

FOR THE

AMENDED AND RESTATED

as of

_____, 2023

SECOND AMENDED AND RESTATED JOINT POWERS AGREEMENT FOR
THE SAN FRANCISQUITO CREEK JOINT POWERS AUTHORITY
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**SECOND AMENDED AND RESTATED JOINT POWERS AGREEMENT
FOR THE SAN FRANCISQUITO CREEK JOINT POWERS AUTHORITY**

This Second Amended and Restated Agreement Joint Powers Agreement for the San Francisquito Creek Joint Powers Authority (“Agreement”) is made by and among the City of East Palo Alto, the City of Menlo Park, the City of Palo Alto, the ~~City of East Palo Alto, the Santa Clara Valley Water District, and the~~ San Mateo County Flood and Sea Level Rise Resiliency District ~~(“~~, and ~~the Santa Clara Valley Water District~~ (each a Member Entity and collectively, the Member Entities”), all of which are public entities organized and operating under the laws of the State of California, and each of which is a public agency as defined in California Government Code section 6500. This Agreement is effective upon full execution by all Member Entities (Effective Date).

RECITALS

A. The Joint Exercise of Powers Act, ~~being~~ Government Code sections 6500 et seq. (~~the “JPA Law”~~), permits two or more local public entities by agreement to jointly exercise any power common to them.

B. Following years of effort to address environmental and flooding concerns related to the watershed and floodplain of San Francisquito Creek (encompassing approximately 50 square miles from the Santa Cruz Mountains to San Francisco Bay), and soon after the flood of record in 1998 damaged approximately 1,700 properties, the Member Entities established the San Francisquito Creek Joint Powers Authority (Authority) pursuant to that certain “Joint ~~Exercise Powers~~ Agreement Creating the San Francisquito Creek Joint Powers Authority,” dated as of May 18, 1999, to collectively contribute resources and implement policies and projects of mutual interest relating to the primary natural features that unite them, including the San Francisquito Creek ~~(“Creek”)~~.

C. The Joint Powers Agreement Creating the San Francisquito Creek Joint Powers Authority, dated as of May 18, 1999, was thereafter revised pursuant to the Joint Powers Agreement for the San Francisquito Creek Joint Powers Authority, Amended and Restated as of January 1, 2020.

D. Each Member Entity agrees to contribute resources and funding towards implementation of projects of mutual interest and benefit relating to San Francisquito Creek and San Francisco Bay shoreline.

~~C.E.~~ The governing body of each Member Entity has determined that it is in the Member Entity’s best interest and in the public interest that this Second Amended and Restated Joint Powers Agreement for the San Francisquito Creek Joint Powers Authority be executed to make minor procedural updates, including the change on January 1, 2020 of the San Mateo County Flood Control District to the San Mateo County Flood and Sea Level Rise Resiliency District.

NOW, THEREFORE, the Member Entities, by, between and among themselves, in

consideration of the mutual benefits, promises, and agreements set forth below, hereby agree as follows:

~~1. CREATION OF THE SAN FRANCISQUITO CREEK JOINT POWERS AUTHORITY.~~

1. Creation of the San Francisquito Creek Joint Powers Authority

Pursuant to the JPA Law, the Member Entities create a public agency, separate and apart from the Member Entities to be known as the San Francisquito Creek Joint Powers Authority (~~the~~ “Authority”). Pursuant to Government Code section 6508.1, the debts, liabilities, and obligations of the Authority shall not constitute debts, liabilities, or obligations of any party to this Agreement. A Member Entity may separately contract for or assume responsibility for specific debts, liabilities, or obligations of the Authority. For purposes of, and to the extent required by, Government Code section 6509, in exercising its powers, the Authority shall be subject to the restrictions upon the manner of exercising the powers of the City of Menlo Park,

except as otherwise authorized or permitted by the JPA Law.

