



SAN FRANCISQUITO CREEK
JOINT POWERS AUTHORITY

Notice of Regular Meeting of the Board of Directors

Thursday, March 28, 2024 - 3:30 P.M.

City of Palo Alto Council Chambers, 250 Hamilton Ave, Palo Alto, CA, CA 94301

Members of the Public may speak on any agenda item for up to three minutes

Register in advance for this webinar:

https://us02web.zoom.us/webinar/register/WN_yuGyKZJgTviW45T5R1Ubrw

After registering, you will receive a confirmation email containing information about joining the webinar.

1. CALL TO ORDER AND ROLL CALL
2. APPROVAL OF AGENDA
3. APPROVAL OF MEETING MINUTES: Minutes of January 25, 2024, Regular Board Meeting, and February 22, 2024, Special Board Meeting.
4. PUBLIC COMMENT: *Individuals may speak on a non-agendized topic for up to three minutes.*
5. ACTION ITEMS:
 - A. Update Board Roles – Board Vice Chair and Committee Membership
 - B. Consider adoption of updates to the Board Handbook
 - C. Consider adoption of updates to the Employee Handbook
6. INFORMATION ITEMS:
 - A. Executive Director's Report
7. Board Member Announcements, Information Items, and Requests (Information only)
8. ADJOURNMENT

PLEASE NOTE: Board meeting Agenda and supporting documents can be viewed online no later than 3:30 p.m. on Monday, March 25, 2024 at sfcjpa.org -- click on the "Clerk of

750 Menlo Ave. Suite 250. Menlo Park, CA 94025
SFCJPA.ORG



SAN FRANCISQUITO CREEK
JOINT POWERS AUTHORITY

the Board” tab near the top, select 2024 and the meeting of interest. The Board Meeting package will be emailed to those on our Board Meeting distribution list prior to the Board meeting date. Contact SFCJPA Board Clerk, Miyko Harris-Parker at [MHParker@sfcjpa.org](mailto:MH Parker@sfcjpa.org) if you are not on this list and would like to be added.

San Francisquito Creek Joint Powers Authority
March 28, 2024, Regular Meeting of the Board
Agenda Item 3
January 25, 2024, Regular Board Meeting Minutes
DRAFT

Director Combs called the meeting to order at 3:30 p.m., at the City of Palo Alto Council Chambers, Palo Alto, CA. This meeting was conducted as a hybrid meeting with all attending members of the Board in person and other meeting attendees participating either in person or virtually via streaming video/ teleconference call.

Public input was solicited on each item and all public comments received are noted herein.

1) ROLL CALL

Members Present: Director Drew Combs, City of Menlo Park
Director Rebecca Eisenberg, Santa Clara Valley Water District (Valley Water)
Director Ruben Abrica, City of East Palo Alto (Not present at roll call)
Director Dave Pine, San Mateo County Flood and Seal Level Rise Resiliency (OneShoreline)
Director Greer Stone, City of Palo Alto

SFCJPA Staff Present: Margaret Bruce, Executive Director
Miyko Harris-Parker, Staff
Tess Byler, Staff
Kevin Murray

Legal Present: Lori Liu

2) APPROVAL OF AGENDA

ACTION: Motion and second (Eisenberg/Combs) to approve the agenda, passed 4-0.

Roll call vote:
Director Combs Aye
Director Eisenberg Aye
Director Pine Aye
Director Stone Aye

Director Abrica was not present at the time of vote.

3) APPROVAL OF MEETING MINUTES: Minutes of December 21, 2023, Regular Board Meeting

ACTION: Motion and second (Eisenberg/Combs) to approve the agenda, passed 4-0.

Roll call vote:
Director Combs Aye
Director Eisenberg Aye
Director Pine Aye
Director Stone Aye

Director Abrica was not present at the time of vote.

4) PUBLIC COMMENT

None.

Director Abrica arrived at 3:35 pm

San Francisquito Creek Joint Powers Authority
March 28, 2024, Regular Meeting of the Board
Agenda Item 3
January 25, 2024, Regular Board Meeting Minutes
DRAFT

5) ACTION ITEMS

Discuss and approve Board leadership and Committee Roles

ACTION: Motion and second (Eisenberg/Combs) to approve no change to Board leadership and Committee Roles passed 5-0.

Roll call vote:

Director Combs Aye

Director Abrica Aye

Director Eisenberg Aye

Director Pine Aye

Director Stone Aye

The board discussed and voted to keep leadership and committee roles the same.

Director Combs Chair

Director Eisenberg Vice-Chair

Personnel Committee: Director Abrica and Director Stone

Finance Committee: Director Pine and Director Eisenberg

ACWAJPIA Representatives Sr. Project Manager Tess Byler (Director) Director Combs (Alternate)

Consider and approve resolution authorizing the Executive Director to issue a Request for Proposals for a Master Services Agreement to conduct necessary alternatives analysis, as well as other follow-on work to plan, design, and implement Reach 2 project elements, and approving budgetary allocation of up to \$300,000 in SFCJPA Reserve Funds for such agreement.

ACTION: Motion and second (Eisenberg/Abrica) to approve resolution authorizing the Executive Director to issue a Request for Proposals for a Master Services Agreement to conduct necessary alternatives analysis, as well as other follow-on work to plan, design, and implement Reach 2 project elements, and approving budgetary allocation of up to \$300,000 in SFCJPA Reserve Funds for such agreement, passed 5-0.

Roll call vote:

Director Combs Aye

Director Abrica Aye

Director Eisenberg Aye

Director Pine Aye

Director Stone Aye

Consider and approve update to the SFCJPA's financial policies including removal of debit card utilization and increase to the Executive Director's spending authority from \$35,000 to \$50,000.

ACTION: Motion and second (Eisenberg/Combs) to approve update to the SFCJPA's financial policies including removal of debit card utilization and increase to the Executive Director's spending authority from \$35,000 to \$50,000 with reporting of expenditures over \$20,000 to be reported in the Executive Director's report monthly passed 5-0.

Roll call vote:

Director Combs Aye

Director Abrica Aye

Director Eisenberg Aye

Director Pine Aye

Director Stone Aye

Director Eisenberg requested an additional mechanism be put in place for transparency for

San Francisquito Creek Joint Powers Authority
March 28, 2024, Regular Meeting of the Board
Agenda Item 3
January 25, 2024, Regular Board Meeting Minutes
DRAFT

reviewing expenditures. Director Combs suggested that the additional transparency be focused on larger expenditures. Director Abrica Concurred. Executive Director Bruce commented that staff can add the list of higher-level expenditures to the monthly Executive Director's report. Director Stone suggested a reporting buffer for expenses over \$20,000. Director Pine concurred.

Consider adoption of resolution authorizing amendment to contract between the Board of Administration California Public Employees' Retirement System and the Board of Directors San Francisquito Creek Joint Powers Authority.

ACTION: Motion and second (Eisenberg/Abrica) to approve resolution authorizing amendment to the contract between the Board of Administration California Public Employees' Retirement System and the Board of Directors San Francisquito Creek Joint Powers Authority passed 5-0.

Roll call vote:

Director Combs Aye

Director Abrica Aye

Director Eisenberg Aye

Director Pine Aye

Director Stone Aye

6) INFORMATION ITEMS:

Executive Director's Report

Executive Director Bruce presented the Executive Director's report.

Director Abrica asked about the status of the updated hydraulic modeling. Executive Director Bruce stated that the draft report had been reviewed by SFCJPA staff and member agencies staff and that all comments were sent back to Schaff and Wheeler. Executive Director Bruce stated that the final report was expected to be received within a week.

7) Board Member Announcements, Information Items, and Requests (Information only)

None.

8) ADJOURNMENT

Adjourned at 4:23 pm.

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

San Francisquito Creek Joint Powers Authority
March 28, 2024, Regular Meeting of the Board
Agenda Item 3
February 22, 2024, Special Board Meeting Minutes
DRAFT

Director Combs called the meeting to order at 4:00 p.m., at the SFCJPA Office Conference Room, Menlo Park, CA. This meeting was conducted as a hybrid meeting with all attending members of the Board in person and other meeting attendees participating either in person or virtually via streaming video/ teleconference call.

Public input was solicited on each item and all public comments received are noted herein.

1) ROLL CALL

Members Present: Director Drew Combs, City of Menlo Park
Director Rebecca Eisenberg, Santa Clara Valley Water District (Valley Water)
Director Dave Pine, San Mateo County Flood and Sea Level Rise Resiliency District (OneShoreline)

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

SFCJPA Staff Present: Margaret Bruce, Executive Director (In person)
Miyko Harris-Parker, Staff (virtual)

Legal Present: Lori Liu (In Person)
Rebecca Green (Virtual)

2) APPROVAL OF AGENDA

ACTION: Motion and second (Eisenberg/Pine) to approve the agenda, passed 3-0.

Roll call vote:
Director Combs Aye
Director Eisenberg Aye
Director Pine Aye

Director Abrica and Director Stone not present.

3) PUBLIC COMMENT

None.

4) CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION Significant exposure to litigation pursuant to Government Code Section 54956.9(d)(2) – One Case

Adjourned to closed session at

Readjourned to regular session at 4:56 pm.

No reportable action.

5) ADJOURNMENT

Adjourned at 4:56 pm.

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

Agenda Item 5.A. – Updating 2024 Board Roles

Background

At the first meeting of the calendar year the board confirmed the roles for board leadership and committee membership. Recently Board member Eisenberg was relieved of her Valley Water committee roles and external appointments, leaving her position on the SFCJPA board temporarily filled by Valley Water alternate to the SFCJPA board.

Discussion

Unless or until a formal appointment has been made by the Valley Water Board of Directors, the SFCJPA board should determine when, how, and with whom they wish to fill Director Eisenberg's previous roles on the SFCJPA board of directors.

For reference -

Previous committee membership was:

Personnel Committee: Director Abrica and Director Stone.

Finance Committee: Director Pine and Director Eisenberg.

ACWAJPIA Board Director and Alternate: Senior Project Manager Tess Byler (Director)
Director Drew Combs (Alternate)

Recommendation

Discuss and move approval of board's desired Vice Chair and committee membership.

Agenda Item 5.B. – Board Handbook 2024 Update

Background

When there are State or federal policy or practice changes impacting the Board, we update the Board handbook to reflect those changes. Additionally, we review the policy handbook and consult with legal counsel regarding any changes to best practices, State, or federal laws that should be reflected in our Board Handbook.

Discussion

Changes and updates to the Board Handbook for 2024 include: Conflict of Interest Code, the Second Amended and Re-stated SFCJPA Member's Agreement, updates to gift limits, and various small edits.

Recommendation

Accept the updated Board Handbook.



SAN FRANCISQUITO CREEK
JOINT POWERS AUTHORITY

SFCJPA Board Handbook

March 2024

Version history

Date of Action	Action	Detail
November 18, 2021	Initial version	
December 15, 2022	Update	Detail added to Ex. Dir. Review process in Section 1.5 Clarification to COVID-related public health precautions regarding meetings in Section 3.8
March 17, 2023	Update	Updates to Board and Staff contact information. Removal of 3-year rolling workplan (to be provided as a separate information item to the board). Addition of reference to NetFile tool for Form 700 filing. Addition of ACWA-JPIA Committee participation description and background. Deletion of references to the now-defunct/inoperative google-map interface for the flood early warning system.
March 25, 2024	Update	Addition of updated Conflict of Interest Code. Removal of reference to COVID-specific meeting protocols. Update to gift limits. Addition of the Second Amended and Restated SFCJPA Members Agreement dated December 2023. Clarifications and updates to the Flood Early Warning System information. Updates to staff and legal counsel contact information.

Table of Contents

Introduction

1. Board Members and Alternates - Roles and Responsibilities	4
1.1 Participation	
1.2 Board roles	
1.3 Oversight	
1.4 Community Engagement / Representation	
1.5 Executive Director Annual Review	
2. Brown Act Compliance and SFCJPA Meetings	6
2.1 Open Meetings	
2.2 Types of Board Meetings	
2.3 Exceptions to Meeting Requirements	
3. Board and Committee Meeting Procedures	9
3.1 Regular meetings of the Board	
3.2 Special meetings of the Board	
3.3 Establishing Committees of the Board	
3.4 The SFCJPA’s Committees of the Board	
3.5 Board meeting dates and times, Annual Calendar	
3.7 Board and committee meeting minutes	
3.8 Meeting venues	
3.9 COVID-19 protocols	
4. Conflicts of Interest	12
4.1 Form 700	
4.2 Use of NetFile	
4.3 California Code Section 1090	
5. Agency Budget and Finances	14
5.1 Budget Process and Schedule	
5.2 Banking and Investments	
6. Agency Agreements	15
6.1 Member’s Founding Agreement	
6.2 Current Agency Agreements	
7. Winter Emergency Preparedness	16
7.1 The Flood Early Warning System	
7.2 Multi-Agency Coordination (MAC)	
8. Contact Information: Board and Staff	20

Appendices

- A. Members’ agreement (current as of December 2023)
- B. Current inter-agency agreements

Introduction

The San Francisquito Creek Joint Powers Authority (SFCJPA) works with its members and watershed partners to address the interrelated issues of flood protection, ecosystem restoration and creation of recreational opportunities along the creek and in the watershed.

Our overarching goal, working with our member agencies and partners, is to implement a suite of interrelated actions, each with independent utility but together comprising a comprehensive approach with multiple benefits to all inhabitants of the watershed. The SFCJPA's action plan to achieve our vision and overarching goal is to implement projects that are components of the SFCJPA's plan to cost effectively provide protection to people and infrastructure, while improving habitat and recreational opportunities.

Handbook Purpose and Objectives

This Board Handbook is intended to provide a summary of requirements for elected officials summarizing and supplementing the more detailed compliance information Board members receive from their agencies. This handbook also provides details about specific San Francisquito Creek Joint Powers Authority projects, functions, policies, and procedures relevant to Board members and their duties. We hope it provides a brief and useful orientation for new board members and a handy reference for existing board members.

1.0 Board Member Roles and Responsibilities

1.1 Board participation

Board members and alternates are appointed by their respective Boards or Councils. Member agencies are expected to have representation at all regular and special Board meetings. In the event a Board member is not able to attend a meeting, they should coordinate with their appointed Board Alternate to ensure the SFCJPA Board meeting has a quorum.

Board alternates are appointed by their respective Boards or Councils. Board alternates should familiarize themselves with the SFCJPA's projects, board agendas and materials so that they are ready to participate when necessary.

1.2 Board roles

Chair – The chair of the board is selected at the first meeting of the calendar year. The previous vice chair is often appointed to fill the Board Chair role. The Board Chair serves for two years. The board chair presides over each Board meeting, and coordinates agenda items and their order with the Executive Director. The Board chair also represents the SFCJPA in events, workshops, and public meetings, and at meetings with agency leaders as needed, with staff's support.

Vice Chair – The Vice Chair of the Board is selected at the first meeting of the calendar year. The Vice Chair stands in for the Chair of the Board if they are unavailable.

Committee members –

There are two standing committees of the SFCJPA Board: The Finance Committee and the Personnel Committee. As standing committees, all meetings of these standing committees must follow all meeting notice requirements of the Brown Act. The two members of each committee are selected at the first meeting of the calendar year. There is one external committee, the ACWA-JPIA Committee, where one board member and one staff member are selected to represent the SFCJPA.

Ad Hoc committees may be formed from time-to-time. The Board Chair appoints the members of the ad hoc committee who perform their function, report their findings or recommendations to the Board, whereupon the ad hoc committee is dissolved.

1.3 Oversight

The Board of Directors employs and oversees the Executive Director, and legal counsel. The Board shall provide the Executive Director with an annual performance evaluation. The Board may choose to evaluate legal counsel.

1.4 Community engagement

The members of the Board are encouraged to meet with their constituents in their capacity as SFCJPA Board members, to hear community input and answer questions. SFCJPA staff are eager to support Board members in community engagement opportunities.

1.5 Executive Director's Annual Performance Review

In March:

The Executive Director will provide all board members with a self-evaluation.

The Personnel Committee may choose to send evaluation surveys to SFCJPA staff for upward evaluations, and to external colleagues (for “360” evaluations). The Personnel Committee may choose to send internal and external evaluation surveys annually, or less often as they choose.

The Personnel Committee may choose to include survey questions about the organization’s overall performance if this feedback is considered helpful.

In April:

All evaluations (internal and external) to be received by a person designated by the Personnel Committee two weeks before the May Board meeting.


The Personnel Committee’s designee shall compile and summarize the results.

In May:


The May Board meeting shall have a closed session where the review information is shared with the full board. The Board shall invite the E.D. into the closed session to discuss their findings and recommendations. The E.D. shall have the opportunity to discuss and respond to the findings and submit responses to the board in writing within one week following the Board’s review.

The Board shall also have a closed session to discuss compensation and other contract details. The Board may designate a contract negotiator or negotiators, such as two members of the Board, to negotiate with the E.D regarding the contract terms. The Board shall meet in closed session to provide direction on compensation issues. The E.D. may not be present in such closed session.


March: Exec Dir provides self-evaluation to Board. Board Personnel Committee may choose to distribute a prepared survey via designee (legal counsel, for example) for external partners and staff evaluations of E.D.



April: Surveys (if any) returned two weeks before the May Board meeting, compiled by designee of the board.



May: Board shall have a closed session where -
a) any personnel committee or survey input is shared with the full board and the E.D. and
b) where the Board, *with the E.D. absent*, shall discuss and provide direction regarding executive compensation.



June: Any changes to E.D. compensation are reflected in the proposed budget for the following fiscal year.

2.0 Brown Act Compliance

Although all members of the SFCJPA Board of Directors receive Brown Act Compliance instruction from their respective agencies, it may be helpful to summarize Brown Act compliance requirements here as well.

2.1 Open Meetings

The central provision of the Brown Act requires that all “meetings” of a legislative body be open and public. The Brown Act defines the term “meeting” very broadly to encompass almost every gathering of the majority of a legislative body’s members:

Any congregation of a majority of the members of a legislative body at the same time and location . . . to hear, discuss, deliberate, or take action on any item that is within the subject matter jurisdiction of the legislative body.

The Brown Act does not prohibit individual conversations between two Board members, or conversations between less than a majority of the members of the Board of Directors.

Serial Meetings: Serial meetings are prohibited and can occur even though a majority of the Board of Directors never gather in a room at the same time. A serial meeting is a series of individual meetings or communications, through which ideas are exchanged, or decisions are made, among a majority of the Board. A serial meeting typically occurs in one of two ways. The first is when one person separately contacts a majority of the Board Members and shares ideas among them (i.e., “I’ve talked to members A and B and they will vote ‘yes.’ Will you?”). The second is when Board member A calls Board member B, who then calls Board member C.

Board members are not prohibited from communicating with staff and other Board members for the purpose of answering questions or providing information.

Observing the following guidelines can avoid inadvertent violation of the serial meeting rule.

Contacts with Staff: Staff briefings of individual Board members for the purpose of answering questions or providing information regarding an item of business do not constitute a serial meeting under the Brown Act as long as a staff person does not communicate the comments or positions of a member of the Board. To avoid having a staff briefing become a serial meeting:

- Staff briefings of members of the Board should be “unidirectional” when done on an individual basis for a majority of the legislative body. For example, the SFCJPA Executive Director has “one-on-ones” with each Board member. This means that information should flow from staff to the member, and the member’s participation should be limited to asking questions and acquiring information.
- A Board member should not ask staff to describe the views of any other members of the legislative body, and staff should not volunteer those views if known.
- Staff may present their views to a Board member during an individual contact, but staff should not ask for that member’s views unless it is absolutely clear that staff is not discussing the matter with a majority of the legislative body.

Contacts with Constituents, Developers and Lobbyists: A constituent can inadvertently become an intermediary among a majority of Board members creating a serial meeting. To avoid violations arising from contacts with constituents, developers and lobbyists, the Board member should:

- State the ground rules “up front.” Ask if the person has talked, or intends to talk, with other members of the Board about the same subject. Make it clear that the person should not disclose the views of other legislative body member(s) during the conversation.
- Explain to the person that you will not make a final decision on a matter prior to the Board meeting in which the matter is heard.
- Do more listening and asking questions than expressing opinions.

Contacts with Fellow Members of the Same Legislative Body: Direct contacts concerning local agency business with fellow members of the Board – whether through face-to-face or telephonic conversations, notes, letters, online exchanges, e-mail with or to staff members – are the most obvious means by which a serial meeting can occur. This is not to say that a member of a legislative body is precluded from discussing items of local agency business with another member of that legislative body outside of a meeting; as long as the communication does not involve a majority of the legislative body, no “meeting” has occurred.

These suggested rules of conduct may seem restrictive and may make acquisition of important information more difficult or time-consuming. Nevertheless, following them will help assure that your conduct comports with the Brown Act’s goal of achieving open government. If you have questions about compliance with the Brown Act, you should seek advice from legal counsel.

2.2 Types of Board Meetings

Regular Meetings: All regular business of the Board should be conducted at the Board’s regular, monthly meetings. Once a regular meeting is adjourned, the Board may not meet again until the next regular meeting, unless the Board adjourns to a different time or unless a special meeting is called. Field trips and “study sessions” occurring on a date other than a regular meeting date are conducted as adjourned meetings or special meetings.

Adjourned Meetings: At the conclusion of a regular meeting, the Chair may adjourn the meeting to a specific time, place, and date. This allows for an extension of the regular meeting. If a regular meeting of the Board is adjourned to another time, the Clerk of the Board shall post a notice of the adjourned meeting.

Special Meetings: Special meetings may be called by the Chair or a majority of the Board under the following guidelines:

- Written notice must be delivered personally or by any other means to each Board member. Notices must also be posted, at least 24 hours prior to the meeting, at the designated posting place(s).
- The notice must contain the subjects of the meeting and only those subjects may be considered at the special meeting.

2.3 Exceptions to Meeting Requirements

There are six types of gatherings that are not subject to the Brown Act. We commonly refer to these exceptions as: (1) the individual contact exception; (2) the seminar or conference exception; (3) the community meeting exception; (4) the other legislative body exception; (5) the social or ceremonial occasion exception; and (6) the standing committee exception. Unless a gathering of

a majority of the members of a legislative body falls within one of these exceptions, a majority of members gathering in the same room to listen to or be part of a discussion of local agency business would constitute a meeting within the meaning of the Brown Act. If board members have any questions about these exceptions or how they may apply to a specific situation, please contact legal counsel.

3.0 Board and Committee Meeting Procedures

3.1 Regular meetings of the Board

All regular Board meeting agendas and supporting materials must be posted no less than 72 hours prior to a regularly scheduled meeting of the Board. According to the Board’s usual meeting schedule this means that materials must be posted on the Monday afternoon prior to the Thursday afternoon meeting. If timing allows, SFCJPA staff try to post Board meeting agendas and materials the preceding Friday.

