



**COUNTY OF SAN MATEO**  
Inter-Departmental Correspondence  
Public Works



**Date:** May 23, 2016

**Board Meeting Date:** June 7, 2016

**Special Notice / Hearing:** None

**Vote Required:** Majority

**To:** Honorable Board of Supervisors

**From:** James C. Porter, Director of Public Works

**Subject:** Execution of Amended Agreements for Funding of the Corps of Engineers' San Francisquito Creek General Investigation Study and Funding for the San Francisquito Creek Flood Reduction, Ecosystem Restoration, and Recreation Project San Francisco Bay to Highway 101 Construction Project

**RECOMMENDATION:**

Acting as the Governing Board of the San Mateo County Flood Control District, adopt resolutions authorizing:

- A) An amended agreement for Funding a Feasibility Study for San Francisquito Creek Among the San Francisquito Creek Joint Powers Authority, the San Mateo County Flood Control District and the Santa Clara Valley Water District; and
- B) An amended agreement among the San Francisquito Creek Joint Powers Authority, the Santa Clara Valley Water District, the San Mateo County Flood Control District, the City of Palo Alto, the City of Menlo Park, and the City of East Palo Alto for funding construction of the San Francisquito Creek Flood Reduction, Ecosystem Restoration, and Recreation Project San Francisco Bay to Highway 101.

**BACKGROUND:**

San Francisquito Creek (Creek) forms the boundary between San Mateo and Santa Clara Counties, as well as a portion of the city limits of Palo Alto, East Palo Alto and Menlo Park; and has a history of flooding within the three (3) cities. The Creek can cause severe flood damage and has overflowed several times since 1910. During the February 1998 El Niño event (approximately a 45-year or 2.2 percent potential frequency flood event), record flooding caused an estimated \$28 million in damages in Palo Alto, East Palo Alto and Menlo Park. More than 1,100 homes were flooded in Palo Alto, and Highway 101 was closed, as were numerous other roadways. The largest flood on

record prior to 1998 occurred in December of 1955, when the Creek overtopped its banks in several locations, inundating about 1,200 acres of commercial and residential property. Damages resulting from this flood event were estimated at nearly \$2 million in 1956 dollars. Total damages from a potential one percent (100-year) frequency flood event are estimated at \$300 million in Santa Clara and San Mateo Counties, as calculated by the United States Army Corps of Engineers (USACE) in 2011.

The San Francisquito Creek Joint Powers Authority (SFCJPA) was formed between the cities of Palo Alto, East Palo Alto and Menlo Park together with the San Mateo County Flood Control District (SMCFCD), and the Santa Clara Valley Water District (SCVWD) to address issues regarding the Creek after the 1998 storm event. The SFCJPA and its member agencies have been working cooperatively to implement a series of projects to provide flood protection for local residents.

In November 2005, the SFCJPA and USACE executed the Feasibility Cost Share Agreement, which enabled the USACE to start work on a Feasibility Study for Creek related flood control projects. Subsequently the "Agreement for Funding a Feasibility Study for San Francisquito Creek Among the San Francisquito Creek Joint Powers Authority, the San Mateo County Flood Control District and the Santa Clara Valley Water District" (Feasibility Study Agreement) was executed to provide the local match to the USACE work. Under the Feasibility Study Agreement, the SMCFCD and SCVWD each agreed to fund \$1,500,000 (\$3,000,000 total) of the Feasibility Study. At the conclusion of the Feasibility Study, the USACE will issue a Federally Preferred Plan, which will detail the pre-design actions to be taken to complete the Flood Damage Reduction and Ecosystem Restoration Project. To date, the SMCFCD and SCVWD have each contributed \$930,847.83 each toward the Feasibility Study costs, leaving a remaining funding commitment for each agency of \$569,152.17.

Due to uncertain federal funding and the desire to move forward with projects that would result in flood damage reduction and ecosystem restoration, the SFCJPA Board authorized the SFCJPA staff to evaluate upstream retention projects and downstream improvement projects that could also receive credit towards the local share of project(s) identified under the Feasibility Study through Section 104 of the Water Resources Development Act of 1986. Through this analysis an initial capital project, titled the San Francisquito Creek Flood Reduction, Ecosystem Restoration, and Recreation Project, San Francisco Bay to Highway 101 (Project), was recommended as the preferred alternative. The Project is on the Creek between the San Francisco Bay and Highway 101. The SFCJPA Board considered the Project, authorized the SFCJPA staff to pursue funding opportunities, and authorized contracts with qualified consultants for the design and environmental work associated with the Project.

Your Board previously adopted resolutions authorizing execution of an Agreement and two Amendments with the SFCJPA, the SCVWD, and the SMCFCD to provide funding for the planning and design of the Project. The SMCFCD provided funding in the amount of \$566,252 in connection with the agreement and amendments for this work.

On June 3, 2014, your Board adopted Resolution No. 073199, which authorized execution of an agreement among the San Francisquito Creek Joint Powers Authority, the Santa Clara Valley Water District, the San Mateo County Flood Control District, the City of Palo Alto, the City of Menlo Park, and the City of East Palo Alto for Funding Construction of the San Francisquito Creek Flood Reduction, Ecosystem Restoration, and Recreation Project San Francisco Bay to Highway 101 (Construction Funding Agreement). This Agreement stipulated the funding sources and amounts for the anticipated construction costs for the Project. SMCFCD's share, included in the Construction Funding Agreement, is \$800,000.

