



SAN FRANCISCO BAY RESTORATION AUTHORITY

FUNDING OPTIONS REPORT

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PREPARED FOR:
SAVE THE BAY

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EXECUTIVE SUMMARY

OVERVIEW AND NEED

The San Francisco Bay Restoration Authority (the "Authority") was established in August of 2008 by the California State Legislature through Assembly Bill 2954. The Authority is charged with restoring the San Francisco Bay's critical tidal wetlands by generating dedicated funding, and then distributing this funding to local agencies for specific projects and programs. The Authority is set to "sunset" on December 31, 2028.

The San Francisco Bay is a natural treasure that defines the region, provides recreation and beauty, moderates the climate and generates millions of dollars in economic benefits.

- Today, only five percent of the Bay's original wetlands remain due to filling and diking of wetlands. The Bay is threatened every day by additional pollution and sprawl.
- Scientists advise that a healthy, sustainable Bay requires at least 100,000 acres of tidal wetlands. In 1999, there were only about 40,000 acres of tidal wetlands remaining around the Bay. Today, over 36,000 additional acres of restorable Bay shoreline are in public ownership and proposed for restoration to tidal wetlands, which would bring the total restored tidal wetlands to approximately 76,000 acres. The ambitious 100,000 acre goal is within reach.
- Restoring the 36,000 acres in public ownership is estimated to cost approximately \$1.43 billion over 50 years. By generating funding for this investment, the Authority can make significant progress towards the reversal of more than a century of degradation that reduced the size of the Bay by one-third.

There is some Federal and State funding available for these projects, but it is only a fraction of the total need. The Authority's mission is to formulate a strategy for raising local revenues to narrow the funding gap and help leverage further Federal and State funding. This Report, commissioned by Save The Bay, is intended to provide strategic guidance regarding local funding options for the Authority's consideration.

SUMMARY OF LOCAL FUNDING OPTIONS AND RECOMMENDATIONS

1. PARCEL TAX THROUGHOUT THE NINE COUNTY REGION IS RECOMMENDED AS PRIMARY LOCAL FUNDING MECHANISM

The Authority has many options with regard to the type and scope of funding measures that can be used to fund Bay restoration. The primary local funding options are special

taxes, property-related fees and benefit assessments. A parcel tax is the recommended local funding option for the Authority because it clearly can be used in a regional measure spanning all nine counties, or for smaller areas, such as throughout certain counties. Moreover, it offers minimal legal risk and the highest flexibility in the tax formula and use of proceeds. A new parcel tax, or other form of a special tax, requires approval from 2/3rds of voters in an election.

A survey conducted for Save The Bay in 2006 found over 80% support from likely voters for a regional tax of \$10 per year, which indicates broad support for Bay restoration and good potential for a parcel tax. The recent economic, financial and real estate downturn may impact some of this support; however, the results from elections in the area in November 2008 and May 2009 demonstrate that most parcel tax measures are succeeding, particularly if they are well designed and communicated.

2. PORTFOLIO APPROACH: INCLUDE PROPERTY-RELATED FEES AND BENEFIT ASSESSMENTS IN SPECIFIC SUB-AREAS FOR SPECIFIC PROJECTS

Although the parcel tax is the preferred alternative, a “portfolio approach” combining a county-wide or region-wide parcel tax with narrowly-drawn assessments or fees in specific areas may maximize the overall project funding while minimizing political risks. Also a portion of the portfolio may include tax-supported bonds to allow for more immediate construction of capital improvements.

3. OPINION RESEARCH IS HIGHLY RECOMMENDED

In order to help the Authority make strategic and informed decisions about the current opportunity for a local funding measure, scope of the measure, and the optimal tax/assessment/fee rate, an opinion research project and revenue measure feasibility analysis are highly recommended.

To evaluate both the opportunity for a funding measure on a region-wide basis and comparatively on a county-by-county or other sub-area basis, the Authority should consider investing in a survey with a large sample size, such as 800 or 1200 voters. This will allow the Authority to determine voter support on a county-by-county basis with a lower margin of error than would be achieved with a smaller sample size. This survey would also be predictive for a regional measure.

If the cost for a survey with this level of sample sizes is prohibitive, the Authority could proceed with an initial baseline survey of 600 to 800 respondents. This more streamlined survey would still be predictive for a regional measure and would provide some initial

insight into relative support by county and sub-region, but the margin of error for the results by sub-region would be too large to rely on these results for a sub-region ballot measure.

CONSIDERATIONS AND TRADE-OFFS

If the Authority decides to proceed with a parcel tax, the measure could be structured as a nine county, Bay “region-wide” measure, or it could be for a more limited area, such as one or more counties. The opinion research can provide valuable insight into the relative tradeoffs and opportunities for each approach.

Nine-County Approach

Below are the benefits of starting with a successful region-wide measure:

- The Authority will have a stable, long-term funding source to support restoration projects throughout the Bay, and research on additional funding mechanisms.
- A relatively low annual parcel tax rate from the entire region would generate significant funds.

Below are the risks:

- A region-wide measure inherently involves more initial work, higher risk and higher cost than a county-wide measure.
- If the Authority begins with a region-wide funding measure and the measure fails, the Authority will have lost the costs of that effort, and could also lose political capital.
- Further research may be needed to clarify the process for a multi-county vote on a single funding measure proposed by the Authority.

County-by-County Approach

If the Authority begins with one or more county-wide funding measures, such as a parcel tax for a specific county or counties with survey-verified strong support, below are the benefits:

- The opportunity for a successful outcome is higher.
- The election costs will be lower.
- It would provide the opportunity to build confidence with the public by demonstrating success and then funding Bay restoration projects.

Below are the risks associated with this approach:

- It is possible that some counties or areas may never approve a Bay restoration funding measure, resulting in perceived inequities.

Again, a public opinion survey and revenue measure feasibility analysis will provide important information to assist the Authority with evaluating these alternatives.

