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CITY COUNCIL STAFF REPORT

Meeting: October 17, 2023

Subject

Approval of Joint Powers Agreement to establish the Cities Association of Santa Clara County Joint Powers Agency.

Recommended Action

1. Approve the proposed Joint Powers Agreement ("JPA").
2. Delegate authority to the City Council's Cities Association of Santa Clara County ("CASCC") Board representative to report approval of the JPA at the CASCC Board of Directors ("CASCC Board") Meeting.
3. Authorize the City Manager to execute the JPA.

Discussion

Over thirty years ago, the cities and towns in Santa Clara County ("Member Agencies") established the CASCC to improve cooperation on issues of common interest. The CASCC was intended to consolidate and maintain the functions and purposes of the Inter-City Council, the Santa Clara County Mayor's Conference, and the City Selection Committee for Santa Clara County. In 1990, the cities and towns entered into an agreement to provide the structure and outline the purpose and function of the CASCC (Attachment A). In 2010, the CASCC adopted its bylaws (Attachment B). Currently, the CASCC is an unincorporated association.

In August 2020, the CASCC Board of Directors unanimously voted to take the steps necessary to form a joint powers authority because it would provide a more formal and recognized structure for CASCC and would improve clarity regarding the organization's tax status, governmental immunities, and potential liability of the Member Agencies. To form a joint powers authority, a JPA must be approved by the CASCC Board of Directors and then executed by each Member Agency that wishes to join the joint powers authority.

A proposed Joint Powers Agreement establishing a Cities Association of Santa Clara County Joint Powers Agency ("Agency") is provided as Attachment C. The proposed agreement includes input from Member Agency City Attorneys and City Managers. On September 14, 2023, the CASCC Board voted unanimously to transmit the Joint Powers Agreement to the City Councils of Member Agencies for consideration.

The JPA restates the same purposes expressed for the creation of the CASC. Consistent with the Joint Exercise of Powers Act (Government Code section 6500 *et seq.*), the agreement defines the power and authority of the Agency. To address concerns raised by Member Agencies, the Agency would be specifically prohibited from acquiring real property, levying taxes, hiring employees, or exercising any eminent domain power. The CASC Executive Board would be replaced by an Executive Committee. The Executive Committee would exercise authority delegated by the Agency's Board, except that the Board is not permitted to delegate authority to approve the Agency's budget.

Like the CASC, the Agency would be charged with administering the City Selection Committee ("CSC"). The CSC is a state-mandated entity charged with making appointments to various regional and local boards and committees. Each city and town in Santa Clara County will continue to participate in the CSC even if the city or town is not a member of CASC. The Agency would assume CASC's duties related to the CSC, including the establishment of the application process, scheduling and holding meetings for appointments to be made, keeping track of committee and board appointments, terms, and resignations, coordinating with the County Clerk, and disseminating meeting minutes. Apart from administering the CSC, the Agency would continue to allow all 15 cities and towns in Santa Clara County to work together on regional issues and advocate for the cities' and towns' interest at the county, regional, and state levels.

The formation of the Agency would provide some additional benefits and protection from legal risk for the Member Agencies. As a governmental agency, the Agency would have access to insurance and risk pools that are not available to an unincorporated association. In addition, the JPA clarifies liability issues and the tax status of the organization and provides that the Agency will indemnify Member Agencies for losses caused by Agency activities.

Staff recommends that the City Council approve the proposed JPA, as stated in the recommended action.

Sustainability Impact

No sustainability impact.

Fiscal Impact

CASC's Fiscal Year 2025 budget has not yet been presented to the CASC Board. However, CASC does not predict that the formation of the Agency will increase the organization's budget.

California Environmental Quality Act

Not applicable.

Prepared by:

Christopher D. Jensen, City Attorney

Approved for Submission by:

Pamela Wu, City Manager

Attachments:

A – Cities Association of Santa Clara County Administration Agreement

B – Cities Association of Santa Clara County Bylaws

C – Proposed Joint Powers Agreement