2. Purposes

~~2. PURPOSES.~~ This Agreement is entered into by Member Entities under the JPA Law for the following purposes:

~~a. — To facilitate and perform bank stabilization, channel clearing and other Creek maintenance.~~

~~b. To plan flood control measures for the~~

~~a. Develop and maintain projects to reduce the risk of flooding in and around San Francisquito Creek watershed.~~

~~b. Develop and maintain projects to reduce the risk of coastal flooding from along the San Francisco Bay shoreline.~~

~~e.a. To take actions necessary to preserve and enhance environmental values and instream uses of San Francisquito Creek. Maintain, restore, enhance the environment, and create recreational opportunities, where possible, in implementing the other purposes stated herein.~~

~~d.b. To coordinate emergency mitigation and response activities relating to San Francisquito Creek. Provide regional information related to flood preparedness and emergency response agencies and others to enhance their ability to communicate about and respond to flood risks.~~

~~e. To make recommendations to Member Entities for funding and alternatives for long term flood control for Member Entity consideration. Secure and administer funding for the benefit of the Authority's operations, capital projects, and related work.~~

3. PARTIES TO AGREEMENT.

~~c. Each Member Entity certifies that it intends to and does contract with every other Member Entity which is a signatory to this Agreement. Each Member Entity also certifies that the deletion~~

3. Parties to Agreement

Withdrawal or expulsion of any Member Entity from this Agreement does not affect this Agreement nor each Member Entity's intent to contract with the Member Entities then remaining. Pursuant to Assembly Bill 825 (Chapter 292, Statutes of 2019), which amended the San Mateo County Flood Control District Act to provide for the San Mateo County Flood and Sea Level Rise Resiliency District, the Member Entities agree that the San Mateo County Flood and Sea Level Rise Resiliency District (OneShoreline) is the entity formerly known as the San Mateo County Flood Control District, and as such is subject to the terms and conditions of this Agreement.

4. TERM OF AGREEMENT.

4. Term of Agreement

This Agreement ~~became effective as of May 18, 1999 and~~ continues in full force until terminated in accordance with ~~Paragraph 18~~paragraph 17. ~~(Termination and Distribution).~~

5. POWERS OF THE AUTHORITY.

5. Powers of the Authority

The Authority shall have all powers common to the Member Entities, and such additional powers granted to it by law, necessary to fulfill the purposes of this Agreement. The Authority, through its Board of Directors, is authorized, in its own name and subject to the limitations set forth below, to do all acts necessary to fulfill the purposes of this Agreement referred to in Paragraph paragraph 2. (Purposes) including, but not limited to, each of the following:

- a. Make and enter into contracts;
- b. Incur debts, liabilities, and obligations, provided that no debt, liability, or obligation of the Authority shall be a debt, liability, or obligation of a Member Entity except as separately agreed to by a Member Entity;
- c. Receive contributions and donations of property, funds, services, and other forms of assistance from any source;
 - a. Acquire, hold, and dispose of real property, including, without limitation, the power to convey real property to a Member Entity, as deemed appropriate by the Authority's Board of Directors, and as accepted by the Member Entity, provided, however, that the Authority shall not exercise the power of eminent domain in the jurisdiction of a Member Entity unless the Member Entity adopts a resolution consenting to the Authority's exercise of eminent domain within its jurisdiction.
 - ~~d.b.~~ Sue and be sued in its own name;
 - ~~e.c.~~ Contract with independent consultants and ~~or~~ contractors;
 - ~~f.~~ Receive, collect, and disburse monies;
 - ~~g.d.~~ Carry out other duties as required to accomplish other responsibilities as set forth in this Agreement;
 - ~~e.~~ Hire staff in conformance with an approved operating budget;
 - ~~h.f.~~ Assign, delegate, or contract with a Member Entity or third party to perform any of the Authority's duties ~~of the Board~~ including, but not limited to, acting as administrator for the Authority; and

~~i.~~ Exercise all other powers and carry out other duties as necessary and proper to ~~carry out~~fulfill the provisions of this Agreement.

