



SAN FRANCISQUITO CREEK  
JOINT POWERS AUTHORITY

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**Notice of Regular Meeting of the  
BOARD OF DIRECTORS  
City of East Palo Alto Council Chambers  
2415 University Avenue, East Palo Alto, California  
February 27, 2020 at 2:30 p.m.**

AGENDA

1. ROLL CALL
2. APPROVAL OF AGENDA
3. APPROVAL OF MEETING MINUTES: January 23, 2020 Regular Board meeting
4. PUBLIC COMMENT: *Individuals may speak on any topic for up to three minutes; during any other Agenda item, individuals may speak for up to three minutes on the subject of that item.*
5. REGULAR BUSINESS: Executive Director's Report
  - a. Board organization:
    - elect officers for 2020
    - discuss and approve the number, structure, and purview of standing and *ad hoc* Board committees
    - appoint Board members to standing and *ad hoc* Board committees for 2020
  - b. Consider approval of the draft Amended and Restated Joint Powers Agreement that created the SFCJPA
  - c. Brief informational report on Biennial Review of the Conflict of Interest Code and Notice to FPPC
  - d. Consider approving Resolution 20.2.27 of the Board of Directors adopting the 2019 Update to the Bay Area Integrated Regional Water Management (IRWM) Plan
6. CLOSED SESSION: Conference with Legal Counsel — Initiation of Litigation  
Government Code Section 54956.9(c), One Case
7. CLOSED SESSION: Pursuant to Government Code Section 54957 regarding public employee performance evaluation - title: Executive Director
8. ADJOURNMENT

PLEASE NOTE: This Board meeting Agenda and supporting documents related to items on the Agenda can be viewed online by 2:30 p.m. on February 24, 2020 at [sfcjpa.org](http://sfcjpa.org) -- click on the "Meetings" tab near the top.

**NEXT MEETING:** Regular Board meeting, March 26, 2020 at 3:30 PM, City of Palo Alto Council Chambers

**San Francisquito Creek Joint Powers Authority  
February 27, 2020 Regular Meeting of the Board  
Agenda Item 3  
January 23, 2020 Board Meeting Minutes**

Director Kremen called the meeting to order at 3:31 p.m. at the City of Menlo Park Council Chambers, Menlo Park, California.

DRAFT

**1) ROLL CALL**

Members Present: Director Gary Kremen, Santa Clara Valley Water District (scvwd)  
Director Drew Combs, City of Menlo Park  
Director Alison Cormack, City of Palo Alto  
Director Dave Pine, San Mateo County Flood Control District

Members Absent: Director Ruben Abrica, City of East Palo Alto

JPA Staff Present: Len Materman, Executive Director  
Kevin Murray, Staff  
Tess Byler, Staff  
Miyko Harris-Parker, Staff

Others Present: Jeff Shore, Palo Alto resident; Jerry Hearn, Portola Valley resident; Michel Jeremias, City of Palo Alto; Fariborz Heydair, City of Menlo Park; Mike Sartor, City of Menlo Park; Ann Stillman; San Mateo County Flood Control District; Alec Nicholas, Valley Water

**2) APPROVAL OF AGENDA**

Director Cormack made a motion to approve the agenda. Director Combs seconded. Agenda approved 4-0. Director Abrica not present.

Roll call vote:

Director Abrica	Absent
Director Combs	Aye
Director Cormack	Aye
Director Kremen	Aye
Director Pine	Aye

**3) APPROVAL OF December 12, 2019 REGULAR BOARD MEETING MINUTES**

Director Kremen made a motion to approve the December 12, 2019 Regular Board meeting minutes. Director Cormack seconded. The December 12, 2019 Regular Board meeting minutes were approved 4-0. Director Abrica not present.

Roll call vote:

Director Abrica	Absent
Director Combs	Aye
Director Cormack	Aye
Director Kremen	Aye
Director Pine	Aye

**4) PUBLIC COMMENT**

Jeff Shore, Palo Alto resident, asked if there was an update on Stanford's Searsville Dam project proposal. Mr. Shore also asked if there has been a response to Director Combs' request from last September regarding accessing Stanford's property upstream to obtain geotechnical data.

Jerry Hearn, Portola Valley resident, spoke about the Canopy planting event that was held on Martin Luther King, Jr. Day. Mr. Hearn expressed his pleasure with the great turnout.

**San Francisquito Creek Joint Powers Authority**  
**February 27, 2020 Regular Meeting of the Board**  
**Agenda Item 3**  
**January 23, 2020 Board Meeting Minutes**

**5) REGULAR BUSINESS: EXECUTIVE DIRECTOR'S REPORT**

Discuss status of needed updates and revisions to the May 18, 1999 Joint Powers Authority Agreement that created the SFCJPA

Mr. Materman noted, in response to Mr. Shore's public comments, that SFCJPA staff has reached out to Stanford but has not had response, and that the SFCJPA was working on this issue.

Mr. Materman discussed the status of the revisions to the Joint Powers Agreement. Mr. Materman stated that all of the member agencies and the SFCJPA attorneys have met to discuss the least complicated changes and the attorneys are planning to meet again next week and hopefully have revisions brought to the Board as well as the governing agencies' Boards in February. Mr. Materman said that any outstanding items will be revisited later in the Spring.

Director Pine asked for clarification on the agreement needing to be updated to current law and standards. Mr. Materman mentioned that legal counsel was not present to clarify, but he believes it means that the SFCJPA has to choose a member agency whose established limitations on its powers would then apply to the SFCJPA. Mr. Materman said that the City of Menlo Park is a general law city, which makes the most sense for us to follow in this regard.

Director Cormack asked if the attorneys discussed setting restrictions of which elected Board members can be selected to prevent double representation from either Menlo Park or East Palo Alto, as these cities could potentially represent the San Mateo County Flood and Sea Level Rise Resiliency District on the SFCJPA. Mr. Materman responded saying yes, the attorneys have and will continue to discuss the restriction. Director Cormack asked if the name change is the minimal change that needs to occur right now. Mr. Materman replied saying yes but that there is general agreement on other items as well. Director Cormack asked if the Board would see the proposed changes at the next meeting of the Board. Mr. Materman said that we are hoping to have the proposed agreement brought to the Board at the next meeting, and that it's not a requirement that the SFCJPA Board approve the agreement, as we are not party to it.

