

Date: December 29, 2013

To: Executive Board

From: Ezra Rapport

Re: San Francisco Bay Restoration Authority Potential Ballot Measure and supporting Joint Powers Agreement

Summary and Recommended Action: The San Francisco Bay Restoration Authority (Authority) is considering placing a parcel tax on the November 2014 ballot. The Authority will use this regional revenue –estimated to be \$15 million per year-- to leverage Federal and State efforts to restore wetlands in San Francisco Bay with significant co-benefits for the region. The Authority will return to the Executive Board by May/July 2014 with a formal proposal and a request for ABAG’s support. In the interim, staff recommends that the Executive Board (a) authorize the Executive Director, or his designee, to negotiate and enter into a joint powers agreement with the State Coastal Conservancy (Conservancy) and the Authority in early 2014, so that ABAG and the Conservancy can collaboratively provide staff support to the Authority on a cost reimbursement basis upon passage of the revenue measure and (b) consents to ABAG’s Legal Counsel dual representation of ABAG and SFBRA in the drafting of the joint powers agreement.

Background and Discussion: The Authority was created in 2008 by AB 2954 (Lieber) as a regional entity “to raise and allocate resources for the restoration, enhancement, protection, and enjoyment of wetlands and wildlife habitats in the San Francisco Bay and along its shoreline.” The intent is to “complement existing efforts by cities, counties, districts, the San Francisco Bay Conservation and Development Commission, the State Coastal Conservancy, and other local, regional, and state entities.”

ABAG supported AB 2954 and subsequent legislation (this year’s SB 297) that eased the Authority measure’s access to the ballot. Under its enabling statute, the Authority has the power to levy a benefit assessment or special tax across the nine counties in the region and use the proceeds to fund projects that:

- (1) Restore, protect, or enhance tidal wetlands, managed ponds, or natural habitats on the shoreline in the San Francisco Bay area, excluding the Delta primary zone.
- (2) Build or enhance shoreline levees or other flood management features that are part of a project to restore, enhance, or protect tidal wetlands, managed ponds, or natural habitats identified in paragraph (1).
- (3) Provide or improve public access or recreational amenities that are part of a project to restore, enhance, or protect tidal wetlands, managed ponds, or natural habitats identified in paragraph (1).

In addition to creating hundreds of jobs and restoring fish and wildlife habitat, this work will help keep toxic pollutants out of the Bay, improve water quality in the Bay, help protect existing shoreline property from flooding, and expand public access to the shoreline. The decision to place a tax measure on the ballot rests with Authority's seven-member Governing Board, which is appointed by ABAG.¹ Should a ballot measure be successful, disbursement of funds to support Bay projects will be made by the Governing Board with input from an Advisory Committee, appointed by the Governing Board, made up of private citizens, local stakeholders and experts on Bay issues. (See Attachment 1).

The Authority receives no funding from the State and does not have access to any other resources or staff. Since 2008, ABAG and the Conservancy have voluntarily provided staff support to the Authority. Grants to the Authority from nonprofit foundations have funded two polls, the most recent of which indicates public support in the region for a parcel tax to fund wetland restoration projects within the Authority's purview. The Governing Board is considering placing a parcel tax of approximately \$10 on the November 2014 ballot which is estimated to generate approximately \$15 million per year. The current intention is to include all 9 counties in the measure with a 10-15 year sunset provision, and an advisory committee.

The San Francisco Bay area is well-positioned to maximize the benefits of a regional special tax. Over the last century, city building, agriculture, and other land use changes have hugely impacted the Bay with landfill and toxic pollution. Removing pollution, restoring wildlife habitat, enhancing creek outlets and wetlands, preserving clean water, protecting shoreline communities, and increasing trails and public access to the Bay shore will not only help protect the Bay's wildlife but also our existing shoreline communities and infrastructure, from the impacts of storms, high tides, and sea level rise.

