

RESOLUTION 2024-11

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NOVATO FIRE
PROTECTION DISTRICT APPROVING THE
AMENDED AND RESTATED
JOINT EXERCISE OF POWERS AGREEMENT
FOR
MARIN WILDFIRE PREVENTION AUTHORITY**

This Amended and Restated Joint Exercise of Powers Agreement for the Marin Wildfire Prevention Authority (“Agreement”) is entered into pursuant to Sections 6500 *et seq.* of the California Government Code, by and between the following local agencies: the cities of San Rafael, Mill Valley, and Larkspur (“Cities”); the towns of San Anselmo, Corte Madera, Fairfax, and Ross (“Towns”); the County of Marin (including Service Areas 13, 19 and 31 collectively referred to as “County”); the Fire Protection Districts of Southern Marin, Novato, Kentfield, Stinson Beach, Bolinas, and Sleepy Hollow, the Marinwood Community Services District, the Inverness Public Utility District, and Muir Beach Community Services District (“Districts”); “Cities,” “Towns,” “County,” and “Districts” are referred to in their individual capacities outside of this Agreement as “Local Agencies,” and are referred to for the purposes of participation in this Agreement as “Member” or “Members”.

RECITALS

WHEREAS, the growing wildfire risk in Marin County does not respect jurisdictional boundaries and needs immediate action and sustained commitment to better protect Marin residents, homes and businesses; and

WHEREAS, intensifying climate change and extensive fuel build-up are contributing to the increasing threat of wildfire throughout Marin County and, to the extent possible, should be addressed through ecologically sound practices that minimize release of greenhouse gases and protect the biodiversity and resilience of Marin’s landscapes; and

WHEREAS, individual homes and properties are only as fire resilient as the surrounding homes and properties within each neighborhood or area; and

WHEREAS, the more than 260,000 people living in Marin County receive fire protection and emergency response services provided by 19 separate cities, towns, fire districts and the County of Marin and no single agency currently exists for coordinating wildfire prevention; and

WHEREAS, local fire agencies, communities, emergency service providers, city and towns governments and the County of Marin must coordinate wildfire prevention and disaster preparedness and mitigation, including maintaining defensible space, reducing combustible vegetation, making homes fire resistant and planning for organized evacuation in an emergency; and

WHEREAS, in 2016 the Marin County Fire Department published a *Community Wildfire Protection Plan*, identifying specific steps needed to reduce the risk of wildfire and related loss of life and property in Marin; and

WHEREAS, in 2018 Marin County published *Lessons Learned from North Bay Fire Siege*, summarizing key findings and conclusions from the 2017 wildfires that devastated Sonoma, Napa, Lake, Solano and Butte counties, burned nearly 250,000 acres, destroyed nearly 9,000 structures, forced 90,000 evacuations, caused \$14.5 billion in property damage and killed 44 people; and

WHEREAS, in 2019 the Marin County Civil Grand Jury issued *Wildfire Preparedness: A New Approach*, a report identifying an urgent need for a coordinated wildfire prevention program in Marin and providing detailed recommendations for reducing wildfire risk and securing dedicated funding for wildfire prevention programs; and

WHEREAS, efforts are needed to assist seniors, persons with disabilities, and low-income households to maintain defensible space, make homes fire resistant, and prepare for emergencies to mitigate wildfire threats to structures and defensible space; and

WHEREAS, each of Marin’s communities has unique local needs such as wildfire risk from homeless encampments or road widening for safe evacuations and the Marin Wildfire Prevention Authority (“Marin Wildfire”) will seek to address these specific local needs with a local wildfire mitigation program that assists local fire agencies in meeting unique community needs while sustaining a core countywide program for consistency; and

WHEREAS, the most effective way to protect all of our communities from the risk of wildfire is to come together in a joint powers authority to implement a countywide program of priority fire prevention, education and vegetation management; and

WHEREAS, the Marin Wildfire was formed when the 17 Members entered into the original joint exercise of powers agreement (“original agreement”) and Measure C, including Ordinance No. 3716, was approved by 70.8% of voters in March 2020 to impose a tax on all parcels of real property in Marin County within the boundaries of Marin Wildfire’s Members, which are defined as “Member Taxing Entities” under the Ordinance; and