BAY RESTORATION – ISSUES AND OPPORTUNITIES

THE IMPORTANCE OF WETLANDS

Wetlands give life to hundreds of fish and wildlife species that depend on them for survival, as well as billions of small organisms that thrive in Bay mud to form the base of the food chain. In addition to providing vital habitat for fish and wildlife, wetlands provide major benefits to the community, such as the following:

- Clean water
- Economic benefits
- Helps curb global warming
- Flood and erosion control

Wetlands play a central role in the battle against global warming. United Nations-supported scientists have identified wetland restoration as a priority strategy in fighting global warming. Scientists have found that tidal salt marshes capture carbon from greenhouse gases in the air efficiently and effectively, helping to counter global warming. Studies have shown that healthy salt marshes can keep pace with modest sea level rise – they build up sediment and establish vegetation, creating buffers against rising waters. Wetlands act as natural barriers to storm surge and extreme high tides, protecting wildlife and human populations who have settled near coastal and Bay waters. Bay wetlands also filter toxic pollutants that flow daily from our storm drains, support fishing and other multibillion dollar commercial and recreational activities, prevent shoreline erosion, and provide food and shelter to 500 species of wildlife.

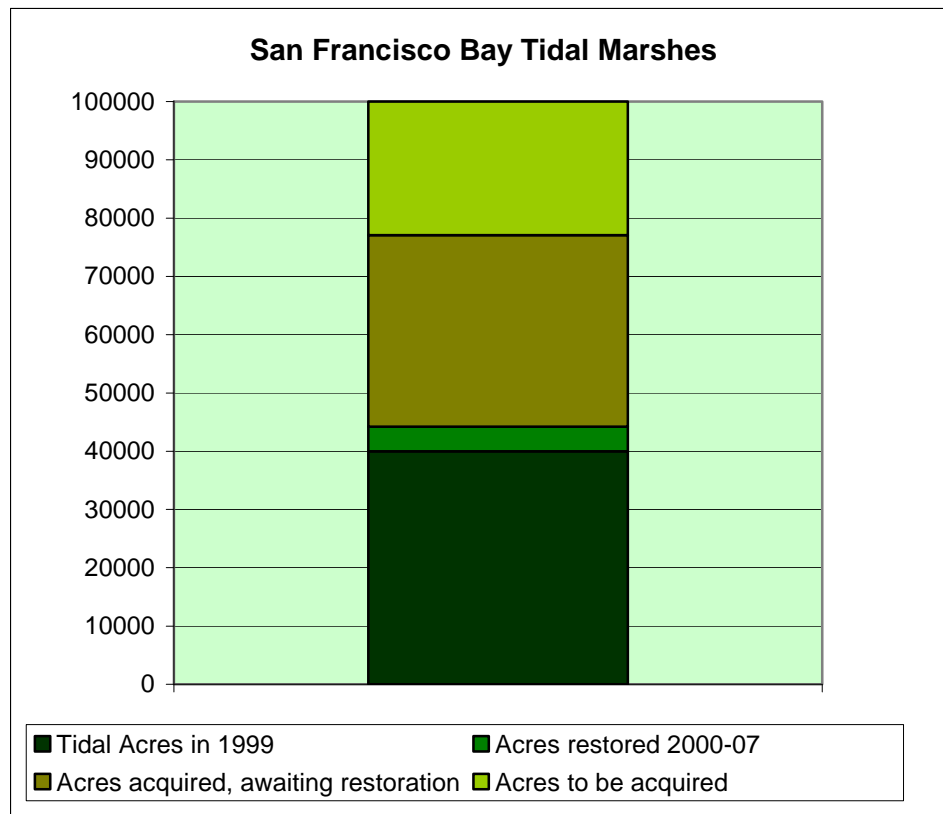
Wetland restoration has also provided an important benefit to Bay-related industry and the regional economy, with “beneficial reuse” of dredged sediment from critical Bay ports playing a role in restoration projects around the Bay.

It is estimated that approximately \$1.43 billion will be needed from local, state and federal sources over the next 50 years in order to complete the necessary projects to nearly double the Bay’s tidal marsh and make significant progress towards achieving the ultimate goal of 100,000 acres of tidal wetlands.

OPPORTUNITIES

The “Baylands Ecosystem Habitat Goals” (1999) is a scientific blueprint which recommends that a healthy, sustainable Bay requires at least 100,000 acres of tidal wetlands. In 1999, there were about 40,000 acres of tidal wetlands around the Bay.

Government agencies, private organizations and land trusts have purchased 32,850 acres of restorable Bay shoreline, and are working toward restoring them today. Tidal action has been restored to some 4,000 acres of shoreline areas. To reach the 100,000 acre goal, 23,150 additional acres will need to be purchased and restored from remaining diked historic baylands and salt ponds.



CHALLENGES

The estimated cost of restoring Bay wetlands is significant. Most of the estimated expense is a one-time capital investment, with more than 80% of the funding needed for planning, construction, flood management and adaptive management of the restoration projects. Typical tidal wetland projects include the removal of existing dikes that prevent Bay waters from entering areas that previously were part of the Bay's natural tidal wetlands. In most cases, new levees would be constructed parallel to the removed dikes, and further inland, to protect existing structures and urbanized areas from flooding. Once restored, tidal marshes function naturally with very low maintenance costs.

State and Federal government agencies own most of the restorable land, but have insufficient funding to implement full restoration. Most of the \$370 million already invested in Bay wetland restoration has come from State and Federal funds, but there is not a completely comprehensive accounting of the sources and amounts invested to date in Bay tidal wetland restoration. State and Federal agency budgets to manage these large areas have not increased proportionally after the California Department of Fish and Game acquired 6,900 acres and the U.S. Fish and Wildlife Service acquired 9,600 acres of South Bay Salt Ponds in 2003.

Competition for State and Federal funds is intense, but it is vital that State and Federal agencies do their part to adequately fund the San Francisco Bay shoreline land they own, and invest in its complete restoration.

THE SAN FRANCISCO BAY RESTORATION AUTHORITY

MISSION AND OBJECTIVES

The mission of the Authority is to fund and oversee the projects around the Bay that will ultimately result in 100,000 acres of tidal wetlands. The Authority is charged with raising and allocating resources for the restoration, enhancement, protection and enjoyment of wetlands and wildlife habitat in the San Francisco Bay and along its shoreline.

