

COOPERATIVE FUNDING AGREEMENT BETWEEN THE EAST
BAY REGIONAL PARK DISTRICT AND THE SUCCESSOR AGENCY
FOR THE REDEVELOPMENT AGENCY OF THE CITY OF PITTSBURG
RELATED TO FUNDS FOR TRAIL IMPROVEMENTS

This Cooperative Funding Agreement (this "Agreement") is entered into on the _____ day of _____, 2019, by and between the East Bay Regional Park District, a California special district (the "District"), and the Successor Agency for the Redevelopment Agency of the City of Pittsburg (the "Successor Agency"), as successor in interest to the Redevelopment Agency of the City of Pittsburg (the "Redevelopment Agency"). The Successor Agency and the District are each referred to individually in this Agreement as "Party" and collectively as the "Parties."

RECITALS

WHEREAS, the District and the Redevelopment Agency entered into that certain Fiscal Agreement dated September 7, 1993, in connection with an amendment to the Los Medanos Community Development Project (the "1993 Fiscal Agreement"); and

WHEREAS, under Section 2.4 of the 1993 Fiscal Agreement, the Redevelopment Agency agreed to provide financial assistance to the District in the amount of \$500,000.00 (the "Funding Obligation") for improvements of regional facilities within the City of Pittsburg or within the vicinity of the City; and

WHEREAS, pursuant to the terms of the 1993 Fiscal Agreement, the Redevelopment Agency and the District are required to enter into a separate agreement related to the improvements of regional facilities and funding for such improvements; and

WHEREAS, under Section 2.4 of the 1993 Fiscal Agreement, if an agreement was not entered into by June 30, 2004, the Redevelopment Agency is required to deposit the Funding Obligation in an account where it would accrue interest; and

WHEREAS, as of the date of this Agreement the total amount of interest accrued on the Funding Obligation equals \$[INSERT AMOUNT] and will continue to accrue interest quarterly at the Local Agency Investment Fund (LAIF) rate until paid; and

WHEREAS, the California Legislature adopted, the Governor signed, and the California Supreme Court, in *California Redevelopment Association, et al. v. Matosantos*, (2012) 53 Cal.4th 231, upheld, Assembly Bill x1 26 ("AB 26"); and

WHEREAS, pursuant to AB 26, all California redevelopment agencies were dissolved effective February 1, 2012; and

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WHEREAS, as added by AB 26, California Health and Safety Code Section 34173(b) provides that the authority, rights, powers, duties and obligations previously vested with the former redevelopment agencies are vested in the successor agencies; and

WHEREAS, Assembly Bill 1484, enacted June 27, 2012, modified AB 26 ("AB 1484" and together with AB 26 the "Dissolution Law"); and

WHEREAS, pursuant to Section 34177.3(a) the Successor Agency may not create new Enforceable Obligations (as defined in Section 34171(d)(1) of the Dissolution Law) except in compliance with an Enforceable Obligation that existed prior to June 28, 2011; and

WHEREAS, the 1993 Fiscal Agreement is an Enforceable Obligation that existed prior to June 28, 2011; and

WHEREAS, the Parties intend that this Agreement will constitute the separate agreement regarding the improvements to regional facilities and funding for such improvements pursuant to Section 2.4 of the 1993 Fiscal Agreement; and

WHEREAS, the District has proposed improvements to regional facilities specified in Exhibit A, attached to and incorporated into this Agreement (the "Project"); and

WHEREAS, on [INSERT DATE], the Contra Costa Countywide Oversight Board adopted Resolution [INSERT], approving this Agreement; and

WHEREAS, the California State Department of Finance and the County Auditor Controller's Office determined that the Successor Agency's payment of this Funding Obligation does not need to be reflected on the Recognized Obligation Payment Schedule because it is considered a form of a pass-through payment; and

WHEREAS, the District and the Successor Agency find mutual benefit in completing the Project and find that it is mutually desirable that the District complete or cause the completion of the Project.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

SECTION I. Recitals

The above recitals are true and correct and form, in part, the basis for this Agreement.

