



# bay restoration commission

STEWARDS OF SANTA MONICA BAY

santa monica bay restoration commission 320 west 4<sup>th</sup> street, ste 200; los angeles, california 90013  
213/576-6615 phone 213/576-6646 fax www.smbrc.ca.gov

October 24, 2019

Agenda Item #3c

To: Governing Board, SMBRC

From: Guangyu Wang, Chief Administrative Director

Re: Withdrawal and termination of the Santa Monica Bay Restoration Authority (SMBRA) Joint Exercise of Powers Agreement (JPA)

## **Action Requested of the Governing Board:**

- Adoption of the proposed resolution for withdrawal and termination of the JPA

## **Background**

California law authorizes the formation of Joint Powers Agreements (JPA) between two or more public agencies. The signatories to a JPA may only jointly exercise those powers and duties that they share in common for the purpose of accomplishing the stated mission of the JPA.

The Santa Monica Bay Restoration Authority (SMBRA) was established by a joint exercise of powers agreement between the Santa Monica Bay Restoration Commission (SMBRC) and the Los Angeles County Flood Control District (District) and operates as a local public agency within the Santa Monica Bay Watershed and the jurisdictional boundaries of the SMBRC and the District with the purpose of broadening funding opportunities for projects within the Santa Monica Bay.

In 2004, shortly after the formation of the SMBRC, the Commission's Governing Board initiated the process of establishing the JPA in partnership with the District, in response to the need to combine individually limited resources for Bay restoration and protection priorities. Despite the availability of some federal, state and private sector funds for a wide variety of recommended Bay Restoration Plan (BRP) actions, municipalities and agencies within the watershed had frequently



cited lack of staff time, expertise and adequate funding to pursue grants and loans for projects that implement the BRP. At that time, Commission staff and Governing Board members believed that with the creation of a new Joint Power Authority, individually limited resources could be consolidated to hire staff and consultants to pursue funds for projects that individual municipalities and agencies rarely had the resources to do independently. In addition, it was believed that the JPA could administer grant management and reporting functions, as well as direct project implementation.

One specific need identified during the discussion was the partnerships for fulfilling the joint responsibility of watershed cities and the county to meet water quality laws and regulations, including the requirements of MS4 permits, implementing TMDLs, et al. Finally, it was also believed that the creation of a JPA would result in directing certain settlement funds from USEPA to the Commission for assisting USEPA in program management responsibilities, such as for the institutional control program funded by the Montrose settlement for remediating the sediment contamination on Palos Verdes Shelf.

On March 25, 2004, the Governing Board voted unanimously to adopt the Joint Exercise of Powers Agreement that established the SMBRA. Over the last 15 years since its establishment, the JPA served its purposes and accomplished many projects that advanced the goals and objectives of the BRP that without the JPA would have been very difficult, if not impossible to fund and implement. Major accomplishments include:

- The State Clean Boating Education Program from 2010 to 2017
- The Malibu Lagoon Post-Restoration Monitoring Project from 2013 to 2019
- The Wetland Program Development Project for Evaluation of Regional Wetland Monitoring Programs from 2015 to 2019

However, some projects/programs that would be funded and managed by the JPA as was envisioned originally, such as USEPA's Palos Verdes Shelf institutional control program, did not materialize for various reasons. Meanwhile, for water quality improvement projects that required joint responsibilities across local jurisdictions, there have been many other mechanisms that in many cases were more direct and efficient to consolidate various sources of funding than the JPA for their implementation. Most recently, for example, after the passage of Measure W, new arrangements for multi-jurisdictional collaboration are being planned by the County of Los Angeles, which also are anticipated to fulfill the intended purpose of the SMBRA.



Section 13 of the joint exercise of powers agreement authorizes either signatory to withdraw from the agreement with proper, written notice of such an intent to the Executive Officer no less than three months prior to the effective date of its withdrawal, so long as the withdrawing party has fulfilled its current legal or financial obligations or has made arrangements to do so.

In order to more effectively utilize the limited resources of the Commission, staff recommend that the SMBRC withdraw from the joint exercise of powers agreement for the SMBRA. Staff has reached out to the District and obtained their consent in writing (see attached memo) as well as their commitment to jointly resolve the remaining legal and financial obligations if any to the satisfaction of both parties. With the scheduled completion of the two remaining projects funded by SMBRA and the term of their respective grants ends on September 30, 2019, it is anticipated that the SMBRA will have no financial or legal obligations after closure of accounts on these grants and final audit for the year ending September 30, 2019 . Should the SMBRC Governing Board adopt the staff recommendation at the October 24 meeting and notify the Executive Officer of the SMBRA its decision right after the meeting as referenced in the JPA agreement, the SMBRA will terminate on or soon after January 22, 2020.





