



**CITY OF LODI  
COUNCIL COMMUNICATION**

**AGENDA TITLE:** Adopt Resolution Approving Amendments to the San Joaquin Council of Governments Joint Powers Agreement

**MEETING DATE:** August 18, 2010

**PREPARED BY:** Deputy City Manager

**RECOMMENDED ACTION:** Adopt resolution approving amendments to the San Joaquin Council of Governments Joint Powers Agreement.

**BACKGROUND INFORMATION:** At its regularly scheduled meeting of June 24, 2010, the San Joaquin Council of Governments (SJCOG) Board of Directors adopted Resolution 10-041 approving an amendment to the Joint Powers Agreement (JPA). The SJCOG staff report and resolution are attached.

The amendment replaces the San Joaquin County Auditor-Controller and Treasurer with the SJCOG Chief Financial Officer except for those activities related to the Transportation Development Act, which, by California statute, must remain with the County Auditor-Controller and Treasurer.

Pursuant to the SJCOG JPA, the agreement may be amended only after parties to the agreement who represent both a majority of the parties and at least **55** percent of the population of San Joaquin County, based upon the latest population estimates of the California Department of Finance, approve the amendments.

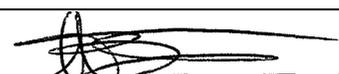
SJCOG requests that the City Council approve the amendment before August 31, 2010.

**FISCAL IMPACT:** None

**FUNDING AVAILABLE:** Not applicable.

  
Jordan Myers  
Deputy City Manager

JA/ja  
Attachments

APPROVED:   
Konradt Bartlam, Interim City Manager



SAN JOAQUIN COUNCIL OF GOVERNMENTS

555 E. Weber Avenue • Stockton, California 95202

209.235.0600 • 209.235.0438 (fax)

[www.sjcog.org](http://www.sjcog.org)

July 7, 2010

RECEIVED

JUL 09 2010

CITY MANAGER'S OFFICE

Larry Hansen  
CHAIR

Ann Johnston  
VICE CHAIR

Andrew T. Chesley  
EXECUTIVE DIRECTOR

Member Agencies

CITIES OF  
ESCALON,  
LATHROP,  
LODI,  
MANTECA,  
RIPON,  
STOCKTON,  
TRACY,  
AND  
THE COUNTY OF  
SAN JOAQUIN

Mi. Rad Bartlam  
City of Lodi  
P.O. Box 3006  
Lodi, CA 95241

Dear Mr. Bartlam:

At its regularly scheduled meeting on June 24, 2010, the San Joaquin Council of Governments (SJCOC) Board of Directors adopted Resolution # 10-041 approving an amendment to the SJCOC Joint Powers Agreement (JPA). Both the staff report and resolution are attached as well as a complete copy of the amended JPA.

This amendment replaces the San Joaquin County Auditor-Controller and Treasurer with the SJCOC Chief Financial Officer. The SJCOC CFO will undertake all the activities of the Auditor-Controller and Treasurer except those related to the Transportation Development Act, which, by California statute, must remain with the San Joaquin County Auditor-Controller and Treasurer.

Prior to the Board's action, the proposed amendment was reviewed by the Management & Finance, Citizen's Advisory and Executive Committees with all supporting the proposal. This change in the JPA has the concurrence of both the San Joaquin County Auditor-Controller and the County Treasurer. Additionally, in May, the Board was presented with the proposed amendment and directed SJCOC to bring the amendment forward for adoption.

Pursuant to the SJCOC JPA, the Agreement may be amended only after Parties (to the agreement i.e., the cities and county) who represent both a majority of the Parties and at least 55% of the population of San Joaquin County, based upon the latest population estimates of the California Department of Finance, approve the amendments.

Enclosed is a copy of the proposed amended and restated SJCOC JPA. Upon ratification, please have your designated officials execute the appropriate signature blocks located at the end of the document. This document will be executed in multiple counterparts, therefore, once your action is taken, please send the executed page to SJCOC, to the attention of Rebecca Montes. After all parties have acted, a complete document with all signature pages will be provided to you.

SJCOG staff would be pleased to appear before your policymakers to answer any questions they might have regarding this matter. **We request ratification prior to August 31, 2010.** Please let me know when this will be on your agenda so we can be available to attend your meeting. If you have any questions regarding this matter, don't hesitate to contact me or Steve Dial, Deputy Executive Director/CFO, at 235-0600.

*Thank* you for your assistance.

