

RESOLUTION NO. .

**BOARD OF SUPERVISORS, COUNTY OF SAN MATEO, STATE OF CALIFORNIA,
ACTING AS THE GOVERNING BOARD OF THE SAN MATEO COUNTY FLOOD
CONTROL DISTRICT**

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**RESOLUTION AUTHORIZING 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**

RESOLVED, by the Board of Supervisors of the County of San Mateo, State of California, acting as the governing body of the San Mateo County Flood Control District (SMCFCD), that

WHEREAS, SMCFCD is a member of the San Francisquito Creek Joint Powers Authority (SFCJPA); and

WHEREAS, San Francisquito Creek has a history of flooding the communities in and around East Palo Alto, Menlo Park and Palo Alto; and

WHEREAS, the United States Army Corps of Engineers (USACE), working with the SFCJPA, completed a Reconnaissance Study for San Francisquito Creek (Creek) which indicated a federal interest in developing a flood control project for the Creek thereby allowing the USACE to progress to the Feasibility Study (Feasibility Study) phase provided a Feasibility Cost Sharing Agreement (FCSA) with a local sponsor was executed; and

WHEREAS, the SFCJPA was authorized to be the “Local Sponsor” and as such entered into a FCSA with the USACE for the Feasibility Study; and

WHEREAS, the FCSA requires the SFCJPA to contribute to the USACE, in cash or in-kind services, fifty percent (50%) of the cost of the USACE’s Feasibility Study as defined in the FCSA; and

WHEREAS, the SMCFCFCD and the SCVWD, on behalf of themselves and the other members of the SFCJPA within their respective jurisdictions, entered into 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) to fund the local share of Feasibility Study costs; and

WHEREAS, the SMCFCFCD agreed to contribute funds in the amount of \$1,500,000 with an equal contribution from the SCVWD for the Feasibility Study: and

WHEREAS, on November 8, 2005, the Board adopted Resolution No. 067641, which authorized and directed that the Feasibility Study Agreement be executed; and

WHEREAS, the SMCFCFCD and the SCVWD have each contributed \$930,847.83 toward the Feasibility Study Agreement costs, leaving a remaining funding commitment for each agency of up to \$569,152.17; and

WHEREAS, due to the USACE’s delay in completing the Feasibility Study and the SFCJPA Member Agencies’ desire to begin addressing the risk of flooding in their jurisdictions, the SFCJPA and their Member Agencies’ staff evaluated alternatives for an initial capital project, the San Francisquito Creek Flood Reduction, Ecosystem

Restoration, and Recreation Project, San Francisco Bay to Highway 101 (SF Bay to 101 Project), and recommended a preferred alternative with conceptual design drawings to the SFCJPA Board of Directors for consideration; and

WHEREAS, on July 23, 2009 the SFCJPA Board of Directors approved staff's recommended SF Bay to 101 Project; authorized its Executive Director to pursue funding opportunities; and recommended to the Authority's Board of Directors contracts with qualified consultants to perform (1) planning and design services and (2) environmental impact assessment and planning for the SF Bay to 101 Project; and

WHEREAS, this Board previously adopted resolutions authorizing execution of an Agreement and two Amendments with the SFCJPA, the SCVWD, and the SMCFCFCD to provide SMCFCFCD funding in the amount of \$566,252 for the planning and design of the SF Bay to 101 Project; and

WHEREAS, on June 3, 2014, this 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). The Construction Funding Agreement stipulated that the SMCFCFCD would contribute \$800,000 toward the SF Bay to 101 Project construction costs; and

WHEREAS, the design documents for the SF Bay to 101 Project were

completed and the Environmental Impact Report was certified; and

WHEREAS, on February 23, 2016 the SCVWD adopted the Plans and Specifications for the Project and bids were received on April 28, 2016; and

WHEREAS, the apparent lowest bid and the other identified Project construction and mitigation activities costs are greater than the funds available based on the Construction Funding Agreement; and

WHEREAS, the SFCJPA and its member agencies have proposed modifications to the previously agreed upon project funding, which requires that the SMCFCD approve modifications to the Feasibility Study Agreement and the Construction Funding Agreement to allocate sufficient funds for construction of the SF Bay to 101 Project; and

WHEREAS, the modifications to the Feasibility Study Agreement would be made by an Amended Feasibility Study Agreement that would limit the SMCFCD's contribution to what has already been expended to date, which totals \$930,847.83. This enables the remaining funds of \$569,152.17 to be used toward construction costs for the SF Bay to 101 Project without terminating future work associated with the Feasibility Study; and

WHEREAS, in addition to an Amended Feasibility Study Agreement to allocate additional SMCFCD funds to the construction costs of the SF Bay to 101 Project, an Amended Construction Funding Agreement is being presented to this Board that requires funds, that were identified for a future upstream project, be shifted to the SF Bay to 101 Project to enable construction; and

WHEREAS, the Amended Construction Funding Agreement increases the SMCFCD's contribution to the SF Bay to 101 project by \$1,260,000, which is comprised of \$700,000 that was previously intended for an upstream project and \$560,000 from limiting the SMCFCD's future contribution to the Feasibility Study Agreement; and

WHEREAS, the SMCFCD's additional contribution of \$1,260,000 matches the additional contributions from the Cities of East Palo Alto and Menlo Park to the construction costs of the SF Bay to 101 Project in accordance with the Amended Construction Funding Agreement; and

WHEREAS, the SMCFCD's total contribution to the SF Bay to 101 Project construction costs based on the Amended Construction Funding Agreement is \$2,060,000; and

WHEREAS, the Amended Construction Funding Agreement identifies the anticipated costs for the SF Bay to 101 Project and the funding sources to support these costs; and

WHEREAS, the Director of Public Works has recommended that this Board execute said Amended Construction Funding Agreement; and

WHEREAS, this Board has considered and concurs with the recommendation of the Director of Public Works.

NOW THEREFORE, IT IS HEREBY DETERMINED AND ORDERED THAT:

The President of the Board of Supervisors is hereby authorized and directed to execute said the First Amended Agreement Among the San Francisquito Creek Joint Powers Authority, the Santa Clara Valley Water District, the San Mateo County Flood Control, 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 and on behalf of the San Mateo County Flood Control District; and the Clerk of the Board of Supervisors be, and is hereby, authorized to attest to said Agreement and affix the corporate seal of the County of San Mateo.

BE IT FURTHER RESOLVED THAT the Board of Supervisors of the County of San Mateo hereby authorizes and directs the President of the Board of Supervisors to execute the amended agreement in substantially the form presented to this meeting with such non-substantive additions, clarifications and other changes as the President of the Board of Supervisors deems necessary or advisable after consultation with County Counsel.

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