WHEREAS, effective July 1, 2023, the City of Mill Valley consolidated its fire department and taxing authority for fire protection and prevention with the Southern Marin Fire District. As the original agreement did not address this type of action on the part of a Member Taxing Entity at the time the consolidation took effect, on August 17, 2023, the Marin Wildfire Board of Directors voted unanimously to allow the City of Mill Valley to remain a Member until the expiration of Measure C; and

WHEREAS, the Members wish to amend and restate the original agreement to reflect the current structure of Marin Wildfire and to address matters that were not included in the original agreement; and

WHEREAS, the Members find that the amendments reflected in this Agreement comport with the purpose of the voter approved measure, as set forth in Section 1 of this Agreement;

NOW, THEREFORE, for and in consideration of the mutual benefits, covenants, and agreements set forth herein, the Members agree as follows:

SECTION 1. Authority and Purpose

- a. This Agreement is made under the authority of Sections 6500 through 6515, inclusive, of the California Government Code, among the Members.
- b. The purpose of this Agreement is to establish a Joint Powers Authority separate from the Local Agencies. This Authority is to be known as the Marin Wildfire Prevention Authority and may be referred to as Marin Wildfire. Marin Wildfire will plan, finance, implement, manage, own and operate a multi-jurisdictional and county-wide agency to prevent and mitigate wildfires in Marin County. Each Member individually, at the time Measure C including Ordinance No. 3716 passed in 2020, had the statutory ability to provide fire suppression, protection, prevention and related incidental services. The purpose and intent of this Agreement is to jointly exercise the foregoing common powers in the manner set forth herein.

SECTION 2. Term of Agreement

This Agreement becomes effective upon the first date that at least three quarters (3/4) of the 17 Local Agencies listed above (i.e., 13 Local Agencies) approve the Agreement at a public meeting. It shall remain in effect until it is terminated pursuant to Section 16 or amended in accordance with Section 21.

SECTION 3. Membership

- a. **Initial Membership.** To become an initial Member, the Local Agency executed the original agreement and approved the County of Marin placing the tax measure on the ballot by October 31, 2019. A Local Agency geographically located in Marin County that possessed fire protection responsibilities must have adopted a resolution of their governing board to become a participating signatory to this Agreement and Member of Marin Wildfire. At that time, 17 of the Local Agencies had done so.
- b. **Successor Membership.** If, due to changes in circumstances (including, but not limited to changes in fire suppression responsibility approved by LAFCO) a Member's fire suppression responsibility is transferred to a new or different public agency, that new or different public agency shall be admitted as a Member upon approval of such membership and this Agreement by such public agency's governing body.
- c. **Member Withdrawal and Consolidation.**
 - 1) **Withdrawal.** A Member that wishes to withdraw from Marin Wildfire must provide written notice to Marin Wildfire at least one (1) year prior to the Board of Directors' final action to propose a tax renewal measure for consideration by Members. A Member's withdrawal will

take effect upon the expiration of the tax that is in place at the time such withdrawal notice is provided to the Board of Directors.

- 2) Consolidation/Merger. If, due to changes in circumstances a Member's fire protection responsibility and taxing authority for fire protection and prevention is transferred to a new or different public agency that results in a Member losing its fire protection responsibility and its Member taxing authority, the Member will be withdrawn from Marin Wildfire upon expiration of the tax that is in place at the time of any such changed circumstance.

d. **Additional Members.** A Local Agency geographically located in Marin County that possesses fire protection responsibilities may become a Member only when Marin Wildfire seeks to renew the tax that funds Marin Wildfire. Specifically, the Local Agency must adopt a resolution of their governing board to become a participating signatory to this Agreement, as amended, and must approve placing a tax measure on the ballot in conformance with Section 5(f) of this Agreement. The Board of Directors must adopt a resolution authorizing membership of the new Member, specifying conditions, if any, associated with membership, including a one-time pro rata charge to compensate for past expenditures and investments of Marin Wildfire that will be of benefit to the Member upon joining Marin Wildfire ("New Member Charge"). The Board of Directors' determination of the conditions, if any, including the New Member Charge, is final.

