 (see Attachment A to LAFCO May 11, 2011 agenda (Item 11)).

# 6. GOVERNANCE OPTIONS

In August 2007, LAFCO completed the *Public Healthcare Services Municipal Service Review*. The MSR report identified four government structure options for the MDHCD to respond to issues identified in the MSR.

Subsequent analysis eliminated the MSR option of "Formation of a Subsidiary District" because the creation of a subsidiary district from the MDHCD does not meet legal criteria. GC §57105 requires that the MDHCD be entirely contained within a city, or that the city contain both 70 percent of the land area and 70 percent of the registered voters. The City of Concord represents approximately 44 percent of the land area and 59 percent of the population of the MDHCD. Furthermore, the existing MDHCD boundaries overlap other cities, which would preclude the creation of a City of Concord subsidiary district even if it met the 70 percent test.

The options evaluated in this report include:

- Maintain Status Quo
- Consolidation (of like and unlike districts) and/or creating a new district
- Dissolution with appointment of successor only for the purpose of winding up MDHCD affairs
- Dissolution with appointment of successor for continuing service

These options are compared and evaluated in the following sections and are summarized on **Table 6.** Specific aspects of the LAFCO process which differ from the basic steps described in **Chapter 1** are summarized.

### CEQA

Dissolution will first require the creation of a zero sphere. The zero sphere signals LAFCO's intent to dissolve the district. This action qualifies for a general exemption from CEQA review since establishing a zero sphere will not result in a change in regulations, land use or development.

## Maintain Status Quo

This option would continue to allow the MDHCD to exist and function under its current organization. The MDHCD would continue its oversight of the Community Benefits Agreement and participation on the Community Health Foundation Board which allocates in excess of $1 million annually provided by JMH to address various community health needs.

**Table 6**
**Summary of Governance Options—MDHCD Special Study**

| Governance Option | Description | Advantages | Disadvantages |
|---|---|---|---|
| **Status Quo** | No change to existing MDHCD. | MDHCD recently hired interim Exec. Director who could improve operations, public accountability & access. | MDHCD at risk of continuing past practices, including lack of activity and high expenditures for overhead. |
| **Establish Subsidiary District** | Does not qualify since 70% of the territory and 70% of the population are not within the city boundary. | NA | NA |
| **Consolidation**<br><br>MDHCD and LMCHD | Unite two or more districts into a single new successor health care district. | Existing territory served by MDHCD would continue to be served by successor district. Revenues of the two districts could be used to enhance services of the combined district<br><br>Successor district provides similar services.<br><br>Economies of scale result in reduced administrative costs. | Revenues generated by MDHCD taxpayers would be expended for benefit of all residents of new, larger district, reducing benefits to existing MDHCD taxpayers.<br><br>Likely political opposition to consolidation due to differing communities of interest.<br><br>Reduced local representation. |
| **Dissolution**<br><br>Successor for the purpose only to wind up affairs of MDHCD | Existing district ceases all functions and services. The City of Concord statutorily qualifies as successor for the purpose of winding up affairs, or CSA EM-1 could be designated as successor. | Elimination of MDHCD admin. expenses.<br><br>Existing MDHCD property tax revenues revert to other agencies (after payment of MDHCD obligations). | No further provision of current MDHCD health-related services, & its property tax no longer available for health care purposes.<br><br>Loss of CBA provisions, including oversight of facilities and licenses, and participation in CHF grant process. |
| **Dissolution**<br><br>Successor for continuing service | Designate CSA EM-1 as successor to continue the service.<br><br>Creation of a Zone of benefit corresponding to current MDHCD boundaries for continued collection of existing property taxes.<br><br>Creation of an advisory body consisting of representatives from the area. | Existing territory served by MDHCD would continue to be served by CSA EM-1 zone, including use of property taxes and advisory board.<br><br>Reduction of admin. expenses, eliminate election costs, funds become available for health care. Professional staff to implement policies and programs.<br><br>Continuation of CBA provisions, including oversight of facilities and licenses, and participation in CHF grant process. | Primary function of EM1 is ambulance service, with some related training services (CPR, defibrillators).<br><br>One or more cities could opt out, potentially reducing property tax increment in the future.<br><br>Reduced local representation. |

The MDHCD has begun to address issues and concerns raised against it in the past and as identified in the MSR; recent actions include:

- Awarding of grant funds to community organizations
- Financial assistance to CPR training programs in high schools
- Recent reductions to current health insurance benefits programs which will reduce MDHCD overhead expenditures
- Hiring of an Interim Executive Director

However, MDHCD revenues remain limited and subject to further declines depending on economic trends. While the addition of professional staff could help to improve its operations and focus and remediate past issues related to accountability and public access, this hiring would increase administrative expenditures. As noted in "Expenditures", **Chapter 4**, overhead and administrative costs equal at least 50 percent or more of total expenditures depending on costs for the interim Executive Director and/or subsequent professional staff, and legal fees, compared to potential health insurance savings beginning in 2012. Including election costs, overhead will consume all MDHCD operating revenues (before use of any available fund balances).

***Advantages***

1. Property taxes collected within the district will continue to be spent for services within the district.
2. As indicated by the MSR, maintaining the status quo provides the district time to make changes to its operations. The MDHCD is actively increasing program spending, attempting to reduce its health insurance liabilities, and has hired an interim executive director.

***Disadvantages***

1. The district has a history of not spending revenues on programs but on administration and benefits to its directors. Although the MDHCD is actively increasing program spending and has hired an executive director, the additional staff costs will increase the proportion of revenues spent on overhead.
2. Issues raised by the Grand Jury and other community members related to fiscal and operational problems, lack of activity, and dysfunctional management could continue.

## Consolidation (of like and unlike districts) and/or creating a new district

### Consolidation with Los Medanos Community Healthcare District (LMCHD)

This option is not recommended since discussions with LMCHD indicated the likelihood of strong community opposition to the proposal based on geographical, social, and historical differences between the differing areas served by the two districts. Political opposition was also identified by the MSR as a disadvantage of this option.

This option would consolidate the MDHCD with the LMCHD, which are "like" districts formed under the same statutes. The boundaries of the consolidated entity would correspond to the combined boundaries of the two existing districts. The current share of MDHCD property taxes would be collected by the consolidated entity; these revenues would be available for use throughout the consolidated entity unless a zone is created to geographically restrict use of the revenues. An advisory board could be established to oversee and guide the use of funds. Existing LMCHD staff would be responsible for staff support, with direction from the Board of the consolidated entity. The board of the consolidated entity would replace the MDHCD as party to the Community Benefits Agreement, and would succeed to all rights and responsibilities of the Agreement. LAFCO could establish terms and conditions related to the initial and ultimate composition of the consolidated Board.

