



Interoffice Memo

March 21, 2017

TO: Finance Committee
Karen Mitchoff, Chair
John Gioia, Vice Chair

FROM:  Julie Bueren, Chief Engineer

SUBJECT: Request for \$990,000 for Wildcat/San Pablo Creeks Levee Remediation 

As explained below, the Flood Control District (District) is requesting \$990,000 from the County general fund to cover the funding shortfall in the Wildcat / San Pablo Creeks Levee Remediation project in North Richmond. This item is scheduled for the March 27, 2017 Finance Committee meeting.

Background:

Wildcat and San Pablo Creeks are two streams that drain adjoining watersheds within western Contra Costa County. Historically, the two creek basins combined into a common floodplain that extended through the unincorporated community of North Richmond before draining into San Pablo Bay.

From the 1950s to the early 1980s, repeated floods damaged properties in the floodplain between the creeks. Attempts to sponsor a federal flood control project on Wildcat and San Pablo Creeks were undermined by the District's limited funding ability and by the difficulty — in this low-income area — of reaching a favorable benefit-to-cost ratio. In 1982, the District was able to design a fundable, cost-effective flood control project for the lower reaches of the creeks. With significant community input, the District plan was subsequently modified by the US Army Corps of Engineers (Corps), which then also provided the majority of the project construction funding. Funding for the local match consisted of an unusually broad range of sources; East Bay Regional Park District, County Redevelopment, the County Flood Control District (and others) provided services, land, and cash to make up the non-federal match for this federal project. From 1992 to October 2016, the District carried \$820,000 of debt from the original project construction which increased to \$1,300,000 due to debt service. Due to very limited revenue, it took 24 years before the District realized enough funds to pay about half of that balance.

One-time proceeds from the sale of District property at Fred Jackson Way and Brookside Drive and repayment of money owed upon the closure of the County Redevelopment Agency provided \$475,000 that was used to pay down the outstanding

project debt. Staff estimates it will still be at least another ten years before the entire debt can be repaid.

Changing Federal Rules

In the aftermath of Hurricane Katrina the Department of Homeland Security, Federal Emergency Management Agency (FEMA) rescinded all levee certifications and required local levee owners to prove levees still provided adequate levels of flood protection. The District applied for and received a \$487,000 State Department of Water Resources (DWR) Local Levee assistance grant that covered 90% of the cost of levee evaluation. The DWR funding coverage increased from 50% to 90% because North Richmond is a disadvantaged community. Even with this level of funding, the District struggled to provide the remaining 10% match.

The study indicated that the levees were generally in good repair, but needed to be raised to meet more stringent FEMA requirements. The District applied for and received a 90% DWR grant for Local Levee Critical Repair. The total repair cost was estimated at \$1,684,000 with the State providing 90%, or \$1,515,600.

Increased Complexity

Both the permitting and design for the levee project have become more complex than was anticipated when the grant was received. Extra precautions for dealing with possible endangered species near the levees have made the plans more complex and costly to prepare, and an especially challenging Corps Section 408 permitting process has far exceeded the permitting budget. Finally, Corps-required upgrades to the levee and floodwall materials have significantly increased expected construction costs. Considering all of these factors, **the current funding deficit is approximately \$990,000.**

Consequence of No Action

FEMA has prepared new floodplain maps that show significantly expanded floodplains if the levee rehabilitation project is not implemented. These new maps add 245 parcels into the floodplain, and have not been publically released or adopted yet by FEMA. All parcels with mortgages mapped into the floodplain will be required to purchase flood insurance; this is a significant financial drain to this disadvantaged community. Currently, flood insurance is approximately \$1,000 per parcel per year, but this is anticipated to double in the coming years to make the FEMA flood insurance program more solvent.

The District has requested that FEMA delay adoption of the new floodplain maps for North Richmond as long as possible to provide time for the levee project to find the additional funding needed for construction. FEMA has committed to hold off adopting the new maps until 2018, pending completion of the levee project.

Financial Picture:

As shown in the table below, the DWR grant covers 90% of the \$1.68M budgeted project cost. Increased complexity in environmental permitting and design, and the resulting construction materials and methods have driven the project over the grant budget by approximately \$990,000. Because the project is being competitively bid, the cost of construction reported below is from the engineer's estimate. Actual bids may change the unfunded amount.

The project is currently being bid "at risk", meaning that the available funding is not sufficient to award the project. Bids open on April 4, 2017. Award of the contract, if funding is made available, would be later in April 2017.

