



AGENDA REPORT

TO: Jestin D. Johnson
City Administrator

FROM: Darren Allison
Interim Chief of Police

SUBJECT: FY2023/2024 Surrendered and
Abandoned Vessel Exchange (SAVE)
Grant Program

DATE: October 26, 2023

City Administrator Approval

Date: Oct 26, 2023

RECOMMENDATION

Staff Recommends That The City Council Adopt A Resolution Authorizing The City Administrator To Accept And Appropriate The Fiscal Year (FY) 2023-2025 Surrendered And Abandoned Vessel Exchange (SAVE) Grant Program In The Amount Of One Hundred Sixty-Six Thousand Two Hundred Fifty Dollars (\$166,250) To Fund The Abatement, Removal, Storage And Disposal Of Abandoned Vessels, And Authorize The City's General Purpose Fund To Contribute Sixteen Thousand Six Hundred Twenty-Five Dollars (\$16,625) To Cover The Associated Central Services Overhead (CSO) Costs.

EXECUTIVE SUMMARY

The Oakland Police Department (OPD) has been awarded \$166,250 for the FY2023-2025 Surrendered and Abandoned Vessel Exchange (SAVE) Grant Program by the State of California Department of Parks and Recreation. The proposed resolution would authorize the City Administrator to enter into a two-year grant agreement from October 1, 2023, to September 30, 2025.

In October 1997, Senate Bill 172 created the Abandoned Watercraft Abatement Fund (AWAF) in Section 525 of the Harbors and Navigation Code (HNC). The AWAF is a reimbursement grant which provides funds for the abatement, removal, storage, and disposal of abandoned vessels, wrecked or dismantled vessels, parts, or any other partially submerged objects that pose a substantial hazard to navigation from navigable waterways or adjacent public property, or private property with the landowner's consent, per Harbors and Navigation Code (HNC) Section 525. The California Department of Boating and Waterways (DBW) receives funding from the AWAF, which is made available to local public agencies statewide through the SAVE grant program.

Vessels that are unseaworthy and/or are used as homes pose environmental threats to the Oakland Estuary. They are, moreover, inconsistent with the San Francisco Bay Plan and could lead to a potentially costly enforcement action against the City of Oakland by the Bay Conservation and Development Commission (BCDC). For abandoned vessels and marine debris, the SAVE grant provides reimbursement funds to remove from the estuary permanently unoccupied vessels or vessels that pose an immediate threat.

City Council
November 7, 2023

BACKGROUND / LEGISLATIVE HISTORY

The Oakland Estuary, the waters between Oakland and Alameda, is Oakland's piece of San Francisco Bay. As the Legislature found in the McAteer-Petris Act, the Bay is "the most valuable single natural resource of an entire region, a resource that gives special character to the Bay Area." Owners of vessels who use the Estuary irresponsibly, by using this public resource as a private home or by unseaworthy operation, threaten that special character.

The BCDC, a state agency, administers the San Francisco Bay Plan (the Bay Plan) and issues permits for shoreline development and any activity placing fill in the Bay. Permits must be consistent with the Bay Plan. BCDC takes the position that abandoned vessels and live-aboard vessels—boats being used as residences—are unpermitted fill. The Bay Plan, in turn, allows liveaboard only in marinas.

Vessels nevertheless anchor in the estuary for extended periods for use as residences. Other vessels are anchored or abandoned in the estuary in an unseaworthy condition. Such vessels are immediate or potential hazards to navigation and the environment. State law gives the City and Oakland Police Department (OPD) extensive authority to remove from the estuary permanently unoccupied vessels or vessels that pose an immediate threat. Recent OPD policy has formalized this authority and set up procedures for providing notice to owners/occupants and removing such vessels. OPD removed 4 unoccupied vessels from the estuary in 2022.

As noted above, under the Bay Plan's implementation of the McAteer-Petris Act, a live-aboard vessel is unpermitted fill and not allowed in the estuary. BCDC takes the position that if such a vessel is anchored in City waters and the City does not remove it, then the City violates the McAteer-Petris Act. This Act gives BCDC authority to issue a cease-and-desist order against violation, and if the violation continues, BCDC can levy fines against violators of up to \$6,000 per day. The SAVE Program helps to improve safety on California's waterways and alleviates the issue of abandoned vessels. The City Council previously authorized acceptance of SAVE grant funds in the amount of \$50,000 for the years 2018, 2019, and 2020.

ANALYSIS AND POLICY ALTERNATIVES

Adoption of this resolution to accept and appropriate these funds advances the Citywide priorities of 1) holistic community safety and 2) responsive, trustworthy government. The abandoned vessels make the estuary unsafe and cause potential hazards. The removal of these vessels will help to maintain a safe space for boaters and for outdoor recreation. Additionally, there have been several complaints from residents who live in the marina and citizens who want to row in the estuary or otherwise enjoy outdoor recreation. By removing these dangerous vessels, residents and citizens can once again enjoy the estuary.

Through the SAVE grant program provided by the Division of Boating and Waterways, the OPD, upon identifying derelict recreational vessels with no identifiable owner, will remove and dispose of the vessels in accordance with those provisions set forth in the Harbors & Navigation Codes and Alameda County Codes regarding wrecked and salvaged vessels.

The City of Oakland has recently passed a [City Ordinance 13728](#) which restricts anchoring in the Oakland Estuary to 12 hours. The vessel then must leave the Oakland Estuary for a period of 7 days prior to being allowed to again anchor in the Oakland Estuary. This ordinance is instrumental in preventing vessels from anchoring in the Oakland Estuary and being left abandoned.

