

SAN FRANCISCO BAY RESTORATION AUTHORITY

Staff Recommendation

May 3, 2024

**Hayward Marsh Restoration Project, Phase 2**

Project No. RA-022  
Project Manager: Erica Johnson

**RECOMMENDED ACTION:** Authorization to disburse up to \$600,000 to the East Bay Regional Park District to prepare a 100% engineering design and plan, cost estimates, and permit applications for the Hayward Marsh Restoration project.

**LOCATION:** Hayward Marsh, Hayward, Alameda County; East Bay Region.

**MEASURE AA PROGRAM CATEGORY:** Vital Fish, Bird and Wildlife Habitat Program; Integrated Flood Protection Program; Shoreline Public Access Program.

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**EXHIBITS**

- Exhibit 1: [Project Location Maps](#)
- Exhibit 2: [December 4, 2020, Staff Recommendation](#)
- Exhibit 3: [Restoration Design Elements](#)
- Exhibit 4: [Project Letters](#)
- Exhibit 5: [CDFW CEQA Exemption Concurrence](#)

**RESOLUTION AND FINDINGS**

Staff recommends that the San Francisco Bay Restoration Authority adopt the following resolution and findings:

Resolution:

The San Francisco Bay Restoration Authority hereby authorizes the disbursement of an amount not to exceed six hundred thousand dollars (\$600,000) to East Bay Regional Park District to prepare a 100% engineering design and plan, cost estimates, and permit applications for the Hayward Marsh Restoration Project, Phase 2, located in the City of Hayward in Alameda County. Prior to commencement of the project, the grantee shall submit for the review and written approval of the Executive Officer of the Authority the following:

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

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3. A plan for acknowledgement of Authority funding.

### Findings:

Based on the accompanying staff recommendation and attached exhibits, the San Francisco Bay Restoration Authority hereby finds that:

1. The proposed authorization is consistent with The San Francisco Bay Restoration Authority Act, Gov. Code Sections 66700-66706.
2. The proposed authorization is consistent with The San Francisco Bay Clean Water, Pollution Prevention and Habitat Restoration Measure (Measure AA).

### **STAFF RECOMMENDATION**

#### **PROJECT SUMMARY:**

Staff recommends the disbursement of up to \$600,000 to the East Bay Regional Park District (EBRPD) to prepare a 100% engineering design and plan, cost estimates, and permit applications for the Hayward Marsh Restoration Project, Phase 2 (the project), located in the City of Hayward in Alameda County (Exhibit 1). The proposed project will plan for the restoration of Hayward Marsh from a managed brackish marsh into a mosaic of more natural shoreline habitats that are tidally connected to the bay and optimal for supporting wildlife, public access, and climate resilience.

At the Authority's December 4, 2020, meeting, the Board authorized an award of \$500,000 to EBRPD for the initial phase Hayward Marsh Restoration Project (Phase 1) (Exhibit 2). During Phase 1, EBRPD conducted the environmental studies and community engagement necessary to develop three restoration design alternatives and the selection of a preferred alternative. A 35% conceptual design for the restoration was prepared, the Bay Restoration Regulatory Integration Team (BRRIT) was consulted to plan for the permitting process, and the project team submitted an application for the CEQA Statutory Exemption for Restoration Projects (SERP). On November 7, 2022, the project team received a letter from the California Department of Fish and Wildlife agreeing that the project qualifies for the CEQA SERP (Exhibit 5). The Authority's Executive Officer approved a grant augmentation of \$75,000 of Authority funds to prepare a 65% design and plan. Phase 1 was completed in December of 2023.

The proposed project will continue to develop the 65% engineering design to a final, 100% engineering design and plan. The design balances habitat, public access, and flood protection benefits in the near term and long term (until year 2080) as sea level rises (Exhibit 3). EBRPD, with support from a consultant team, will carry out the project tasks below:

1. **Applications for Permits and Consultation with Regulatory Agencies:** The project team will continue their consultations with the BRRIT agencies as needed and move forward with permit application submissions to the U.S. Army Corps of Engineers, San Francisco Bay Regional Water Quality Control Board, California Department of Fish and Wildlife, and San Francisco Bay Conservation and Development Commission.