Director Pine stated that it would be great if the attorneys would let us know when we can expect the updates to the agreement, and that he hopes the attorneys will choose to do the least complicated items now and give an update on when the other changes will be complete. Mr. Materman stated that San Mateo County Flood and Sea Level Rise Resiliency Board appointed Director Pine as its representative on the SFCJPA Board and Don Horsley as its alternate Board member.

**6) CLOSED SESSION**

Director Kremen adjourned the meeting to closed session at 3:49 pm.

**7) CLOSED SESSION**

Closed session adjourned at 5:12 pm.

**8) ADJOURNMENT**

Regular meeting session re-adjourned at 5:12 pm. No report out.

Director Kremen made a motion to adjourn the Regular meeting. Director Cormack seconded. Motion to adjourn the Regular meeting passed 3-0. Director Abrica and Director Combs not present.

Regular meeting of the Board adjourned at 5:13 pm.

Minutes drafted by Clerk of the Board: Miyko Harris-Parker.

**San Francisquito Creek Joint Powers Authority**  
**February 27, 2020 Board Meeting**  
**Agenda Item 5**  
**Executive Director's Report**

With the help of Kevin Murray, Tess Byler, and Miyko Harris-Parker, I am pleased to submit the following:

**a. Board organization**

Early in each calendar year, the SFCJPA Board appoints individual Board members to fill officer positions and positions on Board committees.

During this Agenda item, the Board intends to:

- elect officers for 2020
- discuss and approve the number, structure, and purview of standing and *ad hoc* Board committees
- appoint Board members to standing and *ad hoc* Board committees for 2020

The SFCJPA's two officer positions are Chair and Vice Chair-Secretary. The current Chair, Gary Kremen, and current Vice Chair-Secretary, Ruben Abrica, have occupied their respective positions since January 2018.

In 2019, the SFCJPA Board had three standing committees: Finance, Personnel, and Emergency Preparedness. The Finance Committee reviews and makes recommendations to the full Board on the annual operating budget and annual independent financial audit. The Personnel Committee conducts the annual performance evaluation of the Executive Director. The Emergency Preparedness Committee provides review of emergency events and recommends to the full Board improvements to preparedness and coordination efforts. A fourth committee, the Committee on Purposes, Roles and Responsibilities, had been established to consider amendments to the Joint Powers Agreement that created the SFCJPA in 1999, but that committee's membership was changed to include the full Board.

Additionally, the Association of California Water Agencies Joint Powers Insurance Authority, which provides medical, dental, vision and life insurance benefits to SFCJPA employees, requires that our Board appoint a representative and alternate to the ACWA/JPIA Board. The appointed representative must be a Board member, and the appointed alternate can be a staff member.

The following is a list of Board member assignments to each committee in 2019. (In early 2020, Palo Alto City Council Member and SFCJPA Board Alternate Alison Cormack replaced the SFCJPA Board member from Palo Alto, Liz Kniss, who served on the SFCJPA Finance Committee.)

2019 Board committees and membership

Finance: Dave Pine and Liz Kniss

Personnel: Ruben Abrica and Drew Combs

Emergency Preparedness: Gary Kremen and Ruben Abrica

Purposes, Roles and Responsibilities: Full Board

Board representative to the ACWA/JPIA Board: Ruben Abrica; alternate SFCJPA Finance and Administration Manager Miyko Harris-Parker

Proposed Board action: Appoint a Chair and Vice Chair-Secretary; approve the number, structure, and purview of standing and *ad hoc* Board committees for 2020; and appoint members to those committees and representatives to the ACWA/JPIA.

**b. Consider approving the draft Amended and Restated Joint Powers Agreement that created the SFCJPA**

This agenda item is a continuation of the discussion from previous Board meetings. For additional background information, please refer to the Executive Director's Report within the agenda packets of the [November 14, 2019](#), [December 12, 2019](#) and [January 23, 2020](#) Board meetings. Enclosed with this Report in both tracked changes and clean versions, is the draft Amended and Restated Joint Powers Agreement, which represents the first of two planned amendments to update the document.

**San Francisquito Creek Joint Powers Authority**  
**February 27, 2020 Board Meeting**  
**Agenda Item 5**  
**Executive Director's Report**

Last fall, I proposed updates to the Joint Powers Agreement that would:

1. Include the new name of the SFCJPA member agency from San Mateo County, which was modified on January 1, 2020;
2. Ensure that the Agreement matches current laws and standards that have changed since it was approved over twenty years ago; and
3. Ensure that the Agreement matches the current form and function of the SFCJPA and the interests of our Board.

The change to the name, mission, and governing board of one of the signatory agencies to our Joint Powers Agreement, as well as updates to ensure that it matches current laws and standards, necessitated that the Agreement be updated by early this year. Updates to conform the Agreement to the current form and function of the SFCJPA, which involves changes to the purposes and powers sections of the Agreement, requires policy decisions that some felt needed longer-term consideration.

In November 2019, and January and February 2020, management staff from member agencies agreed to, and then reiterated support for, updating the Agreement in two phases:

1. Have each SFCJPA member agency governing body amend the Agreement by replacing "San Mateo County Flood Control District" with "San Mateo County Flood and Sea Level Rise Resiliency District" on the signature page and make other changes not involving policy considerations. Attorneys from the SFCJPA and member agencies have agreed on changes to bring forward to the governing boards of each member agency, and this version, effective January 1, 2020, is enclosed with this Report in both tracked changes and clean versions.
2. By June 30, 2020, have each of the five governing bodies of SFCJPA member agencies again amend the Agreement in ways, primarily policy-related, that were not accomplished previously so that the Agreement matches current and desired SFCJPA activities.

While the SFCJPA 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, I am now presenting the proposed Amended and Restated Joint Powers Agreement to the Board for a vote of approval. Doing this will make clear that SFCJPA Board members support the proposed updates when this amended Agreement goes to each member agency's governing body for approval next month.

Proposed Board action: Approve the enclosed draft Amended and Restated Joint Powers Agreement effective January 1, 2020 that created the SFCJPA and recommend sending it to the governing boards of all member agencies for approval.

