

COASTAL CONSERVANCY

Staff Recommendation

June 6, 2024

SAN FRANCISCO BAY RESTORATION REGULATORY INTEGRATION TEAM

Project No. 18-019-01

Project Manager: Mark Kalnins

RECOMMENDED ACTION: Authorization to disburse up to \$3,400,000 of grant funds from the U.S. Environmental Protection Agency and up to \$1,000,000 of grant funds from the National Oceanic and Atmospheric Administration for operation of the Bay Restoration Regulatory Integration Team for a second five-year period. The funds may be disbursed to the U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, National Marine Fisheries Service, California Department of Fish and Wildlife, San Francisco Bay Conservation and Development Commission, and San Francisco Bay Regional Water Quality Control Board.

LOCATION: All nine San Francisco Bay Area counties

EXHIBITS

Exhibit 1: [Coastal Conservancy Staff Recommendation of September 6, 2018](#)

Exhibit 2: [San Francisco Bay Restoration Authority Staff Recommendation of May 3, 2024](#)

RESOLUTION AND FINDINGS

Staff recommends that the State Coastal Conservancy adopt the following resolution and findings.

Resolution:

The State Coastal Conservancy hereby authorizes disbursement of up to three million four hundred thousand dollars (\$3,400,000) of grant funds from the U.S. Environmental Protection Agency and up to one million dollars (\$1,000,000) of grant funds from the National Oceanic and Atmospheric Administration for operation of the Bay Restoration Regulatory Integration Team (“BRRIT”) for a second period of five years. The funds may be disbursed to one or more of the U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, National Marine Fisheries Service, California Department of Fish and Wildlife, San Francisco Bay Conservation and Development Commission, and San Francisco Bay Regional Water Quality Control Board. The authorization is

subject to the same conditions as set forth in the Conservancy's authorization of September 6, 2018.

Prior to commencement of the second five-year period of the BRRIT, each agency receiving funds shall submit for the review and written approval of the Executive Officer of the Conservancy (Executive Officer) the following:

1. A detailed work program, schedule, and budget.
2. Names and qualifications of any contractors to be retained in carrying out the project.

Findings:

Based on the accompanying staff recommendation 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 the San Francisco Bay Area Conservancy Program.
2. The proposed project is consistent with the current Conservancy Project Selection Criteria.

STAFF RECOMMENDATION

PROJECT SUMMARY:

Staff recommends the Conservancy authorize disbursement of up to \$3,400,000 of grant funds from the U.S. Environmental Protection Agency and up to \$1,000,000 of grant funds from the National Oceanic and Atmospheric Administration to one or more of the U.S. Army Corps of Engineers (USACE), U.S. Fish and Wildlife Service (USFWS), National Marine Fisheries Service (NMFS), California Department of Fish and Wildlife (CDFW), San Francisco Bay Conservation and Development Commission (BCDC), and San Francisco Bay Regional Water Quality Control Board (RWQCB) (collectively the "agencies") for operation of the Bay Restoration Regulatory Integration Team (BRRIT, the project). The authorization will enable the agencies to operate the BRRIT through September 2029, for a total of five additional years. The Conservancy authorized funding for the first five years of the BRRIT on September 6, 2018 (Exhibit 1). As a condition of funding, the Conservancy required the BRRIT agencies to submit annual progress reports and to participate in the BRRIT's Policy and Management Committee.

The BRRIT consists of an interagency team of dedicated staff working together to coordinate agency processing of permit applications to make the permit process more efficient. The objective of the BRRIT is to accelerate the pace of wetland restoration in the Bay by improving the permitting process for multi-benefit wetland restoration projects and associated flood management and public access projects in San Francisco Bay.

On September 6, 2018, the Conservancy authorized disbursement of \$1,250,000 to the agencies to operate the BRRIT (Exhibit 1). The Conservancy's authorization complemented an authorization by the San Francisco Bay Restoration Authority (Authority) on June 1, 2018 to disburse \$1,250,000 annually to the agencies for the BRRIT over five years. The Conservancy entered into agreements for operation of the BRRIT with CDFW, BCDC, and the RWQCB. The

Authority entered into agreements with USFWS, NMFS, and USACE. On September 9, 2022, the Conservancy authorized an additional \$559,000 in funding for BCDC's participation in the BRRIT as part of Conservancy funding for the Bay Conservation and Development Commission Joint Platform Implementation. On December 1, 2022, the Conservancy authorized augmentation of its funding for the RWQCB by \$482,423 using funds provided to the Conservancy by the Authority (this augmentation did not change the total amount authorized for the BRRIT).

