



Board of Directors Meeting Agenda

October 13, 2022 7:00 PM

Hybrid Meeting via Zoom and at the Los Altos Community Center
97 Hillview Ave, Los Altos, CA 94022

Register for Zoom webinar [\[HERE\]](#) | Meeting also livestreamed on YouTube [\[LINK\]](#)

More info on public comment and accessibility given at the end of the agenda

Board Members

President & Chair: Hon. Chappie Jones, San José

Campbell	Hon. Anne Bybee / Alternate: Hon. Susan Landry
Cupertino	Hon. Darcy Paul / Alternate: Hon. Liang Chao
Gilroy	Hon. Peter Leroe-Muñoz / Alternate: Hon. Marie Blankley
Los Altos	Hon. Neysa Fligor / Alternate: Hon. Anita Enander
Los Altos Hills	Hon. Stanley Mok / Alternate: Hon. Lisa Schmidt
Los Gatos	Hon. Rob Rennie / Alternate: Hon. Marico Sayoc
Milpitas	Hon. Carmen Montaña / Alternate: Hon. Evelyn Chua
Monte Sereno	Hon. Javed Ellahie / Alternate: Hon. Bryan Mekechuk
Morgan Hill	Hon. Rich Constantine / Alternate: Hon. Gino Borgioli
Mountain View	Hon. Margaret Abe-Koga / Alternate: Hon. Ellen Kamei
Palo Alto	Hon. Pat Burt / Alternate: Hon. Lydia Kou
San Jose	Hon. Chappie Jones / Alternate: Hon. Matt Mahan
Santa Clara	Hon. Kathy Watanabe / Alternate: Hon. Anthony Becker
Saratoga	Hon. Tina Walia / Alternate: Hon. Kookie Fitzsimmons
Sunnyvale	Hon. Larry Klein / Alternate: Hon. Omar Din
Ex-Officio	SCCCMA Representative – Zane Barnes, San José
Ex-Officio	Acting Executive Director – Shali Sirkay

Discussion & action may be taken on any of the items below. Times are approximate.

WELCOME AND ROLL CALL (Jones)

1.	Consent Agenda
1a.	Approval of August Board of Directors Meeting Minutes Attachment: Minutes
1b.	Receive financial management report for the period ending August 31, 2022 Attachment: Management Report
1c.	Adoption of resolution to permit meetings of the Board of Directors and subsidiary bodies to meet over Zoom for an additional period of 30 days Attachment: Staff Report , Resolution
1d.	Appointment of Mayor Stanley Mok, Los Altos Hills; Mayor Darcy Paul, Cupertino; and Mayor Rich Constantine, Morgan Hill (Chair) to the Nominating Committee for 2023 Officers
1e.	Ratification of Appointment of Vaishali (“Shali”) Sirkay as Interim Executive Director Attachment: Staff Report , Resume
2.	MTC Update (Abe-Koga)
3.	Review and Comment upon the Joint Powers Agreement (JPA) Draft for CASCC (Baum)
	Discussion only – no formal action will be taken Attachment: Staff Report , Final Draft JPA
4.	Legislative Action Committee Update (Fligor)
5.	Santa Clara County City Managers Association Update (Barnes)
6.	Executive Director Update (Sirkay)
	Update on Council Development Event “Working Effectively With Your Elected Colleagues, the Manager, & Staff” Attachments: Link to Event Flyer , Link to Registration Page

7. Joys and Challenges (Board Members)

PUBLIC COMMENT

ADJOURNMENT

PUBLIC COMMENT

Members of the public wishing to comment on an item on the agenda may do so in the following ways:

1. Email comments to audin@citiesassociation.org
 - Emails will be forwarded to the Board of Directors
 - **IMPORTANT:** identify the Agenda Item number in the subject line of your email. All emails received will be entered into the record for the meeting.

2. Provide oral public comments during the meeting:
 - When the Chair announces the item on which you wish to speak, click the “raise hand” feature in Zoom. Speakers will be notified shortly before they are called to speak.
 - When called to speak, please limit your comments to the time allotted (up to 3 minutes, at the discretion of the Chair).
 - Phone participants:
 - *6 - Toggle mute/unmute
 - *9 - Raise hand

ACCESSIBILITY

We strive for our meetings and materials to be accessible to all members of the public. Closed captioning will be enabled for this meeting. For instructions on how to view the closed captioning, please refer [to this Zoom help page](#).

Additional accommodations are available upon request. Please contact our Board Clerk, Audin Leung, at audin@citiesassociation.org at least three business days prior to the meeting to submit a request for accommodations.



Board of Directors Meeting Minutes

August 11, 2022 7:00 PM / Virtual Meeting via Zoom

Meeting available on YouTube [\[LINK\]](#)

Agenda in Black / *Minutes in red*

Board Members

President & Chair: Hon. Chappie Jones, San José

Campbell	Hon. Anne Bybee / Alternate: Hon. Susan Landry
Cupertino	Hon. Darcy Paul / Alternate: Hon. Liang Chao
Gilroy	Hon. Peter Leroe-Muñoz / Alternate: Hon. Marie Blankley
Los Altos	Hon. Neysa Fligor / Alternate: Hon. Anita Enander
Los Altos Hills	Hon. Stanley Mok / Alternate: Hon. Lisa Schmidt
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Milpitas	Hon. Carmen Montaña / Alternate: Hon. Evelyn Chua
Monte Sereno	Hon. Javed Ellahie / Alternate: Hon. Bryan Mekechuk
Morgan Hill	Hon. Rich Constantine / Alternate: Hon. Gino Borgioli
Mountain View	Hon. Margaret Abe-Koga / Alternate: Hon. Ellen Kamei
Palo Alto	Hon. Pat Burt / Alternate: Hon. Lydia Kou
San Jose	Hon. Chappie Jones / Alternate: Hon. Matt Mahan
Santa Clara	Hon. Kathy Watanabe / Alternate: Hon. Anthony Becker
Saratoga	Hon. Tina Walia / Alternate: Hon. Kookie Fitzsimmons
Sunnyvale	Hon. Larry Klein / Alternate: Hon. Omar Din
Ex-Officio	SCCCMA Representative – Zane Barnes, San José
Ex-Officio	Acting Executive Director – Shali Sirkay

Discussion & action may be taken on any of the items below. Times are approximate.

WELCOME AND ROLL CALL (Jones)

1.	Consent Agenda										
1a.	Approval of June Board of Directors Meeting Minutes										
2b.	Adoption of Resolution to Continue Meeting Exclusively Over Zoom										
	Motion by Ellahie to approve consent agenda. Seconded by Watanabe. Motion adopted 15-0-0-0.										
2.	Presentation on Racial Justice (Board Priority)										
	Overview of Islamophobia; presented by Maha Engenaidi (Formal request by presenter)										
3.	Presentation on Board Member Development (Board Priority)										
	Overview of Elected Officials & Appointed Staff Relationships; presented by Kevin Duggan, Former Mountain View City Manager										
4.	The Board of Directors reviews and approves the Workplan										
	No action was taken on this item.										
5.	Legislative Action Committee Update (Fligor)										
	Motion by Ellahie for the Board of Directors to adopt a “Support” position on AB 1985. Seconded by Klein. Motion adopted 8-0-5-2.										
	<table border="1"> <tr> <td>Bybee</td> <td>AYE</td> </tr> <tr> <td>Paul</td> <td>AYE</td> </tr> <tr> <td>Leroe-Muñoz</td> <td>ABSTAIN</td> </tr> <tr> <td>Fligor</td> <td>ABSTAIN</td> </tr> <tr> <td>Mok</td> <td>AYE</td> </tr> </table>	Bybee	AYE	Paul	AYE	Leroe-Muñoz	ABSTAIN	Fligor	ABSTAIN	Mok	AYE
Bybee	AYE										
Paul	AYE										
Leroe-Muñoz	ABSTAIN										
Fligor	ABSTAIN										
Mok	AYE										

Rennie	ABSENT
Montano	AYE
Ellahie	AYE
Constantine	AYE
Abe-Koga	AYE
Burt	ABSTAIN
Jones	ABSTAIN
Watanabe	ABSENT
Walia	ABSTAIN
Klein	AYE

Motion by Fligor for the Board of Directors to adopt an “Oppose” position on AB 916. Seconded by Montano.

Substitute motion by Paul for Board members to vote on each legislative position consistent with the vote that their Legislative Action Committee counterpart took; and for the Board to adopt all legislative positions recommended by the Legislative Action Committee. Seconded by Ellahie. Motion adopted 13-0-0-2.

Bybee	AYE
Paul	AYE
Leroe-Muñoz	AYE
Fligor	AYE
Mok	AYE
Rennie	ABSENT
Montano	AYE
Ellahie	AYE
Constantine	AYE
Abe-Koga	AYE
Burt	AYE
Jones	AYE
Watanabe	ABSENT
Walia	AYE
Klein	AYE

6.	Santa Clara County City Managers Association Update (Barnes)
7.	Executive Director Update (SirKay)
8.	Joys and Challenges (Board Members)

PUBLIC COMMENT

Steven Spivak gave public comment.