UNIQUENESS OF THIS AGENCY AND THE OPPORTUNITY IT CREATES

Prior to the creation of the Authority in 2008, there was no single purpose government agency with the Authority's restoration mission, Bay region-wide focus, and financing authority. Many non-profit organizations, agencies and stakeholders are actively involved in restoring the Bay, using different budgeting methods and timelines, making it difficult to establish a comprehensive regional funding strategy that coordinates and sequences the implementation of restoration projects.

While Bay Area residents are fortunate to have so many agencies and communities supporting Bay restoration, each entity has its own interests driven by organization and mission, mandates, jurisdictional boundaries, and other factors. However, the Bay is an ecosystem that touches nine counties and millions of people, and ignores municipal borders. A 2006 EMC Research poll showed that Bay Area voters want to protect and restore the bay as a whole – their support is not limited to individual projects or local priorities.

The creation of the Authority, which encompasses all nine counties with San Francisco Bay shoreline, establishes an ability to advocate for Bay restoration with one voice. Government agencies and elected officials hearing a consistent message from the Authority will develop a clear understanding of Bay funding needs. Because the Authority has a Bay region-wide scope that focuses only on Bay restoration, residents being asked for funding support by the Authority will have high confidence that their dollars will be used to restore the Bay.

The Authority's narrowly-focused purpose of implementing regional funding mechanisms and providing grants to qualified Bay restoration projects is not anticipated to require significant ongoing administrative costs. The Authority is designed to build on, rather than replicate, the important regulatory work planning and implementing wetland restoration projects around the Bay by local, state and federal agencies, and private land trusts.

GOVERNING BOARD

The Association of Bay Area Governments ("ABAG") appoints the seven Authority Governing Board members. The Governing Board is constituted as follows:

- Governing Board Chair with expertise in the San Francisco Bay Area Conservancy Program: Samuel Schuchat, the Executive Officer of the California State Coastal Conservancy
- Four elected officials from a bayside city or county (defined as a city or county with a geographical area that touches San Francisco Bay, including the City and County of San Francisco) with one each from the North, West, East and South regions of the Bay Area:
 - North Bay: Charles McGlashan, Supervisor, County of Marin
 - West Bay: Phil Ting, Assessor Recorder, City and County of San Francisco
 - East Bay: John Gioia, Supervisor, County of Contra Costa
 - South Bay: Rosanne Foust, Mayor, City of Redwood City
- Two elected officials of a bayside city or county or a regional open space district or regional park district that owns or operates one or more San Francisco Bay shoreline parcel:
 - Dave Cortese, Supervisor, County of Santa Clara
 - John Sutter, Director, East Bay Regional Park District

Board members serve four year terms, and it is expected that the Board will meet quarterly.

OVERVIEW OF FUNDING MECHANISMS

INTRODUCTION AND SUMMARY

The primary local funding options that are available to the Authority are special taxes, property related fees and benefit assessments. As previously stated, and supported in this Section, the recommended funding source is a voter decided parcel tax (a specific type of special tax), which is the funding mechanism with the greatest flexibility, and the clearest ability to be used on a region-wide basis. A parcel tax requires support from 2/3rds of voters in an election. The election can be conducted by the more traditional polling booth approach or the recently popularized mail-ballot approach. Again, a portfolio approach primarily funded by a parcel tax, with general obligation bonds, property related fees and/or assessments as needed, will likely be the optimal solution.

Below is a chart that summarizes some of the differences among the funding options, which are discussed in more detail below:

TABLE 1 – COMPARISON OF FUNDING OPTIONS

Criteria	Special Tax	G.O. Bonds	Sales Tax	CFD	Property Related Fee	Benefit Assessment	User Fee	Impact Fee
Who Votes?	Registered Voters	Registered Voters	Registered Voters	Property Owners	Property Owners	Property Owners	Levied by Cities or Counties	Levied by Cities or Counties
Election Venue	Polling Booth or Mailed Ballot	Polling Booth	Polling Booth	Mailed Ballot	Mailed Ballot	Mailed Ballot	Board or Council Meeting	Board or Council Meeting
Election Period	1 Day (Polling Booth) or 28 days (Mail)	1 Day	1 Day	30 Days	45+45 Days	45 Days	NA	NA
Does everyone who will pay get a vote?	No	No	No	Yes	Yes	Yes	No	No
Are votes proportional to overall burden?	No	No	No	No	Yes	Yes	No	No
Threshold of vote required for success	66.6%	66.6%	66.6%	50.0%	50.0%	50% Weighted	NA	NA
Use of funds	Wide Range	Somewhat Limited	Wide Range	Limited	Limited	Limited	Limited	Limited

PRIMARY LOCAL FUNDING OPTIONS

1. SPECIAL TAXES

A. Parcel Taxes:

Parcel taxes are taxes that can be imposed for a wide variety of uses and offer a high degree of flexibility in their structure and use of proceeds. Parcel taxes are often structured at a flat rate per parcel; however, they can also be based on other factors, such as building square footage, parcel size, number of dwelling units, etc. The parcel tax can be structured with a specific term or sunset date, or it can be an annual, ongoing tax. Moreover, the tax formula can include a schedule for annual increases in the rate, often tied to the change in the Consumer Price Index.

Unlike other funding mechanisms, such as a property-related fees and benefit assessments, parcel taxes do not need to have a direct relationship between the service or activity, its cost, and the amount of the tax. Also, unlike a benefit assessment, the property subject to the tax does not need to receive a special benefit from the services or improvements funded by the tax. A parcel tax would need to be approved by a two thirds super-majority of participating registered voters, and the most advantageous parcel tax structure can often be determined with a survey of likely voters.

Potential Use: The Authority could use parcel tax revenue to fund any restoration projects consistent with its mandate, including capital costs, maintenance and operations.

Advantages: Parcel taxes are a stable, long-term funding source with the highest degree of flexibility in the use of the proceeds and design of the parcel tax formula. Parcel taxes could be used to fund a wide range of projects, including capital improvements, maintenance and operations, administration, rehabilitation, and restoration. Moreover, the proceeds could be used on Bay restoration projects throughout the region with a high degree of flexibility. There is also minimal legal uncertainty with this funding option. Parcel taxes are well accepted and well understood by elected officials and the general public.

