LEGAL TOOLS FOR GOVERNMENT ENTITIES TO INCENTIVIZE UTILIZATION OF FOREST BIOMASS IN CALIFORNIA

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Contents

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Overview and Purpose

Despite excessive amounts of dead trees, brush, and small-diameter wood that needs to be removed from California's forests, existing and proposed wood waste utilization projects face a close-to-insurmountable challenge when it comes to demonstrating sufficient and long-term access to woody feedstock sources. There are several reasons why a feedstock agreement is difficult to obtain: (1) volatile markets, sometimes due to fire salvage, (2) declining USDA Forest Service budgets and staffing capacity to implement projects, (3) the low value of biomass as compared to its high transportation costs, (4) the administrative challenges of contract management and (5) lack of skilled workforce and housing for those workers. All these factors lead to the vexing reality that while feedstock agreements are a necessary component to securing a financial package for new wood product businesses, they are exceedingly difficult to obtain. Without a minimum contract term of ten years, many lenders and investors deem wood products and bioenergy projects as too risky (CLERE, 2020).

In response to this challenge, a new concept was proposed. More recently referred to as the California Forest Residual Aggregation for Market Enhancement (Cal FRAME) model, the concept proposes to develop an efficient biomass removal and utilization process using local government, or other institutional arrangements, for forest health projects using a new and transparent intergovernmental framework. This process will explore ways to take the problems listed above so that wood-based businesses can more easily secure reliable, long-term feedstock supply while providing an economically viable outlet for forest health and fuel reduction projects and their associated contractors or landowners, in California's forests.

The concept was first explored in 2018 within the Forest Management Task Force (FMTF) Rural Economic Developmental Steering Committees/Wood Utilization (REDS/WUG), and later explored within research published by Conservation Strategy Group (CSG, 2021), and the Joint Institute for Wood Products Innovation (JIWPI) Biofuels Feedstock subgroup (Sanchez, 2021), which also produced a white paper that included a section on this subject. Additionally, CLEE at UC Berkeley also tackled this issue (Elkind et al., 2022).

In 2021, the Governor's Office of Planning and Research (OPR) was provided $3 million from the Wildfire and Forest Resilience Early Action Package to address economic development opportunities; $2.5 million was allocated to support new long-term wood feedstock pilot projects (Cal FRAME), which OPR used to fund 5 projects throughout the State. These pilots will develop plans to improve feedstock supply chain logistics within each target region via an institutional arrangement that bears the structure, authority, and resources to aggregate and initiate long-term feedstock contracts. Each project will explore and assess market opportunities to improve biomass feedstock availability in their region.

Led by Placer County Water Agency (PCWA), the Tahoe Central Sierra CalFRAME Pilot Project ("TCS Pilot Project")—including Placer, Nevada, and El Dorado Counties—has mixed landowner types who manage the surrounding forests for varying

objectives and a number of emerging biomass utilization facilities of varying scale and technology. In the coming decades, regional strategies to develop community and ecological resilience to reduce high-intensity wildfires will need to expand fuel reduction and forest restoration treatments, which will produce large quantities of commonly unmerchantable forest-based biomass and sawmill residue. Currently, unmerchantable biomass is often pile burned or left in-woods to decay due to a variety of reasons including complicated market dynamics and the high costs of removal. Adding new infrastructure and/or expanding existing infrastructure to handle expected increases in residue from fuel reduction treatments in the Tahoe Central Sierra region (TCS Region) will be necessary. A “biomass supply management entity” could provide a regionally tailored, public process that can administer the flow of biomass between landowners, suppliers and buyers. Such an entity could be a Joint Powers Authority (JPA), which could be made up of several special districts or local governments in the region that choose to tackle this problem.

This paper will review various options the region has to institutionalize a feedstock sourcing model to support forest resilience through improved biomass removal and contracting mechanisms. An aggregation entity could negotiate and support long-term contracts between biomass off-takers and suppliers, advancing the ability of both kinds of businesses to meet lender and investor requirements and to complete facility finance and development. Such entities could also provide other business and community support functions. By satisfying investor requirements, the aggregation entity has the potential to overcome one of the largest barriers restricting infrastructure development from capital markets (CLERE, 2020).

Section 1: Overview of Joint Powers Law

California has a long history of exercising joint powers with more than 1,800 JPAs, according to a guidebook on JPAs written by the California Senate in 2007 (Cypher et al., 2007). California Government Code Section 6500 *et seq.* ("JPA law", or "Act") allows special districts, cities, counties, as well as state or federal agencies, to agree to either (1) create another separate legal entity, or (2) jointly exercise overlapping powers common to each participating agency through an Agreement. When another entity is created, each government entity becomes "members" of the JPA. Member agencies create JPAs to deliver more cost-effective services, eliminate duplicative efforts and consolidate services into a single entity and to protect agencies from additional risk presented by new activities. Commonly, the Act is invoked by local governments to work on projects like groundwater management, transportation planning, road construction, or habitat restoration to name a few. The law can also be used to provide a service, manage energy or goods, and for infrastructure procurement. An agency is not required to have the acronym "JPA" in its organization's name. For example, when agencies involved in land use planning work under the Act they will often operate under the name "Council of Governments" (COG). Also, these agencies are often called an "Authority" as a synonym for "agency." JPAs play an extensive role in the local and regional management of California today.

The formation of a JPA is unique in public governance because it is not created by signatures on petitions or approved by a vote. Rather, a JPA is a voluntary collaboration of multiple public agencies to define mutually held powers to handle a common or complex issue. JPAs operate as a public agency, and as such are subject to the Ralph M. Brown Act, Public Records Act, Political Reform Act, and other public interest laws that ensure political transparency.

It is very important to note that the powers that each specific JPA wants to exercise must be already held by the member agencies. A new agency cannot be established to provide services or take responsibility for activities that are outside of its members' legislative purview. For example, waste treatment agencies cannot form a JPA to provide ambulance services, or a transportation agency cannot form a JPA for firefighting.

Understanding the basics of the Act is important for determining whether this tool is appropriate to manage finance, oversee construction, provide a service, or deliver another local government need. The first and most important tenet of JPA law is that the enabling agreement between the entities determines the scope of authority. The entities must agree on what they wish to accomplish, determine the breadth of their overlapping authorities, and then decide which member agency's administrative rules will govern the implementation of those goals. After reviewing these factors, they must decide whether to create a **separate legal entity ("JPA")** to handle the effort, or simply share responsibilities within a **Joint Powers Agreement** by and between the partner agencies. To make things even more confusing, many Agencies call themselves an "Authority". This does not change the fact that the entity is a Joint Powers Agency under the law. So, some existing agencies referenced in this report have the word "authority" in their name, but any reference to the creation of a separate legal entity under the Joint Powers Act is

referred to as a “Joint Powers Agency” or “JPA.” Otherwise, when referring to Joint Powers Agreements, the contracts that entitles enter into without creating an agency, that reference will be spelled out.

A. Joint Powers Agencies

The more common use of the Law is for a group of government entities to come together to establish a legally independent organization that will serve the common interests of those groups, as defined by those member agencies. This new organization will typically have representatives from the member agencies on its governing board. As a legally separate entity, it can enter into contracts, sue or be sued, and is required to conduct annual audits. They can also hire staff, obtain financing to build public facilities, and manage property. These entities will have an internal operating agreement that will establish cost sharing between the members, and other procedural matters. The entity will also have bylaws and potentially associated policies, as well. The Agency can also take advantage of the one independent power given under the JPA law: the power to issue bonds, which is a complex process described by Article II of the Statute. These agencies can help local governments work together to solve the issues related to forest biomass feedstock supply chains, will be discussed in more detail below.

An important clarification about members of a JPA: they can only be government entities. Government Code Sect 6502 specifies that a JPA can be formed by two or more public agencies by agreement to jointly exercise any power common to the contracting parties. If there is an interest in creating a JPA that has board members that are representative of a nonprofit organization, an industry trade group or the public at large, then such an effort must be ratified by the state legislature. One example of this is AB 1403, which permits private, non-profit 501(c)(3) organizations providing services to homeless individuals for homelessness prevention to establish a Joint Powers Authority or enter into a joint powers agreement with one or more public agencies. The bill's primary objective is to promote and facilitate the exchange of information between public agencies and non-profit corporations to identify individuals who frequently utilize publicly funded emergency services, aiming to provide coordinated care and housing services to homeless individuals or prevent homelessness.

Another example is SB 1226, known as "Joint Powers Agreements for Zero-Emission Transportation," which aims to facilitate partnerships between private, non-profit organizations engaged in zero-emission transportation services and public agencies. Its primary goal is to simplify the development, construction, and operation of zero-emission transportation systems and facilities. Key provisions of SB 1226 include allowing 501(c)(3) non-profit mutual benefit corporations specializing in zero-emission transportation services to participate in joint powers agreements with public agencies. These JPAs are recognized as public entities but are prohibited from incurring debt. The composition of the governing board is determined by participating public agencies, with a maximum representation of 50% from non-profit corporations. Projects authorized by these JPAs must employ a skilled and trained workforce and adhere to prevailing wage standards.

These two examples show that legislation can be inspired and passed to enable private entities to collaborate with public agencies using the Joint Powers law, despite the typical limitation of JPA membership to public agencies. SB 1226 shares similarities with AB 1403, which permitted non-profit corporations providing services to homeless individuals to engage in JPAs with public agencies. SB 1226 enjoys support from various entities, including the Bay Area Council, California Special Districts Association, CALSTART Inc., City of Long Beach, Climate Resolve, Los Angeles County Business Federation, and Los Angeles County Labor Federation. Having passed the Assembly Floor with a vote of 62-14 on 8/15/22, SB 1226 fundamentally seeks to promote environmentally friendly public transportation initiatives through collaborations involving public, private, and non-profit sectors. In the case of forest biomass aggregation, the role of Fire Safe Councils that are often nonprofit organizations could be an example in a specific region where a nonprofit is deemed so important to the endeavor that special legislation is sought to create a JPA that would allow for such a nonprofit entity to sit as a member of its Board.

While seeking a legislatively approved JPA formation with nongovernmental board members is a tall order, there is nothing that precludes a JPA from avoiding that formality and simply working collaboratively with nonprofit entities or creating public/private partnerships whereby a JPA hires private sector companies to support its missions and goals. Many JPA's have contractors provide most of their services, and some fully support the entity without employees. It is up to the members to determine how best to partner with nonprofit entities and industry partners within their communities.

B. Sharing Risk: A Primary Driver for JPA Agency Formation

One of the primary functions of JPAs in risk management is the pooling of resources for liability insurance. When Joint Powers Authorities (JPAs) share insurance among their member agencies, it creates a system that offers several benefits over each member securing its own specific insurance. This structure benefits from the cost advantages achieved through larger-scale insurance purchasing, resulting in lower premiums and enhanced coverage terms. By pooling their risks, JPA members can negotiate more favorable rates with insurers, as insurers are more inclined to offer better terms for larger, combined policies due to increased business volume and reduced administrative efforts. This also leads to broader coverage terms that might be too expensive or unavailable for individual members.

Risk pooling and diversification are other critical advantages. In a JPA, the risks are spread across multiple entities, stabilizing the impact of losses, as it's unlikely that all members will experience high-cost events at the same time. This leads to reduced volatility in insurance costs, which can be particularly beneficial compared to the significant year-to-year variation in premiums that individual agencies might face based on their own claims' histories. JPAs can also design insurance policies tailored to the collective needs of their members, addressing unique risks associated with their joint operations. This unified policy management reduces the administrative burden on each member agency. Additionally, JPAs often develop specialized risk management expertise and more efficient claims handling processes, benefiting all members.

Legal and regulatory compliance is another area where JPAs offer advantages. They ensure that their insurance policies comply with applicable state and federal regulations, a task that can be complex for individual agencies. JPAs manage compliance efforts, including updates to policies due to changing laws, collectively reducing the burden on each member.

Finally, sharing insurance through a JPA leads to stable financial planning for member agencies. Predictable insurance costs allow for more effective financial planning, avoiding unexpected spikes in insurance expenses. Some JPAs even establish reserve funds or partial self-insurance mechanisms, offering additional financial stability and potentially reducing reliance on commercial insurance markets. Liability management within a JPA is a crucial element that significantly impacts the member agencies.

The approach to handling liability in a JPA, including aspects like joint and several liabilities, specific liability allocation, and indemnification clauses, shapes how risks and responsibilities are shared and managed among the members. In some JPAs, the principle of joint and several liabilities is applied, where each member agency is responsible for the entirety of an obligation, not just their own share. This arrangement can be beneficial as it provides a safety net, ensuring that the JPA's liabilities are always met and maintaining its financial stability and operational integrity. It reassures all members that, in case of financial difficulty faced by one or more members, the collective responsibilities will still be fulfilled.

C. The Finances of Joint Powers Agencies Management

The first type of financial burden of maintaining a new legal entity is to discuss the administrative cost of “keeping the lights on.” This includes staff (including benefits, such as retirement and health insurance costs), entity insurance, and other business hard costs like equipment, any brick-and-mortar related expenses, software or online services, insurance, as well as the general fees collected from the JPA by the state and county. There are many JPA’s, some of which do not have separate staff’s but share staff, space, and other resources with their member agencies. Any administrative costs should be calculated based on what the members of the JPA are willing to offer from their internal resources, compared to what the services to be offered will require. These costs can be relatively easily calculated and then built into the agreement between the parties that is set up when the JPA is organized. The responsibility for unforeseen costs should also be provided for within foundational documents. In general, administrative costs for the management of a JPA will be shared by member agencies committed to the purpose of the JPA, but unique arrangements in terms of percentage of contributions that reflect the needs of each member, and independent sources of income for the JPA can be part of the equation.

The costs for the administration of a JPA are generally a small proportion of the overall budget if there is a large capital project, planning effort, or joint property maintenance scheme at the center of the entity’s purpose. The primary tools for covering both the administrative costs and project costs are described below but will also be covered in more detail in forthcoming reports associated with this OPR Pilot Project produced by EPS (Economic and Planning Systems Inc) and is expected in early 2024.

i. Fees for Services and Assessments

Local governments (and JPAs who are comprised of such entities) can charge fees for services that they provide. For example, a JPA can provide a fee for service to pay for contract negotiation and ongoing implementation, to develop a forest management planning document, or to provide business or technical support. If a JPA administered fuel reduction services, landowners could pay for those services, or if a JPA owns personal or real property, it could lease those to the public. Service fees will be an integral part of any governance structure implemented within the region.

A JPA could also install special assessments by following certain procedures. An assessment is a tool used for a one-time cost to help offset a specific community improvement or need, while a fee is generally charged for the use of a public facility or to pay for a public service. A fee can be recurring and is used to cover costs associated with the use of a public pool, for example, or a fee that is charged to use an Electric Vehicle (EV) lane. Sometimes fees and assessments are combined. Local government must ensure that these fees and assessments are not imposed as a tax, which is a critical part of the implementation of any such system *("Overview of Proposition 218...").*

ii. Bonds

JPAs have independent authority to arrange capital financing by selling bonds. As used in this context "bonds" means revenue bonds, notes, or other evidence of indebtedness (CA Gov. Code, § 6540). General Obligation Bonds that are paid by taxes of local governments are not covered under the JPA law. Revenue bond issuance is tied to a revenue stream for repayment of indebtedness, such as fees, assessment, or the expected income from the new project being financed. JPAs can issue revenue bonds without holding an election, as long as member agencies of a JPA adopt a local ordinance that permits the JPA to issue a bond. Note that a new JPA may need to rely on member entities as a backstop for a bond if the JPA itself has no credit history. For more about JPA bonds, The California Debt Financing Guide is an excellent resource (CDIAC, 2019).

iii. Tax Increment Financing

Tax Increment Financing (TIF) strategies are often associated with JPAs issuing bonds due to the unique advantage it offers. TIFs pay for infrastructure improvement projects by harvesting the future value of the property taxes associated with the improvement project. In other words, a JPA would be collecting the taxes from 10 years in the future to pay for projects today. Before a piece of 2012 legislation that dissolved Redevelopment Agencies, Public Finance Authorities (a type of JPA) were common with community redevelopment projects for infrastructure improvements using TIFs. Today, TIFs were re-introduced through two new types of PFAs that were developed to offset redevelopment costs for local government agencies (CALED, 2019). Enhanced Infrastructure Financing Districts (EIFD) and Community Revitalization and Investment Authorities (CRIA) are both examples of other government entity structures working to finance certain projects using innovative financing. The California Association on Local Economic Development released a booklet titled "FAQ on California's New Tax Increment Financing Tools" which thoroughly delves into this subject, thoroughly (CALED, 2019). An example is Golden State Finance Authority (GSFA), a JPA formerly known as the

Rural Home Mortgage Financing Authority, which consists of California's 58 counties (GSFA, 2023). It consolidates federal, state, and local funding to provide grants and other financing needed by first-time home buyers. They have participated in over $12.6 billion in loan financing and $545.7 million in down payment assistance since they were formed in 1993 (GSFA, 2023). An example of how this could work in this context could be that a new JPA formed to manage biomass could decide to buy a brownfield site and convert it to a new biomass business center, which would use this strategy to pay for that project. More details about this possibility will be discussed in the finance options paper provided by Economic & Planning Systems, Inc. under this Pilot Project.

iv. Community Measures for Parcel Tax or Sales Tax

In some circumstances, communities come together and decide that an issue is important enough to self-impose a parcel tax. Such an effort requires dedicated community outreach and resources to work with the population about the issue, including things like listening sessions and working groups. The valuation of the measure could also impact the outcome, for example, a 1-cent tax might be more successful than a 10-cent tax in a rural area. Documents about successful community parcel tax efforts are available and could be used as examples in the Region (MWPA, 2023). Another tax option includes submitting to the voters an imposition of a general sales tax increase, which may only be submitted for voter approval at an election for city council or board of supervisors. Currently the Wildfire Prevention Authority, which is a JPA formed in Marin County, is funded by a measure approved by the voters to support fuel reduction and vegetation management. If the community is keen to support such activities, this could be a tool to support biomass utilization.

i. Grants, Endowments, and Public Program Support

Many JPA authorities are supported by action specific grants that are made available through the federal, state, or local governments. These grants can catalyze JPA actions, or serve as semi-reliable funding, depending on the program. Endowments from charitable organizations or trade groups could also be established, or more permanent funding can be established by nonprofits, corporate sponsors, foundations, or member entities themselves.