2. **Development of 100% Engineering Design and Plan:** A consultant will develop the 100% engineering design and plan, with cost estimates. The design will include:
- a. Reinforcement of the bayfront levee and Bay Trail: The design includes rock pile breakwaters just off the shoreline to reduce erosion of the levee and mudflats on the bay side of the levee. In some areas where the levee extends into mudflats, a gentle marsh slope will be created up to 50 feet bayward of the levee so that waves can break on the marsh slope instead of the levee face.
  - b. Tidal marsh habitat restoration: The managed pond closest to the bay on the western edge of the project area (Pond 3B) will be reconnected to bay waters and restored to approximately 34 acres of tidal marsh habitat.
  - c. Managed tidal ponds with high tide islands: Two managed ponds located east of the levee and first pond (Ponds 3A and 2A) will be reconnected to bay tidal waters and enhanced with additional high tide islands for California least tern nesting and the pond edges will be re-graded to have gentler slopes for the fledglings. The two ponds will provide year-round nesting for the existing population of birds that nest there, and potentially more.
  - d. Upland habitats and ecological connection to Salt Marsh Harvest Mouse Preserve (Mouse Preserve): The managed pond that shares a boundary with the Mouse Preserve (Pond 2B) and part of the northern pond (Pond 1) will be restored to about 43 acres of upland habitat. The levee in between the Mouse Preserve and restored upland habitat (Pond 2B) will be removed to establish an ecological connection between the two, providing upland refuge to wildlife from the Mouse Preserve during high tide events. The lower elevations of the upland habitat will also provide area for marsh migration when sea levels rise.
  - e. New levee and Bay Trail alignment: The new alignment will occur east and at a higher elevation than the current bayfront levee, between Pond 3A (tidal pond) and Ponds 2A (tidal pond) and 2B (upland). The new alignment will provide benefits in the long-term by continuing to provide flood protection and public access as sea level rises and overtops the original bayfront levee and tidal marsh.
  - f. Seasonal wetland habitat: About half of the northernmost pond in the project area (Pond 1) will be restored to about four acres of seasonal wetland. The seasonal wetland will be filled in the winter from rains and stormwater runoff and dry in the summers when there is no rain. In the future this wetland will transition to tidal marsh and the adjacent upland area will offer high tide refugia to wildlife.

EBRPD is qualified to carry out this project as they have been conducting habitat restoration work and maintaining parks and trails for more than 80 years. Today, EBRPD manages nearly 125,000 acres of parks, trails, and community spaces. A recent example of a project successfully carried out by EBRPD is the Dotson Family Marsh Restoration and Public Access Project in Richmond, Contra Costa County, at Point Pinole Regional Shoreline. EBRPD designed and restored 150 acres of marsh to provide high quality habitat for threatened and endangered species, such as the Ridgway's rail and the salt marsh harvest mouse. EBRPD also constructed

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public access features including a 1.5-mile extension of the San Francisco Bay Trail, a new parking lot with restrooms, a picnic area, and a spur trail.

**Site Description:** The project area includes 172 acres of marsh that was previously diked for salt production. The project area was designed and completed in 1985 to receive treated wastewater from the Union Sanitary District’s (USD) Alvarado Wastewater Treatment Plant and to provide brackish habitat for wildlife. USD intends to cease treated wastewater discharge to the ponds and is coordinating closely with EBRPD, which has been preparing habitat restoration designs for Hayward Marsh to rely exclusively on bay waters. More information about project area and project history can be found under the “Site Description” section in the December 4, 2020, Staff Recommendation, included as Exhibit 2.

**PROJECT FINANCING**

<b>San Francisco Bay Restoration Authority</b>	<b>\$600,000</b>
East Bay Regional Park District Bond Measure WW	\$190,000
<b>Project Total</b>	<b>\$790,000</b>

The leveraged funds from EBRPD District Bond Measure WW will be used to support project costs associated with project management and preparation of permit applications.

**CONSISTENCY WITH AUTHORITY’S ENABLING LEGISLATION, THE SAN FRANCISCO BAY RESTORATION AUTHORITY ACT:**

The proposed project is consistent with Government Code Section 66704.5 of the Authority’s enabling legislation and is therefore eligible for funding from the Authority.

Government Code Section 66704.5(a) provides that the Authority may award grants to public entities for eligible projects in the counties within the Authority’s jurisdiction. Consistent with this section, EBRPD is a public entity, and the project is in Alameda County, along the shoreline, in the Authority’s jurisdiction.