To remain consistent with BCDC's Bay Plan, the ordinance sets a 12-hour limit for vessels to anchor or moor in the estuary and bars living aboard a vessel there. The 12-hour limit will allow recreational uses while ensuring the rule is effective. (A longer anchoring period could allow vessels to shuttle between the City and neighboring jurisdictions, particularly the City of Alameda, evading the anchoring limit while effectively continuing to live permanently in the Estuary.) The ordinance additionally requires vessels in the estuary to be seaworthy and operable, and it bars beaching or grounding a vessel outside of an emergency.

The proposed code provides authority for the City, acting through OPD, to inspect vessels with occupants' or owners' consent or with a court-issued warrant. This will allow the City to determine whether a vessel is out of compliance and, therefore, a nuisance. The City may then notify the owner or occupant of the vessel and order them to abate the nuisance vessel. This would require the owner or occupant to bring it into compliance by correcting the vessel's problems and/or by leaving the estuary. The owner or occupant may appeal the nuisance determination, which will be subject to a hearing before a neutral hearing officer. If the hearing officer agrees that the vessel is a nuisance (or if there is no appeal), the City may abate the nuisance itself, taking any necessary actions to correct the violations of the Nuisance Vessel Ordinance, including removing the vessel. In addition to being a nuisance that may be abated, a violation of the Nuisance Vessel Ordinance would additionally be a misdemeanor and subject to civil penalties administrative citation and fines.

FISCAL IMPACT

OPD receives multiple requests to surrender vessels monthly. These vessels are located throughout the Bay Area, with a majority of them being located within the marinas of the Oakland Estuary. The plan to increase the number of surrendered vessels is to provide an effective and streamlined procedure to citizens who request to surrender their vessel. As more funding becomes available to spend towards surrendered vessels, it is predicted that more vessel owners will come forward wanting to surrender their vessel to the state.

Table 1 below outlines the spending plan OPD will utilize for the \$166,250 of funding over the 2023-2025 fiscal years for the SAVE grant to fund the abatement, removal, storage, and disposal of current and future abandoned and surrendered vessels. The appropriation is solely an addition to City funds and cannot be used to supplant City funding from any other fund.

Table 1 Spending Plan for SAVE Grant FY 2023-2025

Item	Amount
12 Current Abandoned Vessels	\$87,250
5 Current Surrendered Vessels	\$34,000
3 Future Abandoned Vessels	\$22,500
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Total	\$166,250

Funding will be allocated to the State of California Fund (2159), Support Operations. Division Org (107510), Program, Project, and Accounts to be determined.

Fund Source	Organization	Project	Program	Amount
2159	107510	TBD	TBD	\$166,250

PUBLIC OUTREACH / INTEREST

The City of Oakland has received numerous complaints about these vessels and their impact on the estuary. People involved in rowing on the estuary have registered complaints about the release of raw sewage from these boats that contaminates their boats as they are rowing. Marina residents who legally anchor at docks and marinas note the concern that the derelict boats pose a direct safety concern for their residences, especially if they break free during storms and crash into legally docked boats. The vessels also pose a risk when anchored in the travel lanes. Most complaints have been filed through BCDC, and staff from the City Administrator's Office, Police Department, and Office of the City Attorney have attended numerous BCDC Enforcement Committee meetings where members of the public have urged BCDC to take action against the City of Oakland.

COORDINATION

The City Administrator's Office, OPD, and the Office of the City Attorney coordinated to implement the Nuisance Vessel ordinance. In researching this ordinance, staff consulted regularly with representatives from BCDC and with the neighboring jurisdictions that share the estuary, including the City of Alameda and the East Bay Regional Park District. OPD has formed relationships with other entities, such as Public Works and City Parks & Recreation, to reduce costs for estuary cleanup operations. City Parks & Recreation has allowed OPD to utilize space on their property for cleanup operations at no cost to the agency.

SUSTAINABLE OPPORTUNITIES

Economic: Reducing unseaworthy and live-aboard vessels will improve the attractiveness of the Estuary, one of Oakland's great natural resources. A clean and safe Estuary could be a spur to a vibrant waterfront.

Environmental: As noted above, the current occupation of the Estuary by unseaworthy and live-aboard vessels has potentially serious environmental consequences. Removing and remedying those vessels can help put the Estuary on a path to sustainability.


Race and Equity: The Oakland Estuary runs alongside neighborhoods with some of the lowest equity indicators. Efforts at making the shoreline accessible to these communities for outdoor recreation, such as the construction of Union Point Park and the further development of the Bay Trail, are enhanced by a well-maintained estuary.

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends That The City Council Adopt A Resolution Authorizing The City Administrator To Accept And Appropriate The Fiscal Year (FY) 2023-2025 Surrendered And Abandoned Vessel Exchange (SAVE) Grant Program In The Amount Of One Hundred Sixty-Six Thousand Two Hundred Fifty Dollars (\$166,250) To Fund The Abatement, Removal, Storage And Disposal Of Abandoned Vessels, And Authorize The City's General Purpose Fund To Contribute Sixteen Thousand Six Hundred Twenty-Five Dollars (\$16,625) To Cover The Associated Central Services Overhead (CSO) Costs.

For questions regarding this report, please contact Officer Kaleo Albino at kalbino@oaklandca.gov.

Respectfully submitted,



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City Council
November 7, 2023