ADJOURNMENT

Respectfully submitted,



Audin Leung
Clerk of the Board

DRAFT

Management Report

Cities Association of Santa Clara County
For the period ended August 31, 2022



Prepared by
Bestbooks4u Bookkeeping excellence

Prepared on
September 23, 2022

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Profit and Loss

July - August, 2022

	Total	
	Jul - Aug, 2022	Jul - Aug, 2021 (PY)
INCOME		
4000 INCOME		
4010 Membership Dues	170,288.00	149,957.07
Total 4000 INCOME	170,288.00	149,957.07
4999 Uncategorized Income	34,044.00	
Total Income	204,332.00	149,957.07
GROSS PROFIT	204,332.00	149,957.07
EXPENSES		
6000 GENERAL OFFICE		
6120 Bank Service Charges	6.00	6.00
6162 Hospitality		1,000.00
6180 Insurance		300.34
6610 Postage and Delivery		1.05
6615 Office/General Administrative Expenses	214.00	214.00
6620 Software Licenses	660.85	991.35
Total 6000 GENERAL OFFICE	880.85	2,512.74
Office		
6880 Telephone	60.60	60.60
Total Office	60.60	60.60
OFFICE PERSONNEL_CONSULTANTS		
6152 Consultants	11,492.50	
6153 Contractors		13,135.00
6300 Legal & Professional Fees		
6310 Accounting Services	510.00	742.50
6320 Attorney Services	6,614.50	13,582.50
6350 Roundtable consultant and technical services		55,183.25
Total 6300 Legal & Professional Fees	7,124.50	69,508.25
6565 Payroll Service Fees	162.00	174.00
6568 Workers Compensation		111.64
6575 Payroll Wages/Salary	18,000.00	15,293.97
6580 Payroll Taxes	1,531.00	1,169.99
Total OFFICE PERSONNEL_CONSULTANTS	38,310.00	99,392.85
Total Expenses	39,251.45	101,966.19
NET OPERATING INCOME	165,080.55	47,990.88
OTHER INCOME		
7030 Other Income	13,000.00	
Total Other Income	13,000.00	0.00
NET OTHER INCOME	13,000.00	0.00
NET INCOME	\$178,080.55	\$47,990.88

Balance Sheet

As of August 31, 2022

	Total
ASSETS	
Current Assets	
Bank Accounts	
1001 Checking - Union Bank	231,954.05
Total Bank Accounts	231,954.05
Other Current Assets	
1300 LAIF Funds	24,740.66
1395 Accrued Interest	-53.62
Total Other Current Assets	24,687.04
Total Current Assets	256,641.09
Fixed Assets	
1500 Machinery and Equipment	2,203.41
1700 Accumulated Depreciation	-1,926.59
Total Fixed Assets	276.82
TOTAL ASSETS	\$256,917.91
LIABILITIES AND EQUITY	
Liabilities	
Current Liabilities	
Accounts Payable	
2000 Accounts Payable	11,725.00
Total Accounts Payable	11,725.00
Credit Cards	
2200 First National Bank of Omaha	37.50
FNBO_2nd	107.00
Total Credit Cards	144.50
Total Current Liabilities	11,869.50
Total Liabilities	11,869.50
Equity	
1110 Unrestricted Fund Balance	31,999.94
3000 Opening Bal Equity	-34.00
3010 Reserves	0.00
3013 Reserve for New Equip.	1.92
3014 Reserve for Operations	35,000.00
Total 3010 Reserves	35,001.92
Net Income	178,080.55
Total Equity	245,048.41
TOTAL LIABILITIES AND EQUITY	\$256,917.91

Profit and Loss by Class

July - August, 2022

	CASCC	TOTAL
INCOME		
4000 INCOME		0.00
4010 Membership Dues	170,288.00	170,288.00
Total 4000 INCOME	170,288.00	170,288.00
4999 Uncategorized Income	34,044.00	34,044.00
Total Income	204,332.00	204,332.00
GROSS PROFIT	204,332.00	204,332.00
EXPENSES		
6000 GENERAL OFFICE		0.00
6120 Bank Service Charges	6.00	6.00
6615 Office/General Administrative Expenses	214.00	214.00
6620 Software Licenses	660.85	660.85
Total 6000 GENERAL OFFICE	880.85	880.85
Office		0.00
6880 Telephone	60.60	60.60
Total Office	60.60	60.60
OFFICE PERSONNEL_CONSULTANTS		0.00
6152 Consultants	11,492.50	11,492.50
6300 Legal & Professional Fees		0.00
6310 Accounting Services	510.00	510.00
6320 Attorney Services	6,614.50	6,614.50
Total 6300 Legal & Professional Fees	7,124.50	7,124.50
6565 Payroll Service Fees	162.00	162.00
6575 Payroll Wages/Salary	18,000.00	18,000.00
6580 Payroll Taxes	1,531.00	1,531.00
Total OFFICE PERSONNEL_CONSULTANTS	38,310.00	38,310.00
Total Expenses	39,251.45	39,251.45
NET OPERATING INCOME	165,080.55	165,080.55
OTHER INCOME		
7030 Other Income	13,000.00	13,000.00
Total Other Income	13,000.00	13,000.00
NET OTHER INCOME	13,000.00	13,000.00
NET INCOME	\$178,080.55	\$178,080.55

Monthly Reports:Monthly Summary VENDOR Expenses

August 2022

	Total
Adobe	33.98
Canva	12.95
Gusto	75.00
Intuit	115.00
Joanne Benjamin	9,142.50
Law Office of Gary M Baum	2,677.50
Microsoft	37.50
Peninsula Storage Center	214.00
Union Bank	3.00
Vaishali Sirkay	2,350.00
Verizon	30.30
Zoom.us	113.50
TOTAL	\$14,805.23

Statement of Cash Flows

July - August, 2022

	Total
OPERATING ACTIVITIES	
Net Income	178,080.55
Adjustments to reconcile Net Income to Net Cash provided by operations:	
2000 Accounts Payable	-608.00
2200 First National Bank of Omaha	-315.90
FNBO_2nd	-277.59
Total Adjustments to reconcile Net Income to Net Cash provided by operations:	-1,201.49
Net cash provided by operating activities	176,879.06
NET CASH INCREASE FOR PERIOD	176,879.06
Cash at beginning of period	55,074.99
CASH AT END OF PERIOD	\$231,954.05

A/R Aging Summary

As of August 31, 2022

This report contains no data for your specified date range.



Agenda Item No: 1c

Meeting Date: October 13, 2022

Cities Association of Santa Clara County Agenda Report

To: BOARD OF DIRECTORS

Prepared by: Gary M. Baum, General Counsel

TOPIC: CONTINUED MEETINGS OF THE BOARD OF DIRECTORS AND ALL SUBSIDIARY BODIES VIA ZOOM
SUBJECT: ADOPTION OF A RESOLUTION TO PERMIT MEETINGS OF THE BOARD OF DIRECTORS AND SUBSIDIARY BODIES TO MEET OVER ZOOM FOR AN ADDITIONAL PERIOD OF 30 DAYS

RECOMMENDATION:

Approve the attached resolution permitting the Board of Directors and all subsidiary bodies to continue to hold their meetings via Zoom with full public access, electronically, for a period of 30 days.

BACKGROUND:

The Board of Directors previously approved continuing to hold future meetings via Zoom after the Governor's Executive Order expired. This resolution satisfies the legal requirements necessary in order to continue to hold meetings of the Board of Directors, Executive Board and all subsidiary bodies utilizing Zoom. The Board of Directors will be required to pass a similar resolution every thirty days after original passage or at its next subsequent meeting, whichever is later, in order to comply with statutory requirements.

As the Covid-19 situation and State and County regulations have continued to change the Resolution has been revised to reflect current Covid-19 circumstances and State and local restrictions. The Board has directed the Acting Executive Director to examine hybrid meetings. This resolution will continue to be necessary unless and until the Board of Directors and the Executive Board choose to meet exclusively in person. A "hybrid" meeting will continue to necessitate the passage of this resolution.

LEGAL ANALYSIS:

AB361 modified Government Code Section 54953 by adding provisions that allow local governmental entities to not comply with certain provisions of the telephonic meeting requirements if there was a declared emergency or an order or recommendation for social distancing.

Specifically, AB 361 **removes** the following requirements:

- The requirement to post an agenda at a private home, business, hotel or wherever the Board Member is located has been lifted.
- The requirement that individual Board Members home, work or current location address be listed on the agenda has been removed.
- The requirement that the location of the Board Member be ADA accessible has been removed. Of course, there are existing laws that require a public building to be ADA accessible.

ADOPTION OF A RESOLUTION TO PERMIT MEETINGS OF THE EXECUTIVE BOARD, BOARD OF DIRECTORS AND SUBSIDIARY BODIES TO MEET OVER ZOOM FOR AN ADDITIONAL PERIOD OF 30 DAYS

October 13, 2022

Page 2 of 2

- A majority of a quorum is no longer required to be within our jurisdiction, which would be Santa Clara County.

AB 361 **added** the following requirements:

- The meeting must allow a call-in option **or** an internet-based option for public participation. SVRIA will meet this requirement.
- Should either the call-in option or internet-based option stop working, the Board can take no further action until the access to the public is restored.
- Starting 30 days after the first meeting held under this new approach the Board must pass findings every 30 days, or at a subsequent meeting that an emergency continues to exist or there are requirement or recommendations for social distancing.
- Staff must list the access and method for public participation on the agenda.

Two of the former requirements from 54953 continue:

- All votes taken must be roll call votes. (54953(b)(2))
- The agenda must also be posted at the usual location. (54953(b)(3))

FISCAL IMPACT:

There will be a small amount of additional work and possible minor costs incurred by staff to continue to utilize Zoom and attempt to maintain its reliability during public meetings.

OPTIONS:

The Board of Directors has the following options to consider on this matter:

1. Staff's recommended action to approve the resolution.
2. Adopt resolution with modifications.
3. Direct staff to return with more information.
4. Take no action, which would result in the requirement for in person meetings.

RECOMMENDED ACTION:

Approve the resolution to continue holding meetings over Zoom.

