TO: HONORABLE CITY COUNCIL
FROM: CITY MANAGER
DEPARTMENT: PUBLIC WORKS
DATE: NOVEMBER 14, 2005
CMR:426:05

SUBJECT: APPROVAL OF A RESOLUTION AUTHORIZING THE CITY’S REPRESENTATIVE TO THE SAN FRANCISQUITO CREEK JOINT POWERS AUTHORITY TO VOTE FOR THE APPROVAL OF A COST SHARE AGREEMENT WITH THE UNITED STATES ARMY CORPS OF ENGINEERS FOR THE FEASIBILITY PHASE OF A SAN FRANCISQUITO CREEK FLOOD DAMAGE REDUCTION AND ECOSYSTEM RESTORATION PROJECT

RECOMMENDATION
Staff recommends that Council adopt the attached resolution authorizing the City’s representative to the San Francisquito Creek Joint Powers Authority (JPA) to vote for the approval of a cost share agreement with the U.S. Army Corps of Engineers for the feasibility phase of a San Francisquito Creek flood damage reduction and ecosystem restoration project.

BACKGROUND
In April 1999, the cities of Palo Alto, Menlo Park, and East Palo Alto, the Santa Clara Valley Water District, and the San Mateo County Flood Control District formed the JPA in order to cooperatively pursue a flood damage reduction and ecosystem restoration project for San Francisquito Creek. Since the creation of the JPA, the staff of the JPA and its member agencies have jointly undertaken several short-term measures to reduce the risk of flooding and the extent of flood-related damages, including, but not limited to:

- Coordinated creek inspections are conducted annually in the fall prior to the rainy season. Potential flood and environmental hazards (including fallen or unstable trees/branches, homeless encampments, trash and debris accumulations, etc.) are identified and assigned to a responsible party for correction prior to October 15 each year.
- The Santa Clara Valley Water District and Caltrans periodically remove accumulated sediment from within and downstream of the Highway 101 culvert, in order to maintain creek flow capacity.
- Palo Alto staff has installed creek level monitors and a web camera along San Francisquito Creek to provide real-time information on creek conditions. Creek and rainfall data is posted on the City web site at [www.cityofpaloalto.org/public-works/ew-creeklevels.html](http://www.cityofpaloalto.org/public-works/ew-creeklevels.html) in order to provide residents with advance notice of conditions that may lead to potential creek flooding. The City has also purchased a telephone notification system to allow warning messages to be transmitted expeditiously to a large number of residents and businesses so that they can take appropriate precautionary measures in the event of a potential flood emergency.
The JPA member agencies jointly funded a maintenance project to restore the levees downstream of Highway 101 to their original as-built heights. This project has provided increased flood protection for residents in Palo Alto and East Palo Alto adjacent to the lower reach of the creek.

The JPA is coordinating with the San Mateo County Transportation Authority and Caltrans on their proposed project to add an auxiliary traffic lane to Highway 101 between University Avenue and Embarcadero Road, which would impact the San Francisquito Creek culvert. The JPA is advocating that this project include improvements to the culvert or, at a minimum, that the project would not preclude future improvements to the culvert.

The JPA and its member agencies are carefully scoping and planning these and other short-term measures to avoid adverse impacts on the environment, residents and businesses within the creek floodplain, and future funding opportunities with the federal government.

Due to the substantial cost and complexity of a comprehensive watershed-wide flood control solution for San Francisquito Creek, the JPA has partnered with the U.S. Army Corps of Engineers (Corps) on a General Investigation (GI) project to plan and implement the improvements. Through this cooperative arrangement, a substantial portion of the project costs will be funded by the federal government, supplemented by local matching funds. The initial phase of the project, the reconnaissance study, was funded completely by the Corps. During this phase, the Corps examined the flood and erosion control issues surrounding San Francisquito Creek in order to determine whether or not there is a “federal interest” in partnering with the JPA and local officials on a joint federal/local flood control project. The Corps recently completed the reconnaissance study, which documents the Corps’ finding that adequate justification exists for continued federal participation in a project on San Francisquito Creek. The reconnaissance study included a recommendation that the Corps and the JPA proceed with the next project phase, the feasibility study.