### LAFCO Process

At a public hearing, LAFCO recommends the consolidation and schedules a protest hearing. The consolidation can be completed without an election unless 25 percent of the registered voters or 25 percent of the landowners with 25 percent of the assessed value protest.[23]

#### *Advantages*

1. Enhances revenue base of LMCHD to be used for community health care needs.
2. Reduces/eliminates existing MDHCD administrative costs.
3. Continues mission and goals of the MDHCD (subject to decisions of consolidated board).
4. Continues community role in CBA.

#### *Disadvantages*

1. Reduces board representation from within MDHCD boundaries (assuming number of LMCHD board members does not change).
2. Distributes property tax resources over a broader service area.
3. LMCHD represents a different community of interest, and there is a strong probability that consolidation would be met with community opposition.

## Dissolution with appointment of successor only for the purpose of winding up MDHCD affairs

Dissolution would eliminate the MDHCD and its share of property taxes would revert to other taxing entities, after obligations of the MDHCD have been paid. LAFCO would appoint a successor agency to wind up the affairs of the MDHCD; see further discussion of successor agencies below.

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[23] GC 57081(b)

### Successor Agency Responsibilities and Obligations

1. **Payment of Medical Insurance Benefits** – Currently, the MDHCD spends approximately $45,000 annually for lifetime medical insurance benefits for two directors (one current, one former); the successor would need to continue this payment, which could be funded through some combination of MDHCD remaining assets and property tax revenues until the obligation is fully funded. The MDHCD recently negotiated reductions in the cost of this program, reducing future liabilities; however, the program participants reserved their rights to return to the original program.

2. **Disposition of Property** – The MDHCD does not own real property. The successor would be responsible for disposing of any unsecured property, such as office equipment.

3. **Debt** – Other than obligations related to the medical insurance benefits noted above, the MDHCD has no debt or other long-term financial obligations.[24]

4. **Litigation and Claims** – No litigation or other legal or financial claims are pending.

5. **CBA** – It is assumed that the JMH and the successor agency would terminate the CBA as part of winding up the affairs of the MDHCD. It is assumed that John Muir would continue the CHF without MDHCD representation; however, John Muir would be under no contractual requirement to do so. Similarly, John Muir would not be bound by the other provisions of the CBA related to specific facilities and licenses.

### Successor Agency

GC §57451 addresses the determination of a successor for the purpose of winding up the affairs of a dissolved district. Subsection (c) indicates that the City of Concord qualifies as the successor because the MDHCD boundaries overlap multiple cities and unincorporated area, and the City of Concord contains the greater assessed value relative to other cities and the included unincorporated territory as shown in **Table 3**.

However, GC §57451(d) provides that if LAFCO's terms and conditions distribute all of the remaining assets of a dissolved district to a single existing district, then the single existing district is the successor.

Potential successor agencies include:

1. **City of Concord** – The City currently does not provide health care services. The City of Concord could be designated as successor agency to wind up the affairs of the District pursuant to GC §57451(c). Preliminary discussions with City staff indicate that the City has the capability to undertake actions to wind up the affairs of the MDHCD, assuming that all financial obligations and administrative costs are funded by resources of the MDHCD. Under the current configuration of the MDHCD, the City could not be named the successor agency for the purpose of continuation of MDHCD services; the City cannot create a subsidiary district that would qualify for continuation of MDHCD services and receive its property taxes

[24] Roy Larkin, MDHCD Secretary/Treasurer, email transmittal received by EPS 10/21/11.

since the City's land area is 44 percent of the MDHCD's land area and therefore does not meet the required 70 percent, and the current MDHCD boundaries overlap other cities.

2. **CSA EM-1** – The CSA EM-1 could be designated as successor pursuant to GC §57451(d), which allows a district to be designated successor if all the remaining assets will be transferred to the district, e.g., CSA EM-1. Contra Costa Health Services Department, which manages EM-1, is under the direction of the County Board of Supervisors, and would have the ability and capacity to undertake actions to wind up the affairs of the MDHCD.

### LAFCO Process

The process will follow the basic steps identified in **Chapter 1**. In addition, it will be necessary for LAFCO to identify a successor for the purpose of winding up the affairs of the MDHCD. It may also be necessary for LAFCO to specify a Gann limit applicable to CSA EM-1 which will allow for an increased collection and use of property taxes for the purpose of winding up the affairs of the MDHCD.

#### *Advantages*

1. Elimination of administrative expenses, including staff, legal, election costs, and health benefit costs (after current obligations are paid). Some staff costs may be necessary to wind up the affairs of the MDHCD.
2. Elimination of $25,000 of annual JMH contribution to administration.
3. Avoids duplication of services which can be provided by other public and private agencies.
4. Returns tax dollars currently utilized by the MDHCD to other existing public entities serving the area, after payment of all MDHCD liabilities and obligations.

#### *Disadvantages*

1. Loss of MDHCD allocation of annual property taxes to community health needs. In 2011, approximately $192,000 was allocated to local health programs, including $80,000 directed to CPR training of high school students.
2. Loss of MDHCD participation (direct participation and/or through designated representatives) on the Board of the Community Health Foundation, which allocates over $1 million annually to community health needs.
3. Loss of MDHCD oversight of certain aspects of JMH facilities and licenses.
4. Loss of the MDHCD as receiver of hospital assets in the event of termination of the CBA.

The disadvantages noted above assume that the CBA does not continue in force. However, it would be possible to continue the CBA by allocating responsibilities to a successor for continuing service.

## Dissolution with appointment of successor for continuing service

This option is similar to the dissolution described above; however, services would continue under the designated successor. Ongoing responsibility for continuing health care services could not be assigned to the City of Concord because the boundaries of the MDHCD extend well beyond the City limits; statutes do not allow for the formation of a subsidiary district within the City to continue services of the MDHCD unless the City represents at least 70 percent of the MDHCD land area and 70 percent of registered voters, as described further in the following section.

### City of Concord as a Successor

Review of options eliminated the MSR option of "Formation of a Subsidiary District" because the creation of a subsidiary district from the MDHCD does not meet legal criteria. GC §57105 requires that the MDHCD be entirely contained within a city, or that the city contain both 70 percent of the land area and 70 percent of the registered voters; the City of Concord represents approximately 44 percent of the land area and 59 percent of the population of the MDHCD.[25] Furthermore, the existing MDHCD boundaries overlap other cities, which would preclude the creation of a City of Concord subsidiary district covering the existing MDHCD boundaries even if it met the 70 percent test.