~~These powers shall be exercised in the manner provided by applicable law and as expressly set forth in this Agreement.~~

~~6. MEMBER ENTITY APPROVALS AND RESPONSIBILITIES.~~Member Entity Approvals and Responsibilities

Each Member Entity has the approval authority, obligations, and responsibilities set forth in this Agreement. ~~No action of the Authority shall be effective or binding unless and until such action has been approved in accordance with Subparagraph “e.” (Action of the Board) of Paragraph 10. (Board Members) by the~~The Member Entities retain the following powers:

- ~~g.~~ The designation of each Member Entity’s Director and alternate as specified in paragraph 9. Board of Directors consistent with a budget;
- ~~h.~~ Approval of an amendment to this Agreement as specified in paragraph 19. Amendments;
- ~~i.~~ Approval of the Member Entity’s funding or other contribution for a capital project as specified in paragraph 7. Capital Project Participation; and
- ~~j.~~ Approval of the Member Entity’s contribution to the annual budget of the Authority as specified in paragraph 12. Operating Budget.

~~6.~~ Capital Project Participation

~~The Authority may approve a contract for a capital project or any discrete phase of a capital project in accordance with the following conditions:~~

- ~~a.~~ The Authority’s Board of Directors has determined that the Authority will have the funds necessary to pay for that capital project or that discrete phase of the project being approved; and
- ~~—~~ Any funding or other contribution from a Member Entity to that capital project or to that discrete phase of the capital project has been approved by independent action of each~~the~~ Member Entity’s governing body.

~~7.~~ PROJECT PARTICIPATION APPROVAL AUTHORITY.

- ~~b.~~ or designee. Each Member EntitiesEntity shall have the right to determine independently whether to participate in any capital improvement project. No capital improvement project shall be approved by the Authority unless and until Member Entities sufficient to fund the project fully have approved the project by independent action of each such funding Member Entity’s governing body.

~~8.7.~~ MEMBERSHIP.Membership

~~New~~ Member Entities may be added to the Authority by amending this Agreement, as described in ~~Paragraph 21~~paragraph 19. (Amendments), and Member Entities may withdraw or be expelled, as described in ~~Paragraph 16~~paragraph 15. (Withdrawal) and ~~Paragraph 17~~paragraph 16. (Expulsion).

~~9.8.~~ BOARD OF DIRECTORS.Board of Directors

~~a.~~ Directors. There shall be a Board of Directors (the “Board”) to govern the
~~a.~~ affairs of the Authority. The Board of Directors shall be comprised of one director, and one alternate director, fromDirector designated by each Member Entity. Each director hasDirector shall have one vote. An alternate director may cast a vote as a member of on the Board of Directors only in the absence of the director from that same Member Entity. Each director andDirector shall have an alternate director shall be a member of the governing body of the Member Entity and shall be designated by ~~its~~the governing body; provided, however, that no of each Member Entity.

~~No~~ two ~~directors~~Directors and no two ~~alternate directors~~Alternate Directors shall be from the same governing body of any Member Entity.

c. **Alternates.** All references in this Agreement to a Director refer to and include the Director's alternate, when acting in place of a Director.

~~b.d.~~ Compensation. Directors ~~and alternate directors~~ are not entitled to compensation by the Authority. The Board of Directors may authorize reimbursement of expenses incurred by Directors in connection with serving as a Director.
~~by directors or alternate directors.~~

e. **Term.** The term of office of a Director shall terminate when such person ceases to be a member of the governing body of the Member Entity or the Member Entity designates another Director and/or alternate to serve.

~~e.f.~~ Powers. The powers of the Board of Directors are each of the powers of the Authority

not specifically reserved to the Member Entities by this Agreement. ~~The Member Entities retain~~No Action of the Authority shall be effective or binding unless and until such action has been authorized by the Board of Directors and either 1) is consistent with the budget approved by the Board of Directors pursuant to paragraph 12. Operating Budget, or 2) complies with paragraph 7. Capital Project Participation.

~~the following powers:~~

~~(1) — The designation of the Board as specified in Subparagraph "a." of Paragraph 9. (Board of Directors);~~

~~(2) — Approval of an amendment to this Agreement as specified in Paragraph 21. (Amendments);~~

(3) — Approval of actions pursuant to Paragraph 6. (Member Entity Approvals and Responsibilities);

(4) — Approval of project participation as specified in paragraph 7. (Project Participation Approval Authority); and

(5) — Approval of the annual budget of the Authority as specified in Paragraph 13. (Budget).