**c. Brief informational report on Biennial Review of the Conflict of Interest Code and Notice to FPPC**

The Political Reform Act (Government Code Section 81000 *et seq.*) requires the SFCJPA to review its conflict of interest code biennially to confirm that it reflects the current structure of the agency and properly identifies the officials, employees, and consultants who should be filing Statements of Economic Interest (Form 700), or to make any necessary amendments. The SFCJPA must also notify the Fair Political Practices Commission (FPPC) whether its conflict of interest code does or does not need to be amended.

Staff has undertaken the required review and determined that no amendments to the SFCJPA's conflict of interest code are required. Enclosed with this Report is the notice that will be sent to the FPPC and the current version of the conflict of interest code that will remain unchanged.

**San Francisquito Creek Joint Powers Authority**  
**February 27, 2020 Board Meeting**  
**Agenda Item 5**  
**Executive Director's Report**

**d. Consider approving Resolution 20.2.27 of the Board of Directors adopting the 2019 Update to the Bay Area Integrated Regional Water Management (IRWM) Plan**

In order to enable the SFCJPA to obtain a Proposition 1 IRWM grant from the California Department of Water Resources (DWR) for the Upstream of Highway 101 Project and other future IRWM grants, the SFCJPA and all member agencies of the SFCJPA are required to adopt the 2019 update to the Bay Area IRWM Plan, which can be found online [here](#).

The SFCJPA has adopted the Bay Area IRWM Plan twice previously – in 2011 (Resolution 11-03-24B) and in 2015 (Resolution No. 15.6.25). We adopted those earlier versions of the IRWM Plan in order to receive construction and restoration funding for our S.F. Bay—Highway 101 Project (a Proposition 1E DWR grant for \$8,000,000 which closed in 2018, and a Proposition 84 DWR grant for \$4,082,351 that will close later this year).

Approval of Resolution 20.2.27 adopting the 2019 Update to the Bay Area IRWM Plan is needed to secure a Proposition 1 grant from DWR totaling \$2,964,479 for our Upstream of Highway 101 Project, and future IRWM grants. We anticipate signing a contract for this grant in April 2020.

Over the next two months, we will work with staff from the SFCJPA member agencies so that each agency's governing body may adopt the 2019 Update to the IRWM Plan if it has not already done so. Adoption of this Plan is a non-controversial item that is often taken to governing bodies on consent.

Proposed Board action: Approve Resolution 20.2.27 adopting the 2019 Update to the Bay Area IRWM Plan.

Submitted by:



Len Materman  
Executive Director

**Agenda Item 5.b. - tracked changes version from original 1999 Agreement**

JOINT POWERS AGREEMENT

~~CREATING~~FOR THE

SAN FRANCISQUITO CREEK

JOINT POWERS AUTHORITY

~~Dated~~

AMENDED AND RESTATED

as of

~~May 18, 1999~~

January 1, 2020

JOINT POWERS AGREEMENT

TABLE OF CONTENTS

	<u>Page</u>
1. <u>CREATION OF THE SAN FRANCISQUITO CREEK JOINT POWERS AUTHORITY</u> .....	1
2. <u>PURPOSES</u> .....	2
<del>3. <u>DEFINITIONS</u>.....</del>	<del>2</del>
<u>3. <del>4.</del> <u>PARTIES TO AGREEMENT</u> .....</u>	<del>2</del>
<u>4. <del>5.</del> <u>TERM OF AGREEMENT</u> .....</u>	<del>32</del>
<u>5. <del>6.</del> <u>POWERS OF THE AUTHORITY</u> .....</u>	<del>32</del>
<u>6. <del>7.</del> <u>MEMBER ENTITY APPROVALS AND RESPONSIBILITIES</u>.....</u>	3
<u>7. <del>8.</del> <u>PROJECT PARTICIPATION APPROVAL AUTHORITY</u>.....</u>	3
<u>8. <del>9.</del> <u>MEMBERSHIP</u>.....</u>	<del>43</del>
<u>9. <del>10.</del> <u>BOARD OF DIRECTORS</u>.....</u>	<del>43</del>
<u>10. <del>11.</del> <u>BOARD MEMBERS</u> .....</u>	<del>54</del>
<u>11. <del>12.</del> <u>OFFICERS</u>.....</u>	5
<u>12. <del>13.</del> <u>FISCAL YEAR</u>.....</u>	<del>65</del>
<u>13. <del>14.</del> <u>BUDGET</u> .....</u>	<del>65</del>
<u>14. <del>15.</del> <u>ANNUAL AUDIT AND AUDIT REPORTS</u> .....</u>	<del>65</del>
<u>15. <del>16.</del> <u>ESTABLISHMENT AND ADMINISTRATION OF FUNDS</u> .....</u>	<del>65</del>
<del>17. <u>ADMINISTRATIVE COST</u>.....</del>	<del>7</del>
<u>16. <del>18.</del> <u>WITHDRAWAL</u>.....</u>	<del>76</del>
<u>17. <del>19.</del> <u>EXPULSION</u> .....</u>	<del>76</del>
<u>18. <del>20.</del> <u>TERMINATION AND DISTRIBUTION</u>.....</u>	<del>76</del>
<u>19. <del>21.</del> <u>NOTICES</u> .....</u>	<del>87</del>



<u>20.</u>	<del>22.</del> <u>PROHIBITION AGAINST ASSIGNMENT</u> .....	<del>87</del>
<u>21.</u>	<del>23.</del> <u>AMENDMENTS</u> .....	<del>87</del>
<u>22.</u>	<del>24.</del> <u>SEVERABILITY</u> .....	<del>87</del>
<u>23.</u>	<del>25.</del> <u>LIABILITY OF THE AUTHORITY; RELEASE AND INDEMNITY</u> .....	<del>87</del>
<u>24.</u>	<del>26.</del> <u>GOVERNING LAW</u> .....	8
<u>25.</u>	<del>27.</del> <u>COUNTERPART</u> .....	8
<u>26.</u>	<del>28.</del> <u>AGREEMENT COMPLETE</u> .....	<del>98</del>

SAN FRANCISQUITO CREEK  
JOINT POWERS AGREEMENT

This Amended and Restated Agreement (“Agreement”) is 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 County Flood Control and Sea Level Rise Resiliency 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.