SECTION II. District's Obligations

A. Once the Funding Obligation has been received by the District, the District shall complete or cause the completion of the Project, which includes but is not limited to the development of contract documents, bidding, selection of a qualified consultant, contract management, construction of the Project, and acceptance of Project.

B. To the extent required by applicable law, the District shall pay or cause to be paid prevailing rates of wages for the completion of the Project, and shall comply with all applicable local, federal and state labor standards and prevailing wage provisions. The District shall indemnify, defend (with counsel reasonably acceptable to the Successor Agency) and hold harmless the Successor Agency from and against any claims, losses, liabilities, damages (direct or consequential), compensation, fines, penalties, causes of action, administrative and judicial proceedings and orders, judgments, remedial action or requirements, enforcement actions of any kind, and all costs and expenses incurred therewith (including but not limited to attorneys' fees and costs) arising out of the failure or alleged failure of any person or entity (including the District, its contractors and subcontractors) to pay prevailing wages as determined pursuant to Labor Code Section 1720, *et seq.*, and implementing regulations, or to comply with the other applicable provisions of Labor Code Section 1720, *et seq.*, and implementing regulations, in connection with the seal coating and trail re-route portions of the Project, including without limitation any rules relative to apprentices.

SECTION III. Waiver and Satisfaction of Performance

A. The District knowingly and voluntarily releases and forever discharges, to the full extent permitted by law, the Successor Agency, its officers, officials, employees, agents and volunteers, of and from any and all claims, actions, causes of action, demands, rights, damages, costs, expenses, including attorneys' fees, and compensation whatsoever, in connection with the Redevelopment Agency's obligation, pursuant to Section 2.4 of the 1993 Fiscal Agreement, to deposit \$500,000.00 in an interest bearing account on or before July 1, 2004. Except as expressly modified by this Agreement, the 1993 Fiscal Agreement shall continue in full force and effect according to its terms.

B. The Successor Agency's performance of its obligations under this Agreement shall satisfy, in full, all outstanding Successor Agency obligations pursuant to Section 2.4 of the 1993 Fiscal Agreement, regarding assistance with improvements to regional facilities.

SECTION IV. Indemnification

- A. The District agrees to defend, indemnify and hold harmless the Successor Agency, its Board of Directors, officers, officials, agents, employees and assigns from and against any and all loss, damage, liability, claims, suits, costs and expenses whatsoever, including court costs and reasonable attorneys' fees, from and against any loss, damage, liability, claims, suits, costs and expenses or other claim for damages based upon or otherwise arising out of the District's performance of the terms of this Agreement, except as caused by the sole or gross negligence of the Successor Agency, its Board of Directors, officers, officials, agents, employees or assigns.
- B. The Successor Agency agrees to defend, indemnify and hold harmless the District, its Board of Directors, officers, officials, agents, employees and assigns from and against any and all loss, damage, liability, claims, suits, costs and expenses whatsoever, including court costs and reasonable attorneys' fees, from and against any loss, damage, liability, claims, suits, costs and expenses or other claim for damages based upon or otherwise arising out of the Successor Agency's performance of the terms of this Agreement, except as caused by the sole or gross negligence of the District, its Board of Directors, officers, officials, agents, employees or assigns.

SECTION V. General Provisions

- A. Modification. This Agreement may be amended only upon mutual written agreement of the Parties.
- B. No Joint Venture. The Successor Agency and the District hereby renounce the existence of any form of joint venture or partnership between them, and agree that nothing contained herein or in any document executed in connection herewith shall be construed as creating any such relationship between the Successor Agency and the District.
- C. Notices. Notices regarding this Agreement shall be sent by first class mail, postage prepaid, to:

DISTRICT:
East Bay Regional Park District
Attn: General Manager
P. O. Box 5381
Oakland, CA 94605-0381