Board meetings are convened by the Board Chair, or the Vice Chair if the Chair is absent. A sample draft of an SFCJPA Board meeting agenda is below:



Notice of Regular Meeting of the Board of Directors

Thursday, xxxxxxxx, xx, xxxx

3:30 P.M.

Due to the risk of COVID-19 transmission, this meeting will be held remotely. Members of the public may observe and offer comment at this meeting by using the chat function and typing your question or comment, by selecting the raise your hand function or if you are joining by phone unmuting yourself and letting Clerk of the Board or Board Chair know you wish to speak. If you require an accommodation pursuant to the Americans with Disability Act, please contact the Clerk of the Board at the phone number or email listed at the bottom of this Agenda by 10:00 am on the day of the meeting.

Join Zoom Meeting

Zoom link inserted here

Meeting ID: xxx xxxx xxxx Passcode: xxxxxx

(xxx) xxx-xxxx-xxxxxxxxxxxx#,,,,, *xxxxxx#

Agenda

- 1. CALL TO ORDER AND ROLL CALL
- 2. APPROVAL OF AGENDA: Changes or additions to the agenda.
- 3. APPROVAL OF MEETING MINUTES: xxxxx,xxxx Regular Meeting
- 4. PUBLIC COMMENT: Individuals may speak on a non-agendized topic for up to three minutes.

REGULAR BUSINESS

Members of the Public may speak on any agenda item for up to three minutes

- 5. xxxxxxxx
- 6. INFORMATION ITEMS
 - A. Executive Director's Report
- 7. CONSENT AGENDA
 - A. xxxxxxx

(650) 457-0943 *jpa@sfcjpa.org * 2100 xxxxx Road, Suite 210* Palo Alto, CA 94303
SFCJPA.ORG



8. ACTION ITEMS

- A. xxxxxxxx xxxxxxxx xxxxx
- B. xxxxxxxx xxxxxxxx xxxxxxx

9. BOARD MEMBER COMMENTS, INFORMATION ITEMS, REQUESTS and ANNOUNCEMENTS (Information only)

10. ADJOURNMENT

PLEASE NOTE: Board meeting Agenda and supporting documents related to items on the Agenda can be viewed online by 3:30 p.m. by Monday xxxxx,xx,xxxx at sfcjpa.org -- click on the "Meetings" tab near the top.

(650) 457-0943 *jpa@sfcjpa.org * 2100 xxxxx Road, Suite 210* Palo Alto, CA 94303
SFCJPA.ORG

The regular agenda order begins with a roll call, then action to accept or change the agenda, followed by public comment on any topics in the SFCJPA’s purview that are not on the meeting’s agenda. It is the Chair’s discretion as to how long members of the public may speak; a three-minute time limit is typical.

As shown in the sample agenda the remainder of the agenda may include the Executive Director’s report and other information items, study session or discussion/non-action items, review and approval of meeting minutes, consent items, action items, Board member announcements and adjournment.

Board meetings may include a closed session where the Board adjourns from regular open session to closed session, then reconvenes in open session to report on any reportable actions taken in closed session.

3.2 Special meetings of the Board

Special meetings of the Board may be convened and require 24-hours' notice. Special meetings are convened to address matters that cannot wait until the next scheduled regular meeting of the Board. Examples include budget discussions and consultant contract approval.

3.3 Establishing Committees of the Board

The Board may establish committees to provide analysis and recommendations to the full Board. Committees may either be Standing Committees or Ad Hoc committees.

Standing committees are subject to the Brown Act. The Brown Act describes a standing committee as one which has "continuing subject matter jurisdiction." This means that a permanent committee that is designed to handle an issue or issues on a continual basis will be a standing committee and is subject to the Act's notice and posting requirements. Membership of Standing committees is typically less than a quorum of the Board. Non-committee members of the Board may attend committee meetings but cannot engage in discussion.

Standing committees don't need to establish a "regular meeting time and place", but they must meet in public and post notices of their meetings.

Ad hoc or "temporary" committees are treated differently under the Brown Act. The Chair of the Board establishes an ad hoc committee by appointing the committee as part of an agenda item at a publicly noticed Board meeting.

Ad hoc committees are not subject to the notice and posting requirements of the Brown Act so long as the committee:

- is only comprised of agency Board members,
- Is less than a quorum of the Board,
- has a defined purpose and a time frame to accomplish that purpose; and
- is advisory, i.e., the committee has not been delegated any decision-making power and will be returning to the full Board with its recommendation(s).

Once that Ad Hoc committee has completed its work, the committee is then disbanded.

3.4 The SFCJPA's Committees of the Board

There are two standing committees of the SFCJPA Board.

The Personnel Committee – This committee is typically comprised of the Board Chair and one other member of the board. The purpose of this committee is to conduct the annual evaluation of the Executive Director and to make any recommendations for Executive compensation. Typically, the annual performance review is to be conducted in March and concluded in April to ensure that any recommendations for changes in compensation can be included in the annual budget process.

In the event of the need to fill the role of Executive Director, the personnel committee may also be engaged in Executive search and candidate evaluation tasks.

The Finance Committee – This committee is convened to review and provide feedback on the SFCJPA’s annual proposed operational budget, annual audit, Finance Policy, and Procedure updates and SFCJPA banking and investments. The committee typically convenes in the first quarter of the calendar year and occasionally in the fall depending on the financial needs of the agency.

Proposed: Account signatories will include one member from the Finance Committee and the Board Chair.

ACWA-JPIA Committee – One member of the board and one staff member are selected to represent the SFCJPA to the ACWA-JPIA committee. There is typically one meeting per year.

The Association of California Water Agencies Joint Powers Insurance Authority (ACWA JPIA, aka JPIA) was formed to provide liability coverages tailored to the unique needs of California water agencies. Because risk sharing among water agencies was so successful in its first few years, a Property Program was added in January of 1983 and a Workers’ Compensation Program was added in July of 1984. In July 2012, the Employee Benefits Program was added. Each water agency that joins the JPIA must also be a member of ACWA, be a public entity, and be directly involved with water. Each member names one of its directors to sit on the JPIA’s Board of Directors. In addition, the water agency’s board members and staff become eligible to participate on the JPIA’s various Committees of the Programs for which they are members.

Ad Hoc Committees – According to the Brown Act, Ad Hoc committee members are appointed by the Chair. Ad hoc committees are convened to serve a specific purpose for a limited time.

3.5 Board meeting dates and times, Annual Calendar

The SFCJPA holds its regularly scheduled Board meetings on the fourth Thursday of each month at 3:30 P.M., except for the months of November and December in which the meetings will be held on the third Thursday to accommodate the winter holidays.

The Board typically chooses to select a month in the summer (often July or August) for a recess, when no regular meeting of the Board occurs.

The annual calendar is typically set at the November or December Board meeting for the upcoming year.

3.6 Board and Committee Meeting Minutes

On October 22, 2020, by Resolution #20-10-22 C, the SFCJPA Board adopted a policy of summary minutes. This style of meeting minutes provides basic information about actions taken and the essentials of public input and Board discussion but is not verbatim nor detailed. Typically, meeting minutes for the previous regular meeting and any special meetings are included in the next monthly Board packet.

3.7 Meeting venues

Regular in-person meetings are rotated between the City Halls of Palo Alto, East Palo Alto and Menlo Park. Following the governor’s declaration of the end of the COVID-19 Public Health

Emergency, effective February 28, 2023, SFCJPA board meetings will be held in-person and where technologically feasible, will provide a 'hybrid' option for members of the public to attend via video conference.

3.8 COVID-19 and Public Health and Safety Protocols

The SFCJPA conformed to the requirements of AB361 regarding a finding of public health requirements when determining its meeting format and location. In the future, should a public health emergency arise, the SFCJPA will follow recommended public health and safety protocols.

4.0 Conflict of Interest

4.1 Form 700

The Political Reform Act requires public officials to disclose assets and income that may be materially affected by their official actions by filing a "Statement of Economic Interests" (also known as a "Form 700"). All Board members and alternates must file a Form 700 with the SFCJPA. Forms should be mailed to the SFCJPA office attention Clerk of the Board or sent electronically to the Clerk of the Board to mhparker@sfcjpa.org. Please visit the FPPC website for filing information.

4.2 Use of NetFile

"NetFile", an online Form 700 filing tool, is being implemented to simplify and streamline Form 700 reporting. Board members have been alerted to the activation of this tool for their use. SFCJPA staff is working with relevant member agency staff to facilitate SFCJPA board member use of NetFile.

<https://www.fppc.ca.gov/Form700.html>

Board members must send their Form 700 to the SFCJPA Clerk of the Board no later than April 1 of each year or as posted by the FPPC.

If a public official fails to timely file his or her Form 700, the case will be referred to the FPPC Enforcement Division, and a penalty of up to \$5,000 may be imposed. File on time!

4.3 Conflicts under the Political Reform Act

In addition to the disclosure requirements, the Political Reform Act requires public officials to disqualify themselves from making, participating in making, or in any way attempting to use their official position to influence a governmental decision in which they know or have reason to know they have a financial interest. An official has a disqualifying financial interest in a decision if the decision will have a reasonably foreseeable material financial effect, distinguishable from its effect on the public generally, directly on the official or a member of the official's immediate family, or on certain listed financial interests. The listed financial interests are:

- Any business entity in which the public official has a direct or indirect investment worth \$2,000 or more.
- Any real property in which the public official has a direct or indirect interest worth \$2,000 or more.
- Any source of income, including commission income or incentive income, aggregating to at least \$500 within 12 months prior to the time when the decision is made. The \$500

must be provided or promised to, or received by, the official during the 12 months before the decision.

- Any business entity (excluding nonprofit corporations) in which the public official is a director, officer, partner, trustee, employee, or holds any position of management.
- Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating \$590 or more in value provided to, received by, or promised to the public official within 12 months prior to the time when the decision is made.

4.3 Conflicts under California Government Code Section 1090

Government Code Section 1090 prohibits an officer, employee, or agency from participating in making government contracts in which the official or employee within the agency has a financial interest. Section 1090 applies to virtually all state and local officers, employees, and multimember bodies, whether elected or appointed, at both the state and local level.

“Making” a contract includes final approval of the agreement, as well as involvement in preliminary discussion, planning, negotiation, and solicitation of bids.

A broad range of agreements are considered a contract under Section 1090. Generally, there is a contract when an offer is made and accepted and there is something of value bargained for and exchanged by each party. This includes written contracts, purchase of goods or services, employment agreements, leases, development agreements, etc.

An official can have a “financial interest” in a contract in a variety of ways and it is not limited by the amount of the interest or how closely connected the official’s interest is to the contract.

Several exceptions to Section 1090’s general prohibition also exist and, when applicable, officials may be considered to have no financial interest or a “remote” financial interest, so that a contract, or the official’s participation in the contracting process, is not prohibited under Section 1090.

Violations of Section 1090 can result in the voiding of contracts, criminal, civil, and administrative penalties, as well as a ban on holding public office.

The FPPC issues advice letters and opinions to persons subject to Section 1090 and enforces the provisions of Section 1090 through administrative and civil actions. More information about the advice letter process is available at the FPPC’s Formal Advice webpage. To file a complaint alleging a violation of Section 1090, go to the FPPC’s File a Complaint webpage.

5. Agency Budget and Finances

5.1 Budget Process and Schedule

The SFCJPA agency operational budget covers shared costs of running the organization – including staff compensation, employee benefits, office costs, legal, consulting support (examples include IT, Flood Warning system maintenance, and other small shared-expense costs). The funding for the organization is comprised of member agency contributions which form equal shares of the operating budget. Occasionally, grants may modestly augment the budget.

The annual budget is drafted by the SFCJPA's Finance Manager in consultation with SFCJPA staff. The Budget process begins in February and ends when the budget is approved by the SFCJPA Board, which typically occurs in April or May at the latest. The draft budget is presented to the Finance Committee prior to presenting this information to the Board.

5.2 Banking and Investments

The SFCJPA has two operational banking accounts, three project accounts and one reserves account. The SFCJPA operational and project accounts are held at First Republic Bank. The SFCJPA reserves funds are held in a LAIF account. Suggestions of when and where to invest SFCJPA funds (if different than with LAIF) will first be presented to the Finance Committee then to the Board for final approval or determination.

6. Agency Agreements

6.1 Member's Agreement

The Founding Members' Agreement between the five SFCJPA members, created in 1999 after the serious flood event of 1998, established the Joint Powers Authority. This document remained unchanged until 2019, when the creation of the San Mateo County Flood and Sea Level Rise Resiliency District replaced the County of San Mateo itself as the SFCJPA member, necessitating an update to the agreement language. At that time, a few additional updates to the agreement language were made.

The SFCJPA Second Amended and Restated Members' Agreement, current as of December 2023, is attached for reference as Appendix A.

6.2 Agency Agreements

The SFCJPA is a signatory to several different inter-agency agreements to facilitate the execution of the SFCJPA's mission and objectives. These agreements define our shared understandings and agreements regarding roles, responsibilities, and obligations.

The following is a list of the current agreements to which the SFCJPA is a party. These documents are provided in full in Appendix B.

1. Between Valley Water and the SFCJPA for funding the initial study and Environmental Impact report for flood protection, etc. from Highway 101 to El Camion Real. (Expires 12/31/21. Extension in process)
2. Between Valley Water and the SFCJPA, Cost share agreement for West Bayshore Inlet.
3. Between the US Army Corps of Engineers and the SFCJPA for the CAP 205 Study.
4. Between the City of Menlo Park, the SFCJPA, Meta (formerly known as Facebook) and PG&E for implementation of the FEMA BRIC grant (draft agreement).

7. Winter Emergency Preparedness

7.1 The SFCJPA Flood Early Warning System

The SFCJPA has implemented a set of rainfall and stream flow monitors in the watershed and on creek tributaries. This real-time rainfall and streamflow monitoring can be accessed on the SFCJPA's website at this link: <https://www.sfcjpa.org/rain-and-streamflow-gages>

Historically, the SFCJPA's Flood Early Warning System, implemented in 2015, addressed multiple needs:

- Real-time monitoring of rainfall in the upper watershed,
- Real-time monitoring of stream flow conditions in the San Francisquito Creek and its major tributaries,
- Coordinated communication of streamflow information to emergency management and response personnel,
- Rainfall and streamflow conditions for use by subject-matter experts and interested members of the community.

The current system and coordination among SFCJPA members ensures we fulfill those needs and responsibilities.

Until 2021, the SFCJPA operated an automated alert system. However, the technology operating this became obsolete, and other organizations associated with San Mateo and Santa Clara Counties operated much more sophisticated alert systems. The SFCJPA has decommissioned the Flood Early Warning System, including its call and text alert system, and the interactive web-based map. For emergency alerts, the SFCJPA points community members to the new, comprehensive alert systems in both counties.

7.2 Multi-Agency Coordination (MAC)

The purpose of the San Francisquito Creek (SFC) Multi-Agency Coordination (MAC) Operational Plan is to establish a MAC Group to facilitate:

1. Pre-incident planning prior to a storm/flood event,
2. Coordination of the stakeholders' interagency response and recovery operations, and
3. Collaboration on public messaging.

The Plan is maintained by the Palo Alto Office of Emergency Services (OES), whose chief serves as the chair of the SFC MAC. Prior to every winter season, OES will review this Plan with the Stakeholders and others, as needed. The current SFC MAC Operations Plan can be found here: [Microsoft Word - SFC MAC Op Plan Severe Storms and Flood \(cityofpaloalto.org\)](#)

There are annual Plan reviews and coordinating meetings of the participants in the MAC, representing the SFCJPA, city, county, and Valley Water emergency preparedness and response professionals, public safety professionals, public works representatives and other key stakeholders.

8. Contact information: Board and Staff

SFCJPA Board and Alternates:

City of East Palo Alto	Board Member	Alternate Board Member
	Ruben Abrica, Vice Mayor	Martha Baragan
	2415 University Ave.	2415 University Ave.
	East Palo Alto, CA 94303	East Palo Alto, CA 94303
	650/853-3100	650/250-6829
	rabrica@cityofepa.org	mbarragan@cityofepa.org
City of Menlo Park	Drew Combs, Mayor	Cecilia Taylor
	701 Laurel Street	701 Laurel Street
	Menlo Park, CA 94025	Menlo Park, CA 94025
	650/330-6610	650/330-6610
	dcombs@menlopark.org	cttaylor@menlopark.org
City of Palo Alto	Greer Stone, Vice Mayor	Lydia Kuo, Mayor
	250 Hamilton Ave	250 Hamilton Ave
	Palo Alto, CA 94303	Palo Alto, CA 94303
	650/892-0925	650/329-2480
	Greer.Stone@CityofPaloAlto.org	Lydia.kuo@cityofpaloalto.org
OneShoreline	Dave Pine, County Supervisor	Ray Mueller, County Supervisor
	555 County Center	555 County Center
	Redwood City, CA	Redwood City, CA
	650 363-4571	650-363-4569
	dpine@smcgov.org	rmueller@smcgov.org
Santa Clara Valley Water District (Valley Water)	Rebecca Eisenberg, Director	Nai Hsueh, Board Chair
	5750 Almaden Expressway	5750 Almaden Expressway
	San Jose, CA 95118	San Jose, CA 95118
	408 265-2600	408 265-2600
	REisenberg@valleywater.org	NHsueh@valleywater.org

SFCJPA Offices

750 Menlo Ave., Suite 250

Menlo Park, CA 94025

www.sfcjpa.org

Staff

Margaret Bruce, Executive Director	Cell: 650-384-7850 Office: 650-643-1451	Email: mbruce@sfcjpa.org
Open Position, Project Manager		
Tess Byler, Sr. Project Manager	Cell: 650-304-4998 Office: (650) 643-1454	Email: tbyler@sfcjpa.org
Miyko Harris-Parker, Finance Manager and Clerk-of-the-Board	Cell: 650-304-2362 Office: (650) 643-1452	Email: mhparker@sfcjpa.org

Legal Counsel

Lori Liu

RICHARDS WATSON GERSHON
One Sansome Street, Suite 2850
San Francisco, CA 94104

lliu@rwglaw.com

T: 415.421.8484

W: rwglaw.com

Auditor

Miranda Beasley

Partner

Grant & Smith, LLP

Phone 510-832-0257 ext. 1004

Cell 510-703-2385

Fax 510-272-9757

APENDICIES

APENDIX A

Second Amended and Restated Members' Agreement – December 2023

**SECOND AMENDED AND RESTATED
JOINT POWERS AGREEMENT**

FOR THE

**SAN FRANCISQUITO
CREEK JOINT POWERS
AUTHORITY**

AMENDED AND RESTATED

as of

December 18, 2023

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

TABLE OF CONTENTS

	II.	PAGE
1. CREATION OF THE SAN FRANCISQUITO CREEK JOINT POWERS AUTHORITY		1
2. PURPOSES		2
3. PARTIES TO AGREEMENT		2
4. TERM OF AGREEMENT		2
5. POWERS OF THE AUTHORITY		2
6. MEMBER ENTITY APPROVALS AND RESPONSIBILITIES.....		3
7. CAPITAL PROJECT PARTICIPATION		4
8. MEMBERSHIP		4
9. BOARD OF DIRECTORS.....		4
10. OFFICERS.....		5
11. FISCAL YEAR.....		5
12. OPERATING BUDGET		5
13. ANNUAL AUDIT AND AUDIT REPORTS		6
14. ESTABLISHMENT AND ADMINISTRATION OF FUNDS		6
15. WITHDRAWAL		6
16. EXPULSION		7
17. TERMINATION AND DISTRIBUTION.....		7
18. PROHIBITION AGAINST ASSIGNMENT.....		8
19. AMENDMENTS.....		8
20. SEVERABILITY.....		8
21. INDEMNIFICATION		8
22. CHOICE OF LAW AND VENUE.....		8
23. COUNTERPARTS.....		9
24. AGREEMENT COMPLETE		9
25. NO THIRD-PARTY BENEFICIARIES		9
26. NONWAIVER OF RIGHTS		9
27. AGREEMENT EXECUTION		9
28. EQUAL OPPORTUNITY		9
29. NOTICES.....		10

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 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).

III. RECITALS

- A. The Joint Exercise of Powers Act, Government Code sections 6500 et seq. (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 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.
- 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.
- E. The governing body of each Member Entity has determined that it is in the Member Entity's best interest and the public interest that this Second Amended and Restated Joint Powers Agreement for the San Francisquito Creek Joint Powers Authority be executed.

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 (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. Develop and maintain projects to reduce the risk of flooding in and around San Francisquito Creek.
- b. Develop and maintain projects to reduce the risk of coastal flooding from along the San Francisco Bay shoreline.
- c. Maintain, restore, enhance the environment, and create recreational opportunities, where possible, in implementing the other purposes stated herein.
- d. 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. Secure and administer funding for the benefit of the Authority's operations, capital projects, and related work.

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

This Agreement continues in full force until terminated in accordance with paragraph 17. Termination and Distribution.

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 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. 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.
- e. Sue and be sued in its own name;
- f. Contract with independent consultants and contractors;
- g. Receive, collect, and disburse monies;
- h. Hire staff in conformance with an approved operating budget;
- i. Assign, delegate, or contract with a Member Entity or third party to perform any of the Authority's duties including, but not limited to, acting as administrator for the Authority; and
- j. Exercise all other powers and carry out other duties as necessary and proper to fulfill the provisions of this Agreement.

6. MEMBER ENTITY APPROVALS AND RESPONSIBILITIES

Each Member Entity has the approval authority, obligations, and responsibilities set forth in this Agreement. The Member Entities retain the following powers:

- a. The designation of each Member Entity's Director and alternate as specified in paragraph 9. Board of Directors;
- b. Approval of an amendment to this Agreement as specified in paragraph 19. Amendments;
- c. Approval of the Member Entity's funding or other contribution for a capital project as specified in paragraph 7. Capital Project Participation; and
- d. Approval of the Member Entity's contribution to the annual budget of the Authority as specified in paragraph 12. Operating Budget.

7. 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
- b. 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 the Member Entity's governing body or designee. Each Member Entity shall have the right to determine independently whether to participate in any capital project.

8. MEMBERSHIP

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

9. BOARD OF DIRECTORS

- a. **Directors.** There shall be a Board of Directors to govern the Authority. The Board of Directors shall be comprised of one Director designated by each Member Entity. Each Director shall have one vote on the Board of Directors. Each Director shall have an alternate designated by the governing body of each Member Entity. No two Directors and no two Alternate Directors shall be from the same governing body of any Member Entity.
- b. **Alternates.** All references in this Agreement to a Director refer to and include the Director's alternate, when acting in place of a Director.
- c. **Compensation.** 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.
- d. **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. **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. 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.
- f. **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 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.

- g. **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 (Government Code §54950, et seq.).
- h. **Notices, Agendas, Minutes.** The Board of Directors shall appoint or hire a Clerk of the Board of Directors who shall be responsible for preparing minutes of each regular and special meeting of the Board of Directors, and issuing notices and agendas in accordance with the law.
- i. **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.
- j. **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 Directors.