- 1) If the tax renewal measure is approved by the voters, each Additional Member will be considered a Member and will be represented on Marin Wildfire's Board of Directors. If a New Member Charge is required upon joining Marin Wildfire, that Charge will be deducted from the New Member's Local-specific wildfire prevention funding described in Section 9(d) until the Charge is paid in full. The New Member will also have the option of paying in full the Charge within sixty (60) days of joining Marin Wildfire.
- 2) If the tax renewal measure is not approved, this Agreement will terminate and assets will be allocated among the Initial Members as outlined in Section 16 and the new Member(s) will not become Member(s) or serve on Marin Wildfire's Board of Directors.

SECTION 4. Board of Directors

- a. Marin Wildfire will be governed by a Board of Directors comprising elected leaders from each Member to ensure that wildfire programs and resources are directed to areas of greatest need and opportunity for community benefit.

- b. Marin Wildfire shall be governed by the Board of Directors which is hereby established. The Board of Directors shall be comprised of Directors who are elected officials of the Members, and each Member shall have one Director on the Board of Directors.
- c. The Board of Directors shall hold at least two meetings each year as determined by its bylaws. Special Meetings of the Board may be called in accordance with the provisions of the Brown Act and Government Code Section 54956.
- d. Minutes of the adjourned, regular and special meetings of the Board shall be kept and said minutes shall be available to Members and the public on Marin Wildfire's website. A majority of the Directors of the Board will constitute a quorum; however, if the number of Members is an even number, then 50% of the Directors of the Board will constitute a quorum. In the event of a meeting of the Board with less than a quorum, the present Directors will only have the power to dismiss a meeting. For purposes of conducting business, a majority of the quorum will be authorized to act on behalf of Marin Wildfire, subject to the voting conditions set forth in Section 4.f.
- e. The Board shall elect, at its first meeting of each fiscal year, a President and Vice President. The President and Vice President shall serve one-year terms, but can be re-elected. The President shall represent Marin Wildfire and execute any contracts and other documents when required by the bylaws. The Vice President shall serve in the absence of the President.
- f. **Voting.** For all votes conducted by the Board, a proposed motion subject to vote passes when both following conditions are satisfied: (1) a majority of the Directors present vote in favor of a motion, and (2) the Directors present and voting in favor of a motion represent, in the aggregate, according to the then latest general census, over 50% of the population represented by the Member agencies present in the quorum.
- g. The Board may adopt from time to time such policies, procedures, bylaws, rules and regulations for the conduct of its affairs as deemed necessary by the Board.

SECTION 5. Powers of Marin Wildfire

- a. Marin Wildfire shall have all of the necessary powers and authorities granted by law to exercise the common powers of its members in providing wildfire suppression, protection, prevention and related and incidental services, with members retaining all powers.
- b. Marin Wildfire shall have all of the necessary powers to evaluate structures and defensible space and provide structural fire protection advice to enhance compliance of parcels of land and buildings meeting local fire and building codes, as well the power to create neighborhood and public education programs to reduce wildfire vulnerability and improve neighborhood preparedness.

- c. Marin Wildfire may contract with private companies and public agencies to create, implement and operate Marin Wildfire to provide wildfire protection and prevention, as well as to ensure buildings meet fire and building codes.
- d. Marin Wildfire may make and enter into contracts; adopt budgets; employ and retain agents and personnel; retain legal counsel; retain consultants and engineers; acquire grants; acquire, hold, lease and dispose of real and personal property; accept donations; sue and be sued; and possess and exercise all other powers common to the Members. The intent of this provision is to allow Marin Wildfire flexibility in making fiscally sound staffing decisions.
- e. Marin Wildfire may incur debt and issue bonds or any like instruments of no more than 10% of its annual budget in order to efficiently provide the service enumerated herein in compliance with the pertinent sections of the Government Code of the State of California. Specifically, Marin Wildfire can incur debt in its own name under any law authorizing a joint power authority to do so, including Government Code Section 6540 *et seq.*, and the Marks-Roos Local Bond Pooling Act of 1985, and Government Code Section 6584 *et seq.*
- f. Marin Wildfire may authorize taxes pursuant to Government Code Sections 50075 *et seq.*, 53978, or any successor statutes. Subsequent taxes shall be levied and assessed as a special parcel tax by the County of Marin, on behalf of itself and Member Taxing Entities, on all parcels of real property in the Member Taxing Entities for each fiscal year.
- g. Marin Wildfire may exercise the powers permitted pursuant to Government Code Section 6504 or any successor statute. Pursuant to Government Code Section 6509.5, Marin Wildfire is entitled to invest any money in the treasury that is not required for the immediate necessities of Marin Wildfire.
- h. Marin Wildfire may do all things necessary and lawful to carry out the purpose of this Agreement.
- i. As required by Government Code Section 6509, one Member must be designated such that the power of Marin Wildfire is subject to the restrictions upon the manner of exercising power possessed by the Member. The County of Marin is designated as the Government Code Section 6509 public entity.