Significant restoration projects are already in process across the region, with many requiring additional funding for completion, management, and monitoring. These projects include the South Bay Salt Ponds (15,100 acres) in San Mateo, Santa Clara, and Alameda Counties; the Napa-Sonoma Marsh (10,000 acres) and the Napa Plant Site (1,460 acres) in Napa County; Bahia (418 acres) and Hamilton Field/Bel Marin Keys in Marin County (2,434 acres); Montezuma Wetlands and Cullinan Ranch (1,564 acres) in Solano County (1,876 acres); Sears Point (970 acres) in Sonoma County, and Dutch Slough in Contra Costa County (1,166 acres) as well as several smaller, important urban wetland efforts, such as Yosemite Slough and Crissy Field in San Francisco, MLK Shoreline, Lake Merritt, and McLaughlin Eastshore State

¹ The current members of the Governing Board and the seats they occupy are:

- East Bay City/County – Supervisor John Gioia,
- North Bay City/County – Supervisor Keith Caldwell, [continued on next page]
- South Bay City/County – Councilmember Rosanne Foust,
- West Bay City/County – Supervisor Dave Pine,
- At Large City/County – Supervisor Cindy Chavez,
- Park/Open Space District – John Sutter (East Bay Regional Park District) and
- Citizen Chairperson – Sam Schuchat.

Park in Oakland, and Breuner Marsh in Richmond. There are also many restoration efforts ongoing at the mouths of creeks and rivers that flow into the Bay, and subtidal restoration projects inside the Bay, restoring oyster and eelgrass beds.

In association with these habitat restoration efforts, there are often opportunities to improve public access to the San Francisco Bay and to improve flood protection for adjacent, existing shoreline communities and infrastructure.

Recent discussions among stakeholders regarding potential expenditure priorities for a regional Authority revenue measure have led to development of a Draft Expenditure Plan. The Draft Expenditure Plan (Attachment 2) outlines the general programs these funds could support and is intended to serve as a focus for continuing discussions leading to formulation of a ballot measure and a final expenditure plan by the Authority. Referenced in the Draft Expenditure Plan is a list and map of potentially eligible projects. The current list and map (Attachment 3) will be further developed over the next two months to more fully represent the opportunities that exist to restore habitats in and around San Francisco Bay and provide associated public access and flood protection.

The Authority's Governing Board will continue its outreach efforts, including additional polling on a parcel tax measure (circa Winter/early Spring 2014). Governing Board members, Advisory Committee members, and community allies have been conducting outreach to a broad range of interests, including business, labor, local agencies, elected officials and environmental groups to explore the concept of the revenue measure and to seek advice. A presentation to ABAG's Regional Planning Committee is scheduled for February/April. The Authority expects to present a formal measure for ABAG's support in May/July.

ABAG and Conservancy staffs have been discussing a possible Joint Powers Agreement with the Authority so that ABAG and the Conservancy can collaboratively provide staff support. Under such an arrangement, ABAG and Conservancy staff would continue to provide uncompensated assistance to the Authority until the November 2014 election, and compensated assistance after the ballot measure passes. The Authority would pay the actual costs for ABAG and the Conservancy to provide staff services based on budgets prepared by ABAG and the Conservancy and approved by the Authority. This approach maximizes use of the tax revenues by leveraging the existing regional organizations' infrastructure and expertise rather than building a stand-alone staff structure for the Authority. The administrative costs associated with the parcel tax will likely be capped at 5%, as indicated in the Draft Expenditure Plan. ABAG and the Conservancy are developing a staffing proposal that reflects the need to minimize administrative costs while effectively implementing a transparent and results-oriented grant program as well as providing the necessary fiscal and budgetary management. ABAG and the Conservancy will present a proposal to the Governing Board of the Authority at its January 29th meeting. We anticipate entering into an agreement by spring 2014.

ABAG's Legal Counsel has been providing legal services to the Authority's Governing Board. He is hereby requesting that ABAG consent to his representation of both ABAG and the

Authority in the negotiation and drafting of the Joint Powers Agreement. The interests of ABAG and the Authority are not adverse with respect to the business and organizational relationship contemplated under the agreement. If they become so, he will immediately withdraw from the transaction. ABAG's consent to this dual representation is effective only upon the Authority giving its complementary consent.

ATTACHMENT 1



ADVISORY COMMITTEE

Steve Abbors
General Manager
Mid-Peninsula Regional Open Space District

Josh Arce
Executive Director
Brightline Defense Project

Dion Aroner
Partner
Aroner, Jewel & Ellis

Mitch Avalon
Founding Chair
Bay Area Flood Protection Agencies Association

John Coleman
Executive Director
Bay Planning Coalition

Grant Davis
General Manager
Sonoma County Water Agency

Chris Elias
Deputy Operating Officer for Watersheds
Santa Clara Valley Water District

Ben Field
Executive Officer
South Bay Labor Council

Pete Figueiredo
Financial Secretary
Operating Engineers Local #3

John Frawley
President and Chief Executive Officer
The Bay Institute

Larry Goldzband
Executive Director
San Francisco Bay Conservation and
Development Commission