RECITALS

A. The Joint Exercise of Powers Act, being Government Code sections 6500-~~6515, permitting et seq. (the “JPA Law”), permits~~ two or more local public entities by agreement to jointly exercise any power common to them, ~~authorizes the Member Entities to enter in this San Francisquito Creek Joint Powers Agreement (“Agreement”).~~

B. ~~Each Member Entity desires to join together with the other Member Entities for the primary purpose of managing the joint contribution of services and providing policy direction on issues of mutual concern relating to the San Francisquito Creek (“Creek”), including bank stabilization, channel clearing and other Creek maintenance, planning of flood control measures, preserving and enhancing environmental values and instream uses, and emergency response coordination.~~ 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 pursuant to that certain “Joint Exercise 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 governing ~~board~~body of each Member Entity has determined that it is in the Member Entity’s best interest and in the public interest that this Amended and Restated Agreement be executed ~~and that it is participating as a member of the public entity created by this Agreement.~~ 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. Pursuant to ~~Chapter 5, Division 7, Title 1 of the Government Code of the State of California (commencing with Section 6500) (as amended from time to time, the “JPA Law”)~~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. ~~The Authority shall require indemnification on behalf of itself and its members as determined by its Board of Directors from entities with which it enters into agreements.~~ 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 or county Member Entity specified in this Agreement~~ City of Menlo Park, except as otherwise authorized or permitted by the JPA Law.

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 San Francisquito Creek watershed.
- c. To take actions necessary to preserve and enhance environmental values and instream uses of San Francisquito Creek.
- d. To coordinate emergency mitigation and response activities relating to San Francisquito Creek.
- e. To make recommendations to Member Entities for funding and alternatives for long term flood control for Member Entity consideration.

3. DEFINITIONS. ~~In this Agreement unless the context otherwise requires:~~

- a. ~~“Administrative Cost” means the amount charged to each Member Entity by the Authority for the Authority’s general operating costs and expenses.~~
- b. ~~“Authority” means the San Francisquito Creek Joint Powers Authority.~~
- c. ~~“Board” or “Board of Directors” means and is the governing body of the Authority constituted as set forth in Paragraph 10 of this Agreement.~~
- d. ~~“JPA Law” means Chapter 5 of Division 7 of Title 1 (commencing with Section 6500) of the California Government Code, as amended from time to time.~~
- e. ~~“Member Entity” means and shall include each public agency (as defined in Section 6500 of the JPA law), which is a party to this Agreement.~~

~~f. “Creek” means and is the San Francisquito Creek.~~ 4. PARTIES TO AGREEMENT. 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 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 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.

~~5.4.~~ TERM OF AGREEMENT. This Agreement became effective as of May 18, 1999, and continues in full force until terminated in accordance with Paragraph ~~20.18~~ (Termination and Distribution).

~~6.5.~~ POWERS OF THE AUTHORITY. 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 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;
- d. Sue and be sued in its own name;
- e. Contract with independent consultants and/or contractors;
- f. Receive, collect, and disburse monies;
- g. Carry out other duties as required to accomplish other responsibilities as set forth in this Agreement;
- h. Assign, delegate, or contract with a Member Entity or third party to perform any of the duties of the Board including, but not limited to, acting as administrator for the Authority; and
- i. Exercise all other powers necessary and proper to carry out 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.

~~7.6.~~ 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 11.e10 (Board Members) by the ~~Authority~~ Board of Directors consistent with a budget approved by independent action of each Member Entity’s governing body.

~~8.7.~~ PROJECT PARTICIPATION APPROVAL AUTHORITY. Member Entities 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.

~~9.~~ ~~MEMBERSHIP.~~ 8.MEMBERSHIP. New Member Entities may be added to the Authority by amending this Agreement, as described in Paragraph 21 (Amendments); and Member Entities may withdraw or be expelled, as described in Paragraph 16 (Withdrawal) and Paragraph 17 (Expulsion).

~~a. — Voting Members. All Member Entities shall be Voting Members.~~

~~b. — Associate Membership.~~

~~(1) — Nonprofit corporations and academic and charitable organizations located or operating within the jurisdictional limits of a Member Entity shall be eligible to join the Authority as Associate Members, subject to the approval of the Board of Directors.~~

~~(2) — Associate Members shall be entitled to attend all meetings of the Board of Directors and participate in discussion of all items of business but shall not be entitled to vote or participate in formal debate of a motion on the floor. Further, no representative of an Associate Member may become an officer or director of the Authority.~~

~~(3) — For purposes of this Agreement, only Voting Members shall be referred to as “Member Entities.”~~

#### ~~10.9.~~ BOARD OF DIRECTORS.

a. Directors. There shall be a Board of Directors (the “Board”) to govern the affairs of the Authority. The Board shall be comprised of one director, and one alternate director, from each Member Entity. Each director has one vote. An alternate director may cast a vote as a member of the Board of Directors only in the absence of the director from that same Member Entity. Each director and alternate director shall be a member of the governing body of the Member Entity. ~~Each director and~~ shall be designated by ~~theits~~ governing ~~board of the respective Member Entity. The~~ body; provided, however, that no two directors and no two alternate directors shall be ~~appointed by the Director designated by a Member Entity in the absence of designation of alternates by a~~ from the same governing body of any Member Entity.

b. Compensation. Directors and alternate directors are not entitled to compensation. The Board may authorize reimbursement of expenses incurred by directors or alternate directors.

c. Powers. The powers of the Board are each of the powers of the Authority not specifically reserved to the Member Entities by this Agreement. The Member Entities retain the following powers:

(1) The designation of the Board as specified in Subparagraph “a” of Paragraph 9 (Board of Directors ~~as specified in Paragraph 10)~~;

(2) Approval of an amendment to this Agreement as specified in Paragraph ~~23~~21 (Amendments);

(3) Approval of actions pursuant to Paragraph ~~7, above~~6 (Member Entity Approvals and Responsibilities);

(4) Approval of project participation as specified in paragraph ~~8~~7 (Project Participation Approval Authority); and

(5) Approval of the annual budget of the Authority as specified in Paragraph ~~14-~~13 (Budget).