The City of Concord can form a new subsidiary district within its municipal boundaries at any time; however, the new subsidiary district could not qualify as a successor to the MDHCD services, assets and revenues since it fails the 70 percent test.

To establish a subsidiary district from the MDHCD with the City Council serving as ex officio board of directors of the subsidiary district, the current boundaries of the MDHCD would first need to be reduced to only include the City of Concord and adjacent unincorporated areas currently within the MDHCD (Ayers Ranch, Clyde, Pacheco); within this reduced boundary configuration, the City of Concord would represent approximately 73 percent of the land area.[26] This reduced boundary not only excludes the City of Martinez, which currently does not contribute incremental property taxes to the MDHCD, but would also exclude Pleasant Hill and portions of other cities that do contribute property taxes to the MDHCD.

For the reasons described above, the City of Concord as a successor for continuing services is not recommended as a viable option.

### CSA EM-1 as a Successor

This option would include the establishment of a zone within CSA EM-1 corresponding to the current boundaries of the MDHCD. The current share of MDHCD property taxes would be collected within the zone and restricted to providing extended services which address unmet health care needs within the zone. An advisory board, including representatives from the zone,

[25] Estimates of land areas based on EPS GIS analysis.

[26] Ibid.

could be established to oversee and guide the use of funds. While LAFCO cannot enforce the ongoing use of a zone and advisory board, LAFCO can provision the continued allocation of property taxes as long as EM-1 meets those terms and conditions. Contra Costa Health Services Department would be responsible for staff support, with direction from the Board of Supervisors. CSA EM-1 would replace the MDHCD as party to the CBA, and would succeed to all rights and responsibilities of the CBA.

CSA EM-1 is administered by the Contra Costa Health Services Department (as the EMS Agency) under the direction of the County Board of Supervisors.[27] In 1989, CSA EM-1 was established to provide funding for enhancement of emergency medical services including expansion of paramedic services, upgrades to the EMS communications system, and additional medical training and equipment for fire first responders. EM-1 is authorized to provide emergency medical services and "miscellaneous extended services", which includes services the county is authorized by law to perform, and which the county does not also perform to the same extent on a county-wide basis.

The EMS system includes communities, hospitals, clinics, senior nursing facilities, dispatch, pre-hospital first responders and transport providers who work in concert to support an integrated system of response in emergencies and disasters. According to the EMS Agency, EMS is evolving to play an increasingly important role supporting health care programs and community health care initiatives that reduce as well as treat illness and injuries.

In addition to serving as the EMS Agency overseeing EM-1, Contra Costa Health Services Department provides a broad range of community health services spanning the range of services also authorized for health care districts. Numerous advisory groups exist which provide input and direction on specific issues and services. Contra Costa Health Services Department operates health facilities, clinics, outpatient programs and services, senior services, other health care programs and services, wellness and prevention programs, provides health insurance programs, and disseminates health information. The Contra Costa Health Services Department's community outreach program has benefited from funding provided by the MDHCD.

Although specific grant funding, programs and services to be provided by the new zone of CSA EM-1 would be determined by the future advisory board, preliminarily it is anticipated that the following programs could be continued and potentially expanded:

- CPR-How to Save a Life Program in MDHCD Schools
- Placement of Public Access Defibrillators (AEDs) in community locations throughout the MDHCD service area
- "CPR at Home" Parties
- Public Awareness campaigns
- Child and Senior Injury Prevention Programs
- Community Disaster Preparedness to promote resiliency

[27] Public Healthcare Services MSR, Contra Costa LAFCO, 2007.

Program administration, implementation and oversight may require 0.5 to 0.8 staff. The lower cost assumes streamlined administration without a great deal of public controversy and meeting facilitation. The 0.8 staffing level is based on a greater level of community interaction; this level would include the value added of direct community support provided by a skilled health care professional experienced in community outreach and program development to successfully facilitate the implementation and provide reliable oversight of projects and programs. Outreach programs frequently fail without this strong support.[28]

### LAFCO Process

The process will follow the basic steps identified in **Chapter 1**. In addition, it will be necessary for LAFCO to identify a successor for the purpose of continuation of services. LAFCO will also establish terms and conditions related to the creation of a zone and the allocation of property tax. It may also be necessary for LAFCO to specify a Gann limit applicable to CSA EM-1 which will allow for an increase collection and use of property taxes, if applicable.

#### *Advantages*

1. Enhances revenue base of CSA EM-1 for community health care needs within a zone corresponding to the boundaries of the MDHCD.
2. Substantially eliminates existing administrative costs, including elections, although some additional staff cost may be necessary depending on programs implemented.
3. County Health Services Department provides a broad range of programs, including programs and facilities within MDHCD boundaries.
4. Contra Costa Health Services Department has extensive professional and support staff resources, and established public accountability and public access mechanisms.

#### *Disadvantages*

1. Loss of representation by locally-elected board.
2. Involves creating a zone within CSA EM-1 to assure that property taxes continue to be collected from the MDHCD boundaries and directed to health care needs within the area.
3. May require resolution by affected cities approving of the creation of the zone and implementation of additional services by the CSA within their boundaries. CSA law allows for the creation of a zone to provide new and/or enhanced services.
4. If a city opts out of the CSA zone, for example the City of Concord, the CSA zone could experience a significant loss of future property tax increment. However, it appears likely that community support would exist for continuation of the use of property taxes for health care purposes in the area.

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[28] Communication between Pat Frost, Pat Frost, Director, Emergency Medical Services Contra Costa Health Services, and Lou Ann Texiera, Contra Costa LAFCO, 12/29/11.

# 7. REFERENCES

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Fact Sheet for the Community Health Fund, John Muir/Mt. Diablo Community Health Fund, 10/25/11.

Larkin, Roy, MDHCD Secretary/Treasurer, e-mail transmittal received by EPS 10/21/11.

Taylor, Margaret, California's Health Care Districts, April 2006.