Without the financial assurance provided by this funding, the District cannot award the contract nor move forward with construction work this season, and the community will continue to be faced with additional flood risk and will likely be mapped into the FEMA floodplain. If the project is financially able to proceed in 2017, expenditures will not occur until late Q1 or early Q2 in FY 17-18.

Task No.	Task Description	Total Budget for Grant (90% DWR / 10% local)	Projected Expenditures at Project Completion	Unfunded Amount Over DWR LLCR Grant Budget (100% local)
1	Preliminary Design, R&U Analysis	\$93,249	\$93,250	\$1
2	Environmental Permitting and Compliance	\$250,000	\$290,100	\$40,100
3	Real Property Acquisition	\$8,179	\$57,628	\$49,449
4	Design	\$500,000	\$524,854	\$24,854
5	Construction	\$548,908	\$1,360,901	\$811,993
6	Reporting	\$33,862	\$33,862	\$0
7	Project Management and Corps 408 Permit	\$250,000	\$314,032	\$64,032
	TOTAL	\$1,684,198	\$2,674,627	\$990,429

Options for Additional Funding:

In the last two years, the District has considered a wide range of options to cover the funding deficit. Each is described below along with the likelihood of each approach being applicable or successful.

County General Funds

The District presented this issue to the Finance Committee in February and March 2016 with a request for \$935,000 of County general funds to cover the project's funding deficit. The District received direction to postpone construction by a year (from fall 2016 until fall 2017), continue efforts to find additional non-local funding, and return to the Finance Committee in the spring of 2017 for an update. Increased complexity in environmental permitting and design, and the resulting construction materials and methods have increased the funding deficit to approximately \$990,000.

The District is scheduled to return to the Finance Committee on March 27th, 2017, and will be repeating the **funding request for \$990,000**.

County Road Funds

County road funds are used to construct and maintain roads and related infrastructure in the unincorporated County. County road funds may be available to fund direct improvements to County roads (in County road right of way), which are designed and constructed by this project. These could include the top portion of an overlay on Parr Boulevard (new wearing surface), base failure repair, and an upgraded replacement guardrail. The magnitude of this work is approximately \$65,000 and the District pursued County road funds for the roadway items included in this project. Unfortunately, in the last year, State sources of County road funds have been significantly cut, leaving **the County road fund unable to financially participate** in the levee project.

Budget Augmentation from DWR Under the awarded LLCR Grant Program

In the summer of 2015, the District's project manager approached DWR and formally requested a budget augmentation because of the increased permitting complexity and design cost overruns. DWR considered this request and ultimately declined the budget augmentation request. As such, **additional DWR funding is not available for this project**.

FEMA Pre-Disaster Mitigation Funds

FEMA administers the Pre-Disaster Mitigation (PDM) program which funds projects that lower flood risk before damage occurs. Initially, this seemed to be a good match for this project. However, FEMA Region IX staff has confirmed that projects built by the Corps with federal funds (such as Wildcat and San

Pablo Creeks) are automatically ineligible for this or other FEMA funding programs. As such, **PDM or other FEMA funds are not available for the current levee project.**

Integrated Regional Water Management Plan (IRWMP) Funds

IRWMP funds are State grant funds requiring a 50% non-State match. Because a majority of project funding already comes from the DWR, this project would not be able to provide the required match. The State is soliciting for a future grant round focused on disadvantaged communities, but even with this focus, lacking the required non-State match, **the project would not be eligible for this funding.**

North Richmond Waste and Recovery Mitigation Fee (NRWRMF)

Per a conversation with Deidre Dingman and a review of the detailed project guidelines (<http://www.cccounty.us/DocumentCenter/View/39562>), the NRWRMF is intended to reduce the impacts of illegal dumping. One time project grant awards come out of a \$100,000 total amount, and projects are typically limited to a maximum award of \$30,000. While appropriately located in North Richmond, **the levee project** does not address the focus areas of the grant, and **would likely be non-competitive for funding.**

State Coastal Conservancy (SCC) Prop 1 Funds

In September 2015, the District partnered with Urban Tilth on a \$1,204,000 grant application to SCC to address the project's funding shortfall and also provide \$304,000 to create jobs for local youth and provide habitat assessment and creek restoration in the watershed. The SCC ultimately declined to fund the grant, but noted that they liked the environmental enhancement portion of the grant (through Urban Tilth) and was not interested in funding the levee improvements (the District's portion of the project). They also thought the total ask amount was too high and recommended reapplying in March for no more \$500,000 total, with a more balanced split between the District's levee portion and Urban Tilth's environmental portion.