#### ~~11-~~10. BOARD MEMBERS.

a. Meetings. The Board shall hold at least one regular meeting each year, at which time the Board shall elect its officers as appropriate to comply with Paragraph ~~12-~~11 (Officers). The Board shall fix the date, hour, and place at which each regular meeting is to be held. To the extent practicable, each Board 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 ~~one-third of the Member Entities~~two directors.

b. Brown Act. Each regular, adjourned regular, or special meeting of the Board shall be called, noticed, held, and conducted in accordance with the Ralph M. Brown Act (Sections 54950, et seq., of the Government Code).

c. Minutes. The ~~Secretary~~clerk of the Board shall ~~keep or have kept~~draft minutes of each regular and special meeting of the Board. ~~As soon as possible after each meeting, the Secretary shall have a copy of those minutes forwarded to each member of the Board, which shall be considered for approval by the Board at a subsequent regular meeting.~~

d. Quorum. No business may be transacted by the Board without a quorum of members of the Board 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.

e. Action of Board. ~~Any~~Except as otherwise specified in this Agreement, any action of the Board shall require a vote of a majority ~~of the voting members~~ of the Board.

~~12-11.~~ OFFICERS.

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

b. Election/Term/Duties. The officers shall be elected or appointed by the Board at its first meeting of the calendar year, unless that is delayed by an action of the Board. The term of office for Chair, Vice-Chair, and Secretary is one year. The officers shall assume the duties of their offices upon ~~formation of the Authority or~~ being elected or appointed, as appropriate. If ~~either any of~~ the Chair, Vice-Chair, or Secretary ceases to be a member of the Board, the ~~resulting vacancy~~ Board shall ~~be filled~~ elect or appoint a new officer at the next regular meeting of the Board held after the vacancy occurs.

c. Compensation. Officers are not entitled to compensation. The Board may authorize reimbursement of expenses incurred by officers.

d. 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.

~~13-12.~~ FISCAL YEAR. The first fiscal year of the Authority is July 1, 1999, through June 30, 2000. Each subsequent fiscal year of the Authority shall begin on July 1<sup>st</sup> and end on June 30<sup>th</sup>.

~~14-13.~~ BUDGET. The Board shall adopt an annual operating budget, which shall ~~include each Member Entity's~~ be separate from 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. The operating budget shall not be effective unless and until ~~it is approved by~~ the governing body of each Member Entity has approved that ~~has a~~ Member Entity's contribution to the budget. Member Entity contributions shall become immediately due and payable to the Authority upon adoption of the budget, unless expressly provided otherwise in the budget.

~~15-14.~~ ANNUAL AUDIT AND AUDIT REPORTS. The Board 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 ~~and charge the cost against the Member Entities~~ from its annual operating budget in the same manner as other administrative costs.

~~16-15.~~ 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 Government Code. 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 and in conformity with applicable law.

c. Insurance/Bond. The Authority shall ~~require the Board to procure errors and omissions insurance or a fidelity bond~~ 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, officers, employees, agents and Member Entities, as deemed appropriate by the Board.

d. ~~Fiscal Agent~~. ~~The Authority shall designate a fiscal agent who shall be responsible for the administration of all funds and accounts. The fiscal agent may be one of the Member Entities or an officer or employee of one of the Member Entities, subject to the approval of the selected Member Entity.~~ Depository and Auditor Controller. The Board 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.

~~17. ADMINISTRATIVE COST. In connection with preparation of the Annual Budget pursuant to Paragraph 14, above, the Board may establish the Administrative Costs of the Authority, if any, for each fiscal year and shall propose a formula for allocating these Administrative Costs among Member Entities for each fiscal year, which shall be approved by the Member Entities as a part of the budget.~~

~~18.~~ 16. 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. Any Member Entity that withdraws shall remain liable for any budget contributions or capital improvement project participation approved before withdrawal. 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'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 ~~25~~ 23 (Liability of the Authority; Release and Indemnity) with respect to any event or occurrence taking place before the Member Entity withdraws.

~~19.~~ 17. EXPULSION. The Authority may expel a Member Entity from the Authority by a ~~three-fourths (3/4)~~ four-fifths (4/5) vote of the Board ~~of Directors~~ for a breach of this Agreement determined by the Board to be a material breach. 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. Any Member Entity that has been expelled shall remain subject to the provisions of Paragraph ~~25~~23 (Liability of the Authority; Release and Indemnity) with respect to any event or occurrence taking place before the Member Entity was expelled.

~~20~~18. TERMINATION AND DISTRIBUTION.

a. Termination. This Agreement shall continue until terminated. This Agreement may be terminated by the written consent of ~~two-thirds~~four-fifths (24/35) of the Member Entities; provided, however, this Agreement and the Authority shall continue to exist after termination for the purpose of disposing of all claims, distribution of assets, and all other functions necessary to conclude the obligation and affairs of the ~~authority~~Authority.

b. Surplus. ~~After completion of~~In the event that the Authority's ~~purposes 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. The Board 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.

~~21~~19. NOTICES. Notices to each Member Entity under this Agreement are sufficient if mailed to its respective address on file with the Authority.

~~22~~20. 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.

~~23~~21. AMENDMENTS. This Agreement may be amended by ~~a unanimous vote of the Member Entities of the Authority acting through their~~approval by the governing ~~bodies~~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. An amendment is to be effective immediately unless otherwise designated.

~~24~~22. SEVERABILITY. If a portion, term, condition, or 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, the validity of the remaining portions, terms, conditions, and provisions is not affected.

~~25~~23. LIABILITY OF THE AUTHORITY; RELEASE AND INDEMNITY. Funds of the Authority may be used to defend, ~~indemnity~~indemnify, and hold harmless the Authority, any Member Entity, any member of the Board, and each officer, employee and agent of the Authority 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 and hold harmless the other parties, their officers, agents, and employees 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 this Agreement. Each 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 by the Authority and Member Entity, 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.

~~26.24.~~ GOVERNING LAW. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

~~27.25.~~ COUNTERPART. This Agreement may be executed in counterparts, each of which shall be an original, but all of which shall constitute one instrument.

~~28.26.~~ 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.

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

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the dates set forth below.