# 8. ACRONYMS AND ABBREVIATIONS

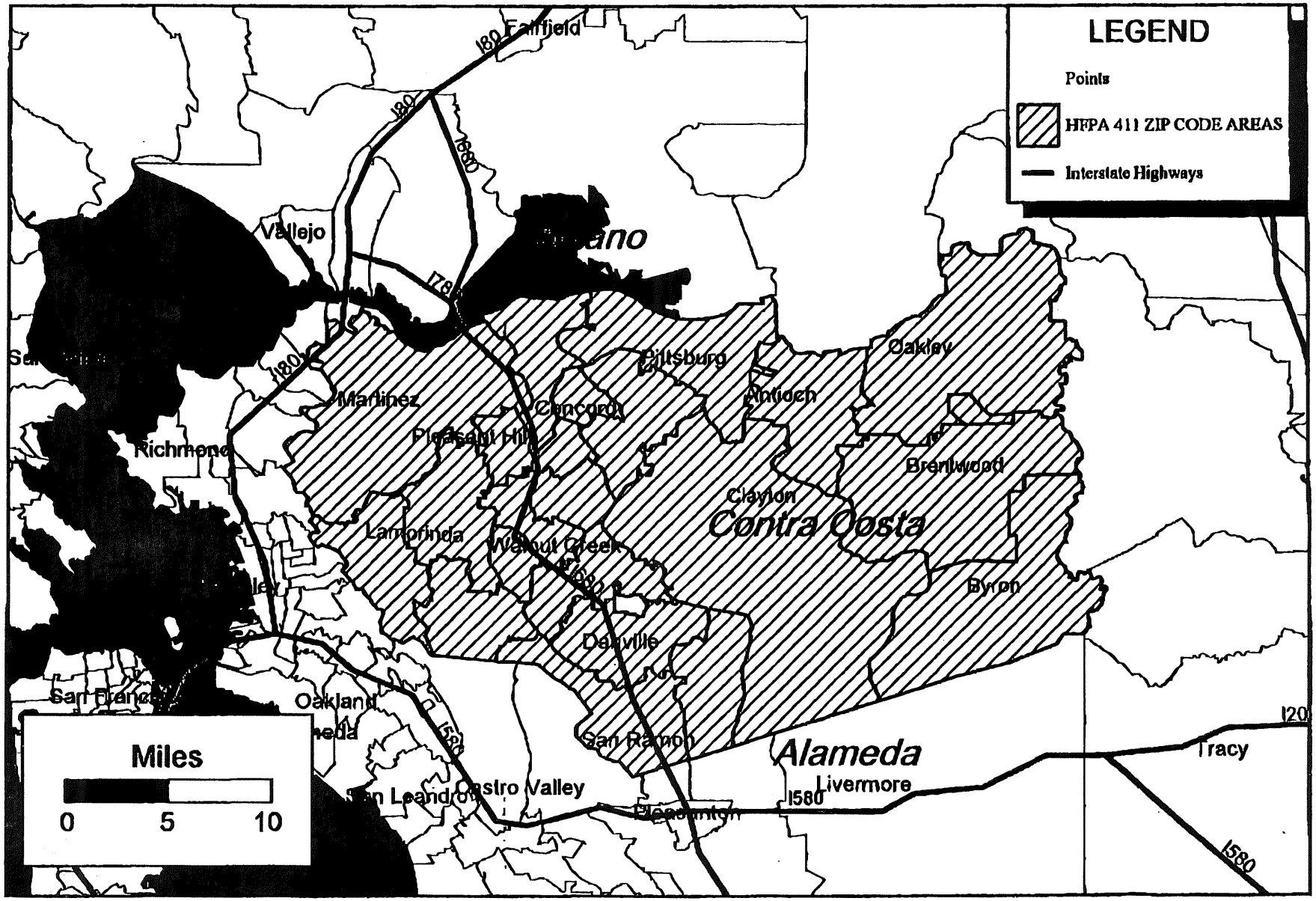
| | |
|---|---|
| ACHD | Association of California Healthcare Districts |
| CHF | Community Health Fund |
| CKH | Cortese-Knox-Herzberg Local Government Reorganization Act of 2000 |
| CBA | Community Benefit Agreement |
| CSA | County Service Area |
| GC | Government Code |
| HSC | Health and Safety Code |
| JMH | John Muir Health |
| LMCHD | Los Medanos Community Healthcare District |
| MDHCD | Mt. Diablo Health Care District |
| MSR | Municipal Service Review |
| TRA | Tax Rate Area |

# APPENDIX A

Map of CHF Service Area
(Exhibit C to JMH Bylaws, Section 5.6)

# Health Facilities Planning Area 411

## (Includes Concord, Danville/San Ramon, East County, Lamorinda, Martinez, and Walnut Creek Planning Zones)



# APPENDIX B

# Applicable Laws

**GC §57302 (Dissolution or Consolidation)**. Allows the Commission to impose terms and conditions on any change of organization pursuant to §56886. If there is a conflict, terms and conditions imposed under §56886 preempt other portions of CKH dealing with changes of organization.

**GC §56886 (Terms and Conditions)**. Specifies the terms and conditions that the Commission may impose include the following:

(i) The disposition, transfer, or division of any moneys or funds including cash on hand and monies due but uncollected, and any other obligations;

(m) The designation of a city, county, or district as the successor to any local agency that is extinguished as result of any change of organization or reorganization, for the purpose of succeeding to all the rights, duties, and obligations of the extinguished local agency with respect to the enforcement, performance or payment of any outstanding bonds, including revenue bonds, or other contracts and obligations of the extinguished local agency.

(r) The continuation or provision of any service provided at that time, or previously authorized to be provided by an official act of the local agency;

(t) The extension or continuation of any previously authorized charge, fee, assessment, or tax by the local agency or a successor local agency in the affected territory;

(v) Any other matters necessary or incidental to any of the terms and conditions specified in this section.

**GC §57451 (Dissolution)** For the purpose of winding up the affairs of a dissolved district, the successor of the dissolved district shall be determined as follows:

(c) If the territory of a dissolved district is located in the incorporated territory of more than one city or the unincorporated territory of more than one county, or any combination of the incorporated or unincorporated territory of two or more such cities and counties, the successor is that city whose incorporated territory or that county whose unincorporated territory shall, upon the effective date of dissolution, contain the greater assessed value of all taxable property within the territory of the dissolved district, as shown on the last equalized assessment roll or rolls.

(d) If the terms and conditions provide that all of the remaining assets of a dissolved district shall be distributed to a single existing district, the single existing district is the successor.

**GC §57452 (Dissolution)** Upon the effective date of dissolution, control over all the moneys or funds, including cash on hand and moneys due but uncollected, and all property, real or personal, of the dissolved district is vested in the successor for the purpose of winding up the affairs of the district.

**GC §56375 (LAFCO Powers and Duties)** The Commission may initiate certain actions including district consolidations and dissolutions.