10. OFFICERS

- a. The officers of the Authority are the Chair, and Vice-Chair.
- b. The officers shall be elected or appointed by the Board of Directors at its first meeting of the calendar year unless delayed by an action of the Board of Directors.
- c. The term of office for Chair and Vice Chair 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.
- d. If the Chair or Vice Chair 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.

11. FISCAL YEAR

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

12. OPERATING BUDGET

- a. The Board of Directors shall adopt an annual operating budget, which shall be separate from the budget for any capital project of the Authority. The operating budget shall include the proposed contribution from each Member Entity 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 approves that Member Entity's contribution to the operating

budget.

- c. A Member Entity's contribution shall become due and payable to the Authority upon adoption of the annual operating budget by the Board of Directors and

approval of the Member Entity's contribution to the budget by that Member Entity's governing body.

13. 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.

14. 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, 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/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 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 §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.

15. WITHDRAWAL

- a. 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 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 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 21. Indemnification

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

16. EXPULSION

- a. 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 project participation approved before expulsion.
- c. Any Member Entity that has been expelled shall remain subject to the provisions of paragraph 21. Indemnification with respect to any *event* or occurrence taking place before the Member Entity was expelled.

17. 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. The Agreement may only be terminated after disposing of all claims, distribution of assets, and performance of all other functions necessary to conclude the obligations and affairs of the Authority.
- b. **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.
- c. **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.
- d. **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.
- e. **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.

18. 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.

19. 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 on which it will be considered. An amendment is effective upon full execution by all Member Entities.

20. Severability

If a court of competent jurisdiction holds any provision of this Agreement to be illegal, unenforceable, or invalid in whole or in part for any reason, the validity and enforceability of the remaining provisions, or portions of them, will not be affected, unless an essential purpose of this Agreement would be defeated by the loss of the illegal, unenforceable, or invalid provision.

21. 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.
- 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 each of the other Member Entities, their officers, board members, employees, and agents, harmless from any 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. No Member Entity, nor any officer, board member, employees, or agent thereof shall be responsible for any damage or liability occurring by reason of the negligent acts or omissions or willful misconduct of the other Member Entity hereto, 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.

22. Choice of Law and Venue

The Parties agree that this Agreement is to be governed, construed, and enforced in accordance with the laws of the State of California. 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.

23. Counterparts

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

24. 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.

25. 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.

26. 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.

27. 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).

28. 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.

29. 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 Member Entities hereto have executed this Agreement on the dates as set for the below.

(SIGNATURES TO FOLLOW ON SEPARATE PAGES) (REMAINDER OF PAGE

INTENTIONALLY LEFT BLANK)

DATED: /)e_e- b /'2 , 2023

==== ? - _ .

ATTEST:



Judi A. Herren
City Clerk

APPROVE AS TO FORM:

 / / L1J2

Nira oij?erty \.../ -
City Attorney

(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK)

7/7/2023

DocuSigned by:
Lydia Kou
5BE1B1635F4F4B6...

DATED: _____, 2023

CITY OF PALO ALTO

By: _____
Name Lydia Kou
Mayor

ATTEST:
DocuSigned by:
Mahealani Ah Yun
8691CE5898F6400...

By: _____
Name Mahealani Ah Yun
City Clerk

APPROVE AS TO FORM:

DocuSigned by:
Mark Vanni
D096F61EA095472...

City Attorney Mark Vanni

(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK)

DATED May 2nd, 2023

CITY OF EAST PALO ALTO

bi''''N''''

By: 

7C81143E4FA...

Mayor

ATTEST:

DocuSigntd by:

By:

City Clerk

APPROVE AS TO FORM:

Mil'ltr<Ae¥2...

(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK)

DATED: August 8, 2023

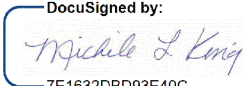
SANTA CLARA VALLEY WATER DISTRICT

By:  EP78B8FE60E64F3...

Barbara F. Keegan

Vice Chair, Board of Directors

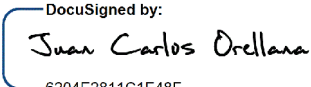
ATTEST:

 7E1632DBD93E40C...

By: Michele L. King, CMC

Clerk, Board of Directors

APPROVE AS TO FORM:

 6204E2811C1E48F...
District Counsel

J. Carlos Orellana

(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK)

DATED: June 26 -----, 2023

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


By: DAVEPINE

Name

Chair, Board of Directors

ATTEST:

SUKHMANI

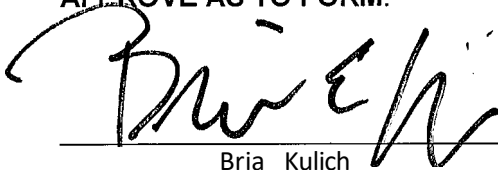
By: C:~::~> 

PUREWAL

Name

Clerk, Board of Directors (Acting)

APPROVE AS TO FORM:

 _____

Bria Kulich

Lead Deputy County
Counsel General
Counsel

(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK)

APENDIX B

CURRENT INTERAGENCY AGREEMENTS

1. Between Valley Water and the SFCJPA for funding the initial study and Environmental Impact report for flood protection, etc. from Highway 101 to El Camion Real. (Expires 12/31/21. Extension is in process to December 31, 2025.)
2. Between Valley Water and the SFCJPA, Cost share agreement for West Bayshore Inlet.
3. Between the US Army Corps of Engineers and the SFCJPA for the CAP 205 Study.
4. Between the City of Menlo Park, the SFCJPA, Meta (formerly known as Facebook) and PG&E for implementation of the FEMA BRIC grant (draft agreement).

AMENDMENT NO. 1 TO AGREEMENT A3617S

**BETWEEN THE SAN FRANCISQUITO CREEK JOINT POWERS AUTHORITY AND
THE SANTA CLARA VALLEY WATER DISTRICT FOR FUNDING THE PREPARATION OF
AN INITIAL STUDY AND ENVIRONMENTAL IMPACT REPORT FOR FLOOD PROTECTION,
ECOSYSTEM RESTORATION, AND RECREATIONAL ENHANCEMENTS ON
SAN FRANCISQUITO CREEK BETWEEN HIGHWAY 101 AND EL CAMINO REAL**

This Amendment No. 1 ("Amendment"), retroactively effective as of May 1, 2018, amends the terms and conditions of that certain Agreement ("Agreement"), dated October 18, 2012, by and between the SAN FRANCISQUITO CREEK JOINT POWERS AUTHORITY ("Authority"), a California joint powers authority, and the SANTA CLARA VALLEY WATER DISTRICT ("Water District"), a special district of the State of California, collectively, the Parties.

RECITALS

- A. Authority and Water District are implementing a comprehensive Flood Protection, Ecosystem Restoration, and Recreation Project (Project) on San Francisquito Creek (Creek).
- B. The flood protection features of Phase 1 of the Project, which include channel widening, floodwall installation, construction of improved levees, marsh habitat improvements, and trail access improvements along the Creek downstream of Highway 101, were completed on January 31, 2019 and Phase 1 of the Project was accepted as complete by Water District on May 14, 2019.
- C. On October 18, 2012, Authority and Water District entered into a funding agreement ("Agreement") for Authority to retain a Consultant that was hired at a later date, Consultant Jones & Stokes Inc. ("Consultant"), to prepare environmental documentation for channel widening (Inlet) along with other Project elements upstream of Highway 101, to be implemented as Phase 2 of the Project.
- D. The Authority is the local sponsor for a U.S. Army Corps of Engineers' (Corps) General Investigation (GI) Study for Phase 2 of the Project.
- E. The Corps' Draft Feasibility Report will not be completed within the Corps' October 15, 2019 extended deadline. As a result, continuing with the required GI Study would significantly impact the Project's timeline and funding. Therefore, in June 2019, the Authority decided to pursue an option for Corps funding that does not require Congressional authorization through the Corps' Continuing Authorities Program Section 205 (CAP 205) process. In 2019, the Authority and Corps plan to move forward with closing the GI Study and initiating the CAP 205 process.
- F. With funding from the original Agreement, Authority has secured the services of an environmental consultant and a draft Environmental Impact Report (EIR) for Phase 2 of the Project was prepared and released for public review. The public review was completed and on September 26, 2019, the Authority's Board certified the final EIR.
- G. The Authority, Water District, and Corps have identified Known Project Elements that, when implemented, would provide protection against approximately the 70-year flood

Authority and Water District
Amendment No. 1 to Phase 2 EIR/Permits Funding Agreement
Version 9, 11/18/2019
MC14447

**Cost Share Agreement
Between the San Francisquito Creek Joint Powers Authority and
the Santa Clara Valley Water District
For Funding Design Modifications to the West Bayshore Road Inlet Structure**

This agreement (Agreement) effective once fully executed (Effective Date), by and between the SAN FRANCISQUITO CREEK JOINT POWERS AUTHORITY (Authority), a California joint powers authority and the SANTA CLARA VALLEY WATER DISTRICT (Water District), a special district of the State of California, collectively referred to as Parties, or individually as Party.

R E C I T A L S

- A. San Francisquito Creek has a history of flooding the communities in and around East Palo Alto, Menlo Park and Palo Alto. The most damaging flood occurred in 1998.
 - B. Following the flood of 1998, the cities of East Palo Alto, Menlo Park, and Palo Alto, along with the San Mateo County Flood Control District and the Santa Clara Valley Water District (Water District), formed the San Francisquito Creek Joint Powers Authority (Authority) on May 18, 1999. These entities are full members of the Authority.
 - C. Authority and Water District are implementing a comprehensive Flood Protection, Ecosystem Restoration, and Recreation Project (Project) on San Francisquito Creek (Creek).
 - D. The flood protection features of Phase 1 of the Project, which includes channel widening, floodwall installation, construction of improved levees, marsh habitat improvements, and trail access improvements along the Creek downstream of Highway 101, were completed on January 31, 2019 and the entire Project was accepted as complete by the District on May 14, 2019.
 - E. At the request of Authority, the California Department of Transportation (CalTrans) modified the U.S. Highway 101, East Bayshore Road and West Bayshore Road bridges over the Creek to accommodate stream flows consistent with the capacity of the improved creek channel downstream. A primary feature of this modification to allow for greater flow to pass underneath these structures was the addition of a fourth culvert.
 - F. In order to allow upstream flows to enter the fourth culvert underneath the Caltrans structures, the Creek must be widened along the south bank to conform with both the Caltrans structures and the existing sacked-concrete wall and floodwall upstream.
 - G. Authority and Water District have entered in to a funding agreement to complete environmental documentation for this channel widening (Inlet) along with other Project elements upstream of Highway 101, to be implemented as Phase 2 of the Project. Authority has secured the services of an environmental consultant and a Draft Environmental Impact Report has been prepared and released for public review.
 - H. Water District has completed design plans for the Inlet and wishes to secure the services of a professional design engineer to modify those plans (Plan Modifications) for consistency with downstream improvements and to reduce construction costs.
- SFCJPA/SCVWD
Cost Sharing Agreement Upstream Inlet
v.4, 062119 2
- I. Water District has determined that the design engineer consultant (Consultant) that prepared the plans and specifications for the Phase 1 improvements is best suited to conduct the desired design modifications for the channel widening.
 - J. The Consultant contract for the design of Phase 1 was awarded by Authority (the Phase 1 Design Contract). The Phase 1 Design Contract has a provision that allows for amendments to be made to the Contract to add, subtract, or modify the scope of work to be performed by the Consultant.

K. Water District wishes to provide funding to Authority to support an amendment to the Phase 1 Design Contract so that the Plan Modifications can be prepared by Consultant. Water District and Authority have determined that the Consultant is uniquely qualified to provide the desired services at the lowest cost to Water District and Authority.

NOW, THEREFORE, in consideration of the foregoing recitals, and the covenants and conditions in the sections contained herein below, the Parties agree as follows:

PROVISIONS

1. Project Purpose and Work Products

A. The purpose of this Agreement is to fund the Plan Modifications to be prepared by the Consultant. The Inlet will increase flow conveyance and provide flood protection to homes, businesses, and other facilities in East Palo Alto and Palo Alto. As a key component of Authority's and Water District's comprehensive Project for flood protection and other benefits along the Creek, construction of the Inlet will provide necessary flow capacity such that other conveyance improvements can be made upstream.

B. The final work products to be funded in accordance with the terms and conditions of this Agreement shall be Final Design, Specifications, and Cost Estimate for the Inlet.

2. Responsibilities of the Parties

A. Authority shall prepare and execute an amendment (Amendment) to the Phase 1 Design Contract to add the Plan Modifications to the Scope of Work. The Amendment shall also provide that the Consultant will be the engineer-of-record for such design deliverables and the Phase 1 Design Contract shall remain in effect until the Inlet is accepted by the Water District as complete, unless it is terminated earlier pursuant to its terms.

B. Upon the Authority's approval of the Amendment, the Water District shall make available an amount not to exceed \$150,000 to pay to the Authority for the costs of the Plan Modifications.

C. Water District shall provide technical assistance to Authority during the term of this Agreement

for review of the Plan Modifications work as it progresses and approval upon completion.

3. Payments and invoices

A. After review and approval by the Executive Director, or the Executive Director's designee, Authority shall submit invoices to the Water District for its review and payment to Authority.

SFCJPA/SCVWD

Cost Sharing Agreement Upstream Inlet

v.4, 062119 3

B. Invoices from the Authority to the Water District will include:

1. Copies of Consultant invoices, which have been reviewed and approved by the Authority;

2. Detail of the Consultant's services performed and products delivered during the invoice period;

3. Itemized cost schedule and update of the current and total expenditures on each Contract task.

C. The Water District shall pay all invoices from the Authority, which it has approved, within 20 calendar days after receipt from the Authority.

4. Payment to Consultant

Authority shall be responsible for review and payment of all requests for payment submitted by the Consultant. Consultant's invoices and work products are subject to review and approval by Water District prior to Water District issuing payment to Authority for Consultant's services.

5. Management of the Project

A. Authority shall manage the Consultant Phase 1 Design Contract and Consultant's performance in preparing the required work products. Such management shall include

consultation with the Authority member agencies as deemed appropriate by the Executive Director.

B. Water District and other Authority member agencies shall provide technical support to the Authority regarding the Consultant's work and participate in Project team meetings with Consultant as required.

C. The Authority shall not approve the Final Design, Specifications, and Cost Estimate for the Inlet

unless and until approved by the Water District.

6. Mutual Hold Harmless and Indemnification Obligations

A. In lieu of and notwithstanding the pro rata risk allocation, which might otherwise be imposed between the Parties pursuant to Government Code Section 895.6, the Parties agree that all losses or liabilities incurred by a Party shall not be shared pro rata but, instead, the Parties agree that, pursuant to Government Code Section 895.4, each of the Parties hereto shall fully indemnify and hold the other party, their officers, board members, employees, and agents, harmless from any claim, expense or cost, damage or liability imposed for injury (as defined in Government Code Section 810.8) occurring by reason of the negligent acts or omissions or willful misconduct solely of the indemnifying Party, its officers, employees, or agents, under or in connection with or arising out of any work, authority, or jurisdiction delegated to such Party under this Agreement. No Party, nor any officer, board member, or agent thereof shall be responsible for any damage or liability occurring by reason of the negligent acts or omissions or willful misconduct of the other Party hereto, 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 Party under this Agreement. The obligations set forth in this paragraph will survive termination and expiration of this Agreement.

SFCJPA/SCVWD

Cost Sharing Agreement Upstream Inlet

v.4, 062119 4

B. In the event of concurrent intentional or unintentional misconduct, negligent acts or omissions by any one of the Parties (or each of their respective officers, directors and/or employees), then the liability for any and all claims for injuries or damages to persons and/or property which arise out of each and any of their performance of the terms and conditions of this Agreement shall be apportioned according to the California law of comparative negligence. The Parties hereto are not jointly and severally liable on any liability, claim, or lawsuit.

C. The duties and obligations of this Section shall survive and continue in full force and effect after the termination, expiration, suspension, and completion of this Agreement.

7. Insurance

Authority will require its Consultant to secure and maintain in full force and effect all times during the term of the Phase 1 Design Contract, and during an appropriate period of extension, general liability and property damage insurance, business automobile insurance, Professional/Errors and Omissions Liability, and such other insurance as the Parties deem appropriate, in forms and limits of liability acceptable to both Parties, naming the District and the Authority, and their respective directors, officials, officers, employees and agents as additional insureds from and against all damages and claims, loss, liability, cost or expense relating to, arising

out of, or pertaining to, the Consultant's actual or alleged negligent, reckless, or willful conduct.

8. Retention of Records, Right to Monitor and Audit

Unless a longer period of time is required by law or federal or state grant funding agreements, Authority and Water District shall maintain all records for five (5) years after the Project is terminated or completed. The records shall be subject to the examination and audit of all Authority member agencies.

9. Termination of Agreement

A. The term of this Agreement will expire once the Inlet is accepted by the Water District as complete, unless terminated earlier pursuant to this Section 8.

B. If either Party fails to perform any of its material obligations under this Agreement, in addition to all other remedies provided by law, the other Party may terminate this Agreement immediately upon written notice. This notice of termination, however, may be given only after the defaulting Party has been provided written notice of its failure to perform and has been given thirty (30) days to cure the nonperformance to the satisfaction of the other Party.

C. Chief Executive Officer of the Water District and Executive Director of the Authority are empowered to terminate this Agreement on behalf of their respective agencies.

D. In the event of termination, each Party shall deliver to the other Party, upon request, copies of reports, documents, and other work performed by either Party or consultant to either Party under this Agreement. The cost of work performed under this Agreement to the date of termination shall be due and payable in accordance with the provisions of this Agreement.

10. Refund of Undisbursed Funds

Undisbursed funds shall be returned to the Water District within ninety (90) days of the completion of the Scope of Work or from the termination of this Agreement.

SFCJPA/SCVWD

Cost Sharing Agreement Upstream Inlet

v.4, 062119 5

11. Notices

A. Any notice or other communication required or permitted to be given hereunder shall not be effective unless it is given in writing and shall be delivered (a) in person, (b) by certified mail, postage prepaid, return receipt requested, (c) by email, or (d) by a commercial overnight courier that guarantees next day delivery and provides a receipt, and addressed to the Parties at the addresses stated below, or at such other address as either Party may hereafter notify the other Party in writing:

Authority: San Francisquito Creek Joint Powers Authority

615-B Menlo Avenue

Menlo Park, California 94025

Attention: Len Materman, Executive Director

Email address: len@sfcjpa.org

Water District: Santa Clara Valley Water District

5750 Almaden Expressway

San Jose, California 95118-3614

Attention: Melanie Richardson, Deputy Operating Officer

Email address: mrichardson@valleywater.org

B. Service of any such notice or other communications so made shall be deemed effective on the

day of actual delivery (whether accepted or refused) as evidenced by: a) confirmed reply if by email, b) as shown by the addressee's return receipt if by certified mail, or c) as confirmed by the

courier service if by courier; provided, however, that if such actual delivery occurs after 5:00 p.m.

(local time where received) or on a non-business day, then such notice or demand so made shall

be deemed effective on the first business day immediately following the day of actual delivery.

12. Severability

In the event any portion of this Agreement is declared by any court of competent jurisdiction to be invalid, illegal or unenforceable, such portion shall be severed from this Agreement and the remaining parts hereof shall remain in full force and effect as fully as though such invalid, illegal or unenforceable portion had never been part of this Agreement.

13. Governing Law and Compliance with Laws

The parties agree that California law shall govern this Agreement. In the performance of this Agreement each party shall comply with all applicable laws, ordinances, codes and regulations of the federal, state, and applicable local government.

14. Venue

In the event that suit shall be brought by either Party to this Agreement, the Parties agree that venue shall be exclusively vested in the state courts of either the County of Santa Clara, or the County of San Mateo or where otherwise appropriate, exclusively in the United States Court, Northern District of California.

15. Assignability and Subcontracting

Parties shall not assign this Agreement or any portion thereof to a third party or subcontract with a third party to provide services required under this Agreement without the prior written consent of the other Party.

SFCJPA/SCVWD

Cost Sharing Agreement Upstream Inlet

v.4, 062119 6

16. Ownership of Materials

All reports, documents, or other materials developed or discovered by either Party or any other person engaged directly or indirectly by any Party to perform the services required hereunder shall be and remain the mutual property of Authority and Authority Member Agencies without restriction or limitation upon their use.

17. Entire Agreement

This Agreement constitutes the entire Agreement between Authority and Water District with respect to the subject matter hereof and supersedes all prior offers and negotiations, oral and written. This Agreement may not be amended or modified in any respect whatsoever except by an instrument in writing signed by authorized representatives of Authority and Water District.

18. Further Actions

Authority and Water District agree to execute all instruments and documents, and to take all actions, as may be reasonably required to consummate the transaction contemplated by this Agreement.

19. Counterparts

This Agreement may be executed in any number of counterparts, each of which, when executed and delivered, shall be deemed to be an original, and all of which, taken together, shall be deemed to be one and the same instrument.

20. Waiver

A Party's waiver of any term, condition, or breach of any term, condition or covenant will not be construed as a waiver of any other term, condition or covenant.

21. Third Parties

This Agreement is entered into only for the benefit of the Parties executing this Agreement and not for the benefit of any other individual, entity, or person.

22. Equal Opportunity Employer

A. The Santa Clara Valley Water District is an equal opportunity employer and requires the parties it

contracts with to have and adhere to a policy of equal opportunity and non-discrimination. In the performance of the Agreement, the Authority 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.

SFCJPA/SCVWD

Cost Sharing Agreement Upstream Inlet
v.4, 062119 7

B. Compliance with Applicable Equal Opportunity Laws.

The Authority's policy must conform with applicable state and federal guidelines including the Federal Equal Opportunity Clause, "Section 60-1.4 of Title 41, Part 60 of the Code of Federal Regulations," Title VII of the Civil Rights Act of 1964 as amended; the American's with Disabilities Act of 1990; the Rehabilitation Act of 1973 (Sections 503 and 504); the Age Discrimination Act of 1975 (42 U.S.C. sec. 6101 et seq.); the California Fair Employment and Housing Act (Government Code Section 12900 et. seq.); and California Labor Code Sections 1101 and 1102.

C. Investigation of Claims.

The Authority must designate a specific position within its organization to be responsible for assuring nondiscrimination and non-harassment as provided in this Agreement. The Authority must investigate all complaints directed to it by District. District will refer complaints in writing and the Authority will advise District in writing when such investigations are concluded. The scope of such investigations must include all appropriate officers, employees, and agents of the Authority as well as all consultants, subcontractors, Subconsultants, and material suppliers of the Authority. In cases where such investigation results in a finding of discrimination, harassment, or hostile work environment, the Authority must take prompt, effective disciplinary action against the offender.