Government Code Section 66704.5(b)(1) provides that eligible projects must accomplish at least one of certain listed goals, including restoration, protection, or enhancement of tidal wetlands and natural habitats on the shoreline. Consistent with this section, the project will restore and protect the Hayward Marsh, changing the managed brackish marsh ponds into more natural variety of shoreline habitats which include tidal marsh and mudflats, seasonal ponds, managed tidal ponds, and upland habitat that will support a diversity of wildlife.

Government Code Sections 66704.5(b)(2) and (3) provide that eligible projects must accomplish at least one of certain listed goals, including building and enhancing shoreline levees, and providing or improving public access as a part of wetland protection project. Consistent with these sections, the project will stabilize the bayfront levee and Bay Trail which runs atop the levee. The project will also design a new levee east and at a higher elevation than the original levee that will serve as a future Bay Trail alignment and flood protection when sea levels rise.

Funding this planning project is consistent with Section 66704.5(e), which allows the Authority to award grants for “all phases of planning, construction, monitoring, operation, and maintenance” of eligible projects.

**CONSISTENCY WITH MEASURE AA PROGRAMS AND ACTIVITIES:**

The project is consistent with Measure AA's *Vital Fish, Bird and Wildlife Habitat Program*'s purpose of protecting a restoring wetlands and other Bay shoreline habitats to benefit wildlife by restoring and enhancing a variety of shoreline habitats (tidal marsh, seasonal ponds, permanent ponds, high tide islands, uplands) which will to benefit Ridgway's rail, the salt marsh harvest mouse, and to maintain and protect nesting habitat for California least terns, Western snowy plover, California black rails, and other waterbirds.

The project is consistent with Measure AA's *The Integrated Flood Protection Program*'s purpose of building and/or improving flood protection levees that are necessary part of wetland restoration activities by stabilizing the bayfront levee, using breakwater piles to reduce erosion of the levee, and designing a new levee alignment in anticipation of future sea level rise.

The project is consistent with Measure AA's *Shoreline Public Access Program*'s purpose of enhancing quality of life for Bay residents and improving public access by preparing for sea level rise and improving Bay Trail access through levee stabilization and constructing a new levee for future Bay Trail alignment when sea level rises.

**CONSISTENCY WITH MEASURE AA PRIORITIZATION CRITERIA:**

1. **Greatest positive impact.** The proposed project will design and enhance habitat such that it could support the current or greater populations of wildlife such as the California least tern, Ridgway's rail, salt marsh harvest mouse, Western snowy plover, and California black rail. More information about the project's impact and the regional plans that it supports can be found in Exhibit 2, "Consistency with Measure AA Prioritization Criteria" items #1 and #5.
2. **Greatest long-term impact.** The proposed project will design for up to five feet of sea level rise projected for year 2080. For more information see the "Project Description" section above, and "Consistency with Measure AA Prioritization Criteria" item #2 in Exhibit 2.
3. **Leveraging resources and partnerships.** EBRPD is working closely with USD to prepare for the proposed project when Hayward Marsh ceases receiving treated wastewater. EBRPD is also leveraging their own bond funds to support the project (see "Project Financing" above). For more information see "Site Description" and "Consistency with Measure AA Prioritization Criteria" item #3 in Exhibit 2.
4. **Economically disadvantaged communities.** The proposed project is adjacent to an Economically Disadvantaged community called Russel City. For more information see "Consistency with Measure AA Prioritization Criteria" item #4 in Exhibit 2.
5. **Coastal Conservancy's San Francisco Bay Area Conservancy Program.** The proposed project is consistent with the Conservancy's Project Selection Criteria as follows:
  - a. The proposed project accomplishes the objectives in the Conservancy's Strategic Plan to enhance biological diversity and habitat by designing for the restoration of a variety of shoreline habitat that provide better nesting and high tide refugia for wildlife; enhancing the resiliency of shoreline communities and ecosystems to the impacts of climate change be preparing for sea level rise and gradual habitat migration; improving public access and recreation by reinforcing the levee the Bay Trail runs atop, and enhancing the experience

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of visitors and educational programs that may view the shoreline habitats and wildlife from the trail.