ATTACHMENTS:

1. Attachment "1" Resolution to Continue to Permit Holding Meetings Utilizing Zoom due to the Public Emergency



RESOLUTION NO. 2022-0_

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE CITIES ASSOCIATION OF SANTA CLARA COUNTY RECOGNIZING A STATE OF EMERGENCY AND THE PROCLAMATION OF A STATE OF EMERGENCY BY GOVERNOR NEWSOM ON MARCH 4, 2020 AND AUTHORIZING REMOTE TELECONFERENCED PUBLIC MEETINGS OF THE EXECUTIVE BOARD, BOARD OF DIRECTORS AND SUBSIDIARY OR ADVISORY BODIES TO ALLOW THEM TO CONTINUE TO HOLD PUBLIC MEETINGS SOLELY BY TELECONFERENCE OR OTHERWISE ELECTRONICALLY PURSUANT TO AB 361

WHEREAS, all public meetings of the Cities Association of Santa Clara County (“CASCC”) Executive Board, Board of Directors and subsidiary bodies are open and public, as required by the Ralph M. Brown Act (Cal. Gov. Code 54950 – 54963), so that any member of the public may attend, participate, and watch them conduct their business; and

WHEREAS, on March 4, 2020, Governor Newsom declared a State of Emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help the State prepare for a broader spread of COVID-19; and

WHEREAS, as a result of Executive Order N-29-20, the Executive Board, Board of Directors and subsidiary bodies held remote teleconferenced remote meetings for their meetings via Zoom, and for purposes of Brown Act teleconferenced meetings the term “legislative body” includes the Board of Directors, Executive Board and advisory bodies; and

WHEREAS, on August 2, 2021, in response to the Delta variant of COVID-19, the Santa Clara County Health Department ordered a mask mandate for indoor public settings; and

WHEREAS, since the issuance of Executive Order N-92-20, the Delta variant has emerged followed by the Omicron variant BA.1, followed by the Omicron BA.2 subvariant and the BA.3, BA.4 and BA.5 subvariants, causing a rising spike in COVID-19 cases throughout the state; and

WHEREAS, the Center for Disease Control has determined that Santa Clara County is now a “red county” signifying that there are now high levels of community transmission; and

WHEREAS, The CDC recommends that everyone wear a mask indoors when the high level of community transmission has been reached; and

WHEREAS, The Santa Clara County Health Department has collected wastewater sampling data showing an increase in SARS CoV-2 virus present in all wastewater treatment plants in the County; and

WHEREAS, Despite having among the highest County level of vaccination the latest case rate for the past 14 days has increased by 8% in Santa Clara County; and

WHEREAS, THE County Public Health Director has recommended avoiding indoor crowds; and

WHEREAS, while hospitalizations and severe illnesses have decreased in the last month, new COVID-19 variants continue to emerge, including a recent variant with increased transmissibility that may potentially impact the County's hospital capacity. Holding in-person meetings with all members of the legislative body, staff, and the public in attendance in a shared indoor meeting space could particularly impact persons who are at higher risk of severe illness; and

WHEREAS, on September 16, 2021, Governor Newsom signed AB 361 (2021) which allows local legislative bodies and advisory bodies to continue to conduct meetings via teleconferencing under specified conditions, including that the Executive Board and Board of Directors make specified findings; and

WHEREAS, on September 21, 2021, the Santa Clara County Health Officer issued the "Recommendation Regarding Continued Remote Public Meetings of Governmental Entities," basing the recommendation on: 1) the continued threat of COVID-19 to the community, 2) the unique characteristics of public governmental meetings (such as the increased mixing associated with bringing together people from across the community, the need to enable those who are immunocompromised or unvaccinated to be able to safely continue to fully participate in public governmental meetings, and the challenges with fully ascertaining and ensuring compliance with vaccination and other safety recommendations at such meetings), and 3) the continued increased safety protection that social distancing provides as one means by which to reduce the risk of COVID-19 transmission; and

WHEREAS, for the reasons set forth in the Santa Clara County Health Officer's recommendation, CASCC is concerned about the health and safety of all individuals who attend open and public meetings of the Board of Directors and Working Committee; and

WHEREAS, the Board of Directors does hereby find that the existence of the March 4, 2020 Proclamation of a State Emergency, and the described conditions, including the spread of the Omicron variant, pose an imminent risk to health and safety of meeting attendees; and

WHEREAS, Government Code Section 54953(e)(3) requires that the Board of Directors review the need and make findings for continuing the teleconferencing without complying with the agenda

posting and public comment requirements at least once every thirty (30) days until Governor terminates the state of emergency; and,

WHEREAS, for the reasons set forth herein, the Board of Directors does hereby find that the Executive Board, Board of Directors and advisory or subsidiary bodies (“subsidiary bodies”) shall conduct their meetings without compliance with paragraph (3) of subdivision (b) of Government Code section 54953, as authorized by subdivision (e) of section 54953, and that such legislative bodies shall comply with the requirements to provide the public with access to the meetings as prescribed in paragraph (2) of subdivision (e) of section 54953; and

WHEREAS, the associated emergency conditions are ongoing and there is a need to continue teleconferencing for public meetings without posting the teleconferencing locations on the agenda and without requiring the teleconference locations to be accessible to the public during the current Governor-proclaimed COVID-19 state of emergency and this Resolution if approved, will be in effect for 30 days and will expire on November 7, 2022; and

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE CITIES ASSOCIATION OF SANTA CLARA COUNTY MAKES THE FOLLOWING FINDINGS IN COMPLIANCE WITH CALIFORNIA GOVERNMENT CODE SECTION 54953(e) AND OTHER APPLICABLE PROVISIONS OF THE BROWN ACT:

1. The Board of Directors hereby recognizes the Governor of the State of California’s March 4, 2020 Proclamation of a State of Emergency.
2. The Board of Directors finds that the state of emergency continues to impact the ability of the CASCSC’s Executive Board, Board of Directors and subsidiary bodies, as well as staff and member of the public, to meet safely in person. State or local officials continue to recommend measures to promote social distancing. The County Health Officer has recommended that legislative bodies continue to meet remotely to promote social distancing as one means to reduce the risk of Covid-19 transmission.
3. The Board of Directors authorizes and directs the Acting Executive Director, to take all actions necessary to carry out the intent and purpose of this Resolution, including conducting open and public meetings in accordance with Government Code section 54953(e) and other applicable provisions of the Brown Act.
4. This Resolution shall take effect immediately upon adoption and shall be effective until the earlier of thirty (30) days from the date of adoption of this Resolution, or such time as the Board of Directors votes, by majority vote in accordance with Government Code section 54953(e)(3), whether to extend the time during which the District may continue to teleconference without compliance with paragraph (3) of subdivision (b) of section 54953.

Chappie Jones
Board President
Vice Mayor of the City of San Jose

Shali Sirkay
Acting Executive Director

Motion to approve by:

Seconded by:

AYES:	
NOES:	
ABSTENTION:	
ABSENT:	

About the Cities Association of Santa Clara County:

The Cities Association of Santa Clara County is an association of the fifteen cities of the county and the elected representatives of more than 1.9 million Bay-Area residents. Since 1990, the city representatives have been gathering to discuss and find consensus and solutions for regional issues. The cities of our association are diverse and include cities of a few thousand people and a city of a million people.

Resolution CASCC Recognizing Local Emergency and Continuing AB 361 Procedures for Zoom Meetings 10-13-22



Agenda Item No: 1e

Meeting Date: October 7, 2022

Cities Association of Santa Clara County Agenda Report

Board of Directors

Prepared by: Chappie Jones, President

SUBJECT: Ratification of Approval of Appointment of Vaishali “Shali” Sirkay as Interim Executive Director

RECOMMENDATION:

1. Ratify the appointment of Vaishali “Shali” Sirkay as Interim Executive Director of the Cities Association of Santa Clara County (CASCC) through December 31, 2022.

BACKGROUND & ANALYSIS:

The Board of Directors, in June of 2022, approved the appointment of Shali Sirkay as the Acting Executive Director for a period of six months. By way of background, President Jones appointed Vice President Abe Koga to chair an Ad-Hoc committee for recruitment for a new Acting Executive Director. The committee, consisting of Vice President Abe-Koga and former President Marico Sayoc identified Shali Sirkay as an ideal candidate and the Committee and President individually interviewed her and recommend her for the Acting Executive Director position for the next six months, July 2022 through December 2022. Shali Sirkay’s resume is attached.

Due to the resignation of the former Executive Director the position of Executive Director is now open and may be filled on an interim basis by appointing Shali Sirkay to the position. Shali has done excellent work during her first three months of service. She has been serving in an Acting role and is eligible to serve as the Interim Executive Director. This change is recommended by the General Counsel as the title “Acting” is normally reserved for situations where the position is not open and the appropriate title for the current circumstances is “Interim.” This action will need to be ratified by the Board of Directors. No change in compensation is requested.

FISCAL IMPACT:

Shali Sirkay’s original agreement was for not to exceed Fifty Thousand Dollars (\$50,000). This change in status from Acting to Interim Executive Director will not include any compensation change so there is no effect upon the CASCC’s budget. Shali Sirkay will continue to be paid \$100 per hour of work.

THE BOARD HAS THE FOLLOWING OPTIONS TO CONSIDER:

1. Approve the staff recommendation to ratify the appointment of Vishali “Shali” Sirkay as Interim Executive Director of the Cities Association of Santa Clara County (CASCC) through December 31, 2022.
2. Take no action

ATTACHMENTS:

1. Resume of Vaishali “Shali” Sirkay

Vaishali “Shali” Sirkay, M.P.H.

Tel: 408-455-4154 ♦ E-mail: shalisirkay@gmail.com ♦ Profile: www.linkedin.com/in/vaishali-sirkay-mph

PROFESSIONAL SUMMARY:

Over 20 years of diverse experience with a proven commitment to addressing issues critical to local and regional communities, using an equity-focused lens and a deep understanding of how the breadth and depth of the Social Determinants of Health create challenges and opportunities in communities.

EDUCATION:

MASTER OF PUBLIC HEALTH

Tulane University School of Public Health and Tropical Medicine, New Orleans, LA, December 1998

Department: Community Health Sciences

Area of Specialization: Health Education and Communication

BACHELOR OF ARTS

Barnard College at Columbia University, New York, NY, May 1995

Major/Minor: Anthropology/Biology

ADDITIONAL TRAINING:

- *Toastmasters International*, Public Speaking Education
- *Presenting Data & Information*, Professor Edward Tufte
- *Undoing Racism*, People’s Institute for Survival and Beyond
- *Techniques of Participation*, Facilitator Training

SKILLS & EXPERIENCE:

PROGRAM DESIGN, IMPLEMENTATION, MONITORING AND EVALUATION

- Employ a variety of public health and anthropological methods to conduct both target audience and situational analyses to design programs that meet target audience needs (includes both data gathering and data analysis).
- Identify and develop relationships with key stakeholders and other community partners to collaborate on projects to assure program sustainability, efficacy, and efficiency.
- Design, develop and implement evidence-based programs, community interventions, and all related program collateral.
- Develop a comprehensive monitoring and evaluation plan by analyzing data and developing and monitoring key performance indicators.

