

SAN FRANCISCO BAY RESTORATION AUTHORITY

Staff Recommendation
May 3, 2024

**AUGMENTATION FOR THE
BAY RESTORATION REGULATORY INTEGRATION TEAM**

Project No. RA-009
Project Manager: Mark Kalnins, Evyan Sloane

RECOMMENDED ACTION: Authorization to disburse up to \$2,500,000 over at least five years and authorization to accept and disburse up to \$2,000,000 of funds granted to the Authority, to augment the Authority’s previous authorization to disburse up to \$3,250,000 over five years (to be adjusted annually by the Consumer Price Index) and accept and disburse up to \$3,000,000 of funds granted to the Authority, to state and federal regulatory agencies for continued operation of the Bay Restoration Regulatory Integration Team.

LOCATION: All nine San Francisco Bay Area counties

MEASURE AA PROGRAM CATEGORIES: Safe, Clean Water and Pollution Prevention Program; Vital Fish, Bird and Wildlife Habitat Program; Integrated Flood Protection Program; and Shoreline Public Access Program.

EXHIBITS

Exhibit 1: [Bay Restoration Regulatory Integration Team \(June 1, 2018, Staff Recommendation\)](#)

Exhibit 2: [2023 BRRIT Annual Report](#)

RESOLUTION AND FINDINGS:

Staff recommends that the San Francisco Bay Restoration Authority adopt the following resolution pursuant to The San Francisco Bay Restoration Authority Act, Gov. Code §§ 66700-66706:

“The San Francisco Bay Restoration Authority hereby authorizes the disbursement of an amount not to exceed two million five hundred thousand dollars (\$2,500,000) over at least five years, and acceptance and disbursement of an amount not to exceed two million dollars (\$2,000,000) of additional funds, if such funds are granted to the Authority, to augment the previous authorization to disburse up to \$3,250,000 over five years (to be adjusted annually by the Consumer Price Index), and to accept and disburse up to \$3,000,000 of funds granted to the Authority, to the U.S. Army Corps of Engineers, U.S. Fish and Wildlife Services, National Marine Fisheries Service, California Department of Fish and Wildlife, and San Francisco Bay

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Regional Water Quality Control Board (agencies) to operate the Bay Restoration Regulatory Integration Team (BRRIT) for an additional five years. The authorization is to support the continued work of the BRRIT, which is operating under San Francisco Bay Restoration Authority and State Coastal Conservancy agreements that are due to terminate in late 2024 and early 2025. Prior to commencement of work on the BRRIT under this authorization by each agency, the San Francisco Bay Restoration Authority shall either augment existing agreements or enter into new agreements with each agency that includes a budget, agency responsibilities, performance measures, and the obligation of each agency to participate in the Bay Restoration Policy and Management Team. The San Francisco Bay Restoration Authority shall annually evaluate the BRRIT, review the evaluation at a public board meeting, and make a determination whether to terminate the agreements with each agency.”

Staff further recommends that the Authority adopt the following findings:

“Based on the accompanying staff report 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 §§ 66700-66706.
2. The proposed authorization is consistent with The San Francisco Bay Clean Water, Pollution Prevention and Habitat Restoration Measure (Measure AA).”

PROJECT SUMMARY:

Staff recommends that the San Francisco Bay Restoration Authority (Authority) authorize disbursement of \$2,500,000, and the acceptance and disbursement of \$2,000,000 of additional funds granted to the Authority, for continued operation of the Bay Restoration Regulatory Integration Team (BRRIT) for an additional five years. On June 1, 2018, the Authority authorized disbursement of up to \$3,250,000 over five years (to be adjusted annually by the Consumer Price Index), and to accept and disburse up to \$3,000,000 of funds granted to the Authority, to the state and federal agencies that participate in the BRRIT. In August 2019, the BRRIT participants began working to improve the permitting process for multi-benefit restoration projects and associated flood management and public access infrastructure in the San Francisco (SF) Bay and along the shoreline of the nine Bay Area counties (excluding the Delta Primary Zone). Staff recommends authorization of additional funding to support the BRRIT for a second five-year period. The objective of the BRRIT is to improve the permitting process by dedicating agency representatives to review project information for consideration as a team and process permit applications in the most efficient possible manner. In addition, each BRRIT agency dedicates an agency manager to participate on the BRRIT’s Bay Restoration Policy and Management Team (PMT), which works to collaboratively identify and resolve policy issues and conflicts that slow down restoration permitting.