D. "Joint Powers Agreements" that Do Not Create a Separate Entity

In some instances, government agencies opt to use the Act to create a unique contractual relationship, rather than a new legal entity. The most common reason existing government entities choose to enter into a Joint Powers Agreement is so that they can act within a broader area with their neighbors to solve common problems, beyond their individual jurisdiction. Being able to provide services or otherwise act within other geographic areas allows jurisdictions to consolidate and share resources. If entities choose this path and use the Act to function in one another's areas (but not to create a separate entity through the Agreement) the process is very simple to set up. The Agreement is much like any other contract between two or more parties, where each is responsible for whatever it has signed up to do, as described in the contract, and the agencies remain responsible for all their actions and obligations. There is no separate

entity, and therefore the other noticing requirements of the statute do not apply, and the agencies are limited to whatever finance and bonding mechanisms they have within their own enabling powers (CA Gov. Code, § 6542).

An interesting example of such an agreement was done in 2015 when two state Conservancies—the Coastal Conservancy and the Sierra Nevada Conservancy—entered into such an agreement (Coastal Conservancy, 2015 See appendix A). In this case, the Coastal Conservancy wanted technical assistance from its sister agency which included handling grant funds, and so the need prompted the use of the JPA agreement mechanism. There will be a more detailed discussion of State Agency involvement in JPA structures later, Pages 20-27 below.

While an Agreement without the creation of a separate entity is easy to set up, the utility of such a tool is fairly limited, with the emphasis being on sharing funding or staff only, rather than providing public services or financing infrastructure. Many local governments choose instead to create a new entity to utilize the many advantages of the JPA law.

Section 2: Examples of Functioning Joint Powers Agencies

Most JPAs are made up of city and county partners, and a handful of specific types of special districts. For example, Irrigation and Water Districts are one of the oldest types of special districts to partner with cities and counties to get work done together under JPA law. Water and power management are the most common uses of JPA authority today. JPAs also work especially well for waste management because waste hauling, sorting, and recycling processes can require expensive equipment and facilities. With a JPA in place, smaller local governments can work together to cover the costs of equipment for these important local waste-themed activities. JPA law also is at the core of Councils of Government (COGs) and Open Space Districts. These agencies can offer planning services for the purpose of establishing consensus about the needs of an area, and how to interconnect various solutions over multiple jurisdictions.

There are many examples of JPAs that are similar to what is needed for this challenge throughout California. Only a very few, however, have a direct link with forest management, hazardous fuel reduction, and forest health. We will now review some examples of JPA organizations pertinent to this endeavor, and spotlight four JPAs, three of which have either recently formed or have taken on more responsibility with vegetation management in the last 5 years.

A. Providing Water, Power, or Other Related Services: Irrigation and Water Districts, and Public and Municipal Utility Districts.

As mentioned earlier, Irrigation and Water Districts are two of the oldest types of special districts to partner with cities and counties to get work done under JPA law. Looking to such entities for examples of contracts and fee/cost management could be an important tool for any future JPA dealing with biomass markets. Due to their reliance on watershed health to generate, store and deliver adequate and high-quality water supplies in the region, the role of Irrigation and Water Districts and Water Agencies and associated legal authorities and restrictions were explored in an earlier study conducted for this pilot project (Tahoe Central Sierra Cal FRAME Project Water Agency Role in Forest Health Report, 2023). Research and interviews conducted during that study demonstrated that these water entities in this study region play a key role in initiating, implementing, and maintaining the forest health and wildfire resiliency of their territories (and associated watersheds in some cases), with an ever-growing interest and support by the agencies and their constituents. The forest management work by these water entities is frequently across jurisdictions, involves multiple stakeholders, and outside of traditional wildland urban interface (WUI) areas which may be more challenging for other entities, and is justified by their reliance on critical water supplies and placement of critical infrastructure in remote regions. Furthermore, water agencies have annual funds available for forest health and fuels reduction activities which are tied to a steady revenue source. Many of these special districts already have administrative staff that could be used for a JPA or have the means to easily process administrative and personnel services, but at the same time, they are not as bureaucratic as a city or county, which could make such a district a great administrator/member of a biomass focused JPA.

Example: Pioneer Community Energy

Established in 2017, Pioneer Community Energy is a Joint Powers Authority (JPA) that operates as a not-for-profit electricity provider. Operating under the community choice aggregation (CCA) model, it provides local communities with an alternative to conventional investor-owned utilities, enabling more control over energy sources and pricing to better meet the specific needs and preferences of the community.

Pioneer Community Energy serves a broad area including unincorporated regions of Placer and El Dorado counties, as well as incorporated areas such as Auburn, Colfax, Lincoln, Placerville, Rocklin, and Loomis. Their expansion into El Dorado County and the City of Placerville in 2022 and expanded into Nevada City and Grass Valley in early 2024, which highlights their growing influence in providing alternative energy solutions. The organization has a diverse customer base, with 575 industrial accounts, over 125,000 residential customers, and more than 16,000 commercial customers in eight cities. Their focus as a not-for-profit is on offering competitive rates, excellent customer service, and a variety of energy options, emphasizing affordable and reliable electricity for the communities they serve.

Pioneer Community Energy demonstrates a strong commitment to renewable energy through its Green100 program. Aimed at residents and businesses seeking to lessen their environmental impact, Green100 offers a renewable energy option that is more affordable than PG&E's standard rates. The program derives its electricity from diverse renewable sources such as geothermal, wind, solar, hydroelectric, and biomass. Participation in Green100 is entirely voluntary, allowing customers to opt for clean energy for their homes or businesses. Additionally, Pioneer Community Energy focuses on sourcing renewable electricity locally, primarily from Placer and El Dorado counties and other areas within California, reinforcing its support for local renewable energy projects, including forest biomass to electricity projects.

B. Waste Management Authorities

Waste management is often accomplished through a JPA mechanism. JPAs work especially well in this context because waste hauling and sorting, and recycling processes can require expensive equipment and facilities. With a JPA in place, smaller cities can join together to cover the costs of equipment for these important local waste-themed activities. Including a waste management authority as a member of biomass waste focused JPA would make a lot of sense for many reasons. First, they already have processes in place for dealing with wood waste; they may have storage space or can be a repository for wood that doesn’t make it to utilization and could even partner with companies that want to utilize wood at their location. Second, they understand the complex world of waste regulations. Third, they are known to the waste haulers in their local area and have existing land use authorities to do their work. Finally, they have existing administrative systems and fee structures that can handle biomass waste-associated issues. In summary, having a waste management authority on a biomass-themed JPA is ideal. An example will be covered later in this Section.

Example: Western Placer Waste Management Authority

A regional agency established in 1978 through a JPA agreement between Placer County and the cities of Lincoln, Rocklin, and Roseville to own, operate, and maintain a sanitary landfill and all related improvements. The WPWMA's critical facility elements include the Western Regional Sanitary Landfill and Materials Recovery Facility (recycling, composting, household hazardous waste, construction and demolition, and public drop-off). One of the waste streams the WPWMA manages is wood waste which is predominately processed into biomass fuel. Most of the wood received and processed by the WPWMA is dimensional lumber from construction and demolition activities, however, the WPWMA does receive limited amounts of forestry and urban tree waste. The WPWMA typically recovers and markets for reuse between 25,000 and 30,000 tons of woody material per year.

As noted above, most of these materials are used as biomass fuel and typically marketed to the Rio Bravo cogeneration facility located approximately 2 miles from the WPWMA's facility. However, over the past several years the market conditions for these materials have changed such that the demand by the Rio Bravo facility to accept wood materials from the WPWMA has been reduced and the value to the WPWMA of the biomass has gone from a net positive to a net negative value. This market change is related to Rio Bravo's operational priority of utilizing a majority of its operational capacity to process high-hazard forest materials.

To address these market changes, the WPWMA has begun working with other, smaller entities to "diversify" its biomass market outlets. Most notably, in 2018 the WPWMA entered into a limited site use agreement with Biogas Energy, Inc. which allowed Biogas Energy to site a pilot-study level biomass operation on the WPWMA's property that utilizes woody biomass to produce bio-oil and biochar using fast pyrolysis technology. Biogas' Energy's operation was funded primarily through grant funding from the California Energy Commission; Biogas Energy is currently applying for additional grant funding to continue its operation and to expand/modify the marketable co-products of its system, including investigating the production of pipeline injectable natural gas.

The WPWMA was also approached by Pioneer Community Energy (Pioneer; a Placer County-based Community Choice Aggregator) and Wisewood Energy (a biomass technology developer and operator) about siting a small to medium size (~ 1 to 3 Mega Watt) biomass facility on the WPWMA's property to generate electricity for sale to Pioneer. The concept behind the proposal is to prove the viability of siting small to medium-sized biomass facilities throughout the county that could handle a range of urban and forestry waste and subsequently produce electricity for local use. Pioneer and Wisewood Energy believe this model would allow for individual biomass facilities to be located closer to the source of fuel (reducing transport costs and associated environmental impacts) and could also be located close to key electrical transmission nodes. This project is still in the planning stages and the WPWMA has not yet entered into any contractual relationships.

Finally, the WPWMA has been approached by an entity with a preliminary concept to develop a co-located anaerobic digestor (AD) and woody biomass facility. The AD

facility would process non-woody biomass materials including food waste, sludge, and other similar organic materials while the biomass facility would process both urban and forestry-type wood wastes. The entity proposing the concept believes that the two systems could work symbiotically to optimize the production of pipeline-injectable renewable natural gas, fertilizer products for agricultural applications, and hydrogen fuels for vehicle or similar fueling applications.

Relevant Links: https://wpwma.ca.gov/

C. Open Space Districts and City/County Parks

Open space park districts are another common special district in California. Additionally, most cities and counties provide extensive park and recreational services. Providing this very popular community value requires significant local government effort, and like the other examples of JPAs above, the provision of such services can often be improved when many agencies work together. Note that ground restoration, vegetation and trail management, and fuel break maintenance are essential activities that can be shared with an Open Space District and its government partners. Local governments generally enjoy public support to use local general funds for park management. Depending on the volumes of woody biomass waste coming from any particular park(s), a biomass-themed JPA could benefit from the inclusion of a Park District as a member.

Example: Tuolumne Regional Park JPA

The Tuolumne River Regional Park JPA was formed as an agreement between Stanislaus County and the Cities of Ceres and Modesto. The responsibilities of the JPA include service as an advisory body on the acquisition, development, maintenance, and operation of the park it oversees, as well as other lands it owns and manages. Members of the JPA are appointed by their respective legislative bodies and serve at their direction and cannot include paid City or County employees. The JPA is responsible for providing and facilitating the Environmental Impact Reviews pursuant to California Environmental Quality Act requirements for the development of the lands under its authority.

Relevant Links: **https://www.modestogov.com/2624/Tuolumne-River-Regional-Park-JPA**

D. Councils of Governments, Housing, and Transportation Services

JPA law is at the core of Councils of Government, or COGs. These agencies can offer planning services to establish a consensus about the needs of an area and how to interconnect various solutions over multiple jurisdictions. State laws rely on COGs to prepare regional housing needs assessments, for example, that direct strategies within the county and city regional plans. COGs often look at broad systems and take land use and the associated parks, open space, wildlands, and fire risk and services into account

when they build plans for their communities, and as such, a COG could be a potential member of a biomass-themed JPA.

Example: Eastern Sierra Council of Governments

The ESCOG was established in 1995 by a JPA Agreement between the Counties of Inyo and Mono and the Town of Mammoth Lakes. In 1999, the JPA was amended to include the City of Bishop as a member. Its purposes include providing a forum for discussion of regional issues of interest to members, identifying and planning for the solution of selected regional issues requiring multi-governmental cooperation, facilitating actions and agreements among the members for project development, and conducting other regional functions as the members deem appropriate. It is also tasked with identifying funding sources and applying for and receiving funding for the planning and implementation of programs of regional importance.

In 2020, due in part to the need to address the forest health crisis, the four member agencies agreed to reformulate the entity and create a Joint Powers Authority giving it the ability to apply for and receive funding among other activities. ESCOG established the Sustainable Recreation and Ecosystem Management Program to seek and integrate responsible ecosystem management, natural resource conservation, sustainable outdoor recreation, and economic development using the best available science to advance resilience in the area. The program is empowered to apply for, pursue and administer grants and other funding to finance and manage projects that accomplish these objectives. This program is currently being implemented in partnership with state and federal agencies to scale up restoration projects in the region including fuels management projects for fire resilience. The ESCOG is contracting with a non-profit partner to implement many programs. This recent effort is an excellent model for this region to consider as it could include both the accountability and transparency of public agencies *and* the flexibility and nimbleness of private partners.

Relevant Links: https://escog.ca.gov/

E. State Agency Participation in a JPA

State agencies can also participate in JPA organizations and agreements, and sometimes JPAs can also be statewide. In both cases, the JPA organization is focused on specific tasks related to problem solving an issue that has statewide importance and is better tackled when local agencies group together to solve for outcomes. In our circumstance, there are no statewide JPAs working on forest health or biomass issues, but there is one unrelated to those topics that could serve as a model if there was a desire to create an entity that handled those issues statewide. State agencies could also facilitate the availability of low interest loans to the community for various infrastructure or biomass related equipment needed for hauling or other related activities, which could prove to be valuable to market development.

Example: The Transbay Joint Powers Authority

The Transbay Joint Powers Authority (TJPA) is an example of many levels of government working together to solve regional problems. The TJPA is a joint exercise of powers authority created by the City and County of San Francisco, the Alameda-Contra Costa Transit District, the Peninsula Corridor Joint Powers Board, the California High Speed Rail Authority, and Caltrans (ex officio). The TJPA is managed by TJPA staff and is overseen by an eight- member Board of Directors. The Transbay Project is a leader in reducing greenhouse gas emissions; by shifting passengers to mass transit, the Transbay Program will decrease reliance on regional highways, alleviate traffic, and reduce net emissions of greenhouse gases. The entire Transbay Program costs are estimated at about $6 billion, escalated to the year of expenditure (YOE). The Program construction is funded by a variety of federal, state, regional, and local sources. The Program is funded, in part, by a $400 million American Recovery and Reinvestment Act grant, a $171 million Transportation Infrastructure Finance and Innovation Act loan, land sales, bridge toll funds, regional measures, local sales tax, a special Mello-Roos tax district.

This example is relevant in that the State could potentially work to create three or four regional JPA entities that could include federal, state and local members to tackle biomass feedstock aggregation on a larger scale and use the networks, financing and expertise of all these different entities to tackle waste management from forest fuel reduction work. At this larger scale, it could be combined with other wood waste streams from the agricultural and urban waste streams so that the economies of scale could be better realized.

Example: Rural County Representatives of California: Golden State Finance Authority, Environmental Services Joint Powers Authority, and Golden State Natural Resources

Rural County Representatives of California (RCRC) is a forty-county member-service tax-exempt organization with the purpose of advocating for the issues that impact the rural counties of California. Over the years it has developed multiple public service entities including the **Golden State Finance Authority (GSFA),** which is a Joint Powers Authority whose purpose is to provide affordable housing and contribute to the social and economic well-being of California residents. GSFA could develop and own infrastructure improvements and could potentially participate as a member in a JPA contemplated within this Project, particularly if public infrastructure ownership is a goal. Such participation would be valuable because of the Authority's relationship with RCRC, as well as its understanding of financing mechanisms to fund public infrastructure improvement projects.

