

SLEEPY HOLLOW FIRE PROTECTION DISTRICT

STAFF REPORT

To: District Board Members

From: Thomas J. Finn, District Director/Secretary, as Staff

Date: for August 19, 2024 Special Meeting

Subject: Proposed Restated and Amended Marin Wildfire Prevention Authority Joint Powers Agreement

RECOMMENDATION: Staff is recommending the following actions:

1. Adopt a Resolution approving the revisions to the Marin Wildfire Prevention Authority Joint Powers Agreement in the form of the attached *Amended and Restated Joint Powers Agreement*; and
 2. Authorize the Board Secretary to take all actions, on behalf of District, to enter into such *Amended and Restated Joint Powers Agreement*.
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BACKGROUND

The Marin Wildfire Prevention Authority ("Marin Wildfire") was created when 17 local Marin agencies with fire prevention responsibility entered into a Joint Exercise of Powers Agreement and the voters adopted a tax measure to fund the agency in March 2020. Thanks to the efforts of the drafters of the original Agreement, the document has provided a solid and efficient structure for the agency.

During the four years that the Agreement has been in use, member agencies and Marin Wildfire staff have noted several provisions that would benefit from revision. The attached *Amended and Restated Joint Powers Agreement* includes proposed changes that were developed with input from a working group consisting of Dan Schwarz, Jason Weber, Matthew Hymel, Dan Eilerman, and Mark Brown in consultation with counsel. In addition, an *ad hoc* subcommittee of the Marin Wildfire Board of Directors reviewed and offered feedback for the proposed amendments.

Following the subcommittee's review, the amendments were presented to the Marin Managers Association, Marin Wildfire Operations Committee, and the Marin Wildfire Executive Committee. Finally, on July 18, 2024, the Marin Wildfire Board of Directors approved the *Amended and Restated Joint Powers Authority Agreement* in the form attached to this Report (the "Amended JPA Agreement").

To take effect, the Amended JPA Agreement must be executed by three-fourths of the governing boards of the Marin Wildfire member agencies. (Amended JPA Agreement § 21). Accordingly, the amendments are being presented for approval to this Board.

ANALYSIS

The bulk of revisions included in the Amended JPA Agreement reflect current practices at Marin Wildfire, such as posting meeting minutes to the website rather than distributing them to each member agency. The amendments also include updates to language related to the passage of Measure C in 2020. The most substantive changes to the Amended JPA Agreement are the following:

1. Section 3. Membership. This Section has been amended to include the mechanism for an existing member's withdrawal from Marin Wildfire and for new agencies to become members. As proposed, both the withdrawal and addition of members is explicitly tied to the agency's role as a "member taxing entity" for a parcel tax measure. Original member agencies that were member taxing entities when the current tax measure (Measure C) was presented to the voters will continue to serve as Marin Wildfire members until expiration of the current tax measure. Similarly, agencies wishing to join Marin Wildfire may do so only when a tax measure is placed on the ballot to continue funding Marin Wildfire.

a. The City of Mill Valley provides a useful example of withdrawal/consolidation of member agencies. In July 2023, the City's fire service and fire-related taxing authority were annexed to Southern Marin Fire District. The Marin Wildfire Board of Directors determined that the City of Mill Valley would remain a Marin Wildfire member until the expiration of the current tax measure. As discussed by the Board, the City was a member taxing entity at the time the tax measure was adopted and Mill Valley residents should continue to be represented by that entity until the tax expires. When a tax renewal measure goes to the voters, Southern Marin Fire District will be the member taxing entity for Mill Valley and the City will no longer be a member of Marin Wildfire.

b. The Towns of Tiburon and Belvedere are the only agencies with fire protection responsibility and fire-related taxing authority that may seek to join Marin Wildfire. To become members, like the initial 17 members, they must agree to sign the JPA Agreement, as amended, and to put a tax measure on the ballot to fund Marin Wildfire's work. As provided in the proposed revisions, the local agency may also be required by the Marin Wildfire Board to pay a "New Member Charge", which is a one-time *pro rata* charge for past expenditures and investments of Marin Wildfire that will be of benefit to the new member upon joining Marin Wildfire. This amount can be paid in full or deducted from their allocation of Marin Wildfire's local-specific wildfire prevention funding for the local agency.

2. Section 7. Advisory Technical Committee. The Marin Wildfire's Advisory Technical Committee ("ATC") was included in the original Agreement and was specifically required under that Agreement to comply with the Ralph M. Brown Act. However, from discussions with original JPA Agreement drafters, it appears that this requirement was included in the Agreement

in error. The ATC is made up exclusively of member agency staff who are tasked with developing projects that are evaluated by agency and Marin Wildfire staff. In other words, this is a staff-level working group that is meant to collaborate across jurisdictions and to outline the technical aspects of proposed projects. Having the ATC comply with the Brown Act has proven to be an obstacle to collaboration, because discussions among a majority of members must occur only at noticed public meetings.

Given that the ATC is intended to be a collaborative staff-level working group, the proposed Amended JPA Agreement eliminates provisions referencing the ATC. By doing so, there will no longer be a formal action of the Board or member agency legislative bodies to establish the ATC, so it will not be bound by the Brown Act. Rather, Marin Wildfire staff will convene the ATC comprised of the existing member agency representatives/*ad hoc* representatives and they will continue to carry out their important project development work. Once the members on the ATC have developed draft proposals for projects, the existing process for finalizing those projects will remain unchanged under the Amended JPA Agreement. Specifically, the Marin Wildfire Operations Committee will develop budgets for each project and finalize the project proposals that are then considered by the Finance Committee, the Executive Committee, and the Board of Directors as part of the Marin Wildfire annual Work Plan. All four of these advisory committees will continue to comply with the Brown Act and the multiple meetings held by these legislative bodies offer ample opportunity for public engagement in the project planning process.

3. Section 9(c). Funding. The original JPA Agreement set aside 2% of the 20% of funds for defensible space and fire-resistant structure evaluations to be used for an “abatement fund”. However, local agencies handle their own abatements based on local and state codes and Marin Wildfire is not able to take on those staff- and resource-intensive efforts. Therefore, as requested from the member agencies, the proposed Amended JPA Agreement eliminates the abatement fund.

Please let me know if you have any questions or concerns.