Sincerely,

  
ANDREW T. CHESLEY  
Executive Director

Enclosures: R-10-041  
SJCOG Staff Report  
Amended and Restated JPA

**AMENDED AND RESTATED  
JOINT POWERS AGREEMENT  
ESTABLISHING THE SAN JOAQUIN COUNCIL  
OF GOVERNMENTS**

THIS AGREEMENT is entered into as of June 24, 2010, by and between the incorporated cities of Escalon, Manteca, Lathrop, Lodi, Ripon, Stockton, and Tracy, all municipal corporations and the County of San Joaquin, a political subdivision of the State of California. The municipal corporations are sometimes referred to individually as “City” and collectively as “Cities.” The County of San Joaquin is sometimes referred to as “County.” The Cities and County are sometimes referred to individually as a “Party” and collectively as “Parties.”

WITNESSETH:

1. RECITALS.

1.1. Common Power. Chapter 5 of Division 7 of Title 1 (commencing with Section 6500) of the California Government Code authorizes two (2) or more public agencies to jointly exercise any power common to them.

1.2. Common Authority. The City of Stockton, by virtue of its charter and the Cities of Escalon, Lathrop, Lodi, Manteca, Ripon, Tracy, and the County of San Joaquin, by virtue of California Government Code Section 65600 through 65604, inclusive, possess in common the authority:

1.2.1. To study, discuss, and develop solutions to area-wide problems of direct concern to the performance of their constitutional and statutory functions and to establish an area planning organization and expend public funds for these purposes.

1.2.2. To do all acts necessary to participate in federal programs and receive federal funds for health, education, welfare, public works, and community improvement activities, including contracting and cooperating with other agencies.

1.3. Orderly Development. The people residing within the incorporated and unincorporated areas of San Joaquin County have an interest in the orderly development of their communities.

1.4. Independent Agency. The continued growth and extensive development within the incorporated and unincorporated areas of San Joaquin County evidenced a need to create a wholly independent regional agency capable of dealing with area-wide issues and problems.

1.5. Predecessor. The foregoing need led to the creation and establishment of the SAN JOAQUIN COUNCIL OF GOVERNMENTS on July 1, 1970.

1.6. Effects. The establishment of SAN JOAQUIN COUNCIL OF GOVERNMENTS (hereinafter referred to as "SJCOG") has:

1.6.1. Provided a forum to study and develop solutions to area-wide problems of mutual concern to the various governmental entities in San Joaquin county.

1.6.2. Provided efficiency and economy in governmental operations through the cooperation of member governments and the pooling of common resources.

1.6.3. Provided for the establishment of an agency responsible for identifying, planning, and developing solutions to regional problems requiring multijurisdictional cooperation.

1.6.4. Provided for the establishment of an agency capable of developing regional plans and policies and performing area-wide planning duties.

1.6.5. Facilitated cooperation among and agreement between local governmental bodies for specific purposes, interrelated developmental actions, and for the adoption of common policies with respect to issues and problems which are common to its members.

1.7. Amendment. The Cities of Escalon, Lathrop, Lodi, Manteca, Ripon, Stockton, and Tracy and the County of San Joaquin, at this time, desire to amend that certain joint powers agreement of March 1, 1991, as subsequently amended on December 7, 2000, and December 8, 2005, and enter into this Amended and Restated Agreement in order to establish the duties and powers of the SAN JOAQUIN COUNCIL OF GOVERNMENTS.

1.8. Transportation Authority. The County designated the SAN JOAQUIN COUNCIL OF GOVERNMENTS as the San Joaquin County Transportation Authority.

NOW, THEREFORE, it is mutually agreed as follows:

2. STATEMENT OF PURPOSE

The member Cities and the County have joined together to establish SJCOG for the following reasons:

2.1. Area-Wide Opportunities. A number of opportunities and issues within the area are either area-wide in nature or have area-wide aspects or implications, including, but not limited to transportation, air quality, land use, economic development, job creation, and the reduction of unemployment, the protection of agricultural productivity, and multi-species habitat management issues.

2.2. Need. There is a demonstrated need for the establishment of an organization of the Cities and the County within the area to provide a forum for study and development of recommendations to area-wide problems of mutual interest and concern to the Cities and the County and to facilitate the development of policies and action recommendations for the solution of problems.

2.3. Independent Review. The Cities and the County wish to create an area-wide organization which will independently review and make comments to the member Cities and the County regarding projects which receive federal or state funding.

2.4. Elected Officials. The Cities and the County believe that an area-wide planning organization, governed solely by elected officials from the Cities and the County, with a staff independent of any City or the County, is best suited for area-wide planning and review.

2.5. Area-Wide Problems. The Cities and the County, working together through this organization, can exercise initiative, leadership, and responsibility for solving area-wide problems.