~~10. BOARD MEMBERS.~~

~~a.g.~~ Meetings. The Board of Directors shall hold at least one regular meeting each year, at which time the Board of Directors shall elect its officers ~~as appropriate to comply with Paragraph 11 pursuant to paragraph 10. (Officers).~~ The Board of Directors shall fix the date, hour, and place at which each regular meeting is to be held. To the extent practicable, each Board of Directors meeting shall be held in Northern Santa Clara County or Southern San Mateo County. The Chair presides at all meetings. A special meeting may be called upon written request by the Chair or at least two ~~directors~~ Directors.

~~b.h.~~ Brown Act. Each regular, adjourned regular, or special meeting of the Board of Directors shall be called, noticed, held, and conducted in accordance with the Ralph M. Brown Act

(~~Sections 54950, et seq., of the~~ Government Code §54950, et seq.).

~~e.i.~~ Notices, Agendas, Minutes. The Board of Directors shall appoint or hire a Clerk of the Board of Directors who shall ~~draft~~ be responsible for preparing minutes of each regular and special meeting of the Board, ~~which shall be considered for approval by the Board at a subsequent regular meeting of Directors, and issuing notices and agendas in accordance with the law.~~

~~d.j.~~ Quorum. No business may be transacted by the Board of Directors without a quorum of members of the Board of Directors being present except that less than a quorum may adjourn from time to

time. A quorum consists of a majority of the members of the Board of Directors.

~~e.~~ Action of the Board of Directors. Except as otherwise specified in this Agreement, or required by law, any action of the Board of Directors shall require a vote of a majority of the ~~Board.~~

~~k.~~ 11. OFFICERS Directors.

7. Officers-

~~The officers of the Authority are the Chair, and Vice-Chair, and Secretary.~~

~~a.~~ Election/Term/Duties.

~~b.~~ The officers shall be elected or appointed by the Board of Directors at its first meeting of the calendar year; ~~unless that is~~ delayed by an action of the Board of Directors.

~~c.~~ The term of office for Chair, and Vice-Chair, ~~and Secretary is one year~~ shall be determined by a vote of the Board of Directors. The officers shall assume the duties of their offices upon being elected or appointed, as appropriate.

~~If any of the Chair, or Vice-Chair, or Secretary ceases to be a member of the Board of Directors,~~ the Board of Directors shall elect or appoint a new officer at the next regular meeting of the Board of Directors held after the vacancy occurs.

~~b.~~ Compensation. ~~Officers are not entitled to compensation by the Authority. The Board may authorize reimbursement of expenses incurred by officers.~~

~~c.~~ Appointment/Contract. ~~The Board may appoint such officers and may~~

~~hire or contract with such persons or firms as it considers necessary to carry out the purposes of~~
~~this Agreement.~~

~~12. FISCAL YEAR. The first fiscal year of the Authority is July 1, 1999 through~~
~~d. June 30, 2000.~~

8. Fiscal Year

Each ~~subsequent~~ fiscal year of the Authority shall begin on July 1st of a calendar year and end on June 30th of the next following calendar year.

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9. Operating Budget

a. ~~BUDGET.~~ The Board of Directors shall adopt an annual operating budget, which shall be separate from the budget for any capital project of the Authority's capital projects budget. The operating budget shall include the proposed contribution from each Member Entity for the fiscal year and other sources of income for the fiscal year.

b. The operating budget shall not be effective unless and until the governing body of each Member Entity has approved~~approves~~ that Member Entity's contribution to the operating budget.

c. A Member Entity contributions's contribution shall become immediately due and payable to the Authority upon adoption of the annual operating budget, ~~unless expressly provided otherwise in by the Board of Directors and~~ approval of the Member Entity's contribution to the budget by that Member Entity's governing body.