**GC §56375.5 (Consistency with SOI).** LAFCO actions must be consistent with the sphere of influence.

**GC §56378 (Authorization for LAFCO to Initiate a Special Study)** Provides LAFCO's authority to initiate special studies and contents of such studies.

**GC §57077 (LAFCO Actions and Elections)** Authorizes LAFCO to order a change of organization or reorganization without an election.

**GC §57102 (Resolution Ordering Dissolution and Making Findings**) Specifies findings the Commission must make in a dissolution proceeding.

**GC §56131.5 (Notification of State Agencies)** – Requires that LAFCO notify specific State agencies regarding LAFCO actions involving health care districts, and provides a 60 comment period to State agencies.

**GC §57008 (Protest Hearing in Affected Territory)** - For LAFCO initiated proposals, requires LAFCO to hold the protest hearing in the affected territory.

**GC §57105 (Subsidiary Districts)** - An order establishing a district of limited powers as a subsidiary district may be adopted if upon the date of that order the commission determines that either of the following situations exists:

(a) The entire territory of the district is included within the boundaries of a city.

(b) A portion or portions of the territory of the district are included within the boundaries of a city and that portion or portions meet both of the following requirements:

> (1) Represent 70 percent or more of the area of land within the district, as determined by reference to the statements and the maps or plats filed pursuant to Chapter 8 (commencing with Section 54900) of Division 2 of Title 5 for the current fiscal year.
>
> (2) Contain 70 percent or more of the number of registered voters who reside within the district as shown on the voters' register in the office of the county clerk or registrar of voters.

**GC §25210 – 25217.4 - County Service Area (CSA) Law**

**GC §25217 (a) (CSA Zones)** – The Board of Supervisors may form zones within CSAs whenever the board determines that it is in the public interest to provide different authorized services, provide different levels of service, provide different authorized facilities, or raise additional revenues within specific areas of a CSA.

# APPENDIX C

# Response to Comments
# Special Study: MDHCD Governance Options
# Draft Report (12/2/11)

1. ACHD dated 12/7/11
2. Pat Frost, County EMS (email)
3. Contra Costa County Chapter Grand Jury dated 12/9/11
4. Carl Hutchins dated 12/11/11
5. Bob Campbell, County Auditor 12/12/11 (**no attachment; verbal corrections only**)
6. Michele Sheehan dated 12/12/11
7. Davis L. Todhunter dated 12/12/19
8. MDHCD dated 12/13/11
9. Alan Smith dated 12/13/11 (email)
10. Kay Ready dated 12/13/11 (email)
11. Erma Abelarde dated 12/19/11
12. Wanda M. Peets dated 12/19/11
13. City of Concord dated 12/22/11
14. Edi Birsan dated 12/24/11 (email)
15. Joan Weber dated 12/26/11 (email)
16. Linda Waters dated 12/27/11 (email)
17. Doug Dildine dated 12/27/11
18. John Muir Health dated 12/27/11
19. Claire Yragui – NorCal Transition Services dated 12/27/11 (email)
20. Doug Stewart – Pacheco/MTZ Homeless Outreach dated 12/27/11 (email)
21. Eric Stern – Regional Center of the East Bay dated 12/27/11 (email)
22. Maureen Shea dated 12/27/11 (email)
23. MDHCD dated 12/27/11
24. Rudy Jaime dated 12/27/11 (received by email 12/28/11)
25. Kris Hunt dated 12/27/11

Note: the following responses focus on those comments that are directly relevant to the Special Study process. Comments have been restated for brevity; the reader is referred to the original documents for complete context, and other general comments and opinions expressed by the commenter.

### 1. ACHD dated 12/7/11

**1a. Comment**: The MDHCD now has a fully constituted board, reduced the costs of health benefits, and hired an interim Executive Director for three months to develop a business plan; the MDHCD should be allowed the opportunity to develop and implement the plan.

**1a. Response**: Comment acknowledged. The Study recognizes that the current Board has taken steps to remediate past issues, although the problem of limited resources against high overhead costs remains.

### 2. Pat Frost, County EMS (email)

2a. Comment: The Study's discussion of the CPR program on pg. 15 and pg. 19 should be corrected and expanded. Table 2 should be revised to clarify the role of Health Services vs. EM-1. The discussion of CSA-EM1 services should be expanded. The Study should clarify that some staff increase may be necessary if EM-1 becomes successor, depending on programs implemented.

2a. Response: The report has been revised to be consistent with the comments.

### 3. Contra Costa County Chapter Grand Jury dated 12/9/11

**3a. Comment**: The Study's findings do not differ materially from four prior Grand Jury reports regarding the minimal health care benefits provided by the MDHCD, small expenditures inconsistent with the district's mission and out of proportion to its administrative overhead. The MDHCD should be dissolved.

**3a. Response**: Comment acknowledged.

### 4. Carl Hutchins dated 12/11/11

**4a. Comment**: Dissolve the MDHCD and stop further expenditure of tax money.

**4a. Response**: Comment acknowledged.

### 5. Bob Campbell, County Auditor 12/12/11 (verbal)

**5a. Comment**: The Study's discussion of property taxes should be revised to clarify that the MDHCD base property taxes are allocated on a Countywide level, although increases and decreases are based on changes at the local Tax Rate Area level.

**5b. Response**: The Study has been edited accordingly.

### 6. Michele Sheehan dated 12/12/11

**6a. Comment**: Dissolve the District.

**6a. Response**: Comment acknowledged.

**7. Davis L. Todhunter dated 12/12/19**

**7a. Comment**: Dissolve the MDHCD and stop further expenditure of tax money.

**7a. Response**: Comment acknowledged.

**8. MDHCD dated 12/13/11**

**8a. Comment**: The Study is incomplete because it does not include interviews with MDHCD board members, explanation from the District of its governance challenges or financial plans, or information about new programs and services implemented in as soon as 60 days. The MDHCD will provide the information required for a complete report.

**8a. Response**: Please see responses to MDHCD comment #23.

**8b. Comment**: The Draft Study does not present or reference the standards and procedures that will be used in evaluating the Study.

**8b. Response**: The Draft Study includes references to requirements established by State law for the LAFCO dissolution process and for findings and content of a Special Study. The commentor is referred to Appendix B for a summary of applicable statutes.

**9. Alan Smith dated 12/13/11 (email) Comment:**

**9a. Comment**: Dissolve the MDHCD. The tax on our house should be discontinued. If that is not possible it should be shifted to support the County hospital.