2.6. Allocation of Resources. The Cities and the County share common area-wide problems and issues, and at the same time, have different needs and priorities and are affected in different ways by these common area-wide problems and issues. The resources of SJCOG should be allocated in a manner so that the needs of any portion of the area are not ignored, recognizing, however, that resources are limited and that not all needs can be met, nor all portions of the area assisted equally at any one time.

### 3. ESTABLISHMENT OF SJCOG

3.1. Continued Public Entity. Upon the effective date of this Agreement, the Parties hereto hereby continue the SAN JOAQUIN COUNCIL OF GOVERNMENTS, as a public entity separate and distinct from the Parties, as the agent to exercise the common powers provided for in this Agreement and to administer or otherwise execute this Agreement.

3.2. Functions. SJCOG is the successor entity to the Council Of Governments established in 1970, insofar as its predecessor entity has been designated, and insofar as legally authorized, it shall continue to function as:

3.2.1. The Area-wide Planning Organization (*APO*) as designated by the U.S. Department of Housing and Urban Development (HUD).

3.2.2. The Metropolitan Planning Organization (MPO) as designated by the U.S. Department of Transportation; pursuant to Title 23 of United States Code, Section 134 (23 USC 134) and Title 49 of the United States Code, Section 5303(b)(2).

3.2.3. The Regional Transportation Planning Agency (RTPA) as designated by the Secretary of Business and Transportation Agency of the State of California; pursuant to California Government Code Sections 65080, et seq.

3.2.4. The Airport Land Use Commission (ALUC) as designated by the Board of Supervisors of the County of San Joaquin and recognized by the State of California; pursuant to California Public Utilities Code, Section 21670(b).

3.2.5. The regional planning representative, as designated by the Parties hereto, for the purpose of acting upon any appropriate proposals which may be presented to the SJCOG Board of Directors for consideration, or which the SJCOG Board of Directors may elect to take up, and for transmission of proposed recommendations to Federal, State, and local agencies, including, but not limited to the member entities of SJCOG.

3.2.6. The San Joaquin County Transportation Authority as designated by the Board of Supervisors of San Joaquin County pursuant to Section 180000 of the California Public Utilities Code.

3.2.7. The Census Data Center as designated by the Bureau of the Census.

3.2.8. The Congestion Management Agency for San Joaquin County pursuant to California Government Code Sections 65088 and 65089 and Title 23 of the United States Code Section 134.

3.2.9. The Federal Clearinghouse to review federal grant applications under Section 6506 of Title 23 of the United States Code Annotated.

#### 4. COOPERATION

The Parties to this Agreement pledge full cooperation and agree to assign representatives to serve as official members of the SJCOG Board or any committee or subcommittee thereof, which members shall act for and on behalf of their Cities or the County in any and all matters which shall come before SJCOG, subject to any necessary and legal approvals of their acts by the legislative bodies of the Cities and the County.

5. MEMBERSHIP

5.1. Board. SJCOG shall be governed by a Board of Directors, herein referred to as the SJCOG Board, which shall be comprised of:

5.1.1. One (1) member from each of the City Councils of Escalon, Lathrop, Lodi, Manteca, Ripon, and Tracy (with the Mayor an eligible member).

5.1.2. Three (3) members from the Stockton City Council (with the Mayor an eligible member).

5.1.3. Three (3) members of the Board of Supervisors of the County of San Joaquin.

5.1.4. Ex-officio non-voting members acting in an advisory capacity shall be:

5.1.4.1. The District Director from the State Department of Transportation, District X.

5.1.4.2. A member of the San Joaquin Regional Transit District Board of Directors.

5.1.4.3. A member of the Stockton Port District Board of Commissioners.

5.2. Appointment. Members shall be appointed by the governing body of each Party and shall serve at the pleasure of their appointing body or until their respective successors are appointed. Termination of a Party's mayor, councilperson, or supervisor status shall constitute automatic termination of that person's membership on the SJCOG Board. The appointing body of a Party may appoint a new member or alternate immediately upon any vacancy in the Party's representation.

5.3. Alternates. The governing body of each Party shall appoint alternate members to the SJCOG Board. During the absence of a regular member from any meeting of the SJCOG Board, the alternate shall be entitled to participate in all respects as a regular member of the SJCOG Board. All members and alternates shall be duly elected representatives of their respective City Councils or Board of Supervisors.

5.4. Quorum. A quorum for conducting all matters of business shall be seven (7) members. The affirmative vote of a least a majority of the quorum present shall be required for the approval of any matter.