The BRRIT consists of six state and federal regulatory and resource agencies: San Francisco Bay Conservation and Development Commission (BCDC), San Francisco Bay Regional Water

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Quality Control Board (RWQCB), California Department of Fish and Wildlife (CDFW), U.S. Army Corps of Engineers (USACE), U.S. Fish and Wildlife Service (USFWS), and National Marine Fisheries Service (NMFS). The Authority granted funds to each of these agencies except BCDC and RWQCB. Those two agencies received grants for the BRRIT from the State Coastal Conservancy. It is anticipated that the same approach will be taken for the second five-year period. The U.S. Environmental Protection Agency (EPA) also participates on the BRRIT on an ad hoc basis.

Over the last five years, the BRRIT has continued to make progress on the goals outlined in the June 1, 2018 staff recommendation (Exhibit 1). The BRRIT has consistently met their agency-specific timelines for issuing permits and consultations (100% for all agencies) and issued all permits in time to meet project proponents' construction schedules. The BRRIT has fully permitted nine projects, consisting of a total of 63 permits or authorizations issued to date. The 2023 BRRIT Annual Report (Exhibit 2) describes how the BRRIT has successfully met its annual performance measures to improve the permitting process.

The BRRIT is also promoting and using newly developed programmatic permits to improve the efficiency and timeliness of the permitting process for projects on the BRRIT Project Priority List. The programmatic permits that are currently being utilized include the following:

- USFWS's Programmatic Biological and Conference Opinion on the California Statewide Restoration Effort;
- State Water Resources Control Board's Statewide Restoration General Order and Water Quality Certification for Small Habitat Projects;
- CDFW's Restoration Management Permit and the Statutory Exemption for Restoration Projects for streamlining the California Environmental Quality Act (CEQA); and
- Expedited Letter of Concurrence for NMFS Section 7 informal consultations.

To date, the BRRIT has issued a total of 12 programmatic permits/authorizations, with 33 more authorizations eligible for issuance currently under review by the BRRIT.

The BRRIT is also focused on improving guidance to project proponents to avoid perceived conflicts between agencies' policies and regulations, improving the process for soliciting feedback from project proponents about how the BRRIT can best serve the restoration community, and incorporating feasible suggestions from project proponents into the permitting process. This authorization will allow the BRRIT to continue to improve the permitting process for applicants and agencies for at least five more years.

PROJECT FINANCING

Total Cost for the First Five-Year Period (\$7,172,623):

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|--|-------------|
| San Francisco Bay Restoration Authority | |
| (Previous authorization adjusted for annual CPI) | \$3,488,704 |
| Santa Clara Valley Water District (via SFBRA) | \$1,000,000 |
| Bay Area Toll Authority (via SFBRA) | \$500,000 |

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| East Bay Regional Park District (via SFBRA) | \$375,000 |
| State Coastal Conservancy | \$1,808,919 |

Total Cost for the Second Five-Year Period (\$8,500,000):

San Francisco Bay Restoration Authority

| | |
|-------------------------------------|---------------------|
| (Current request) | \$2,500,000 |
| Other Sources (via SFBRA) (pending) | \$2,000,000 |
| Other Sources (via SCC) (pending) | \$4,000,000 |
| Project Total for Ten Years | \$15,672,623 |

The Authority, working in partnership with the State Coastal Conservancy, secured \$7,172,623 for the first five years of BRRIT operations (2019-2024). This included Authority and Coastal Conservancy funds, as well as funds that were granted to the Authority from East Bay Regional Park District, Santa Clara Valley Water District, and the Bay Area Toll Authority. The Authority’s 2018 authorization was to accept and disburse up to \$3,000,000 from other funders and the amount received and disbursed from other funders to date is \$1,870,000. Funding is being provided to the BRRIT agencies through agreements with the Authority and the Coastal Conservancy.

The Authority and Coastal Conservancy staff are working to raise \$8,500,000 for the next five years (2025-2029). This amount of funding would fully fund the six regulatory and resource agency employees that staff the BRRIT, including anticipated salary increases over the next five years, as well as hiring a consultant to improve tracking of project permitting progress. Authority staff are seeking additional funds from Santa Clara Valley Water District and the Bay Area Transit Authority, while Coastal Conservancy staff have applied for grants from the US Environmental Protection Agency and the National Oceanic and Atmospheric Administration. If necessary, Authority and Coastal Conservancy staff will seek funds from additional sources, as well. If all targeted external funds are obtained, \$2,000,000 of funding would be accepted and disbursed by the Authority and \$4,000,000 would be accepted and disbursed by the Coastal Conservancy.

In addition to the monetary contributions above, the six state and federal regulatory and resource agencies will provide in-kind services to staff the Bay Restoration Policy and Management Team, as well as office space.