**9a. Response**: Comment acknowledged. If the MDHCD is dissolved with no successor to continue services, all taxing entities including the County will gain a small share of the current MDHCD taxes. If there is an ongoing successor, the MDHCD share of taxes will be directed to health care purposes by the successor entity. In any case, there will be no impact on an individual taxpayer's tax rate.

**10. Kay Ready dated 12/13/11 (email)**

**10a. Comment**: What more documentation is needed by LAFCO to shut down the MDHCD?

**10a. Response**: As described in the Study, LAFCO is required by law to base its decisions on the findings of a Municipal Service Review, a sphere of influence update or a Special Study.

**11. Erma Abelarde dated 12/19/11**

**11a. Comment**: Do not take away my ability to vote for the directors of the MDHCD. The hiring of an attorney and Executive Director is done by all public agencies. Leave the District alone so it can concentrate on serving the community.

**11a. Response**: Comment acknowledged. The Study identifies the high administrative costs, which include not only legal fees and ED costs, but also election and other overhead costs relative to the limited revenues available as a primary issue.

**12. Wanda M. Peets dated 12/19/11**

**12a. Comment**: Dissolve the MDHCD. No replacement agency need be formed. Its property taxes should be allocated to Contra Costa Emergency Services or divided among other public agencies.

**12b. Response**: Comment acknowledged. No new agency will be formed. The Study recommends that a zone of CSA-EM1, which is under the direction of Contra Costa Emergency Services, become the successor and use MDHCD revenues for health care purposes within the zone.

**13. City of Concord dated 12/22/11**

**13a. Comment**: The assessed values of the City of Martinez should not be considered, as these areas do not contribute tax revenues to MDHCD. Those portions of Unincorporated Area not contributing to MDHCD should also be excluded.

**13a. Response**: The Study specifically indicates that at the present time, areas such as Martinez do not contribute incremental increases (or decreases) to the MDHCD property tax. Property taxes are allocated to MDHCD as a share of Countywide property taxes; the MDHCD share is partly dependent on incremental taxes, but also includes a base amount which cannot be allocated to specific areas without a detailed audit, by tax rate area, of annual property tax collections and allocations prior to 1979 (implementation of Prop. 13) through the present.

GC §57451 specifically references assessed value as one measure for determining the successor agency for the purpose of winding up the affairs of MDHCD; this is the purpose for inclusion of assessed values in **Table 3**. Assessed value is also relevant to protest proceedings which are discussed in the Report. No other discussion of potential options references assessed value.

Statutes relevant to the Study do not specify that property taxes collections are a relevant consideration for any of the options considered.

The Study (Table 6 and page 32) does indicate that future incremental property taxes could be reduced for the CSA EM-1 option (for continuation of services) if a city opts out, e.g., the City of Concord. There are no other references to property taxes in the evaluation of options.

Additional text has been added to the Study to help clarify issues related to exclusion of areas from the current MDHCD boundaries.

**13b. Comment**: The report incorrectly concludes that the City of Concord could not be named a successor agency for the purpose of continuation of MDHCD services, and fails to adequately consider the ability of the City of Concord to form a subsidiary district for Health Care services.

**13b. Response**: The Study concludes that a subsidiary district could not be formed for the purpose of taking over the functions of the MDHCD, which would include the allocation of MDHCD property taxes, as well as its current services and responsibilities, pursuant to GC §57105 which requires that the MDHCD be entirely contained within a

city, or that the city contain both 70 percent of the land area and 70 percent of the registered voters. The action would require that the current area of the MDHCD be reduced in order for the City to meet the population and area requirements.

It is correct, however, that the City of Concord could submit an application to LAFCO to form a subsidiary district. However, this subsidiary district would not be able to take over the MDHCD property tax allocation or service responsibilities as noted above unless the subsidiary district contains both 70 percent of the land area and 70 percent of the registered voters, thereby requiring that the subsidiary district include territory outside of the city boundaries.

**13c. Comment**: The report fails to address the potential transfer of the John Muir Medical Center, Concord facilities, as provided for in the Community Benefit Agreement (CBA) between the MDHCD and John Muir Health (JMH).

**13c. Response**: The Study does state that the terms of the current CBA would transfer to the successor providing continuing service. The comment raises a potential issue which is independent of which option is selected, including the status quo; namely, that the CBA provides for termination and reversion of assets as early as December 31, 2049. The Study assumes that any successor would be entitled to attempt to renegotiate the terms of the CBA, just as the MDHCD could attempt to renegotiate the terms under the status quo. The Study did not evaluate the merits or potential issues inherent in the current CBA.

**13d. Comment**: The report improperly concludes that the City would not fully represent the interests of all current MDHCD residents with respect to the CBA.

**13d. Response**: The Study concluded that the City of Concord "would not necessarily represent the interest of all current MDHCD residents" is based on the fact that the City's population represents less than 60 percent of the MDHCD population. Approximately 53 percent of the patients at the JMH Concord campus reside in Central County, and the balance come from other areas in the County.

**13e. Comment**: The City of Concord, rather then CSA EM-1, should be designated as the successor agency to MDHCD.

**13e. Response**: Please see response to comment #14a.

**13f. Comment**: As a condition of the dissolution, the CBA with JMH should be redrafted, replacing MDHCD with the City of Concord, and assigning oversight of its provisions to the City of Concord.

**13f. Response**: LAFCO does not have the authority to redraft terms of an existing agreement, nor compel future parties to redraft terms. The Study does identify issues that future signators to the CBA should revisit for the benefit of the community, including increasing the amount of advance notice required for termination from the current 180 days, to mitigate potential adverse impacts of disinvestment in facilities due to protracted uncertainty regarding potential termination.

**13g**. **Comment**: As a condition of dissolution, the CBA should eliminate any provisions which would cause the Concord facilities (land and buildings) to be transferred back to any successor entity.

**13g**. **Response**: Please see response to comment 13f. The Study does not recommend that the termination provision be eliminated, since that would be contrary to the intent of the MDHCD when the CBA was written and signed by the MDHCD and JMH, and would eliminate the ability to regain public control of the hospital facilities in the event that JMH fails to continue to provide its current high level of services. Nonetheless, the current and future signators to the CBA can revisit CBA terms at any point.

**13h**. **Comment**: As a condition of the dissolution, the CBA should designate 3 of the 5 seats previously appointed by MDHCD on the Community Health Fund for appointment by the City of Concord.

**13h**. **Response**: Please see response to comment 13f. The Study recommends that LAFCO require that CSA EM-1's advisory board for the new zone include representation from various areas within the MDHCD. One option would be to consider that the representation be proportionate to population. A similar composition could apply to the terms of the CBA, to be revisited by the current or future signators to the CBA.