More specifically, 22 of the members of RCRC sit on the JPA board of the **Environmental Services Joint Power Authority (ESJPA)** which serves a crucial role in providing regulatory support and technical assistance relating to waste management in these counties. It actively promotes local public education campaigns and administers grants for recycling and hazardous waste management programs. Established in 1993 in response to the growing number of state and federal mandates related to solid waste management, ESJPA's primary mission is to help its rural county members meet regulatory requirements and waste diversion goals. Presently, ESJPA focuses on

addressing the specific challenges encountered in solid waste and recycling operations within local jurisdictions. With a dedicated staff, ESJPA assists its members in implementing, enforcing, and reporting on regulatory and statutory obligations. They conduct training sessions, offer personalized support during enforcement actions, manage grants for used tire and used-oil programs in multiple counties, and prepare compliance documents to aid member counties in navigating regulatory implementation and advocating for their interests. Furthermore, ESJPA serves as an advocacy entity, representing the concerns and priorities of its member counties in legislative and regulatory dealings, including engagements with Cal Recycle, the Department of Toxic Substances Control, the State Water Resources Control Board, and the California Air Resources Board.

Rural jurisdictions face unique challenges in the development and implementation of solid waste diversion efforts. The passage of the Integrated Waste Management Act of 1989 (AB 939) increased these challenges by requiring jurisdictions to develop and implement programs to divert fifty percent of their waste by the year 2000. The ESJPA helped create “The Rural Cooperative Recycling Tool Kit” which addresses the unique challenges faced by rural areas in implementing solid waste diversion programs, particularly due to factors such as distance to markets, seasonal variations, limited resources, and dispersed populations. It was developed to help rural jurisdictions evaluate their solid waste infrastructure and identify materials suitable for recycling. The toolkit emphasizes the importance of cooperative recycling between jurisdictions as a means to overcome these challenges. It draws from the experiences of Del Norte and Humboldt Counties in their "Regional Purchasing, Recovery, Processing, and Market Development Plan," and was created with funding from the California Integrated Waste Management Board to benefit rural California jurisdictions.

In summary, ESJPA is a vital support system for California's rural counties, assisting with regulations, technical help, and environmental programs. Their team ensures compliance, offers training, manages grants, and advocates for member counties at various levels. With the support of ESJPA and initiatives like the toolkit, rural counties in California are better equipped to address the ever-evolving landscape of solid waste management. As they continue to work towards sustainable and environmentally conscious solutions, ESJPA's role as a trusted partner remains pivotal in ensuring a greener and more resilient future for rural communities across the state.

Golden State Natural Resources (GSNR) is a non-profit, 501(c)3, forest resiliency company created by rural counties in California and governed by local elected leaders. It is a joint initiative of GSFA and RCRC, both mentioned above. Its board currently includes county supervisors from Humboldt, Inyo, Modoc, Butte, and Siskiyou counties. GSNR seeks to reduce excess biomass in California’s forested lands to build wildfire and forest resilience and spur economic opportunities in rural communities. GSNR holds a 20-year Master Stewardship Agreement with the USDA Forest Service (USFS) for all eighteen National Forests in Region 5.

Currently, its primary project is to develop two fuel wood pellet manufacturing facilities, one each in Nubieber and Sonora, CA, that will source biomass from forest thinning projects, orchards, and sawmills. Construction is anticipated to be completed in fall of 2024. GSNR plans to produce 700,000 tons of pellets per year at the Nubieber site

and 300,000 tons per year at the Sonora site. GNSR will export the pellets to international markets.

Relevant Links: https://www.gsfahome.org/

F. Federal Agency Participation in a California JPA

The JPA law explicitly allows for federal agencies to participate as members of a JPA, but at to date no federal agency has sat as a member on a JPA Board in California. Potential partnerships with federal agencies that sell biomass from activities on their lands such as the US Forest Service and the US Park Service may be interested in such an endeavor, and conversations with such agencies may be fruitful, and should be explored later. Initial conversations with local staff reflected an interest in the JPA concept for the potential purpose of supplying technical support, or labor sourcing.

G. JPA Spotlight: Joint Powers Agencies and Agreements that are Closely Relevant to our Interests with Cal FRAME

The different examples listed above are substantive and provide general context, but the entities outlined below are JPAs that are engaged in activities closely tied to land and natural resource management. These entities are more directly related to our work and warrant a closer review. Each one includes aspects that could be recreated by a JPA in the Region that could improve forest biomass feedstock supply and availability.

Example: Upper Mokelumne River Watershed Authority (UMRWA)

The Upper Mokelumne River Watershed Authority (UMRWA) is the water management group for the Mokelumne-Amador-Calaveras (MAC) region and is a JPA comprised of six water agencies and the counties of Amador, Calaveras, and Alpine (UMRWA, 2023). They hold eight Board of Director seats and are supported by a part-time contracted Executive Officer and several part-time contractors. UMRWA was formed in 2000 to address then-existing and emerging issues related to watershed restoration, water quality, and water supply. During its 23-year existence, UMRWA has served as a venue for developing constructive, community-supported solutions to water and watershed issues.

UMRWA‘s activities are focused on watershed and forest restoration projects and cooperative regional water resource planning initiatives. The agency pursues and secures grant funding, contributes member funds, and leverages federal and state investments for widespread regional benefit. UMRWA has completed over $15 million in planning and implementation grants, including numerous DWR and Sierra Nevada Conservancy (SNC) grants. In 2017 - 2019, UMRWA received three SNC grants which were leveraged with USFS funding to support fuel reduction treatment on over 4,100 acres. In 2021, the agency completed a culvert replacement and drainage improvement project along 58 miles/338 drainage structures within the Power Fire burn scar that was funded by the National Fish and Wildlife Foundation. The agency has also completed several other

Proposition 50 and 84 grants as part of the state's Integrated Regional Water Management Program (IRWMP).

UMWRA is an active member of the Amador Calaveras Consensus Group (ACCG), a mature and diverse forest collaborative. It holds a Master Stewardship Agreement and Supplemental Project Agreements with the USFS, and functions as a key partner for contracting environmental planning and permitting, and forest fuel reduction and restoration projects. In 2018, the ACCG adopted a 5-year strategic plan which established the goal to develop a comprehensive landscape assessment for all lands within the ACCG focus area. In 2020, UMRWA, together with the ACCG and with funding from the SNC, developed GIS products that aid in landscape planning, including tracking fuel reduction-related projects and identifying high-risk areas for future predicted wildfires. Using this information, UMWRA went on to initiate a phased, landscape-level program known as the Forest Projects Plan (FPP), in partnership with the USFS and the ACCG. The FPP aims to reduce wildfire risk and intensity, improve forest health and resilience, and enhance and protect wildlife habitat on National Forest System lands in and adjacent to the upper Mokelumne River watershed which is effectively an island of unburned area surrounded by lands impacted by recent large wildfires.

UMRWA, in cooperation with the USFS, has led collaborative planning and development of the FPP Phase 1 environmental planning documents in compliance with the National Environmental Policy Act (NEPA) which were completed in late 2022, addressing 25,671 acres of non-commercial actions to reduce ladder fuels on the Eldorado National Forest, Amador Ranger District (RD). UMRWA worked closely with the USFS and ACCG throughout the planning process, far exceeding the scoping requirements, completing permitting quickly and under budget, and securing an ACCG letter of consensus support. In 2022 and again in 2023, UMRWA was awarded CALFIRE grant funding to implement the restoration of a minimum of 5,388 acres of the Phase 1 project area.

UMRWA initiated FPP Phase 2 planning in mid-2022, which is expected to include the ladder fuels and prescribed burn treatments provided in Phase 1 but will also include additional forest management actions such as fuel break construction and maintenance, meadow and aspen restoration, and road decommissioning/maintenance within an up to 225,000-acre study area that spans the Amador Ranger District and the Stanislaus National Forest, Calaveras Ranger District. UMRWA anticipates utilizing a staged-decision-making approach for FPP Phase 2 given the size of the evaluation area, its span across two National Forests, and the expected comprehensive set of management actions. UMRWA anticipates it will take 2 to 3 years to work with the ACCG and the USFS to achieve FPP Phase 2 NEPA compliance, during which time it will continue to implement FPP Phase 1.

UMRWA dedicates significant resources to support work and to pursuing grant funds for its forest health program. Larger, multi-year investments are needed to significantly increase efficiencies and support UMRWA and its ACCG and USFS partners in their efforts to improve forest health and decrease wildfire risk and enhance the local capacity for forest restoration and potentially also biomass utilization.

Through its work, UMRWA has demonstrated a commitment to working closely with its partners and to responding to concerns early in the planning process to achieve collaboratively-supported projects that result in mutual gains. While this approach can sometimes demand considerable time and resources, UMRWA and its partners have been successful with it, building trust and rapport that may pay future dividends to be able to more quickly and comprehensively meet state and federal priorities for forest health.

Example: The California State Santa Monica Mountains Conservancy and its Nine JPA Partners

The Santa Monica Mountains Conservancy (SMMC) was established by the State Legislature in 1980, and one of ten State Conservancies under the California Natural Resources Agency. It has assisted in preserving over 75,000 acres of parkland in both wilderness and urban settings and improved more than 114 public recreational facilities throughout southern California. It is the overarching planning and public land acquisition entity for two counties, six mountain ranges, and ten southern California cities. Its mission is to strategically buy back, preserve, protect, restore, and enhance treasured pieces of southern California to form an interlinking system of urban, rural, and river parks, open spaces, trails, and wildlife habitats that are easily accessible to the general public. Its board consists of nine voting members (three ex officio members and six legislative members). The board is broadly representative of state, regional, and local interests. In addition, a twenty-six-member Advisory Committee meets with the Conservancy to provide citizens with the opportunity to participate.

The Santa Monica Mountains Conservancy is a member of nine active JPAs, at least two of which deal with vegetation management issues: the Wildlife Corridor Conservation Authority- which has the goal to assure sufficient continuity of wildlife habitat to maintain a functioning wildlife corridor made up of about 40,000 acres of land located between the Santa Ana Mountains and Whittier Hills- and the Mountains Recreation and Conservation Authority- which is dedicated to the acquisition, preservation, and protection of open space, wildlife habitat, and urban, mountain, and river parkland that is easily accessible by the public.

Special Mention: The Mountains Recreation and Conservation Authority (MRCA):

MRCA was established in 1985 and is a Joint Powers Agency comprised of the Santa Monica Mountains Conservancy (SMMC), the Conejo Recreation and Parks District, and the Rancho Simi Recreation and Park District. MRCA manages more than 75,000 acres of parkland, either owned by MRCA or by the SMMC. Staff at MRCA are paid via funding allocated from SMMC. SMMC can subgrant to MRCA for land acquisition, project design for capital projects, and vegetation management work. MRCA can also earn its own revenue by leasing the property and can receive donations. Here are three key provisions of its JPA enabling Agreement:

> 4.1. The Authority is hereby empowered to do all acts necessary for the exercise of such powers, and this agreement shall be liberally construed to effectuate its purposes.

4.2. For the purpose of Section 6509 of the Government Code, such powers are subject to the restrictions upon the manner of exercising the powers as are imposed upon the Conejo and Rancho Simi Districts including, without limitation, the provisions of Article 6 of Chapter 4 of Division 5 (commencing with Section 5788) of the Public Resources Code, as the same may be amended from time to time.
4.3. The Authority shall have the power to finance any capital acquisition or improvement, or the maintenance, servicing, and operation of any improvement, facility, park or open space land, by the use of any applicable provision of the Streets and Highways Code and the Government Code of the State of California pertaining to municipal improvements, temporary borrowing by local agencies, and/or benefit assessments to the fullest extent permitted by law and consistent with the provisions of Proposition 218 adopted by the voters in 1996, Article 10 of Chapter 4 of Division 5 of the Public Resources Code and the California Constitution.

These provisions clarify that the administrative law that the JPA chooses to subject itself under, and exemplifies the flexibility of the JPA statute to allow for various kinds of government members. There was also a court case in 1998 that solidified this flexibility. A resident of Topanga Canyon challenged MRCA's purchase of 662 acres in Topanga Canyon, claiming that MRCA is required to gain approval from the State Public Works Board to acquire the property because a state conservancy was on the Board, and that would be required of the Conservancy. The Court held:

> **(1)** Appellant argues that under its joint powers agreement between the Conservancy and the park districts, the Authority is required to gain approval from the public works board to acquire property. Appellant [***4] bases her argument on the fact that the Conservancy is required to obtain approval **[*1118]** from the public works board prior to acquiring land. (Gov. Code, § 15850; Pub. Resources Code, § 33203.) She does not dispute the fact that the park districts are not required to obtain approval prior to a purchase. (Pub. Resources Code, § 5782.5, subd. (b).) She presents a question of statutory interpretation, which we review de novo. (*Golden Cheese Co*. v. *Voss* (1991) 230 Cal. App. 3d 547, 556 [281 Cal. Rptr. 587].)
>
> ***HN1*** A joint powers agency "is subject to the restrictions upon the manner of exercising the power of *one* of the contracting parties, which party shall be designated by the agreement." (Gov. Code, § 6509, italics added.) Section 4.2 of the agreement between the Conservancy and park districts states, "[p]owers are subject to restrictions upon the manner of exercising the powers *as imposed upon the Conejo and Rancho Simi Districts*, . . ." (Italics added.) Under this agreement, the Authority is subject to the same restrictions as the park districts. Seeking approval from the public works board is not among those restrictions.

The Court's decision was unequivocal that the enabling contract establishing the JPA determines the processes that must be undertaken by the Agency to act, and the fact that

one of its members may have differing processes does not control. This would be the case for any level of government taking part in a Joint Powers Agency with other local government entities. The implication of this case is that even if a state agency joins as a member of a JPA, the process by which the JPA functions are defined by the enabling documents of the JPA, rather than the members, ie the state, and therefor the JPA would not be subject to requirements that its State agency member would be subject to- even if that state member is funding much of the activities of the JPA.

One area that might be a bit unclear is whether a state agency which is participating as a JPA member could avoid the requirements of the Department of General Services. Government Code 6501 specifies that the law does not authorize any state officer, board, commission, department, or other state agency or institution to make any agreement without the approval of the Department of General Services or the Director of General Services if such approval is required by law. The case above was in relation to the public works board, not the Department of General Services. That being said, this DGS provision is probably only related to situations where the state agency is a member of the JPA who needs to vote on the approval of the contracts before any contracts are executed by the JPA. As long as there are other processes in place that *avoid* the need for that state agency member to approve contracts, this potential snag is avoided.

Relevant Links: https://casetext.com/case/cooper-v-mountains-recreation-conservation
https://smmc.ca.gov/our-partners/

MRCA JPA Agreement: https://mrca.ca.gov/wp-content/uploads/2018/03/11-04-MRCA-JPA.pdf

Example: Joint Powers Agreement between the Sierra Nevada Conservancy and the Tahoe Conservancy.

Another example, separate from the one mentioned earlier between the Coastal Conservancy and SNC, is an example involving the Tahoe Conservancy and SNC which in 2017, established a framework for carrying out forest-related projects in which they jointly handle the application, receipt, and disbursement of public funds through the JPA and from one entity to the other; share resources; and combine services across jurisdictions. The Tahoe Conservancy and SNC use existing staff to administer a JPA consistent with the JPA terms and conditions. The JPA agreement allowed for the sharing of resources for implementation within a region that covers both jurisdictions. At the time of this paper, the two agencies are still using the agreement to share funds on projects that cross one another's boundaries and expedite the implementation of essential management functions across combined jurisdictions.

There has been considerable discussion about the potential to expand this JPA Agreement to incorporate biomass aggregation and contracting issues. One key item that should be explored further is whether the USFS, the Bureau of Land Management or the US Park Service would be interested in participating in this Agreement with the two state conservancies in order to facilitate the use of "Good Neighbor Agreements" that could accelerate fuel reduction projects on federal lands. The federal contracting tool

requires state participation in order to take advantage of the flexible financing tools within the process, which could not be used by a JPA without a state member. It remains to be seen, however, whether the federal agencies would participate in this endeavor.

Example: Marin Wildfire Prevention Authority

MWPA is a JPA funded through Measure C, a ten-year parcel tax estimated to raise $19 million annually. It was formed as a cross-jurisdictional authority for the Marin County area to advise and administer fire safety and preparedness efforts. It is predominantly made up of fire districts and includes 17 member agencies.