SECTION 6. Operations Committee

- a. The Operations Committee shall be responsible for creating a recommended annual budget and a recommended annual work plan for the Board. The Operations Committee shall meet at least twice per year at a reasonable time before the Board must establish its budget. The Operations Committee representatives should strive for a balance of executive/administrative and fire expertise on the committee. The Operations Committee shall be composed of representatives who are agency staff or contract employees, one from each of the Members. The Operations Committee meetings will be held in accordance with the Ralph M. Brown Act, Government Code sections 54950 *et seq.*

- b. **Voting.** For all votes conducted by the Operations Committee, a proposed motion subject to vote passes when both following conditions are satisfied: (1) a majority of the representatives of the Operations Committee present vote in favor of a motion, and (2) the representatives of the Operation Committee present and voting in favor of a motion represent, in the aggregate, according to the then latest general census, over 50% of the population represented by the Member agencies present in the quorum.

SECTION 7. Reserved

SECTION 8. Community Oversight Committee

The Board of Directors will create a Community Oversight Committee. The Community Oversight Committee will review Marin Wildfire's spending on an annual basis following the report from the Treasurer. After review of the previous year's work program and the financial audit, the Community Oversight Committee will adopt a report on the spending of the parcel tax funds and the previous year's work program to evaluate consistency with the tax measure. Community Oversight Committee participants will be residents who are neither elected officials of any government entity, nor public employees of any Member. Service on the Community Oversight Committee will be restricted to individuals who reside in Marin County. Participants on the Community Oversight Committee will be required to submit a statement of financial disclosure and participation will be restricted to individuals without economic interest in any of Marin Wildfire's projects. The Community Oversight Committee may create subcommittees to monitor the deliberations of the Board of Directors and Operations Committee. The Board of Directors shall appoint participants to the Community Oversight Committee from applications received as set forth below:

- Five participants, each residing in one of these five general geographical areas: West Marin, Novato, San Rafael, Central Marin, and Southern Marin.
- One participant from a taxpayer organization of Marin County.
- One participant from environmental organizations of Marin County.
- One participant from Firewise communities or similar fire prevention organization.
- One participant from a non-partisan community-based organization.
- One nonvoting youth member (age 14-18) for a one-year term rotating between the five general geographical areas, when possible.

SECTION 9. Funding

- a. The Board shall adopt an annual budget for Marin Wildfire's activities by June 1 of each year. In adopting the annual budget, the Board must consider recommendations from the Operations Committee. The annual budget shall identify the programs of Marin Wildfire and allocate funds by program. The budget and accounting system shall account for direct and overhead costs by

program. The Board shall allocate these costs for each program with the adoption of the annual budget. To the extent changes to the budget under California law require approval of more than a simple majority of Members, the population representation requirement of Section 4.f. shall not increase.