SUCCESSOR AGENCY:
Successor Agency for the
Redevelopment Agency of the

EBRPD Trail Improvements

City of Pittsburg
Attn: Executive Director
65 Civic Avenue
Pittsburg, CA 94565

- D. Term. The term of this Agreement commences on the date first written above and shall remain in full force and effect until the Project is complete.
- E. Entire Agreement; Construction. This Agreement contains the entire agreement and understandings concerning the subject matter between the Parties and supersedes and replaces all prior negotiations, proposed agreements and agreements, whether written or oral. Both Parties have had an equal opportunity to participate in the drafting of this Agreement. The usual construction of an agreement as to the drafting party shall not apply to this Agreement.
- F. Governing Law; Venue. This Agreement shall be interpreted and enforced under the laws of the State of California. Any action arising out of this Agreement shall be brought in Contra Costa County, California, regardless of where else venue may lie.
- G. Severability. If any term, condition or covenant of this Agreement is declared or determined by any court of competent jurisdiction to be invalid, void, unenforceable, the remaining provisions of this Agreement shall not be affected thereby and the Agreement shall be read and construed without the invalid, void or unenforceable provision(s).
- H. Counterparts. This Agreement may be executed in counterparts and so executed shall constitute an agreement binding on all the Parties hereto notwithstanding that all the Parties are not signatories to the original or the same counterpart.

SIGNATURES ON FOLLOWING PAGE.

EBRPD Trail Improvements

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective officers, duly authorized as of the day, month, and year first written above.

SUCCESSOR AGENCY FOR THE
REDEVELOPMENT AGENCY OF
THE CITY OF PITTSBURG

EAST BAY REGIONAL PARK DISTRICT

By: _____
Garrett D. Evans, Acting Executive
Director

By: _____
Robert E. Doyle, General Manager

Attest:

Alice Evenson, Agency Secretary

Approved as to form:

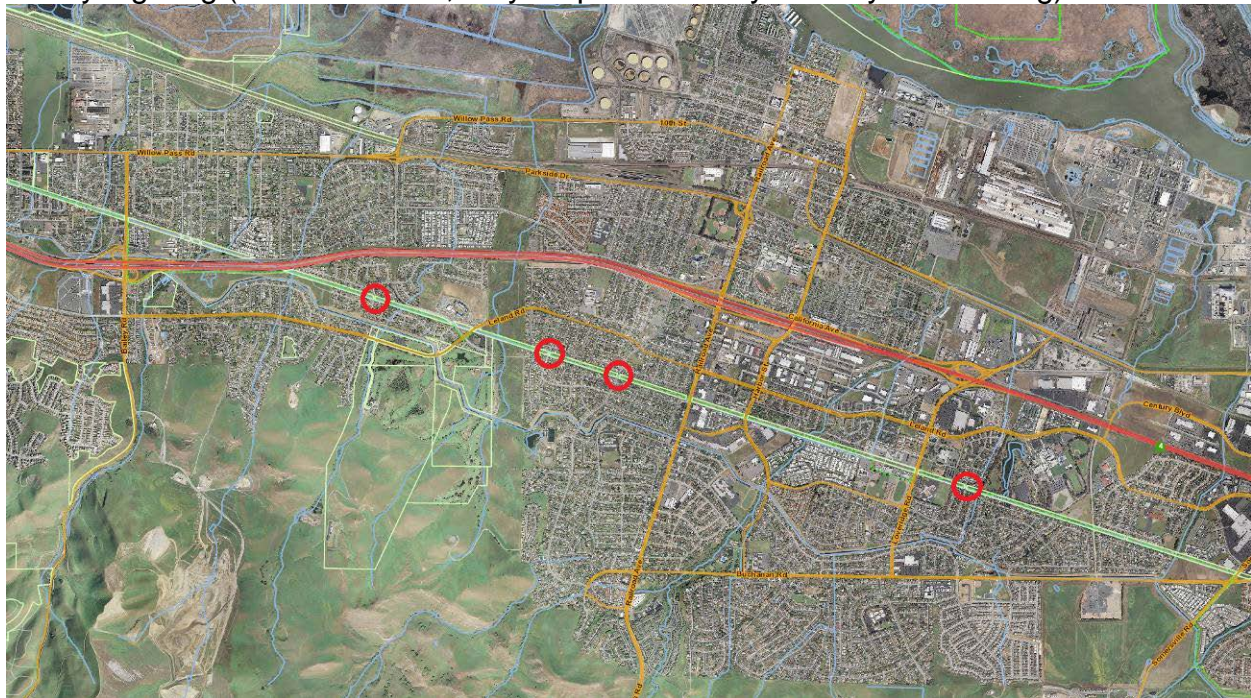
Donna Mooney, Agency General Counsel

Exhibit A

USE OF SUCCESSOR AGENCY FUNDS FOR TRAIL IMPROVEMENTS

Item	Cost
Safety Lighting (4 Intersections, may be performed by the City of Pittsburg)	\$100,000.00
Pavement Rehabilitation and Maintenance on Entire Delta De Anza Trail in Pittsburg (Standard Oil Avenue to Bailey Road)	\$210,000.00
Black Diamond Mines/Sky Ranch Trails Development & Improvements	\$237,668.85
Estimated Total	\$547,668.85

Safety Lighting (4 Intersections, may be performed by the City of Pittsburg)