Their budget is broken down as follows: the projects featured on the MWPA website are cross-jurisdictional projects known as "Core Projects" (60% of MWPA budget) as well as Defensible Space and Home Hardening projects (20% of MWPA budget); the remaining 20% of the budget goes to MWPA member agencies for Local Wildfire Prevention Mitigation projects (Local).

Vision Statement: Marin Wildfire Prevention Authority communities are informed, prepared, fire-adapted, resilient, and capable of withstanding a major fire limiting the loss of life and major property damage while protecting our rich environmental diversity.

Mission Statement: The Marin Wildfire Prevention Authority leads the development of fire-adapted communities using sound scientific, financial, programmatic, and ecological practices, vegetation management, community education, evacuation, and warning systems with the support of its member and partner agencies.

The primary **goals** of this organization include: 1) vegetation management; 2) detection, alert, and evacuation; 3) grants; 4) public outreach and education; and 5) defensible space and home hardening. MWPA provides funding for specific local wildfire mitigation projects within each member's service area, while offering resources, education, and grant programs to residents to improve home hardening and community resiliency. MWPA also administers programs to improve detection, alert, and evacuation systems.

A working group of the Marin Wildfire Prevention Authority/Ecologically Sound Practices Partnership has started a Biomass Recovery study, working in concert with resource haulers and processors, to identify responsible ways to manage the increased amounts of organic material being generated by both wildfire prevention activities and curbside collection programs. The Biomass Recovery study is based on the solution/proposal endorsed by Drawdown: Marin, a county-wide campaign to reduce greenhouse gas emissions dramatically and prepare the County for climate change impacts.

The objectives of the study are:

- To conduct a biomass inventory for the entire county (starting with data from all those who are managing biomass).
- To connect and collaborate with waste managers in Marin and Sonoma Counties.

- To conduct a feasibility analysis on biomass recovery pathways.
- To conduct an optimization analysis on biomass recovery options to assess GHG emissions and sequestration.
- To implement findings in a pilot project or existing resources.

Relevant links:
https://marin.granicus.com/MetaViewer.php?view_id=33&clip_id=9768&meta_id=1034220
Relevant links:
https://ballotpedia.org/Marin_Wildfire_Prevention_Authority,_California,_Measure_C,_Parcel_Tax_(March_2020)

Example: East Bay Hills Efforts to start a Wildfire Prevention Authority

The effort to form the East Bay Wildfire Prevention and Vegetation Management coalition is a grassroots effort of community organizations in partnership with county staff and elected officials. Initially, the group secured endorsements for a potential JPA and made preliminary presentations to elected bodies and commissions to obtain support for a joint resolution that will allow local jurisdictions to explore the formation of the JPA.

From December 2021 through July 2022, more than 20 jurisdictions and agencies participated in several workshops for jurisdiction and agency representatives to explore and consider a governing structure, goals, funding strategies, and implementation approach. These workshops resulted in the nomination of a smaller working group composed of both fire professionals and elected officials from Alameda and Contra Costa Counties, and the Cities of Berkeley, Oakland, Richmond, and Pinole.

In the fall of 2022, the working group made the recommendation to pursue the development of a Memorandum of Understanding (MOU) in lieu of forming a new JPA. In November 2022, a law firm was retained to negotiate the MOU Agreement. The drafting of an MOU is seen as a first step to coordination. There is some potential for a JPA to be formed in the future once all members have built trust with one another. This hesitancy is believed to be primarily around fire agencies' concern about losing control of incidents and approaches to fuel reduction, and there is some skepticism about whether a new agency is necessary.

This MOU provides a comprehensive breakdown of the organizational structure, roles, decision-making processes, and general terms of partnership. This MOU sets forth a cooperative structure detailing the responsibilities of each group. These duties encompass organizing meetings, defining goals, designating a financial liaison, overseeing fundraising efforts, and managing the budget. Provisions are made for the addition of new participants, outlining exit protocols for all parties, and detailing for collaborating staff under this MOU. It's important to note that this MOU does not represent a joint venture or shared authority. Its sole purpose is to benefit the affiliated agencies by setting up protocols for discussion of vegetation management and other wildfire prevention actions. In essence, this MOU serves as a foundation for a coordinated strategy among agencies, with a primary focus on wildfire mitigation in the East Bay Hills.

Relevant links: https://eastbaywildfirejpa.org/

Example: Integrated Regional Water Management (IRWM) Groups

The passing of the Regional Water Management Planning Act (SB 1672) in 2002 by the California state legislature created the IRWM program and led to development of Regional Water Management Groups (RWMGs). IRWM is a collaborative effort to manage all aspects of water resources in a region. The approach aims to deliver high value investments to achieve multiple benefits across jurisdictional boundaries, including improved water quality, better flood management, restored and enhanced ecosystems, and more reliable surface and groundwater supplies. IRWM differs from traditional approaches to water resource management by integrating all facets of water supply, water quality, wastewater treatment, and flood storm water management. IRWM crosses jurisdictional, watershed, and political boundaries; involves multiple agencies, stakeholders, individuals and groups; and attempts to address the issues and differing perspectives of all entities involved through mutually beneficial solutions. IRWM Regions cover 99% of the population and 87% of the land area of California.

Many RWMGs function as JPAs. One primary example in the Tahoe Central Sierra area is the Cosumnes American Bear Yuba (CABY) IRWM, which consists of four major watersheds that form a major drainage area of the western slope of the Sierra Nevada range. The CABY integrated long-term planning and project implementation in an adaptive management framework, fostering coordination and communication among the region's diverse stakeholders. Board members of the CABY JPA include El Dorado Irrigation District, El Dorado County Water Agency, and PCWA as members of the JPA. In 2020, CABY members agreed to dissolve the JPA upon completion of the revised IRWM Plan for CABY, but funding dwindled even before the group formally dissolved. According to Tony Firenzi of the PCWA, which was a member entity of CABY, the CABY group would have benefitted from having its own staff to coordinate the group.

Relevant links:

https://cabyregion.org/

https://www.edlafco.us/files/4b176525b/JPA_Cosumnes+American+Bear.pdf

https://www.nidwater.com/files/879a855bb/03182021_CABY_JPA_Item_1.pdf

H. Conclusion

These examples illustrate how the JPA law allows local governments to be very flexible when it comes to providing public services. Beyond flexibility, these examples also demonstrate some important key lessons. First, the successful entities mentioned, such as the Eastern Sierra COG, the Marin WPA and UMWRA "stay in their lane" by focusing on specific practical, implementable goals. Additionally, JPAs like Pioneer Energy and Santa Monica Conservancy and its many JPA partners have detailed funding sources and budgets that help them stay to the course, even in difficult times. The efforts to set up new JPAs or manage them with too many goals or not enough financial planning tend to fail to launch, or if they do begin, dissolve soon thereafter.

As mentioned earlier, there are thousands of JPAs in the state, but currently, there does not appear to be a JPA in the state, or the study area that could easily incorporate the concepts of forest biomass removal, management, and disposal. The Western Placer Waste Management Authority does work with bioenergy and wood product innovation technologies, but at this time is acting within the limited geography of western Placer County. The Sierra Nevada and Tahoe Conservancies Joint Powers Agreement covers a large swath of the Sierra Nevada, but currently its enabling documents are not broad enough to support needed actions to bring about needed forest biomass aggregation. The Pioneer Community Energy JPA is very focused on energy production, and would likely also need an overhaul to cover the biomass issues, and the IRWM JPAs are defunct. Based on this review of relevant entities, the exploration of starting a new JPA entity is warranted, as well as considering other institutional arrangements that could complement or revamp existing entities. One task that any pathway will need to undertake is how this effort will be funded, which will now be discussed in the next section.

Section 3: Could a JPA Improve Forest Biomass Feedstock Supply Chains?

The need to expand infrastructure for biomass processing is recommended by recent Statewide strategies to reach carbon neutrality by 2045. In December of 2022, the California Air Resources Board (CARB) approved its latest AB 32 Scoping Plan, which will significantly guide greenhouse gas (GHG) reduction strategies throughout the State. The Scoping Plan calls for treating 2 – 2.5 million acres of forests, shrublands/chaparral, and grasslands annually with regionally specific management strategies, including prescribed fires, thinning, harvesting, and other management actions. The 2022 Scoping Plan anticipates that these activities will restore health and resilience to overstocked forests, prevent carbon losses from severe wildfires, reduce health costs related to wildfire emissions, and improve water quantity and quality. This will likely drive further increases in forest management activities and biomass waste that will need disposal. The report specifically names the need to expand infrastructure for biomass removal from these types of "climate-smart management" (Scoping Plan, page 252).

Increases in federal forest management will also be driven by the USFS' Million Acre Strategy. The Million Acre Strategy is integral to its 10-year initiative aimed at tackling the escalating wildfire crisis, particularly in the western U.S. Launched in January 2022, this strategy combines significant congressional funding with scientific research to enhance forest health and resilience, targeting the reduction of wildfire risks. It specifically focuses on the 250 highest risk firesheds, accounting for about 80% of the wildfire risk to communities and has already treated more than 1 million acres across 21 priority landscapes. Collaboration is key, with over 148 partner organizations involved and significant funding directed towards protecting communities and mitigating wildfire risks. The Forest Service plans to treat up to 50 million acres over the next decade, a critical step in making forests more resilient to wildfires and climate change. Funding announcements, including more than $490 million for key landscapes and a specific $131 million allocation to begin the strategy's implementation, underline the commitment to a science-based, strategic approach to forest management and wildfire risk reduction.

Outreach was performed by the TCS Pilot Project team as part of two studies of the TCS Pilot Project which confirmed the desire among stakeholders in the TCS Region to address issues associated biomass utilization and issues with the biomass supply chain. Survey respondents identified that expanding biomass infrastructure is a critical need to the TCS region; many stated that the feedstock generation process is working well, but the material removal and utilization process is not working as well. Overall stakeholders identified the need for biomass market expansion to incentivize important forest restoration work in the harder-to-reach headwaters areas of the TCS region. For more information on stakeholder feedback, please refer to the Community Collaboration Report produced by this TCS Pilot team.

The goal of the proposed entity is to be financially sound and enable the expansion of biomass outlets to support disposal of excess forest residues and enable additional acres to be treated in areas with high wildfire risk. Ultimately, the option for JPAs to

effectively improve forest supply chains comes down to properly placed incentives, ensuring long-term risk hedging, and strong participation from various actors along the supply chain, in particular, federal land managers commitment to fuels reduction and biomass removal on federal lands. Above all, this solution has the advantage of government partnerships, like JPA entities, not needing to make profit, having voluntary participation, and not replacing existing businesses. Below we look at the nuance of each of these aspects.

A. Background

Barriers to biomass utilization have been well documented throughout the West over the last two decades (Becker, 2010; Sundstrom, 2013; Nicholls, 2018; Dysthe, 2021; Sanchez, 2022). The two primary barriers that have dominated California's forest supply chain are: (1) high costs of biomass removal and low value of end-use products, and (2) lack of guaranteed feedstock supply to support the development of new wood utilization businesses.

As mentioned in the Community Collaboration Report referenced above, adding new infrastructure and/or expanding existing infrastructure to handle expected increases in residue from fuel reduction treatments will be necessary, especially as the State's goals aim to at least double the scale of the forest sector to achieve their carbon neutrality goals. However, prospective wood product businesses face high barriers to market entry in California and often face a nearly insurmountable challenge in securing long-term feedstock supply contracts. Without a guaranteed supply contract, facilities are not eligible for loans, debt servicing, or other financing strategies (CLERE, 2021).

To evaluate feedstock availability in the TCS region for a proposed biomass facility at PCWA's site in Ophir, the TCS Pilot Project conducted a preliminary feedstock assessment and biomass utilization capacity in the study area. This report includes a review of existing studies on feedstock availability, identification of existing and planned biomass facilities in the region, as well as interviews with licensed timber operators, foresters, and other relevant groups involved with project planning (such as RCDs) for forest health activities in the region to identify a range of possible biomass prices delivered to Ophir. Please refer to the TCS Pilot Task 5 Biomass Supply Report for more information.

The next section will focus on how a JPA in the Tahoe Central Sierra region could manage price volatility in biomass markets to promote the use of long-term contracts and will discuss how we can learn from sophisticated energy market contract mechanisms when procuring forest biomass. By using a newly developed model to develop a price control mechanism, there may be a way to address both the price and long-term supply issues in a single contract template and allow those involved in the production of biomass and end-user wood utilization companies to hedge their risks over the long term. Other key factors identified for any JPA success includes providing insurance tools, third party environmental review, and other related services for those who are a part of this market.

B. Contract Template Innovation: A Publicly Managed Price Mechanism

i. The Price Problem

The removal of biomass continues to an expensive venture that is often too expensive to warrant actions taking place. In the past, a key driver when deciding to conduct fuel reduction projects continues to be whether merchantable timber will be removed and whether there is a favorable timber price at the time of harvest. As such, management actions that target fuel reduction often try to incorporate high-value sawlogs into a harvest to generate sufficient revenue to cover the costs of biomass removal. This is still the case, but now with Cal Fire grants and the million-acre strategy associated activities at the US Forest Service, more projects that are not relying on timber harvest are occurring.

That being said, generally revenue generated only from biomass removal (i.e., fuel reduction projects) does not cover costs, and therefore, a variety of policy incentives have been created over the years to address this issue (The Beck Group, 2019, Swezy, 2020). These policies and their related funding streams have mostly targeted upstream forest treatment implementation (aka. cutting the tree) or tail-end wood utilization (aka. bioenergy or non-construction-based wood products). Due to the effect of the subsidies acting on either side of the supply chain, a natural tension has developed between the buyers and sellers of biomass. Should loggers or landowners pay for the costs of biomass removal when they receive CAL FIRE, NRCS or FEMA-based subsidies to perform treatments? Or should it be end-user facilities that receive an incentivized Power Purchase Agreement (PPA) for utilizing high-hazard feedstock? As most actors in this supply chain are profit-maximizing enterprises, identifying a way to cooperate and share the cost burden will be essential moving forward.

ii. The Cost of Biomass Removal

The cost of biomass removal ($/BDT), and the price for biomass purchased as feedstock by an end-user ($/BDT) are the two components at play in this market. A well-understood “financial gap” occurs when the price for biomass fails to cover the costs of operations and has been the subject of many discussions over the last several years. External markets exacerbate the difficult economics of completing fuel reduction treatments and biomass removal as well (e.g., diesel price, the commodity price of lumber, forest contractor availability, etc.). Eventually, factors on both the demand-side (off-taker) and supply side (supplier) impact forest landowners’ willingness, options, and ability to manage their land. These factors which affect price stability in markets make landowners hesitant to manage their lands. Without the landowner’s confidence to enter into fuel reduction projects, long-term feedstock contracts are not possible.

In 2021, Camille Swezy developed a harvesting cost model (HCM) for forest health treatments being conducted on National Forest System (NFS) lands located in Plumas County. For one harvest, the cost of biomass removal and hauling from an integrated harvest to a nearby proposed mixed wood campus 16 miles from the harvest site was estimated to be at least $71/BDT when including a 30% charge to account for overhead,

profit, and risk to logging operators. CLERE Inc performed a sensitivity analysis on the model developed by Swezy (2021) to illustrate how prices may be impacted by a variety of factors. When only examining a 15% deviation from baseline, some of the largest levers attributed to biomass costs are the following: operator productivity, contractor haul rates, diesel prices for logging equipment, and travel time. Cost sensitivity to these variables were confirmed by other academic research (Chang, 2023; Berry, 2018; Kizha, 2016). These four aspects of the HCM are highly dependent on each other and as such are hard to separate as salient variables. However, these four factors are central to determining reasonable prices for biomass, or at least, a reasonable starting place for the negotiation of a long-term feedstock supply agreement. How often the price is updated, and at what sensitivity points might a change be triggered are details that should be further explored when considering the build-out of this concept, which are explored below.

iii. Other Considerations that Impact Price

a. Insurance

Overhead fees are included to harvest operations and cover administration, insurance, and profit margins. General liability and associated business insurance rates for loggers and truck drivers have been particularly important over the last several years, as confirmed in the TCS Pilot Community Collaboration Report. Victor Insurance Services is the official contract broker for workers' compensation and liability for the California Logging Association (CLA). They require 3 years of operations (or equivalent experience) and 4 years of loss runs before they can underwrite (Victor Insurance, accessed: January 2023). With requirements to initiate insurance and with costs to maintain logging companies being so high, it can be particularly hard to start a new logging company.