## 14. Edi Birsan dated 12/24/11 (email and attached article)

**14a. Comment:** Martinez should be removed from the District since it is not paying into the district.

**14a. Response**: Please refer to response to comment #13a.

**14b**. **Comment**: The City of Concord should be the successor agency.

**14b. Response**: Please refer to response to comment #13b.

**14c. Comment**: Most of LAFCO's members "just got there", which is not justification for the failure of LAFCO to take corrective action (other than the current dissolution consideration).

**14c. Response**: Most of the Commissioners are experienced LAFCO members, with six Commissioners with over 10 years on Contra Costa LAFCO.

**14d. Comment**: LAFCO lacks the tools to force district changes, other than the ability to dissolve a district.

**14d. Response**: LAFCOs were formed to 1) encourage the logical and orderly formation of local government agencies, 2) preserve agricultural resources, and 3) discourage urban sprawl. LAFCO's authority involves regulating boundary changes, establishing spheres of influence (SOIs), authorizing the extension for services outside a local agency's jurisdictional boundaries, initiating certain governance changes (i.e., consolidation, dissolution, merger, creating subsidiary districts), and conducting municipal service reviews (MSRs). Through the MSR process, as well as the Special Study process, LAFCO is able to review a number of factors, including district efficiency

and effectiveness, and take actions that it is authorized by law to take to address identified problems.

LAFCO also has a "tool box" of terms and conditions it can impose on a change of organization or reorganization as contained in Gov. Code Section 56886 and other sections of the Cortese-Knox-Hertzberg Act (Gov. Code Section 56000 et seq.). Terms and conditions cover a range of issues including jurisdictional issues, provision of service, mitigation of service impacts, transferring authority for charges, taxes and assessments, etc.

LAFCO does not manage districts, nor does it set policy or get involved in the day-to-day operations of cities and districts.

**14e. Comment**: Appointment of CSA EM-1 as successor does not solve the problem that any successor agency can make erroneous decisions.

**14e. Response**: This is correct, any successor agency, whether it is EM-1 or a city, can be prone to erroneous decisions.

**14f. Comment**: Appointment of CSA EM-1 does not correct any MDHCD issues, does not preserve good aspects of the CBA, and it opens up possibilities of abuse of funds and diversion of funds to uses that were not the intent of the Concord residents.

**14f. Response**: CSA EM-1 will reduce the use of funds for overhead, including eliminating election costs, as noted by the commentor. The City of Martinez was added to the MDHCD in 1956; it is expected that the original intent was to add taxpayers for the purpose of funding hospital construction. The JMH Concord campus is a regional facility serving more than just Concord residents. Approximately 53 percent of JMH Concord patients are residents of central county, and the balance come from other areas of the County.

**14g. Comment**: One reason for dissolution is that election costs are out of line with the revenue of the District.

**14g. Response**: Election costs are included as administrative costs, which historically have consumed a significant share of revenues, as noted in the Study. See also response to 14a above.

**14h. Comment**: The following issues are not reasons that support dissolution: 1) most of the money spent by the district was on administration and health care benefits; 2) until this year, the MDHCD did not spend significant money on health care issues; 3) MDHCD was non-reactive to the issues of 4 Grand Jury complaints.

**14h. Response**: Excessive expenditures for overhead and lack of spending on health care, which is the purpose and mission of MDHCD, are factors that the Study, as well as the prior MSR, consider in evaluating the District and whether dissolution is supported.

**14i**. **Comment**: The commentor proposes a number of actions, including designation of membership in a “Charity Health Board” and “Health Commission”.

**14i**. **Response**: LAFCO does not have the authority to create either of the entities noted and assign tax revenues and responsibilities, nor does LAFCO have the authority to limit expenditures on administration to 10% for those entities or for any other public entity.

**15. Joan Weber dated 12/26/11 (email)**

**15a. Comment**: The successor agency would not represent the taxpayers' interest as well as the MDHCD in monitoring the CBA or accepting any assets reverted pursuant to the agreement.

**15a. Response**: The Draft Study recommends that an advisory board be created to help monitor the terms of the CBA. This board should be comprised of representatives from the current MDHCD service area and could include city representatives and/or elected officials.

**15b. Comment**: Responsibility for appointments to the CHF would be taken from MDHCD and possibly jeopardize the CHF existence.

**15b. Response**: The Study recommends that the successor agency be responsible for the CBA and for appointments to the CHF. The appointments could mirror the advisory board.

**15c. Comment**: Despite oversight by an advisory board, it could become a political issue. I am against dissolution.

**15c. Response**: Comment Acknowledged.

**16. Linda Waters dated 12/27/11 (email)**

**16a. Comment**: I agree that MDHCD should be dissolved with CSA EM-1 appointed as successor.

**16a. Response**: Comment acknowledged.

**17. Doug Dildine dated 12/27/11**

**17a. Comment**: Dissolution is premature because neither the City of Concord nor the "ambulance company" are interested in or able to become the successor. The report does not address MDHCD's reorganization plan.

**17a. Response**: Both the City of Concord and the County Emergency Services, which provides a range of health services as described in the Study, have expressed willingness and ability to act as successor. As of the date of the Study and revisions to the Study, no plan had yet been prepared by the MDHCD; the interim executive director has just recently been hired for a three month period to develop a Plan.

**18. John Muir Health dated 12/27/11**

**18a. Comment**: Regardless of the District's future, John Muir Health will continue to honor its commitment under the CBA to the Community Health Fund to provide at least $1 million annually to be used for community grants.

**18a. Response**: Comment acknowledged.

**18b. Comment**: John Muir Health will continue to abide by the terms of the merger agreement and work cooperatively with the District or its successor.

**18b. Response**: Comment acknowledged.

**18c. Comment**: John Muir Health requests the opportunity to provide input on the potential terms and conditions to be placed on any change of organization, especially insofar as they affect the CBA.

**18c. Response**: Comment acknowledged.

**19. Claire Yragui – NorCal Transition Services dated 12/27/11 (email)**

**19a. Comment**: The MDHCD should not be dissolved.

**19a. Response**: Comment acknowledged.

**19b. Comment**: The Study stated that the City of Concord was a less desirable successor since it represented only 59 percent of the total MDHCD population.

**19b. Response**: Population is one factor in considering a successor. The primary issue is that the City of Concord cannot form a subsidiary district to become successor to MDHCD property taxes, services and responsibilities for ongoing services because under State law a subsidiary district cannot be formed from a district if the city represents less than 70 percent of the land area and less than 70 percent of the registered voters of the current district, which is the case.