DATED: \_\_\_\_\_, ~~2004~~2020

CITY OF MENLO PARK

By: \_\_\_\_\_  
Mayor

ATTEST:

By: \_\_\_\_\_  
City Clerk

DATED: \_\_\_\_\_, ~~2004~~2020

CITY OF PALO ALTO

By: \_\_\_\_\_  
Mayor

ATTEST:

By: \_\_\_\_\_  
City Clerk

DATED: \_\_\_\_\_, ~~2004~~2020

CITY OF EAST PALO ALTO

By: \_\_\_\_\_  
Mayor

ATTEST:

By: \_\_\_\_\_  
City Clerk

DATED: \_\_\_\_\_, ~~2004~~2020

SANTA CLARA VALLEY WATER DISTRICT

By: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print Title)

ATTEST:

By: \_\_\_\_\_  
Secretary

DATED: \_\_\_\_\_, ~~2004~~2020

SAN MATEO COUNTY FLOOD  
~~CONTROL~~AND SEA LEVEL RISE  
RESILIENCY DISTRICT

By: \_\_\_\_\_  
Board Chair

ATTEST:

By: \_\_\_\_\_  
Secretary

**Agenda Item 5.b. - clean version**

JOINT POWERS AGREEMENT  
FOR THE  
SAN FRANCISQUITO CREEK  
JOINT POWERS AUTHORITY

AMENDED AND RESTATED  
as of

January 1, 2020

JOINT POWERS AGREEMENT

TABLE OF CONTENTS

	<u>Page</u>
1. <u>CREATION OF THE SAN FRANCISQUITO CREEK JOINT POWERS AUTHORITY</u> .....	1
2. <u>PURPOSES</u> .....	2
3. <u>PARTIES TO AGREEMENT</u> .....	2
4. <u>TERM OF AGREEMENT</u> .....	2
5. <u>POWERS OF THE AUTHORITY</u> .....	2
6. <u>MEMBER ENTITY APPROVALS AND RESPONSIBILITIES</u> .....	3
7. <u>PROJECT PARTICIPATION APPROVAL AUTHORITY</u> .....	3
8. <u>MEMBERSHIP</u> .....	3
9. <u>BOARD OF DIRECTORS</u> .....	3
10. <u>BOARD MEMBERS</u> .....	4
11. <u>OFFICERS</u> .....	5
12. <u>FISCAL YEAR</u> .....	5
13. <u>BUDGET</u> .....	5
14. <u>ANNUAL AUDIT AND AUDIT REPORTS</u> .....	5
15. <u>ESTABLISHMENT AND ADMINISTRATION OF FUNDS</u> .....	5
16. <u>WITHDRAWAL</u> .....	6
17. <u>EXPULSION</u> .....	6
18. <u>TERMINATION AND DISTRIBUTION</u> .....	6
19. <u>NOTICES</u> .....	7
20. <u>PROHIBITION AGAINST ASSIGNMENT</u> .....	7
21. <u>AMENDMENTS</u> .....	7

22.	<u>SEVERABILITY</u> .....	7
23.	<u>LIABILITY OF THE AUTHORITY; RELEASE AND INDEMNITY</u> .....	7
24.	<u>GOVERNING LAW</u> .....	8
25.	<u>COUNTERPART</u> .....	8
26.	<u>AGREEMENT COMPLETE</u> .....	8

SAN FRANCISQUITO CREEK  
JOINT POWERS AGREEMENT

This Amended and Restated Agreement (“Agreement”) is 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 County Flood and Sea Level Rise Resiliency 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.

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 pursuant to that certain “Joint Exercise 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 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 Amended and Restated Agreement 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. 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. 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 San Francisquito Creek watershed.
- c. To take actions necessary to preserve and enhance environmental values and instream uses of San Francisquito Creek.
- d. To coordinate emergency mitigation and response activities relating to San Francisquito Creek.
- e. To make recommendations to Member Entities for funding and alternatives for long term flood control for Member Entity consideration.

3. PARTIES TO AGREEMENT. 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 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 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. This Agreement became effective as of May 18, 1999, and continues in full force until terminated in accordance with Paragraph 18 (Termination and Distribution).

5. POWERS OF THE AUTHORITY. 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 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;

- d. Sue and be sued in its own name;
- e. Contract with independent consultants and/or contractors;
- f. Receive, collect, and disburse monies;
- g. Carry out other duties as required to accomplish other responsibilities as set forth in this Agreement;
- h. Assign, delegate, or contract with a Member Entity or third party to perform any of the duties of the Board including, but not limited to, acting as administrator for the Authority; and
- i. Exercise all other powers necessary and proper to carry out 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. 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 Board of Directors consistent with a budget approved by independent action of each Member Entity’s governing body.

7. PROJECT PARTICIPATION APPROVAL AUTHORITY. Member Entities 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. MEMBERSHIP. New Member Entities may be added to the Authority by amending this Agreement, as described in Paragraph 21 (Amendments); and Member Entities may withdraw or be expelled, as described in Paragraph 16 (Withdrawal) and Paragraph 17 (Expulsion).

9. BOARD OF DIRECTORS.

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

b. Compensation. Directors and alternate directors are not entitled to compensation. The Board may authorize reimbursement of expenses incurred by directors or alternate directors.

c. Powers. The powers of the Board are each of the powers of the Authority not specifically reserved to the Member Entities by this Agreement. The Member Entities retain 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. Meetings. The Board shall hold at least one regular meeting each year, at which time the Board shall elect its officers as appropriate to comply with Paragraph 11 (Officers). The Board shall fix the date, hour, and place at which each regular meeting is to be held. To the extent practicable, each Board 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.

b. Brown Act. Each regular, adjourned regular, or special meeting of the Board shall be called, noticed, held, and conducted in accordance with the Ralph M. Brown Act (Sections 54950, et seq., of the Government Code).

c. Minutes. The clerk of the Board shall draft minutes of each regular and special meeting of the Board, which shall be considered for approval by the Board at a subsequent regular meeting.

d. Quorum. No business may be transacted by the Board without a quorum of members of the Board 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.

e. Action of Board. Except as otherwise specified in this Agreement, any action of the Board shall require a vote of a majority of the Board.

11. OFFICERS.

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

b. Election/Term/Duties. The officers shall be elected or appointed by the Board at its first meeting of the calendar year, unless that is delayed by an action of the Board. The term of office for Chair, Vice-Chair, and Secretary is one year. The officers shall assume the duties of their offices upon being elected or appointed, as appropriate. If any of the Chair, Vice-Chair, or Secretary ceases to be a member of the Board, the Board shall elect or appoint a new officer at the next regular meeting of the Board held after the vacancy occurs.

c. Compensation. Officers are not entitled to compensation. The Board may authorize reimbursement of expenses incurred by officers.

d. 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 June 30, 2000. Each subsequent fiscal year of the Authority shall begin on July 1<sup>st</sup> and end on June 30<sup>th</sup>.