10. Annual Audit and Audit Reports

~~14. ANNUAL AUDIT AND AUDIT REPORTS.~~ The Board of Directors shall cause an annual financial audit to be made by an independent certified public accountant with respect to all Authority receipts, disbursements, other transactions, and entries into the books. A report of the financial audit shall be filed as a public record with each Member Entity. The audit shall be filed no later than as required by State law. The Authority shall pay the cost of the financial audit from its annual operating budget in the same manner as other administrative costs.

~~15. ESTABLISHMENT AND ADMINISTRATION OF FUNDS.~~

11. Establishment and Administration of Funds

a. Accountability. The Authority is responsible for the strict accountability of all funds and reports of all receipts and disbursements. It shall comply with every provision of law relating to the establishment and administration of funds, particularly Section 6505 of the California in particular Government Code §6505. The funds shall be accounted for on a full accrual basis.

b. Investment/Disbursement. The Authority shall receive and disburse funds only in accordance with policies and procedures established by the Board of Directors and in conformity with applicable law.

c. Insurance/~~Bond~~Bonds. The Authority shall procure, carry and maintain, in full force and effect, at all times during the term of this Agreement, such insurance and bonds to protect the Authority and ~~its members of the~~ Board of Directors, officers, employees, agents, and Member Entities, as deemed appropriate by the Board of Directors.

d. Depository and Auditor Controller. The Board of Directors shall designate one of its officers, employees or a third party to perform all acts required by Government Code Sections §6505 (regarding an annual audit), §6505.1 (regarding charge of and access to property), §6505.5 (regarding the depository and custodian of money), and §6505.6 (regarding independent audit where an officer or employee acts as treasurer, auditor, or both), as such laws are amended from time to time.

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12. Withdrawal

a. ~~WITHDRAWAL.~~ Member Entities may withdraw from the Authority for

subsequent fiscal years by providing written notice to the Authority and each Member Entity on or before May 1 of any fiscal year. Withdrawal shall be effective on July 1 of the next fiscal year. This shall be the exclusive means by which a Member Entity may withdraw from the Authority.

 b. Any Member Entity that withdraws shall remain liable for any budget contributions or capital ~~improvement~~ project participation approved before withdrawal.

 c. Any Member Entity that withdraws shall remain liable for any and all demands, claims, or liabilities of any nature, including death or injury to any person, property damage, or any other loss caused by or arising out of that ~~party~~Member Entity's performance or failure to perform the obligations assumed before the Member Entity withdraws from this Agreement. Any Member Entity that withdraws shall remain subject to the provisions of ~~Paragraph 23. (Liability of the Authority; Release and Indemnity)~~ paragraph 21. Indemnification
 with

respect to any event or occurrence taking place before the Member Entity withdraws.

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13. Expulsion

a. ~~EXPULSION~~ The Authority may expel a Member Entity from the Authority by a four-fifths (4/5) vote of the Authority Board of Directors for a breach of this Agreement determined by the Board of Directors to be a material breach.

b. Any Member Entity that has been expelled pursuant to this paragraph shall have no further liability or obligation pursuant to this Agreement after the effective date of such expulsion; except such Member Entity shall remain liable for any and all demands, claims, or liabilities of any nature, including death or injury to any person, property damage, or any other loss caused by or arising out of that party's performance or failure to perform the obligations assumed before the Member Entity was expelled, including any budget contributions or capital improvement project participation approved before expulsion.

c. Any Member Entity that has been expelled shall remain subject to the provisions of Paragraph 23. (Liability of the Authority; Release and Indemnity) paragraph 21. Indemnification with respect to any event or occurrence taking place before the Member Entity was expelled.

~~18. TERMINATION AND DISTRIBUTION.~~

14. Termination and Distribution

a. Termination. This Agreement shall continue until terminated. This Agreement may be terminated by the written consent of four-fifths (4/5) of the Member Entities; provided, however, this. The Agreement and the Authority shall continue to exist after termination for the purpose of may only be terminated after disposing of all claims, distribution of assets, and performance of all other functions necessary to conclude the obligation obligations and affairs of the Authority.

b. Surplus. In the event that the Authority is terminated, any surplus money on deposit in any fund or account of the Authority shall be returned in proportion to the contributions made as required by Section 6512 of the California Government Code Concluding Affairs.