However, if insurance costs increase, costs may pass through to the delivered biomass cost, thereby widening the financial gap between buyers and sellers. These considerations are hard to analyze and were therefore not included in the above sensitivity analysis. The team will explore how to incorporate these considerations into a pricing mechanism when further information is provided to improve the modeling of these costs.

b. Subsidies

Policy tools like grant subsidies or lucrative PPAs are widely used to incentivize fuel reduction projects. While facilities must battle with economic performance due to feedstock cost variability, PPAs have been used to provide guaranteed revenues to facilities that procure high-hazard fuel as defined by CAL FIRE. However, existing facilities have begun to lower their payments for feedstock if they are aware that a supplier receives a subsidy to remove biomass. While it makes sense why facilities would not want to pay market rate for feedstock that is already being subsidized for removal, this essentially nullifies the purpose of the subsidy to the supplier (to remove additional biomass that would have otherwise not been removed). Consequently, any feedstock contract that extends beyond 10 years will need to withstand subsidy variation. The following section will provide some tools which have been used in the energy sector to overcome these issues.

c. Harvest Activities

An issue that could complicate things further is the potential for an increase in treated acres (driven by state and federal goals) to lower lumber prices. While there is no publicly available research yet on how these goals may have this potential consequence, it is well understood that large disturbance-based events (i.e., post-fire salvage) or heavy management of large industrial forests can drastically alter lumber prices. Consequently, this may discourage landowners from conducting an integrated sawlog with biomass harvest to realize a better value for their timber at a later date. However, it may also be the case that California's sawmill capacity is more of a determining factor of lumber prices rather than disturbance-based events. According to Kerri Timmer, Regional Forest Health Coordinator at Placer County, disturbance-based events have a major impact on vendor capacity to do mitigation work. Using the French Meadows Restoration Project as an example, there were three vendors (half of the County's current active vendor pool) that pulled out of treatment contracts this work season because they were over committed on personnel and equipment capacity because of working on fire salvage from the recent megafires - Dixie, Caldor, Mosquito. These kinds of anecdotes will need to be acknowledged and incorporated into market solutions.

d. Modeling the Purchase Price of Biomass

When we apply the costs to remove and haul biomass from Swezy's model via the least expensive harvesting option ($71/BDT) to the current biomass price range offered at a facility ($45 - 55/BDT) we see there is a gap of $16+/BDT. This has been the source of many policy interventions over the last decade including American Forest Foundation's Forest Biomass Transportation Incentive (FBTI) and CAL FIRE's new transportation subsidy. The problem continues today and is exacerbated by state goals to treat 1 million acres per year starting in 2025. A new decision support system from University of California Davis (UC Davis) researchers focuses on the economic viability of biomass facility infrastructure based on feedstock cost sensitivities that could be slightly modified to provide a basis for an agreed upon regional price.

In 2020, UC Davis researchers began developing an integrated economic and environmental decision support system to allow users to quickly evaluate the economic feasibility and environmental performance potential when siting a biomass utilization facility in California. It is currently under beta-testing and validation and is referred to as the Forest Resources and Renewable Energy Decision Support System (FRREDSS). In its many features, FRREDSS offers the ability to calculate a 20-year cash flow model with sensitivity to feedstock costs, in addition to a comprehensive life cycle assessment. It relies on the source code of the University of Colorado's Fuel Reduction Cost Simulator (FRCS) to calculate the costs of biomass removal (Fight, et al., 2006). FRREDSS also uses a transportation model to identify hauling costs. A user interface has been developed for users to select a location on a map and input a potential facility's coordinates into the model.

The FRREDSS model can be particularly useful in understanding how much biomass material would be available to a facility under certain price conditions. For example, it has the ability for users to customize aspects like hauling wage, diesel prices,

and harvest systems just to name a few. The model then calculates how much feedstock procurement costs would be based on forest biomass data from a modeling framework that integrates Forest Inventory and Analysis (FIA) data from the USFS, the Forest Vegetation Simulator (FVS), and FastEmap (Field and Satellite for Ecosystem Mapping) in the surrounding area. Over time, feedstock costs increase due to the facility's interest to optimize the least-cost feedstock first.

This is important because both facilities and loggers are interested in the same goal: consistency. Logging operators want a reliable place to send the material to but are faced with the risk of facilities undercutting the full cost of operations. Meanwhile, facilities want a reliable stream of feedstock to be sent to the facility but may face supply insecurity for some percentage of their total feedstock requirements due to the price they need to pay for it. Both entities would benefit from hedging their risk. The FRREDSS provides a space to look at what an average price over 10 years may look like for both entities to trade biomass. This has been done in several ways in the energy sector for decades and offers the opportunity to bring price stability between these two entities.

e. The Recommended Solution to the Price Problem: Formula Rate Contract with Collar (FRCWC) provided through a JPA Entity

The wholesale energy market is built on highly sophisticated contracting mechanisms to hedge risk over the long term. The forest-based feedstock procurement market for biomass utilization is plagued with similar long-term risk issues. Learning from existing energy-based market mechanisms may help with the goal of price stability along the biomass supply chain.

The central concept to helping both sides of a feedstock agreement reach a level of comfort in signing a longer-term contract is price stability. As we discussed above, supply can be inconsistent. Finding a path forward to allow for known contract pricing for biomass is critical. To do this, a central buyer market design could be used to control the price offered on 60-90% of the biomass over the life of a 10-year contract. This could leave something like 10-40% of the feedstock price to be uncontrolled (i.e., purchased on the spot market) to allow for some opportunities to make (or lose) money on feedstock. These percentages would be based on how much the off taker deems as "hard to procure" or "high-risk." These numbers would be communicated during contract negotiations. Similarly, a logger may be interested in having a guaranteed buyer for 60-90% of the biomass it produces. It would have the option to enter into an agreement with the off-taker, and then have market prices dictate where it would be able to haul the remaining 10-40% of its biomass.

The goals would be for an entity handling these contracts to seek out partners who have the same risk tolerance and pair them for potential long-term agreements. To identify a price through a forward contract, an agreed upon formula rate might be developed. Below we describe this concept in more detail.

1) First, set a formula rate for a percentage of the feedstock covered by the contract.

A formula rate is an agreed upon financial model—often used by utilities—that update inputs to calculate a charge or rate for service, such as the electricity charge per

kWh. Many of the inputs are fixed but some are variable (cost of capital, depreciation, revenue requirement, interest rate etc.). These updates may directly tie into real time market data, or if the utility wants to change any fixed inputs, it can be submitted to the regulatory body for review and possible approval. If the inputs are approved, then they get plugged into the previously approved formula rate model and the new charges for the next year are adopted. Note that the formula does not change, just the variable inputs and the resulting charge.

2) Additionally, we need to place a "collar" on the formula rate.

Generally, a "price collar" is used to limit price variability to within an acceptable range. In business and investments, a collar agreement is a common technique to "hedge" risks or lock in each range of possible return outcomes. Effectively, a collar sets a ceiling and a floor for a range of values: interest rates, market value adjustments, and risk levels. This can be employed to ensure that off-takers are not taking advantage of suppliers who are subsidized through things like CAL FIRE or FEMA-based grants. One potential application of the collar could be to tier PPA contract offerings similar to a tax bracket. If a facility receives over a certain amount in PPA, then they must provide a minimum $/BDT to the logger.

3) A Formula Rate Contract with Collar (FRCWC)

Combining these two concepts into one contract provision could reduce and define the amounts of financial risk that both parties would be subject to for the term of the contract, allowing parties to understand the potential for return on investment and business model outcomes. The essential component of this new provision would be an indemnification term that would be associated with an insurance product that is adequately protected against the risk of the lack of feedstock or disappearance of the biomass offtake business.

An important caveat here is that this contract methodology is geared towards Licensed Timber Operators and related businesses, rather than non-commercial timberland owners. Private timberland owners would more likely need to use different factors to negotiate prices if they want to directly sell their biomass to bioenergy or wood products businesses in their area. Local governmental entities who would benefit from this new price contract mechanism are those who might own a facility, take control and sell biomass directly, lease out equipment, or lease land to offtake facilities. Even an entity that is only planning to connect wood handlers with offtake facilities would benefit from having this stable price available to base negotiations.

C. Contract Management at a JPA

The development, execution, and management of the formula rate contract with a collar between private or public entities would be best managed by a public entity, like a JPA, for several reasons. These reasons are: (1) forest fires are a significant public health threat while at the same time the forests are a treasured resource making forest management a critical issue to all Californians, (2) biomass management is integral in forest health, so the contracting around this topic should include public transparency, (3)

small public agencies can provide needed administrative support to private businesses who want to enter into these contracts for longer periods of time, (4) agencies can maintain the price mechanism with staff trained to monitor markets and update the process as determined by the agency, and finally (5) agencies can serve as financial backstop for parties that provides assurances to banks and equity suppliers. This last item is critical and is related to the entities ability to access insurance to protect the parties, and the agency, from risk, which will now be covered in more detail.

D. Contract Indemnification and Insurance Innovation

The Risk Problem: Insurance for feedstock supply contracts (separate and apart from other insurance products)

As mentioned earlier, insurance availability and cost can have an impact on biomass price. The reliability and capability of a business to execute ten year long-term feedstock supply contract is also hampered by indemnification requirements. To support businesses on both the supply and the demand side of wood products, an innovation that could be used to strengthen confidence in contracting is JPA-provided insurance geared at indemnification risk. Potentially a JPA could rely on **insurance pooling** techniques that have been used in the past by agencies for self-insurance and personnel-associated risks. More research needs to be done to understand if the JPA would need to be a party to the feedstock contract or could simply facilitate insurance products for third parties. If insurance risk could be reduced through pools held by a JPA, this could significantly improve business outlooks. Note that this tool could be made available in conjunction with the price mechanism provision innovation discussed in the previous section or could be made available separately.

Another insurance issue that comes from reports in the field indicates another challenge related to insurance are the costs and availability of new insurance policies for newly trained truck drivers, including haulers and chip van drivers. Policies covering in-forest activities are equally as expensive. Looking at other ways to provide reduced or subsidized insurance products for wood products businesses is another potential role of a JPA or other such entity.

Commercial timberland owners are also in need of stronger policies. As mentioned in anecdotal interviews, there has never been an appetite at the federal level to apply crop insurance-like products to timberlands. These landowners, nevertheless, face similar risks to farmers and those in agriculture, and indeed in many other contexts timber is considered “agricultural”. This is another avenue that could be explored further.

Finally, there is the tangentially related issue to forest biomass supply chains, which is the largest insurance-related issue of all: Homeowners’ insurance in forested areas. Potentially a JPA could not only manage biomass feedstock aggregation but also provide private land owner insurance possibly in partnership with the State of California. If there is interest in creating such an entity, research is needed to explore the concept further.

E. Environmental Review, Business Support, Equipment Leasing, Owning Infrastructure and Other Services

A JPA could provide one or more of other services for landowners, forestry professionals, wood products businesses, tribes, local agencies, and non-profit organizations to overcome additional challenges these entities face when implementing forest health programs and biomass removal and utilization. Note that for each potential service listed below, we summarize with how it aligns with feedback received from stakeholder outreach in the TCS region as part of the TCS Pilot Community Collaboration Report. In general while responding to the idea of a potential JPA providing additional services, many stakeholders advised that the initial focus should be to facilitate biomass supply contracting, and then it can add services over time as the entity gets more established (Collaboration Report, 2024).

i. Environmental Review

One such service could be the provision of **environmental review** for different aspects of a given project, whether this is to comply with the state law known as the "California Environmental Quality Act" (CEQA), or the federal law called "National Environmental Protection Act" (NEPA), which both play a role in most of the activities that are part of a biomass feedstock supply chain. There is a significant lack of staffing at the USFS to conduct the environmental planning that is required to complete fuel reduction projects on federal lands, which slows down progress. Additionally, this kind of review can be very expensive and seemingly complex for private non-industrial timberland owners. A JPA could provide these environmental review services at a reduced fee that would entice more entities into performing fuel reduction and forest health projects and could also potentially contract that work out to local non-profit or consultant groups that may have skills in these areas. Stakeholders in the TCS region agreed that it would be helpful if a JPA could provide environmental services, particularly facilitation of aggregated environmental review across multiple regulatory agencies to streamline permitting for both in-woods work and biomass utilization infrastructure development (Placer County 2023).

ii. Business Support

Another idea that has been contemplated is the provision of other **business support-related services**, like assisting with business plans, feedstock analysis, market analysis, and/or financial modeling; connecting businesses with finance professionals or suitable lending programs; and, offering key technical assistance such as consulting Registered Professional Foresters, third party engineering reviews, and financial or legal counsel, to name a few. These types of business support services could assist new loggers, bioenergy or wood utilization facilities, small landowners, smaller local governments, or tribal enterprises who are involved in the sale or purchase of timber or biomass.

Centralizing grant research, request, and administration using a JPA could boost businesses, local governments, tribes, and non-profit organizations. These potential services would improve coordination among those pursuing funding, avoid duplication of efforts, and reduce competition. This would, in turn, limit the number of precious resources a given entity expends to secure grant funds. Consolidated grant support could also provide capacity where it is currently lacking, namely grant writing, administration, and financial reporting, and create a more comprehensive and sustainable approach to the region's forest health programming which may serve to attract future large-scale investments. In certain circumstances, a centralized entity motivated to organize around funding can adopt business competitions to spur new business opportunities, as exemplified by the Northern Sonoma Air Pollution Control District's (NSAPCD) BioBiz Competition. While NSAPCD was not affiliated with a JPA, their BioBiz Competition was an intergovernmental, community-driven effort that awarded two businesses over $45,000 to start their company.

In a similar vein, a JPA entity may offer assistance for workforce training and development to meet the region’s current and future forest sector needs. The JPA could do this by connecting entities to programs already in existence including those led by Shasta College, the Sierra Institute for Community & Environment, and GoBiz, among others, which could train and certify individuals for a diversity of job classifications (e.g., sawyers, fire practitioners, heavy equipment operators, truck drivers, licensed timber operators, forestry technicians, etc.). If desired, the JPA itself could also spearhead its own workforce training program though it would be important to avoid duplicating efforts with others working in this space.

Potential business support services that were mentioned by stakeholders in the TCS region as potentially useful include:

- Consulting forestry professionals and contractors to facilitate project planning and implementation.
- Consulting Contracting Officer Representatives (CORs) to the USFS to overcome staffing constraints.
- Real estate/land leasing expertise to facilitate the use of public lands for sorting/processing yards and mobile infrastructure.
- Infrastructure development assistance for technologies other than bioenergy including sitting of facilities, identifying the optimal technologies and scale.
- Professional training and development for staff to increase base-level knowledge of forest management and biomass removal.

iii. Equipment Leasing

Another possibility is that a JPA entity may **own equipment and lease** it for use in the field to those who have met certain training regiments. The JPA could be responsible for equipment maintenance and could carry the insurance to offset those business expenses. This type of arrangement could reduce the financial strain for entities working in the woods, improve their chances of long-term success, and decrease their

working capital needs, while at the same time strengthening their ability to perform and potentially expand their forest management and fuel reduction activities. One relevant potential scenario for equipment leasing as identified in the Community Collaboration Report is for an existing facility to lease a log loader to handle raw, unchipped material that has been delivered to its site, thus providing the facility flexibility with the material profiles that it can accept.

iv. Owning Infrastructure

Many JPA entities own and manage public infrastructure. Examples exist in the context of irrigation and water JPAs, waste management JPAs, and transportation systems JPAs. In this context, financing tools, including attractive federal tax credits that will be discussed further in Section 4 below, could be utilized. The possible benefit of owning public infrastructure is removing the needs for high profit margins, the transparency and support for biomass feedstock coming from closely overseen sources, and the efficiencies of regional coordination. Additionally, these facilities could be public/private partnerships. The benefits of publicly owning biomass conversion or wood products facilities should not be overlooked.

In the TCS region, stakeholder outreach in the Community Collaboration Report found that the strongest interest in infrastructure is related to sort/processing yards closer to the source of material, such as on county owned lands.

v. Other Services

A JPA could also provide mapping, software, or other computing services associated with biomass feedstock utilization. This may include deploying a feedstock aggregation and mapping tool called Resilient Sierra which is currently under development at Cal Poly San Luis Obispo. The tool can help to facilitate individual forest landowners to remove excess biomass from their land while at the same time assisting forest sector businesses and facilities to estimate potential workflow, the volumes of available material, the cost of service and transportation, and staffing needs to remove material and transport it to a facility for utilization. Taken together, a JPA's exercising of this tool may enhance the removal of excess biomass from non-industrial private lands.

Under California's Short-Lived Pollutant Reduction law (SB 1383), every jurisdiction must provide organic waste collection services, including green waste, beginning in 2022. A theoretical JPA may support compliance with this law by aggregating green waste, together with forest residuals, and facilitating its disposal through the JPA's fuel supply contracts with biomass utilization facilities. This service could be particularly helpful to local governments by limiting the costs of equipment, transportation, storage, administration, and reporting.