5.5. Rules. The SJCOG Board shall adopt rules of procedure and shall establish a time and place for regular SJCOG meetings. At any meeting the SJCOG Board may consider matters it deems proper for carrying out the purposes of this

Agreement, subject to the provisions of California Government Code Section 54950 et seq.

5.6. Executive Committee. An Executive Committee shall be constituted from among the representatives of the Parties. The Executive Committee shall consist of five (5) members of the SJCOG Board elected by the SJCOG Board. One (1) member of the SJCOG Board shall be elected by the SJCOG Board to serve as the alternate member of the Executive Committee. During the absence of a regular member from any meeting of the Executive Committee, the alternate shall be entitled to participate in all respects as a regular member of the Executive Committee. The Chairperson of SJCOG shall be the Chairperson of the Executive Committee and shall serve on it as the representative of his/her jurisdiction. The Executive Committee shall have powers as are not inconsistent with this Agreement and as delegated to it by the SJCOG By-laws or the SJCOG Board.

5.7. Bylaws. The Bylaws of the SJCOG shall be those adopted following the adoption of this Amended and Restated Agreement by the SJCOG Board, and may thereafter be amended from time to time by the SJCOG Board.

## 6. POWERS AND FUNCTIONS

6.1. Specific Functions. SJCOG shall have the common power of the Parties hereto to establish, administer and operate area-wide programs, and in the exercise of that power, SJCOG is authorized in its own name to:

6.1.1. Employ an executive director as the chief administrative officer of the agency.

6.1.2. Employ agencies and employees and contract for professional services.

6.1.3. Make and enter into contracts.

6.1.4. Operate transportation and other services and facilities.

6.1.5. Undertake the planning, design and environmental clearance of transportation and other projects.

6.1.6. Cooperate with other agencies, counties and other local public agencies and participate in joint projects as necessary.

6.1.7. Acquire, hold, and convey real and personal property.

6.1.8. Incur debts, obligations, and liabilities.

6.1.9. Accept contributions, grants, or loans from any public or private agency or individual, or the United States or any department, instrumentality, or agency thereof, for the purpose of financing its activities.

6.1.10. Invest money that is not needed for immediate necessities, as the Board determines advisable, in the same manner and upon the same conditions as other local entities in accordance with Section 53601 of the California Government Code.

6.1.11. Have appointed board members and ex-officio board members serve with or without compensation from the SJCOG.

6.1.12. Sue and be sued, in its own name only, but not in the name or stead of any member entity.

6.1.13. Make loans to Parties for projects approved by the SJCOG Board on terms, and interest rates, and with security, as may be established by the SJCOG Board.

6.1.14. To operate, either directly by SJCOG employees, or by independent contractors, programs approved by the SJCOG Board, such as, but not limited to, ridesharing programs, freeway service patrol programs, and habitat conservation programs, including the maintenance and operation of habitat conservation lands.

6.1.15. To provide services, including operational services, outside San Joaquin County, if fully compensated for the services, or in cooperative projects involving other public agencies.

6.1.16. To do all other acts reasonable and necessary to carry out the purpose of this Agreement.

6.2. Limitation. The powers to be exercised by SJCOG are subject to the restrictions upon the manner of exercising the powers as are imposed upon the County of San Joaquin in the exercise of similar powers.

6.3. Funds. SJCOG shall be held strictly accountable for all funds received, held and disbursed by it.

## 7. EXECUTIVE DIRECTOR

7.1. Powers and Duties. The executive director shall be selected by, and shall serve at the pleasure of and upon the terms prescribed by the SJCOG Board. The powers and duties of the executive director are:

7.1.1. To serve as the chief administrative officer of SJCOG and to be responsible to the SJCOG Board for the proper administration of all SJCOG affairs.

7.1.2. To appoint, supervise, suspend, discipline or remove SJCOG employees subject to those policies and procedures, from time to time, adopted by the SJCOG Board.

7.1.3. To supervise and direct the preparation of annual budget for the SJCOG and be responsible for its administration after adoption by the SJCOG Board.

7.1.4. To formulate and present to the SJCOG Board plans for SJCOG's activities and the means to finance them.

7.1.5. To supervise the planning and implementation of all SJCOG's activities.

7.1.6. To attend all meetings of the SJCOG Board and act as the secretary to the SJCOG Board.

7.1.7. To prepare and submit to the SJCOG Board periodic financial reports and, as soon as practicable after the end of each fiscal year, an annual report of the activities of SJCOG for the preceding year.

7.1.8. To have custody and charge of all SJCOG property other than money and securities.

7.1.9. To perform other duties as the SJCOG Board may require in carrying out the policies and directives of the SJCOG Board.