The Board of Directors is vested with all powers of the Authority for the purpose of concluding and dissolving the business affairs of the Authority, including for the disposition, division, or distribution of any property acquired as a result of the joint exercise of powers.

~~19. NOTICES.~~ Notices to each Member Entity under this Agreement are sufficient if mailed to its respective address on file with the Authority.

~~b. 20. PROHIBITION AGAINST ASSIGNMENT.~~

a. Surplus. In the event that the Authority is terminated, any surplus money on deposit in any fund or account of the Authority shall be returned to Member Entities in proportion to the contributions made to that fund or account, as required by Government Code §6512.

b. Property. All real property and any improvements thereon, that were owned by a Member Entity and contributed to the Authority shall be returned to the Member Entity, upon its approval, that contributed such property.

c. Member Entity Obligations. In no event shall any funds or assets be distributed, divided or returned to a Member Entity until such Member Entity has either paid their share of all outstanding debts and obligations that were incurred while they were a Member Entity, or executed a contract with the Authority to pay for all outstanding debts and obligations that were incurred while they were a Member Entity.

15. Prohibition Against Assignment

No Member Entity may assign a right, claim, or interest it may have under this Agreement, and any such assignment shall be void. No creditor, assignee, or third-party beneficiary of a Member Entity has a right, claim, or title to any part, share, interest, fund, or asset of the Authority.

16. Amendments

~~21. AMENDMENTS.~~ This Agreement may only be amended by approval by the governing body for each and every Member Entity. A proposed amendment must be submitted to each Member Entity at least thirty (30) days in advance of the date ~~when the Member Entity considers it on which it will be considered~~. An amendment is ~~to be~~ effective ~~immediately unless otherwise designated upon full execution by all Member Entities~~.

~~22. SEVERABILITY. If a portion, term, condition, or~~

17. Severability

~~If a court of competent jurisdiction holds any provision of this Agreement is determined by a court to be illegal or in conflict with the law of the State of California, or is otherwise rendered, unenforceable or ineffectual, or invalid in whole or in part for any reason, the validity and enforceability of the remaining portions, terms, conditions, and provisions is, or portions of them, will not be affected.~~

23. LIABILITY OF THE AUTHORITY; RELEASE AND INDEMNITY, unless an essential purpose of this Agreement would be defeated by the loss of the illegal, unenforceable, or invalid provision.

18. Indemnification

- a. Funds of the Authority may be used to defend, indemnify, and hold harmless the Authority, any Member Entity, any member of the Board of Directors, and each officer, employee and agent of the Authority or Member Entities, for their actions taken within the scope of their duties while acting on behalf of the Authority. ~~The parties to this Agreement release each other and agree to hold each other harmless, as well as their officers and employees, for any loss or liability arising from their respective activities pursuant to this Agreement. Except as otherwise provided herein, each party agrees to indemnify, defend~~
- b. In lieu of and notwithstanding the pro rata risk allocation, which might otherwise be imposed between the Member Entities pursuant to Government Code Section 895.6, the Member Entities agree that all losses or liabilities incurred by a Member Entity shall not be shared pro rata but, instead, the Member Entities agree that, pursuant to Government Code Section 895.4, each Member Entity hereto shall fully indemnify and hold harmless each of the other parties Member Entities, their officers, agents board members, and employees, and agents, harmless from any and all demands, claims, or liabilities of any nature, including death or injury to any person, property damage, or any other loss caused by or arising out of that party's performance or failure to perform the obligations assumed under claim, expense or cost, damage or liability imposed for injury (as defined in Government Code 810.8) occurring by reason of the negligent acts or omissions or willful misconduct of the indemnifying Member Entity, its officers, employees, or agents, under or in connection with or arising out of any work, authority, or jurisdiction delegated to such Member Entity pursuant to this Agreement. Each No Member Entity agrees that legal counsel for any Member Entity may be designated by the Board to represent the Authority by performing legal services, including litigation, and that any potential conflict of interest arising from such representation shall be deemed waived, nor any officer, board member, employees, or agent thereof shall be responsible for any damage or liability occurring by reason of the Authority and negligent acts or omissions or willful misconduct of the other Member Entity hereto, unless an actual adverse relationship exists between the Member Entity and the Authority with respect to the particular matter. The designation of legal counsel from a Member Entity shall be with the approval of that Member Entity its officers, board members, employees, or agents, under or in connection with or arising out of any work, authority, or jurisdiction delegated to such other Member Entity pursuant to this Agreement. The rights, duties, and obligations of the Member Entities as set forth above in this paragraph 21. Indemnification, survive completion, termination, expiration, and suspension of this Agreement.