The recommended authorization is to support the continued work of the BRRIT, which, without additional funding, will cease by late 2024/early 2025, when the Authority's and Conservancy's previously authorized funding (and incoming grant funding from Santa Clara Valley Water District, Bay Area Toll Authority, and East Bay Regional Park District) will be completely spent.

Over the last five years, the BRRIT has continued to make progress on the goals outlined in the September 6, 2018 staff recommendation (Exhibit 1). The BRRIT has consistently met their agency-specific timelines for issuing permits and consultations (100% for all agencies) and issued all permits in time to meet project proponents' construction schedules. The BRRIT has fully permitted nine projects, consisting of a total of 63 permits or authorizations issued to date. Six of these projects have completed construction.

The BRRIT is also promoting and using newly developed programmatic permits to improve the efficiency and timeliness of the permitting process for projects on the BRRIT Project Priority List. The programmatic permits that are currently being utilized include the following:

- USFWS's Programmatic Biological and Conference Opinion on the California Statewide Restoration Effort;
- State Water Resources Control Board's Statewide Restoration General Order and Water Quality Certification for Small Habitat Projects;
- CDFW's Restoration Management Permit and the Statutory Exemption for Restoration Projects for streamlining the California Environmental Quality Act (CEQA); and
- Expedited Letter of Concurrence for NMFS Section 7 informal consultations.

To date, the BRRIT has issued a total of 12 programmatic permits/authorizations, with 33 more authorizations eligible for issuance currently under review by the BRRIT. The BRRIT is also focused on improving guidance to project proponents to avoid perceived conflicts between agencies' policies and regulations, improving the process for soliciting feedback from project proponents about how the BRRIT can best serve the restoration community, and incorporating feasible suggestions from project proponents into the permitting process. This authorization will allow the BRRIT to continue to improve the permitting process for applicants and agencies for at least five more years.

CONSISTENCY WITH CONSERVANCY'S PROJECT SELECTION CRITERIA:

The proposed project is consistent with the Conservancy's Project Selection Criteria, last updated on September 23, 2021, in the following respects:

Selection Criteria

1. Extent to which the project helps the Conservancy accomplish the objectives in the Strategic Plan.

See the “Consistency with Conservancy’s Strategic Plan” section below.

2. Project is a good investment of state resources.

The BRRIT is a good investment of state resources because it is improving the regulatory process for multi-benefit habitat restoration projects along the shoreline of the San Francisco Bay. With the BRRIT’s early consultation process and utilization of programmatic permits, the BRRIT is helping get better restoration projects in the ground, sooner, which saves money due to increasing construction costs and provides earlier projects benefits for wildlife and people.

3. Project benefits will be sustainable or resilient over the project lifespan.

Many of the projects on the BRRIT’s Project Priority List include critical sea level rise resilience components such as horizontal levees and living shorelines. Given the current impacts and future risks of sea level rise, implementing adaptation projects, such as the ones the BRRIT is permitting, faster and at a greater scale is critically needed in San Francisco Bay.

4. Project delivers multiple benefits and significant positive impact.

All the projects on the BRRIT’s Project Priority List are multi-benefit projects that have significant impact. While all the projects focus on shoreline habitat restoration, they also have other benefits such as public access, flood protection, and sea level rise adaptation.

PROJECT FINANCING

First Five-Year Period

Coastal Conservancy (2018 & September 2022 authorization)	\$1,808,919
San Francisco Bay Restoration Authority (2018 authorization)	\$5,363,704
Total Cost for First Five-Year Period	\$7,172,623

Second Five-Year Period (this authorization)

Coastal Conservancy	\$0
U.S. EPA (<i>via</i> a grant to the Conservancy)	\$3,400,000
NOAA (<i>via</i> a grant to the Conservancy)	\$1,000,000
San Francisco Bay Restoration Authority	\$2,500,000
Other potential grants (<i>via</i> grants to the Authority)	\$2,000,000
Total Cost for the Second Five-Year Period	\$8,900,000

Project Total for Ten Years

\$16,072,623

The Conservancy, working in partnership with the San Francisco Bay Restoration Authority, secured \$7,172,623 for the first five years of BRRIT operations (2019-2024). This included Conservancy and Authority funds, as well as funds that were granted to the Authority from East Bay Regional Park District, Santa Clara Valley Water District, and the Bay Area Toll Authority. Funding is being provided to the BRRIT agencies through agreements with the Conservancy and the Authority.