Zeke Grader
Executive Director
Pacific Coast Federation of Fishermen's
Associations

Beth Huning
Coordinator
San Francisco Bay Joint Venture

Jerry Kent
East Bay Park and Recreation District (retired)

David Lewis
Executive Director
Save The Bay

Sally Lieber
Consultant

Andrea Mackenzie
General Manager
Santa Clara County Open Space Authority

Mike Mielke
Vice President, Environmental Programs and
Policy
Silicon Valley Leadership Group

Richard Mitchell
Director of Planning and Building
City of Richmond

Anne Morkill
Project Leader
San Francisco Bay National Wildlife Refuge
Complex

Cynthia Murray
President and CEO
North Bay Leadership Council

Douglas Overman
Executive Vice President for External Affairs
Programs
Golden Gate National Parks Conservancy

Bruce Raful
Proprietor
Raful & Associates

John Rizzo
Trustee
San Francisco City College

Sarah Rose
Chief Executive Officer
California League of Conservation Voters

Patrick Rutten
Southwest Regional Supervisor
NOAA Restoration Center

Richard Sinkoff
Director of Environmental Programs and
Planning
Port of Oakland

Bob Spencer
Economic Consultant

Renee Spenst
Regional Biologist
Western Region, Ducks Unlimited

Laura Thompson
Manager
San Francisco Bay Trail Project, Association of
Bay Area Governments

Kate White
California State Transportation Agency

Scott Wilson
Acting Manager
Bay-Delta Region, Department of Fish and
Game

Bruce Wolfe
Executive Officer
San Francisco Regional Water Quality Control
Board

Jim Wunderman
President and Chief Executive Officer
Bay Area Council

ATTACHMENT 2

DRAFT -- DRAFT -- DRAFT
November 26, 2013

Note: This draft document reflects discussions to-date among stakeholders regarding potential expenditure priorities for a regional Restoration Authority revenue measure. It is intended to serve as a focus for continuing discussions leading up to formulation of a ballot measure and expenditure plan by the Restoration Authority. Nothing in this draft document should be construed to signify language that may or may not appear on a ballot measure or supporting campaign materials.

**SAN FRANCISCO BAY SAFE, CLEAN WATER, POLLUTION PREVENTION,
HABITAT RESTORATION, FLOOD PROTECTION AND SHORELINE ACCESS
EXPENDITURE PLAN**

A. Summary

Over the last century, we have had a massive impact on the Bay with landfill and toxic pollution. It is not too late to reverse what we've done and restore the Bay for future generations. The San Francisco Bay Safe, Clean Water, Pollution Prevention, Habitat Restoration, Flood Protection and Shoreline Access parcel tax ("Measure") is estimated to generate approximately \$15,000,000 per year to support these goals.

The purpose of this measure is to help reverse the damage that has been done to the Bay by removing pollution, restoring wildlife habitat, enhancing creek outlets and wetlands, preserving clean water, protecting shoreline communities, and increasing trails and public access to San Francisco Bay. These efforts will help protect the Bay's wildlife and existing shoreline communities and infrastructure from the impacts of storms, high tides, and sea level rise.

Part B of this Expenditure Plan ("Plan") outlines four programs for cleaning up, enhancing and restoring the San Francisco Bay. Part C of the Plan contains provisions for community oversight, accountability and public involvement.

B. Program Descriptions

This Measure will fund Bay restoration across the nine-county Bay Area. The restoration work accomplished by this Measure will achieve the goals laid out in the program areas described below.

1. Safe, Clean Water and Pollution Prevention Program

The purpose of this Program is to remove pollution, trash and harmful toxins from the Bay to provide clean water for fish, birds, wildlife, and people.

- a. Improve water quality by reducing pollution and engaging in restoration activities, protecting public health and making fish and wildlife healthier.

- b. Reduce pollution levels through shoreline cleanup and trash removal from San Francisco Bay.
- c. Restore wetlands that provide natural filters and remove pollution from the Bay's water.
- d. Clean and enhance creek outlets where they flow into San Francisco Bay.

2. Vital Fish, Bird and Wildlife Habitat Program

The purpose of this Program is to significantly improve wildlife habitat that will support and increase vital populations of fish, birds, and other wildlife in and around San Francisco Bay.