Because all parcels in the Authority area could be charged, a relatively low rate per parcel could generate a significant amount of revenue. The table below shows the number of parcels per county and the estimated annual revenue from a flat rate parcel tax of \$4.00, \$8.00 or \$15.00. The table also provides rough estimates of the amount of revenues if a "tiered" rate parcel tax formula is used with scaled rates based on property attributes such as the size of commercial properties and/or the number of dwelling units on multi-family

properties. Tiered parcel tax structures generally provide for at least a 50% increase in relative revenues.

TABLE 2 – ESTIMATED PARCEL TAX REVENUE BY COUNTY

County	Taxable Parcels	Annual Revenue by Rate, Flat and Tiered Methods					
		\$4.00		\$8.00		\$15.00	
		Flat	Tiered	Flat	Tiered	Flat	Tiered
Alameda	353,000	\$1,412,000	\$2,118,000	\$2,824,000	\$4,236,000	\$5,295,000	\$7,942,500
Contra Costa	293,000	\$1,172,000	\$1,758,000	\$2,344,000	\$3,516,000	\$4,395,000	\$6,592,500
Marin	77,000	\$308,000	\$462,000	\$616,000	\$924,000	\$1,155,000	\$1,732,500
Napa	46,000	\$184,000	\$276,000	\$368,000	\$552,000	\$690,000	\$1,035,000
San Francisco	157,000	\$628,000	\$942,000	\$1,256,000	\$1,884,000	\$2,355,000	\$3,532,500
San Mateo	175,000	\$700,000	\$1,050,000	\$1,400,000	\$2,100,000	\$2,625,000	\$3,937,500
Santa Clara	383,000	\$1,532,000	\$2,298,000	\$3,064,000	\$4,596,000	\$5,745,000	\$8,617,500
Solano	112,000	\$448,000	\$672,000	\$896,000	\$1,344,000	\$1,680,000	\$2,520,000
Sonoma	145,000	\$580,000	\$870,000	\$1,160,000	\$1,740,000	\$2,175,000	\$3,262,500
Total	1,741,000	\$6,964,000	\$10,446,000	\$13,928,000	\$20,892,000	\$26,115,000	\$39,172,500

Source: County Assessor Data and SCI Consulting Group. Taxable parcels estimated as a percentage of total parcels in each county.

Limitations: The primary hurdle with a parcel tax is that it requires 2/3 super-majority of voter support. In order to obtain such levels of voter support, the rate would likely need to be kept low, and the improvements and services to be provided must enjoy broad support. A previous survey of likely voters in the region did find that a tax for Bay restoration received high levels of voter support at a low rate, so the voter approval of a parcel tax likely is obtainable.

Election Note: If the Authority were to proceed with a parcel tax or other special tax encompassing more than one county, the elections official at each county would be involved in approving the ballot and election materials. In some measures in the recent past, the voter approval of the special tax spanning multiple counties was separately tabulated in each county and in other cases, such as the bond measures for the East Bay Regional Park District in 1988 and 2008, the results were tabulated as one ballot pool across both counties affected by the District's measure. If the results are separately tabulated by county, it is possible that the measure may pass in some counties and not others, leaving gaps in the Authority's ability to implement projects to benefit the Bay region as a whole. There appears to be a valuable correlation in Bay Area counties in that the counties that solidly support investment in tidal wetland restoration also overwhelmingly have the largest voter populations. If this correlation is true, and it can be confirmed by the survey, then it is likely that a region-wide tabulation would be beneficial.

SCI's initial review of this issue finds the Legislature's declaration that "the nine counties surrounding the San Francisco Bay constitute a region," and that it was the Legislature's clear intent in approving the Authority was to provide it with the power to "develop regional mechanisms to generate and allocate additional resources" (Gov. Code sec. 66700.5(a) & (k).) It would appear to be consistent with the intent of the Legislature that any voting for a regional funding mechanism would be decided regionally as well.

B. General Obligation Bonds:

A bond is a written promise to repay borrowed money on a definite schedule and usually at a fixed rate of interest for the life of the bond. Bonds can stretch out payment for new projects over a period of many years and are usually issued to finance capital improvement projects. State and local governments repay this debt with taxes, fees, or other appropriate revenue. General Obligation Bonds ("G.O. Bonds") typically require the approval of a dedicated special tax, supported by two-thirds of the registered voters.

There are many different types of bonds, and there are advantages and limitations with each and their applicability to Bay restoration programs and projects. For the purpose of this Report, only a general discussion on bonds is provided.

Potential Use: Bonding mechanisms have the potential to fund many aspects of Bay restoration management. However the proceeds, which can only be used for capital improvements, do not provide ongoing funding for maintenance and operational costs. Both State and local governments can issue bonds and can set the parameters and funding levels for the type of projects to be financed, thus providing great flexibility.

Advantages: Bonds provide financing for immediate capital needs. If the project qualifies, tax-exempt bonds can be a low-interest way of acquiring capital.

Limitations: G.O. bonds for the Authority will require two-thirds voter approval. The most significant limitation with this funding mechanism is that it will not provide ongoing revenues to cover the operational costs of the Authority or ongoing funding for the maintenance of Bay restoration improvement projects.

C. Sales Taxes:

An incremental increase in local sales taxes could be implemented to specifically fund Bay restoration programs. Sales taxes for Bay restoration programs could generate millions of dollars annually. However, the Authority does not have the ability to levy sales taxes. Only the State, Counties and Cities have the ability to levy sales taxes. Moreover, with the recent statewide sales tax increase due to the State budget crisis, the local ability to obtain

voter approval for additional sales tax increases is diminished. For these reasons, sales taxes are not evaluated in further detail in this report.

See the chart below for the sales tax rates in the nine Bay area counties as of April 1, 2009.

TABLE 3 - SALES TAX RATES BY COUNTY

County	Sales Tax Rate	
	Low	High
Alameda	9.750%	9.750%
Contra Costa	9.250%	9.250%
Marin	9.000%	9.000%
Napa	8.750%	8.750%
San Francisco	9.500%	9.500%
San Mateo	9.250%	9.250%
Santa Clara	9.250%	9.250%
Solano	8.375%	8.375%
Sonoma	9.000%	9.250%

Source: California State Board of Equalization

D. Mello-Roos Community Facilities Districts:

The Mello-Roos Community Facilities Act of 1982 authorizes local governments to establish special taxes through a Community Facilities District ("CFD") to fund public improvements and/or services.