In fact, green waste management was cited as the highest priority service among TCS region stakeholders during project outreach (Community Collaboration Report, 2023). This means harvesting, sorting, processing, drying/densifying, transporting, and even redistribution of material. Since material management is likely to become

increasingly important as more forest health projects are advanced and additional biomass utilization facilities that might have tight fuel specifications come online. The theoretical JPA for the TCS region could therefore operate one or more distributed green waste storage yards that accept material from multiple projects, and then sort and process it for various end-users. This service could alleviate biomass generators of a significant burden and improve efficiencies in the supply chain. Lastly, this service could support improved removal of woody waste biomass generated by landowners who typically produce small volumes that is otherwise not viewed as enough for processing and hauling off-site, such as cities and landowners with parcels consisting of 1-2 acres of forestland.

Another aspect of a potential JPA management entity is the possible role that such an entity could play to increase the confidence of federal land managers to work with local partners in the region, especially if via stewardship contracting or Good Neighbor Authority partnership tools. The entity could provide training and technical support, funding, and even help negotiate contracts between landowners and suppliers. These relationships between suppliers (USFS, for example) and sellers (Licensed Timber Operators) would strengthen the region's chances for more stable arrangements between buyers and sellers of the biomass.

There are most likely even more ways that a JPA could serve the needs of those involved in the industry than just those mentioned here, which should be further explored.

F. Conclusion

A JPA could support the removal of forest biomass in the region through many avenues. The most important aspect of the JPA work would be around managing biomass contracts that are either between third parties, or if the JPA chooses to own biomass, then through sales contracts. These feedstock contracts are predicated on the use of a publicly transparent price mechanism and insurance products that can help parties ensure that their contracts are enforceable, and bankable. JPAs could also offer several support services that will facilitate reliable supply of biomass. These services include environmental review, equipment leasing, and business support such as mapping or business plan support. Additionally, a JPA could own offtake facilities including things like sort yards or bioenergy facilities. Many options are available to consider when developing the goals for the JPA.

Section 4: Discussion of Draft Model Entity Approaches

After a review of the other JPA models being used in California, and the region, it appears that there are four main approaches that could be taken to start a new JPA in the region to handle biomass aggregation. Additionally, there is the option of revamping, expanding, or overhauling other existing entities. Below is an explanation of these options.

The TCS Cal FRAME Pilot Project Community Collaboration Report indicates that, based on feedback from TCS stakeholders, a future collaborative entity, whether new or rehauled, should: 1) provide for feedstock contract structures or carry out contracting for biomass removal and connect them with end-users while providing for their insurance needs; 2) avoid additional layers of bureaucracy and the potential for delays; 3) identify and prioritize which other services are important to offer at the outset, and 4) set metrics for success. With these findings in mind, there are four leading options to evaluate that could coordinate the biomass supply chain for the benefit of the region. All of the options below could ensure consideration and satisfaction of all four of the key stakeholder considerations.

Beyond the outcomes of the Community Collaboration Report, the project research team identified that the need for insurance products is high in order to accomplish the feedstock contract structures, and biomass markets, that are desired. Banks will need to see that there is insurance in place to cover possible contract failure. Other insurance products such as business interruption insurance, workers compensation, auto, and some specialty products are important aspects of successful business ventures Additionally, landowners are very concerned about property insurance availability and costs. Insurance support, and even pooling, is another consideration when comparing the entity options below.

A. Proposed Model Entities for the TCS Region

i. Approach A: Watershed Authority JPA (consisting of counties, water agencies, and some cities)

A watershed authority JPA could consist of various counties, cities, and water agencies in the study area, such as UMRWA (although UMRWA does not include cities). UMRWA's model has proven very successful in this region as it has completed over $15 million in planning and implementation grants since its inception in 2000 and remains active today. More recently, UMRWA has become more involved in forest restoration and wildfire risk reduction projects and even holds a Master Stewardship Agreement with the USFS. UMRWA has demonstrated a commitment to working closely with its partners to build trust and achieve collaboratively supported projects. Given UMRWA proven success and track record, a similar JPA model for feedstock aggregation could work well in this region.

Funding for Approach A:

Funding would likely be from the state through grants or general fund support and local agency contributions. UMRWA, for example, uses member funds to support grant pursuit and grant development.

Discussion Points for Approach A:

Pros:

- Water agencies are already experienced with participating in JPAs, such as via DWR's Integrated Regional Water Management planning program.
- Some water agencies have stable, adequate revenue from hydroelectricity and water sales which could fund forest work.
- The UMRWA model has been successful in accomplishing forest restoration work in this area, including both planning (NEPA/CEQA compliance) and implementation. See Section 2(f) for more detail on UMRWA's accomplishments.
- Water agencies likely have existing relationships with local governments, the USFS and often other relevant forest management stakeholders, and have paid for, or even managed, forest treatment projects.
- Water Agencies could provide some dedicated staff (or contracted staff) to manage and administer the JPA.

Cons:

- Water Agencies focus on watershed projects, rather than fuel reduction in the urban interface areas.
- Some water agencies have limited capacity for involvement with their own staff or contractors.
- Some may have Lack of financial track record for implementing grants, repaying bonds, etc.

Possible entities to be involved (that have expressed interest):

- El Dorado County
- El Dorado Irrigation District (enthusiastic about finding solutions to biomass utilization, but has limited capacity)
- El Dorado County Water Agency
- Georgetown Divide Resource Conservation District
- Placer County
- Placer County Water Agency
- Nevada County
- Nevada Irrigation District

- Yuba Water Agency (outside of the study area but the TCS CalFRAME hub may aggregate materials from the Yuba Water Agency catchment area)

ii. Approach B: New or Existing State Agency JPA or Joint Powers Agreement (no entity creation), including Counties, Cities, and Special Districts

Approach B1: Work with the Coastal Conservancy, Sierra Nevada Conservancy and Tahoe Conservancy, counties, cities, and special districts to establish a new JPA entity to support utilization of biomass.

The state conservancies and public agencies in the pilot area could work together to establish a new JPA that would have the singular purpose of supporting the utilization of biomass. This Agency could offer support to landowners and businesses through a fees for services model, as well as putting state funds to work in the hands of local experienced entities through subgrant programs run by the JPA. The JPA could also provide the types of services listed in the previous Section, as well as facilitate other state programs related to biomass utilization, such as cross partnerships with the Department of Conservation or the Board of Forestry. This approach would align well with the state's interest in establishing Regional Resilience Hubs, with state conservancies leading such a hub in the TCS Region. Additionally, having a state entity as part of a JPA may allow for use of Good Neighbor Authority in advancing forest restoration on federal lands, which could help facilitate removal of biomass material from National Forest System lands.

The Board of such a JPA could be set up so that the Conservancies are represented by an Ex Officio member, with limited or no voting rights, to facilitate faster processing of Board items, if desired, or otherwise limited to vote on certain items. Also, the JPA can choose which Agency Member's processes for procurement and other processes are handled. The JPA would hire staff to accomplish these tasks, using funding from member entities, grants, endowments, fees for service and potentially public debt tools like bonds or TIF.

Approach B2: Amend existing Joint Powers Agreement (no entity creation) between state conservancies to include more members and services to facilitate biomass aggregation, sale and utilization.

Another option would be to create no new entity, but rather, have the state partner with local agencies to enter into a Joint Powers Agreement. This pathway would most likely involve the amendment of the existing JPA Agreements in place between the Conservancies and could include new members. The Agreements could be amended to include activities to support the goals of biomass utilization. Staff and funding would need to be dedicated to this mission by all members to accomplish appreciable outcomes.

Funding for Approach B:

Funding would likely be from fees for service from those who use the services at the JPA, the state through grants or general fund support, and local agency or private endowment contributions.

Advantages/Disadvantages for Approach B1 (JPA creation with Conservancies as members):

Pros:

- JPA can be crafted to deliver specific outcomes.
- JPA can have dedicated staff funded by multiple sources.
- JPA separates risk from member entities from the JPA actions.
- JPA can provide independent contract price mechanism and contract management.
- Proven financial track record of existing JPA/Local Governments
- Potential to align with the state's interest in establishing resilience hubs.
- State conservancies are already working in forest health and biomass utilization space and could build from existing partnerships.
- Involvement with the State Insurance Commissioner's office could be facilitated by the entity and could prove helpful.

Cons:

- May have less buy in from communities in region to have a state run JPA manage contracts, or local biomass pricing for those contracts.
- There may be heavier bureaucratic challenges.
- Creating a new authority will take more time than a joint powers agreement. The role of state conservancy could muddle processes.

Advantages/Disadvantages for Approach B2 (Agreement only):

Pros:

- An Agreement allows government entities to act in a broader area, beyond jurisdictions.
- Because there are existing JPA agreements in place, amending these Agreements could be faster than creating a new entity.
- An agreement would allow state agencies to share financial resources with local agencies.
- Creating joint powers agreement will take less time than forming a new authority.
- Cost savings by using existing staff and resources.
- Proven financial track record of existing JPA/Local Governments.
- Avoiding redundancy by not creating a new entity/agency.
- Potential to align with the state's interest in establishing resilience hubs.

- State conservancies are already working in forest health and biomass utilization space and could build from existing partnerships.

Cons:

- Without a new entity, there is no dedicated staff to work on the goals.
- The agreement participants are limited to effectuating goals through their own means.
- Will not insulate agencies from risk, costs or liabilities of actions.
- Could add an additional layer of bureaucracy when compared to the other models which may act more flexibly.

iii. Approach C: Three County JPA with Select City or Special District Partners

A JPA consisting of the three counties and select cities and special districts in the TCS Region who could pursue and administer grants and other funding to finance and manage projects that accomplish forest restoration and manage biomass disposal or hold fuel supply contracts with utilization facilities. Such a JPA could lead to municipal green waste disposal systems, which is often a service that is lacking for rural landowners in California. Such a JPA could also work to create insurance pools of significant size to offer insurance pooling services. Creating a three county JPA with select other entities is a common approach to providing regional services that could be replicated from other sectors.

Funding for Approach C:

Funding would likely be from fees for service, member dues, federal or state grants, or private endowment contributions.

Advantages/Disadvantages for Approach C:

Pros:

- TCS Region consists of three counties (Placer, Nevada, and El Dorado County) that have sound budgets, competent staff who are currently working on related issues, and are located in forested regions concerned about these issues.
- Placer County has existing MSA with Tahoe NF.
- All three counties are exploring the development of bioenergy facilities in their jurisdictions.
- This JPA could lead to more active urban interface fuel reduction work, with the potential development of municipal green waste disposal systems for rural landowners.
- Streamlined local control without state agencies.

- Counties are in a good position to explore expanded insurance issues and tools, including pooling.

Cons:

- Getting buy-in from cities or special districts could be challenging, they may not be interested in participating or finding relevance to them specifically.
- Lack of state partner will make state funding less secure.
- The three counties have existing programs that will take time to coordinate and will require some level of county staff interaction with new JPA staff.

Possible entities to be involved (that have expressed interest):

- Placer County
- Nevada County
- El Dorado County
- City of South Lake Tahoe
- Town of Truckee
- City of Grass Valley

iv. Approach D: Wildfire Prevention Authority of Fire Districts and Others

A JPA made up of entities that provide fire protection services could be created with a focus on fuel treatment activities and utilization of the associated biomass waste that is created from these projects, so that it is utilized and not open burned or left to decay and exacerbate fire risk. Such a JPA could also facilitate the use of the new contract template using the developed price structure or negotiate other agreements between local businesses. Currently, the utilization of the materials is not built into the JPA structure at the Marin WPA, so this would be a new aspect of existing entities. Generally, these JPAs are made up of fire districts. In some cases, counties or cities are involved if they offer fire service in their jurisdictions. The role of CAL FIRE in Placer County is significant and could potentially be advantageous to be a member of this JPA.

Funding for Approach D:

A fee, assessment, or parcel tax could pay for such activities; see the examples of the Marin Wildfire Prevention Authority (Marin WPA) or East Bay Fire JPA earlier in Section 2(f) . Grant programs that support wildfire prevention activities could be used to help pay for vegetation management activities.

If a fee, assessment, or parcel tax is to be pursued for funding a Wildfire Prevention Authority, it is important to take note of lessons learned from recent ballot measures to fund fire protection services in local areas. In 2021, residents of the Truckee Fire Protection District successfully passed Measure T to impose an annual tax of $179 per parcel to fund fuels reduction, defensible space work, and green waste disposal services.

However, on the contrary, Nevada County put forth Measure V in 2022 that would have funded wildfire prevention services through a half cent general sales tax. This method of taxation via a sales tax was not viewed favorably among residents, likely because the funding would not have supported wildfire suppression activities, and there was no legal restriction on the use of the funds, meaning there was no guarantee over time that fund would go to the stated purpose. Residents also expressed concerns over the local fire departments continued need to raise funds for firefighting that was not included as a part of Measure V. The Measure failed to pass with 51.59% votes for no, and 48.41% votes for yes.

Advantages/Disadvantages for Approach D:

Pros:

- The Marin WPA has been a promising and productive JPA that has funded many acres of fuels treatments and supported several home hardening projects.
- A WPA could offer consolidated vegetation management and home hardening activities in "rural" cities in the study area, therefore more efficiently accomplishing widespread fire-safe work.
- Insurance tools and a possible insurance pool could also be established within this entity model.

Cons:

- Marin WPA is more focused on vegetation management and home hardening, and the Tahoe Central Sierra region has substantial forestland in need of forest health treatments. Thus, a WPA structured like the Marin WPA would leave out much of the TCS study area. A new model would need to be identified for this region.
- This might need to be handled county by county, so will be less regional in nature.
- Initiating and managing collaboration among dozens of well-established fire protection agencies across the three-county region could prove challenging.
- A parcel tax would be the best way to fund this type of entity, but that has proven to be difficult. Considerable effort would need to be exerted to successfully run a ballot measure.

B. JPA Entity Approach Considerations and Priority Services, Based on Stakeholder Input in the TCS Region

The TCS Cal FRAME Community Collaboration Report (Community Collaboration Report) confirms stakeholder enthusiasm and need for a biomass aggregation entity in the TCS Region. More than half of participants in the Community Collaboration Report outreach expressed strong interest in helping create a biomass aggregation entity (such as a JPA), including representatives from state agencies, counties, cities, Fire Safe Councils, Resource Conservation Districts, special districts, a tribe, and existing biomass facilities. The report identifies the following as important considerations for development of a potential JPA entity to support biomass utilization in the TCS Region:

- Use JPA law or existing government entities to avoid additional levels of bureaucracy, and to build from established relationships and trust with public and private partners in the region.
- Consider structures that involve a public-private partnership, where the public partner could 1) provide transparent decision-making; 2) easily utilize public funds to help start operations; 3) account for non-market benefits of biomass utilization; and, 4) offer price stability; then contract directly with private industry to implement this scope and potential services.
- Ensure that any entity can contract with buyers and sellers of biomass, and focus on biomass contracting at its outset, and then expand into broader services offered over time as staff, funding, and capacity allow.
- Consider including Sierra Nevada Conservancy (SNC), California Tahoe Conservancy (CTC). The TCSI is a functioning collaborative managed by CTC that is referenced by the California Wildfire and Forest Resilience Task Force. Furthermore, SNC already plays a role as a collaborative for coordination and distribution of resources and services, and it is established by the state as a regional sustainability hub to provide regional leadership and services needed to achieve state goals. These relationships could be harnessed to create a new entity.

Additionally, stakeholders identified the top four services that are a priority in the region for advancing forest restoration and biomass utilization and could be offered by a JPA. The top four services identified are listed below:

1) Contracting with buyers and sellers of biomass

Most stakeholders interviewed as part of the Community Collaboration Report stated that, ideally, a JPA entity would focus on biomass contracting at its outset, and then consider a broader scope of services once the contracting piece is effectively managed and underway. Establishing contracts with both buyers and sellers of biomass will involve contract negotiation, management of a voluntary/semi-public feedstock pricing mechanism, offering of contract indemnification insurance to reduce risk to both parties in the contract, and ongoing management of the seller-buyer relationships.

As this service will involve legal work and management of a feedstock pricing mechanism, transparency will be important in ensuring community support for the JPA entity. Since county and city governments already have well-established contracting processes, legal counsels, and are used to operating with transparency, a JPA with city or county government members will likely be most effective and capable of taking on this important service quickly at the JPA's outset.

While the value of obtaining contract failure insurance through a surety bond or other mechanism was not identified within the surveys conducted under this Pilot, the value is critical in order for new businesses to obtain financing. This may go unnoticed, but it is important.

Best entity approaches for this service:

- **Approach C**: County-City JPA

Honorable mention:

- **Approach B**: State conservancy JPA with city/county/special district members (for same reason above)

2) Green waste management: collection, transportation, and processing of material at sort yards close to supply

A green waste service could play an integral role in supporting fuels reduction efforts in the WUI, by sourcing material from projects that typically produce small volumes of biomass, such as from small, forested parcels or from fuel breaks and defensible space activities taken on by cities, fire districts, or fire safe councils.