19. Choice of Law and Venue

24. GOVERNING LAW. ~~This~~ The Parties agree that this Agreement shall be to be governed by and construed, and enforced in accordance with the laws of the State of California.

25. ~~COUNTERPART~~ The Parties also agree that the venue of any litigation arising out of or connected with this Agreement will lie exclusively in the state trial court or Federal District Court located in Santa Clara County or San Mateo County in the State of California. The Parties consent to jurisdiction over their persons and over the subject matter of any such litigation in such courts, and consent to service of process issued by such courts.

20. Counterparts

This Agreement may be executed in counterparts, each of which shall be an original, but all of which shall constitute one instrument.

21. Agreement Complete

26. ~~AGREEMENT COMPLETE.~~ The foregoing constitutes the full and complete Agreement of the Member Entities. There are no oral understandings or agreements not set forth in writing herein.

22. No Third-Party Beneficiaries

27. ~~NO THIRD-PARTY BENEFICIARIES.~~ Nothing in this Agreement, whether express or implied, shall be construed to give any person or entity, other than the ~~parties~~Parties hereto,

any legal or equitable right, remedy, or claim under or in respect of this Agreement or any covenants, conditions, or provisions contained herein.

23. Nonwaiver of Rights

The failure of either Party to this Agreement to object to or to take affirmative action with respect to any conduct of the other Party that is in violation of the terms of this Agreement will not be construed as a waiver thereof, or as waiver of any future breach or subsequent wrongful conduct.

24. Agreement Execution

Unless otherwise prohibited by law or policy of any Member Entity, the Member Entities agree that an electronic copy of a signed agreement, or an electronically signed agreement, has the same force and legal effect as an agreement executed with an original ink signature. The term "electronic copy of a signed agreement" refers to a transmission by facsimile, electronic mail, or other electronic means of a copy of an original signed agreement in a portable document format. The term "electronically signed agreement" means an agreement that is executed by applying an electronic signature using technology in compliance with the Electronic Signature Act (California Civil Code §1633).

25. Equal Opportunity

a. Equal Opportunity Employer

Each of the Member Entities is an equal opportunity employer and requires their contractors to have and adhere to a policy of equal opportunity and non-discrimination, including that such contractors will comply with all applicable federal, state, local laws and regulations, and will not discriminate against any subcontractor, employee, or applicant for employment in the recruitment, hiring, employment, utilization, promotion, classification or reclassification, transfer, recruitment advertising, evaluation, treatment, demotion, layoff, termination, rates of pay or other forms of compensation, and selection for professional development training (including apprenticeship), or against any other person, on the basis of sex (which includes pregnancy, childbirth, breastfeeding and medical conditions related to pregnancy, childbirth or breastfeeding), race, religion, color, national origin (including language use restrictions), ancestry, religious creed (including religious dress and grooming practices), political affiliation, disability (mental and physical, including HIV or AIDS), medical condition (cancer and genetic characteristics), genetic

information, marital status, parental status, gender, age (40 and over), pregnancy, military and veteran status, sexual orientation, gender identity and gender expression, the exercise of family and medical care leave, the exercise of pregnancy disability leave, or the request, exercise, or need for reasonable accommodation.

