

COASTAL CONSERVANCY

Staff Recommendation
May 27, 2021

SOUTH SAN FRANCISCO BAY SHORELINE PROJECT

Project No. 02-070-06
Project Manager: Brenda Buxton

RECOMMENDED ACTION: Authorization to amend an existing Project Partnership Agreement with the U.S. Army Corps of Engineers and the Santa Clara Valley Water District for construction of the Shoreline Project in the City of San José, Santa Clara County.

LOCATION: Community of Alviso, City of San José, Santa Clara County (Exhibit 1)

EXHIBITS

- Exhibit 1: [Project Location Map](#)
Exhibit 2: [March 22, 2018 Staff Recommendation](#)
Exhibit 3: [Shoreline Project Phases Map](#)
Exhibit 4: [Letter from Santa Clara Valley Water District](#)
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RESOLUTION AND FINDINGS

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

Resolution:

The State Coastal Conservancy hereby authorizes the execution of an amendment to a Project Partnership Agreement, previously authorized on March 22, 2018 (Exhibit 2), with the U.S. Army Corps of Engineers and the Santa Clara Valley Water District for construction of the South San Francisco Bay Shoreline 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 Conservancy's mandate to address the resources and recreational goals of San Francisco Bay Area.

2. The proposed project is consistent with the current Conservancy Project Selection Criteria and Guidelines.

STAFF RECOMMENDATION

PROJECT SUMMARY:

Authorization of an amendment to the Project Partnership Agreement (PPA) would allow the first phase of construction of the South San Francisco Bay Shoreline Project (Shoreline Project) to commence. The Shoreline Project is an effort by the Santa Clara Valley Water District (Valley Water), the U.S. Army Corps of Engineers (Corps) and the Conservancy to provide flood protection, restore 2,900 acres of former salt evaporation ponds, and improve public access in the Alviso community in the City of San José in South San Francisco Bay. The March 22, 2018 staff recommendation (attached as Exhibit 2) describes in more detail the proposed actions of the Shoreline Project.

Due to the scale of the project, implementation is planned to be completed in phases. The first phase of construction, consisting of the construction of the flood risk management levee along Reaches 1-3 (which runs along the eastern or southern borders of Ponds A12, A13, and A16, (Exhibit 3)), went out to bid in November 2019. However, the Corps had to cancel this procurement in February 2020 due to bids coming in significantly higher than estimated and exceeding the allowed variation.

The Corps, Valley Water, and Conservancy staff subsequently took substantial efforts to identify cost drivers and implement potential cost savings. In particular, the Corps obtained revised environmental screening criteria for fill and increased flexibility with truck hauling hours. The most significant cost driver is the substantial cost for levee fill material and the cost estimates for construction have been increased to reflect this. During planning, fill material was assumed to be available at a relatively low cost. However, most of the locally available fill material has turned out to not meet the geotechnical or environmental specifications for use in a levee or has not been available during the periods needed by the project. As a result, the estimated project costs now include purchasing suitable fill material. The Corps solicited new bids in January 2021 for Reaches 1-3.

The 2015 Shoreline Study approved by the Corps' Civil Works Review Board estimated the total project cost to be \$174 million with the Non-Federal Sponsors' share projected to be \$104.4 million. When the PPA was signed in February 2019, the estimate had been revised to \$194 million, with the Non-Federal share at remaining at \$104 million plus \$16 million of in-kind labor, design services, and real estate value. However, after canceling the February 2020 procurement, the Corps performed a thorough review of the project costs and estimated an

increased project budget of \$545 million¹ with the total Non-Federal share of construction costs increasing to \$265 million².

In 2018 the Corps was allocated \$177 million from the Bipartisan Budget Act (BBA) to cover the federal cost share, but the allocation was later reduced to \$124.3 million. The revised federal cost share of the project's projected construction costs, \$215.4 million, now exceeds the federal BBA funds. The Corps asserts that the BBA has further restrictions that prevent BBA funds from being supplemented with additional federal appropriations which means, without legislative changes, this is all the federal funding available for construction. With a short fall of \$91.2 million, the Corps cannot commence the project.