IN WITNESS WHEREOF, Authority and Water District have executed this Agreement as of the date indicated on the following signature pages.

Separate Signature pages were implemented individually for each Party as follows.

(remainder of page intentionally left blank)

SFCJPA/SCVWD

Cost Sharing Agreement Upstream Inlet
v.4, 062119 8

Cost Share Agreement

**Between the San Francisquito Creek Joint Powers Authority and
the Santa Clara Valley Water District**

For Funding Design Modifications to the West Bayshore Road Inlet Structure

IN WITNESS WHEREOF, Authority has executed this Agreement as of the date and year indicated above.

Each Party has executed a separate signature page.

APPROVED AS TO FORM: **SAN FRANCISQUITO CREEK JOINT POWERS
AUTHORITY, a California joint powers authority**

By: _____

Assistant General Counsel Len Materman
Trisha Ortiz Executive Director

Date: July 2, 2019
SFCJPA/SCVWD
Cost Sharing Agreement Upstream Inlet
v.4, 062119 9

Cost Share Agreement

**Between the San Francisquito Creek Joint Powers Authority and
the Santa Clara Valley Water District**

For Funding the Design Modifications to the West Bayshore Road Inlet Structure

IN WITNESS WHEREOF, Water District has executed this Agreement as of the date and year indicated below.

Each Party has executed a separate signature page.

APPROVED AS TO FORM: **SANTA CLARA VALLEY WATER DISTRICT**

_____ By: _____

Water District Counsel Name

Name Title

Title

Date: _____

CAP 205 Agreement

AGREEMENT

BETWEEN

THE DEPARTMENT OF THE ARMY

AND

SAN FRANCISQUITO CREEK JOINT POWERS AUTHORITY

FOR THE

SAN FRANCISQUITO CREEK, CA, SECTION 205, FEASIBILITY STUDY

THIS AGREEMENT is entered into this _____ day of _____, _____, by and between the Department of the Army (hereinafter the "Government"), represented by the District Commander for San Francisco District (hereinafter the "District Commander") and the San Francisquito Creek Joint Powers Authority (hereinafter the "Non-Federal Sponsor"), represented by the Margaret Bruce, Executive Director.

WITNESSETH, THAT:

WHEREAS, Section 205 of the Flood Control Act of 1948 (P.L. 80-858), as amended, also referred to as Section 205 under the Continuing Authorities Program, authorizes the U.S. Army Corps of Engineers to study, design, and construct small flood risk management projects in partnership with non-Federal government agencies, such as cities, counties, special authorities, or units of state government.

WHEREAS, Section 105(a) of the Water Resources Development Act of 1986, Public Law 99-662, as amended (33 U.S.C. 2215(a)), specifies the cost-sharing requirements;

WHEREAS, the Government and Non-Federal Sponsor have decided to terminate the study initiated under a feasibility cost sharing agreement, executed November 17, 2005, amended, November 12, 2008, and funded under the Investigations Program, and to execute a new feasibility cost sharing agreement and initiate a new Study funded under the Continuing Authorities Program (hereinafter the "Agreement"); and

WHEREAS, the Government and the Non-Federal Sponsor have the full authority and capability to perform in accordance with the terms of this Agreement.

NOW, THEREFORE, the parties agree as follows:

ARTICLE I - DEFINITIONS

A. The term "Study" means the activities and tasks after the effective date of this Agreement that are required to identify and evaluate alternatives and the preparation of a decision document that, as appropriate, recommends a coordinated and implementable solution for flood risk management at San Francisquito Creek, CA.

2

B. The term “shared study costs” means all costs incurred by the Government and Non-Federal Sponsor after the effective date of this Agreement that are directly related to performance of the Study and cost shared in accordance with the terms of this Agreement. The term includes, but is not necessarily limited to: the Government’s costs for updating the PMP; for plan formulation and evaluation, including costs for economic, engineering, real estate, and environmental analyses; for preparation of a floodplain management plan if undertaken as part of the Study; for preparing and processing the decision document; for supervision and administration; for Agency Technical Review and other review processes required by the Government; and for response to any required Independent External Peer Review; and the Non-Federal Sponsor’s creditable costs for in-kind contributions, if any. The term does not include any costs for dispute resolution; participation by the Government and Non-Federal Sponsor in the Study Coordination Team to discuss significant issues and actions; audits; an Independent External Peer Review panel, if required; or negotiating this Agreement.

C. The term “PMP” means the project management plan, and any modifications thereto, developed in consultation with the Non-Federal Sponsor, that specifies the scope, cost, and schedule for Study activities and tasks, including the Non-Federal Sponsor’s in-kind contributions, and that guides the performance of the Study.

D. The term “in-kind contributions” means those planning activities (including data collection and other services) that are integral to the Study and would otherwise have been undertaken by the Government for the Study and that are identified in the PMP and performed or provided by the Non-Federal Sponsor after the effective date of this Agreement and in accordance with the PMP.

E. The term “maximum Federal study cost” means the \$1,500,000 Federal cost limit for the Study unless the Government has approved a higher amount.

F. The term “fiscal year” means one year beginning on October 1st and ending on September 30th of the following year.

ARTICLE II - OBLIGATIONS OF THE PARTIES

A. In accordance with Federal laws, regulations, and policies, the Government shall conduct the Study using funds appropriated by the Congress and funds provided by the Non-Federal Sponsor. In carrying out its obligations under this Agreement, the Non-Federal Sponsor shall comply with all the requirements of applicable Federal laws and implementing regulations.

B. The Non-Federal Sponsor shall contribute 50 percent of shared study costs in accordance with the provisions of this paragraph and provide required funds in accordance with Article III.

3

1. After considering the estimated amount of credit for in-kind contributions, if any, that will be afforded in accordance with paragraph C. of this Article, the Government shall provide the Non-Federal Sponsor with a written estimate of the amount of funds required from the Non-Federal Sponsor to meet its share of shared study costs for the remainder of the initial fiscal year of the Study. No later than 15 calendar days after such notification, the Non-Federal Sponsor shall provide the full amount of such funds to the Government.

2. No later than August 1st prior to each subsequent fiscal year of the Study, the Government shall provide the Non-Federal Sponsor with a written estimate of the amount of funds required from the Non-Federal Sponsor during that fiscal year to meet its cost share. No later than September 1st prior to that fiscal year, the Non-Federal Sponsor shall provide the full amount of such required funds to the Government.

C. The Government shall include in shared study costs and credit towards the Non-Federal Sponsor's share of such costs, the costs, documented to the satisfaction of the Government, that the Non-Federal Sponsor incurs in providing or performing in-kind contributions, including associated supervision and administration, after the effective date of this Agreement. Such costs shall be subject to audit in accordance with Article VI to determine reasonableness, allocability, and allowability, and crediting shall be in accordance with the following procedures, requirements, and limitations:

1. As in-kind contributions are completed and no later than 60 calendar day after such completion, the Non-Federal Sponsor shall provide the Government appropriate documentation, including invoices and certification of specific payments to contractors, suppliers, and the Non-Federal Sponsor's employees. Failure to provide such documentation in a timely manner may result in denial of credit. The amount of credit afforded for in-kind contributions shall not exceed the Non-Federal Sponsor's share of shared study costs.

2. No credit shall be afforded for interest charges, or any adjustment to reflect changes in price levels between the time the in-kind contributions are completed and credit is afforded; for the value of in-kind contributions obtained at no cost to the Non-Federal Sponsor; for any items provided or performed prior to completion of the PMP; or for costs that exceed the Government's estimate of the cost for such item if it had been performed by the Government.

D. To the extent practicable and in accordance with Federal laws, regulations, and policies, the Government shall afford the Non-Federal Sponsor the opportunity to review and comment on solicitations for contracts prior to the Government's issuance of such solicitations; proposed contract modifications, including change orders; and contract claims prior to resolution thereof. Ultimately, the contents of solicitations, award of contracts, execution of contract modifications, and resolution of contract claims shall be exclusively within the control of the Government.

E. The Non-Federal Sponsor shall not use Federal program funds to meet any of its obligations under this Agreement unless the Federal agency providing the funds verifies in writing that the funds are authorized to be used for the Study. Federal program funds are those

4

funds provided by a Federal agency, plus any non-Federal contribution required as a matching share therefor.

F. Except as provided in paragraph C. of this Article, the Non-Federal Sponsor shall not be entitled to any credit or reimbursement for costs it incurs in performing its responsibilities under this Agreement.

G. If Independent External Peer Review (IEPR) is required for the Study, the Government shall conduct such review in accordance with Federal laws, regulations, and policies. The Government's costs for an IEPR panel shall not be included in shared study costs or the maximum Federal study cost.

H. In addition to the ongoing, regular discussions of the parties in the delivery of the Study, the Government and the Non-Federal Sponsor may establish a Study Coordination Team to discuss significant issues or actions. The Government's costs for participation on the Study Coordination Team shall not be included in the shared study costs, but shall be included in calculating the maximum Federal study cost. The Non-Federal Sponsor's costs for participation on the Study Coordination Team shall not be included in shared study costs and shall be paid solely by the Non-Federal Sponsor without reimbursement or credit by the Government.

ARTICLE III - PAYMENT OF FUNDS

A. As of the effective date of this Agreement, shared study costs are projected to be \$1,030,000, with the Government's share of such costs projected to be \$515,000 and the Non-Federal Sponsor's share of such costs projected to be \$515,000. These amounts are estimates only that are subject to adjustment by the Government and are not to be construed as the total financial responsibilities of the Government and the Non-Federal Sponsor.

B. The Government shall provide the Non-Federal Sponsor with monthly reports setting forth the estimated shared study costs and the Government's and Non-Federal Sponsor's estimated shares of such costs; costs incurred by the Government, using both Federal and Non-Federal Sponsor funds, to date; the amount of funds provided by the Non-Federal Sponsor to date; the estimated amount of any creditable in-kind contributions; and the estimated remaining cost of the Study.

C. The Non-Federal Sponsor shall provide to the Government required funds by delivering a check payable to "FAO, USAED, San Francisco District (L3)" to the District Commander, or verifying to the satisfaction of the Government that the Non-Federal Sponsor has deposited such required funds in an escrow or other account acceptable to the Government, with interest accruing to the Non-Federal Sponsor, or by providing an Electronic Funds Transfer of such required funds in accordance with procedures established by the Government.

D. The Government shall draw from the funds provided by the Non-Federal Sponsor to cover the non-Federal share of shared study costs as those costs are incurred. If the Government determines at any time that additional funds are needed from the Non-Federal Sponsor to cover

the Non-Federal Sponsor's required share of shared study costs, the Government shall provide the Non-Federal Sponsor with written notice of the amount of additional funds required. Within 60 calendar days of such notice, the Non-Federal Sponsor shall provide the Government with the full amount of such additional funds.

E. Upon completion of the Study and resolution of all relevant claims and appeals, the Government shall conduct a final accounting and furnish the Non-Federal Sponsor with the written results of such final accounting. Should the final accounting determine that additional funds are required from the Non-Federal Sponsor, the Non-Federal Sponsor, within 60 calendar days of written notice from the Government, shall provide the Government with the full amount of such additional funds. Should the final accounting determine that the Non-Federal Sponsor has provided funds in excess of its required amount, the Government shall refund the excess amount, subject to the availability of funds. Such final accounting does not limit the Non-Federal Sponsor's responsibility to pay its share of shared study costs, including contract claims or any other liability that may become known after the final accounting.

ARTICLE IV - TERMINATION OR SUSPENSION

A. Upon 30 calendar days written notice to the other party, either party may elect at any time, without penalty, to suspend or terminate future performance of the Study. Furthermore, unless an extension is approved by the Assistant Secretary of the Army (Civil Works), the Study may be terminated if an Integrated Feasibility Report is not completed for the Study within 3 years after the effective date of this Agreement.

B. In the event of termination, the parties shall conclude their activities relating to the Study. To provide for this eventuality, the Government may reserve a percentage of available funds as a contingency to pay the costs of termination, including any costs of resolution of contract claims, and resolution of contract modifications.

C. Any suspension or termination shall not relieve the parties of liability for any obligation incurred. Any delinquent payment owed by the Non-Federal Sponsor pursuant to this Agreement shall be charged interest at a rate, to be determined by the Secretary of the Treasury, equal to 150 per centum of the average bond equivalent rate of the 13 week Treasury bills auctioned immediately prior to the date on which such payment became delinquent, or auctioned immediately prior to the beginning of each additional 3 month period if the period of delinquency exceeds 3 months.

ARTICLE V - DISPUTE RESOLUTION

As a condition precedent to a party bringing any suit for breach of this Agreement, that party must first notify the other party in writing of the nature of the purported breach and seek in good faith to resolve the dispute through negotiation. If the parties cannot resolve the dispute through negotiation, they may agree to a mutually acceptable method of non-binding alternative dispute resolution with a qualified third party acceptable to the parties. Each party shall pay an

equal share of any costs for the services provided by such a third party as such costs are incurred. The existence of a dispute shall not excuse the parties from performance pursuant to this Agreement.

ARTICLE VI - MAINTENANCE OF RECORDS AND AUDIT

A. The parties shall develop procedures for the maintenance by the Non-Federal Sponsor of books, records, documents, or other evidence pertaining to costs and expenses for a minimum of three years after the final accounting. The Non-Federal Sponsor shall assure that such materials are reasonably available for examination, audit, or reproduction by the Government.

B. The Government may conduct, or arrange for the conduct of, audits of the Study. Government audits shall be conducted in accordance with applicable Government cost principles and regulations. The Government's costs of audits for the Study shall not be included in shared study costs, but shall be included in calculating the maximum Federal study cost.

C. To the extent permitted under applicable Federal laws and regulations, the Government shall allow the Non-Federal Sponsor to inspect books, records, documents, or other evidence pertaining to costs and expenses maintained by the Government, or at the request of the Non-Federal Sponsor, provide to the Non-Federal Sponsor or independent auditors any such information necessary to enable an audit of the Non-Federal Sponsor's activities under this Agreement. The costs of non-Federal audits shall be paid solely by the Non-Federal Sponsor without reimbursement or credit by the Government.

ARTICLE VII - RELATIONSHIP OF PARTIES

In the exercise of their respective rights and obligations under this Agreement, the Government and the Non-Federal Sponsor each act in an independent capacity, and neither is to be considered the officer, agent, or employee of the other. Neither party shall provide, without the consent of the other party, any contractor with a release that waives or purports to waive any rights a party may have to seek relief or redress against that contractor.

ARTICLE VIII - NOTICES

A. Any notice, request, demand, or other communication required or permitted to be given under this Agreement shall be deemed to have been duly given if in writing and delivered personally or mailed by certified mail, with return receipt, as follows:

If to the Non-Federal Sponsor:

Margaret Bruce

Executive Director

San Francisquito Creek Joint Powers Authority

2100 Geng Road, Suite 210

Palo Alto, CA 94303

7

If to the Government:

Lieutenant Colonel John D. Cunningham
District Commander and Engineer
U.S. Army Corps of Engineers, San Francisco District
450 Golden Gate Avenue
San Francisco, CA

B. A party may change the recipient or address for such communications by giving written notice to the other party in the manner provided in this Article.

ARTICLE IX - CONFIDENTIALITY

To the extent permitted by the laws governing each party, the parties agree to maintain the confidentiality of exchanged information when requested to do so by the providing party.

ARTICLE X - THIRD PARTY RIGHTS, BENEFITS, OR LIABILITIES

Nothing in this Agreement is intended, nor may be construed, to create any rights, confer any benefits, or relieve any liability, of any kind whatsoever in any third person not a party to this Agreement.

ARTICLE XI - OBLIGATIONS OF FUTURE APPROPRIATIONS

The Non-Federal Sponsor intends to fulfill fully its obligations under this Agreement. Nothing herein shall constitute, nor be deemed to constitute, an obligation of future appropriations by the San Francisquito Creek Joint Powers Authority Board of Directors, where creating such an obligation would be inconsistent with Section 18 of Article XVI of the California Constitution. If the Non-Federal Sponsor is unable to, or does not, fulfill its obligations under this Agreement, the Government may exercise any legal rights it has to protect the Government's interests.

8

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, which shall become effective upon the date it is signed by the District Commander.

DEPARTMENT OF THE ARMY

BY: _____

John D. Cunningham

Lieutenant Colonel, U.S. Army District Commander

DATE: _____

SAN FRANCISQUITO CREEK

JOINT POWERS AUTHORITY

BY: _____

Margaret Bruce

Executive Director

DATE: _____

MEMORANDUM OF UNDERSTANDING**AMONG THE CITY OF MENLO PARK, SAN FRANCISQUITO CREEK JOINT POWERS AUTHORITY, PACIFIC GAS AND ELECTRIC COMPANY, AND META PLATFORMS, INC. IN CONNECTION WITH THE MENLO PARK PORTION OF THE SAFER BAY PROJECT**

This MEMORANDUM OF UNDERSTANDING (this **MOU** or **Agreement**) is dated for convenience 02/18/2022, to be effective as of the Effective Date (defined below), among the CITY OF MENLO PARK, a municipal corporation (**Menlo Park** or **City**), the SAN FRANCISQUITO CREEK JOINT POWERS AUTHORITY, an entity comprised of the cities of East Palo Alto, Palo Alto, and Menlo Park, the San Mateo County Flooding and Sea Level Resiliency District and the Santa Clara Valley Water District for the purpose of exercising special powers to lead projects that mitigate the risk of flooding along the San Francisquito Creek and the Bay (**SFCJPA** or **JPA**), PACIFIC GAS AND ELECTRIC COMPANY, a California corporation (**PG&E**) and META PLATFORMS, INC., a Delaware corporation (**Meta**) formerly known as Facebook, Inc., individually referred to as a **Party** and collectively referred to as the **Parties** and is for the purpose of collaborating on the Menlo Park portion of the SAFER Bay Project.

RECITALS

WHEREAS: The SFCJPA has released two Public Draft Feasibility Reports (**Feasibility**

Studies) for a Strategy to Advance Flood protection, Ecosystems and Recreation along San Francisco Bay, referred to as the **SAFER Bay Project**; an October 2016 Feasibility Study with respect to portions of the SAFER Bay Project in East Palo Alto and Menlo Park; and a June 2019 Feasibility Study with respect to portions of the SAFER Bay Project in Palo Alto; and

WHEREAS: The Menlo Park portion of the SAFER Bay Project is a portion of the overall SAFER Bay Project in Menlo Park comprised of 3.7 miles of engineered levees and floodwalls that would protect segments of California State Route 84 and PG&E's Ravenswood Substation, which are anchors for power service and transportation to the area, and would include construction of new levees surrounding the Meta classic campus (formerly referred to as the east campus) (**Classic Campus**), along an alignment known as SAFER Bay Reach 4 and along Bayfront Expressway (Reaches 2 and 3) as depicted in the Vicinity Map attached as part of Exhibit A. The Menlo Park portion of the SAFER Bay Project will also increase recreational access to the Bay shoreline; and, by leveraging nature-based design, enable habitat restoration work in sections of the Don Edward San Francisco Bay National Wildlife Refuge; and

WHEREAS: The Parties acknowledge and agree that an overall San Francisco Bay flood control and sea level rise resiliency project is critical to the long term viability of the Parties' and the region's operations and facilities. For example, the networked infrastructure located within and serving residents of the City, which contains roads and highways, electric substations, and wastewater treatment plants that are essential to day-to-day community and economic functions and a complex grid of

services means that sea level rise could adversely affect regional businesses and residents. Thus, a flooded highway, wastewater treatment plant or electrical substation could temporarily shut-down businesses, close roads and lead to many community wide disruptions; and

WHEREAS: The goals of the Menlo Park SAFER Bay Project include protection of the PG&E Ravenswood Substation, a critical power supply for over 300,000 people, as well as the construction of flood control elements designed to provide a 100-year level of coastal flood protection and 3.5 feet of sea level rise adaptation; and

WHEREAS: In planning the SAFER Bay Project, the Parties recognize the importance of both “mitigation” and “adaptation” as strategies to reduce overall vulnerability to the adverse effects of flooding and sea-level rise; and

WHEREAS: In September 2020, PG&E expressed a desire to plan, design, and construct a flood control and sea level rise resiliency project around PG&E’s Ravenswood electrical substation located adjacent to 2005 Willow Road in Menlo Park, corresponding to a portion of Reach 5 identified in the SFCJPA’s SAFER Bay Project Feasibility Studies; and

WHEREAS: Menlo Park agreed to assume the role of applicant for the purpose of submitting an application for the Federal Emergency Management Agency (**FEMA**) fiscal year 2020 Building Resilient Infrastructure and Communities (**BRIC**) grant opportunity on behalf of a project for a portion of the overall SAFER BAY Project within Menlo Park (**Menlo Park SAFER Bay Project** or **Project**); and

WHEREAS: PG&E offered to contribute \$10 million to meet the grant program’s 25% minimum local match funding requirement and for flood control and sea level rise resiliency facilities around its Ravenswood electrical substation; and

WHEREAS: The SFCJPA, being familiar with the proposed project scope of work due to developing the SAFER Bay Project Feasibility Study, agreed to become a project partner; and

WHEREAS: Meta offered to contribute an additional \$7.808 million of local match funding to expand the proposed Project scope of work to include measures regarding its approximately 56.9 acre “Classic Campus” (including Buildings 10-19) located at 1 Hacker Way in Menlo Park; and

WHEREAS: The proposed Project scope of work was expanded to include a portion of Reach 2, a portion of Reach 5 and all of Reaches 3 and 4, all as described in the Feasibility Studies; and

WHEREAS: The Parties worked collaboratively to develop a complete Project grant application for submittal to FEMA; and

WHEREAS: On the basis of PG&E and Meta’s assurances of their support for the Project, Menlo Park confirmed in the BRIC grant application that it has secured the grant program’s 25% minimum local match funding requirement; and

WHEREAS: On January 29, 2021, the Parties received notification that the Menlo Park SAFER Bay Project application was accepted by FEMA for review and funding consideration; and

WHEREAS: On July 2, 2021, the Parties received notification that the Menlo Park SAFER Bay Project application was selected by FEMA for further review; and

WHEREAS: In anticipation of FEMA awarding Menlo Park \$50 Million in BRIC grant funding for the Menlo Park SAFER Bay Project and subject to such award, the Parties wish to enter into this MOU to establish a framework for funding, planning, permitting, designing, constructing, and operating and maintaining the Project.

NOW, THEREFORE, the parties hereby agree as follows:

1. **Definitions.**

Capitalized terms not defined elsewhere in this MOU shall have the following meanings:

AHJ's means all federal, state, regional and local authorities having jurisdiction.

Applicable Laws mean all applicable federal, state, regional and local statutes, ordinances, laws, rules, regulations, orders and other laws, including without limitation all BRIC grant and AHJ requirements.

City is defined in the Preamble.