The Conservancy and Authority staff have been working to raise \$8,900,000 for the second five-year period (2025-2029). This amount will fully fund the six regulatory and resource agency employees that staff the BRRIT, including anticipated salary increases over the next five years, as well as hiring a consultant to improve tracking of project permitting progress. Conservancy staff have applied for grants from the U.S. Environmental Protection Agency and the National Oceanic and Atmospheric Administration and will be notified of the potential awards by early June 2024. In addition, on May 3, 2024, the Authority authorized \$2,500,000 of Authority funds for the BRRIT and authorized its staff to accept and disburse an additional \$2,000,000 from external sources if such additional funds are granted to the Authority (Exhibit 2). If one or both of the grants to the Conservancy are not awarded, staff will not proceed with this project and will instead continue to seek funds from other sources and seek board authorization to disburse such funds. If all the funding except the grants to the Authority is secured, the project can be commenced while staff continue to seek funds from additional sources for disbursement by the Authority.

In addition to the monetary contributions above, the six state and federal regulatory and resource agencies will provide in-kind services to staff the Bay Restoration Policy and Management Committee, as well as office space.

Unless specifically identified as “Required Match,” the other sources of funding and in-kind contributions described above are estimates. The Conservancy does not typically require matching funds or in-kind services, nor does it require documentation of expenditures from other funders or of in-kind services. Typical grant conditions require grantees to provide any funds needed to complete a project.

CONSISTENCY WITH CONSERVANCY’S ENABLING LEGISLATION:

The proposed project will be undertaken pursuant to Chapter 4.5 of the Conservancy’s enabling legislation, Public Resource Code (PRC) Sections 31160-31165, which provides that the Conservancy may award grants in the nine-county San Francisco Bay Area to help achieve the goals of the San Francisco Bay Area Conservancy Program.

Pursuant to PRC Section 31162(b), the Conservancy may undertake projects and award grants to help achieve the restoration and enhancement of natural habitats. The purpose of the BRRIT

is to accelerate the permitting and implementation of multi-benefit wetland restoration projects in and around San Francisco Bay.

Pursuant to PRC Section 31163(b), the Conservancy is authorized to support interagency actions in the San Francisco Bay Area for the purpose of achieving the goals of the San Francisco Bay Area Conservancy Program. This project involves interagency coordination to improve the regulatory process for multi-benefit wetland restoration projects and thereby accelerate the pace of such projects.

This project is appropriate for prioritization under the selection criteria set forth in Section 31163(c) in that: (1) it is supported by adopted local or regional plans such as The San Francisco Estuary Project's 2022 Estuary Blueprint, which calls for sustaining and improving the Estuary's habitats and bolstering the resilience of Estuary ecosystems, shorelines, and communities to climate change; (2) the BRRIT will benefit projects throughout the entire nine-county Bay Area; (3) the BRRIT has been fully funded since early 2019 and is anticipated to be fully funded for an additional five years; and (4) the BRRIT will provide an opportunity to accelerate restoration and provide ecosystem and shoreline resilience benefits that could be lost if not quickly implemented, due to sea level rise.

CONSISTENCY WITH CONSERVANCY'S [2023-2027 STRATEGIC PLAN](#):

Consistent with **Goal 3.2, Restore and Enhance Habitats**, and **Goal 3.4, Cut Green Tape**, the BRRIT will aid in the completion of plans for enhancement of tidal wetlands, managed wetlands, seasonal wetlands, upland habitat, and subtidal habitat in and along the shoreline of San Francisco Bay, and furthers Conservancy goals and objectives for accelerating permitting and environmental review for habitat restoration, nature-based adaptation, and public access projects, including the development and use of tools such as programmatic permits.

Consistent with **Goal 4.1, Sea Level Rise Adaptation Projects**, and **Goal 4.3, Multi-benefit Nature-Based Climate Adaptation**, the BRRIT will accelerate the development of adaptation projects to address sea level rise in San Francisco Bay that incorporate nature-based, multi-benefit measures.

CONSISTENCY WITH LOCAL WATERSHED MANAGEMENT PLAN/STATE WATER QUALITY CONTROL PLAN:

The BRRIT will be focused on reviewing permit applications for multi-benefit wetland restoration projects in San Francisco, and San Francisco Bay Conservation and Development Commission staff will evaluate each project's consistency with the San Francisco Bay Plan (Reprinted March 2012). See "Consistency with San Francisco Bay Plan" in Exhibit 1.

CEQA COMPLIANCE:

The California Environmental Quality Act (CEQA) requires that public entities conduct environmental review prior to approving or funding a project. The CEQA Guidelines at 14 Cal.

Code Regs. § 15378(b)(5) provide that the term “project” excludes organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment. The BRRIT will involve only permit review and consultation activities, which are administrative activities of governments that do not directly affect the environment. Therefore, the proposed coordinated permitting approach, entailing operation of the BRRIT and PMC, is not a “project” within the meaning of CEQA and funding the BRRIT does not trigger the requirement for environmental review under CEQA.

The projects described in the applications processed by the BRRIT will undergo review under CEQA before they are funded or approved.