Select Examples:

- Developed and implemented a *Vaccine Dialogue*, a forum convening community leaders and healthcare providers to discuss vaccine hesitancy and barriers to vaccine access in vulnerable communities where COVID-19 vaccination rates were low. The *Vaccine Dialogue* resulted in vaccines being set aside for members of these communities at mass vaccination sites, as well as the establishment of a targeted vaccine pop-up with Sutter Health. (Manzanita Works)
- Developed and implemented workshops targeted to older adults to teach them how to download and use ride share apps, as well as provide training on how to specifically use Lyft without the need for a smartphone. The objective was to create greater independence and empowerment in older adults by teaching them to use other transportation options. The ultimate goal is to help older adults age in place with dignity, and reduce social isolation and thus reduce the mental health impacts of isolation. (CAFE)

STRATEGIC PARTNERSHIP DEVELOPMENT & RELATIONSHIP MANAGEMENT

- Support the mission and vision of Los Altos School District through identifying and creating public-private partnerships with organizations throughout the Bay Area.
- Supported the mission, values and goals of El Camino Health by nurturing and building positive relationships between El Camino Health and its community-based partner organizations, local Chambers of Commerce, and other agencies.

Select Examples:

- Established a regular onsite COVID-19 testing program for LASD teachers and staff in conjunction with El Camino Healthcare District. This allowed students to return to in-person learning, and allowed our campuses to remain open during the 2020-2021 school year, at the height of the COVID-19 pandemic. (LASD & El Camino Health)
- Working with El Camino Health staff from across various departments, this program was expanded to other school districts within the boundaries of the El Camino Healthcare District.
- Coordination of multiple, diverse key stakeholders also resulted in testing pop-up sites for workers and residents in Mountain View, Los Altos and Sunnyvale.

COMMUNITY DEVELOPMENT, TRAINING, OUTREACH AND ADVOCACY

- Successfully led my own election campaign in the 2018 General Election, resulting in my election to the Los Altos School District Board of Trustees.
- Successfully led campaigns in the 2014 and 2016 General Elections, resulting in the passage of a \$2.8 million parcel tax in the Los Altos School District (LASD) to maintain critical core academic programs in public schools and a \$150 million bond for LASD to address enrollment growth in public schools.
- Strategized and implemented a series of weekly topical presentations for community leaders to advance development of an integrated plan for Downtown Los Altos.
- Facilitated collaboration between all 9 LASD Parent-Teacher Associations (PTAs) to ensure parity amongst school programs through sharing of knowledge and ideas so as to assure consistent, high quality student and parent experiences across campuses, and also ensured equity by advocating for the integration of non-native English-speaking families into the school community.
- Co-founded an independently funded, national non-profit and non-partisan organization to promote media literacy amongst children, parents, teachers and other community-based stakeholders (Action Coalition for Media Education (ACME)).

Select Examples:

- Successful election campaigns in 2014, 2016 and 2018 as noted above.
- Created and implemented community engagement events to targeted audiences in order to build the donor and support/advocacy base for adolescent and community mental health and wellness for the Community Health Awareness Council (CHAC).
- Conducted numerous multi-media media literacy workshops and trainings throughout Louisiana (ACME).

ORAL & WRITTEN COMMUNICATIONS, & EVENT PLANNING

- Design, conduct and evaluate professional presentations on a variety of topics for various target audiences with the goal of either disseminating information or educating the audience, using various training methodologies including multimedia presentations, Techniques of Participation, standard classroom-style trainings, etc.
- Maintain ongoing communication with local newspapers to provide news and updates on academic-related issues in our community and school district.
- Worked on diverse, cross-departmental teams to create marketing and communications materials for both internal and external audiences, and develop outward-facing community events, including speakers and presentations.
- Provided content development and editing services to Hans Rosling at the Gapminder Foundation in Stockholm, Sweden. Gapminder transforms static data into interactive graphics that make data accessible and meaningful to a wide audience.
- Organized stakeholder retreats and statewide forums, and developed all related materials, handouts, and workbooks.

Select Examples:

- Co-authored *Vaccine Dialogue Report* about the *Vaccine Dialogue* event for Manzanita Works (final draft pending).
- Authored chapters on health informatics (“Health Assessment”) and disease prevention efforts (“Health Promotion”) in Louisiana’s Public Health Improvement Plan, and edited other chapters in this document. (Turning Point)
- Authored article “State and Local Collaboration: An Integrated Approach to Public Health Improvement,” Transformations in Public Health. Robert Wood Johnson Foundation. (Turning Point)
- Successfully awarded over \$1 million in grants based on grant proposals I have written for non-profits/projects. (Various)

ROLES:

- Governing Board Member & former Board President, Los Altos School District Board of Trustees, 2018-present (publicly elected in Nov 2018 General Election)
- Commissioner, Santa Clara County Juvenile Justice Commission, 2019-present (Equity & Justice, Education, and Continuum of Care Committees)
- Social Impact Program Development Consultant, self-employed, 2013-present
- Health Program Director, Manzanita Works, Oakland, CA 2020-2022
- Member, CHAC Board of Directors, Mountain View, CA, 2018-2021 (Development and Community Engagement Committees)
- Community Relations Specialist, Government & Community Relations, El Camino Health, Los Altos CA 2018-2020
- Associate Director, Center for Age Friendly Excellence (CAFE), Los Altos, CA, 2017-2019
- Co-Chair, Los Altos Community Coalition, Los Altos, CA, 2017-2019
- President, Los Altos Mountain View PTA Council 2017-18 (member of Exec Board 2015-2018)
- Member of Steering Committee, Los Altos Forward, 2017-19
- Co-chair, Keep Los Altos Schools Strong, Los Altos, CA, 2014-2018
- Programs Manager, Community Relations Department, Adobe Systems, Inc, San Jose, CA, 2003



Agenda Item No: 3

Meeting Date: October 13, 2022

Cities Association of Santa Clara County Agenda Report

Board of Directors

Cities Association of Santa Clara County

Prepared by: Shali Sirkay
Acting Executive Director
Gary M. Baum
General Counsel

SUBJECT: REVIEW AND RECOMMEND THAT THE BOARD OF DIRECTORS REVIEW AND COMMENT UPON, BUT TAKE NO FORMAL ACTION UPON THE REVISED DRAFT JOINT POWER'S AGREEMENT

RECOMMENDATION:

Review and comment upon the revised Joint Powers Agreement ("JPA"), but take no formal action on the JPA and direct staff to return the JPA to the Board of Directors on November 10, 2022 for recommendation for approval by the individual cities.

BACKGROUND:

Since at least 2017 the Cities Association has been considering the appropriate organizational structure for the CASCC. This analysis has included input from attorneys, the IRS, the Executive Director, Executive Board and Board of Directors. In August of 2020, the Board of Directors unanimously agreed to take the steps necessary to form a Joint Powers Authority. In order to form a Joint Powers Agency a Joint Powers Agreement must be approved by the Board of Directors and then adopted by each of its Members. The former Executive Director collaborated with the General Counsel and Interim General Counsel and a committee consisting of three Executive Board Members (Marico Sayoc, Neysa Fligor and Margaret Abe-Koga) to prepare the original draft JPA. This draft was reviewed by the new General Counsel and revised to reflect the legal requirements for a JPA, best practices for a JPA Agreement and to address the unique nature and history of CASCC.

Following review by and authorization from the Executive Committee, the draft JPA was circulated to all City or Town Attorneys in the County for their review and input. At least 7 City or Town Attorneys provided redline versions of the JPA with their suggested changes to the General Counsel. The Acting Executive Director and the General Counsel attended two virtual meetings with the Town or City Attorneys or Assistant City Attorneys on September 14 and September 28. The entire JPA was reviewed each time and a consensus was reached on most issues and changes. All but one City or Town Attorney or their Assistant City Attorney participated in the virtual meetings. A separate meeting was held by the Santa Clara City Attorney's Roundtable on September 16 where the JPA was reviewed. It is anticipated that on October 12, 2022 President Jones and First Vice President Abe-Koga will be meeting with the Santa Clara City Manager's Association to review the JPA. Due to the agenda deadlines their comments are not included in this staff report.

More than 74 individual changes based upon City or Town Attorney input were made to the JPA, aside from reorganization of existing language.

The tentative schedule for JPA approval is for the Executive Board to review and recommend the latest version to the Board of Directors for their review, but without formal action requested for their October 13, 2022 meeting. Formal review and recommendation for individual City or Town approval of the JPA document by the Board of Directors is currently planned for November 10, 2022.

ANALYSIS:

Significant Provisions in the JPA document:

All Santa Clara County cities and towns are eligible to be Members of the JPA. A category of Associate Member has been created for future use for non-City governmental agencies (e.g. the County of Santa Clara). The General Counsel will be available to discuss any questions you may have on the draft. A final draft version is attached for your review. Below are the highlights of significant provisions in the JPA document.

A. ARTICLE 4 – TERM

The Agreement shall become effective when fully executed and returned to the Agency by at least eight (8) Members. At the suggestion of the City and Town Attorneys a provision was added requiring that: “after one full year after the initial formation of the Agency, should the membership fall below seven (7) Members due to the withdrawal of Members and the membership level remains at below seven (7) Members for a period of at least 12 months and a similar JPA, with the same or similar powers and functions is formed containing a majority of cities in the County of Santa Clara, the Agency shall change its name and permit the new organization to take on the name of the Agency.” This section would allow a successor JPA to be formed should the Cities Association of Santa Clara County Joint Powers Agency fail to maintain an adequate level of membership.