Contractor means any contractor, designer, consultant, supplier, vendor, manufacturer, or other third party hired by any of the Parties to perform any of the services or work in connection with the Project which is paid for, in whole or in part, with any Project funds.

Council means the City's City Council.

Effective Date is defined in Section 3.

Meta is defined in the Preamble.

O&M means long-term operations and maintenance of the completed Project.

Phase is a Project phase more particularly described in Section 5.

PG&E is defined in the Preamble.

Project EIR is defined in Section 8.

Programmatic EIR is defined in Section 8.

2. **Purpose of MOU.** This MOU establishes a framework for funding, planning, permitting, designing, constructing, and operating and maintaining the Project, and establishes certain contractual obligations concerning, inter alia, commitment to pay promised local matching funds between and among the Parties in connection with the Project.

3. **Effectiveness.** This MOU is effective (**Effective Date**) immediately upon mutual execution by all Parties. The obligations of this MOU (with the exception of this Effectiveness provision) do not become legally enforceable until the date Menlo Park receives assurance adequate to the City Council or its designee and the Parties that an adequate level of FEMA grant funding, currently anticipated to be \$50 million, has been committed to this Project (“Assurance”). If by October 1, 2024, such Assurance has not been received, then at any time thereafter and prior to transmittal of such Assurance, any Party may terminate this Agreement by giving written notice to the other Parties.
4. **General Role of Each Party.** As more specifically described in this MOU, the general roles and responsibilities of each Party for the Project are as follows:
- (a) **Menlo Park.**
- (i) “Applicant” under the BRIC grant.
 - (ii) “Lead Agency” for the Project EIR.
 - (iii) “Lead” for certain property rights acquisition.
 - (iv) “Lead” for Project design and construction, including being the “Owner” (i.e., holder) of the Project consulting, design, and construction contracts.
 - (v) Subject to Section 12, responsibility for long-term Project O&M.
- (b) **SFCJPA.**
- (i) Provide technical support to Menlo Park under the BRIC application.
 - (ii) “Lead Agency” for the Programmatic EIR.
 - (iii) “Lead” for certain property rights acquisition.
- (c) **PG&E.**
- (i) Funding supporter of \$10,000,000 when, as, and subject to applicable conditions in this MOU.
 - (ii) Provider of review, comment, input and suggestions (as applicable) to whatever other aspects of the Project around the Ravenswood substation it chooses.
 - (iii) Contributor (without additional cost to the Project and subject to California Public Utilities Commission approval pursuant to a Public Utilities Code Section 851 process,) of all mutually agreed upon, reasonably required and operationally feasible rights to Ravenswood electrical substation lands required for the Project facilities to be constructed, operated and maintained on Ravenswood substation land, so long as the easements and rights of access do not adversely impact PG&E’s operations, in PG&E’s reasonable discretion. Land rights are currently anticipated to be mutually

agreed upon easements or rights of entry and/or access for levees – contingent / predicated upon environmental review / preliminary designs. This clause presumes the existing levee will remain in relatively the same position to protect the Ravenswood electrical substation and enable restoration. However, ecotone and t-zone area may be moved off of PG&E property at the discretion of Saltpond Project Management Team and Refuge, so long as this new location protects the Ravenswood Substation.

- (iv) Following Project completion (i.e., during the O&M phase), having the same rights and responsibilities of any other private landowner within the Project area, e.g., in the event a special assessment district is formed, PG&E will be treated in the same manner as other property owners within the special assessment district.
 - (v) The obligations of this subsection will survive any withdrawal from this MOU by PG&E as long as the Project proceeds, except that the obligations of this subsection will not survive if this Agreement is terminated pursuant to Section 3.
- (d) Meta.
- (i) Funding supporter of \$7,808,000 when, as, and subject to applicable conditions in this MOU.
 - (ii) Provider of review, comment, input and suggestions (as applicable) to whatever other aspects of the Project it chooses. Meta will not, however, have any obligation to provide any review, comment, input or suggestions.
 - (iii) Contributor (without additional cost to the Project) of incidental easements, licenses, and/or rights of access over the Classic Campus that are reasonably required for the Project facilities to be constructed, operated and maintained, so long as the easements, licenses, and/or rights of access do not adversely impact Meta's operations, in Meta's reasonable discretion.
 - (iv) Following Project completion (i.e., during the O&M phase), having the same rights and responsibilities of any other private landowner within the Project area, e.g., in the event a special assessment district is formed, Meta will be treated in the same manner as other property owners within the special assessment district.
 - (v) The obligations of this subsection will survive any withdrawal from this MOU by Meta, as long as the Project proceeds, except that the obligations of this subsection will not survive if this Agreement is terminated pursuant to Section 3.
- (e) There remain subjects that the Parties may require further refinement as to their respective responsibilities, as provided in more detail in Section 7 below.

- (f) Nothing in this MOU or the Project will alter or modify any pre-existing obligations of:
 - (i) PG&E to maintain the flood gate/wall in front of its Ravenswood electrical substation; and
 - (ii) Meta for infrastructure on its Classic Campus under its pre-existing conditional development permit with Menlo Park; provided, however, that if the existing levees protecting Classic Campus are made obsolete by the Project, then the City agrees to cooperate with Meta to remove its obligation under the conditional development permit for the Classic Campus to maintain the existing levees.

In the event of any conflict between any provision of this Section 4 and any other provision of this MOU, the provisions of this Section 4 will control.

5. **Project Description and Phases.**

- (a) The current Project description is attached as Exhibit A. Exhibit A will be revised from time to time as provided in this MOU. The Project may not be revised in a manner that adversely impacts Meta's property without Meta's prior written approval or in a manner that adversely impacts PG&E's property without PG&E's prior written approval.
- (b) For planning and budgeting purposes, the Project is expected to proceed in the following general Phases. Phases may run concurrently:
 - (i) Phase 1. Includes generally:
 - (1) CEQA/NEPA.
 - (2) Permitting.
 - (3) Project budgeting.
 - (4) Seeking additional funding sources.
 - (5) Pre-design and preliminary design.
 - (6) Initial property rights acquisition.
 - (7) Initial development of mitigation and monitoring plan.
 - (8) Initial development of O&M-related matters.
 - (ii) Phase 2. Includes generally:
 - (1) Final property rights acquisition.
 - (2) Final design.

- (3) Procurement and construction.
 - (4) Construction phase mitigation and monitoring activities.
 - (5) Final development of O&M-related matters.
- (iii) Phase 3. Includes generally:
- (1) O&M.
 - (2) Post-construction mitigation and monitoring activities.

6. **Funding, Budgeting and Cash Flow.**

- (a) Concurrently with its approval of this MOU, the Council has adopted Resolution No. 6700 accepting the BRIC grant funding.
- (b) The current Project funding sources and uses and timeline are attached hereto as Exhibit B and Exhibit C, respectively. The Parties will update Exhibit B and Exhibit C in a mutually agreed upon manner as further information becomes available.
- (c) The current Project Cash Flow Projections are attached hereto as Exhibit D. The Parties will update Exhibit D in a mutually agreed upon manner as further information becomes available.
- (d) PG&E and Meta will contribute their agreed \$10,000,000 and \$7,808,000, respectively, when and as required by the agreed Exhibit B and Exhibit C. PG&E and Meta will contribute 20% of their agreed contributions within thirty days of the date Assurance is received, then make pro rata contributions with the City throughout the design phase of the Project, then make the balance of their respective agreed contributions upon the commencement of Project construction. The obligations of this subsection will survive any withdrawal from this MOU by PG&E or Meta, as long as the Project proceeds.
- (e) The City and SFCJPA or other public partners will be responsible for seeking any and all grant funding and other funding sources to be used for the Project. Meta and PG&E agree to continue to collaborate and provide non-monetary support for such efforts.
- (f) Parties to align on engagement and outreach for this portion and future portions of the overall SAFER Bay Project.
- (g) The Parties acknowledge and agree that PG&E and Meta are not responsible for providing funding above the agreed respective \$10,000,000 and \$7,808,000 amounts.
- (h) If final Project costs are less than the amounts raised, the Parties will discuss uses of remaining funds for O&M and other costs.

7. **Subsequent Agreements.** As the Project progresses, the Parties anticipate developing further memoranda of understanding or agreements between some or all of them, including:
- (a) Permitting including potential timing and coordination between Programmatic EIR and Project EIR (see Section 8);
 - (b) Procurement: In-kind contributions for the Project (such as, for example, surplus soil or equipment);
 - (c) Real estate acquisition: Allocation of specific Project property rights acquisition; it is presently anticipated that SFCJPA will take the lead on initial outreach, communication, collaboration, and stakeholder coordination for property / easement / right of entry acquisition and that the City will undertake any eminent domain proceedings where necessary;
 - (d) Responsibility, oversight and management of design and construction phases;
 - (e) Responsibilities for review and approval of Project designs;
 - (f) Creation of a special district(s) or other regional solution(s) to perform or pay for long-term O&M;
 - (g) Ultimate ownership of Project facilities: Identifying specific owner(s) (public or otherwise), e.g., One Shoreline, of actual Project facilities, currently anticipated to be City and/or JPA;
 - (h) Agreements with other potential Project stakeholders;
 - (i) Project Administration; and
 - (j) Negotiation cost and design of potential relocation of existing PG&E transmission / distribution facilities (if required by Project).

Neither Meta nor PG&E will be obligated to participate in or contribute to any of the preceding subjects.

8. Environmental Review.

- (a) SFCJPA will serve as the Lead Agency for the CEQA self-mitigating programmatic EIR for the entire SAFER Bay Project (**Programmatic EIR**). The current timetable for the Programmatic EIR is attached as on Exhibit E. SFCJPA will update Exhibit E in a mutually agreed upon manner as further information becomes available.
- (b) Menlo Park will serve as the Lead Agency for the CEQA Project-specific (non-programmatic) EIR (**Project EIR**). The current timetable for the Project EIR is attached as Exhibit F. Menlo Park will update Exhibit F in a mutually agreed upon manner as further information becomes available

9. Project Definition and Contracts.

- (a) The Parties intend that except for specific CEQA/NEPA or other (if any) matters for which SFCJPA is the Lead Agency, Menlo Park will hold all third-party contracts to accomplish the Phase 1 and Phase 2 portions of the Project. As for Phase 3, the Parties intend that Menlo Park will hold all third-party contracts, except to the extent O&M responsibilities can be assumed by a third party. Contracting responsibility includes responsibility for requiring other parties to maintain reasonable and appropriate insurance, any to pay prevailing wages if otherwise required by Applicable Law. However, nothing herein will require Menlo Park or SFCJPA to enter into any contract unless it has reasonable assurances of available funds.
- (b) Subject to Section 6(g), the City and SFCJPA or other public partners will be responsible for seeking any and all grant funding and other funding sources to be used for the Project in addition to the funds contributed by Meta and PG&E pursuant to this Agreement. Meta and PG&E agree to continue to collaborate and provide non-monetary support for such efforts.
- (c) Until final construction completion of the Project and for three years thereafter, City and SFCJPA shall maintain in accordance with their standard record retention procedures (and require any Contractor to maintain) all such records concerning expenditures of Project funds relating to the funding, planning, permitting, designing, constructing, and operating and maintaining the Project. The preceding shall include correspondence, internal memoranda, calculations, books and accounts, accounting records, and invoices, payrolls, records and all other data related to matters covered by this MOU and as may be required by FEMA or its designee(s). Upon the City's request, Meta and PG&E shall provide evidence of payment of the funds they have contributed to the Project pursuant to this Agreement.

10. Project Permits, Entitlements and Approvals.

- (a) Subject to the specifically agreed "lead" and other responsibilities of Menlo Park and the SFCJPA (as applicable), the City and SFCJPA will cooperate to obtain and/or provide all mutually agreed upon and reasonably required entitlements, permits and approvals for the Project and that do not unreasonably interfere with operational requirements. Meta and PG&E agree to continue to collaborate and provide non-monetary support for such efforts.

11. Project Design and Construction.

- (a) The City and SFCJPA will cooperate to obtain approval of all project designs and applicable construction requirements. Meta and PG&E agree to continue to collaborate and provide non-monetary support for such efforts. All Project designs for facilities on PG&E or Meta's properties will be subject to PG&E or Meta's (as applicable) reasonable approval, so long as it is consistent with prior approvals.

12. Project O&M.

- (a) Concurrently with its approval of this MOU, and consistent with the BRIC grant documents, the Council has adopted Resolution No. 6700 undertaking a commitment to provide for the Project's long term operations and maintenance expenses.
- (b) Menlo Park and SFCJPA will, with input from PG&E and Meta, have responsibility for developing a long-term O&M plan in compliance with all applicable laws and subject to approval of all AHJ's, ideally before final design is completed and construction contracts are let.
- (c) As for O&M funding, Menlo Park and SFCJPA and other regional stakeholders will cooperate to develop other, citywide or regional-based solutions, such as a potential assessment district. PG&E and Meta will be encouraged to provide meaningful input in developing the solutions. PG&E and Meta acknowledge that any solution may require them to make Project-related payments in addition to those described elsewhere in this MOU. However, provided that the final regional solution does not treat PG&E or Meta differently than any other similarly situated private property owner within the Project area, and PG&E and Meta have been given a reasonable opportunity to provide meaningful input, PG&E and Meta will not assert this MOU as a basis for different treatment than any other similarly situated private property owner within the Project area.
- (d) Nothing in this MOU or the Project will alter or modify any pre-existing obligations of:
 - (i) PG&E to maintain the flood gate/wall adjacent to its Ravenswood electrical substation [as required or necessary based on design of project]; and
 - (ii) Meta for infrastructure under its pre-existing conditional development permit for the Classic Campus (except as set forth in Section 4(f)(ii)).

13. Term and Termination/Withdrawal.

- (a) This MOU will be effective as of the Effective Date, and will unless terminated earlier by the Parties or superseded by other agreements will be effective until five years after construction of the Project is completed and accepted.
- (b) PG&E and Meta may withdraw from this MOU (subject to Section 13(c)) upon 120 days written notice to the other Parties.
- (c) The following obligations will survive expiration or termination of this MOU or withdrawal by a party: (i) PG&E and Meta agreements regarding their \$10,000,000 and \$7,808,000 contributions, respectively; and (ii) PG&E and Meta obligations under Section 4(c)(iii) and Section 4(d)(iii) respectively. Notwithstanding the preceding, if this MOU is terminated pursuant to Section 3 then all of PG&E's and Meta's obligations will also terminate and PG&E and Meta will not be obligated to make any further contributions to the Project.

14. **General Conditions.**

- (a) **Project Communications and Meetings.** Throughout the Project, the Parties, will reasonably communicate with each other in all matters relating to the Project. The Parties will agree on schedule of periodic meetings to apprise the Parties and other Project stakeholders regarding overall Project statues, funding, design and construction, etc.
- (b) **Revisions to Exhibits and Schedules.** All Exhibits and Schedules to this MOU are subject to revision and updating from time to time. The Parties will reasonably cooperate in such revisions.
- (c) **No Consequential Damages.** The Parties hereby agree that, in the event of default, any damages awarded or arising under this MOU shall be exclusively limited to actual direct damages incurred and which have been demonstrated with substantial certainty. In no instance shall the Parties be entitled to special, incidental, indirect, consequential or punitive damages, lost profits or attorney's fees. By acceptance and execution of this MOU, the Parties hereby agree that the only monetary damages contemplated by them as arising from this MOU are actual or direct damages. The Parties specifically agree that damages suffered by Menlo Park as a result of PG&E or Meta's failure to pay their monetary contributions when and as required are actual and direct damages.

15. **Representations and Warranties.**

Each Party represents, warrants and covenants to the other parties as follows:

- (a) **Authority.** The Party has the legal power and authority to execute and deliver this MOU and to perform its obligations under this MOU.
- (b) **Due Authorization.** The approval, execution, and delivery of this MOU, and the performance by such Party of its obligations under this MOU, have been authorized by all requisite actions of the Party.
- (c) **Due Execution and Delivery.** The persons executing this MOU on behalf of the Party are duly authorized to execute and deliver this MOU on behalf of the Party.
- (d) **No Conflict.** The approval, execution, delivery and performance of this MOU does not conflict with any other agreement to which the Party is a party and does not violate or require any action which has not been taken under any law, statute, rule, regulation, ordinance, general plan, tribal law, specific plan or court order or decree applicable to the Party.

16. **Miscellaneous.**

- (a) **Indemnification.** Pursuant to Government Code Section 895.4, Menlo Park and SFCJPA agree to fully indemnify, defend, and hold the other Parties (including their appointed and elected officials, officers, employees, and agents) harmless and free from any damage or liability imposed for injury (as defined by Government Code Section 810.8) occurring by reason of the negligent acts or omissions or

willful misconduct of the indemnifying Party, its appointed or elected officials, officers, employees, or agents, under or in connection with any work, authority, or jurisdiction delegated to such Party under this MOU. Neither Menlo Park nor SFCJPA, nor any appointed or elected official, officer, employee, or agent thereof, shall be responsible for any damage or liability occurring by reason of the negligent acts or omissions or willful misconduct of any other Party, its appointed or elected officials, officers, employees, or agents, under or in connection, with any work, authority, or jurisdiction delegated to such other Party under this MOU. Menlo Park and SFCJPA, while conducting their respective activities set forth above in Section 4 above shall each procure, carry, and maintain, in full force and effect, at all applicable times during the term of this MOU, such insurance and bonds to protect the Parties, inclusive of causing each Contractor to indemnify and defend the Parties and name the Parties as additional insureds in any contracts entered into to effectuate this MOU.

- (b) Further Assurances. The Parties shall cooperate with each other and execute such instruments or documents and take such other actions as may reasonably be requested from time to time in order to carry out, evidence or confirm their rights or obligations under this MOU.
- (c) Amendments. Any mutually agreed changes, modifications, revisions or amendments to this MOU shall be incorporated by written instrument, and effective when executed and signed by all Parties.
- (d) Severability. If any provision of this MOU shall be held to be invalid, void, or unenforceable, the validity, legality, or enforceability of the remaining portions hereof shall not in any way be affected or impaired thereby.
- (e) Applicable Law. The construction, interpretation and enforcement of this MOU shall be governed by the laws of the State of California applicable to contracts executed and wholly performed within that state. The courts of the State of California shall have jurisdiction over any action arising out of this MOU, with venue in San Mateo County.
- (f) Construction of Agreement. In the event of a dispute between the Parties as to the language of this MOU or any amendment to this MOU or the construction or meaning of any term contained in this MOU or any amendment to this MOU, this MOU or any amendment to this MOU shall be deemed to have been drafted by the Parties in equal parts so that no presumptions or inferences concerning its terms or interpretation may be construed against, or in favor of, any Party based on the preparation or negotiation of this MOU or any amendment to this MOU.
- (g) Notices. All notices, demands and other formal communications hereunder shall be deemed given if: (a) delivered personally or by courier, (b) sent by overnight express delivery, (c) mailed by registered or certified mail (return receipt requested), postage prepaid, or (d) sent by email in PDF format (**Email Notification**); provided that (i) notice received after 5:00 p.m. on a business day or on a non-business day shall be deemed received on the next business day, and (ii) any sender of an Email Notification also delivers the notice by one of the methods listed in (a)-(c) (**Secondary Notice**) (provided that if the recipient of the

Email Notification responds with an email acknowledgement of receipt (an automatic "read receipt" does *not* constitute acknowledgement), Secondary Notice is not required), to a party at its respective address(es) set forth below (or at such other address as shall be specified by the party by like notice given to the other party(ies):

To: City of Menlo Park Justin I.C. Murphy Interim City Manager City Hall, 2nd Floor 701 Laurel St Menlo Park, CA 94025	To: San Francisquito Creek Joint Powers Authority Margaret Bruce Executive Director 2100 Geng Road, Suite 210 Palo Alto, CA 94303	To: Pacific Gas and Electric Company Heather Rock Chief of Staff for Engineering, Planning and Strategy 300 Lakeshore Drive Oakland, CA 94612	To: Meta Platforms, Inc. Lauren Swezey Sustainability & Landscape Project Lead 1 Hacker Way Menlo Park, CA 94025
---	---	---	--

- (h) Entirety of Agreement. This MOU, including Exhibits A through F, represents the entire and complete agreement among the Parties with respect to the subject matter hereof and supersedes any prior negotiations, representations and agreements, whether written or oral.
- (i) Debt Limitation. Menlo Park and SFCJPA are subject to laws or policies which limit their ability to incur debt in future years. Nothing in this MOU shall constitute an obligation of future governing bodies of the Parties to appropriate funds for the purpose of this MOU.
- (j) Conflict of Interest. The Parties shall undertake reasonable efforts to avoid conflicts of interest in the performance of this MOU and shall immediately notify the other Parties should a conflict of interest arise that would prohibit or impair the ability to perform under this MOU.
- (k) Disputes. The Parties agree that, with regard to all disputes or disagreements arising under this MOU that are not resolved informally at the staff level after a good faith attempt, the Parties may, at their sole and mutual discretion, agree to engage in mediation, and the costs of any such mediation shall be divided equally among the Parties involved in the mediation.
- (l) Non-Discrimination. Each Party shall comply with its own non-discrimination policies and practices and laws applicable to it.
- (m) Counterparts. This MOU may be executed in any number of counterparts, each of which, when executed and delivered, shall be deemed to be an original, and all of which, taken together, shall be deemed to be one and the same instrument.
- (n) Facsimile and Electronic Signatures. Facsimile or electronic signatures may be used in place of original signatures on this MOU. Each Party intends to be bound by the signatures on the facsimile or electronic document, is aware that the other Parties will rely on the facsimile or electronic signatures, and hereby waives any

defenses to the enforcement of the terms of this MOU based on the use of a facsimile or electronic signature.

- (o) Exhibits and Schedules. The following Exhibits and Schedules are attached and incorporated into this MOU:
- (i) Exhibit A: Project Description and Vicinity Map
 - (ii) Exhibit B: Project Funding Sources and Uses
 - (iii) Exhibit C: Project Timeline
 - (iv) Exhibit D: Cash Flow Projections
 - (v) Exhibit E: Programmatic EIR Timetable
 - (vi) Exhibit F: Project EIR Timetable
- (p) Signatures. In witness whereof, the Parties, through their respective duly-authorized representatives, have executed this MOU on the days and dates set out below, and certify that they have read, understood, and agreed to the terms and conditions of this MOU as set forth herein.

[Signature Blocks Follow on Next Page]

IN WITNESS WHEREOF, the Parties hereto, by their duly authorized representatives, have executed this Memorandum of Understanding.