Green waste collection would likely best benefit the more populated WUI areas of the TCS Region where defensible space and fuels reduction projects are more fragmented on the landscape given smaller parcels and diverse ownerships, and more expensive to implement given smaller project sizes. This specialized service will be most effective if it is offered at a smaller scale, such as by a local city, fire district, or special district. Thus, Approach C (County-City JPA) and Approach D (Wildfire Prevention Authority) are likely the best suited for offering green waste services in the TCS Region.

A specialized green waste service is otherwise out of the typical scope for water agencies (Approach A) and state conservancies (Approach B), thus Approach A and Approach B are not recommended for offering green waste management services.

Best entity approaches for this service:

- **Approach C**: County-City JPA
- **Approach D**: Wildfire Prevention Authority

3) Consolidated environmental review and permitting (NEPA and CEQA compliance)

Environmental permitting and review is often a barrier to increasing the pace and scale of forest restoration and fuels reduction projects since it can be complex, expensive, and time-consuming. A potential JPA could therefore provide streamlined environmental planning services, particularly for NEPA and CEQA compliance to help ease this responsibility. Planning and permitting services could also be offered for biomass facility development to quickly establish wood and biomass utilization infrastructure in the TCS Region.

Since water agencies likely have existing relationships with local governments, the USFS, and other relevant forest management stakeholders, Approach A (Watershed Authority JPA) could work well in this capacity. However, a Watershed Authority JPA would likely not be a good fit for permitting biomass facility development, given that it is outside of the typical member's expertise.

Approach B (State conservancy JPA) could work well at permitting services associated with forest restoration activities. Members of a state conservancy JPA would

likely already specialize in topics related to forest restoration, and could use Good Neighbor Authority to advance forest restoration on federal lands. If an entity under Approach B were to have cities, counties, or special districts as members, then it would build the capacity of the JPA to offer CEQA compliance services related to biomass facility development.

Similarly, Approach C (a county-city JPA) could be a good fit for offering environmental planning services, both for in-woods work and for biomass facility development. A county-city JPA consisting of existing members of local government suggests that members are already familiar with planning and permitting processes for a variety of activities, particularly for biomass facility development and associated CEQA compliance.

Finally, Approach D (Wildfire Prevention Authority) could offer CEQA and Forest Practice Act compliance for forest restoration work occurring on private lands in the WUI, where the Wildfire Prevention Authority would likely focus its efforts anyway.

Best entity approaches for this service:

- **Approach A**: Watershed Authority JPA – NEPA and CEQA compliance for forest restoration; likely would not lead permitting for biomass facility development.
- **Approach B**: Existing state agency JPA – NEPA and CEQA compliance for forest restoration, could include use of Good Neighbor Authority.
- **Approach C**: County-City JPA – permitting for facility development (including CEQA compliance)
- **Approach D**: Wildfire Prevention Authority – CEQA compliance for fuels reduction work on private lands in the WUI.

4) <u>Coordinated grant pursuit and administration.</u>

The pursuit of grant funding and performing grant administration could bolster the capacity of smaller communities and organizations by alleviating them of this time-consuming and expensive task. A JPA entity could work to bundle projects together to lessen competition among stakeholders, and instead formulate larger-scale forest restoration projects that may be more attractive to funders. This could also include securing funding for transportation subsidies or managing cost-share incentives, then administering them to producers and sellers of biomass.

Grant pursuit and grant administration are less specialized tasks and could easily be offered by any of the proposed JPA models, provided that there is a dedicated staff person to this service.

Best JPA entity approaches for this service:

- **all Approaches**

C. Relevance and Sociopolitical Considerations of Each Proposed JPA Approach to the TCS Region

With these considerations in mind, a discussion of each proposed JPA approach and their relevance to the region, which priority services are a best fit for the JPA to offer, and potential sociopolitical success is discussed in the next section.

Approach A: Watershed Authority JPA

Relevance to TCS Region:

A watershed authority, like UMRWA, might be best fit for supporting feedstock aggregation from forest health treatments on federal forests and larger "headwaters" forests at higher elevations, rather than from the WUI areas around cities and in the foothills for fire risk reduction. Furthermore, the TCS Region is home to water agencies that are already experienced with participating in JPAs, especially through DWR's Integrated Regional Water Management planning program.

However, there are already various organized groups in the headwater forests of the TCS Region working to accelerate forest health treatments (including TCSI and more specific projects such as the French Meadows Partnership, South Fork American River Cohesive Strategy, and Lake Tahoe West Restoration Partnership), so the formation of a watershed authority may duplicate efforts already in process.

Additionally, a Watershed Authority JPA would involve creation of a new entity could add levels of bureaucracy and could result in a delayed timeline in being able to respond to regional needs.

Sociopolitical Appeal:

Many players in the region are already familiar with UMRWA and the group has been highly successful in accomplishing forest restoration work in Amador, Calaveras, and Alpine counties.

Approach B: State Conservancy JPA or Joint Powers Agreement

Relevance to TCS Region:

State conservancies, including SNC and CTC, are already active in the TCS region for project facilitation and project management for the Tahoe Central Sierra Initiative and associated projects (including Lake Tahoe West). Both conservancies could build from existing partnerships and local contacts to effectively provide services to the region, and leverage from their existing roles in providing regional leadership and coordination and distribution of resources.

Sociopolitical Considerations:

Residents of the TCS Region may not support a JPA run by a state entity. Additionally, a state entity JPA may be less efficient in providing tailored services to local area, and it could be weighed down by bureaucratic processes. Lastly, this approach requires convincing state agencies and their boards to take on this role.

Approach C: County-City JPA

Relevance to Region:

A county-city JPA could offer a more tailored, region-specific approach to supporting feedstock aggregation and forest restoration work, and could advance a desirable public-private partnership model in terms of functionality and transparency. A county-city JPA would also likely be the best option for providing municipal green waste services. Additionally, this JPA could facilitate insurance tool support from the state insurance commissioners; while insurance was not in the top 4 priority services identified above, it was still recognize among survey respondents in the Community Collaboration Report as a barrier to advancing biomass utilization.

Sociopolitical Considerations:

This Approach could most effectively advance a public-private partnership approach to feedstock aggregation services in that counties and cities are already set up for providing transparent decision making and are experienced in managing and dispersing public funds.

However, this Approach may be viewed unfavorably by local residents who do not have trust in local government to address forest restoration and biomass utilization challenges.

Approach D: Wildfire Prevention Authority JPA

Relevance to Region:

A Wildfire Prevention Authority would likely be made up of fire districts, making this fit a good approach for supporting fuels reduction work in the high fire risk areas of the foothills where local fire districts or CAL FIRE have prominent jurisdiction.

Sociopolitical Considerations:

A Wildfire Prevention Authority is generally funded through a sales or parcel tax. An effort to pass such a measure among voters would need to take lessons learned from the recent Measure V in Nevada County that did not pass. Measure V would have implemented a half-cent general sales tax to help provide wildfire prevention, emergency services, and disaster readiness. The measure was widely opposed due to being a general sales tax, not a special purpose tax, so there was nothing legally binding the funding to wildfire mitigation activities, and an increase in the sales tax would limit cities abilities to use sales tax adjustments in the future to address unforeseen local needs. Additionally, the measure was perceived locally as a “fire tax” but was not specifically geared toward fighting fire or directly protecting homes during a wildfire, which raised concern among local voters over the ability of local fire departments to raise funds for firefighting. However, many residents did support the stated goal of the measure to reduce wildfire threat but wanted a better vehicle to achieve this that includes the fire agencies participation in a robust fashion.

While the countywide Measure V failed, the Town of Truckee passed Measure T in September 2021 which added a special tax of $179 per parcel annually for eight years for parcels located within the Truckee Fire Protection District boundary. Measure T passed with 80% of the vote, and funds will go toward fire prevention and protection efforts, including fuels reduction, promoting defensible space around homes, and providing green waste disposal services.

Thus, if the TCS Region does choose to pursue a Wildfire Prevention Authority, special consideration needs to be taken for how it would be taxed and how an associated measure would be marketed to voters. Additionally, the local fire agencies would clearly need to be a significant player in this option, and therefore a list of those agencies is attached here as Exhibit B.

D. Discussion and Next Steps

Each proposed JPA approach, its relevance to the TCS Region, the priority services that best fit each JPA, and its sociopolitical appeal are summarized in the following table:

JPA Approach	Relevance to TCS Region	Priority Services that are best fit	Sociopolitical Appeal
A: Watershed Authority JPA	Best for supporting feedstock aggregation from forest health treatments on federal forests and larger "headwaters" forests at higher elevations, rather than the WUI areas around cities and in the foothills for fire risk reduction. May duplicate existing efforts, such as Tahoe Central Sierra Initiative projects.	Consolidated environmental review and permitting for forest health projects. Coordinated grant pursuit and administration.	Strong – given local familiarity with UMRWA and its successes.
B: State Conservancy JPA or Joint Powers Agreement	SNC and CTC are already active in region through TCSI; both conservancies could build from existing partnerships to local contacts to provide services and distribute resources.	Contracting with buyers/sellers of biomass (if members include county/city/special districts) Consolidated environmental review and permitting for forest health projects. Coordinated grant pursuit and administration. Could facilitate insurance tool support from state insurance commissioner, and other insurance tools	Residents of the TCS Region may not support a JPA run by a state entity. Additionally, a state entity JPA may be less efficient in providing tailored services to local area, and it could be weighed down by bureaucratic processes. Lastly, this approach requires convincing state agencies and their boards to take on this role.
C: County-City JPA	Could offer a more tailored, region-specific approach to supporting feedstock aggregation and forest restoration work, and could advance a desirable public-private partnership model in terms of functionality and transparency. A	Contracting with buyers and sellers of biomass Green waste management Consolidated environmental review and permitting: CEQA	This Approach could most effectively advance a public-private partnership approach to feedstock aggregation services in that counties and cities are already set up for providing transparent decision making and

	county-city JPA would also likely be the best option for providing municipal green waste services.	compliance (including permitting for facility development) Coordinated grant pursuit and administration	are experienced in managing and dispersing public funds. However, this Approach may be viewed unfavorably by residents who do not have trust in local government to address forest restoration and biomass utilization challenges.
D: Wildfire Prevention Authority JPA	A Wildfire Prevention Authority would likely be made up of fire districts, making this fit a good approach for supporting fuels reduction work in the high fire risk areas of the foothills where local fire districts or CAL FIRE have prominent jurisdiction.	Contracting with buyers and sellers of biomass Green waste management could be a focus of entity Consolidated environmental review and permitting: CEQA compliance for fuels reduction work on private lands in the WUI. Coordinated grant pursuit and administration	As WPAs are generally funded through a sales or parcel tax, special consideration needs to be taken for how it would be taxed and how an associated measure would be marketed to voters. Additionally, the local fire agencies would clearly need to be a significant player in this option.

The residents and leaders in the TCS Region have many options for a JPA entity model to choose from to adequately support enhanced biomass aggregation and increased pace and scale of forest health and fuels reduction activities. Given the TCS Region's large population base and variation among subregion in forest health goals (ie forest health focus in headwaters vs fire risk reduction and defensible space work in WUI population centers), it may be found that multiple approaches are needed. The next steps should center on whether it is in the best interests of the residents in the study area to take on this challenge together through a regional tool, or whether each county area would prefer to consider JPA options within the county boundaries. Factors for this consideration include whether involvement of the state conservancies is warranted, and if other special districts, like fire districts or water agencies would want to participate in the entity, as well as federal agencies and state conservancy partners, as well as CAL FIRE, if a Wildfire Prevention Authority is pursued.

In support of the next steps, the TCS Pilot Project will host a robust set of local meetings, attended by consultants of the TCS Pilot Project team, and in particular those preparing financial analyses for each of the potential pathways, which should help determine what direction should be taken in the region, and set the stage for future action to establish any new entity, or revamp any existing entity or agreement, as the case may be. In any case, new approaches to biomass aggregation with support from existing government entities should significantly help the markets for biomass in the region. While these entities are not intended to directly solve the price differential of biomass removal to biomass value, they should help, and hopefully bring the state closer to realizing its wild fire threat reduction goals.

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Appendix A

Exhibit A. California Tahoe Conservancy Joint Powers Agreement with The Sierra Nevada Conservancy.

Exhibit B. Coastal Conservancy Joint Powers Agreement with The Sierra Nevada Conservancy

California Tahoe Conservancy
Agenda Item 8.b.
September 21, 2017

JOINT POWERS AGREEMENT WITH THE SIERRA NEVADA CONSERVANCY

Recommended Action: Adopt Resolution 17-09-03 (Attachment 1) authorizing the Executive Director to enter into a Joint Powers Agreement (JPA) with the Sierra Nevada Conservancy (SNC).

Location: The proposed JPA encompasses the jurisdictional regions of the California Tahoe Conservancy and SNC (Attachment 2).

Fiscal Summary: There will be minimal staff costs associated with the development and initial execution of a JPA. Future savings may be realized through better interagency coordination, the authority and ability to share resources, and the development of new shared revenue sources and increased grant opportunities within the combined jurisdictional areas.

Overview

Description of Recommended Action

Staff recommends the Board consider and authorize the Executive Director, on behalf of the California Tahoe Conservancy (Conservancy), to enter into a JPA with SNC to improve coordination and facilitate the sharing of resources and carrying out essential management functions across both jurisdictions. The Conservancy's jurisdiction abuts the SNC's Central Sierra and South Central Sierra subregions. Importantly, management actions necessary to combat years of fire suppression, drought, and climate change in the Lake Tahoe Basin (Basin) and Central Sierra Nevada region requires increasingly complex, multi-jurisdictional, and collaborative programs. Therefore, Conservancy and SNC staff have determined it is mutually advantageous and a public benefit to expand their jurisdictional authority through a JPA to better coordinate efforts, share expertise, and pool resources for the purposes of public recreation and outreach, watershed restoration, and forest health improvement.

A JPA between the Conservancy and SNC establishes a framework upon which the parties carry out projects; jointly implement the application, receipt, or disbursement of public funds through a JPA and from one entity to the other; share resources; and combine services across jurisdictions. The Conservancy and SNC will use existing staff to administer a JPA consistent with the JPA terms and conditions.

The SNC was recently awarded a CAL FIRE Forest Health Program grant, funded through the Greenhouse Gas Reduction Fund (GGRF grant). This award, administered by SNC, will fund several projects in the Tahoe-Central Sierra Resilient Forest Initiative (TCSI) (as explained in detail below), including on Conservancy property. A JPA allows SNC to provide a subgrant to the Conservancy for project implementation.

If authorized, staff will finalize a JPA with SNC. Consistent with existing practices, the Conservancy's contributions to any future activities performed under a JPA, if not otherwise authorized by the Board for an existing project or program, will be brought to the Board for authorization prior to accepting or disbursing funds for project implementation.

History

The Conservancy and SNC each have JPAs with other agencies. The Conservancy and Tahoe Resource Conservation District (Tahoe RCD) entered into a JPA following Board authorization in September 2010. That JPA helps the Conservancy and Tahoe RCD coordinate the work of Tahoe RCD field crews and staff to more efficiently manage Conservancy land and implement projects. Similarly, the SNC entered into a JPA with the State Coastal Conservancy (SCC) in June 2015 to implement projects in portions of the Eel River watershed that lie within the SCC's jurisdiction.

The goal of the proposed JPA is to provide mutual assistance for the protection and conservation of the forests, watersheds, wetlands, and riparian zones in the Sierra Nevada and Lake Tahoe regions. This includes implementing projects and programs for recreation and public outreach and the protection of air, land, and water resources. The Conservancy and SNC are actively collaborating to restore ecosystem function by advancing the objectives of key initiatives that provide multiple benefits, like the Sierra Nevada Watershed Improvement Program, Lake Tahoe Environmental Improvement Program (EIP), Lake Tahoe West Restoration Partnership, and the recently formed TCSI.

For example, the TCSI is a large landscape initiative (Attachment 3) intended to increase the pace and scale of restoration, setting the stage for a new paradigm in collaborative watershed and forest ecosystem management. Numerous agencies (State and federal)

and private partners have entered into a memorandum of understanding (MOU) that articulates each party's interests in the TCSI and their commitment to coordinate and collaborate across boundaries. The Conservancy and SNC are providing leadership to the TCSI and as such, a JPA will facilitate the sharing of resources and administration of funding. A JPA between the Conservancy and SNC will not only strengthen the MOU commitments of each agency for the TCSI but, as evidenced by the GGRF grant, it will more broadly facilitate planning and future project implementation.

Financing
No additional funding is requested. Savings may be realized through better coordination, the ability to share resources, and the development of new-shared revenue sources and increased grant opportunities.