### **DISCUSSION:**

The design documents for the Project were completed and the Environmental Impact Report was certified. On February 23, 2016, the SCVWD adopted the Plans and Specifications for the Project and bids were received on April 28, 2016. The apparent lowest bid and the other identified Project construction and mitigation activities costs are greater than the funds available through the Construction Funding Agreement. The SFCJPA and member agencies wish to modify the appropriate agreements to reallocate funds and increase funding contributions to enable construction of the Project. The SCVWD Board is currently scheduled to consider award of the contract at their meeting on June 14, 2016. Construction of this Project will be over a three-year period as much of the work is constrained by environmental compliance and seasonal conditions.

The Project costs are identified in Table 1 (Identified Project Costs) below and equal \$41,315,800. These costs include: mitigation measures, utility relocations, real estate acquisition, construction management and support, design services, project construction, and a contingency allowance.

<b>Table 1 - Identified Project Costs</b>		
<b>Project Cost Element</b>		<b>Cost</b>
Palo Alto Golf Course mitigation		\$3,000,000
Other mitigation activities		\$300,000
Pacific Gas & Electric Company (without contingency)	Electric Relocation	\$1,267,000
	Gas Relocation	\$3,141,000
East Palo Alto Sanitary District (without contingency)	Sewer Relocation	\$848,000
East Palo Alto real estate acquisition		\$85,000
Construction Management (Hatch Mott MacDonald)		\$2,565,000
Construction Support Services (HDR)		\$853,000
Completed design services (HDR)		\$230,000
Construction contract with 10% contingency		\$29,026,800
<b>Total Identified Project Costs</b>		<b>\$41,315,800</b>

The funding amounts previously agreed to in the Construction Funding Agreement are not sufficient to fully fund the Project costs. As a result, the SFCJPA and its member agencies have agreed to modifications to the project funding as depicted in Table 2 (Project Funding) below. Table 2 indicates the funding contributions identified in the Construction Funding Agreement (Original Funding Agreement), additional grant funding secured for the Project, funds to be shifted from a future upstream project to the Project, and additional funds (Newly identified funding) to be contributed.

Table 2 - Project Funding						
Funding Sources			Original Funding Agreement	Funds shifted from upstream project	Newly identified funding	Total contribution
SCVWD Funds			\$28,000,000	\$0	\$0	\$28,000,000
Non SCVWD Funds	SFCJPA	Prop 1E Grant	\$7,875,000	\$0	\$0	\$7,875,000
		Prop 84 Grant	\$0	\$0	\$953,351	\$953,351
	SMCFCD		\$800,000	\$700,000	\$560,000	\$2,060,000
	East Palo Alto		\$800,000	\$200,000	\$260,000	\$1,260,000
	Menlo Park		\$0	\$500,000	\$300,000	\$800,000
	Palo Alto		\$0	\$0	\$400,000	\$400,000
Total Funding			\$37,475,000	\$1,400,000	\$2,473,351	\$41,348,351

The Amended Agreements being considered by your Board will enable the funding contributions from the SMCFCFCD as presented in Table 2.

The Amendments allow for the following:

- The First Amended Agreement for Funding a Feasibility Study for San Francisquito Creek Among the San Francisquito Creek Joint Powers Authority, the San Mateo County Flood Control District and the Santa Clara Valley Water District (Amended Feasibility Study Agreement) limits the SMCFCFCD's contribution to what has already been expended to date, which totals \$930,847.83. This enables the remaining funds of \$569,152.17 (\$1,500,000 less \$930,847.83) to be used for construction costs of the Project.
- The First Amended Agreement Among the San Francisquito Creek Joint Powers Authority, the Santa Clara Valley Water District, the San Mateo County Flood Control District, the City of Palo Alto, the City of Menlo Park, and the City of East Palo Alto for Funding Construction of the San Francisquito Creek Flood Reduction, Ecosystem Restoration, and Recreation

Project San Francisco Bay to Highway 101 (Amended Construction Funding Agreement), increases the SMCFCFCD's contribution to the Project's construction costs by \$1,260,000. The increase in funding contribution is from the Amended Feasibility Study Agreement and contributing funds that had been identified from the SMCFCFCD for the next upstream project. The increased amount of funding from the SMCFCFCD matches the funding from the Cities of East Palo Alto and Menlo Park. The Amended Construction Funding Agreement stipulates that contributions from the SMCFCFCD for the Project construction costs will be made over the three year construction period.

The SFCJPA and its member agencies have carefully considered the Project costs and merits of identifying a solution to the funding gap. The SFCJPA and its member agencies are in agreement that the preferred path forward is to adjust the agreements to allow the Project to be constructed. This Project is located on the furthest most downstream stretch of the Creek (Hwy 101 to the Bay) and upstream projects to reduce flooding cannot occur without completing this Project..

County Counsel has reviewed and approved the resolutions and amended agreements as to form.

Approval of these actions will contribute to the Shared Vision 2025 outcome of a Collaborative Community by continuing to support the framework for the collaborative work of the SFCJPA member agencies by contributing to the construction of a project to solve flooding within a specific reach of the Creek.

**FISCAL IMPACT:**

There is no impact to the General Fund.

Funding for the SMCFCFCD's portion of the Amended Construction Funding Agreement (\$2,060,000) will be from the San Francisquito Creek Flood Control Zone 2 (Zone). Payments will be made as follows: \$800,000 (Year 1); \$630,000 (Year 2); and \$630,000 (Year 3). There will be sufficient funds in the Zone for the schedule of payments; however, the Zone funds will essentially be depleted with this additional funding commitment. The Zone revenue is approximately \$261,000 per fiscal year. The Zone's SFCJPA Member Agency contribution is \$152,000 annually, which leaves approximately \$109,000 per year for Zone costs (administration and maintenance staff). Future increases to SFCJPA Member Agency contributions or funding for future upstream projects from the Zone will generally not be possible.