CITY OF MENLO PARK

Justin Murphy
Justin Murphy (Feb 19, 2022 16:23 PST)
Justin I. C. Murphy, Interim City Manager

02/19/2022
Date

ATTEST:

Judi Herren
Judi Herren (Feb 20, 2022 07:18 PST)
Judi Herren, City Clerk

20/02/2022
Date

APPROVED AS TO FORM:

Nira Doherty
Nira Doherty, City Attorney

03/30/22
Date

SAN FRANCISQUITO CREEK JOINT POWERS AUTHORITY

Margaret Bruce
Margaret Bruce (Apr 1, 2022 18:37 PDT)
Margaret Bruce, Executive Director

04/01/22
Date

ATTEST:

Miyko Harris-Parker
Miyko Harris-Parker (Mar 30, 2022 16:44 PDT)
Miyko Harris-Parker, Board Clerk

03/30/2022
Date

APPROVED AS TO FORM:

Trisha Ortiz
Trisha Ortiz (Mar 31, 2022 07:17 PDT)
Trisha Ortiz, Legal Counsel

03/31/2022
Date

PACIFIC GAS AND ELECTRIC COMPANY

Christine Cowser

Christine Cowser (Mar 30, 2022 18:11 PDT)

Christine Cowser, Vice President of Electric Assets

03/30/2022

Date

META PLATFORMS, INC.

Chris

Christopher Hom (Feb 18, 2022 15:42 PST)

Christopher Hom, Director of Real Estate and Facilities

02/18/2022

Date

EXHIBIT A

PROJECT DESCRIPTION

Menlo Park SAFER Bay Project Scope of Work

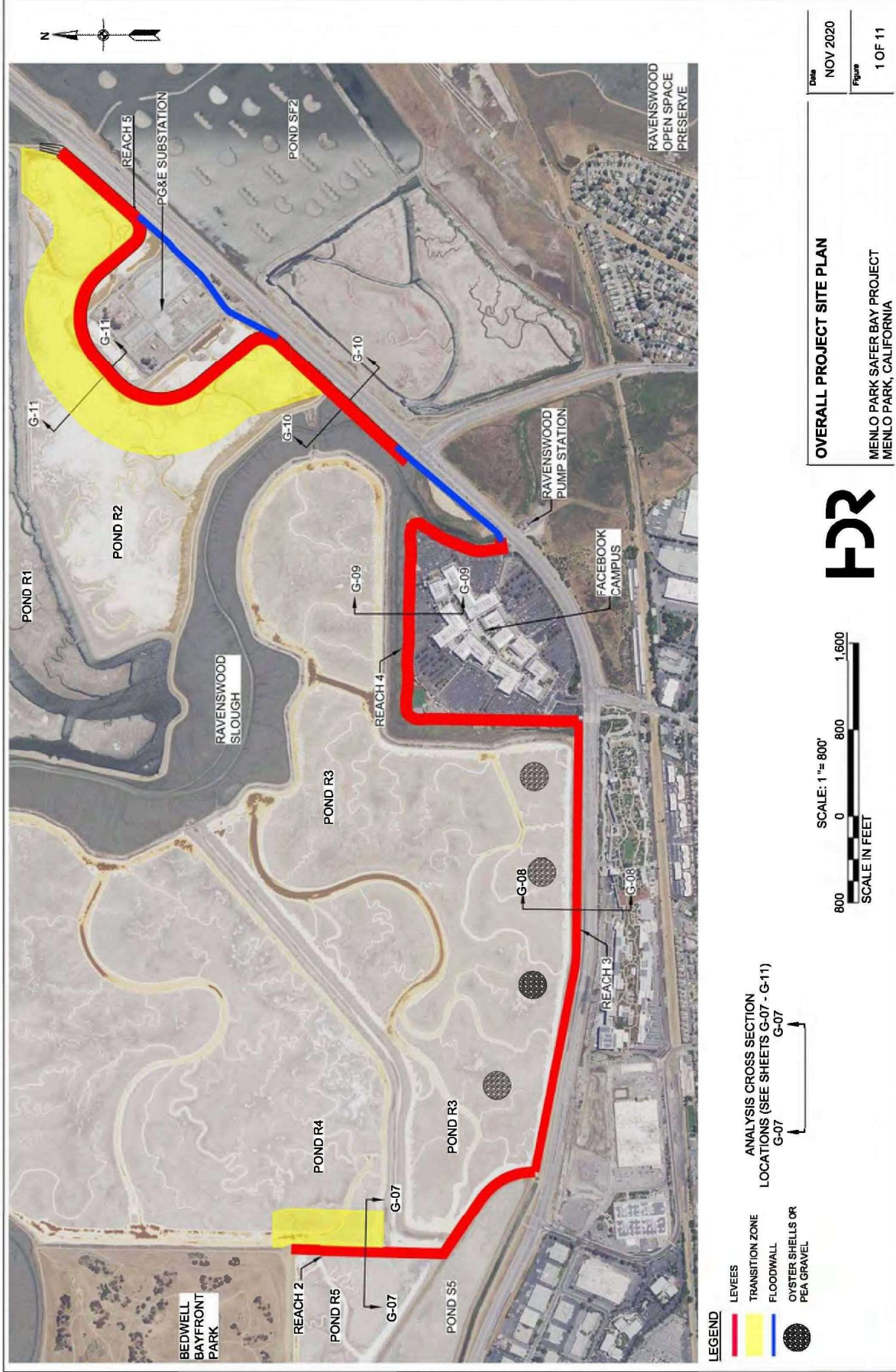
The proposed Menlo Park SAFER Bay Project involves preparation of environmental documentation, permitting, public outreach, field investigation, design, and construction for solutions to tidal and sea-level rise flooding along an approximately 3.7-mile alignment of the southeast San Francisco Bay shoreline near the City of Menlo Park (Attachment 1). The flood control elements will be designed to provide a 100-year level of flood protection in addition to 3.5 feet of sea-level rise adaptation.

The proposed Project will incorporate nature-based solutions and habitat enhancements. In total, the project will create approximately 31 acres of tidal marsh transition zone on the bayside slopes of multiple flood control levees. By extending the transition zones to elevations that account for 100-year storm events, in addition to 3.5 feet for sea level rise adaptation, the proposed project will create long-term, resilient, high-quality habitat and high tide refuge. The Project also proposes to enhance approximately 5 acres of western snowy plover breeding habitat in Pond R3 by placing oyster shells or pea gravel to enhance the breeding habitat of endangered bird species.

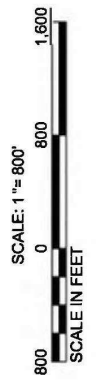
A primary focus of the proposed project is flood protection of Pacific Gas and Electric Company's (PG&E) Ravenswood Substation, which is part of critical power supply infrastructure to eight cities and nearly 300,000 people. The substation is sited at the margin of San Francisco Bay, and is at risk of tidal flooding and sea-level rise. When flooded, the substation must be de-energized until flood waters recede, and repair and maintenance activities must be completed before re-powering the substation. Hydrologic and infrastructure analysis has shown that flooding of the substation would result in an interruption of power supply for between 5 and 15 days to the project impact area, negatively impacting many community lifelines that are critical for human health and safety and to economic security.

The Project would be developed in phases. Phase 1 would include procurement of environmental and engineering services, public outreach, environmental permitting, and design to the 90% level. Phase 2 would include final design, procurement for construction management and contracting services, and construction activities.

The proposed Project is a significant portion of the overall SAFER Bay alignment that, when completed, will provide the additional benefit of protecting the communities of Menlo Park, East Palo Alto and others from tidal and sea level rise flooding.



- LEGEND**
- LEVEES
 - TRANSITION ZONE
 - FLOODWALL
 - OYSTER SHELLS OR PEA GRAVEL
- ANALYSIS CROSS SECTION LOCATIONS (SEE SHEETS G-07 - G-11)**
- G-07
 - G-07
 - G-08
 - G-08
 - G-09
 - G-09
 - G-10
 - G-10
 - G-11
 - G-11



OVERALL PROJECT SITE PLAN

MENLO PARK SAFER BAY PROJECT
MENLO PARK, CALIFORNIA

Date: NOV 2020
Figure: 1 OF 11

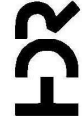


EXHIBIT B**PROJECT FUNDING SOURCES AND USES**

Funding Sources	Amount
FEMA BRIC grant	\$ 50,000,000
PG&E	\$ 10,000,000
Facebook	\$ 7,808,000
Total	\$ 67,808,000

Funding Uses	Amount
Pre-award Cost	\$ 190,000
Phase 1	
Task 1.1 - Procurement for Design and Environmental Services	\$ 26,000
Task 1.2 - Project Management including Kick-Off Meeting	\$ 150,000
Task 1.3 - Public Outreach	\$ 63,000
Task 1.4 - Environmental Permits	\$ 1,178,000
Task 1.5 - Right-of-Way Acquisition Negotiations	\$ 540,000
Task 1.6 - Engineering and Design	\$ 3,150,000
Phase 2	
Task 2.1 - Project Management	\$ 208,000
Task 2.2 - Public Outreach	\$ 75,000
Task 2.3 - Final Design	\$ 198,000
Task 2.4 - Procurement for Construction Management Service	\$ 26,000
Task 2.5 - Construction Bidding	\$ 42,000
Task 2.6 - Engineering During Construction	\$ 233,000
Task 2.7 - Construction Management	\$ 3,752,000
Task 2.8 - Construction Activities	\$ 57,844,087
Operation & Maintenance	
O&M (5 years)	\$ 1,050,000
Total	\$ 68,725,087

EXHIBIT C

PROJECT TIMELINE

Estimated Project Timeline		Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9	Q10	Q11	Q12	Q13	Q14	Q15	Q16	Q17	Q18	Q19	Duration	
		Oct-Dec 21	Jan-Mar 22	Apr-Jun 22	Jul-Sep 22	Oct-Dec 22	Jan-Mar 23	Apr-Jun 23	Jul-Sep 23	Oct-Dec 23	Jan-Mar 24	Apr-Jun 24	Jul-Sep 24	Oct-Dec 24	Jan-Mar 25	Apr-Jun 25	Jul-Sep 25	Oct-Dec 25	Jan-Mar 26	Apr-Jun 26		
Phase 1																					~21 months	
FEMA NEPA Review																						~11 months
FEMA Phase 2 Review																						~8 months
Phase 2																						~29 months
Total Duration																						~57 months

* Dates are subject to change as the project evolves

EXHIBIT E
PROGRAMMATIC EIR TIMETABLE
(Provided by SFCJPA)

TASK	ANTICIPATED DATE
Notice of Preparation (NOP) Publication	Dec '21
NOP Public Comment Period	Dec '21 – Jan '22
Project Description	Mar '22 – Jun '22
Administrative Draft EIR	Jun '22 – Jan '23
Publish Draft EIR	Feb '23
Final EIR Certified	Aug '23

*These dates are subject to change as the project evolves

EXHIBIT F**PROJECT EIR TIMETABLE****(Provided by City of Menlo Park)**

TASK	ANTICIPATED DATE
Project Description	Dec '21 – Feb. '22
Notice of Preparation / Scoping	Feb '22 – May '22
Draft EIR	May '22 – Feb '23
Final EIR	Oct '22 – Feb '23
Notice of Determination	Feb '23 – Mar '23

*These dates are subject to change as the project evolves

Agenda Item 5.C. – Employee Handbook 2024 Update

Background

At least every other year we review the policy handbook and consult with legal counsel regarding any changes to best practices, State, or federal laws which should be reflected in our Employee Handbook.

Discussion

Changes or updates resulting from this year's review include:

- Removing 'Consultants' from the section describing employee classifications.
- Eliminated "Emergency Pay" section (no longer applicable due to deletion of 'emergency response' from SFCJPA Members Agreement).
- Removed obsolete reference to Executive Director Transportation Allowance.
- Made clarifications to time-keeping and compensatory time.
- Clarified CalPERS and Social Security (SSI) benefits.
- Added details regarding workers compensation insurance benefits.
- Rearranged elements of Employee Relations section.
- Expanded Safety section.

Recommendation

Accept the updated Employee Handbook.



SAN FRANCISQUITO CREEK
JOINT POWERS AUTHORITY
SFCJPA.ORG

Employee Policies Handbook

Revised March 14, 2024

Table of Contents

- I. Introduction to Employment
 - a. Nondiscrimination/Equal Employment Opportunity policy
 - b. Employee Classifications
 - c. Probationary Period
 - d. Pay Rates
 - e. Work Hours
 - f. Performance Evaluations
 - g. Reclassifications
 - h. Access to Personnel Records

- II. Payroll Administration
 - IX. Employee Self Services
 - X. Paydays
 - XI. Payroll Deductions
 - XII. Direct Deposit/Pay Day and Changing Personal Information

- III. Employee Benefits
 - I. Introduction
 - II. Medical, Dental, Vision
 - III. Life
 - IV. Disability Insurance
 - V. COBRA/Cal-COBRA
 - VI. Workers Compensation
 - VII. CALPERS (Retirement Benefits)
 - VIII. Educational/Training Assistance

- IV. Paid Leave
 - a. Holidays
 - b. Vacation
 - c. Personal Leave
 - d. California Family Rights Act (CFRA) Leave
 - e. Administrative Leave
 - f. Cash Out
 - g. Emergency Response Compensation
 - h. Jury Duty and Subpoenas
 - i. Military Leave
 - j. Compensatory Leave

- V. Unpaid Time off
- VI. Employee Relations
 - a. Harassment Policy
 - b. Reporting and Investigation (Complaint Procedures)
 - c. Alcohol-Drug Free Workplace
- VII. Anti-Fraud/Ethics Policy
- VIII. Safety
 - a. General Safety
 - b. Workplace Violence
 - c. Request for Reasonable Accommodation
- IX. Staff Reimbursement Guidelines
- X. Acceptance of At-Will Employment and acknowledgement of receipt of Employee Policies Handbook

Date	Changes
2020	Updated the number of vacation hours per year allotted to the Executive Director. Clarified accrued vacation leave cash-out policy.
2022	
2024	Removed Consultants from section on employee classifications. Eliminated "Emergency Pay" section (no longer applicable). Removal of obsolete reference to Executive Director Transportation Allowance. Clarifications to time-keeping and compensatory time. Updates to employee leave benefits. Clarification of CalPERS and SSI benefits. Details added regarding workers compensation insurance benefits. Rearranged elements of Employee Relations section. Expanded Safety section.

I. INTRODUCTION to EMPLOYMENT

a. Nondiscrimination/Equal Employment Opportunity Policy

The San Francisquito Creek Joint Powers Authority (SFCJPA) is an equal opportunity employer. The SFCJPA will not discriminate against qualified applicants or employees based on race, color, national origin, ancestry, sex, gender, gender identity or gender expression, sexual orientation, age (40 or older), religion, creed, physical or mental disability, medical condition, marital status, citizenship status, military or veteran status, or any other basis protected by state or federal law.

b. Employee Classifications

SFCJPA employees who have successfully completed the sixty (60) day probationary period will be classified in one of the following categories:

1. Full-Time Exempt Employee

Permanent employees who have successfully completed the sixty (60) day probationary period and are paid on a salary basis for work performed.

Full-Time Exempt Employees are eligible for CALPERS, vacation, personal leave, and holiday time off.

2. Executive Exempt Employee

The SFCJPA has one Executive Exempt Employee, the Executive Director. This permanent employee is paid on a salary basis for work performed.

Executive Exempt Employees are eligible for CALPERS, vacation, personal leave, and holiday time.

3. Part-time Non-Exempt/ Temporary

Employees who have successfully completed the sixty (60) day probationary period and are assigned a work schedule of less than 30 hours per week for an indefinite period. Part-time regular employees may be eligible for vacation, sick leave, and holiday time off.

Temporary employees are hired to perform a specific task for a temporary period and are not eligible for health benefits but may be eligible for participation in the CALPERS Retirement program.

Part-Time Non-Exempt and Temporary employees are paid on an hourly basis and therefore not exempt from overtime. The Executive Director must approve all work beyond normal shift hours. Overtime is paid at a rate of one and one-half (1 ½) times the normal hourly rate.

c. Probationary Period

New employees will be subject to an evaluation period of sixty (60) days. This period will be utilized for closely observing the employee's work, and evaluating whether the employee's work is performed in an effective and capable manner.

The Probationary period for new employees will begin with the hire date and run for sixty (60) days, during which time the employee will be classified as a "new hire." At least one month

prior to permanent appointment, the SFCJPA shall begin to review the work of the probationary employee to determine whether to:

1. certify the probationary employee for the position,
2. extend the probation, or
3. reject the probationary employee for the position.

The SFCJPA will act on this determination by the last day of the probation period by notifying the employee in writing. If the SFCJPA fails to act on this determination by the last day of the probation period, the probation period shall be considered extended on a month-to-month basis. If the service of the probationary employee is unsatisfactory or otherwise does not meet the standards or needs of the SFCJPA or if the SFCJPA otherwise determines that the employment is no longer desirable, he/she will receive a letter of rejection from the SFCJPA prior to the last day of the probation period. Said letter may contain the reasons for rejection.

Probationary employees shall have the same rights as permanent employees under the nondiscrimination policy contained in this document. During the probation period and for the entire term of employment, all employees are at-will employees, meaning they can be terminated at any time, with or without notice, and with or without reason or cause. The designation of a probation period or designation of an employee as “probationary” or “permanent” does not change the at-will nature of employment.

d. Pay Rates

The salary of any new full-time employee will be determined by the Executive Director and publicly released at the time of the opening of the new position. A worker employed on a part-time basis will not be considered a permanent employee and will be compensated at an hourly rate to be determined prior to employment.

e. Work Hours

The regular work period for all permanent employees shall consist of eight-hour workdays between the first day of the month and fifteenth day of each month, and between the sixteenth and final day of each month. The normal work hours are Monday through Friday, 9:00 a.m. to 5:00 p.m., excluding holidays.

Work may be completed outside of the office (remote work) upon approval of the Executive Director. Work completed in the field, attendance of scheduled meetings, participation in virtual/video-conferencing meetings or events, or any other assigned duties outside of the office shall be considered part of the employee’s regular work period. It is the responsibility of the employee to log all hours worked for the purposes of hours and attendance tracking. Work schedules for each employee shall be approved by the Executive Director, and timesheets shall be submitted via the Harvest time keeping program for approval at the end of each week.

Full-time exempt and Executive exempt employees are not eligible for overtime pay. Exempt employees may, under special circumstances, work greater than the normal number of hours in a pay period. In these circumstances, compensatory time can be taken within the same pay period, or in a subsequent pay period by special approval.

Non-exempt regular employees will be paid overtime as required under the Fair Labor Standards Act, as applied to public agencies. Non-exempt employees must receive prior authorization from their supervisor before working overtime. No non-exempt employee may work overtime hours without the Executive Director’s approval and accurately recording and reporting their overtime hours.

Non-exempt intern employees may, depending on their specific personal circumstances, be

limited in the number of hours they may work. Specific work schedules will be confirmed with the Executive Director and HR manager.

f. Performance Evaluations

The Executive Director will conduct performance evaluations within the first sixty (60) days of employment for probationary employees and periodically for each permanent employee - at least annually. The frequency of evaluations may be altered for purposes of advancement, demotion, or termination as determined by the Executive Director. Performance evaluations shall include a self-evaluation. The employee will receive a copy of the Executive Director's evaluation, including any accolades or suggestions for performance improvement, as applicable.

g. Reclassifications

The Executive Director may, if significant and observable changes in the duties or responsibilities of an employee have occurred or been assigned, authorize the reclassification of that employee. Reclassification may include a change in job title, job description, salary, or scheduled work hours and/or days. Any reclassification will occur in congruence with a performance evaluation and is subject to approval by the Board of Directors.

Reclassification of an employee may also occur if the employee is not capable of completing the duties of the position or is no longer capable of working a full-time schedule because of compelling circumstances that have been reviewed and approved by the Executive Director. The employee may return to his/her previous job classification upon request and review of the SFCJPA when and if circumstances are remedied or expired.

h. Access to Personnel Records

The Administrative Manager shall maintain personnel records for each employee showing the name, title of position held, salary, changes in employment status, attendance records, accrued personal leave and vacation balance and other information as may be considered pertinent. The Executive Director shall maintain records containing employee performance evaluations and all paperwork regarding employee disciplinary actions.

The SFCJPA shall notify the employee of any adverse material placed in his/her personnel file if that material has not been reviewed by the employee.

Personnel files of individual employees are confidential information and shall be used or exhibited only for administrative purposes, or as otherwise required by law. The SFCJPA will release information to creditors or other person upon proper identification of the inquirer and acceptable reasons for the inquiry. Information then given from personnel files is limited to verification of employment, length of employment and verification and disclosure of salary range information if the reason for the salary inquiry is permitted by law. Release of more specific information may be authorized in writing by both the employee and Executive Director. An employee may review his/her personnel file by submitting a request to the Administrative Manager or Executive Director.

II. PAYROLL ADMINISTRATION

a. Employee Self Services

Employees can access payroll information by logging into <https://workforce.intuit.com/> (updated 06/25/2020). Employees can also access their CALPERS information by logging into my.calpers.ca.gov. Employees can access health benefit information my logging into

www.jpia.bswift.com. Employees should contact the Administrative Manager for information on accessing these websites.

b. Payroll Deductions

State and Federal laws require the SFCJPA to make proper deductions on behalf of its employees. Amounts withheld vary according to earnings and number of exemptions claimed. Required deductions include Federal Income Tax, FICA "Medicare Only" Contribution, State Income Tax, Social Security, and employee's contribution to CalPERS. Additional deductions related to employee medical benefits cost-share may apply.

c. Direct Deposit/Pay Day

The SFCJPA uses direct deposit to distribute employee paychecks. The Administrative Manager will enroll all employees for this service. All employees must bring a voided check to enroll in the direct deposit service. Payroll is processed on the 15th and last day of every month. When a payday falls on a weekend or federal holiday, paychecks will be deposited the business day directly prior. For example, if the pay date falls on a Sunday, employees will receive their direct deposit the preceding Friday.

d. Changing Personal Information

Your current address and phone number are essential for many purposes. These changes should be noted in writing or via email as soon as possible. You are solely responsible to notify the Director of Administration of changes in your personal status including, but not limited to:

- Name and/or marital status
- Address and/or telephone number
- Number of eligible family members
- Payroll tax deductions
- Emergency Contact Information

III. EMPLOYEE BENEFITS

a. Introduction

The SFCJPA provides medical, dental, vision, life insurance, and CALPERS benefits to eligible employees at no cost (excluding all plan co-pays, deductibles, prescriptions, and applicable fees). Eligible employees' spouses/domestic partners are covered under the employee's medical, dental and vision benefits at no cost (excluding all plan co-pays, deductibles, prescriptions, and applicable fees). Eligible employees' children are covered under the employee's dental and vision at no cost (excluding all plan co-pays, deductibles, prescriptions, and applicable fees.) Eligible employees' children are covered under the employee's medical plan up to 75% agency paid cost. Eligible employees are responsible for a 25% cost-share of their eligible children's medical care and all plan co-pays, deductibles, prescriptions, and applicable fees. (See note below from ACA/JPIA)* AB1083, California's version of the Affordable Care Act, requires that medical plans offered by employers of all sizes have waiting periods no longer than 60 days. (The Affordable Care Act cites 90 days.) Since JPIA plans are effective on the first day of the month, a new hire waiting period of the first of the month following 30 days would be the longest period that ensured compliance. Therefore, all JPIA medical plan waiting periods will be changed to the first of the month following 30 days. Those with shorter waiting periods, such as the first of the month following hire, will remain unchanged. This change only impacts medical plans. *

Eligible employees are defined as full-time exempt and executive exempt employees (see Sect. I.

b). Eligible dependents are defined as the following:

- Spouse.
- Children to their 26th birthday including stepchildren, Domestic partnership children, and children placed in home due to legal guardianship.
- Children eligible for coverage because of a valid qualified medical child support order.
- Domestic Partner as defined by the State of California for state registration requirements.
- Those designated according to the law.
- For an eligible dependent to be eligible for coverage, a copy of a marriage license, State of California Declaration of Domestic Partnership form (NP/SF DP-1), birth certificate, or other identifying paperwork is required.