13. BUDGET. The Board shall adopt an annual operating budget, which shall be separate from 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. The operating budget shall not be effective unless and until the governing body of each Member Entity has approved that Member Entity's contribution to the budget. Member Entity contributions shall become immediately due and payable to the Authority upon adoption of the budget, unless expressly provided otherwise in the budget.

14. ANNUAL AUDIT AND AUDIT REPORTS. The Board 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.

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 Government Code. 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 and in conformity with applicable law.

c. Insurance/Bond. 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, officers, employees, agents and Member Entities, as deemed appropriate by the Board.

d. Depository and Auditor Controller. The Board 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.

16. 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. Any Member Entity that withdraws shall remain liable for any budget contributions or capital improvement project participation approved before withdrawal. 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'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) with respect to any event or occurrence taking place before the Member Entity withdraws.

17. EXPULSION. The Authority may expel a Member Entity from the Authority by a four-fifths (4/5) vote of the Board for a breach of this Agreement determined by the Board to be a material breach. 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. Any Member Entity that has been expelled shall remain subject to the provisions of Paragraph 23 (Liability of the Authority; Release and Indemnity) with respect to any event or occurrence taking place before the Member Entity was expelled.

18. 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 Agreement and the Authority shall continue to exist after termination for the purpose of disposing of all claims, distribution of assets, and all other functions necessary to conclude the obligation 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. The Board 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.

20. 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.

21. AMENDMENTS. This Agreement may 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. An amendment is to be effective immediately unless otherwise designated.

22. SEVERABILITY. If a portion, term, condition, or 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, the validity of the remaining portions, terms, conditions, and provisions is not affected.

23. LIABILITY OF THE AUTHORITY; RELEASE AND INDEMNITY. Funds of the Authority may be used to defend, indemnify, and hold harmless the Authority, any Member Entity, any member of the Board, and each officer, employee and agent of the Authority 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 and hold harmless the other parties, their officers, agents, and employees 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 this Agreement. Each 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 by the Authority and Member Entity, 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.

24. GOVERNING LAW. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

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

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.

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

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the dates set forth below.

DATED: \_\_\_\_\_, 2020

CITY OF MENLO PARK

By: \_\_\_\_\_  
Mayor

ATTEST:

By: \_\_\_\_\_  
City Clerk

DATED: \_\_\_\_\_, 2020

CITY OF PALO ALTO

By: \_\_\_\_\_  
Mayor

ATTEST:

By: \_\_\_\_\_  
City Clerk

DATED: \_\_\_\_\_, 2020

CITY OF EAST PALO ALTO

By: \_\_\_\_\_  
Mayor

ATTEST:

By: \_\_\_\_\_  
City Clerk

DATED: \_\_\_\_\_, 2020

SANTA CLARA VALLEY WATER DISTRICT

By: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print Title)

ATTEST:

By: \_\_\_\_\_  
Secretary

DATED: \_\_\_\_\_, 2020

SAN MATEO COUNTY FLOOD AND SEA LEVEL RISE RESILIENCY DISTRICT

By: \_\_\_\_\_  
Board Chair

ATTEST:

By: \_\_\_\_\_  
Secretary



**Agenda  
Item 5.c.**

## 2018 Multi-County Agency Biennial Notice

Name of Agency: San Francisquito Creek Joint Powers Authority  
Mailing Address: 615 B Menlo Ave, Menlo Park, CA 94025  
Contact Person: Miyko Harris-Parker Phone No. 650 324-1972  
Email: mharker@sfcjpa.org Alternate Email: jpa@sfcjpa.org

Counties within Jurisdiction, or for Charter Schools, Counties in which the School is Chartered:  
(if more space is needed, include an attachment):

San Mateo County and Santa Clara County

No. of Employees\* 4 No. of Form 700 Filers\* 17

*\*Including board and committee members*

**Accurate disclosure is essential to monitor whether officials have conflicts of interest and to help ensure public trust in government. The biennial review examines current programs to ensure that the agency's code includes disclosure by those agency officials who make or participate in making governmental decisions.**

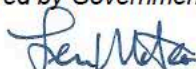
Please identify which statement accurately describes your agency's status.

- This agency has reviewed its conflict of interest code. The current code designates all positions which make or participate in making governmental decisions. The designated positions are assigned accurate disclosure categories that relate to the job duties of the respective positions. The code incorporates FPPC regulation 18730 so that all relevant Government Code Sections are referenced.
- This agency has reviewed its conflict of interest code and has determined that an amendment is necessary. An amendment may include the following:
  - New positions which involve the making or participating in the making of decisions which may foreseeably have a material impact on a financial interest
  - Current designated positions need renaming or deletion
  - Statutorily required provisions of the code need to be addressed
  - Disclosure categories need revision

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**Verification (to be completed if no amendment is required)**

*This multi-county agency's code accurately designates all positions that make or participate in the making of governmental decisions. The disclosure assigned to those positions accurately requires that all investments, business positions, interests in real property, and sources of income that may foreseeably be affected materially by the decisions made by those holding designated positions are reported. The code includes all other provisions required by Government Code Section 87302.*



Signature of Chief Executive Officer

01/30/2020

Date

All multi-county agencies must complete and return this notice, including those agencies whose codes are currently under review. Please return this notice no later than **October 1, 2018** to the FPPC at [biennialnotice@fppc.ca.gov](mailto:biennialnotice@fppc.ca.gov) or 1102 Q Street, Suite 3000, Sacramento, CA 95811.

**SAN FRANCISQUITO CREEK JOINT POWERS AUTHORITY  
CONFLICT OF INTEREST CODE**

The Political Reform Act (Government Code Section 81000 et seq.) requires state and local government agencies to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission has adopted a regulation (2 California Code of Regulations Section 18730) that contains the terms of a standard conflict of interest code, which can be incorporated by reference in an agency's code. After public notice and hearing, the standard code may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of 2 California Code of Regulations Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This regulation and the attached Appendices, designating positions (Appendix A) and establishing disclosure categories (Appendix B), shall constitute the conflict of interest code of the **San Francisquito Creek Joint Powers Authority (Authority)**.