**19c. Comment**: The Study is lacking in detail and the alternatives were lacking as well.

**19c. Response**: The current comment period provides the opportunity for the public to raise questions and to make comments. The Study will be revised to the extent possible to address specific issues raised.

**20. Doug Stewart – Pacheco/MTZ Homeless Outreach dated 12/27/11 (email)**

**20a. Comment**: Keep funding alive for Norcal Transitions.

**20a. Response**: Comment acknowledged.

**21. Eric Stern – Regional Center of the East Bay dated 12/27/11 (email)**

**21a. Comment**: MDHCD should not be dissolved, as one of the programs they fund, NorcalTransitions, provides vital support to people with disabilities.

**21a. Response**: Comment acknowledged.

**22. Maureen** Shea dated 12/27/11 (email)

**22a. Comment**: MDHCD should not be dissolved, as one of the programs they fund, Northern California Transition, has been a Godsend for my son, who has significant learning disabilities.

**22a. Response**: Comment acknowledged.

## 23. MDHCD dated 12/27/11

**23a. Comment**: CSA EM-1 does not and likely would not provide adequate public access to services needed by people living in the district, particularly the elderly.

**23a. Response**: EM-1 currently provides a range of services to the community as described in the Study, and is in partnership with MDHCD including programs specific to the elderly, such as Child and Senior Injury Prevention Programs, and working with senior nursing facilities and clinics to support and promote disaster preparedness. Other program partnerships with MDHCD which likely would be continued include: CPR-How to Save a Life Program in MDHCD Schools; Placement of Public Access Defibrillators (AEDs) in community locations throughout the MDHCD service area; "CPR at Home" Parties; Public Awareness campaigns. These programs could be expanded and augmented with other service priorities to address other specific needs in the community.

**23b. Comment**: The Advisory Board to the CSA EM-1 zone would not be elected or required to live in the zone.

**23b. Response**: The Advisory Board could include elected representatives, for example, “ex officio” members including city council members of cities within the zone.

**23c. Comment**: The Study states that CSA EM-1 would be able to provide services without any significant increase in current costs. What services would be provided and at what costs, and would the transfer be accompanied by a reduction in funding from the County? Would CSA EM-1 assume liability for MDHCD’s health insurance costs (referred to as “health care” in the comment)?

**23c. Response**: Please also refer to the response to comment #23a. County EMS has provided preliminary estimates that 0.5 to 0.8 staff position may be required, depending on the level and type of services provided. This staffing translates to a cost of approximately $40,000 to $60,000 annually. County EMS indicated that, without continuation of funding, current programs funded by and in collaboration with MDHCD would be discontinued. Additional programs funded by the new EM-1 zone would be required by law to be “supplemental” to existing County programs and limited to the benefit of the zone. CSA EM-1 would assume liability for the lifetime health benefits of the two MDHCD Board members, and would utilize reserves and/or property tax transferred from MDHCD to fund this liability.

**23d. Comment**: The City of Martinez does not contribute to the support of the MDHCD tax base and should be excluded from the calculation regarding appropriate successor.

**23d. Response**: Please refer to the response to comment #13a.

**23e. Comment**: The Draft Study references no contact from the consultant seeking any substantive contact with the MDHCD Board of Directors.

**23e. Response**: After initially contacting one member of the Board of Directors, the Consultant was informed that the Consultant was not to contact board members, but was to direct inquiries to the MDHCD attorney. In order to gain information in a timely manner, the Consultant subsequently directed inquiries to the MDHCD office secretary to forward to the MDHCD attorney and any other relevant parties for reply.

**23f. Comment**: 2011 projected expenditures differ from the report. Ongoing administrative costs will be included in 2012 budget to be approved on January 5th and presented to LAFCO at the November 11th hearing. The Interim ED position is for three months and will be at an hourly rate if services are required after three months.

**23f. Response**: The Final Draft Report will utilize MDHCD information currently available to update the budget numbers provided when the Draft Report was prepared.

**23g. Comment**: The Study includes legal fees in the category of Overhead and Administration, which suggests that the fees were not expended in the public interest. Excluding the fees changes the percent spent on Community Action from 26 percent to 43 percent after including the costs of litigation with other Community Action expenditures

**23g. Response**: The Study indicated that extraordinary expenditures in 2001 and 2002 were for legal fees, and that the category of Overhead and Administration included legal fees. The Final Draft Report will be revised to clarify that those fees were expended for litigation in furtherance of the mission of the MDHCD.

**23h. Comment**: The Draft Study does not address the disparity between the $250,000 property tax received by MDHCD and larger amounts received by other health care districts in Contra Costa County.

**23h. Response**: The property taxes received by health care districts varies depending on numerous factors, including the size and taxable value within the districts, the initial property tax allocations to each district following the implementation of Prop. 13, subsequent tax allocations and allocation factors, annexations or detachments to the districts, and property tax sharing arrangements with the County. The Study has not audited MDHCD property taxes and tax allocations.

**24. Rudy Jaime dated 12/27/11 (received by email 12/28/11)**

**24a. Comment**: The findings of the Study are repetitious of the last Grand Jury report, as if they were copied and pasted.

**24a. Response**: The Study cites the Grand Jury reports and briefly summarizes their general findings along with other relevant studies in Chapter 5; the findings of the Study were arrived based upon an independent analysis of available information, and does not rely on information or analysis contained in the Grand Jury reports.

**24b. Comment**: MDHCD should be allowed to continue and report to LAFCO. No other entity could fulfill the objectives of the MDHCD.

**24b. Response**: Comment acknowledged. The Study identifies options which could fulfill the objectives of the MDHCD.

**25. Kris Hunt dated 12/27/11**

**25a. Comment**: Dissolution and appointment of CSA EM-1 as successor may require additional expenses that may not be minimal, as indicated by the Study. A more realistic assessment is needed.

**25a. Response**: The Draft Study will be revised to include additional information about potential costs to EM-1 as successor.

**25b**. **Comment**: "Dissolution with appointment of successor only for the purpose of winding up MDHCD affairs" has the advantage of keeping the taxes in the area where they are collected and contributes to the welfare of the remaining entities.

**25b**. **Response**: Dissolution without a successor will increase tax revenues to all County entities by redistributing the MDHCD property tax apportionment. Over time, those entities that shared Tax Rate Areas with MDHCD will realize a greater share of increased taxes since MCHCD will no longer retain incremental growth in property taxes in those areas.