The establishment of a CFD special tax requires approval by a two-thirds vote of the qualified electorate of the CFD. The vote is either by registered voters or, if there are fewer than 12 registered voters within the proposed CFD, by landowners. If a CFD were proposed by the Authority to include developed areas, the special tax would be decided in an election of registered voters.

Potential Use: CFDs are often used to finance public improvements or services for areas of new development; however, they also can be used over a broader area, including developed property.

Advantages: Relative to a parcel tax, there are minimal advantages for a CFD special tax.

Limitations: A CFD has more significant procedural and administrative requirements than a parcel tax and the same voter approval threshold. CFDs can also suffer from negative

public impression or public uncertainty, which can negatively affect voter support. As a result, a CFD has more limitations and no clear advantages over a parcel tax.

2. PROPERTY-RELATED FEES AND BENEFIT ASSESSMENTS

A. Property-Related Fees and Charges:

Property-Related Fees and Charges are fees/charges for public services (and some public improvements) rendered or undertaken as a result or incident of property ownership. These fees were created as a unique sub-set of public agency fees by Proposition 218, which was approved by voters as a State Constitutional amendment in 1996. Property-related fees need to be based on the proportional cost of the service or public improvement attributable to each parcel. Property related fees cannot be imposed for general governmental services, such as police, fire, ambulance or library services, where the service is available to the public in essentially the manner as it is to property owners.

Property-related fees are generally used in California for sewer, water, garbage and more recently, for stormwater services. Charges for electrical and gas service, user fees not based on property ownership (such as ambulance transport fees and admission fees) and developer fees charged as a condition of development approval are excluded from the Proposition 218 imposed conditions for property-related fees.

New or increased property-related fees are subject to approval requirements established by Proposition 218. New or increased fees for sewer, water and garbage/refuse services can be imposed after the conclusion of a protest hearing held at least 45 days after a notice is mailed to all affected property owners, as long as a majority of property owners do not protest the proposed fee or charge.

For other property-related fees, an additional election of voters or property owners held at least 45 days after the protest hearing is needed to authorize the new or increased fees. At the option of the public agency, this election can either be by 2/3rds super-majority vote of all registered voters in the affected area, or by a majority vote of property owners in a mailed ballot proceeding in which each property owner receives one vote for each property they own.

There is still some uncertainty as to which fees fall into the definition of property-related and requiring such voter/owner approval; however, the California judiciary has clarified that fees for stormwater discharge and stormwater pollution abatement are most likely property-related and subject to such voter or owner approval.

Fees are typically imposed at the time of service or through regular billing. Well-structured fees can be an equitable means of matching program costs to program beneficiaries.

Potential Use: The Authority may be able to generate revenue to fund Bay restoration efforts by implementing a property-related fee for stormwater discharge that pollutes the Bay.

Advantages: This option would allow the Authority to collect funds to counteract the effects of pollutants that enter the Bay through stormwater runoff. It would provide a long-term source of income. The stability of the income would depend partly on how the fee is structured. If such a fee is subject to property owner approval, it would enjoy the relative advantage of requiring lower majority approval instead of the 2/3rds super majority required for special taxes.

Limitations: This option presents potential legal uncertainty in terms of its application. First, such fees can most likely only be used to fund Authority efforts and services that remove pollutants from stormwater runoff, or otherwise manage such runoff. Costs for Bay restoration efforts not related to stormwater may not be covered. Second, the fees likely could not be applied to properties in the Authority area from which stormwater runoff does not flow into areas with Authority improvements that address or mitigate such runoff. Third, other public agencies are primarily responsible for stormwater quality improvements in the region and these agencies are experiencing significant funding shortfalls, particularly to meet the new stormwater quality requirements.

B. Benefit Assessments

The Authority is empowered to levy a benefit assessment consistent with Proposition 218, as codified in Articles XIII C and XIII D of the California Constitution. Such benefit assessments can be levied for public improvements or services that provide a special benefit or direct advantage to the assessed property over and above general benefits to the public at large. The California Supreme Court recently clarified in *Silicon Valley Taxpayers Association v. Santa Clara County Open Space Authority* (“*SVTA v SCCOSA*”) that public improvements such as unidentified future regional open space provide more indirect general benefits to the public at large and therefore, in most cases, should be funded by a voter approved special tax instead of a benefit assessment. The *SVTA v SCCOSA* opinion also suggested that assessment districts should be “narrowly-drawn” and might be inappropriate for public improvements with regional benefits. Public improvements and services such as sidewalks, streets, sewers, water, flood control, drainage systems and vector control are most commonly considered to provide direct

special benefits to property, and, therefore, are appropriate for benefit assessment funding.

A benefit assessment is decided by all property owners with a proposed benefit assessment for their property, including business owners, apartment owners and agricultural property owners. Approval of a new or increased benefit assessment requires a weighted majority support from property owners in a mailed ballot proceeding in which each returned ballot is weighted by the amount of proposed benefit assessment for the parcels on the ballot.

Potential Use: Given the regional nature of many Bay restoration projects envisioned for the Authority, a region wide benefit assessment may not be viable. However, a benefit assessment can be used to raise funds for specific, well-defined projects, such as the construction of a levee, where the special benefit to specific properties (such as protection from the risk of flooding) can be shown. In such cases, a benefit assessment could be a very effective revenue mechanism for narrowly drawn areas, such as those areas that would receive improved protection from flooding as a result of improvements by the Authority.

Advantages: The simple majority weighted ballot threshold required to pass is less than the two-thirds majority required by tax measures. However, since owners are often somewhat less supportive than voters, this weighted ballot threshold is not necessarily more obtainable than a super-majority of voters. Flood control assessments typically experience high levels of support even with relatively high assessment rates, as long as the direct need for the assessments and advantages of improved flood control are clearly conveyed.

Limitations: Last year's California Supreme Court ruling in the *SVTA v SCCOSA* case shows that the Court is not favorable in regard to benefit assessments that cover a large geographic area and for which the services or improvements are not clearly defined. Benefit assessments could be used to fund projects in specific and well-defined areas around the Bay.