## 8. FINANCING

8.1. Fiscal Year. The SJCOG fiscal year shall be July 1 through June 30.

8.2. Annual Budget. On or before April 1st, the SJCOG shall adopt a budget for the ensuing fiscal year to commence on July 1, and shall submit the same for ratification to the governing body of each Party. Upon ratification of the proposed budget of the legislative bodies of the Parties, and representing at least 55% of the population within the County, the budget shall serve as the approved budget for the fiscal year in carrying out the tasks within the approved work program for the year. Any amendments to the budget shall be approved by the SJCOG Board.

8.3. Support by Parties. Any Party to this Agreement, in the exercise of the reasonable discretion of its governing body, may, upon mutual consent of the Parties, provide support for the SJCOG, its staff, and its professional consultants, including providing the quarters, janitorial services and maintenance, supplies, printing and duplication, postage, telephone services, transportation services, and professional and technical assistance as may be necessary to enable SJCOG to perform its responsibilities. All assistance shall be provided on an at-cost basis.

8.4. Eminent Domain and Taxes. Under no circumstances shall the SJCOG be empowered to exercise the right of eminent domain nor to levy taxes except as provided in Section 8.5 below. SJCOG shall apply for available State or Federal support funds, and shall make new and additional applications from time to time as appropriate. If deemed necessary, the SJCOG Board may also establish and collect filing and processing fees in connection with matters to be considered by it.

8.5. Measure K. In its role as the San Joaquin County Transportation Authority, SJCOG shall be empowered to levy and expend tax revenues authorized in San Joaquin County Transportation Authority Ordinance #91-01 and approved as Measure K on November 6, 1990 by the voters of San Joaquin County. This empowerment shall exist so long as San Joaquin County Transportation Authority Ordinance #91-01 is in effect and shall terminate when all San Joaquin County Transportation Authority Ordinance #91-01 taxes have been levied and expended.

9. TREASURER

9.1. Treasurer. The SJCOG Chief Financial Officer shall be the Treasurer of SJCOG.

9.2. Duties. The Treasurer shall:

9.2.1. Receive and receipt all money of SJCOG and place it in a designated financial institution approved by the SJCOG Board of Directors to the credit of SJCOG.

9.2.2. Be responsible upon his/her official bond for the safekeeping and disbursement of all SJCOG money held by the Treasurer.

9.2.3. Pay, when due, out of money of SJCOG, all sums payable on outstanding bonds and coupons of SJCOG.

9.2.4. Pay any sums due from SJCOG, from SJCOG's funds or any portion thereof, upon warrants of the SJCOG Auditor - Controller designated herein.

9.2.5. Verify and report in writing as soon as possible after the first day of July, October, January, and April of each year to SJCOG the amounts of monies the Treasurer holds for SJCOG, the amount of receipts since the Treasurer's last report, and any interest accrued to those funds.

10. AUDITOR - CONTROLLER

10.1. Auditor - Controller. The SJCOG Chief Financial Officer shall be the Auditor - Controller for the SJCOG.

10.2. Warrants. The Auditor - Controller shall draw warrants to pay demands against SJCOG when the demands have been approved by the SJCOG Board and/or the SJCOG Executive Director. The Auditor - Controller shall be responsible on his/her official bond for the Auditor - Controller's approval of disbursement of SJCOG money.

10.3. Records. The Auditor - Controller shall keep and maintain records and books of account on the basis of generally accepted accounting practices. The books of account shall include records of assets, liabilities, and contributions made by each Party to this Agreement.

10.4. Audit. The Auditor - Controller shall make available all financial records of SJCOG to a certified public accountant or public accountant contracted by SJCOG to make an annual audit of the accounts and records of SJCOG. The minimum requirements of the audit shall be those prescribed by the State Controller for special districts under Section 26909 of the Government Code and shall conform to generally accepted auditing standards.

#### 11. BOND REQUIREMENTS

The executive director and other employees of SJCOG as may be designated by the SJCOG Board, shall file with SJCOG an official fidelity bond in a penal sum determined by the Board as security for the safekeeping of SJCOG property entrusted to the employee. Premiums for the bonds shall be paid by SJCOG.

#### 12. PARTIES' LIABILITY

The debts, liabilities, and obligations of SJCOG shall not be debts, liabilities or obligations of the Parties to this Agreement either singly or collectively.

#### 13. ASSIGNABILITY

With the approval of, and upon the terms agreed upon by, the governing body of each Party to this Agreement, all or any of the rights and property subject to this Agreement may be assigned to further the purpose of this Agreement. Provided, however, no right or property of SJCOG shall be assigned without compliance with all conditions imposed by any state or federal entity from which SJCOG has received financial assistance.