MARK PESTRELLA, Director

# COUNTY OF LOS ANGELES

## DEPARTMENT OF PUBLIC WORKS

*"To Enrich Lives Through Effective and Caring Service"*

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ADDRESS ALL CORRESPONDENCE TO:  
P.O. BOX 1460  
ALHAMBRA, CALIFORNIA 91802-1460

September 17, 2019

IN REPLY PLEASE  
REFER TO FILE: **SWP-1**

Dr. Guangyu Wang  
Bay Restoration Commission  
320 West Fourth Street, Suite 200  
Los Angeles, CA 90013

Dear Dr. Wang:

### **LETTER OF NONOBJECTION TO THE WITHDRAWAL OF BAY RESTORATION COMMISSION FROM THE SANTA MONICA BAY RESTORATION AUTHORITY JOINT EXERCISE OF POWERS AGREEMENT NO. 74798**

On April 6, 2004, a Joint Exercise of Powers Agreement (Agreement No. 74798) was entered into between the Santa Monica Bay Restoration Commission and the Los Angeles County Flood Control District, which established a joint powers authority, also known as the Santa Monica Bay Restoration Authority.

This letter is in furtherance of our telephone conversation on July 31, 2019, in which you indicated your intent to recommend to the Executive Committee of the Commission that the Commission withdraw from Agreement No. 74798.

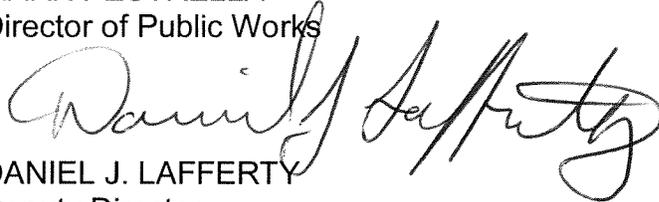
Please be advised that the Los Angeles County Public Works, which administers Agreement No. 74798 on behalf of the District, has no objection to the Commission's withdrawal from Agreement No. 74798 pursuant to Section No. 13 of the Agreement. It is our understanding that there are no pending legal or financial obligations.

Dr. Guangyu Wang  
September 17, 2019  
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If you have any questions, please contact Mr. Cung Nguyen of my staff at (626) 458-4341 or [cunguyen@pw.lacounty.gov](mailto:cunguyen@pw.lacounty.gov) regarding this matter.

Very truly yours,

MARK PESTRELLA  
Director of Public Works

A handwritten signature in black ink, appearing to read "Daniel J. Lafferty". The signature is written in a cursive, flowing style with some loops and flourishes.

DANIEL J. LAFFERTY  
Deputy Director

CN:tr

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**DRAFT**

## **SANTA MONICA BAY RESTORATION COMMISSION**

**October 24, 2019**

**Resolution No. 19-01**

### **Resolution to withdraw from and terminate the Santa Monica Bay Restoration Authority (SMBRA) Joint Exercise of Powers Agreement (JPA)**

WHEREAS, The Santa Monica Bay Restoration Authority (SMBRA) was established in March 2004 by a joint exercise of powers agreement between the Santa Monica Bay Restoration Commission (SMBRC) and the Los Angeles County Flood Control District (District) as a local public agency within the Santa Monica Bay Watershed and the jurisdictional boundaries of the SMBRC and the District; and

WHEREAS, The purpose of establishing the SMBRA was to broaden funding opportunities for projects within the Santa Monica Bay and combine individually limited resources in order to accelerate and advance the Bay Restoration Plan priorities; and

WHEREAS, Over the last 15 years since its establishment, the JPA served its purposes and accomplished many projects that advanced the goals and objectives of the Bay Restoration Plan; and

WHEREAS, Many mechanisms established by other local jurisdictions for pool various sources of funding exist in the Santa Monica Bay which have been, and continue to fulfill the intended purpose of the SMBRA; and

WHEREAS, Termination of the SMBRA will more effectively utilize the limited resources of the SMBRC; and

WHEREAS, Section 13 of the joint exercise of powers agreement authorizes either signatory to withdraw from the agreement with proper, written notice of such an intent to the Executive Officer no less than three months prior to the effective date of its withdrawal, so long as the withdrawing party has fulfilled its current legal or financial obligations or has made arrangements to do so; and

WHEREAS, The Los Angeles Flood Control District has provided their consent in writing with commitment to jointly resolve the remaining legal and financial obligations to the satisfaction of both parties; and

WHEREAS, It is anticipated that the SMBRA will have no financial or legal obligations after September 30, 2019; and

NOW THEREFORE, BE IT RESOLVED, that the Governing Board adopt the staff recommendation that the SMBRC withdraw from the joint exercise of powers agreement for the SMBRA; and

NOW THEREFORE, BE IT FURTHER RESOLVED, that the Chair of the Governing Board provides written notice of the Governing Board decision to the Executive Officer of the SMBRA upon adoption of this resolution; and

NOW THEREFORE, BE IT FURTHER RESOLVED, that the Governing Board directs the Chief Administrative Director to work jointly with staff of the District to ensure any remaining legal and financial obligations are resolved to the satisfaction of both parties upon the effective date of the termination.

BY: \_\_\_\_\_

Chair, Santa Monica Bay Restoration Commission Governing Board

*our mission: to restore and enhance the santa monica bay through actions and partnerships that improve water quality, conserve and rehabilitate natural resources, and protect the bay's benefits and values*