b. Compliance with Applicable Equal Opportunity Laws

All equal opportunity and non-discrimination policies of Member Entity contractors must be in conformance with applicable state and federal guidelines including the Federal Equal Opportunity Clause, 41 Code of Federal Regulations, Part 60-1, §60-1.4; Title VII of the Civil Rights Act of 1964 as amended; the Americans with Disabilities Act of 1990; the Rehabilitation Act of 1973 (§503 and §504); the Age Discrimination Act of 1975 (42 U.S.C. §6101 et seq.); the California Fair Employment and Housing Act (Government Code §12900 et. seq.); and California Labor Code §1101 and §1102.

c. Investigation of Claims

Member Entity contractors must designate a specific position within its organization to be responsible for investigating allegations of non-compliance with the anti-discrimination and anti-harassment provisions of this Section 28. Contractors must conduct a fair, prompt, and thorough investigation of all allegations directed to the contractor by any Member Entity. In cases where such investigation results in a finding of discrimination, harassment, or hostile work environment, the contractor must take prompt, effective action against the offender.

26. Notices

Unless otherwise specified in this Agreement, all requests for written approval or legal notices must be sent to the representatives' addresses on file with the Authority. All notices are deemed to have been given when made in writing and when delivered or mailed to the representatives at their respective addresses.

IN WITNESS WHEREOF, the ~~parties~~Member Entities hereto have executed this Agreement on the dates

as set forth~~for the~~ below.

~~{(SIGNATURES TO FOLLOW ON SEPARATE PAGES)}~~

~~04/02/2019~~

~~DATED: , 2020 CITY OF MENLO PARK~~

~~By: _____~~

~~Cecilia Taylor, Mayor~~

~~ATTEST:~~

~~By: _____~~

~~Judi Herren, City Clerk~~

~~APPROVE AS TO FORM:~~

~~Cara E. Silver~~

~~Interim City Attorney~~

04/02/20-10

DATED: _____, 2020 CITY OF PALO ALTO

By: _____

Adrian Fine, Mayor

ATTEST:

By: _____

Beth Minor, City Clerk

APPROVE AS TO FORM:

Cassie Coleman

Assistant City Attorney

04/02/20-11

DATED: _____, 2020 CITY OF EAST PALO ALTO

By: _____

Regina Wallace Jones, Mayor

ATTEST:

By: _____

Walfred Solorzano, City Clerk

APPROVE AS TO FORM:

Rafael Alvarado

City Attorney

04/02/20-12

DATED: _____, 2020 SANTA CLARA VALLEY WATER DISTRICT

By: _____

Nai Hsueh, Chair

ATTEST:

By: _____

Michele L. King, CMC, Board Clerk

APPROVE AS TO FORM:

District Counsel By

Leslie Orta

Senior Assistant District Counsel

04/02/20-13(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK)

DATED: _____, 2023

CITY OF MENLO PARK

By: _____

Name

Mayor

ATTEST:

By: _____

Name

City Clerk

APPROVE AS TO FORM:

City Attorney

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DATED: _____, 2023

CITY OF PALO ALTO

By: _____

Name

Mayor

ATTEST:

By: _____

Name

City Clerk

APPROVE AS TO FORM:

City Attorney

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DATED: _____, 2023

CITY OF EAST PALO ALTO

By: _____

Name

Mayor

ATTEST:

By: _____

Name

City Clerk

APPROVE AS TO FORM:

City Attorney

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DATED: _____, 2023

**SANTA CLARA VALLEY WATER
DISTRICT**

By: _____

John L. Varela

Chair, Board of Directors

ATTEST:

By: _____

Michele L. King, CMC

Clerk, Board of Directors

APPROVE AS TO FORM: _____

District Counsel

J. Carlos Orellana

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DATED: _____, 2023

**SAN MATEO COUNTY FLOOD
AND
SEA LEVEL RISE RESILIENCY
DISTRICT**

By: _____
Name
Chair, Board of Directors

ATTEST:
By: _____
Name
Clerk, Board of Directors

APPROVE AS TO FORM: _____
Brian Kulich
Lead Deputy County Counsel
General Counsel

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