- a. Enhance the San Francisco Bay National Wildlife Refuge, shoreline parks and open space preserves, and other protected lands in and around the Bay, providing expanded and improved habitat for fish, birds and mammals.
- b. Protect and restore wetlands and other Bay and shoreline habitats to benefit wildlife, including shorebirds, waterfowl and fish.
- c. Provide for stewardship, maintenance and monitoring of habitat restoration projects in and around the Bay, to ensure their ongoing benefits to wildlife and people.

3. Natural Flood Protection Program

The purpose of this Program is to use natural habitats to help protect communities along the Bay's shoreline from the risks of severe coastal flooding caused by storms and high water levels in the Bay.

- a. Provide nature-based flood protection through wetland and habitat restoration along the Bay's edge and at creek outlets that flow to the Bay.
- b. Build and improve flood protection levees that are a necessary part of wetland restoration activities, in order to protect existing shoreline communities and infrastructure.

4. Shoreline Public Access and Education Program

The purpose of this Program is to enhance the quality of life of Bay Area residents, including those with disabilities, through safer and improved

public access and educational opportunities, as part of and compatible with wildlife habitat restoration projects in and around San Francisco Bay.

- a. Construct new, repair existing and/or replace deteriorating public access trails, signs, and related facilities along the shoreline and manage these public access facilities.
- b. Provide education about the health of the Bay in order to protect natural resources and encourage community engagement.

C. Administrative Provisions

1. Funds will be administered by the San Francisco Bay Restoration Authority

The revenue raised by the Measure for the purposes described in this Plan will be administered by the San Francisco Bay Restoration Authority (“Authority”) and an interest-bearing account shall be created to hold funds. The Authority is a regional entity created by the California legislature in 2008 to “raise and allocate resources for the restoration, enhancement, protection, and enjoyment of wetlands and wildlife habitats in San Francisco Bay and along its shoreline” (Government Code Sections 66700 *et seq.*). The Authority can undertake projects along the shorelines of the nine counties touching the Bay (Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano, and Sonoma Counties), including the shorelines of San Francisco Bay, San Pablo Bay, Carquinez Strait, Suisun Bay, and most of the Northern Contra Costa County Shoreline. The Restoration Authority Governing Board is made up primarily of local elected officials from each region of the Bay Area.

2. Accountability and Public Oversight

The Authority shall make every effort to ensure accountability, transparency, and public involvement in its operations.

- a. The Authority will commission an independent annual audit of its revenue and expenditures and will also prepare an annual report on past and upcoming activities and publish an annual financial statement.
- b. The Authority has appointed a community-based Advisory Committee to provide advice on all aspects of its activities, to ensure maximum benefit, value and transparency for safe, clean water, pollution reduction, habitat restoration, flood protection and public access in

and around the Bay. Advisory Committee meetings will be announced in advance and will be open to the public. The responsibilities of this committee include:

- Advising the Restoration Authority Governing Board.
 - Making recommendations regarding expenditure priorities.
 - Reviewing Plan expenditures on an annual basis to ensure they conform to the Plan.
 - Reviewing the annual audit and report prepared by the Governing Board, describing how funds were spent.
- c. All actions, including decisions about selecting projects for funding, will be made by the Authority in public meetings with proper advance notice and with meeting materials made available in advance to the public.

3. Additional Allocation Criteria and Community Benefits

The Authority shall ensure that the revenue generated by the Measure is spent in the most efficient and effective manner possible, consistent with serving the public interest and in accordance with existing law and this Plan.

- a. The Authority shall give priority to projects that:
- i. Have the greatest positive impact on the Bay as a whole, in terms of clean water, wildlife habitat and beneficial use to Bay Area residents.
 - ii. Provide for geographic distribution across the region.
 - iii. Increase impact value by leveraging state and federal resources as well as public/private partnerships.
 - iv. Serve economically disadvantaged communities.
 - v. Benefit the economy of the region, including local workforce development, employment opportunities for Bay Area residents, and nature-based flood protection for critical infrastructure and existing shoreline communities.
 - vi. Work with local organizations and businesses to engage youth and young adults and assist them in gaining skills related to natural resource protection.
 - vii. Meet the selection criteria of the Coastal Conservancy's San Francisco Bay Area Conservancy Program and are consistent with the San

Francisco Bay Conservation and Development Commission's coastal management program and with the San Francisco Bay Joint Venture's implementation strategy.