**DISCUSSION**

In the feasibility phase of a Corps GI project, the project costs are split equally between the Corps and the local sponsor, the JPA in this instance. Before proceeding with the feasibility study, the JPA must enter into a contract with the Corps which outlines the study scope and costs and commits the JPA to pay its local share of the expenses. JPA staff and the Management Team (comprised of Public Works Directors and upper management staff from the JPA member agencies) have been working with the Corps for the past several months on the development of the Feasibility Cost Share Agreement (FCSA) and the associated Project Management Plan (PMP). The FCSA is a legal agreement that commits the JPA to participate in the feasibility phase of the GI project as the local sponsor. This commitment includes an agreement to pay 50% of the cost of the feasibility study (either in cash or in-kind services) and to work closely with the Corps in the execution and review of the study. The PMP includes an estimate of the scope, schedule, and cost of the feasibility study provided by the Corps. Although the PMP is fairly detailed, it is considered to be a “living document”, subject to revision and refinement over the course of the study.

One of the key issues with respect to the scope of work outlined in the PMP is whether the feasibility study should focus exclusively on the prevention of creek flooding, or if it should also...
address the threat of tidal flooding. Of the estimated 2100 Palo Alto properties subject to flooding from the overtopping of San Francisquito Creek in a 1% (100-year) storm event, approximately 300 are also subject to inundation from the overtopping of the bayfront levees during a 1% high tide event on San Francisco Bay. Approximately 2000 additional properties are subject to the tidal flood threat alone. The Corps is working concurrently on the South San Francisco Bay Shoreline Study (Shoreline Study), a study of the South Bay levees that provide protection from tidal flooding. The State Coastal Conservancy is serving as the local sponsor for the Shoreline Study, but only for those reaches of levee adjacent to the salt evaporation ponds being restored as part of the Conservancy’s Salt Pond Restoration Project. The Santa Clara Valley Water District is providing supplemental local funding for the study of the levees in Santa Clara County not associated with the salt ponds. There remains, however, a section of levees along East Palo Alto and Menlo Park for which local match funding has not yet been identified. The Corps’ project managers for the San Francisquito Creek GI Study and the Shoreline Study have suggested that the JPA consider expanding the scope of the San Francisquito Creek feasibility study to include an analysis of the tidal flooding threat in the vicinity of the creek. Specifically, the Corps has suggested the inclusion of the bayfront levees between the northern boundary of the City of Menlo Park and Adobe Creek into the scope of the creek study. This approach would have following benefits:

- Provides for a comprehensive study of both creek and tidal flooding threats within the jurisdictions of the San Francisquito Creek JPA member agencies
- Provides a basis for development of a coordinated project that would eliminate both flooding threats and remove a significantly larger number of properties from the floodplain on FEMA’s Flood Insurance Rate Maps
- Increases the likelihood of securing continued federal funding appropriations, since elimination of tidal flooding is currently a high-priority objective with the Corps
- Creates the potential for a more favorable project benefit-cost ratio, as compared to a project that only addresses creek flooding
- Results in the likelihood of a larger number of project proponents due to the increased area of flood protection provided
- Provides a mechanism for the local match funding for the levees in East Palo Alto and Menlo Park not currently funded by the State Coastal Conservancy

At its meeting on October 27, 2005, the JPA Board endorsed the inclusion of the tidal flood threat in the scope of the San Francisquito Creek GI feasibility study. For all of the reasons cited above, staff concurs with the JPA Board’s endorsement and recommends that tidal flooding be addressed in the feasibility study.

The estimated cost of the San Francisquito Creek GI feasibility study (including tidal flooding) is approximately $7.5 million. The JPA’s 50% local share of the study cost totals $3.73 million. The Corps has tentatively agreed to credit the JPA with approximately $590,000 of in-kind services for the time spent by JPA staff and member agency staff on the feasibility study. The balance of the local share ($3.14 million) must be provided to the Corps in cash. To-date, the Santa Clara Valley Water District and the San Mateo County Flood Control District have each pledged to contribute $1.5 million towards the cost of the feasibility study. Thus, there is currently a shortfall of approximately $140,000 in funds for the required local share. The cost of
the feasibility study has exceeded the currently available funding due to the decision to include tidal flooding in the scope of the study. This scope element has added approximately $800,000 to the cost of the study, and, therefore, $400,000 to the required 50% local cost share. At the October 27 JPA Board meeting, the Board members present (Palo Alto, East Palo Alto, Menlo Park, and the Santa Clara Valley Water District) approved a resolution expressing their commitment to securing the $140,000 unfunded balance for the feasibility study in order to ensure that the tidal flood threat is included in the study scope. The Santa Clara Valley Water District’s JPA Board member has indicated that he will recommend that the District Board fund its share of the additional expense (approximately $75,000) on behalf of the District’s constituents in the City of Palo Alto. The JPA member agencies within San Mateo County are committed to working towards a mutually acceptable agreement on how to fund the remaining $65,000 balance. An update on the status of securing the $140,000 unfunded balance and actions taken by the governing bodies of the other JPA member agencies to endorse the approval of the FCSA will be provided at the November 14 Council meeting.