Authority

Consistency with the Conservancy's Enabling Legislation
Entering into a JPA with SNC is consistent with Government Code section 6500 et seq. relating to the joint exercise of powers between public agencies and the exercise of those powers by agreement. It is also consistent with the Conservancy's enabling legislation. Under Government Code section 66907.9, the Conservancy is authorized to initiate, negotiate, and participate in agreements for the management of land under its ownership and control with State agencies or partnerships.

Consistency with the Conservancy's Strategic Plan
The recommended action is consistent with the Strategic Plan because a JPA will allow the Conservancy to coordinate more effectively with efforts adjacent to the Basin. Initial planning efforts (e.g., TCSI) are aimed at aligning Conservancy-led sustainability, climate change, and forest health initiatives in the Basin (Strategies I.B and I.C) with efforts outside the Basin. Further, a JPA will help improve overall agency capacity, operational efficiency, and administrative capabilities as they relate to the administration of large-scale, multi-jurisdictional initiatives (Strategy IV.B) within the Basin.

Consistency with the Conservancy's Program Guidelines
The recommended action is consistent with the Conservancy's Forest Improvement Program Guidelines and watershed and stream environment zone objectives. A JPA with SNC will facilitate planning and future implementation of specific projects designed to sustain adaptive and resilient forests, reduce hazardous fuels, improve water quality, reduce soil erosion, enhance scenic resources, and provide public access

inside and outside of the Basin. Healthy forests and watersheds are better equipped to deal with the effects of climate change, sequester carbon, increase visual appeal, and improve fish and wildlife habitat.

Consistency with External Authorities
The recommended action is consistent with numerous external authorities because a JPA with SNC will enable both agencies to engage in ongoing programs that benefit either jurisdiction. For example, through a JPA, the SNC may administer a project with sites both inside and outside of the Basin, where the former may advance core goals of the EIP. Similarly, actions resulting from planning efforts between the Conservancy and SNC are likely to implement key elements of the *2014 Lake Tahoe Basin Multi-Jurisdictional Fuel Reduction and Wildfire Prevention Strategy*, as amended.

Compliance with the California Environmental Quality Act

The recommended action does not involve any commitment to any specific activity which has the potential to result in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment, and is therefore not a "project" within the meaning of the California Environmental Quality Act (CEQA). Staff will evaluate future projects, however, prior to implementation to determine the appropriate level of CEQA review.

List of Attachments

Attachment 1 – Resolution 17-09-03
Attachment 2 – Project Map
Attachment 3 – TCSI Map

Conservancy Staff Contact

Jason Vasques jason.vasques@tahoe.ca.gov

JOINT EXERCISE OF POWERS AGREEMENT

This Joint Exercise of Powers Agreement ("Agreement"), effective as of 2/5/18, 2017, ("Effective Date"), is entered into between the Sierra Nevada Conservancy ("SNC") and the California Tahoe Conservancy ("CTC"), which may be referred to collectively as "the parties" or individually as a "party" to this Agreement.

Each party is a public agency authorized and empowered to contract for the joint exercise of any power common to them under title 1, division 7, chapter 5, article 1 (section 6500 et seq.) of the California Government Code. SNC is a public agency of the State of California established pursuant to division 23.3 of the Public Resources Code. CTC is a public agency of the State of California established pursuant to title 7.42 of the Government Code (section 66905 et seq.).

RECITALS

WHEREAS, SNC is charged under division 23.3 of the Public Resources Code with protecting and improving water and air quality; providing increased opportunities for tourism and recreation; aiding in preservation of working landscapes; and protecting the physical, cultural, archaeological, historical, and living resources of the Sierra Nevada Region;

WHEREAS, CTC is authorized under title 7.42 of the Government Code to acquire, restore, and manage land in the Lake Tahoe Region for the purpose of protecting the natural environment, including water and air quality, wildlife, habitat areas, and preserving the scenic beauty and recreational opportunities of the region;

WHEREAS SNC and CTC are both authorized to award grants to state agencies, local public agencies, nonprofit organizations, and federally recognized tribal organizations (PRC 33343; GC 66907.7);

WHEREAS SNC and CTC are both authorized to procure consulting or other services to achieve the purposes of their respective missions (PRC 33329; GC 66906.8);

WHEREAS SNC and CTC are both authorized to receive grants to carry out the purposes of their respective missions (PRC 33346.5; GC 66908);

WHEREAS SNC and CTC are both authorized to acquire by purchase a less-than-fee interest in real property on behalf of the state (PRC 33347; GC 66907);

WHEREAS SNC and CTC are both authorized to accept and hold an interest in real property through gift, exchange, donation, or dedication (PRC 33352; GC 66907.2);

WHEREAS SNC and CTC are both authorized to initiate, negotiate, and participate in agreements for the management of land under their respective ownership or control with public agencies or private persons or entities (PRC 33349; GC 66907.9);

WHEREAS SNC and CTC are both authorized to improve, restore, enhance, develop, and manage lands for the purpose of protecting the natural environment, providing public access or public recreational facilities, or otherwise meeting the objectives set forth under their respective enabling statutes (PRC 33349; GC 66907.10);

WHEREAS SNC and CTC are both authorized to lease, rent, sell, exchange, or otherwise transfer an interest or option in real property (PRC 33348; GC 66907.8);

WHEREAS SNC and CTC are both authorized to receive gifts, donations, subventions, grants, rents, royalties, and other financial aid and funds from public and private sources (PRC 33352, GC 66908);

WHEREAS SNC and CTC are both authorized to fix and collect fees for any services rendered by each of them in an amount not to exceed the reasonable costs of providing the services (PRC 33353; GC 66908.1);

WHEREAS SNC and CTC are both required to deposit into their respective statutory funds the proceeds from any lease, rental, sale, exchange or transfer of an interest in real property (PRC 33354; GC 66908.2);

WHEREAS, because of the highly complex, multijurisdictional, and collaborative nature of program and project implementation in SNC's Sierra Nevada Region and the CTC's Lake Tahoe Region, and because of the significant overlap in agency missions, interagency cooperation is paramount for programmatic efficiencies and the ability to leverage funding;

WHEREAS, both parties currently cooperate with other public agencies for the purposes of forest habitat enhancement, watershed restoration and water conservation, wildlife enhancement, and public recreation and outreach within their respective jurisdictions;

WHEREAS, SNC and CTC are actively collaborating to further the objectives of the Sierra Nevada Watershed Improvement Program (WIP) to ensure that the entire Sierra Nevada Region is protected and developed consistent with state planning processes including the California Climate Adaptation Plan, California Department of Forestry and Fire Protection's Fire Plan, the Forest Carbon Plan, the Wildlife Action Plan, and the WIP;

WHEREAS, the scope of the challenges and issues existing in both regions requires landscape-scale solutions that cross jurisdictional boundaries;

WHEREAS, it would be mutually advantageous and a public benefit for the CTC and the SNC to coordinate their power, authority, and expertise to facilitate environmental restoration and land conservation;

WHEREAS, the parties intend to enter into this Agreement to jointly exercise their power and authority within their combined jurisdiction to carry out projects and to accept and disburse funds through grants or other agreements;

NOW, THEREFORE, SNC and CTC agree as follows:

1. SNC and CTC hereby agree to jointly exercise their common power to protect beneficial public values and accept grants regarding projects mutually agreeable to SNC and CTC, as they deem appropriate and expedient based on facts and circumstances presented, at any time in the future until this Agreement is terminated by SNC or CTC. SNC and CTC recognize and agree that CTC's power to acquire fee interest in real property by purchase is not one of the common powers authorized by this Agreement.

2. The Effective Date of this Agreement shall be entered into the first paragraph of this Agreement by the last party to sign this Agreement.

3. Each project selected by SNC and CTC for the exercise of joint powers shall be memorialized by interagency agreement, memorandum of understanding, letter agreement, or other similar document, as deemed appropriate under the facts and circumstances at the time. The agreement shall specify any limitations that shall apply.

4. Either party may indicate its intent to terminate this Agreement by providing the other party ninety (90) days' notice in writing.

5. Rights and obligations upon termination of individual projects covered by this agreement shall be specified in the agreement governing the specific project.

SNC and CTC have caused this agreement to be executed by their duly authorized representative.

CALIFORNIA TAHOE CONSERVANCY

PATRICK WRIGHT
EXECUTIVE OFFICER

2/5/18
DATE

SIERRA NEVADA CONSERVANCY

JIM BRANHAM
EXECUITVE OFFICER

2/2/18
DATE

COASTAL CONSERVANCY

Staff Recommendation
June 25, 2015

JOINT POWERS AGREEMENT WITH SIERRA NEVADA CONSERVANCY

Project Number: 15-014-01
Project Manager: Karyn Gear

RECOMMENDED ACTION: Consideration and possible authorization to enter into a joint powers agreement with the Sierra Nevada Conservancy concerning monitoring and enforcement of U.S. Forest Service obligations to protect property in the Eel River watershed.

LOCATION: Upper Eel River Watershed, Mendocino and Lake Counties

PROGRAM CATEGORY: Integrated Marine and Coastal Resources Protection

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EXHIBITS

Exhibit 1: Project Location

Exhibit 2: Draft Joint Powers Agreement

RESOLUTION

Staff recommends that the State Coastal Conservancy adopt the following resolution pursuant to Public Resources Code § 31220 and Government Code § 6502:

"The State Coastal Conservancy hereby authorizes the Executive Officer to enter into a joint powers agreement with the Sierra Nevada Conservancy for purposes of protecting certain property within the Eel River watershed as shown in Exhibit 1 to the accompanying staff recommendation."

BACKGROUND

The Sierra Nevada Conservancy ("SNC") is a state agency that has authority to accept funds, award grants and undertake projects for purposes of protecting the resources of the Sierra Nevada region of California. In particular, Division 23 of the Public Resources Code charges the SNC with protecting water quality, providing increased opportunities for tourism and recreation, aiding in preservation of working landscapes, and protecting the physical, cultural, archaeological, historical and living resources of the Sierra Nevada Region, which is a geographical area defined in Division 23. In accordance with its enabling legislation, SNC is implementing the Conservation Covenant Project ("Project"), pursuant to which SNC monitors and enforces U.S. Forest Service ("USFS") promises to protect the beneficial public values of

lands USFS has obtained from Pacific Gas and Electric ("PG&E"). The Project arose in connection with a 2003 settlement agreement between PG&E and the California Public Utilities Commission; the settlement agreement obligated PG&E to protect, through donation of easement or fee interest in, 140,000 acres of watershed lands ("Watershed Lands") in California. The Pacific Forest and Watershed Lands Stewardship Council**,** a California nonprofit public benefit corporation ("Stewardship Council") oversees the PG&E obligation to protect the Watershed Lands, and has approved the transfer of certain of these lands to USFS. When Watershed Lands are granted to USFS, SNC and USFS enter into a recorded conservation covenant; the conservation covenant obligates USFS to preserve beneficial public values of the Watershed Lands and gives SNC the authority to monitor and enforce these obligations. The beneficial public values include the natural habitat of fish, wildlife and plants; open space; outdoor recreation; sustainable forestry; agricultural uses; and historic values. The Stewardship Council has granted funds to SNC for implementation of the Project.

Most of the Watershed Lands are located within the Sierra Nevada Region, within the jurisdiction of the SNC. However, there is one area of Watershed Lands that is located in Mendocino and Lake Counties in the Eel River watershed as shown in Exhibit 1, outside of SNC's jurisdiction. The Stewardship Council intends for PG&E to donate approximately 891 acres within the Eel River watershed near Lake Pillsbury to USFS (the "Eel River Property") subject to USFS entering into a conservation covenant with a public agency. The Eel River Property comprises four separate parcels adjacent to existing Mendocino National Forest lands, and consists primarily of steep, forested and riverbed terrain, though one parcel includes a meadow. Anadromous fish access a portion of the Eel River Property, and bald eagles and osprey are known to nest in the vicinity. The Stewardship Council is willing to grant funds for the public agency's monitoring and enforcement of the USFS obligations under the conservation covenant.

The Coastal Conservancy has authority to protect the beneficial public values of the Eel River Property under Division 21 of the Public Resources Code. In particular, Chapter 5.5 of Division 21 authorizes the Conservancy to undertake projects that reduce contamination of waters in the coastal zone or marine waters; protect fish and wildlife habitat within coastal and marine waters and coastal watersheds; reduce threats to coastal and marine fish and wildlife; reduce unnatural erosion and sedimentation of coastal watersheds; protect riparian areas, floodplains, and other sensitive watershed lands; and provide public access compatible with resource protection and restoration objectives. (Public Res. Code § 31220(a) and (b)(1)-(4), (6), and (8)). Acquisition of the Eel River Property by USFS and protection of the beneficial public values of the Eel River Property will help achieve these goals of Chapter 5.5. Thus, the Coastal Conservancy has authority to assist with protection the Eel River Property.

JOINT POWERS AGREEMENT

Since SNC is currently implementing the Project, staff believes it would be most efficient for SNC and the Coastal Conservancy to work together to protect the beneficial public values of the Eel River Project. The Joint Exercise of Powers Act, Government Code § 6500, *et seq.* authorizes public entities, including state agencies, to enter into agreements with each other to jointly exercise any powers common to the parties. The law allows the parties to a joint powers agreement ("JPA") to jointly exercise their common powers in the combined geographical

jurisdiction of all parties to the agreement (Gov. Code § 6502). It also provides that one or more of the parties to a JPA may provide services to the other parties as specified in the agreement (Gov. Code § 6506). A JPA between the Coastal Conservancy and SNC would enable SNC and the Coastal Conservancy to jointly exercise their common powers to accept grants and carry out projects for protection of the Eel River Property. Pursuant to the proposed JPA, attached as Exhibit 2, SNC would implement the Project on the Eel River Property by entering into the conservation covenant with the USFS and monitoring the USFS's management of the Eel River Property. SNC would provide periodic reports to the Conservancy. The Stewardship Council would grant funds to SNC for this work. The Conservancy would not be required to expend any funds or take any direct actions with respect to the Project.

Given that protection of the Eel River Property is consistent with Chapter 5.5 of Division 21, and that entering into the JPA would enable the Conservancy to protect the property without having to expend funds or significant staff resources, staff recommends that the Conservancy enter into the JPA with SNC.

COMPLIANCE WITH CEQA

The proposed project is categorically exempt from the California Environmental Quality Act. Title 14 California Code of Regulations (CCR) Section 15306 exempts basic data collection and resource evaluation activities that do not result in serious or major disturbance to an environmental resource. The proposed joint powers agreement is for purposes of monitoring USFS use of the Eel River Property. Such monitoring entails data collection and resource evaluation activities. Accordingly, the proposed authorization is exempt from CEQA. Upon approval, staff will file a notice of exemption.

Appendix B

El Dorado County Fire Districts

Cameron Park Fire Department (Cameron Park)

Diamon Springs/El Dorado Fire Protection District (Diamond Springs)

El Dorado County Fire Protection District (Camino)

El Dorado Hills Fire Department (El Dorado Hills)

Garden Valley Fire Protection District (Garden Valley)

Georgetown Fire Protection District (Georgetown)

Lake Valley Fire protection District (South Lake Tahoe)

Latrobe Fire protection District (El Dorado Hills)

Meeks Bay Fire protection District (Tahoe City)

Mosquito Fire Protection District (Placerville)

Pioneer Fire protection District (Somerset)

Rescue Fire protection District (Rescue)

Placer County Fire Districts

Alpine Meadows Fire Department (Alpine Meadows)

Alta Volunteer Fire Protection District (Alta)

Auburn City Fire Department (Auburn)

Colfax Volunteer Fire Department (Colfax)

Donner Summit Fire District (Now administered by Truckee Fire Protection District) (Truckee)

Foresthill Fire Protection District (Foresthill)

Iowa Hill Fire District (Iowa Hill)

Lincoln Fire Department (Lincoln)

Loomis Fire Protection District (Loomis)

Newcastle Fire Protection District (Newcastle)

Northstar Fire Department (Truckee)

North Tahoe Fire Protection District (Tahoe City)

Penryn Fire Protection District (Penryn)

Placer Hills Fire Protection District (Meadow Vista)

Rocklin Fire Department and Rocklin Fire Protection District (Rocklin)

Roseville Fire Department (Roseville)

South Placer Fire Protection District (Granite Bay)

Olympic Valley Fire District (Olympic Valley)

Truckee Fire Protection District (Truckee)

Nevada County Fire Districts

Grass Valley Fire District (Grass Valley)

Higgins Fire District (Auburn)

Nevada City Fire District (Nevada City)

Nevada County Consolidated Fire District (Nevada City)

North San Juan Fire Department (Nevada City)

Ophir Hill Fire District (Cedar Ridge)

Peardale-Chicago Park Fire District (Grass valley)

Penn Valley Fire District (Penn Valley)

Rough and Ready Fire District (Rough and Ready)

Truckee Fire District (Truckee)