



MEMORANDUM

DATE: April 7, 2017

TO: Governing Board
San Francisco Bay Restoration Authority

FROM: Sam Schuchat, Executive Officer
San Francisco Bay Restoration Authority

SUBJECT: Resolution 28 - Delegation of Authority to Executive Officer

I recommend that the Authority adopt Resolution 28 delegating to the Authority's Executive Officer the power to carry out various administrative activities on behalf of the Authority.

Background

Pursuant to the San Francisco Bay Restoration Authority Act ("Act"), the Authority has all powers express or implied necessary to carry out the purposes of the Act. (Government Code § 66704) The express powers include the power to hire staff and determine their duties, and to enter into a joint powers agreement. The Authority has entered into a joint powers agreement with the State Coastal Conservancy and the Association of Bay Area Governments pursuant to which the Conservancy performs staff services, including executive officer services for the Authority. Although the joint powers agreement describes the general staff duties that the Conservancy and ABAG will perform for the Authority, it does not include a specific delegation of authority to the Executive Officer.

Accordingly, Resolution 28 delegates certain administrative powers to the Executive Officer ("EO"). The proposed delegation will enable the Authority to operate more efficiently by enabling the EO to take actions that implement Authority goals, directives and prior approvals without necessitating formal Authority action.

Proposed Delegation

The proposed delegation provides authority for the EO to enter into routine and non-controversial contracts, up to \$50,000, for technical services (e.g., engineering, biology, etc.) and other services needed to implement Authority programs.

With respect to contracts and grants authorized by the Authority, the delegation allows the EO to substitute grantees; modify or assign grant agreements and contracts; and authorize Authority grantees to accept from or convey to other appropriate entities on appropriate terms leases, licenses, options, offers to dedicate, and similar interests. The delegation of this authority will obviate the need for staff to expend the Authority's meeting time on what are, in most cases, details of project administration, and will better enable staff to meet the Authority's goals with respect to an already-approved Authority project.

The delegation allows the EO to augment Authority-approved expenditures by up to fifteen percent. The ability to augment grants and contracts will enable the timely completion of projects where minor changes, difficulties, or adequately justified small cost overruns would otherwise require a project delay and expenditure of staff time for a return to the Authority for approval of the augmentation. The EO would require a written justification from a contractor or grantee, and only authorize increases when, in the EO's judgment, an increase is justified.

The proposed authorization enables the EO to place matters on a consent calendar. Once the Authority begins to implement a grant program, a consent calendar will reduce the burden on the Authority and staff with respect to non-controversial grants and other action items on the Authority's public meeting calendar. Consent items would not receive an oral presentation and would be voted on as a group rather than individually. The Authority could remove any item from the consent calendar and ask for an oral presentation or Authority discussion of the matter. The parameters for placing matters on the consent calendar generally describe routine or non-controversial types of matters not likely to need extensive treatment or oral discussion. These include changes in a previously approved project, project amount, or project grantee; approval of subsequent phases of a previously approved item; and matters requiring a minimum of discretion or judgment.

The proposed delegation addresses the Authority's obligations under the California Environmental Quality Act (CEQA) by authorizing the EO to determine that a project is exempt from review under CEQA. This is consistent with the CEQA Guidelines, which allow an agency to delegate to its staff the authority to determine that a particular project is exempt from CEQA review. (14 Cal. Code Regs. § 15025)

The proposed delegation enables the EO to apply for and accept funds for general support or for projects, to enter into agreements to obtain the funds, and to accept the funds. The delegation would not allow the EO to disburse accepted funds without Authority approval.

In conclusion, approval of Resolution 28 delegating authority for certain actions to the EO will aid both the Authority and staff in their work by saving time and increasing efficiency, without compromising Authority oversight.