Individuals holding designated positions shall file their statements of economic interests with the **Authority**, which will make the statements available for public inspection and reproduction (Gov. Code Sec. 81008). All statements will be retained by the **Authority**.

**SAN FRANCISQUITO CREEK JOINT POWERS AUTHORITY  
CONFLICT OF INTEREST CODE**

**APPENDIX A  
DESIGNATED POSITIONS**

<b>Designated Position</b>	<b>Assigned Disclosure Category</b>
Board of Directors and Alternates	1, 2, 3, 4
Associate Members	1, 2, 3, 4
Executive Director	1, 2, 3, 4
General Counsel	1, 2, 3, 4
Project Manager	1, 2, 4
Finance and Administration Manager	1
Consultants/New Positions <sup>a, b</sup>	(see below)

a) For consultants who serve in a staff capacity with the Authority, the consultant shall disclose based on the disclosure categories assigned elsewhere in this code for that staff position. For example, the General Counsel position is filled by an outside consultant, but acts in a staff capacity.

b) For consultants who do not serve in a staff capacity or new positions, such persons must disclose pursuant to Disclosure Categories 1, 2, 3 and 4 unless the Executive Director determines in writing that a particular consultant or new position is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements in Categories 1, 2, 3 or 4. Such written determination shall include a description of the consultant's or new position's duties and, based upon that description, a statement of the extent of disclosure requirements. The Executive Director's determination is a public record and must be retained for public inspection in the same manner and at the same location as this conflict of interest code.

**SAN FRANCISQUITO CREEK JOINT POWERS AUTHORITY  
CONFLICT OF INTEREST CODE**

**APPENDIX B  
DISCLOSURE CATEGORIES**

Designated positions must report financial interests in accordance with the assigned disclosure categories.

**Category 1:** Investments and business positions in business entities, and income, including receipt of loans, gifts, and travel payments, from sources, that provide services (e.g. engineering and environmental consulting firms), supplies, materials, machinery, or equipment of the type utilized by the Authority.

**Category 2:** Interests in real property located within one-half mile of the San Francisquito Creek, its floodplain, its watershed, and the tidal floodplain of the cities of Menlo Park, East Palo Alto and Palo Alto.

**Category 3:** Investments and business positions in business entities, and income, including receipt of loans, gifts, and travel payments, from sources, that filed a claim, or have a claim pending, against the Authority during the previous two years.

**Category 4:** Investments and business positions in business entities, and income, including receipt of loans, gifts, and travel payments, from sources, that provide real estate services (e.g. consulting, appraisal, development, construction).

This is the last page of the conflict of interest code for **San Francisquito Creek, JPA.**



**CERTIFICATION OF FPPC APPROVAL**

Pursuant to Government Code Section 87303, the conflict of interest code for **San Francisquito Creek JPA** was approved on 6/21 2016. This code will become effective on 7/2 2016.

A handwritten signature in black ink, appearing to be "B. Lau", written over a horizontal line.

Brian G. Lau

Senior Commission Counsel

Fair Political Practices Commission

**Agenda Item 5.d.**



SAN FRANCISQUITO CREEK  
JOINT POWERS AUTHORITY

[SFCJPA.ORG](http://SFCJPA.ORG)

**DRAFT**

**RESOLUTION NO. 20.2.27**

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE  
SAN FRANCISQUITO CREEK JOINT POWERS AUTHORITY ADOPTING THE  
SAN FRANCISCO BAY AREA INTEGRATED REGIONAL WATER MANAGEMENT PLAN  
OCTOBER 2019 UPDATE**

**THE SAN FRANCISQUITO CREEK JOINT POWERS AUTHORITY DOES HEREBY FIND AND RESOLVE:**

Section 1. The State electorate approved multiple statewide bond measures since 2000 to fund water and natural resource projects and programs, including Integrated Regional Water Management (IRWM); and

Section 2. The benefits of integrated planning for water resources management activities include increased efficiency or effectiveness, enhanced collaboration across agencies and stakeholders, and improved responsiveness to regional needs and priorities; and

Section 3. State statute and guidelines require that an IRWM Plan be adopted by the governing boards of participating agencies before IRWM grant funds can be provided for water resources management projects that are part of the IRWM Plan; and

Section 4. The Bay Area IRWM Plan was adopted by the Board previously; most recently in 2015 (SFCJPA Board Resolution No. 15.6.25) for the 2013 Update to comply with state statutes and guidelines that require that the Bay Area IRWM Plan be adopted before agencies may receive IRWM grant funding; and

Section 5. The Bay Area IRWM Plan was updated in October 2019 to meet the requirements outlined in the Department of Water Resources (DWR) 2016 standards for Integrated Regional Water Management Plans (IRWMPs) to maintain funding eligibility; and

Section 6. Adoption of the Bay Area IRWM Plan 2019 Update does not entail a direct commitment of resources and implementation of each project, as such will be the responsibility of the project proponent and any applicable project partners, and there is no joint commitment or responsibility by the Bay Area IRWM Plan participants to implement any or all of the projects; and

Section 7. SFCJPA staff has reviewed the October 2019 update to the Bay Area IRWM Plan, and determined that it is exempt from the California Environmental Quality Act pursuant to CEQA Guidelines §15262 and §15306 because the IRWM Plan consists of basic data collection that would not result in the disturbance of any environmental resource and involves planning studies for possible actions that the participating agencies have not yet approved; and

Section 8. The IRWM Plan and Updates are meant to be complementary to participating agencies' individual plans and programs and does not supersede such plans and programs, and adoption of the IRWM Plan does not prohibit or affect a participating agencies' planning efforts separate from the IRWM Plan; and

NOW THEREFORE, BE IT RESOLVED, that the Board of Directors of the San Francisquito Creek Joint Powers Authority does hereby adopt the October 2019 Update to the Bay Area Integrated Regional Water Management Plan.

PASSED, APPROVED, AND ADOPTED by the San Francisquito Creek Joint Powers Authority Board of Directors on the 27<sup>th</sup> day of February, 2020, by the following vote.

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

ATTEST:

APPROVED:

\_\_\_\_\_  
Len Materman, Executive Director

\_\_\_\_\_  
SFCJPA Board Chair

APPROVED AS TO FORM:

  
\_\_\_\_\_  
General Counsel

Date: February 24, 2020