



**Contra
Costa
County**

To: Contra Costa County Flood Control District Board of Supervisors

From: Brian M. Balbas, Public Works Director/Chief Engineer

Date: November 8, 2022

Subject: First Amendment to and Restated Memorandum of Understanding for Bay Area Flood Protection Agencies Association, Countywide. Project #7505-6F8239

RECOMMENDATION(S):

Acting as the governing body of the Contra Costa County Flood Control and Water Conservation District (FC District), APPROVE and AUTHORIZE the Chief Engineer, or designee, to execute the "First Amendment to and Restated Memorandum of Understanding" (MOU) with other Bay Area flood control agencies to establish how new members join the Bay Area Flood Protection Agencies Association (BAFPAA), as recommended by the Chief Engineer, Countywide.

FISCAL IMPACT:

Costs to participate in the BAFPA will be funded 100% through FC District funds. The BAFPA MOU does not establish the FC District annual dues or cost share for any future BAFPA activities or cost sharing.

BACKGROUND:

In November 2002, California voters approved Proposition 50, the Water Security, Clean Drinking Water, Coastal and Beach Protection Act. Chapter 8 of the Act provides grant funding for projects identified in an Integrated Regional Water Management (IRWM) Plan. The intent

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY
ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/08/2022** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor

Candace Andersen, District II
Supervisor

Diane Burgis, District III Supervisor

Karen Mitchoff, District IV
Supervisor

Federal D. Glover, District V
Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 8, 2022

Monica Nino, County Administrator and Clerk of the Board of Supervisors

By: Stacey M. Boyd, Deputy

Contact: Mark Boucher, (925)
313-2274

BACKGROUND: (CONT'D)

of the Act and subsequent implementing legislation is to encourage regional cooperation in various aspects of water resources planning, flood protection, stormwater management, and habitat protection and restoration.

On March 23, 2004, the Board of Supervisors authorized the Chief Engineer to sign a Letter of Mutual Understanding (LOMU) and FC District staff to participate in the IRWM planning efforts. The LOMU is nonbinding, nonexclusive, and includes no agreements for cost sharing. The framework for developing the IRWM Plan was established in the LOMU. Preparation of the IRWM Plan was overseen by a Technical Coordinating Committee composed of representatives of each of the four functional areas of Water Supply and Water Quality, Flood Protection and Stormwater Management, Wastewater and Recycling, and Ecosystem Restoration.

On July 12, 2005, the Board of Supervisors adopted the East Contra Costa County Functionally Equivalent IRWM Plan to qualify for grants under Proposition 50, the Water Quality, Supply and Safe Drinking Water Projects, Coastal Wetlands Purchase and Beach Protection Act. They also authorized staff to participate in submitting a multiagency grant application for the first funding round in July 2005.

On December 6, 2005, the Board of Supervisors adopted the first San Francisco Bay Area Integrated Regional Water IRWM Plan, dated November 6, 2006. The Board of Supervisors also authorized FC District staff to participate in an effort to update that plan and be involved with other Bay Area flood control agencies to form an association for coordinating input to the IRWM Plan.

In November 2006, California voters approved Proposition 84, the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act. This Bond Act continued the IRWM approach as a requirement for funding water resource related projects throughout the state.

In November 2006, the voters approved Proposition 1E, the Disaster Preparedness and Flood Protection Bond Act of 2006, which required projects funded by the Proposition 1E grant to be consistent with (i.e., included in) an IRWM Plan.

On September 11, 2007, the Board of Supervisors approved and authorized the FC District to join BAFPAA and sign the BAFPAA Charter.

On September 13, 2011, the Board of Supervisors approved and authorized the FC District to execute an MOU with other Bay Area flood control agencies to formally establish the BAFPAA (2011 MOU).

This First Amendment to and Restated MOU for BAFPAA clarifies the process and submittals required for a New Member agency to join BAFPAA. The 2011 MOU did not

address this process.

BAFPAA was established to coordinate and provide mutual support in planning and implementing flood protection services amongst the flood protection agencies in the Bay Area. BAFPA also provides a unified voice for Member Agencies in developing and implementing regional plans and working with other regional agencies at the state and federal level and participates in the IRWM planning efforts in the Bay Area to integrate projects and programs across all functional service areas.

BAFPAA has been instrumental in several efforts, including:

- Providing key input into the Bay Area IRWM collaboration process in association with the development and updating of the Bay Area IRWM Plan and its project prioritization process.
- Providing important outreach to watershed and creek groups whom we work with and helping them understand and become involved in the Bay Area IRWM process.
- Seeking changes in the United States Army Corps of Engineer (Corps) enforcement of their Levee Vegetation Policy.
- Coordinating and educating Member Agencies about the bay tidal studies being performed by FEMA and the Corps related to sea level rise (SLR).
- Collaborating in understanding to regulatory permitting requirements as they have been interpreted and applied to the various agencies in the Bay Area.
- Organizing and hosting the California State Department of Water Resources Preseason Flood Coordination Meetings specific to the Bay Area.
- Helping establish and leading the San Francisco Bay Regional Coastal Hazards Adaptation Resiliency Group (CHARG), which is a strategic initiative of BAFPA. CHARG is committed to advancing implementable regional SLR adaptation in the San Francisco Bay. CHARG engages stakeholders and advances the technical foundation needed to build regional resilience to implement a “One Bay” SLR adaptation plan.

The First Amendment to and Restated MOU for BAFPA (2022 MOU) defines the roles and responsibilities of the Member Agencies, the establishment of an expenditure account, and the rules for the Treasurer Agency in holding and managing the account of monies collected from the Member Agencies to support BAFPA efforts. It also allows the Treasurer Agency to enter contracts for the association and defines financial roles and responsibilities of the signatory agencies. Overall, the MOU provides a structured and efficient way to collaborate regionally in common flood protection agency issues and endeavors. This 2022 MOU clarifies how new members may join BAFPA.

CONSEQUENCE OF NEGATIVE ACTION:

Without the 2022 MOU, agencies desiring to become members of BAFPAA will not have a clearly defined process to join BAFPAA and be allowed to efficiently contribute financially to efforts and projects that they desire to collaborate in. Those agencies signatory to the 2011 MOU will be able to continue their collaboration and cost sharing, but without the benefit of other agencies joining their efforts.

ATTACHMENTS

BAFPAA MOU