

ASSOCIATION OF BAY AREA GOVERNMENTS

Representing City and County Governments of the San Francisco Bay Area



ABAG

Date: August 29, 2016

To: Executive Board via Finance and Personnel Committee

From: Ezra Rapport
Executive Director

Subject: **Joint Powers Agreement to Provide Staffing for the San Francisco Bay Restoration Authority**

Summary and Requested Action

On June 7, voters approved Measure AA placed on the ballot by the San Francisco Bay Restoration Authority (Authority) to levy a \$12 per year special tax on taxable parcels in the nine county Bay Area. The Authority will use this regional revenue –estimated to be \$25 million per year -- to leverage Federal and State efforts to restore wetlands in San Francisco Bay with significant co-benefits for the region. The Governing Board of the Authority is comprised of local elected officials of cities, counties and park and open space districts that abut the San Francisco Bay. Pending recommendation by the Finance and Personnel Committee, staff requests that the Executive Board authorize the Executive Director, or his designee, to negotiate and enter into a joint powers agreement with the Authority and the State Coastal Conservancy (Conservancy) for ABAG and the Conservancy to provide staffing to the Authority in a manner that conforms in all material respects with Attachment A to this memorandum.

Background and Discussion

A. The Authority and Measure AA

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.” Members of the Governing Board¹ of the Authority are appointed by ABAG and must

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

- East Bay City/County – Supervisor John Gioia, Contra Costa County
- North Bay City/County – Supervisor Keith Caldwell, Napa County
- South Bay City/County – Councilmember Vinnie Bacon, City of Fremont
- West Bay City/County – Supervisor Scott Weiner, City and County of San Francisco
- At Large City/County – Mayor Patricia Showalter, City of Mountain View

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be elected officials from cities, counties and open space/park districts that abut the San Francisco Bay.

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).

The Authority placed Measure AA² on the June 7, 2016 ballot in all nine Bay Area counties. The measure levies an annual \$12 special tax on each taxable parcel in those counties for 25 years commencing July 1, 2017. On July 29, 2016 the governing Board adopted a resolution declaring that the measure passed on a 70.32% vote. The measure is expected to generate approximately \$25 Million annually. Administrative costs are capped at 5% of revenues.

The San Francisco Bay area is well-positioned to maximize the benefits of Measure AA. 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. An illustrative list of projects³ prepared in 2015 is available and will be updated regularly. 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.

B. Staffing for the Authority

ABAG and Conservancy staffs have been discussing a possible Joint Powers Agreement (JPA) with the Authority so that ABAG and the Conservancy can collaboratively provide staff support. The JPA would not create a new entity. The Authority and the ABAG and Conservancy staffs have agreed in principle on the following:

- (1) The Authority pays 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.

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- o Park/Open Space District – John Sutter, East Bay Regional Park District
 - o Chairperson – Supervisor Dave Pine, County of San Mateo

² The text of the measure is here: <http://sfbayrestore.org/docs/BallotMeasureLanguage.pdf>

³ The current list is here: <http://sfbayrestore.org/docs/Projects.pdf>

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- (2) The Conservancy provides executive, legal, and program staff services and ABAG provides treasurer, accounting, and program staff services.
- (3) Conservancy staff services costs would be based on the then-current fully burdened rate. ABAG staff costs would be reimbursed on staff costs plus ABAG's Federally approved indirect cost recovery rate.
- (4) The Conservancy and ABAG could withdraw from the JPA or the Authority could terminate the JPA, upon 180 days notice to the other parties.

This approach maximizes use of Measure AA revenues by leveraging the existing regional organizations' infrastructure and expertise rather than building a stand-alone staff structure for the Authority:

- o ABAG staff believes the Authority's mission and program is an integral part of regional planning for the Bay Area. The San Francisco Estuary Partnership (SFEP) has significant experience in managing funds for projects that protect, restore and enhance San Francisco Bay. In addition, ABAG has an experienced treasurer and accounting staff serving ABAG's grants (both made and received) and working with assessment based revenues.
- o The Conservancy has over 16 years of experience operating its San Francisco Bay Area Conservancy Program, which grants funds for projects that protect, restore and enhance San Francisco Bay. Conservancy staff has participated in numerous collaborative efforts of federal, state and local government agencies to prepare and implement plans that reflect the mutual goals of these agencies for protection, enhancement and restoration of San Francisco Bay and associated public access and flood management.

ABAG and Conservancy staffs have developed a term sheet (Attachment A) 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. The term sheet was presented to and accepted in principle by the Authority. A final draft of the JPA will be prepared before the Executive Board meeting in September and will be made available to Executive Board members and the public. The Conservancy will be seeking authorization to enter into the JPA from its board in late September. The Governing Board of the Authority is scheduled to take action on the JPA at its October 12 meeting.

With respect to the Option 7 IAP, ABAG staff has briefed the Governing Board and the Conservancy staff on that process and has included the Authority and a description of the proposed JPA in its initial response to MTC regarding the scope of the Contract for Services. The JPA can be structured so that once a Contract for Services is executed ABAG will be permitted to provide its services with MTC employees. Direct discussions among the Authority, the Conservancy, ABAG and MTC will be conducted on an as needed, or as requested basis.

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Requested Action

Pending recommendation by the Finance and Personnel Committee, ABAG staff requests that the Executive Board authorize the Executive Director, or his designee, to negotiate and execute a Joint Powers Agreement that conforms in all material respects with Attachment A to this memorandum.

Attachment

- A. Joint Powers Agreement Term Sheet