3. USER FEES AND REGULATORY FEES

User fees are fees that are not related to or based on property ownership, such as facility user fees, ambulance transfer fees, inspection fees, etc. These fees, which must be based on the cost of the service, can be imposed by a public agency by ordinance. A regulatory fee is imposed under a public agency's police powers to mitigate or offset

impacts on public health, safety or welfare. An example of a regulatory fee is a license fee charged to liquor stores to offset public safety costs related to sales from such stores.

Potential Use: The Authority does not have the express authority to levy user fees or regulatory fees, so it is unclear whether the Authority can levy such fees. However, the public agencies that own or acquire the real property upon which Bay restoration improvements will be installed may well have the ability to impose user or regulatory fees. A user fee for people who visit Bay restoration lands could be collected in the future to offset some of the cost of maintaining such public improvements.

Limitations: User fees may discourage use of the important Bay restoration projects envisioned for the Authority.

4. DEVELOPMENT IMPACT FEES

The Mitigation Fee Act (Government Code section 66000, et seq.) provides for development impact fees (often called "developer fees") which are levied on new development to cover the cost of infrastructure or facilities necessitated by that development. Impact fees are one-time-only capital infusions which will primarily affect new development and typically have a marginal effect on the overall program. Development impact fees typically transfer the costs of infrastructure construction required as a result of private development directly to the developer/property owners. Development impact fees are levied and ultimately approved by the city or county in which the subject property is located. The Authority does not have the ability to directly establish or impose development impact fees.

Analysis: If the Cities and Counties approve, the Authority may have the capability to charge development impact fees on private developments to recover the costs associated with the impact to the Bay. However, development impact fees are needed for many other public improvements, such as roads, schools, public safety facilities, stormwater improvements, parks etc., so the ability to include additional fees for Bay restoration may be limited.

5. GIFTS AND GRANTS (FROM PRIVATE ORGANIZATIONS)

A number of private foundations and private organizations may provide grants and loans to support Bay restoration projects. Private foundations and organizations may also be open to providing funding for start up costs or for contributing to the research and other up-front costs for an election to create stable, on-going funding for the Authority.

Potential Use: The Authority could use gifts and grants to finance many aspects of Bay restoration including capital construction projects.

Advantages: The overall advantage of gifts and grants is that often these funds can be obtained without significant up-front costs. For recipients that lack resources, gifts and grants provide an option to move their projects or programs forward.

Limitations: Grants are typically awarded through a competitive process and often require matching funds. Competition for grant funds can be intense due to the limitation on available funds, which has been exacerbated by the financial crisis and erosion of stock and investment values. Because of the competition for gifts and grants, funds are usually limited, thus making it difficult to acquire full funding for many projects. Many gifts and grants are awarded on a one-time-only or annual basis, making it difficult to budget and plan future long-term projects.

STATE AND FEDERAL FUNDING OPTIONS

It should be noted that even with region-wide parcel tax funding at the high rate of \$15.00 per parcel discussed above, the Authority could bond only about \$260 to \$390 million for Bay restoration projects. Although this is a substantial amount of money, it is still less than the \$1.4 billion that is estimated to be needed from all sources over the next 50 years. Therefore, even if the Authority successfully proceeds with a region-wide parcel tax, it may need to obtain funds from other sources as well. Listed below are State and Federal sources that could supply substantial additional funding.

1. STATE BONDS

Since 2000, voters have passed Propositions 12, 40, 50 and most recently 84. These bonds support open space and park protection, water quality improvements, acquisition of public lands and wetland restoration. Only about 1% of the total bonds to date (approximately \$167 million) have been invested in Bay restoration projects, and additional money may still be available to Bay projects.

Potential Use: Bonding mechanisms have the potential to fund many aspects of Bay restoration management. Both State and local governments can issue bonds and can set the parameters and funding levels for the type of projects to be financed, thus providing great flexibility. Some public agencies in California have been highly successful in obtaining bond funding, particularly those with good connections within the State

Legislature. The Authority should consider investing in an influential legislative advocate to gain better access to future bond funds. This recommendation is likely to hinge upon the Authority first establishing ongoing funding for its operational costs. Moreover, given the current fiscal crisis, future bond opportunities will likely be delayed.

Advantages: Bonds provide financing for immediate capital needs. If the project qualifies, tax-exempt bonds can be a low-interest way of acquiring capital.

Limitations: Competition for funds from State bonds is likely to be stiff. These funds may come with strict reporting and other requirements which would add to the Authority's administrative burden.

2. STATE REVOLVING FUNDS

State Revolving Funds ("SRFs") are a funding mechanism that provides long term and low interest loans to local governments or individuals for capital improvements. The repayment of these loans over time allows the fund to revolve its lending ability continuously. SRFs were established by the Clean Water Act amendments of 1987 and are administered and operated by states to provide a permanent source of financing for State and local government water quality projects.

Potential Use: In California the SRF is used partly for non-point source pollution control. The State Water Resources Control Board administers the fund. Eligible projects include construction of demonstration projects, retention/detention basins, wetlands for stormwater treatment, wet ponds, infiltration strips, grassy swales or any other structures intended to remove pollutants originating from non-point source pollutants. Loans can also be used for training, public education, technology transfer, ordinance development, development of pollutant source reduction management practices, or any activity associated with control of non-point sources of pollution.

Advantages: In California the interest rate on SRF loans is 50 percent of the interest rate on the most recently sold general obligation bond. The maximum amortization period is 20 years. Loans may cover up to 100 percent of the cost of planning, design, and construction of non-point source pollution control structures and 100 percent of non-point source pollution control programs.

Limitations: Competition for loans can be very intense. SRFs, like most competitive funding sources, have limitations on their use. Those issued to the Authority by the State Water Resources Control Board would likely be limited to projects that remove stormwater pollutants from the Bay. Federal compliance requirements on SRFs can increase a

project's cost. Other sources of funding would need to be found in order to be able to repay the loans.

3. FEDERAL BONDS, FUNDS AND APPROPRIATIONS

Additional funds may be available through Federal bonds and other funds, with the same advantages and limitations shown for the State funds, above. The acquisition of Federal appropriations is extremely competitive and unpredictable.

ANALYSIS OF LOCAL FUNDING OPTIONS AND RECOMMENDATIONS

As noted, a parcel tax is the primary recommended local funding mechanism, because it offers the advantages of the ability to be used over the entire region, limited legal uncertainty and highest political acceptance as an appropriate local funding mechanism.