B. ARTICLE 5 - CREATION OF THE AGENCY

CASCC will undergo the dissolution process found in the California Corporations Code and will pass a resolution that will initiate the process and transfer assets and liabilities to the JPA. It is anticipated that the Resolution will be passed at the same time that the Board approves the JPA. The Resolution will be prepared in advance of the November 10, 2022 meeting and be included on that agenda.

C. ARTICLE 8 – BOARD OF DIRECTORS

Each Member shall appoint one Director from their legislative body. This can be the Mayor or a Council Member. They are also required to appoint an alternate. Just like a City Council the Board of Directors shall set policy for the Agency. The Board is responsible for adopting the budget. The Board hires and may discharge any employee of the Agency. The Board is required to adopt policies and a work plan for each fiscal year. The Board and the Executive Committee and any standing committee are subject to the Brown Act.

D. Article 10 OFFICERS

The Board of Directors shall elect the officers of the Agency. The officers will include the President, First Vice President, Second Vice President, Secretary/Treasurer and Immediate Past President. The Board may appoint other officers, as necessary. The issue of having elected Council Members serve as officers on the Executive Committee while not serving as the City representative to the Board of Directors has been raised. In order to accommodate this occurrence language will need to be added to the JPA. The language will be provided to the Board of Directors prior to the October 13 meeting.

E. ARTICLE 11 - EXECUTIVE COMMITTEE

In order to avoid a Brown Act problem, where every meeting of the Executive Committee would require noticing as Board of Directors meeting in addition to an Executive Committee meeting the Executive Committee will be formed as follows: "At such time as there are nine Members, the Board shall establish and elect an Executive Committee of the Board which shall consist solely of four (4) Members selected from the Members of the Board, which shall exist thereafter. At such time as there are 11 Members, the Board shall establish and elect an Executive Committee of the Board which shall consist solely of five (5) Members, with the addition of the Immediate Past President, which shall exist thereafter."

The Executive Committee may only take on those powers and duties that are specifically granted to it by a formal resolution passed by the Board of Directors. The Executive Committee is not permitted to authorize or conduct any investigations into the business of the Agency or take any personnel action before notifying the Board and these actions require a majority vote of the Executive Committee.

F. ARTICLE 13 – CITY SELECTION COMMITTEE

The City Selection Committee is established pursuant to Government Code Section 50270 et seq. The Agency shall administer the City Selection Committee. The City Selection Committee will be a permanent committee of the Agency, consisting of the Mayor of each City or their designated member of the City or Town's legislative body, consistent with Government Code section 50270 and 50271(a). Consistent with State law, the Agency shall allow all cities in the County to participate in the City Selection Committee, whether or not they are members of the Agency. State law does not allow the City Selection Committee to exclude an individual city because they are not a Member of CASCC

G. ARTICLE 15 - SIGNIFICANT PROGRAMS

The City or Town Attorneys recommended that Significant Programs and Substantial Resources be defined and this section was amended to address their concerns as follows: "If the Board desires to create significant programs or activities which will utilize substantial resources of the Agency, it shall do so by a vote of the Board. Substantial resources and significant program or activity shall be defined as any program or activity requiring \$50,000 or more in annual expenditures, this amount shall be increased by the annual cost of living CPI index. Any new significant program or activity shall require a work plan and a two-thirds vote of the Members in order to be initiated. When a new significant program is intentionally designed to be limited in scope, such that it only provides benefits to particular Members, the Agency may enter into specific program or project Agreement that includes relevant terms, by the particular affected Members and any such Agreement shall be approved by the Board prior to or at the same time as formation of the significant program. These Agreements shall be subject to approval by the Board of Directors by a two-thirds vote of the Members."

H. ARTICLE 16 - ACCOUNTS AND RECORDS

The Agency is required to have a CPA perform an annual audit. The audit is a public document and will be provided to each of its Members and to the County Auditor of the County of Santa Clara

I. ARTICLE 24 - LIABILITY OF BOARD OF DIRECTORS, OFFICERS AND COMMITTEE MEMBERS

This Article and the subsequent Indemnification Article were both drafted to provide the maximum amount of protection for the City Members. The City or Town Attorneys suggested numerous additions to this Article that were incorporated to enhance City protection and indemnification so as to limit potential future City liability.

J. ARTICLE 25 – INDEMNIFICATION

The original draft included a very strong indemnification for CASCC's individual member cities. CASCC should be able to cover this indemnification with insurance.

K. ARTICLE 26 – BYLAWS

The Board is required to adopt Bylaws consistent with the JPA. It is anticipated that the current Bylaws will be utilized until an amended version is adopted by the Board of Directors.

L. ARTICLE 38 – INSURANCE

The Board of Directors is required to purchase insurance for the Agency if it is available.

FISCAL IMPACT:

Substantial staff time has been spent working through the JPA draft with the City or Town Attorneys. Also, significant legal costs have been incurred for negotiating, meeting, drafting and revising the JPA draft to address concerns and issues raised.

OPTIONS:

The Board of Directors has the following options to consider on this matter:

1. Staff's recommended action is to review the JPA, ask questions and comment upon it and schedule the final review and possible recommendation for City adoption for November 10, 2022; or
2. Direct that changes be made to the document or make changes to the schedule for future review by the Board of Directors; or
3. Take no action.

RECOMMENDED ACTION:

Review and comment upon the revised Joint Powers Agreement, but take no formal action on the JPA and direct staff to return the JPA to the Board of Directors on November 10, 2022 for recommendation for approval by the individual cities.

ATTACHMENTS:

1. Joint Powers Agreement final draft

**JOINT POWERS AGENCY AGREEMENT DRAFT FOR CITIES ASSOCIATION OF
SANTA CLARA COUNTY**

This Joint Powers Agreement (“Agreement”) for the Cities Association of Santa Clara County is entered into by and among the cities (“Members”), which are organized and existing under the Constitution and laws of the State of California in which public agencies are located in the County of Santa Clara, and upon approval and full execution of the Agreement, creates the Cities Association of Santa Clara County Joint Powers Agency (“Agency”).

RECITALS

WHEREAS, Articles 1 and 2, Chapter 5, Division 7, Title 1 of the California Government Code (Section 6500 *et seq.*) permits two or more public agencies by agreement to jointly exercise powers common to the Members; and

WHEREAS, the public agency Members executing this JPA are cities or towns within the jurisdiction of the County of Santa Clara (“County”); and

WHEREAS, the Cities Association of Santa Clara County has existed as an unincorporated association since 1990 and desires to formalize the relationship between its City and Town members and form a Joint Powers Agency in order to carry out activities for the good of all its Members; and

WHEREAS, the Members executing this Agreement, desire to join together to create a separate Joint Powers Agency for the purpose of: promoting cooperation among the Members; advocating for positive action; enhancing the quality of life for the residents of the County and their individual cities; and encouraging other joint and cooperative endeavors among the public agencies for their mutual benefit.

NOW, THEREFORE, the Parties agree to the following:

ARTICLE 1 - DEFINITIONS

1.1 “Associate Member” shall mean any non-city local agency, located within jurisdictional authority of the County of Santa Clara and shall have duly executed and delivered to the Agency an Associate Membership Agreement in the form of and as further provided in the Bylaws of the Agency, as further provided in Article 31 herein.

1.2 “Agency” shall mean the Cities Association of Santa Clara County Joint Powers Agency created by this Agreement.

1.3 “Board of Directors” or “Board” shall mean the governing body of the Agency.

1.4 “Executive Committee” shall mean the Executive Committee of the Board of Directors of the Agency.

1.5 “Fiscal Year” shall mean that period of twelve (12) months which is established by the Board of Directors or the Bylaws as the fiscal year of the Agency, which shall run from July 1 to June 30 of each year.

1.6 “Government Code” shall mean the California Government Code, as amended.

1.7 “Joint Powers Law” shall mean Articles 1 and 2, Chapter 5, Division 7, Title 1 (commencing with Section 6500) of the Government Code, known as the Joint Exercise of Powers Act, as amended.

1.8 “Legislative Body” shall mean the legislative board of each Public Agency that is a Member of the Agency.

1.9 “Member” shall mean any city which has executed this Agreement and has become a member of the Agency. The complete list of Members is set forth in Exhibit “A” attached hereto and incorporated herein by this reference.

1.10 “Parties” shall mean Members or Associate Members who are party to this Agreement.

1.11 “Public Agency” shall mean public agency as defined in Government Code Section 6500, as amended.

1.12 Unless the context clearly requires otherwise, as used in this Agreement, words of the masculine, feminine or neutral gender shall be construed to include each other gender, when appropriate, and words of the singular number shall be construed to include the plural number, and vice versa, when appropriate. This Agreement and all the terms and provisions herein shall be construed to effectuate the purposes set forth and to sustain the validity of those purposes.

ARTICLE 2 - CREATION AND PURPOSES

2.1 This Agreement is entered into by the Members in order to:

2.1.1 Review, study, develop consensus positions, and take action on issues of interest to Members;

2.1.2 Focus on local and regional matters that are important to our future;

2.1.3 Develop a common agenda for Santa Clara County cities;

2.1.4 Serve as a unified voice for Santa Clara County cities in relationship to other agencies, organizations, and levels of government;

2.1.5 Establish the City Selection Committee pursuant to Government Code Section 50270 *et seq.*, as amended and make appointments to regional and local bodies as provided by law;

2.1.6 Serve as a source of education, information and networking for officials from all cities in Santa Clara County;

2.1.7 Provide a forum for non-city individuals, groups and organizations and the private sector to address items of interest to Santa Clara County cities;

2.1.8 Reduce duplication of effort by sharing information and provide a unified voice and strong advocacy on legislation and other important issues that affect its Members;

2.1.9 Strengthen the Members' and Agency's standing at the regional, State and Federal level;

2.1.10 Strive to respect local control, provide regional perspective and make a difference to elevate the quality of life throughout the County;

2.1.11 Provide a forum for discussion and study of problems common to the Members and to assist in the development and implementation of solutions to such problems;

2.1.12 Provide a method for the Members to collaborate and jointly develop policies that benefit the region; and

2.1.13 Collaborate in such a way that is efficient, saves the jurisdictions the expense of individual effort, and creates positive outcomes.