#### 14. WITHDRAWAL OF A PARTY

14.1. Withdrawal Procedure. A Party to this Agreement may, at any time, withdraw from SJCOG, following 90 days notice to SJCOG and all other Parties of SJCOG, by resolution of intent to withdraw adopted by the governing board of the withdrawing Party.

14.2. Obligations. Upon the effective date of the withdrawal the Party shall cease to be bound by this Agreement, but shall continue to provide financial support through the approved percentage of planning funds provided COG, as Transportation Planning Agency under the provisions of Section 99233.2 of the Transportation Development Act. SJCOG assets representing any accumulated capital contribution of the withdrawing Party shall remain subject to SJCOG control, depreciation and use without compensation to the withdrawing Party until termination of this Agreement and distribution of SJCOG assets.

15. TERMINATION AND DISSOLUTION

15.1. No Specific Term. This Agreement shall continue in force without specific term.

15.2. Disestablishment. If, at any time, those Cities and County which are members of SJCOG contain less than 55% of the population residing within the area of San Joaquin County, based upon the latest available population estimates by the California Department of Finance, and there are less than a majority of local governments remaining as Parties of SJCOG, SJCOG shall be deemed disestablished and this Agreement shall cease to be operative except for the purpose of payment of any existing obligations.

15.3. Distribution. If this Agreement is terminated, all real and personal property owned by SJCOG shall be distributed to the Federal, State, or local funding agency or Party to this Agreement that supplied the property or whose funding provided for the acquisition of the property unless other distribution is provided by law. Should the origin of any real or personal property be undeterminable, that property shall be disbursed to the Parties to this Agreement in proportion to the size of the jurisdiction as delineated in the latest California Department of Finance estimate of population. This Agreement shall not terminate until all property has been distributed in accordance with this provision.

16. RETURN OF SURPLUS FUNDS

Upon termination of this Agreement, any surplus money on hand shall be returned to the Federal, State, or local agency or the Party to this Agreement that provided the funds.

17. ADDITIONAL MEMBERS

In addition to the Cities identified in this Agreement, any city within San Joaquin County which may hereafter be incorporated and which desires to participate in the activities of SJCOG may do so by executing this Agreement without the prior approval or ratification of the named Parties to this Agreement and shall thereafter be a Party to this Agreement and be bound by all terms and conditions of this Agreement as of the date it executes this Agreement.

18. SUCCESSORS

This Agreement shall be binding upon and shall inure to the benefit of any successors to or assigns of the Parties.

19. SEVERABILITY

Should any part, term, portion, or provision of this Agreement be finally decided to be in conflict with any law of the United States or the State of California, or otherwise be unenforceable or ineffectual, the validity of the remaining parts, terms, portions, or provisions shall be deemed severable and shall not be affected thereby, provided the remaining portions or provisions can be construed in substance to constitute the Agreement which the Parties intended to enter into in the first instance.

20. AMENDMENTS

This Agreement may be amended only after Parties who represent both a majority of the Parties and at least 55% of the population of San Joaquin County, based upon the latest population estimates of the California Department of Finance, approve the amendments.

21. COUNTERPARTS

This Agreement may be executed in any number of counterparts, each of which when executed will be deemed to be an original and all of which, taken together, will be deemed to be one and the same instrument.

22. TITLES AND HEADING.

The Section titles and the heading of this Agreement are for convenience only and shall not be used in interpreting this Agreement.

23. EFFECTIVE DATE OF AGREEMENT

This Amended and Restated Agreement shall become effective when the majority of the Cities and County representing more than 55% of the population of the County based upon the latest population estimates of the California Department of Finance, sign this Agreement. The population of the County for this purpose is the population of the unincorporated area.

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IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their respective offices as of:

APPROVED AS TO FORM

By: \_\_\_\_\_

\_\_\_\_\_

Title: \_\_\_\_\_

MAYOR Walt Murken

ATTEST: \_\_\_\_\_

CITY OF ESCALON

City Clerk

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APPROVED AS TO FORM:

By: \_\_\_\_\_

\_\_\_\_\_

Title: \_\_\_\_\_

MAYOR Kristy Sayles

ATTEST: \_\_\_\_\_

CITY OF LATHROP

City Clerk

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APPROVED AS TO FORM:

By: \_\_\_\_\_

\_\_\_\_\_

Title: \_\_\_\_\_

MAYOR PHIL KATZAKIAN

ATTEST: \_\_\_\_\_

CITY OF LODI

City Clerk

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\*\*\* Signatures Continued on Next Page \*\*\*

