



Staff Report

SECOND AMENDED AND RESTATED JOINT EXERCISE OF POWERS AGREEMENT FOR THE BELMONT-SAN CARLOS FIRE DEPARTMENT

Honorable President and Board Members:

Summary

The Belmont-San Carlos Fire Department Board recommends the Board of Directors of the Belmont Fire Protection District and the City Council of San Carlos approve a Second Amended and Restated Joint Exercise of Powers Agreement for the Belmont-San Carlos Fire Department in the form attached to this staff report. A resolution is attached by which you may approve the amended JPA.

Background

As your Board is aware, the Belmont Fire Protection District and the City of San Carlos are parties to an amended joint exercise of powers agreement (JPA) which created the Belmont-San Carlos Fire Department. For the past two years, the two parties have been in discussions regarding the future of the Department. The attached amended and restated JPA was jointly prepared by Belmont Special Counsel Michael Colantuono, San Carlos Special Counsel Joan Cassman, and Authority General Counsel Jean Savaree. It was approved by the Fire Board on March 26th. That Board unanimously recommended that your Board and the San Carlos City Council approve the amended and restated JPA. Tonight's agenda item affords you an opportunity to do so.

The major issues addressed in the amendments to the JPA are: (i) a shortened notice period for termination of the JPA and dissolution of the Department during the first half of 2007, (ii) an amended formula for sharing the costs of the Department between the District and the City of San Carlos, and (iii) eliminating references to the assessment measures rejected by property owners in the two communities in 2006.

Discussion

Although the amended and restated JPA is largely self-explanatory, a few provisions bear mention here.

Notice of Dissolution: Section 3.3 of the JPA provides that either party may give notice of

dissolution of the Department on six months' notice under July 1, 2007. After that date, 18 months notice is required.

Treatment of Real Estate upon Dissolution: At present, the District and San Carlos each own the land under two stations. Each community is served by a station building located on land owned by the District or San Carlos when the Department was first formed, and maintained with Department funds, and a station constructed by the Department during the life of the JPA. During discussions last year regarding dissolution of the Department, it was agreed that the values of these buildings were roughly equivalent and it was agreed that the District and San Carlos would each retain title to the land each it owned on which stations were located, as well as the station buildings, without credit or debt from either party to the other. Section 3.3(b) of the JPA reflects this understanding. If the Department funds a major capital improvement to real property in the future, the District and San Carlos should reach a written agreement at that time – perhaps via an amendment to Section 3.3(b) of the JPA – to address how the value of the capital improvement will be shared between the District and San Carlos upon any subsequent dissolution.

Deletion of References to the Assessment Measures: The definitions of Section 1.1 have been amended to delete the definition of “measure,” which referred to the unsuccessful assessment measures attempted in 2006. Section 3.3(b) is amended to delete reference to the proceeds of these measures in its provisions for dividing the assets of the Department upon any future dissolution. Should either community wish to pursue assessment funding in the future, it can do so, and nothing in the JPA restricts that choice.

New Funding Formula: Exhibits B and C reflect the parties agreement regarding the division of responsibility between them to fund the department. Exhibit B applies in the event the District elects to dissolve the Department between July 1, 2007 (the effective date of the new funding formula) and July 1, 2016 (the expected payoff of existing unfunded PERS liabilities) and requires Belmont to absorb its share of unfunded PERS liabilities. Section 6.3 of the Agreement, together with Exhibit C, reflects the new funding agreement tentatively agreed in discussions between the District and San Carlos. In short, the costs of the Department will be divided by the two communities in proportion to the following four factors: population, assessed value of property in each community, number of fire companies in each community, and the number of calls for service generated by each community. In addition, fee revenue for the Districts permitting and inspection efforts will be credited to the community in which the service is provided; other general fund revenues will be shared based on the general, four-factor funding formula just noted. Section 6.3(c) gives the parties the right to deviate from the funding formula by written agreement in the next two fiscal years and Section 6.3(d) requires a reconciliation upon dissolution to adjust both cost and revenue estimates to reflect audited actual expenses and receipts.

Fiscal Impact

Approval of the amended JPA in and of itself will have no effect on the finances of the District. Approval of the FY 2007-08 budget for the Department and the success of assessments to fund it will change the funding formula for the Department from the present 50/50 arrangement to the formula described above and attached to the JPA as Exhibit C. The dollar impact of this change and the ultimate fiscal impact on the District will turn on decisions that remain to be made regarding the FY 2007-08 Department budget, which will require approval by your Board.

Public Contact

This report and the attached JPA and resolution were made available for public review and comment along with the agenda and agenda packet for this evening's meeting in the District's usual practice.

Recommendation

Staff recommends your Board:

Adopt a Resolution approving the Second Amended and Restated Joint Exercise of Powers Agreement for the Belmont-San Carlos Fire Department and authorize the President and the Secretary of the Belmont Fire Protection District to execute that Agreement.

Alternatives

1. Reject the proposed amended and restated JPA and give direction to staff.
2. Continue the item.
3. Approve the amended and restated JPA with additional amendments directed by your Board and direct staff to seek San Carlos' and the SCFA Board's agreement to those changes.

Attachments

- A. Resolution
- B. Amended and Restated Joint Exercise of Powers Agreement for the Belmont-San Carlos Fire Department (with its Exhibits A – C).

Respectfully submitted,

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Jack Crist
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BELMONT FIRE PROTECTION DISTRICT RESOLUTION NO. _____

**RESOLUTION OF THE BELMONT FIRE PROTECTION DISTRICT
APPROVING THE SECOND AMENDED AND RESTATED JOINT EXERCISE OF
POWERS AGREEMENT FOR THE BELMONT-SAN CARLOS FIRE DEPARTMENT**

WHEREAS, the City of San Carlos and the Belmont Fire Protection District are parties to a joint exercise of powers agreement (JPA) which created the Belmont-San Carlos Fire Department; and

WHEREAS, the two parties have been in discussions regarding the future of the Department; and

WHEREAS, a Second Amended and Restated Joint Exercise of Powers Agreement for the Belmont-San Carlos Fire Department was jointly prepared by counsel for San Carlos, counsel for the District, and counsel for the South County Fire Authority (SCFA); and

WHEREAS, the Fire Board approved that JPA on March 26th and unanimously recommended that the San Carlos City Council and this Board approve the amended and restated JPA.

NOW, THEREFORE, BE IT RESOLVED that the Belmont Fire Protection District does hereby:

1. Approve the Second Amended and Restated Joint Exercise of Powers Agreement as so amended; and
2. Authorize the President and Secretary to execute that Amended and Restated Joint Exercise of Powers Agreement as so amended on behalf of the District.

* * * * *

I hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the Belmont Fire Protection District at a special meeting thereof held on April 10, 2007 by the following vote:

AYES, DIRECTORS: _____

NOES, DIRECTORS: _____

ABSTAIN, DIRECTORS: _____

ABSENT, DIRECTORS: _____

Secretary, Belmont Fire Protection District

APPROVED:

President, Belmont Fire Protection District