ARTICLE 3 - PARTIES TO AGREEMENT

Each Member, as a Party to this Agreement, intends to and does contract with all other Members as Parties to this Agreement and, with other Public Agencies as may later be added as Parties to this Agreement pursuant to the Joint Powers Law. The withdrawal of any party from this Agreement, pursuant to Article 19, shall not affect this Agreement or the remaining Members' obligations.

ARTICLE 4 – TERM

This Agreement shall become effective when fully executed and returned to the Agency by at least eight (8) Members, but only as to those Members that have executed the Agreement. The Agency shall promptly notify all Members in writing of the effective date. After one full year after the initial formation of the Agency, should the membership fall below seven (7) Members due to the withdrawal of Members and the membership level remains at below seven (7) Members for a period of at least one (1) year and a similar JPA, with the same or similar powers and functions is formed containing a majority of cities in the County of Santa Clara, the Agency shall change its name and permit the new organization to take on the name of the Agency. Notwithstanding the name change, this Agreement shall continue in effect until terminated as provided herein. The termination of this Agreement with respect to an individual Member upon

its withdrawal from membership in the Agency shall not operate to terminate this Agreement with respect to the remaining Members.

ARTICLE 5 - CREATION OF THE AGENCY

Pursuant to the Joint Powers Law, there is hereby created a public entity, separate and apart from the Parties hereto, to be known as the "Cities Association of Santa Clara County Joint Powers Agency" with powers as are set forth herein. Upon formation of the Agency as described in Article 4, the Cities Association of Santa Clara County, an unincorporated association shall follow the process of dissolution and cease to exist.

ARTICLE 6 - POWERS OF THE AGENCY

6.1 The Agency shall have all of the powers of a public agency as defined in the Government Code Section 6500 as amended and all additional powers set forth in the Joint Powers Law and other statutes applicable to the Joint Powers Agency created hereby and is authorized to do all acts necessary for the exercise of these powers on behalf of its Members. Powers include, but are not limited to, the following, in the Agency's own name:

6.1.1 To make and enter into contracts;

6.1.2 To incur debts, liabilities, and obligations and to encumber real or personal property;

6.1.3 To acquire, hold, or dispose of real or personal property, contributions, and donations of real or personal property, funds, services, and other forms of assistance from persons, firms, corporations, and government entities;

6.1.4 To sue and be sued in its own name, and to settle any claim against it;

6.1.5 To receive and use contributions and advances from Members as provided in Government Code Section 6504, as amended including contributions or advances of personnel, equipment, or property;

6.1.6 To invest any money in its treasury that is not required for its immediate necessities, pursuant to Government Code Section 6509.5, as amended;

6.1.7 To acquire, construct, manage, maintain, or operate title to real or personal property, or rights, or any interest therein;

6.1.8 To employ agents, contractors, consultants, and employees;

6.1.9 To receive, collect, and disburse monies;

6.1.10 To conduct studies, tests, evaluations, and similar activities;

6.1.11 To contract for services from Members, including in-kind services;

6.1.12 To conduct public outreach and education;

6.1.13 To participate in pilot and demonstration projects;

6.1.14 To charge for services, programs, and/or systems;

6.1.15 To work with elected officials and local, regional, state, and federal agencies, including other joint powers agencies and unincorporated associations to pursue funding, enter agreements and otherwise carry out the purposes of the Agency;

6.1.16 In addition to the other powers provided herein, the Agency shall have any powers authorized by law to each of the Parties and separately to the Agency created herein relating to economic development, including, without limitation, the promotion of opportunities for the creation and retention of employment, the stimulation of economic activity, and the increase of the tax base, within the jurisdictions of the Parties; and

6.1.17 To exercise other reasonable and necessary powers in furtherance or support of any purpose of the Agency or power granted by the Joint Powers Law, this Agreement or the Bylaws of the Agency.

ARTICLE 7 - RESTRICTIONS ON POWERS

7.1 Pursuant to and to the extent required by Government Code Section 6509, as amended, the Agency shall be restricted in the exercise of its powers and shall exercise its powers in the same manner as the Town of Los Gatos is restricted in its exercise of similar powers; provided that, if the Town of Los Gatos shall cease to be a Member, then the Agency shall be restricted in the exercise of its power in the same manner as another Member agreed to by the majority of the Board of Directors. Unless expressly provided for, the Agency does not, by virtue of this Section or this Agreement, subject itself to the internal policies or ordinances of any Member.

7.2 The Agency shall not have the power of eminent domain.

7.3 The Agency shall not have the power of taxation. The Agency may not impose taxes, but may receive the proceeds of taxes imposed by other entities or public funds from other entities.

ARTICLE 8 - BOARD OF DIRECTORS

8.1 The Agency shall be governed by the Board of Directors, which shall be composed of one Director representing each Member. Each Member's Legislative Body, according to its own procedures, shall appoint a Member of the Legislative Body as a Director to represent the Member on the Board of Directors. The Director shall serve at the pleasure of their respective Legislative Body. The Legislative Body of each Member shall also appoint one alternate Director ("Alternate") who shall participate in and vote at any meeting of the Board when the primary Director is absent. Any vacancy in a Director or Alternate position shall be filled by the appointing

Member's Legislative Body, subject to the provisions of this Article. Immediately upon admission of a new Member, the new Member shall be entitled and required to appoint a Director and one alternate Director. Every Director or Alternate shall be a Council Member or Mayor of their individual Member city.

8.2 A Director and/or Alternate shall be removed from the Board of Directors upon the occurrence of any one of the following events: (1) the Agency receives written notice from the appointing Member of the removal and/or replacement of the Director or Alternate ; (2) the withdrawal of the Member from this Agreement; (3) the death or resignation of the Director or Alternate; or (4) the Agency receives written notice from the Member that the Director or Alternate is no longer qualified as provided in the first paragraph of this Article.

8.3 The Board of Directors shall have the following powers and functions:

8.3.1 Except as otherwise provided in this Agreement, the Board shall exercise all powers and conduct all business of the Agency, either directly or by delegation to other bodies or persons;

8.3.2 The Board shall elect an Executive Committee, as provided in Article 11.;

8.3.3 The Board shall be the policy setting body of the Agency.

8.3.4 The Board shall appoint or employ necessary staff in accordance with Articles 10 and 13;

8.3.5 The Board shall cause to be prepared, and shall review, modify as necessary, and adopt the annual operating budget of the Agency. Adoption of the budget may not be delegated. The Board shall adopt their budget no later than the first April 30th following formation and then subsequently by April 30th of each successive year. The Board shall review, set, and adopt annual dues to be funded by Agency Members;

8.3.6 The Board shall receive, review and act upon periodic reports and audits of the funds of the Agency, as required under Articles 13 and 15 of this Agreement;

8.3.7 The Board may adopt policies regarding personnel, conflicts of interest and other matters necessary or convenient for the efficient operation of the Agency;

8.3.8 The Board shall adopt a set of priorities and work plan for each fiscal year; and

8.3.9 The Board shall have such other powers and duties as are reasonably necessary to carry out the purposes of the Agency.

ARTICLE 9 – MEETINGS OF THE BOARD OF DIRECTORS

9.1 The Board of Directors shall hold at least one regular meeting each year. The Board of Directors shall fix by resolution, or in the Bylaws, the date, time and location of each regular

meeting. The Board or Executive Director, in consultation with the President of the Board as provided in Article 10 below, may call special meetings.

9.2 Each meeting of the Board of Directors, including without limitation, regular, adjourned regular and special meetings shall be called, noticed, held, and conducted in accordance with the Ralph M. Brown Act, Government Code Section 54950 *et seq.*, as amended..

9.3 The Agency shall require the Secretary/Treasurer or designee to take and maintain minutes of all regular, adjourned regular and special meetings. As soon as practicable after each meeting, the Secretary/Treasurer or designee shall forward to each Board Member, a copy of the minutes of the meeting.

9.4 A majority of the Members of the Board shall constitute a quorum for the transaction of business. Unless otherwise required by law, a vote of the majority of a quorum of the members present at a meeting is sufficient to take any action, unless otherwise specified in this Agreement. However, less than a quorum may adjourn the meeting to a future date.

9.5 Each Member of the Board shall have one vote.

ARTICLE 10 - OFFICERS

The Board shall elect as Officers of the Agency President, First Vice President, Second Vice President, Secretary/Treasurer and Immediate Past President at its first meeting. Thereafter, except as may be otherwise provided in the Bylaws of the Agency, the Board shall elect the President, First Vice President, Second Vice President, Secretary/Treasurer and Immediate Past President, at the November Board of Directors meeting, or the first meeting held on or after November 1 of each year. Of the Officers, the President, and at least two other Officers, must also be members of the Board of Directors. The remaining Officers may be the elected or appointed Mayor or Council Member of any Member of the Agency regardless of whether they are on the Board of Directors. Each Officer shall assume the duties of his or her office upon election. If the President ceases to be a Member of the Board, the resulting vacancy shall be filled at the next meeting of the Board held after the vacancy occurs, or at a special meeting of the Board called to fill the vacancy. . The President shall preside at and conduct all meetings of the Board. Should the Board President not be available then the highest level Officer, who is a member of the Board of Directors, shall preside. If that individual is unavailable then any Director appointed by the President may preside. The Board may appoint other officers as it considers necessary. The duties of the Secretary/Treasurer are set forth in Articles 15 and 16 of this Agreement. The Secretary/Treasurer shall be appointed by the Board of Directors and shall be eligible to serve as Secretary/Treasurer, as provided in the Joint Powers Law.