- b. The core program functions of Marin Wildfire will be funded by 60% of the tax measure proceeds and will consist of, but not be limited to, vegetation management; wildfire detection; evacuation plans and alerts; grants; and public education. Marin Wildfire may allocate core funds to local wildfire prevention efforts, should the Board of Directors determine the core functions of Marin Wildfire are being served. Vegetation management funds will be allocated with consideration towards equitable spending over the five operational zones. As part of the five-year review of the funding levels described in Section 9f, at least 80% of the revenue generated for vegetation management by each operational zone should be allocated within the respective zone. If this requirement is not met, it must be remedied within the next five-year period.
- c. Defensible space and fire-resistant structure evaluations, and mitigation of fire threats thereof, will be funded by 20% of the tax measure proceeds and will be done on a shared service basis or by the responsible Member consistent with Section 10.
- d. Local-specific wildfire prevention efforts will be funded by 20% of the tax measure proceeds and allocated to each Member in proportion to revenue raised in each Member's respective tax rate areas. Members must certify that the tax measure proceeds are used consistent with the purpose of Marin Wildfire and that the tax measure expenses result in a higher level of service than would otherwise be provided by the Member.
- e. An administrative cost of not more than 10% will be budgeted for each program, including the core program, defensible space and fire-resistant structure evaluation program, and local-specific wildfire prevention efforts. Should a Member locally administer the defensible space evaluations pursuant to Section 10, an administrative cost will not be withheld by Marin Wildfire for that program. The Board shall determine the methodology for calculating administrative costs.
- f. In Fiscal Year 2025-26, 2030-31, 2035-36 and continuing every five years thereafter, the Board may alter the funding levels of the core program functions of subsection 9.b. and the defensible space evaluations from subsection 9.c. The local-specific wildfire prevention efforts of subsection 9.d. will remain funded by 20% of the tax measure proceeds. A vote to alter the funding levels pursuant to this section shall require two-thirds approval of Directors voting to alter the funding levels, while maintaining the over 50% of the population represented by the Member agencies requirement in accordance with the voting rules set forth in Section 4.f. Should the Board approve changes to the funding levels of the programs, to provide adequate notice to Member agencies, those changes will not go into effect until two fiscal years after the changes were approved. For

example, if funding levels of programs are altered during Fiscal Year 2025-26, those changes will not be implemented until the budget of Fiscal Year 2027-28.

SECTION 10. Option to Locally Administer the Section 5.b. Defensible Space Program

Should a Member choose to locally administer the power set forth in Section 5.b., that Member shall evaluate structures and defensible space so property owners can enhance compliance with fire and building codes through homeowner education and, as necessary, enforcement follow-up. The Member choosing to locally administer the Defensible Space Program must certify that the Member shall use the funds provided by Marin Wildfire exclusively to evaluate defensible space and to enhance compliance with structures and land meeting fire and building codes, and not for any other purpose. Tax measure proceeds will be allocated to Members choosing to locally administer in an amount approximately equal to each Member's proportion of revenue raised in each Member's respective tax rate areas, as determined by the Board. For those Members remaining in the defensible space program, Marin Wildfire will expend the tax measure proceeds in an amount approximately equal to each Member's proportion of revenue raised in each Member's respective tax rate areas.

SECTION 11. Exemptions

Marin Wildfire shall be responsible for technical tax adjustments, consistent with the ballot measure. Whenever possible, Marin Wildfire must defer to reasonable requests from the Marin County Tax Collector to accommodate exemptions for parcels that are roads or creek beds, as well as split parcels ineligible for an assessor parcel combination solely because the parcels are not in the same tax rate area.

SECTION 12. Duties of Treasurer

- a. The Treasurer of Marin Wildfire shall be the Treasurer of one of the Members and/or a certified public accountant appointed by the Board of Directors in accordance with the provisions of the applicable law. Marin Wildfire at its first meeting and thereafter at its first meeting of the fiscal year shall elect a Treasurer and establish terms with the Member agency. This person shall also function as the Controller of Marin Wildfire.
- b. The Treasurer shall serve as the depository and have custody of all Authority funds and establish and maintain such books, records, funds, and accounts as may be required by generally accepted accounting practice, shall cause an independent annual audit of the accounts and records and comply with all requirements of Government Code Sections 6505, 6505.1, 6505.5 and 6505.6.
- c. The Treasurer, within one hundred and twenty (120) days after the close of each fiscal year ending on June 30, or as soon thereafter as possible, shall give a

complete written report of all financial activities for such fiscal year to the Members.

SECTION 13. Debts and Liabilities

As permitted pursuant to Government Code Section 6508.1, no debt, liability, or obligation of Marin Wildfire shall constitute a debt, liability, or obligation of any Member and each Member's obligation hereunder is expressly limited only to the appropriation and contribution of such funds as may be levied pursuant to this Agreement or as the Member may agree.

