



City Council Staff Report

From: City Manager

Report Type: CONSENT CALENDAR

Lead Department: Public Works

Meeting Date: June 5, 2023

Report #:2304-1239

TITLE

Approval of Second Amended and Restated Joint Powers Agreement for the San Francisquito Creek Joint Powers Authority, CEQA: Not a Project

RECOMMENDATION

Staff recommends that Council approve and authorize the City Manager or their designee to execute the Second Amendment and Restated Joint Powers Agreement (Attachment A) among the cities of Palo Alto, Menlo Park, and East Palo Alto; the Santa Clara Valley Water District; and the San Mateo County Flood and Sea Level Rise Resiliency District, for the primary purpose of restating the terms of the agreement forming the San Francisquito Creek Joint Powers Authority, managing the joint contribution of services, and providing policy direction on issues of mutual concern relating to San Francisquito Creek.

BACKGROUND

On May 18, 1999, the City Council approved the San Francisquito Creek Joint Powers Agreement).¹ This agreement was made by and among 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 Flood Control District ("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, to create the San Francisquito Creek Joint Powers Authority (SFCJPA).

On April 20, 2020, the City Council approved the Joint Powers Agreement for the San Francisquito Creek Joint Powers Authority Amended and Restated as of January 1, 2020.² The Amended and Restated Joint Powers Agreement contained minor procedural updates and

¹ City Council, May 18, 1999, Agenda Item #14, SR #214:99

<https://portal.laserfiche.com/Portal/DocView.aspx?id=61976&repo=r-704298fc>

² City Council, April 20, 2020, Agenda Item #7, SR #11204

<https://www.cityofpaloalto.org/files/assets/public/agendas-minutes-reports/reports/city-manager-reports-cmrs/year-archive/2020/id.-11204-amended-and-restated-agreement-for-the-san-francisquito-creek-joint-powers-authority.pdf?t=58443.4>

other agreement language modifications including San Mateo County Flood and Sea Level Rise Resiliency District (OneShoreline) assuming revenues and responsibility of its San Mateo County Flood Control District predecessor. Many of these updates involved minor language changes to reflect current practices of the San Francisquito Creek Joint Powers Authority (SFCJPA) or updates to State law related to JPAs. However, there remained outstanding substantive policy-oriented updates.

ANALYSIS

Over the past two years, staff from each member agency have engaged in review and discussion through multiple rounds of analysis, edits, and comments to address the needed substantive policy updates. The Second Amended and Restated Joint Powers Agreement for the San Francisquito Creek Joint Powers Authority, provided by the SFCJPA, represents the language agreed to by the technical, policy, and legal staff engaged in this process from all SFCJPA member agencies.

Recommended changes are reflected in the tracked changes version of the Second Amended and Restated Joint Powers Agreement (Attachment B), and include:

- Reconciliation of original document text to actual practice (for example: hiring of SFCJPA staff, and board roles).
- Clarification of SFCJPA authority for and decision-making process regarding land acquisition.
- Addition of language establishing that the SFCJPA 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 use of eminent domain within its jurisdiction.
- Clarification of OneShoreline representation on the SFCJPA Board to prevent duplicative representation from one member organization.
- Clarification of SFCJPA scope regarding shoreline projects and watershed stewardship.
- Modernization and simplification of language including sections names as they appear on the Table of Contents for clarity.
- Addition of now-standard clauses common to local government agreements.
- Format reconciliation.

While the SFCJPA itself is not a signatory agency to this Agreement, and as such the SFCJPA Board is not required to take an action to complete the required amendments, on March 23, 2023, the SFCJPA Board voted unanimously to approve the Second Amended and Restated Joint Powers Agreement and recommended sending it to the governing bodies of all member agencies for approval. Vice Mayor Stone serves as Palo Alto's representative on the SFCJPA Board, with Mayor Kou serving as alternate.

FISCAL/RESOURCE IMPACT

This recommendation does not represent any changes to the existing agreement in terms of resources.

STAKEHOLDER ENGAGEMENT

Staff from all member agencies as well as internal departments including Community Services, Public Works, City Attorney's Office, and City Manager's Office coordinated to discuss and review proposed changes to the agreement.

ENVIRONMENTAL REVIEW

Council approval of the Second Amended and Restated San Francisquito Creek Joint Powers Agreement is exempt from the California Environmental Quality Act (CEQA) because it can be seen with certainty that entering into the agreement will not result in any environmental impacts.

ATTACHMENTS

Attachment A - Second Amended and Restated Joint Powers Agreement

Attachment B - Second Amended and Restated Joint Powers Agreement - tracked changes

APPROVED BY:

Brad Eggleston, Director Public Works/City Engineer