- b. The proposed project is a good investment of regional resources because it will serve a regional constituency including Alameda County residents and advances the goals and objectives of multiple local and regional plans (see Exhibit 2, "Consistency with Measure AA Prioritization Criteria" item #5)
- c. The proposed project benefits will be sustainable or resilient over the project lifespan because the proposed project will plan for sea level rise and its impacts such as erosion by designing a new levee, designing for marsh migration toward upland areas, and enhancing tidal ponds with high tide refuge islands.
- d. The proposed project will deliver multiple benefits and significant positive impact by enhancing habitat for wildlife, reinforcing the levee using living shoreline strategies, and improving public access via the Bay Trail.
- e. Earlier phases of the proposed project incorporated park visitor surveys that asked which climate change impacts users experiences when visiting the Hayward Shoreline. Over 1,000 responses from Hayward Shoreline Park visitors indicated that sea level rise, flooding, and drought were top of mind. The park design addresses concerns regarding sea level rise and flooding. EBRPD also hosted a public workshop and survey to get feedback on proposed alternative designs for the marsh and selected the preferred alternative to develop engineering designs and plans for. They also created an informational brochure about the project to hand out during the regular educational programming that occurs at the Hayward Shoreline Interpretive Center.

6. **San Francisco Bay Conservation and Development Commission's Coastal Management Program.** The project is consistent with and meets the following priorities of the plan:

Tidal Marshes and Mudflats Policy 5: Restore tidal action to tidal marshes and tidal flats that have been diked to the Bay and/or manage historic wetlands to provide important Bay habitat for resting, foraging, breeding.

Water Quality Policy 1: Restore the Bay's tidal marshes and conserve water surface area and volume to protect and improve water quality.

Fish, Other Aquatic Organisms and Wildlife Policy 1: Conserve and restore the Bay's tidal marshes, tidal flats, and subtidal habitat to assure benefits to fish and other aquatic organisms and wildlife for future generations.

Public Access Policy 4: To ensure the optimum use of the Bay for recreation, enhancing access of waterfront parks by improving Bay trail segments that connect to the waterfront and interpretive programs that inform visitors about the wildlife and habitat values present in the park.

7. **San Francisco Bay Joint Venture's Implementation Strategy.** The San Francisco Bay Joint Venture supports the Hayward Marsh Restoration Project. The project is referenced in the November 2019 Priority Projects List as the "Hayward Regional Shoreline – Habitat

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Restoration” project. Consistent with the Implementation Strategy, the project will enhance wetland habitat.

### **CONSISTENCY WITH AUTHORITY’S INTERIM TRIBAL CONSULTATION POLICY:**

In Spring of 2022 EBRPD contacted the Native American Heritage Commission (NAHC) for a list of tribes and contacts that indicated an association or interest in the project area. The NAHC returned a list of nine tribes of whom were contacted that same spring by EBRPD’s Cultural Service Coordinator. Of the nine tribes contacted, two responded and met with EBRPD staff to learn more about the project. EBRPD staff provided an overview of the conceptual designs to the two tribes in separate meetings. All nine tribes will be notified again during a future implementation phase in coordination with EBRPD’s Cultural Service Coordinator and the U.S. Army Corps of Engineers staff which will be the lead federal agency responsible for contacting tribes and stakeholders as part of the project.

### **COMPLIANCE WITH CEQA:**

The proposed project is statutorily exempt from review under the California Environmental Quality Act (CEQA) pursuant to Pub. Res. Code 21080.56, which exempts projects that conserve, restore, protect, or enhance native wildlife and its habitat. Such projects must result in long term benefits to climate resilience and biodiversity, include procedures for ongoing management, and the Director of the California Department of Fish and Wildlife (CDFW) must concur with the lead agency’s exemption determination.

Consistent with this section, this project will create plans to restore habitat used by native fish and wildlife species. It will result in long-term benefits to climate resilience by improving levees which protect against extreme weather effects associated with climate change. The project will benefit biodiversity by improving the habitat, making it more favorable for birds to nest and increasing habitat connectivity for fish. EBRPD will continue to provide ongoing management for Hayward Marsh. The Director of CDFW concurred with EBRPD’s CEQA exemption determination (Exhibit 5). Upon approval of the project, staff will file a Notice of Exemption.