Many of the other funding options such as grants and bonds will be important future funding sources for Bay restoration projects but likely will not provide the necessary ongoing funding to significantly reduce the total funding gap for Bay restoration projects, and to support the Authority's efforts to implement additional funding mechanisms. A parcel tax, even at a low rate, would provide the important ongoing and stable funding source upon which to begin funding priority restoration projects and support the Authority's research on additional funding mechanisms. In addition to the primary funding source of a parcel tax, we recommend utilizing some combination of general obligation bonds and property related fees and/or benefit assessments.

One of the first determinations the Authority may make before pursuing any funding option is whether to attempt a single funding measure that will cover the entire Authority area at once, or whether to attempt an initial funding measure covering a smaller geographic area, such as one or more Counties. Further research may be needed to clarify the process for a multi-county vote on a single funding measure proposed by the Authority.

A more blended strategy would be to implement some geographically smaller funding measures to support specific restoration projects, and then to pursue a larger Bay area-wide measure later, after some initial revenues have been established and grants have been issued to support projects. This strategy would allow the Authority to build up a record of success and to establish the benefits of its work for the public before pursuing a more comprehensive region-wide funding measure.

RECOMMENDED NEXT STEP

Regardless of the Authority's ultimate choice of an initial regional ballot funding measure or a measure for a smaller area, a public opinion survey and feasibility analysis are highly recommended. The following recommendations were developed in conjunction with EMC Research and Glazer & Associates.

OPINION RESEARCH AND FEASIBILITY ANALYSIS

It is recommended that the Authority undertake the opinion research in two phases. The first phase would be a baseline survey to determine the public's level of support for Bay restoration and to determine what projects garner the most voter support.

Phase Two would occur after the Authority has determined the timing, funding mechanism and scope of the projects it will fund, and would be a more comprehensive survey in order to refine the measure language and to develop specific themes for public information and outreach.

Phase One – Baseline Study:

The first phase of the research would be a baseline survey that would build on the research already conducted by Save The Bay and would be designed to:

- Quantify voter concern with Bay quality and Bay restoration compared with other local issues
- Test voter reaction to a proposed parcel tax to fund Bay restoration projects
- Determine the dollar level of support that is likely to garner in excess of 2/3rds support from likely voters and the corresponding total annual revenues that could be generated
- Evaluate voter reaction to potential components of a measure, including language and tax amount

This study would be designed to develop an overall strategy and timeline for moving forward with a measure. It would not include extensive message testing, but would rather focus on the key questions of:

- What type of measure might meet with voter approval at the two-thirds level
- What election timeline is recommended to improve the likelihood of success
- How much of a privately funded campaign effort is likely to be required

A breakdown of likely voters and parcels by county is shown in the table below.

TABLE 4 – LIKELY VOTERS AND PARCELS BY COUNTY

County	Total Voters	Likely Voters June 2010	Likely Voters Nov. 2010	Likely By Mail Voters	Taxable Parcels
Alameda	781,943	313,671	446,140	260,142	353,000
Contra Costa	524,106	223,965	325,339	187,310	293,000
Marin	150,989	82,642	111,893	74,790	77,000
Napa	70,387	37,819	46,311	30,347	46,000
San Francisco	469,580	209,224	287,926	150,497	157,000
San Mateo	389,202	146,761	217,653	120,981	175,000
Santa Clara	795,149	343,892	475,920	285,323	383,000
Solano	192,983	82,942	114,801	62,616	112,000
Sonoma	253,960	141,662	182,328	129,744	145,000
Total	3,628,299	1,582,578	2,208,311	1,301,750	1,741,000

Source: EMC Research and Statewide Information Systems, February 2009

Option A: Region-Wide Nine-County Measure: If the Authority decides to place a region-wide nine-county measure on the ballot, then a telephone survey that is representative of the nine-county voters is recommended. The following table shows a possible sampling plan for either 600 interviews overall or 800 interviews overall. Either of these options would provide a representative sample of the nine-county likely voter population. While this sampling plan provides a representative sample of the region, it does not provide adequate sampling to look in-depth at the opinions within each county.

TABLE 5 - MARGIN OF ERROR WITH 600 OR 800 INTERVIEWS

County	Registered Voters		Number of Interviews	Margin of Error	Number of Interviews	Margin of Error
	Number	Percent				
Alameda	781,943	22%	129	9%	172	7%
Contra Costa	524,106	14%	87	11%	116	9%
Marin	150,989	4%	25	20%	33	17%
Napa	70,387	2%	12	29%	16	25%
San Francisco	469,580	13%	78	11%	104	10%
San Mateo	389,202	11%	64	12%	86	11%
Santa Clara	795,149	22%	131	9%	175	7%
Solano	192,983	5%	32	17%	43	15%
Sonoma	253,960	7%	42	15%	56	13%
Total	3,628,299	100%	600	4%	801	3%

Source: EMC Research

Option B: County-Wide or Sub-Area Measures

The Authority may pursue the option of funding by county or other sub-area, if the Authority decides that a smaller measure is a preferred initial option.

If the Authority chooses to explore the option of measures by sub-area, then a county-by-county research approach with higher numbers of interviews and lower margins of error within each county is recommended. Depending on the areas to be surveyed, this approach could have many options regarding sample size by county, but the table below shows two possible approaches for region-wide research that would provide a lower margin of error in the larger counties and a higher margin of error in the smaller counties.

TABLE 6 – MARGIN OF ERROR WITH 900 OR 1200 INTERVIEWS

County	Registered Voters		Number of Interviews	Margin of Error	Number of Interviews	Margin of Error
	Number	Percent				
Alameda	781,943	22%	150	8%	200	7%
Contra Costa	524,106	14%	150	8%	200	7%
Marin	150,989	4%	75	11%	100	10%
Napa	70,387	2%	75	11%	100	10%
San Francisco	469,580	13%	75	11%	100	10%
San Mateo	389,202	11%	75	11%	100	10%
Santa Clara	795,149	22%	150	8%	200	7%
Solano	192,983	5%	75	11%	100	10%
Sonoma	253,960	7%	75	11%	100	10%
Total	3,628,299	100%	900	3%	1,200	3%

Source: EMC Research

Phase Two – Measure Refinement and Messaging Development

The second phase of the opinion research could include a comprehensive telephone survey of voters in order to refine the language of a measure and develop specific themes for public information and outreach. This type of research might be representative of the region's voters, or it could be used to provide in-depth information from one or two specific counties. The specifics of the methodology would be based on the strategic direction provided in Phase One and the Authority's ultimate subsequent decision on whether to initially proceed with a regional measure or a measure for a smaller area.