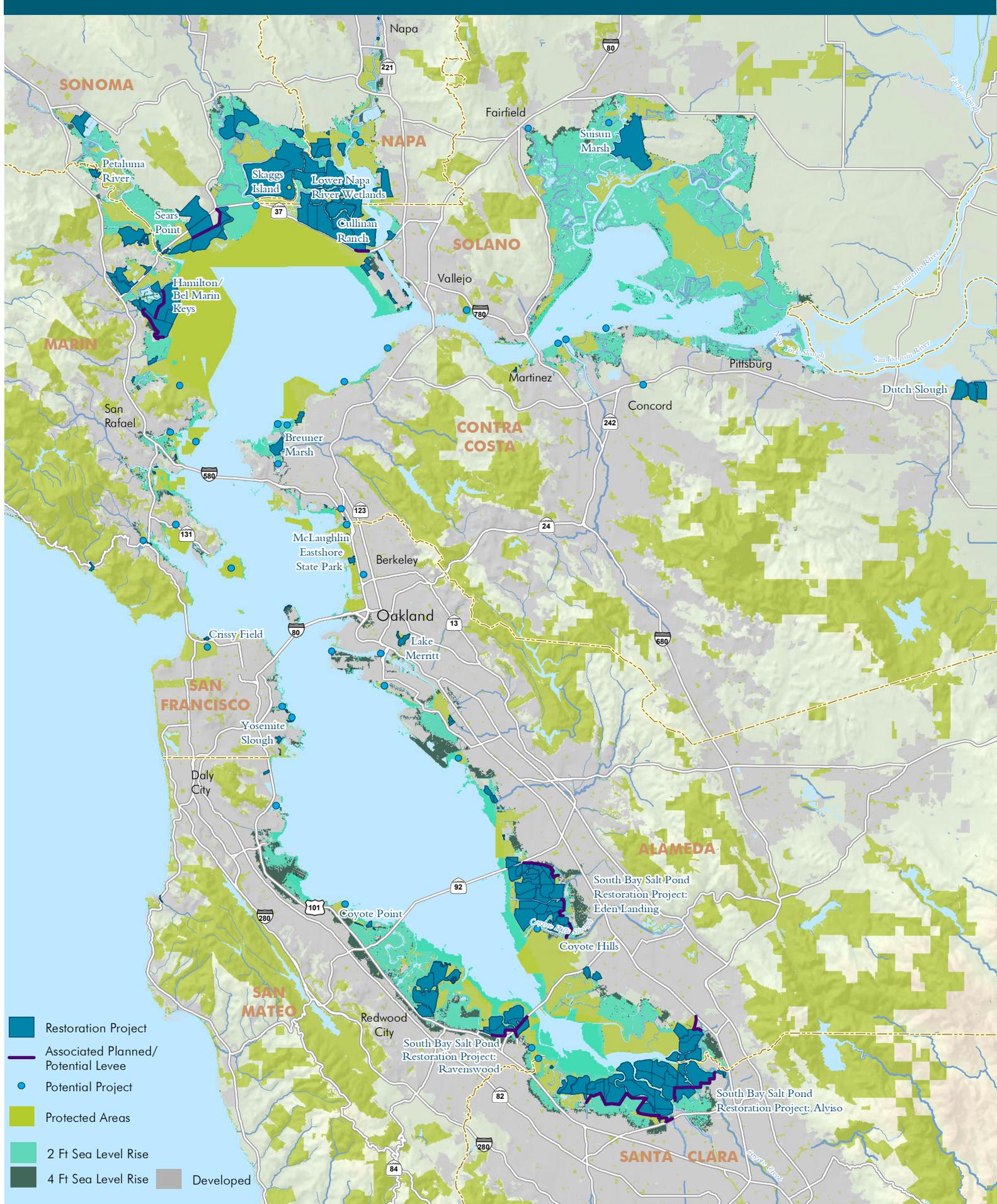
- b. The Restoration Authority Governing Board shall conduct one or more public meetings annually to gain public input on selection of project grants to expend revenues generated by the Measure.
- c. The Authority may accumulate revenue over multiple years so that sufficient funding is available for larger and long-term projects. All interest income shall be used for the purposes identified in this Plan.
- d. No more than 5% of the revenue generated by this measure and provided to the Authority may be used by the Authority to administer the projects funded under this Plan.
- e. Examples of potential projects eligible for funding may be found at www.sfbayrestore.org.