NOTE: It is the employee's responsibility to notify the SFCJPA upon divorce, termination of domestic partnership, over-age dependent, or any event that changes the status of dependency.

The following is a brief description of the plans available and is not meant to replace the actual wording of the policy, which makes the final determination of the benefits to be provided.

b. Medical, Dental, Vision

1. Persons Eligible: Full-time exempt and executive exempt employees and their eligible dependents.
2. Waiting Period: First day of the month following thirty (30) days of continuous employment for medical. First day of the month following sixty (60) days of continuous employment for dental and vision benefits.
3. Employee Contribution: 25% medical cost-share for eligible children.
4. Employer Contribution: Total cost for employee and spouse/domestic partner. Total cost for dental and vision for eligible children and 75% of total cost for medical for eligible children.
5. Medical Benefits Provided:
 - Anthem Blue Cross: Classic PPO, Advantage PPO, COBRA/CalCare HMO, Value HMO and Account Based HP
 - Kaiser: HMO, HMO with Optical, Senior Advantage, Value HMO and Account Based HP
6. Vision and Dental Benefits Provided:
 - Vision benefits are provided through VSP
 - Dental benefits are provided through Delta Dental

Filing Claims: As provided by carrier or see the Administrative Manager.

c. Life Insurance

The SFCJPA provides eligible employees with basic life and accidental death insurance through The Standard Insurance Company at a flat level of \$50,000.

Waiting period: First day of the month following sixty (60) days of continuous employment

d. Disability Insurance

The SFCJPA provides disability insurance through a third-party carrier. Short-term and Long-term disability insurance is provided through The Standard Insurance

Company.

e. COBRA/Cal-COBRA

COBRA was enacted to protect employees and their eligible family members by allowing them to continue their group health insurance under the employer's plan. COBRA applies to employers and group health plans that cover 20 or more employees and lets you keep your plan for 18 months. Cal-COBRA is a State of California law that is like the Federal COBRA law, and it applies to employers and group health plans that cover 2 – 19 employees. Cal-COBRA lets you keep your plan for 36 months.

Employees are given information regarding their rights under COBRA/Cal-COBRA during the hiring process. Employees are responsible for notifying the Administrative Manager of any qualifying event (see below) within 60 days of the event. Any San Francisquito Creek Joint Powers Authority employee/eligible family member who loses regular group eligibility because of a qualifying event is eligible for enrollment under COBRA for eighteen (18) months then transfer to Cal-COBRA for eighteen (18) months. See below note from ACWA/JPIA

*Both COBRA and Medicare rules vary based on whether employers have more or less than twenty employees. However, when participating in a multi-employer group health plan, it is the size of the largest employer in the pool that should determine which Medicare and COBRA rules apply. Kaiser does not recognize the less than twenty employer size in our pool. Anthem recognized the small sized employers but requires constant reminders and intervention to have the small employer rules apply. Medicare will sometimes make exceptions on an individual basis annually. For consistency, simplicity, and clear legal compliance with the law, all groups in the pool will be treated as employers with twenty or more employees.

- Qualifying events are defined by COBRA regulations include loss of coverage due to termination of employment; reduction of hours; death of employee; employee's Medicare entitlement; divorce or legal separation; child ceasing to be eligible; bankruptcy of employer.
- Additional information regarding COBRA-Cal COBRA can be found at: www.hmohelp.ca.gov/dmhc_consumer/hp/hp_cobra.aspx

f. Workers Compensation

The SFCJPA provides worker's compensation to employees who sustain a work-related injury as required by law. Employees involved in work-related injuries must immediately report their injuries to the Executive Director. In the event of an emergency call 911. Non-emergency workplace injuries should be handled by contacting Company Nurse at 1-(877) 518-6711. Questions, comments, or concerns regarding worker's compensation should be directed to the Administration Manager. The SFCJPA's worker's compensation program is provided through Special Districts Risk Management Authority (SDRMA) CALPERS (Retirement Benefits)

The SFCJPA provides retirement benefits to eligible employees through the California Public Employee's Retirement System (CALPERS). In 2012 legislation passed the Public Employee's Pension Reform Act (PEPRA) of 2013 which has resulted in a two-tier employee setup; employees hired before January 1, 2013, and employees employed on and after 2013. A brief description of the CALPERS retirement benefits is noted below. Additional information may be found at www.calpers.ca.gov and or by emailing the SFCJPA Finance & Administration Manager at mhparker@sfcjpa.org.

1. Eligible employees consist of full-time employees, part-time employees who meet the minimum hour commitment and employees who are already a CALPERS member who have completed the six (6) month probationary period.
2. Tier 1 provides members 2% @ 55 with a 2% annual COLA increase. For eligible employees who were hired before January 1, 2013, the SFCJPA pays the 7% required employee contribution for Executive Exempt staff and 5-6% of the required employee contribution for Full-time exempt staff.
3. Tier 2 provides members 2% at 62 with a 2% annual COLA increase. For eligible employees who were hired on or after January 1, 2013, the employee pays 50% of normal costs and the 6.25% employee contribution; the SFCJPA pays 50% of normal costs and does not pay any of the required employee contribution for Tier 2 employees.
4. Since the inception of the SFCJPA the benefit program has included CALPERS and SSI. In 2020 employees voted to determine if they wanted to continue to receive both benefits. Under the divided vote procedure, each employee who was a member of the retirement system on the election date made an individual choice as to whether they personally wanted to be covered under Social Security. All new employees are covered under Social Security on the date they become members of the retirement system.

g. Educational/Training Assistance

Upon the approval of the Executive Director, an employee may be required to attend courses, conferences, or other events for purposes of training, education, experience, or exposure. Because attendance at these events will be considered professional development, intended to improve knowledge and skill level with respect to duties of his/her position, attendance is considered part of the employee's regular work week and will be logged and tracked as paid time.

Employees who wish to further their educational background by obtaining a higher degree and or certificate by attending college courses that will improve their knowledge and skill level with respect to duties of his/her position will be reimbursed for expenses related to tuition, book fees and other fees associated with higher education upon approval of the Executive Director.

Employees will submit to the Executive Director a request for reimbursement that will include receipts and detailed class information. Attendance of these courses is not considered work and will not be logged and tracked as paid time. See tuition reimbursement policy in SFCJPA financial policies document.

IV. Paid Leave

a. Holidays

Except as otherwise provided, permanent employees shall have the following holidays with pay:

New Year' Day	January 1
Martin Luther King Day	Third Monday in January
President's Day	Third Monday in February
Memorial Day.....	Last Monday in May
Independence Day	July 4

Labor Day	First Monday in September
Veteran’s Day.....	November 11
Thanksgiving.....	Fourth Thursday in November
Day after Thanksgiving.....	Fourth Friday in November
Christmas Eve.....	December 24
Christmas Day	December 25

Two additional “floating” holidays may be taken by each employee annually, pending prior submittal to and approval of the Executive Director. Employees shall not accrue more than two floating holidays, and no additional floating holidays will be granted until an employee’s balance falls below two floating holidays.

If any of the aforementioned days, except December 24, falls on a Sunday, the following Monday shall be considered a holiday. If any of the aforementioned days falls on a Saturday, the preceding Friday shall be considered a holiday. If December 24 falls on a Sunday, the preceding Friday shall be considered a holiday.

b. Vacation

Each permanent employee, except the Executive Director, shall be entitled to an annual paid vacation, accrued as follows:

- Less than three (3) years of service – 112 hours per year
- Three (3) to five (5) years of service – 128 hours per year
- Six (6) to ten (10) years of service – 144 hours per year
- Over 10 years of service – 160 hours per year

The Executive Director shall receive 160 hours of vacation per year.

Vacations may not be taken prior to the first six (6) months of employment; however, the probationary period counts for purposes of vacation accrual.

Vacation days will be based on an eight (8) hour workday. Vacation time will continue to accrue if unused to a maximum of two hundred eighty (280) hours, however no more than thirty (30) days may be requested as vacation at one time. The Executive Director must approve an employees’ requested vacation schedule a minimum of thirty (30) days prior to the first day of the vacation.

Reasonable efforts will be made to accommodate vacation requests. However, a request may be denied if the requested leave conflicts with staffing and/or workload constraints.

Upon separation, employees shall be paid for all vacation time accrued and not taken, up to the accrual limit of 280 hours.

c. Personal Leave

The SFCJPA provides 96 hours of personal leave as a benefit to full-time employees which may be, upon approval of the Executive Director, used for personal obligations of urgent and or compelling importance, which cannot be addressed outside of normal working hours. In addition, as required by law, the SFCJPA's personal leave allotment includes protection to pay for times when an employee is ill, being treated by a physician or dentist or otherwise incapacitated due to health problems. With limitations, personal leave may also be used to take care of a member of the employee’s immediate family, as bereavement leave, or to seek any legal or equitable relief if the employee is a victim of domestic violence, sexual assault, or stalking, to help ensure the health, safety, or welfare of the employee or their child; or to seek medical, psychological, or social services

assistance or participate in safety planning or other programs to increase safety from future domestic violence, sexual assault, or stalking. Personal leave can accrue to a maximum of 180 hours per fiscal year.

e. Leave under the California Family Rights Act of 1993 (CFRA)

The SFCJPA provides unpaid leave pursuant to the CFRA for employees who have more than 12 months of service with the SFCJPA and have worked at least 1,250 hours in the 12-month period before the date of leave. CFRA leave may be up to 12 workweeks in a 12-month period for the birth, adoption, or foster care placement of an employee's child or for the employee's own serious health condition or that of the employee's child (including biological, foster, or adopted child, step-child, legal ward, child of a domestic partner, or person to whom the employee stands in loco parentis), parent (including biological, adoptive, foster, or step-parent, parent-in-law, legal guardian, or person who stood in loco parentis when the employee was a child), grandparent, sibling, spouse, domestic partner, or designated person as defined by Government Code section 12945.2(b)(2).

CFRA leave may also be taken because of a qualifying exigency related to the covered active duty or call to covered active duty of an employee's spouse, domestic partner, child, or parent in the Armed Forces of the United States, as specified in Section 3302.2 of the Unemployment Insurance Code.

The SFCJPA provides 96 hours of paid personal leave per year to full-time employees to use for personal obligations that cannot be addressed outside of normal working hours. Personal leave includes sick leave (as defined under the Labor Code to include illness and medical appointments for the employee and employee's family members), and leave for victims of domestic violence, stalking, or sexual assault for purposes specified in Labor Code sections 230(c) and 230.1(a). Personal leave can accrue up to a maximum of 180 hours per fiscal year.

Part-time employees are entitled to 1 hour of paid sick leave per 30 hours worked. Sick leave may be used for the purposes addressed above, or to cover bereavement or reproductive loss leave.

All employees who have been employed with the SFCJPA for at least 30 days are entitled to take up to 5 bereavement days following the death of a spouse or domestic partner, child, sibling, parent, parent-in-law grandparent, or grandchild. Bereavement leave is unpaid, but employees may use personal, or vacation leave to maintain their pay during an absence.

Employees who have exhausted their personal or vacation leave accruals will not be denied bereavement leave if they qualify.

All employees who have been employed with the SFCJPA for at least 30 days are entitled to take up to 5 days of reproductive loss leave within 3 months of a qualifying event. Qualifying events include:

- Dissolution or breach of an adoption agreement, which results in the employee not becoming an adoptive parent.
- Dissolution or breach of a surrogacy agreement, or failed embryo transfer to a surrogate, which results in the employee not becoming a parent to a child born as the result of surrogacy.
- Miscarriage.
- Stillbirth, or
- Unsuccessful assisted reproduction, such as an unsuccessful round of intrauterine insemination or other reproductive technology.

Reproductive loss leave is unpaid, but employees may use personal, or vacation leave to

maintain their pay during an absence. Employees who have exhausted their personal or vacation leave accruals will not be denied reproductive loss leave; however, reproductive loss leave may be capped at 20 days per year if an employee experiences multiple reproductive loss events.

f. Cash Out of Accrued Vacation Leave

Accrued vacation leave more than forty (40) hours and up to one hundred twenty (120) hours may be converted to cash, payable to an employee once during each fiscal year at a time requested by the employee.

Upon separation, employees shall be paid for all vacation time accrued and not taken up to the accrual limit of two hundred eighty (280) hours. (updated 06/25/2020)

g. Jury Duty and Subpoenas

An employee required to report for jury duty or answer a subpoena as a witness, provided the witness has no financial interest in the case, shall be granted a leave of absence with pay until released by the court, up to a maximum of two (2) weeks, provided the employee remits all fees received from such duties other than mileage or sustenance allowances within 30 days from the termination of jury service.

h. Military Leave

Military leave of absence shall be granted and compensated in accordance with all applicable laws. Workers entitled to military leave shall give the appointing power an opportunity, within the limits of military regulation, to determine when such leave shall be taken.

i. Compensatory Leave

A permanent (exempt) employee may, under special circumstances or by assignment, should duties and responsibilities of his/her position exceed a full-time work schedule, and those duties and responsibilities necessitate that said employee work more than eight hours in each workday or greater than 87 hours in any given pay period work and track the *additional hours* of work upon approval of the Executive Director and consent of the employee. *Additional hours* will be accrued, tracked, and reported on a bi-weekly basis, beginning with and ending in congruence with each work period. The *additional hours* accrued by a permanent employee may be compensated for with paid leave to be documented and accounted in any of the subsequent work weeks of that month, pending prior submittal to and approval of the Executive Director. *Additional hours* accrued in a particular month may not be transferred to the following month for compensatory leave. Compensatory leave is a benefit provided at the discretion of the SFCJPA and does not indicate that an employee is entitled to overtime pay under the FLSA.

V. Unpaid Time off

Additional leave time for an employee may be granted by the SFCJPA Executive Director in the event of uncontrollable circumstances, when provided a serious and compelling reason for the leave. Duration of leave will be determined on an individual basis. Except as otherwise required by law, such approved leave time may not be considered personal leave, and as such, will be classified as “leave without pay.”

Compensation for an employee during a “leave without pay” period may be considered by the Executive Director should the employee be capable of addressing a portion of the responsibilities of his/her position while on leave. Compensation will be calculated as an estimated time allotment proportional to that employee’s regular salary.

VI. Employee Relations

a. Harassment Policy

The SFCJPA is committed to providing a workplace that is free of discrimination. In keeping

with this policy, the SFCJPA is also committed to providing a workplace that is free of sexual harassment as well as harassment based on such factors as race, color, national origin, ancestry, sex (including pregnancy, childbirth, or related conditions), sexual orientation, gender, gender identity or gender expression, age (40 years or older), religion, creed, physical or mental disability, medical condition, marital status, citizenship status, military or veteran status or any other protected status under state or federal law. The SFCJPA strictly prohibits and will not tolerate harassment of employees by officers, managers, supervisors, or co-workers. Similarly, the SFCJPA will not tolerate harassment by its employees of non-employees with whom SFCJPA employees have a business, service, or professional relationship. Conversely, the SFCJPA is committed to providing a safe environment and will not tolerate harassment of its employees by others. Harassment means verbal, physical, visual, or other conduct based on a protected status that creates an intimidating, offensive or hostile working environment or that interferes with work performance. Such conduct constitutes harassment when:

Submission to or rejection of the conduct is used as the basis for an employment decision; or

The harassment interferes with an employee's work performance or creates an intimidating, hostile or offensive work environment.

Harassing conduct can take many forms and includes, but is not limited to, the following:

1. Slurs.
2. Jokes.
3. Statements.
4. Gestures.
5. Assault.
6. Impeding or blocking another's movement or otherwise physically interfering with normal work; or
7. Pictures, drawings, or cartoons, based on an employee's sex, race, color, national origin, ancestry, sexual orientation, gender, gender identity or gender expression, age (40 years and older), religion, creed, physical or mental disability, medical condition, marital status, citizenship status, military or veteran status or any other protected status under state or federal law. Sexually harassing conduct includes all these prohibited actions as well as other unwelcome conduct such as requests for sexual favors, conversation containing sexual comments, and unwelcome sexual advances. Sexually harassing conduct can be by a person of either the same or opposite sex.

b. Reporting and Investigation (Complaint Procedures)

Any incident of harassment, including work-related harassment by or of any SFCJPA personnel or any other person, shall be reported promptly to the Executive Director, who is responsible for investigating the matter. The Executive Director may delegate any portion of the investigation to another employee or to an outside party but shall remain responsible for assuring proper completion of the investigation. An employee is not required to complain first to the Executive Director if the Executive Director is the individual who is harassing the employee. Instead, the employee may report the harassment to any member of the Board of Directors. Under such circumstances, the involved Board Member shall

promptly consult with the General Counsel to ensure proper investigation of the matter.

Harassment complaints will be investigated thoroughly and promptly. Efforts will be made to keep the complaint and investigation confidential; however, absolute confidentiality cannot be guaranteed. In addition, the San Francisquito Creek Joint Powers Authority will not tolerate retaliation against any employee for cooperating in an investigation or for making a complaint of unlawful harassment.

In the case of San Francisquito Creek Joint Powers Authority employees, if harassment is established, the San Francisquito Creek Joint Powers Authority will discipline the offender. Disciplinary action for a violation of this policy can range from verbal or written warnings up

to and including immediate termination, depending on the circumstances.

Harassment and retaliation for opposing harassment or participating in investigations of harassment are illegal. While the San Francisquito Creek Joint Powers Authority encourages use of the internal procedure described above for harassment or retaliation complaints, affected employees may also direct their complaints to the California Civil Rights Department (CRD) or Equal Employment Opportunity Commission (EEOC). An employee can contact the nearest office of the CRD or EEOC at the locations listed on the San Francisquito Creek Joint Powers Authority's CRD and EEOC posters.

c. Alcohol-Drug (substance) Free Workplace

As an employee of the San Francisquito Creek Joint Powers Authority, you have a responsibility to ensure that you are not in any capacity being negligent of all applicable laws and regulations regarding a "substance free workplace."

Employees of the San Francisquito Creek Joint Powers Authority will not report to work or conduct any business during any workday or work event including offsite meetings, trainings, or conferences under the influence of any alcohol or illegal drug.

Employees of the San Francisquito Creek Joint Powers Authority will not use alcohol or illegal drugs nor have in their possession any open containers of alcohol or illegal drugs while on duty.

Employees of the San Francisquito Creek Joint Powers Authority will not in any way, shape or form, manufacture, distribute, dispense, sell, or provide illegal drugs to any person while on duty.

The San Francisquito Creek Joint Powers Authority recognizes that there are times when an employee may be ill or have a health issue that requires the use of prescription medication. In the event an employee of the San Francisquito Creek Joint Powers Authority is required to use prescription medication and the use of that prescription medication conflicts with the duties of the required job and creates an unsafe working condition, the employee will notify the Administrative Manager prior to reporting to work. Reassignment, medical examinations, or other actions specified by applicable statutes and regulations may occur if an employee is not able to safely and effectively perform their job due to use of a legally prescribed medication.

d. Request for Reasonable Accommodation

Reasonable accommodation will be made to ensure the well-being of SFCJPA employees. The SFCJPA complies with applicable laws ensuring equal employment opportunities to qualified individuals with a known disability and will make reasonable accommodations for any documented physical or mental disability of an otherwise qualified individual unless undue hardship would result.

An applicant or employee of the SFCJPA who requires accommodation to perform the essential functions of the job should contact the Executive Director to discuss the needed accommodation.

VII. Anti-Fraud/Ethics Policy

Employees of the San Francisquito Creek Joint Powers Authority are expected to comply with all laws and regulations as applicable to working for a government agency in the state of California. If at any time an employee is in doubt and or has confusion of the application or interpretation of any law or regulation, he/she must make every reasonable effort to seek clarification by contacting the Executive Director.

VIII. Safety

a. General Safety

The San Francisquito Creek Joint Powers Authority will conduct a documented review of at least the following safety topics with all staff at least once annually, and with new employees or interns within two weeks of hire.

- Ergonomic Safety
- Lifting, carrying, moving safety (protecting your back)
- Project-Related Pedestrian Safety/Traffic Awareness
- Office safety, including earthquake response, evacuation routes, avoiding trip-slip-fall hazards, etc.
- Personal emergency preparedness
- Other timely topics

b. Workplace Violence

Workplace violence can occur nearly anywhere and can impact anyone. The SFCJPA strives to provide a safe and secure workplace environment for all employees and visitors to the agency. When out in the community, employees are encouraged to be alert to people around them, and to immediately leave any situation in which threatening, harmful, negligent, or abusive behavior is observed or is directed towards them and to report the details of the encounter to the Executive Director.

Workplace Violence within the SFCJPA will not be tolerated.

Workplace Violence includes but is not limited to:

- threatening behavior,
- acts of violence.

Any employee who violates the SFCJPA workplace violence safety policy will face disciplinary action up to and including termination. Agency visitors violating the workplace violence safety policy and to the extent allowable by law will be barred from SFCJPA offices, meetings, and events.

The SFCJPA expects employees to report any harmful acts or unwelcome behaviors that they have witnessed, received, or have been told that another person has witnessed or received.

If an employee of the SFCJPA receives a protective or restraining order that lists the SFCJPA premises as a protected area, that employee is required to provide the Executive Director with a copy of such order.

IX. Staff Reimbursement Guidelines

The SFCJPA recognizes that there may be out-of-pocket expenses incurred by employees in connection with agency business including, by not limited to, office supplies, equipment, meeting supplies and off-site travel expenses. As referenced from the SFCJPA Financial Management and Accounting Policies, employees can purchase up to \$1,000 per transaction on the SFCJPA-issued credit card, or on their own accounts on behalf of the agency and be reimbursed with appropriate documentation and the approval of the Executive Director. All purchases must be within the approved budget. (See SFCJPA Financial Management and Accounting Policies for more information.)