In order to implement the project and award a contract from the bids solicited in January 2021, the Corps will require a PPA amendment that allows the Non-Federal sponsor to contribute additional funds making up this \$91.2 million currently estimated shortfall ("the contributed funds"). This would be in addition to the increased projected Non-Federal cost share of \$265 million.

Despite these significant cost increases, staff recommends amending the PPA for this high priority project for several reasons. First, Valley Water has agreed to cover the additional \$91.2 million in required contributed funds (see Exhibit 4). Second, a significant driver of higher Non-Federal sponsor costs is the cost of ecotone construction. (Ecotone is an upland transition zone between the future tidal marsh and the flood protection levee that will provide refugia for marsh species during high tides and storms. The Non-Federal sponsors are responsible for 100% of the costs for constructing ecotone.) The Corps assumed that the same requirement to purchase fill material for levee construction would apply to the ecotone material even though the ecotone is a habitat feature, not a flood protection structure, and not subject to the same geotechnical specifications. As a result, the most recent estimate assumes the Non-Federal sponsors would have to spend \$85 million to construct ecotone, largely due to increased fill costs. The Conservancy is currently working on an ecotone design that will primarily use on-site material which will significantly reduce this cost. Third, another reason projected costs have increased is that Corps methodology for estimating project management (what the Corps will charge to manage the project, i.e., USACE staff costs) is based on a percentage of construction costs. Even if the increased construction cost estimates are accurate, it does not seem likely that construction management would actually cost the estimated \$40 million.

Furthermore, it is important to consider the timing of when the contributed funds would be needed. The first construction phase (the levee along Reaches 1-3, the railroad flood gate, and the pedestrian bridge over the railroad) is expected to cost a total of \$187.66 million with the Non-Federal share being \$85.96 million and the Federal share being \$101.7 million. Both Valley

¹ In addition to construction, this amount includes a maximum estimate for real estate acquisitions (\$43.8 M), project design funds spent prior to signing PPA (\$5.3M), and expected future Corps budget appropriations (in addition to BBA funds) and non-federal sponsor contributions that will fund additional years of pond breaches and monitoring and adaptive management (\$26.3 M).

² This is the cash estimate which does not include real estate provided by the Non-Federal sponsors.

Water and the Corps have sufficient funding available to complete this first phase without requiring the Non-Federal sponsors to provide the \$91.2 million of contributed funds. This means that the Non-Federal sponsors have many years to evaluate the remaining project reaches and elements to realize significant cost savings, raise additional funds, or consider federal legislative changes to address the Corps contribution.

Finally, one of the most significant reasons to sign the PPA amendment and move forward with construction of Reaches 1-3 is that the levee will provide significant coastal flood risk management to the community of Alviso, an underserved community that has flooded multiple times. Construction of flood protection for Alviso has been deferred many times, most recently when the bid solicitation in 2020 was cancelled. Further delays in the provision of flood protection mean the community remains at risk, costs will continue to escalate, and the restoration of the salt ponds on the bayside of the new levee cannot occur (which is also time sensitive due to the scientific recommendation to restore as much tidal marsh in San Francisco Bay by 2030 to allow marshes to vegetate and keep pace with sea level rise).

Considering the cost growth, the Shoreline team has paused design of the remaining project elements outside of Reaches 1-3: a flood protection levee along Reaches 4-5 (Pond A18), the Artesian Slough closure structure, pedestrian bridge over Artesian Slough, PG&E utility improvements, breaching of Pond A18 and a Bay Trail connection. As a result, real estate coordination and procurement of Pond A18 (owned by the City of San José's Regional Wastewater Facility (RWF)) is on hold. The Shoreline Project team will seek ways to reduce costs in the remaining project areas while continuing to coordinate with RWF regarding integration of the Shoreline Project with the RWF's capital projects and operations.

CONSISTENCY WITH CONSERVANCY'S PROJECT SELECTION CRITERIA & GUIDELINES, CONSERVANCY'S ENABLING LEGISLATION, STRATEGIC PLAN, SAN FRANCISCO BAY PLAN, AND COMPLIANCE WITH CEQA:

The proposed amendment of the PPA for the Shoreline project remains consistent with the Conservancy's Project Selection Criteria and Guidelines, Enabling Legislation, Strategic Plan, San Francisco Bay Plan, and CEQA as described in the attached March 22, 2018 staff recommendation (Exhibit 2).