

COASTAL CONSERVANCY

Staff Recommendation
November 30, 2017

**JOINT POWERS AGREEMENT WITH SAN FRANCISCO BAY RESTORATION
AUTHORITY AND ASSOCIATION OF BAY AREA GOVERNMENTS**

Project Manager: Matt Gerhart

RECOMMENDED ACTION: Authorization to amend the existing joint powers agreement between the State Coastal Conservancy, San Francisco Bay Restoration Authority and Association of Bay Area Governments.

PROGRAM CATEGORY: San Francisco Bay Area Conservancy Program

EXHIBITS

- Exhibit 1: [Amended and Restated Joint Powers Agreement, November 3, 2017](#)
Exhibit 2: [September 29, 2016 Staff Recommendation to Enter into Joint Powers Agreement](#)
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RESOLUTION AND FINDINGS:

Staff recommends that the State Coastal Conservancy adopt the following resolution pursuant to Sections 31160 - 31165 of the Public Resources Code:

“The State Coastal Conservancy hereby authorizes entry into the *Restated and Amended Joint Powers Agreement of the San Francisco Bay Restoration Authority, State Coastal Conservancy and the Association of Bay Area Governments* as shown, or substantially similar to that shown, in Exhibit 1 to the accompanying staff recommendation.”

Staff further recommends that the Conservancy adopt the following findings:

“Based on the accompanying staff report and attached exhibits, the State Coastal Conservancy hereby finds that:

1. The proposed authorization is consistent with Chapter 4.5 of Division 21 of the Public Resources Code, regarding San Francisco Bay Area Conservancy Program.”
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PROJECT SUMMARY:

Staff recommends that the Conservancy authorize amendments to its joint powers agreement with the San Francisco Bay Restoration Authority (“Authority”) and the Association of Bay Area Governments (“ABAG”), which was executed on October 24th, 2016 (“JPA”). The Conservancy authorized the JPA at its September 29, 2016 meeting, after voters in the nine-county San Francisco Bay Area (Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano, and Sonoma Counties) passed Measure AA, the San Francisco Bay Clean Water, Pollution Prevention and Habitat Restoration Program, by over 70%. Measure AA was placed on the June 6, 2016 ballot by the San Francisco Bay Restoration Authority (“Authority”) and will generate approximately \$25 million per year for 20 years to protect San Francisco Bay for future generations by reducing trash, pollution and harmful toxins, improving water quality, restoring habitat for fish, birds and wildlife, protecting communities from floods, and increasing shoreline public access.

Under the JPA, the Authority is administered collaboratively by Conservancy and ABAG staff. Administrative tasks include running Authority Governing Board meetings, supporting the Authority’s Advisory Committee and Independent Citizens Oversight Committee, development of policies and procedures for the Authority, preparation and distribution of requests for grant proposals, development of selection criteria, review of grant applications, preparation of grant agreements and oversight of grantees, and legal support for the Authority.

Since execution of the JPA, the staff structure of ABAG has undergone significant changes. On May 30, 2017, ABAG and the Metropolitan Transportation Commission (“MTC”), the region’s transportation planning agency, entered into a Contract for Services (“CS”) under which MTC assumed staff functions for ABAG. As of July 1, 2017, ABAG employees transitioned to MTC employees, and pursuant to the CS, MTC is fulfilling the staff obligations assigned to ABAG as set forth in the JPA.

As a result of this shift, ABAG has requested certain amendments to the JPA, as shown in Exhibit 1, to clarify this particular staffing arrangement and better define certain roles and responsibilities. In particular, the amendments:

- Indicate that ABAG's obligations under the JPA will be fulfilled by MTC staff pursuant to the Contract for Services ("CS") between ABAG and MTC.
- Clarify that MTC staff will be directed by the MTC Executive Director, in consultation with the Authority’s Executive Officer, to avoid any confusion regarding the status of MTC employees.
- Describe the treasurer role in more detail to clarify that MTC staff will handle revenue and disbursement but will not be responsible for other programmatic approvals necessary for implementation of grant processing and payment, which are the Conservancy’s responsibility, and to confirm that MTC is not fiscally responsible for aspects of the program that are within the Conservancy’s control.

- Add MTC as a party to be indemnified by the Authority and eliminate the provision for ABAG and the Conservancy to indemnify the Authority until it has secured applicable insurance because, pursuant to the CS, MTC has already procured the necessary insurance for the Authority.

The Authority approved the amendments on November 3, 2017, and ABAG approved them on November 16, 2017. Staff has concluded that the amendments are consistent with staff's understanding of ABAG's role under the JPA and that staff can continue to work collaboratively with MTC staff to carry out the Authority's program. Accordingly, staff recommends that the Conservancy also approve the amendments. Procedurally, the amendments are proposed to be adopted by entry into a restated and amended JPA.

COMPLIANCE WITH CEQA:

The proposed authorization for the Conservancy to amend the JPA is an administrative activity of government that will not result in direct or indirect physical changes in the environment. Such activities do not constitute a "project" as defined in the California Environmental Quality Act (CEQA) at Public Resources Code § 21065 and in the CEQA Guidelines at 14 Cal. Code of Regs. § 15378(b)(5). Therefore, the proposed authorization is not subject to CEQA.