SECTION 14. Insurance and Indemnification

Marin Wildfire shall acquire such insurance protection as is needed to protect the interests of Marin Wildfire and the Members, and such cost shall not count toward the administrative fee of Section 9.e. Marin Wildfire may use self-insurance and may contract with a Member for insurance services. Marin Wildfire shall defend and indemnify and hold harmless the Members and each of their respective 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 Marin Wildfire or the activities undertaken pursuant to this Agreement (collectively, "Liabilities"), except where such Liabilities are caused solely by the gross negligence or willful misconduct of any indemnitee.

SECTION 15. Privileges, Immunities and Other Benefits

In accordance with California Government Code Section 6513, all of the privileges and immunities from liability, all exemptions from laws, ordinances and rules, and all pension, relief, disability, workmen's compensation, and other benefits which apply to the activity of the trustees, officers, employees or agents of the Members when performing their functions shall apply to the same degree and extent while engaged in the performance of any of their functions and duties for Marin Wildfire.

SECTION 16. Termination; Disposition of Assets.

- a. Should a tax measure to be placed on the ballot fail to pass or is subsequently repealed, this Agreement is terminated and shall be of no further effect upon certification of the election results.
- b. In accordance with Government Code Section 6512, upon termination of this Agreement, any surplus money in possession of Marin Wildfire or on deposit in any fund or account of Marin Wildfire shall be returned in proportion to the contributions made by the tax payers of each Member's jurisdiction. Any other property of Marin Wildfire shall be divided among the Members in such manner as shall be determined by Marin Wildfire in accordance with California law.

- c. If a tax measure is rescinded, all decisions of the Board with regard to determination of amounts to be transferred to Members or any successor shall be final.

SECTION 17. Severability

If any provision of the Agreement or its application to any person or circumstances is held invalid, the remainder of this Agreement and the application of the provision to other persons or circumstances shall not be affected.

SECTION 18. No Rights to Third Parties

All of the terms, conditions, rights and duties provided for in the Agreement are, and shall always be, solely for the benefit of the Members. It is the intent of the Members that no third party shall ever be the intended beneficiary of any performance, duty or right created or required pursuant to the terms and conditions of this Agreement. Nothing in this Section shall be interpreted to preclude the work of the Authority being done on private land.

SECTION 19. Notices.

Notices to Members under this Agreement shall be sufficient if delivered to the City Clerk or chief secretarial officer of the Member, or to any other person designated in writing by the Member.

SECTION 20. 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 or assets under this Agreement.

SECTION 21. Amendments

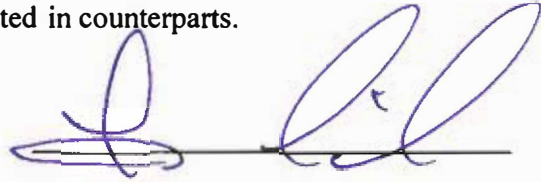
This Agreement may be amended at any time by one or more supplemental agreements executed by mutual agreement of three-fourths (3/4) of the governing boards of the Members, so long as any amendment comports with the purpose of the voter approved measure, as set forth in Section 1 of this Agreement.

SECTION 22. Agreement Complete

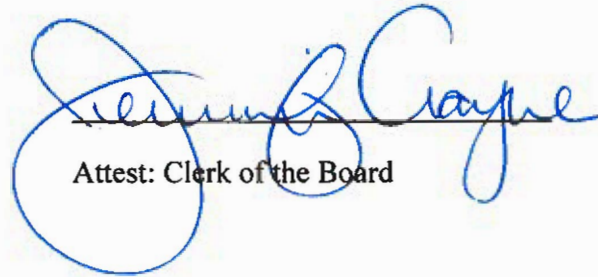
The foregoing constitutes the full and complete Agreement of the parties with respect to the subject matter hereof, and supersedes all prior understandings or agreements whether written or verbal. There are no oral understandings or agreement not set forth in writing herein. Any such agreements merge into this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their proper officers thereunder duly authorized as of the date of approval by the public agencies that are parties hereto. This Agreement shall be executed in counterparts.

Dated: Sept 4 2024



By: Board President



Attest: Clerk of the Board

AYES: Davis, Goines, Hadfield, Silverman

NAYS: NA

ABSENT: Francisco