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

Please see Exhibit 1.

CONSISTENCY WITH MEASURE AA PROGRAMS AND ACTIVITIES:

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Please see Exhibit 1.

CONSISTENCY WITH MEASURE AA PRIORITIZATION CRITERIA:

1. **Greatest positive impact.** Please see Exhibit 1.
2. **Greatest long-term impact.** Please see Exhibit 1.
3. **Leveraging resources and partnerships.** The project will leverage state and federal resources. Please see “PROJECT FINANCING” section above.
4. **Economically disadvantaged communities.** Please see Exhibit 1.
5. **Benefits to economy.** Please see Exhibit 1.
6. **Monitoring, maintenance, and stewardship.** The BRRIT’s effectiveness is monitored by Authority staff, who assess its performance annually, as required by the board authorization. BRRIT representatives are required to meet agency-specific timelines for issuing permits and consultations.
7. **Coastal Conservancy’s San Francisco Bay Area Conservancy Program.** The BRRIT is consistent with the Conservancy’s San Francisco Bay Area Conservancy Program’s Project Selection Criteria, in that it accelerates permitting for projects that accomplish several objectives in the Conservancy’s Strategic Plan, as follows:
 - (1) Enhance biological diversity, improve water quality, habitat, and other natural resources;
 - (2) Enhance the resiliency of shoreline communities and ecosystems to the impacts of climate change;
 - (3) Protect and enhance natural habitats and connecting corridors, watersheds, scenic areas, and other open-space resources of [regional] importance in the Bay Area, and; Improve public access

In addition, the BRRIT is a good investment of regional resources, includes a serious effort to engage tribes (see “Consistency with the Authority’s Interim Tribal Consultation Policy” section below), and delivers multiple benefits and significant positive impact.

8. **San Francisco Bay Conservation and Development Commission’s Coastal Management Program.** The permitting work of the BRRIT itself is not required to be consistent with the Coastal Management Program of the San Francisco Bay Conservation and Development Commission (BCDC). However, BCDC is one of the BRRIT agencies, and therefore, the projects permitted by the BRRIT are consistent with the San Francisco Bay Conservation and

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Development Commission’s San Francisco Bay Plan (amended October 2019) policies, particularly the following:

- (1) To assure the benefits of fish, other aquatic organisms and wildlife for future generations, to the greatest extent feasible, the Bay's tidal marshes, tidal flats, and subtidal habitat should be conserved, restored and increased.
- (2) Native species, including candidate, threatened, and endangered species; species that the California Department of Fish and Wildlife, the National Marine Fisheries Service, and/or the U.S. Fish and Wildlife Service have listed under the California or Federal Endangered Species Act; and any species that provides substantial public benefits, as well as specific habitats that are needed to conserve, increase, or prevent the extinction of these species, should be protected, whether in the Bay or behind dikes. Protection of fish, other aquatic organisms, and wildlife and their habitats may entail placement of fill to enhance the Bay’s ecological function in the near-term and to ensure that they persist into the future with sea level rise.
- (3) In reviewing or approving habitat restoration projects or programs the Commission should be guided by the best available science, including regional goals, and should, where appropriate, provide for a diversity of habitats for associated native aquatic and terrestrial plant and animal species.

9. **San Francisco Bay Joint Venture’s Implementation Strategy.** BRRIT provides efficient permitting of multi-benefit wetland restoration and flood protection projects, many of which have been identified as priority projects by the San Francisco Bay Joint Venture.

CONSISTENCY WITH AUTHORITY’S INTERIM TRIBAL CONSULTATION POLICY

The project is consistent with the Authority’s Interim Tribal Consultation Policy, as defined by Resolution 108, because the BRRIT is actively engaging with tribal contacts as part of its work to find pathways for more meaningful tribal engagement in the permitting process. Over the course of the next five years, the BRRIT will be developing and implementing a tribal outreach strategy to receive tribal input and participation on multi-benefit habitat restoration projects earlier in the permitting process.

COMPLIANCE WITH CEQA:

CEQA requires that public entities conduct environmental review prior to approving or funding a project. The CEQA Guidelines at 14 Cal. Code Regs. § 15378(b)(5) provide that the term “project” excludes organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment. The BRRIT will involve only permit review and consultation activities, which are administrative activities of governments that do not directly affect the environment. Therefore, the BRRIT is not a “project” within the meaning of CEQA and funding the BRRIT does not trigger the requirement for environmental review under CEQA.

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The projects described in the applications processed by the BRRIT will undergo review under CEQA before they are funded or approved.