ATTACHMENT 3



**EXAMPLES OF BAY RESTORATION PROJECTS NEEDING
FUNDING AND ANTICIPATED TO BE ELIGIBLE FOR
RESTORATION AUTHORITY GRANTS**

PROJECT	COUNTY	PROJECT DESCRIPTION	LEAD ORGANIZATIONS
Mclaughlin Eastshore State Park	Alameda, Contra Costa	Creation or restoration of beach, dune, wetland and creek habitats and improvement of shoreline access	East Bay Regional Park District
Coyote Hills	Alameda	Restoration of marsh, seasonal wetlands, and endangered wildlife and infrastructure, and improvement of public access, including Bay Trail segments	East Bay Regional Park District
South Bay Salt Pond Restoration Project: Eden Landing	Alameda	Restoration, enhancement and monitoring of former salt ponds, construction of associated flood management levees and infrastructure, and improvement of public access, including Bay Trail segments	Calif. Dept. of Fish and Wildlife,
Dutch Slough	Contra Costa	Tidal restoration in the southwestern Delta, using fill material to raise elevations and associated levees to provide flood protection, and construction of public trails	Calif. Dept. of Water Resources, Calif. Dept. of Fish and Wildlife
Breuner Marsh	Contra Costa	Restoration of tidal marsh and seasonal wetlands by removing and recontouring fill, construction of 1.5-miles of Bay Trail and an interpretive center, and restoration at the mouth of Rheem Creek	East Bay Regional Park District
Bel Marin Keys	Marin	Design and implementation of tidal restoration, using dredged sediment to raise elevations prior to breaching, construction of an adjacent levee to protect neighboring communities, and completion of Bay Trail segments	State Coastal Conservancy
Lower Napa River Wetlands	Napa	Enhancement of tidal marshes and managed wetlands, improvement of public access, creation of bird islands, installation of water control structures, and monitoring and operation	Calif. Dept. of Fish and Wildlife
Yosemite Slough	San Francisco	Completion of park improvements (entry, parking, signs, trails, visitor center, etc.), monitoring of restored wetlands, and operation and maintenance of wetlands and visitor amenities	California State Parks Foundation
Crissy Field Educational Programs	San Francisco	Programs to engage youth in the protection and restoration of San Francisco Bay	Golden Gate National Recreation Area, Golden Gate National Parks Conservancy
South Bay Salt Pond Restoration Project: Ravenswood	San Mateo	Restoration, enhancement and monitoring of former salt ponds, construction of associated flood management levees and infrastructure, and improvement of public access, including Bay Trail segments	U.S. Fish and Wildlife Service
Coyote Point	San Mateo	Enhancement of sandy beach habitat and public access facilities	County of San Mateo
East Palo Alto Shoreline	San Mateo	Restoration and maintenance of shoreline habitat and construction, management and operation of public access facilities	Midpeninsula Regional Open Space District, City of East Palo Alto
South Bay Salt Pond Restoration Project: Alviso	Santa Clara	Restoration, enhancement and monitoring of former salt ponds, construction of associated flood management levees and infrastructure, and improvement of public access, including Bay Trail segments	U.S. Fish and Wildlife Service
Cullinan Ranch	Solano	Monitoring and management of restored wetlands	U.S. Fish and Wildlife Service, Ducks Unlimited
Suisun Marsh	Solano	Enhancement of marshes within Suisun Marsh to benefit waterfowl and shorebirds	Calif. Department of Fish and Wildlife, Suisun Resource Conservation District, Solano Land Trust
Sears Point	Sonoma	Completion of restoration, monitoring and management of wetlands, and construction of public access improvements	Sonoma Land Trust, Ducks Unlimited
Petaluma River	Sonoma	Enhancement of wetlands to provide habitat for fish and wildlife, completion of trail segments, and provision of water access for non-motorized boats	Friends of the Petaluma River, City of Petaluma, Calif. Dept. of Fish and Wildlife
Living Shorelines: Oyster and Eelgrass Restoration	Marin, Alameda, Contra Costa	Restoration of eelgrass and oyster beds to provide shoreline protection from waves and erosion while providing habitat for wildlife and improving water quality	State Coastal Conservancy, San Francisco State University, U.C. Davis, NOAA Fisheries
Bay Shoreline Clean-Up Activities	Baywide	Support for Coastal Clean-up Day at sites around the Bay shoreline	Coastal Commission, Save The Bay, cities and counties, others



- Restoration Project
- Associated Planned/Potential Levee
- Potential Project
- Protected Areas
- 2 Ft Sea Level Rise
- 4 Ft Sea Level Rise
- Developed

DECEMBER 2013

Preliminary Map of Restoration and Coastal Flood Protection Opportunities