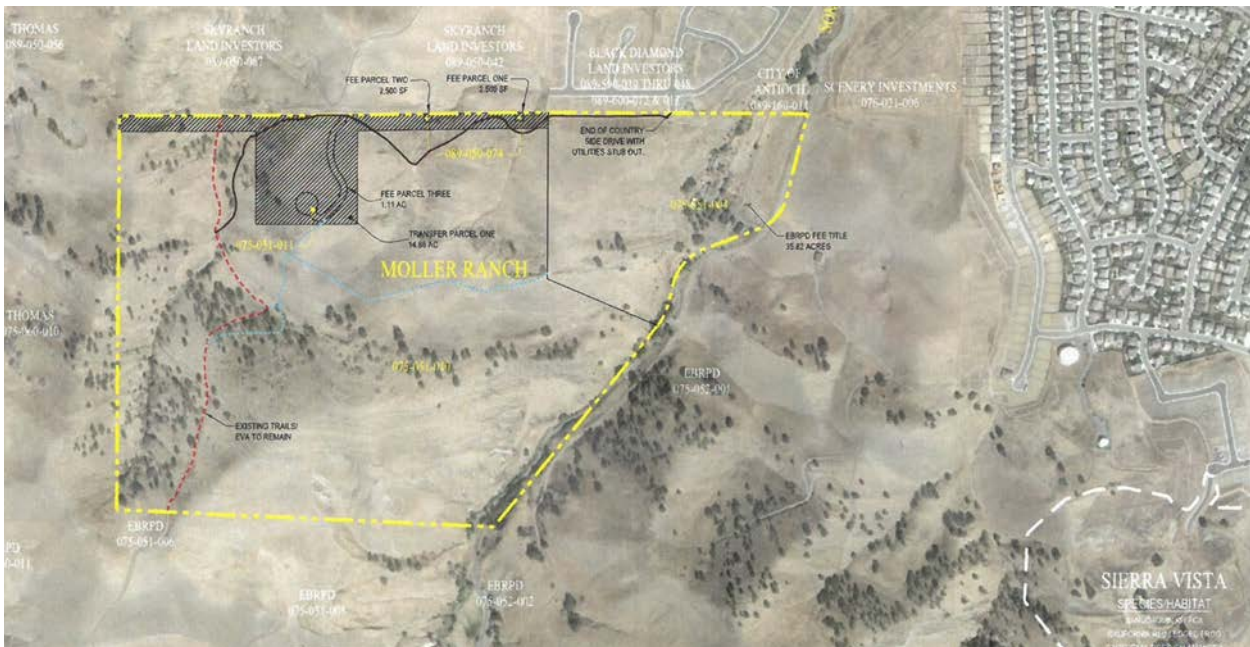


EBRPD Trail Improvements

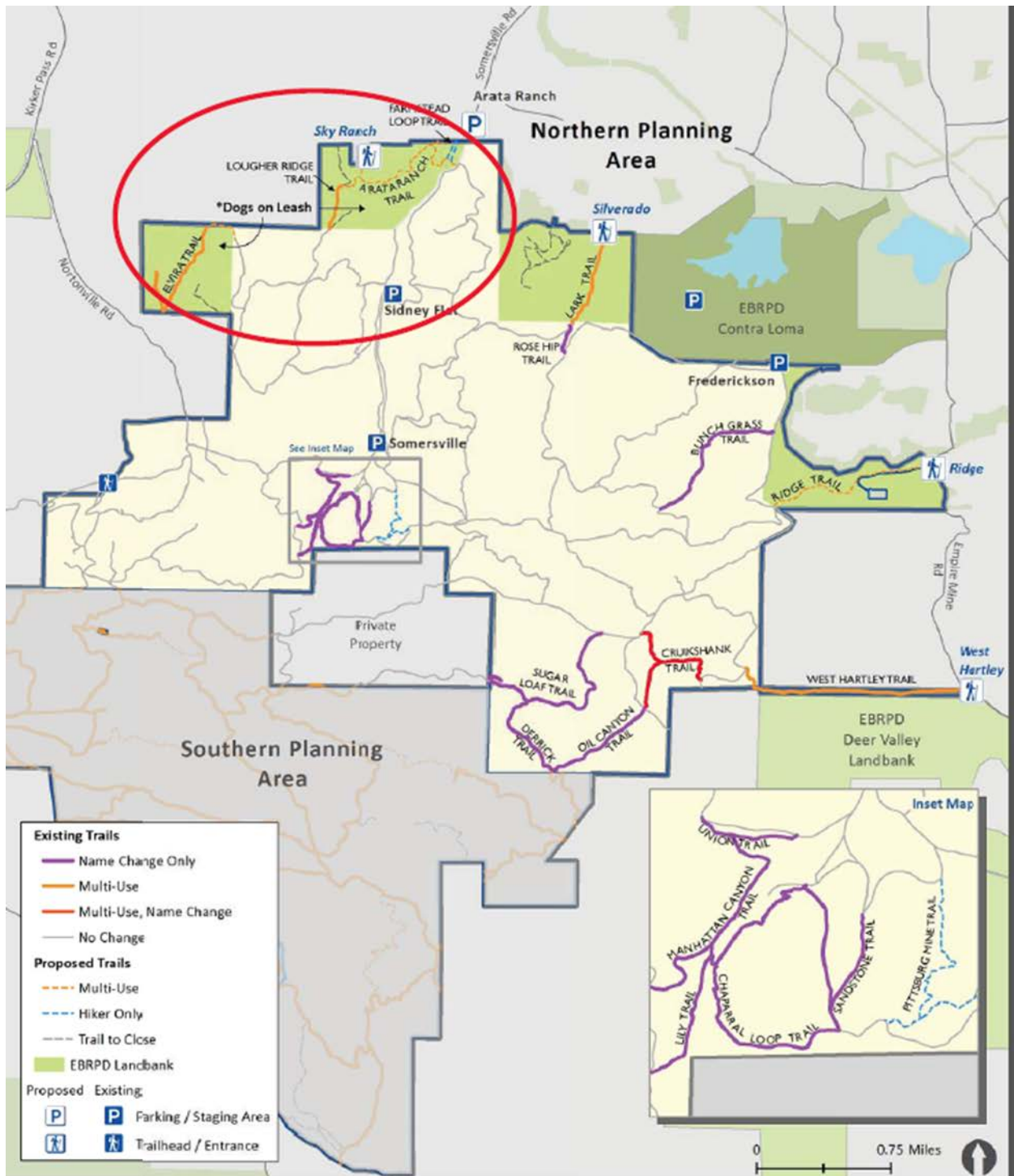
Pavement Rehabilitation and Maintenance on Entire Delta De Anza Trail in Pittsburg (Standard Oil Avenue to Bailey Road)



Black Diamond Mines/Sky Ranch Trails Development & Improvements



EBRPD Trail Improvements



DRAFT FIGURE 14: PUBLIC ACCESS: NORTHERN PLANNING AREA