This survey would likely include 400 to 600 total interviews and would have an average interview length of eighteen (18) minutes. This length would allow for message testing in addition to tracking overall attitudes, testing proposed ballot language and evaluating reaction to message components.

ESTIMATED COSTS

ESTIMATED COSTS

The estimated costs for the recommended initial polling and a regional funding measure are discussed below. In addition to these costs, there will be costs associated with developing the ballot language and materials, public education and outreach costs, and the costs associated with coordinating with the various county elected officials and the Registrars of Voters.

Phase One - Baseline Survey:

The estimated cost for a baseline telephone survey will be based on the length of the questionnaire, the screens employed and the number of interviews. For this initial baseline, it is recommended that the sample include all registered voters and estimates an average interview length of twelve minutes. Twelve minutes will not allow for extensive message testing, but will allow the Authority to gather preliminary data in order to develop an overall strategy.

The cost for a survey with these specifications will cost in the range of \$20,000 to \$50,000. The low end cost would allow a total sample size of 600 interviews, more in line with testing for a regional measure, while the high end cost estimate would allow for up to 1200 total interviews – a potential sample size if county-by-county results are desired.

Phase Two Survey:

The estimated cost for a telephone survey of likely voters to refine the language of the measure and develop specific themes for public information and outreach would be contingent on the findings from Phase One. If the phone survey is for 400 to 600 total interviews and an interview length of eighteen minutes, the estimated cost for this phase is \$18,000 to \$40,000.

Regional Parcel Tax:

If a regional parcel tax measure is conducted through the County Registrars of Voters as part of a General Election, the potential costs would likely vary widely, as each county has different costs per voter for a general election. These costs also vary based on the number of measures on the ballot and for which the election costs can be distributed. Based on recent research conducted by SCI, fees for a General Election can range from \$1.50 to \$4.00 per voter (with Napa County running as high as \$9.00).

Although some counties are reluctant to provide estimates of General Election costs so far in advance of a potential election, the table below shows the estimated cost of such an election by county. For those Counties that did not provide figures, the lowest estimate of all the counties was used in the Estimated Cost – Low column and the highest estimate of all the counties was used in the Estimated Cost – High column.

TABLE 7 – GENERAL ELECTION COSTS BY COUNTY

County	Registered Voters	Election Cost Per Voter	Estimated Cost - Low		Estimated Cost - High	
			Rate	Amount	Rate	Amount
Alameda	781,943	\$0.70	\$0.70	\$547,360.10	\$0.70	\$547,360.10
Contra Costa	524,106	\$2.00-\$2.25	\$2.00	\$1,048,212.00	\$2.25	\$1,179,238.50
Marin	150,989	\$1.50-\$2.50	\$1.50	\$226,483.50	\$2.50	\$377,472.50
Napa	70,387	\$9.00	\$9.00	\$633,483.00	\$9.00	\$633,483.00
San Francisco	469,580	Unknown	\$1.50	\$704,370.00	\$4.00	\$1,878,320.00
San Mateo	389,202	\$1.75	\$1.75	\$681,103.50	\$1.75	\$681,103.50
Santa Clara	795,149	Unknown	\$1.50	\$1,192,723.50	\$4.00	\$3,180,596.00
Solano	192,983	Unknown	\$1.50	\$289,474.50	\$4.00	\$771,932.00
Sonoma	253,960	\$3.50-\$4.00	\$3.50	\$888,860.00	\$4.00	\$1,015,840.00
Total	3,628,299			\$6,212,070.10		\$10,265,345.60

Note: The costs in the table above are rough estimates. For counties that were unable to give an estimate, a cost of \$1.50 per voter was assumed for the low rate, and \$4.00 per voter was assumed for the high rate.

It should be noted that it is even possible that some, or all, of the counties would choose to allow the Authority to add its measure to the General Election ballot at no cost, if they see the measure as a mechanism to further the county's goals. The Authority will need to negotiate the price on a county-by-county basis, so it is not possible at this time to determine the likelihood that some or all of the counties might waive their fees.

County or Localized Area Parcel Tax:

Costs per voter for a county-wide parcel tax election would likely be the same as the county costs for a regional ballot proceeding.

Mailed Election:

Mail ballot elections are increasing in use and popularity in California. These types of elections often have the advantages of lower costs, singularity of message, and higher turnout, particularly in comparison to a special election. In addition, they provide a maximum of 29 days for the return of ballots and for any corresponding ballot return outreach approaches. If a special mailed election is used, the Authority could also choose whether to have the Registrars of Voters conduct the election, or to use an outside election vendor, who would provide the mailed election services under the supervision of the

Authority and the county elections officials. If the Authority uses the Registrars of Voters for a mailed election, the costs vary by county, and could range from \$4 per voter to over \$15 per voter. If the Authority uses a private consulting firm to conduct a mailed election, the cost, including printing, mailing and tabulation services, is estimated to be under \$2 per voter.

ABOUT SCI CONSULTING GROUP

SCI Consulting Group is a public finance and urban economic consulting firm for public and non profit organizations. SCI has extensive experience in public opinion research and community needs analysis, new revenue measure formation services, ballot proceedings and elections, public education projects, financial and demographic planning services, development impact analysis, special district administration, and other consulting services.

With over 24 years of experience with financing plans, benefit assessment, special tax and civil engineering services, SCI also offers extensive expertise with the important legal and procedural issues involving property related fees, benefit assessments, special taxes, impact fees and other financing mechanisms for public agencies. The principals at SCI are acknowledged experts on public agency financing mechanisms and were involved with the cleanup legislation for Proposition 218. In addition, the professional staff at SCI are frequent presenters, expert witnesses and columnists on Proposition 218, fees, special taxes and assessments.