APPROVED AS TO FORM:

By: \_\_\_\_\_

\_\_\_\_\_

Title: \_\_\_\_\_

MAYOR Willie W. Weatherford

ATTEST: \_\_\_\_\_

CITY OF MANTECA

City Clerk

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APPROVED AS TO FORM:

By: \_\_\_\_\_

\_\_\_\_\_

Title: \_\_\_\_\_

MAYOR Chuck Winn

ATTEST: \_\_\_\_\_

CITY OF RIPON

City Clerk

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APPROVED AS TO FORM:

By: \_\_\_\_\_

\_\_\_\_\_

Title: \_\_\_\_\_

MAYOR Ann Johnston

ATTEST: \_\_\_\_\_

CITY OF STOCKTON

City Clerk

\_\_\_\_\_

APPROVED AS TO FORM:

By: \_\_\_\_\_

\_\_\_\_\_

Title: \_\_\_\_\_

MAYOR Brent H. Ives

ATTEST: \_\_\_\_\_

CITY OF TRACY

City Clerk

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APPROVED AS TO FORM:

By: \_\_\_\_\_

\_\_\_\_\_

Title: \_\_\_\_\_

CHAIRMAN Carlos Villapudia

ATTEST: \_\_\_\_\_

SAN JOAQUIN COUNTY

County Clerk

\_\_\_\_\_

Amended March 1, 1991  
Amended December 7, 2000  
Amended December 8, 2005  
Amended June 24, 2010



**RESOLUTION  
SAN JOAQUIN COUNCIL OF GOVERNMENTS**

**RESOLUTION NO. R-10-41  
SAN JOAQUIN COUNCIL OF GOVERNMENTS  
RESOLUTION AMENDING THE JOINT POWERS AGREEMENT OF THE  
SAN JOAQUIN COUNCIL OF GOVERNMENTS**

WHEREAS, pursuant to Sections 9 and 10 of the San Joaquin Council of Governments Joint Powers Agreement dated December 8, 2005 (JPA), the County of San Joaquin Auditor-Controller and Treasurer acts **as** the Auditor/Controller/Treasurer of the San Joaquin Council of Governments (SJCOG);

WHEREAS, in May SJCOG **staff** presented to the Board the rationale for substituting the San Joaquin County Auditor/Controller and Treasurer for the SJCOG Chief Financial Officer in those capacities;

WHEREAS, with the exception of Transportation Development Act funds, San Joaquin County is not required to be the Auditor/Controller/Treasurer for SJCOG,

WHEREAS, pursuant to the Joint Powers Authority law, set forth at Government Code §§ 6500 *et seq.*, SJCOG has three options: (1) maintain the relationship with the San Joaquin County Auditor-Controller and Treasurer; (2) designate a certified public accountant to serve as Treasurer and San Joaquin County as Auditor-Controller; or (3) designate an employee or officer of SJCOG to serve as Auditor-Controller and Treasurer and hire an independent auditor to perform annual audits;

WHEREAS, SJCOG desires to designate the Chief Financial Officer as the Auditor-Controller and Treasurer of SJCOG and to hire an independent auditor to perform annual audits;

WHEREAS, Sections 9 and 10 of the JPA require amendment to reflect the changes discussed herein as shown in Attachment **A**;

WHEREAS, Section 20 of the JPA requires that any amendment to the JPA be approved by a majority of the parties to the JPA representing at least 55 percent of the population of San Joaquin County.

NOW, THEREFORE, BE IT RESOLVED as follows:

1. SJCOG hereby designates the Chief Financial Officer as the Auditor-Controller and Treasurer of SJCOG.
  
2. SJCOG hereby approves the amendment to Sections 9 and 10 of the JPA **as** shown in Attachment A, effective upon approval by the parties to the **JPA** who represent both a

majority of the parties to the JPA and at least 55 percent of the population of San Joaquin County, based upon the latest population estimates of the California Department of Finance.

PASSED, APPROVED *AND* ADOPTED this 24th day of June, 2010 at a regular meeting of the San Joaquin Council of Governments by the following vote:

AYES: Councilman DeBrum, City of Manteca; Councilman Fritchman, City of Stockton; Councilman Haskin, City of Escalon; Mayor Johnston, City of Stockton; Vice Mayor Miller, City of Stockton; Mayor Sayles City of Lathrop; Supervisor Vogel, San Joaquin County; Mayor Winn, City of Ripon.

NOES: None.

ABSENT: Supervisor Bestolarides, San Joaquin County; Councilman Hansen, City of Lodi; Mayor Ives, City of Tracy; Supervisor Ornellas, San Joaquin County.