ARTICLE 11 - EXECUTIVE COMMITTEE

At such time as there are nine Members, the Board shall establish and elect an Executive Committee of the Board which shall consist solely of four (4) Officers consisting of the President,

First Vice President, Second Vice President and Secretary/Treasurer, which shall exist thereafter. At such time as there are 11 Members, the Board shall establish and elect an Executive Committee of the Board which shall consist solely of five (5) Officers, with the addition of the Immediate Past President, which shall exist thereafter. Should the Immediate Past President no longer hold elected office then a Member at Large may be appointed by the Board to serve on the Executive Committee. The qualifications of the Member at Large are that they must be an elected or appointed Mayor or Council Member of a Member of the Agency, but need not be on the Board of Directors. The terms of office of the Members of the Executive Committee shall be one year. The Executive Committee shall conduct the business of the Agency between meetings of the Board, exercising all those powers as provided for in this Article, or as otherwise delegated to it by the Board.

The Executive Committee, subject to approval by the Board of Directors shall exercise all powers or duties of the Board relating to the entering, approval and execution of: agreements, leases, and other instruments of or relating to the finances of the Joint Powers Agency within the previously approved annual budget or amended budget. The Executive Committee may have additional powers delegated to it by the Board, except for the adoption of the Agency's annual budget. Any additional powers and duties delegated shall be specified in a Resolution adopted by the Board. The Executive Committee shall provide notice to the Board before authorizing or conducting any investigations into the business of the Agency and before taking personnel action. These actions must be authorized by a majority vote of the Executive Committee. Each meeting of the Executive Committee shall be called, noticed, held and conducted in accordance with the Ralph M. Brown Act, Section 54950 et seq., as amended by the Government Code.

ARTICLE 12 - COMMITTEES

The Board may establish committees, as it deems appropriate to conduct the business of the Agency or it may, in the Bylaws or by resolution, delegate this power to the Executive Committee by Resolution. Members of committees, except as otherwise stated in this Agreement, shall be appointed by the President. Each committee shall have those duties as determined by whichever Agency body created it or as otherwise set forth in the Bylaws. Each committee shall meet on the call of its chairperson and shall report to and be directed by whichever entity created it. No more than one representative from each jurisdiction shall serve on each committee. Membership of any committee may consist in whole or in part of persons who are not members of the Board; provided that the Board and the Executive Committee may delegate decision-making powers and duties only to a committee, a majority of the members of which are Board Members. Any committee, except the City Selection Committee in which a majority of the members are not Board Members may function only in an advisory capacity. The Legislative Action Committee shall be a permanent Committee of the Agency chaired by the Second Vice President and whose members shall be appointed by the Agency Members. All standing committees shall abide by the Brown Act.

ARTICLE 13 – CITY SELECTION COMMITTEE

The City Selection Committee is established pursuant to State law and the Agency shall administer the City Selection Committee as follows: The City Selection Committee shall be a permanent committee of the Agency, consisting of the Mayor of each City or Town, consistent with Government Code 50270, as amended. The Agency shall allow all cities in the County to participate in the City Selection Committee, whether or not they are members of the Agency.

ARTICLE 14 - STAFF

14.1 Principal Staff. The following staff members shall be appointed by and serve at the pleasure of the Board of Directors:

14.1.1 Executive Director. The Executive Director shall serve at the pleasure of the Board and shall do the following: manage the affairs of the Agency, subject to the general supervision and policy direction of the Board and the Executive Committee; oversee the day-to-day activities of the Agency; select and manage the activities of all consultants and staff of the Agency; be responsible for required filings by the Agency with the State of California; prepare or delegate the preparation of all meeting notices, minutes, and required documentation of the Agency; prepare and propose an annual budget; prepare reports and recommendations for consideration by the Executive Committee or Board; be responsible for billing and collection of annual dues; maintain the records of the Agency; assist Local Agencies in the preparation and filing of applications for participation in the financing programs of the Agency; expedite the processing of these applications; pay all invoices, taxes and amounts due; and perform other duties as are assigned by the Board and Executive Committee. The Executive Director may have the authority to sign agreements, applications, and other documents on behalf the Agency, if authorized by the Board or Executive Committee. The Executive Director shall have the Authority to enter into individual Agreements with a single vendor over the course of a fiscal year, on behalf of the Agency, up to the amount set by the Bylaws..

14.1.2 General Counsel. The General Counsel shall serve at the pleasure of the Board. The General Counsel shall take direction from the majority of the Board of Directors. The General Counsel shall be a member in good standing of the California State Bar. The General Counsel shall be responsible for the legal affairs of the Agency;

14.1.3 The Auditor shall be a Certified Public Accountant licensed to practice in the State of California. The Auditor will conduct annual financial audits of the Agency;

14.1.4 The Executive Director may hire additional staff, as appropriate, based upon a previously approved budget;

14.1.5 The Agency shall not contract with or become a member of the California Public Employees Retirement System (“PERS”), nor shall any employee of the Agency

become a member of PERS or be entitled to a pension or retirement from PERS as a result of service to the Agency; and

14.1.6 The Executive Director, the Auditor, the General Counsel and any other members of the staff or employees of the Agency shall be compensated in such manner as shall be approved by the Board as permitted by applicable law.

ARTICLE 15 - SIGNIFICANT PROGRAMS

If the Board desires to create significant programs or activities which will utilize substantial resources of the Agency, it shall do so by a vote of the Board. Substantial resources and significant program or activity shall be defined as any program or activity requiring \$50,000 or more in annual expenditures, this amount shall be increased by the annual cost of living CPI index. Any new significant program or activity shall require a work plan and a two-thirds vote of the Members in order to be initiated. When a new significant program is intentionally designed to be limited in scope, such that it only provides benefits to particular Members, the Agency may enter into specific program or project Agreement that includes relevant terms, by the particular affected Members and any such Agreement shall be approved by the Board prior to or at the same time as formation of the significant program. These Agreements shall be subject to approval by the Board of Directors by a two-thirds vote of the Members.

ARTICLE 16 - ACCOUNTS AND RECORDS

16.1 The Agency shall adopt an operating budget pursuant to Section 8.3.5 of Article 8 of this Agreement.

16.2 The Secretary/Treasurer of the Agency or the Executive Director shall establish and maintain funds and accounts as may be required by good accounting practices and by the Board. Books and records of the Agency shall be open to and made available for inspection at all reasonable times upon request by authorized representatives of the Members.

16.3 The Agency shall adhere to the standard of strict accountability for funds and report all receipts and disbursements as set forth in the Joint Powers Law.

16.4 Auditor's Report. The Auditor, within one hundred and twenty (120) days after the close of each Fiscal Year, shall give a complete written report of all financial activities for the prior Fiscal Year to the Board.

16.5 The Agency shall either make or contract with a Certified Public Accountant to make an annual Fiscal Year audit of all accounts and records of the Agency, conforming in all respects with the requirements of the Joint Powers Law. A report of the audit shall be filed, as a public record and be provided to each of the Members, and with the County Auditor of the County of Santa Clara. Costs of the audit shall be considered a general expense of the Agency. Any costs of the audit shall be borne by the Agency and shall be a charge against any unencumbered funds of the Agency available for this purpose.

ARTICLE 17 - RESPONSIBILITIES FOR FUNDS AND PROPERTY

17.1 The Secretary/Treasurer, or his or her designee, shall have the custody of and disburse the Agency's funds. Proceeds of similar obligations of the Agency may be deposited with a trustee, agent or other depository and shall not be considered the Agency's funds for purposes of this Article. The Secretary/Treasurer may delegate disbursing Agency to persons as may be authorized by the Board or the Executive Committee to perform that function, subject to the requirements of Section 16.2 below.

17.2 The Secretary/Treasurer or designee shall perform all functions then required to be performed by the Treasurer under the Joint Powers Law. The Secretary/Treasurer shall review the financial statements and the annual audit of the Agency.

17.3 Pursuant to Government Code Section 6505.1, as amended, the Executive Director, the Secretary/Treasurer, and other persons as the Board may designate, shall have charge of, handle, and have access to the property of the Agency. The Agency shall secure and pay for a fidelity bond or bonds, in an amount or amounts and in a form specified by the Board of Directors, covering any officers or staff of the Agency who are authorized to hold or disburse funds of the Agency and any officers and staff who are authorized to have charge of, handle and have access to property of the Agency.

ARTICLE 18 - MEMBER RESPONSIBILITIES

18.1 Each Member shall have the following responsibilities:

18.1.1 To appoint its Director and Alternate to, or remove its Director and Alternate, from the Board, as set forth in Article 8;

18.1.2 To consider proposed amendments to this Agreement as set forth in Article 28;

18.1.3 To make contributions in the form of annual membership assessments and fees, if any, determined by the Board for the purpose of defraying the costs of providing the annual benefits accruing directly to each party from this Agreement; and

18.1.4 If a Member shall give written notice to the Agency of its election to relinquish its status as a Member, or if a Member shall fail to be represented at four (-) (4) or more consecutive regular meetings of the Board of Directors, then that Member may be deemed to be a suspended Member, with all the rights and duties of an Associate Member, upon action of the Board of Directors duly adopted. Prior to the suspension the President shall contact the Mayor and request that another Council Member be appointed or that reinstatement for the current Member be requested. The suspension shall be approved by the Board of Directors. Promptly following that action by the Board of Directors, the Member may be reinstated by informing the Board of its intent to be reinstated within thirty (30) days and to attend all future meetings either via the Director

or Alternate. Removal of a Member for failure of the Director to attend meetings shall not relieve the Member from its obligations under any outstanding agreements relating to the Agency's financial obligations, except in accordance with this Agreement.

ARTICLE 19 - NEW MEMBERS

With the approval of the Board, any city located within the County of Santa Clara may become a party as a Member to this Agreement. A city requesting membership shall apply by presenting to the Agency, a resolution of the Legislative Body of the City, evidencing its approval of this Agreement. The date that the applying city will become a Member will be determined by the Board. The Agency shall accept new Members upon a majority affirmative vote of the entire Board and upon payment of any Board determined assessments and fees.