X. Acceptance of At-Will Employment and acknowledgement of receipt of Employee Policies Handbook

All employees of the SFCJPA are employed “at-will.” This means that the Executive Director, as authorized by the Board of Directors to act as the employer, has the right to terminate employment at any time, with or without cause and with or without advance notice. Only the Board of Directors has the authority to alter this arrangement, to enter into an agreement for employment for a specified period or to make any arrangement contrary to

this policy. Any such agreement or arrangement must be in writing and approved by the Board of Directors to be effective.

This Employee Policies Handbook is provided to inform and guide employees of the SFCJPA. It is a summary of the SFCJPA's policies, benefits, and work rules and supersedes previous written or unwritten policies, benefits, or work rules. The policies and practices in this Handbook are not intended to imply a contractual relationship and are not intended to create any legally enforceable obligations on the part of the SFCJPA, its directors, officers, or employees. Contents within this handbook can and may be changed at any time.

Please read this handbook carefully and become familiar with its contents. If you have any questions about the SFCJPA's policies and practices, please send your questions to the Administrative Manager or the Executive Director.

ACKNOWLEDGEMENT

I acknowledge that I have received a copy of the San Francisquito Creek Joint Powers Authority Employee Policies Handbook. I understand that I am responsible for reading the Handbook and for knowing and complying with its contents. I also understand and agree that my employment with the San Francisquito Creek Joint Powers Authority is “at-will,” meaning that either the Executive Director of the San Francisquito Creek Joint Powers Authority or I may terminate our employment relationship at any time, with or without cause and with or without advance notice.

Date: _____ Signature: _____

Printed Name: _____

Agenda Item 6 – Executive Director’s Report

Project Updates

Reach 1-

Interpretative signage has been installed on the Friendship Bridge extension. We encourage community and board members to visit and enjoy.



Preparation for sign installation by Hanford

The Reach 1 project was to have been honored with an environmental award at the State of the Estuary Conference. However, the event was cancelled at the last minute. Please save the date- the State of the Estuary Conference is being rescheduled for May 28-29, 2024, at the [Oakland Scottish Rite Center](#).

Reach 2 -

Project Activities –

The SFCJPA issued a request for proposals for a Master Services Agreement and Task Order 1 for an updated alternatives evaluation, as authorized by the Board last month. We held a bidder’s webinar on March 8, and fielded questions related to the RFP. Proposals are due April 5, 2024. The SFCJPA and partners will participate in consultant selection by April 12, with consultant on-boarding on or about April 25, 2024.

The City of Palo Alto confirms they are planning to begin construction of the Newell Road Bridge replacement project in 2024. The California Department of Fish and Wildlife (CDFW) deemed the Newell Road Bridge permit application complete on March 11, 2023. We are on track to get permits.

Schaaf & Wheeler’s [Independent Hydrologic Review](#) report is available on our website.

The USACE is reviewing the model for certification, which is anticipated this summer. Staff met with the USACE to discuss their timeline (now that they need to re-evaluate the results of modeling) and we are collectively considering options that may address CAP205 budget limitations as well as accelerating work on the Reach 2 project. We will have more to share after our MSA consulting team is on-board.

We are working with the San Francisco Estuary Partnership, grant administrator for our DWR/Prop 1, Reach 2 grant, on an updated scope of work and requesting an increased grant amount. The additional requested funds are for replacing the temporary wooden floodwall along Woodland and University Avenues.

Sediment working group –The next action steps are with CalTrans, we are discussing with SFCJPA member colleagues how we can bring this issue to the attention of our local legislators most effectively.

The RFP for the Master Services Agreement solicitation period closes on April 5. We anticipate a proposed contract for the board’s consideration will be on the April board agenda.

Project Schedule and Critical Path –

Action	Jan '24	Feb '24	Apr '24	June '24	Aug '24	Oct '24	Dec '24	Jan '25
Schaaf & Wheeler Report finalization.	Completed							
Meet with Army Corps of Engineers on new hydraulics and outline path to restart Reach 2 project work.	Restarted. USACE reviewing HEC-RAS.							
Reach 2 project team moving forward with project elements in EIR that do not induce risk downstream, including widening areas.	In progress							
Reach 2 project team to review EIR’s final 17 alternatives, consider new options and select a set of viable alternatives for further evaluation.	Completed – but further work anticipated with consultant.							

Develop SOW, retain consulting support	SOW and RFP completed.	Selection on schedule						
Board input on project design goals. <i>Public Input</i>		Board Study Session (April)						
<i>Consultant to provide conceptual designs and cost estimates for select options</i>								
NOP for Supplemental Environmental Impact Report with a preferred alternative. <i>Public Input</i>								
Existing conditions updated and Supplemental EIR for preferred alternative. <i>Public Input</i>								finish

SAFER Bay –

Staff continue to meet frequently and work with our project partners, key stakeholders, and our consulting team at HDR to advance the ongoing CEQA work, funded by the grant we received from the San Francisco Bay Restoration Authority.

We are planning to bring the final EIR to the board in December of 2025.

The State Coastal Conservancy submitted a grant to NOAA which included a portion of the SAFER Bay project in East Palo Alto. We anticipate hearing from the grant review team in Summer 2024.

There is a grant opportunity through the National Fish and Wildlife Foundation (NFWF) applicable to the project’s habitat goals, to which we will be applying.

Operations and Administration

Personnel – Following Kevin Murray’s resignation, we have been conducting outreach and recruiting to fill the role of Project Manager. The position has garnered significant interest, and we are in the process of screening applicants. We anticipate our new Program Manager to begin in May.

FY24/25 Budget - Staff will have a draft preliminary budget for the board’s input at the April Board meeting.

Conflict of Interest Code Update –The FPPC corrected their typographical error, and our updated Conflict of Interest Code is now in effect. The updated Board Handbook

reflecting the updated Conflict of Interest Code, updates to gift limits, the inclusion of the Second Amended and Restated Member’s Agreement and other small updates, is part of this board packet. *Reminder - the Political Reform Act requires public officials to disclose assets and income that may be materially affected by their official actions by filing a “Statement of Economic Interests” (also known as a “Form 700”). All Board members, alternates, SFCJPA staff and legal representatives must file a Form 700 with the SFCJPA. Please be sure to file your statements by the April 2, 2024, deadline. Filers are now able to use Netfile to file with the SFCJPA.

Employee Handbook Update – Staff regularly consults with our legal counsel to ensure our policies reflect current State and federal requirements. The updated Employee Handbook, which is part of this board packet, reflects legal counsel’s input and recommended updates.

Forward View of Board Meetings

Date	Location	Suggested Topics
March 28, 2024	Palo Alto Council Chambers	Board and Employee Handbook updates. New Board and Committee roles
April 25, 2024	Palo Alto Council Chambers	Reach 2 Study Session Study Session – Public finance options. Master Services Agreement for Reach 2 support. Draft Preliminary FY 2024-2025 budget.
May 23, 2024	Menlo Park Council Chambers	Final Draft Budget for approval.



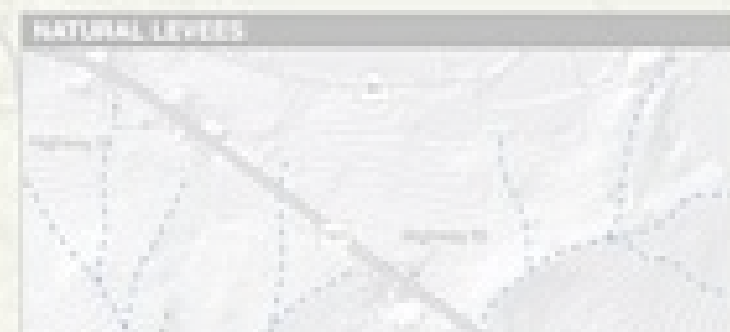
Artificial bodies of water, modern



SAN FRANCISQUITO CREEK

JOINT POWERS AUTHORITY

Regular Meeting of the Board of Directors
March 28, 2024



A map of the San Francisco Peninsula showing various subwatersheds and cities. The map includes labels for 'Artificial bodies of water, modern' (top left), 'San Francisco Creek Watershed' (center), 'Bear Creek subwatershed' (left), 'Los Francisco Creek subwatershed' (bottom center), and 'Natural Springs' (bottom right). Cities shown include Alhambra, Menlo Park, Palo Alto, East Palo Alto, Mountain View, and San Francisco. A legend in the top left corner identifies 'Artificial bodies of water, modern' with a blue icon. The map also shows 'Modern engineered channels' and 'Abandoned channels' in the upper right quadrant.

AGENDA

Members of the Public may speak on any agenda item for up to three minutes

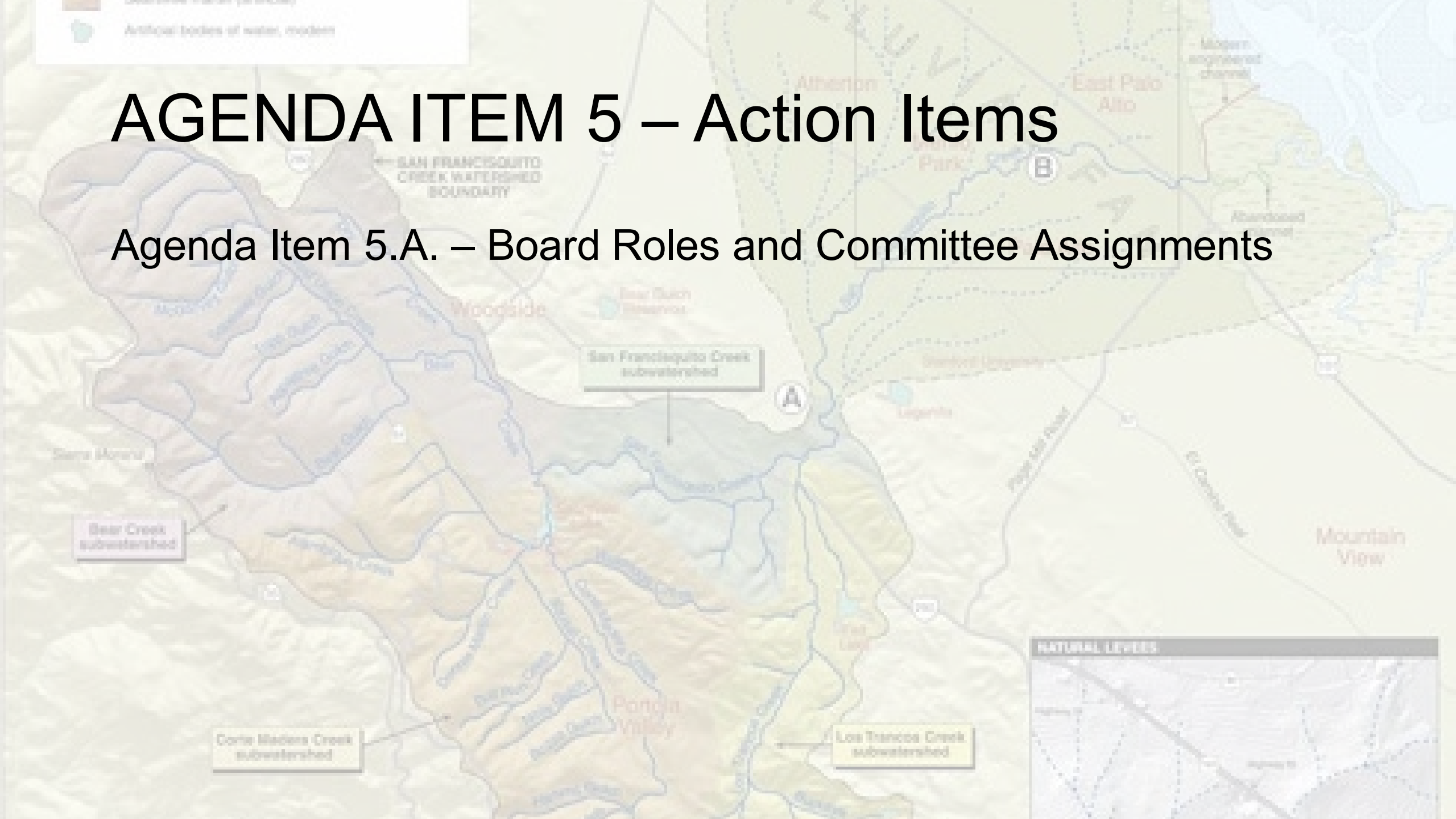
1. ROLL CALL
2. APPROVAL OF AGENDA: Changes or additions to the agenda.
3. Approval of Draft Minutes: Regular board meeting of 1/25/24, and Special Board meeting of 2/22/24
4. PUBLIC COMMENT: Individuals may speak on a non-agendized topic for up to three minutes on a topic within the SFCJPA's jurisdiction.

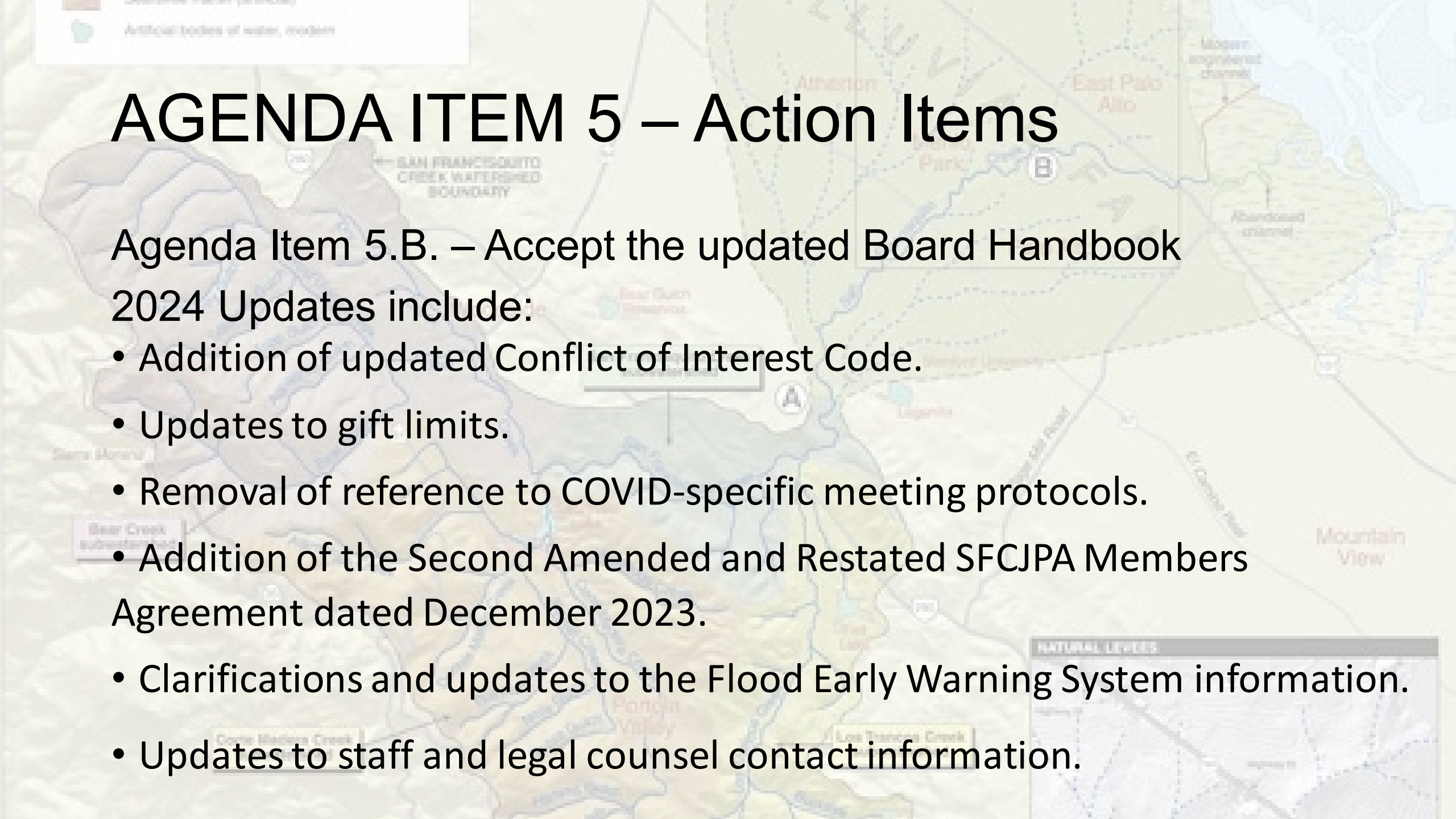
Members of the public speaking in person should submit a speaker card to the Clerk of the Board, indicating which agenda item or items they wish to speak about, in order to be recognized. When the agenda item is called, please stand at the podium and speak clearly.

Members of the public speaking via video conference should raise their hand, indicating their desire to ask a question or comment. They will be recognized by the Clerk of the Board and once unmuted and recognized, please speak clearly.

AGENDA ITEM 5 – Action Items

Agenda Item 5.A. – Board Roles and Committee Assignments





AGENDA ITEM 5 – Action Items

Agenda Item 5.B. – Accept the updated Board Handbook 2024 Updates include:

- Addition of updated Conflict of Interest Code.
- Updates to gift limits.
- Removal of reference to COVID-specific meeting protocols.
- Addition of the Second Amended and Restated SFCJPA Members Agreement dated December 2023.
- Clarifications and updates to the Flood Early Warning System information.
- Updates to staff and legal counsel contact information.



AGENDA ITEM 5 – Action Items

Agenda Item 5.C. – Accept the updated Employee Handbook

2024 Updates include:

- Removed Consultants from section on employee classifications.
- Eliminated “Emergency Pay” section (no longer applicable).
- Removal of obsolete reference to Executive Director Transportation Allowance.
- Clarifications to time-keeping and compensatory time.
- Updates to employee leave benefits.
- Clarification of CalPERS and SSI benefits.
- Details added regarding workers compensation insurance benefits.
- Rearranged elements of Employee Relations section.
- Expanded Safety section.

A topographic map of the San Francisco Peninsula. The map shows various watersheds and water bodies. A legend in the top left corner indicates that blue areas represent 'Artificial bodies of water, modern'. Several watersheds are highlighted with colored boxes and labels: Bear Creek (purple), San Francisco Creek (green), Cortis Mederos Creek (grey), Los Francisco Creek (yellow), and Bear Gulch (light blue). The map also shows major roads like Highway 101 and Highway 92, and various cities and towns including Atherton, Palo Alto, Mountain View, and Woodside. A dashed line indicates the 'SAN FRANCISCO CREEK WATERSHED BOUNDARY'. Other features include 'Modern engineered channel', 'Abandoned channel', and 'Bear Gulch Reservoir'. A box labeled 'B' is located near Palo Alto, and a box labeled 'A' is near the San Francisco Creek watershed. A 'NATURAL LEVELS' inset map is in the bottom right corner.

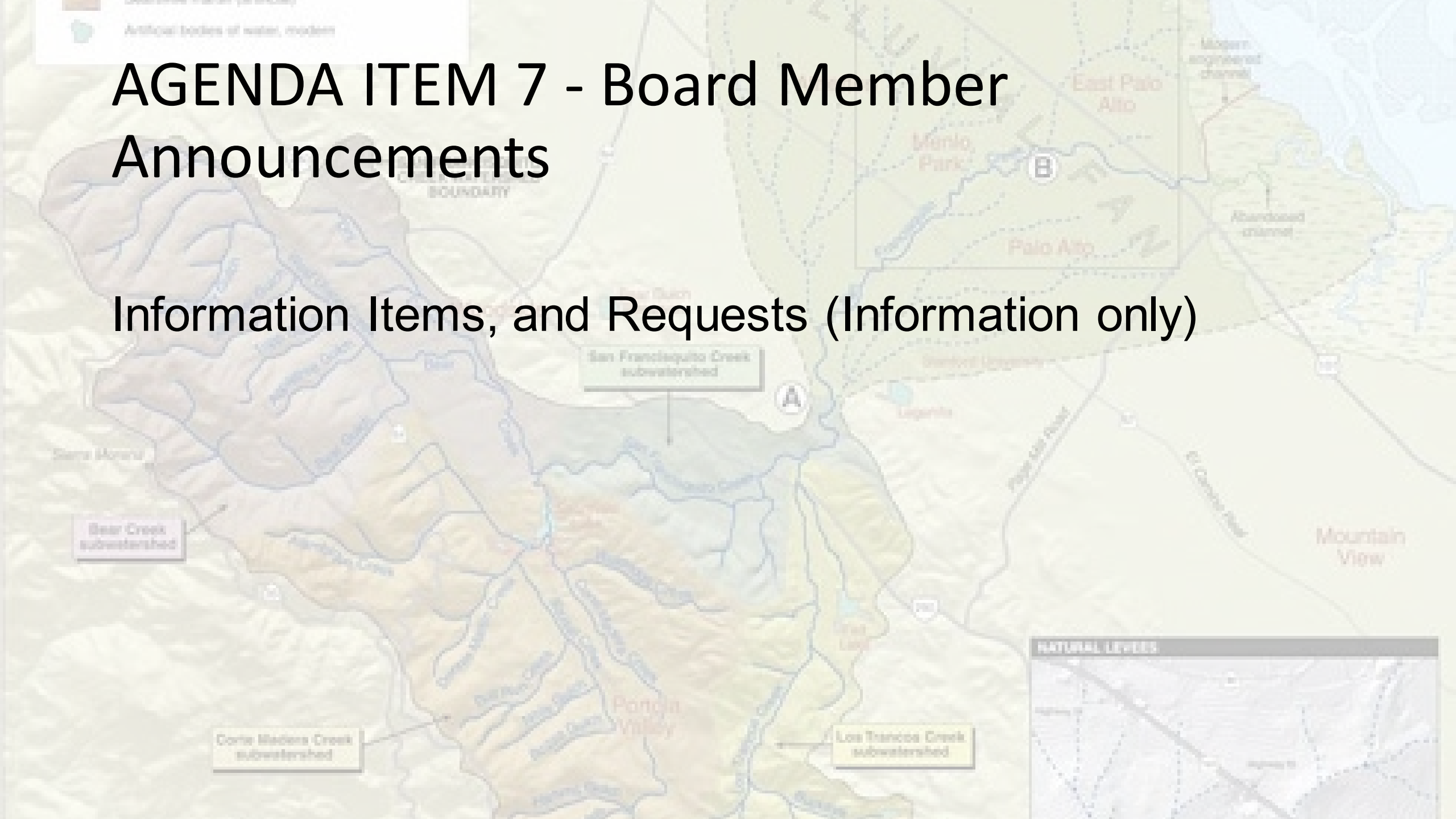
AGENDA ITEM 6 – Information Items

6.A - Executive Director's Report

- Project Updates
- Operations and Administrative Updates

AGENDA ITEM 7 - Board Member Announcements

Information Items, and Requests (Information only)



Agenda Item 8

ADJOURNMENT



Photo Credit: Mark Dinan.
December 10, 2023