The District and Urban Tilth reapplied in March 2016, and in the fall of 2016, the SCC indicated they would be willing to grant \$165,000 towards the Urban Tilth portion only, with **no funding for the levee project.**

EPA San Francisco Bay Water Quality Improvement Fund

Because of its water quality focus, **this grant program is a poor fit for the levee project and funding is unlikely.** Also, this federal funding is proposed to be eliminated by the current Administration, so the 2017 is likely the last round.

Revolving Fund Loan from Other Watersheds or the Flood Control District

The Flood Control District has the ability to temporarily borrow from and loan funds to Flood Control Zones in watersheds throughout the County. These "revolving fund loans" are intended to compensate for temporary funding deficits that would be paid back against future tax revenue. Unfortunately, the Flood Control Zone for this watershed still has unpaid interest and principal from original project construction in the early 1990s. Due to the low tax rate fixed by Proposition 13 in 1978, ad valorem tax revenues in this watershed are insufficient for routine maintenance, much less being able to pay off the existing debt. While the Board could decide to borrow money from another flood control zone and loan it to this project, prospects for repayment are very poor. **This makes a revolving fund loan a poor choice, but may end up being the only remaining choice.**

Proceeds for Sale of 3 Acre Parcel at Fred Jackson Way and Brookside Drive (Urban Farm)

This parcel was sold in 2013 for \$225,000, and the proceeds have been held in the account for Wildcat Creek. The Board Order from the early 1990s outlining the financing plan for the original project required that any proceeds from the sale of this property must be applied to any outstanding debt for the project. This has occurred, and the **proceeds from this sale are not available for the current levee project.**

North Richmond Community Facilities District (CFD) Funds

The large portion of North Richmond between Wildcat and San Pablo Creeks was slated for redevelopment, at which time a CFD would be formed to help fund needed infrastructure. With the demise of the County's redevelopment agency, the formation of the CFD has been placed on indefinite hold, and thus **is not available for the current levee project.**

County Stormwater Utility Assessment (SUA) 17 Funds

SUA funds are collected from all parcels in the County to help manage stormwater, and SUA 17 funds are collected for use in the unincorporated County areas like North Richmond. SUA 17 funds are limited to ongoing maintenance (e.g., catch basin or trash rack cleaning) and not for capital projects such as our levee project. In addition, unfunded mandates from the Regional Water Quality Control Board (such as the requirement to eliminate 100% of trash from all waterways by 2022) have oversubscribed the available SUA 17 funding. As such, **SUA 17 funds are not available for the current levee project.**

State Revolving Fund Loan for Infrastructure

This State program provides low interest loans for infrastructure improvements and is most commonly used for water supply and wastewater infrastructure. The loan program requires a stable future funding source, such as rate payers, in order to be considered for loan funding. Agencies that handle stormwater and flood control do not currently have the ability to have ratepayers. Without such a dedicated future income stream, **the levee project would not be eligible for a State revolving fund loan.**

Funds from Parcels Being Protected by This Project

The District's project directly reduces flood risk to a number of publicly-owned facilities. East Bay Regional Park District (EBRPD) operates the Wildcat Creek staging area and trail along Wildcat Creek. They own some of the property in fee and license other areas from the State and the District. Due to the direct benefit they derive from the project, the District requested funding from EBRPD. It is important to note that EBRPD was one of many funders of the original project when it ran into similar funding issues in the early 1990s.

EBRPD did not respond favorably to the District's request, and simple real property transactions became complex and challenging to complete. No financial relief is expected from EBRPD.

Similarly, the West County Wastewater District (WCWD) has projects directly adjacent to the District's levee project. In fact, the District needs to purchase access easement across existing WCWD access roads to construct the project. In light of the project's financial need and the flood risk reduction provided by the project, the District requested and was granted a waiver of the approximately \$12,000 appraised value of the needed access easement. While this was a step in the correct direction, it did little to close the larger budget shortfall.

Some minor financial relief came from the District's requests from our partners, but a significant budget shortfall remains.

Summary:

Just as with the construction of the original project 25 years ago, the District's project faces serious funding challenges in order to reduce flood risk in the disadvantaged community of North Richmond. The District has investigated over a dozen possible funding sources, and unsuccessfully applied for additional State grants. With significant, unrelated funding problems with County road funds, that source is no longer available to this project. The best remaining option is to request \$990,000 in County general funds to cover the funding shortfall.

The consequences of not receiving funding would be that the levee project would not be constructed, FEMA would revise their maps adding 245 parcels in North Richmond into the 100-year floodplain, parcels with mortgages would be required to pay flood insurance, and approximately \$1.2 million in state grants spent to date on the project would need to be repaid. This would be a significant drain on the quality of life and economic vitality of North Richmond.

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