  
ANN JOHNSTON  
Vice Chair

## STAFF REPORT

**SUBJECT:** Amendment to San Joaquin Council of Governments Joint Powers Agreement Substituting the San Joaquin County Auditor-Controller and Treasurer with the San Joaquin Council of Governments' Chief Financial Officer in Those Capacities

**RECOMMENDED ACTION:** By Motion, the Board Adopts R- 10-41 Adopting Amendment

### BACKGROUND:

In May, SJCOG staff presented to the Board the rationale for substituting the San Joaquin County Auditor-Controller and Treasurer with the San Joaquin Council of Governments' Chief Financial Officer in those capacities. In *summary*, all parties agree this change is in the best interests of both San Joaquin County officers and SJCOG.

SJCOG staff, working with general counsel from Neumiller & Beardslee determined:

- With the exception of Transportation Development Act funds, the County is not required to be SJCOG's Treasurer/Auditor/Controller. SJCOG is responsible for administering TDA funds, but the Auditor-Controller and Treasurer have statutory responsibilities for accounting and depositing those funds.
- Pursuant to Joint Powers Authority law, there are three options available to SJCOG:
  1. Maintain the status quo
  2. Designate a certified public accountant to serve as Treasurer and San Joaquin County as Auditor-Controller
  3. Designate an employee or officer of SJCOG to serve as Auditor-Controller and Treasurer and hire an independent auditor to perform annual audits.

Options 1 and 2 do not resolve the issue. Option 1 is the status quo and Option 2 continues the relationship with the County Auditor-Controller.

Option 3 addresses the issue and is achievable. The SJCOG Deputy Executive Director is also the Chief Financial Officer and currently performs the internal role of Auditor-Controller. Additionally, he acts as Treasurer for all non-TDA funds receiving funds and directing expenditure and investments of funds. An independent auditor is retained annually to perform audits not only on SJCOG financial statements but TDA compliance.

The analysis by Neumiller & Beardslee is attached.

After presenting this proposal to both the Management and Finance Committee and the Executive Committee, receiving support from both committees, staff requested the Board direct staff to bring forward an amendment to the Joint Powers Agreement facilitating this change.

Attachment A shows the changes to sections 9 and 10 of the Joint Powers Agreement substituting the SJCOG Chief Financial Officer for the County Treasurer and Auditor-Controller. This amendment will also provide for the movement of funds from the County Treasury to a financial institution approved by the Board.

Following adoption by the Board, the amendment must be approved by a majority of the parties to the JPA representing at least 55% of the population of San Joaquin County.

## **FISCAL IMPACT**

SJCOG currently reimburses the county through the county's cost allocation plan. As noted in amendment sections 9.3 and 10.5, this reimburse would cease thus saving SJCOG approximately \$5,000 annually. No additional staff will be required. The statutorily required independent audit is already undertaken annually therefore there will be no additional costs associated with that requirement.

## **RECOMMENDATION**

That the Board adopt Resolution 10-41 adopting an amendment to the SJCOG Joint Powers Agreement making changes to sections 9 and 10 as identified in Attachment A.

*Prepared by: Steve Dial, Deputy Executive Director/Chief Financial Officer  
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RESOLUTION NO. 2010-147

A RESOLUTION OF THE LODI CITY COUNCIL  
APPROVING AMENDMENTS TO THE SAN JOAQUIN  
COUNCIL OF GOVERNMENTS JOINT POWERS  
AGREEMENT

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WHEREAS, at its regularly scheduled meeting of June 24, 2010, the San Joaquin Council of Governments (SJCOG) Board of directors adopted resolution #10-041; and

WHEREAS, SJCOG resolution #10-041 replaces the San Joaquin County Auditor-Controller and Treasurer with the SJCOG Chief Financial Officer where allowed; and

WHEREAS, pursuant to the SJCOG Joint Powers Agreement, the agreement may be amended only after parties to the agreement representing both a majority of the parties and at least 55 percent of the population of San Joaquin County approve such amendment.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Lodi does hereby approve the amendments to the SJCOG Joint Powers Agreement as stated in SJCOG resolution #10-041.

Dated: August 18, 2010

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I hereby certify that Resolution No. 2010-147 as passed and adopted by the City Council of the City of Lodi in a regular meeting held August 18, 2010, by the following votes:

AYES: COUNCIL MEMBERS – Hansen, Hitchcock, Mounce, and Mayor Katzakian

NOES: COUNCIL MEMBERS – None

ABSENT: COUNCIL MEMBERS – Johnson

ABSTAIN: COUNCIL MEMBERS – None



RANDI JOHL  
City Clerk