The joint powers agreement that established the JPA stipulates that the JPA may not approve a capital improvement project unless member entities sufficient to fund the project have approved the project by independent action of each member entity’s governing body. Furthermore, all parties agree that a successful feasibility study will require unanimous support from all JPA member agencies and full and active participation by their staff members. Therefore, each JPA member agency is being asked to authorize its JPA representative to vote for the approval of the FCSA.

**RESOURCE IMPACT**

The Santa Clara Valley Water District (District) is providing funding of $1.5 million for the FCSA on behalf of the Santa Clara County portion of the San Francisquito Creek watershed, including the City of Palo Alto. In addition, the District’s JPA Board member has indicated that he will recommend that the District Board fund its share of the unfunded balance for the study of tidal flooding (approximately $75,000). Palo Alto will be an active participant in the feasibility study and will contribute staff time as in-kind service, but is not being asked to make a cash contribution to the study. It is appropriate that the District provide full project funding for the Santa Clara County portion of the watershed, since the District has primary responsibility for flood control in the County. The District funds are generated by benefit assessments and special taxes collected from residents and businesses in Palo Alto and throughout the County for flood control purposes.

**POLICY IMPLICATIONS**

Council adoption of the attached resolution is consistent with the following Comprehensive Plan policies and programs:

Policy N-9: Avoid fencing, piping, and channelization of creeks when flood control and public safety can be achieved through measures that preserve the natural environment and habitat of the creek.
Policy N-10: Work with the Santa Clara Valley Water District and other relevant regional agencies to enhance riparian corridors and provide adequate flood control by use of low impact restoration strategies.

Policy N-11: Preserve the integrity of riparian corridors.

**TIMELINE**
The following are key dates pertaining to the feasibility study for the San Francisquito Creek Flood Damage Reduction and Ecosystem Restoration Project:

- November 14, 2005: Palo Alto City Council to consider adoption of resolution authorizing approval of FCSA
- November 15, 2005: East Palo Alto City Council to consider adoption of resolution authorizing approval of FCSA; Santa Clara Valley Water District Board of Directors to consider adoption of resolution authorizing approval of FCSA and approval of funding agreement for local cost share
- November 17, 2005: JPA Board of Directors to consider approval of the FCSA and the funding agreement for local cost share
- December 1, 2005: Corps to begin work on Feasibility Study

**ENVIRONMENTAL REVIEW**
Council adoption of the attached resolution is not considered a project under the California Environmental Quality Act (CEQA). Environmental review of the proposed San Francisquito Creek Flood Damage Reduction and Ecosystem Restoration project alternatives will be conducted jointly by the Corps and the JPA during the feasibility study. The environmental review process will involve significant input from local residents, businesses, and stakeholders. Due to the Corps’ involvement in the project, the process will be conducted in accordance with the requirements of both CEQA and the federal National Environmental Policy Act (NEPA).

**ATTACHMENT**
Attachment A: Resolution

PREPARED BY: ____________________________
JOE TERESI
Senior Engineer

DEPARTMENT HEAD: ____________________________
GLENN S. ROBERTS
Director of Public Works

CITY MANAGER APPROVAL: ____________________________
EMILY HARRISON
Assistant City Manager
cc: Cynthia D’Agosta, San Francisquito Creek Joint Powers Authority
    Pam Sturner, San Francisquito Watershed Council
    Norman Beamer, Crescent Park Neighborhood Assn.
    Karen White, Duveneck/St. Francis Neighborhood Assn.