ARTICLE 20 - WITHDRAWAL

A Member may terminate its membership in the Agency at any time upon giving one hundred and eighty (180) days written notice of withdrawal to the Agency. The notice shall be given to the Board of Directors. The effective date shall be the conclusion of the first Board Meeting which occurs after the one hundred and eighty (180) day notice period has passed. Any Member who withdraws shall remain obligated to pay its share of all debts, liabilities, and obligations incurred or accrued through the end of the current fiscal year of the Agency. The withdrawal does not in any way impair any contracts, resolutions, indentures, or other obligations of the Agency then in effect. In the event of a disagreement between the Agency and the withdrawing Member as to whether the withdrawal shall cause the impairment of any contracts, resolutions, indentures, or other obligations of the Agency, the determination shall be made by a majority vote of the Board of Directors. Any Member that withdraws and later seeks reinstatement to the Agency shall provide funds to the Agency, proportionate to their responsibility for the current fiscal year, as if the Member had never left the Agency. A withdrawing Member shall, in all events, remain liable for its proportionate share of: (i) its full amount of its proportionate share of the adopted fiscal year budget; (ii) any call for funds or assessment levied by the Agency prior to the date it provides its notice of withdrawal; (iii) any contribution in existence at the time of the notice of withdrawal.

ARTICLE 21 - REMOVAL

If the Board of Directors determines that reasonable cause exists to remove a Director from the Board, it can remove the Director and request that the Member who appointed the Director appoint a new Director. The Board may, by two-thirds majority vote of the entire Board, remove a Member based on a Member's breach of any material term of this Agreement, and the failure to cure that breach within sixty (60) days written notice. A terminated Member shall remain liable for any obligation under this Agreement as described above. Failure to pay dues within 60 days following notice shall result in a Member becoming suspended with all the rights of an Associate Member. A suspended Member shall immediately have its voting rights restored upon full payment of dues.

ARTICLE 22 - OBLIGATIONS OF AGENCY

The debts, liabilities, and obligations of the Agency shall not be the debts, liabilities, and obligations of the Members. Any Member may separately contract for, or assume responsibility for, specific debts, liabilities, or obligations of the Agency. Nothing in this Agreement shall be interpreted to limit the applicability of the provisions of Government Code Section 895.6.

ARTICLE 23 - TERMINATION AND DISTRIBUTION OF ASSETS

This Agreement may be terminated at any time that no financial obligations of the Agency are outstanding with the approval of two-thirds of the Members. Upon termination of this Agreement, all assets of the Agency shall, after payment of all unpaid costs, expenses and charges incurred under this Agreement, be distributed among the parties to this Agreement, in accordance with the respective contributions of each of the Parties.

ARTICLE 24 - LIABILITY OF BOARD OF DIRECTORS, OFFICERS AND COMMITTEE MEMBERS

24.1 The Members of the Board of Directors, Officers and Committee Members of the Agency shall use ordinary care and reasonable diligence in the exercise of their powers and in the performance of their duties pursuant to this Agreement. They shall not be individually liable for any mistake of judgment, or any other action made, taken, or omitted by them in good faith, nor for any act or omission by any agent, employee or independent contractor selected with reasonable care, nor for loss incurred, resulting from any action made, taken, or omitted by them in good faith and with reasonable care through investment of Agency funds, or failure to invest.

24.2 No Director, Officer, or Committee Member shall be responsible for any actor omission of any other Director, Officer, or Committee Member. Unless otherwise required by law, no Director, Officer, or Committee Member shall be required to give a bond or other security to guarantee the faithful performance of his or her duties pursuant to this Agreement.

24.3 The funds of the Agency shall be used to defend, indemnify, and hold harmless the Agency for any Director, Officer or Committee Member, for their actions taken within the scope of the Agency. Nothing herein shall limit the right of the Agency to purchase insurance to provide coverage for these types of losses.

24.4 These indemnification and defense obligations shall survive the termination of the Agreement as to any acts or omissions occurring before such termination.

ARTICLE 25 - INDEMNIFICATION

To the fullest extent allowed by law, the Agency shall defend, indemnify, and save harmless the Members and their governing bodies, officers, agents and employees from all claims, losses, damages, costs, injury, and liability of every kind, nature, and description directly or indirectly arising from the performance of any of the activities of the Agency or the activities undertaken pursuant to this Agreement.

ARTICLE 26 - BYLAWS

The Board shall adopt Bylaws consistent with this Agreement which shall provide for the administration and management of the Agency. The provisions of the Bylaws, as modified from time to time, shall establish the operating procedures and standards for the Agency.

ARTICLE 27 - NOTICES

The Agency shall address notices, billings, and other communications to a Member as directed by that Member. Each Member shall provide the Agency with the email and physical address to which communications are to be sent. Members shall address notices and other communications to the Agency, at the office address of the Agency, or the email address of the Agency as directed by the Member and as set forth in the Bylaws.

ARTICLE 28 - CODES

The Agency shall adopt and observe a Code of Conduct and Conflict of Interest Policy. The Agency shall comply with all requirements of the Fair Political Practices Commission as required by law or regulation.

ARTICLE 29 - AMENDMENT

This Agreement may be amended at any time by vote of the Members, acting through their Legislative Bodies. Any amendment of this Agreement shall become effective upon receipt by the Agency of notice of the approval of the amendment by two thirds of the Legislative Bodies of the Members.

ARTICLE 30 - SEVERABILITY

Should any portion, term, condition, or provision of this Agreement be decided by a court of competent jurisdiction to be illegal or in conflict with any law of the State of California, or be otherwise rendered unenforceable or ineffectual, the validity of the remaining portions, terms, conditions, and provisions shall not be affected.

ARTICLE 31 - PROHIBITION AGAINST ASSIGNMENT

No Member may assign any right, claim or interest it may have under this Agreement, and no creditor, assignee or third-party beneficiary of any Member shall have any right, claim or title to any part, share, interest, fund, or asset of the Agency. This Agreement shall be binding upon and shall inure to the benefit of successors of the Members. This Agreement is intended solely for the benefit of the Agency and its Members. No third party shall be deemed a beneficiary of this Agreement or have any rights against the Agency or its Members.

ARTICLE 32 - ASSOCIATE MEMBERS

Any Public Agency located within the jurisdictional authority of the County of Santa Clara may, with the approval of the Board of Directors, become an Associate Member of the Agency

by executing and delivering to the Agency an Associate Membership Agreement and providing an Associate Membership fee and as further provided in the Bylaws. An Associate Member shall not be entitled to representation on the Board of Directors, or to vote on any matter coming before the Board of Directors or the Agency, unless a separate written agreement is entered into between the Associate Member and the Agency. However, an Associate Member shall be entitled to participate in all programs and other undertakings of the Agency, including, without limitation, any Home Mortgage Financing Program, any financing under the Nonprofit Financing Law, any undertaking to finance the acquisition, construction, installation and/or equipping of public capital improvements, and any other financing program.

ARTICLE 33 - LIBERAL CONSTRUCTION

The provisions of this Agreement shall be liberally construed as necessary or reasonably convenient to achieve the purposes of the Agency.

ARTICLE 34 - NON-WAIVER

No waiver of the breach of default of any of the covenants, agreements, restrictions, or conditions of this Agreement by any Member shall be construed to be a waiver of any succeeding breach of the same or other covenants, restrictions, or conditions of this Agreement. No delay or omission of exercising any right, power or remedy in the event of a breach or default shall be construed as a waiver or a variation of any of the terms of this Agreement or any applicable agreement.

ARTICLE 35 - REMEDIES FOR BREACH

If any Member shall default on any obligation contained in this Agreement, the default shall not excuse any other Member from fulfilling its respective obligations under this Agreement. Any Member shall be entitled to pursue all legal and equitable remedies against another Member in response to any alleged default under this Agreement. Any and all of the remedies provided to the Members, hereunder or by law now or hereafter enacted, are cumulative and the exercise of one right or remedy shall not impair the Members to any other remedy.

ARTICLE 36 - ARTICLE HEADINGS

All article headings are for reference only and are not intended to define or limit the scope of any provision of this Agreement.

ARTICLE 37 - DISPUTE RESOLUTION

36.1 The Members agree that any dispute regarding the enforcement or interpretation of any term, covenant, or condition of this Agreement (“Dispute”) may first, for a period of not less than thirty (30) days, be submitted to mediation before a mutually acceptable mediator prior to initiation of litigation, or any other binding arbitration or adjudicative dispute resolution process. The Members shall: (i) mediate in good faith; (ii) exchange all documents which each

believes to be relevant and material to the issue(s) in the Dispute; (iii) exchange written position papers stating their position on the Dispute and outlining the subject matter and substance of the anticipated testimony of persons having personal knowledge of the facts underlying the Dispute; and (iv) engage and cooperate in such further discovery as the Members agree or mediator suggests may be necessary to facilitate effective mediation.

36.2 Each Member shall bear its own costs, attorney's fees, and expenses of the mediation. Venue of the mediation shall be a mutually agreeable city within Santa Clara County, California.

ARTICLE 38 – INSURANCE

If available, the Agency shall obtain insurance for all Members, appointed Members, and Committee Members, including, but not limited to, Directors and Officers liability insurance and general liability insurance containing policy limits in such amounts as the Board of Directors shall deem will be necessary to adequately insure against the risks of liability that may be incurred by the Agency. Insurance under this provision may include an insurance pool program.

ARTICLE 39 - FILING WITH SECRETARY OF STATE

The Executive Director of the Agency shall file a notice of this Agreement with the office of the California Secretary of State within thirty (30) days of its effective date, as required by Government Code Section 6503.5, as amended and within seventy (70) days of its effective date as required by Government Code Section 53051, as amended.

ARTICLE 40 - COUNTERPARTS

This Agreement may be executed in parts or counterparts, each part or counterpart being an exact duplicate of all other parts or counterparts, and all parts or counterparts shall be considered as constituting one complete original and may be attached together when executed by the Members hereto. Facsimile and electronic signatures shall be binding.

ARTICLE 41 - AGREEMENT COMPLETE

This Agreement constitutes the full and complete Agreement of the parties and supersedes any prior written Agreement between the Members on the same topic.