

**FUNDING AGREEMENT
BETWEEN THE EAST BAY REGIONAL PARK DISTRICT AND CONTRA COSTA
COUNTY FOR
GREAT CALIFORNIA DELTA TRAIL SEGEMENT IA
AT BAY POINT REGIONAL SHORELINE**

This Funding Agreement, hereinafter referred to as "AGREEMENT", is made and entered into on the _____ day of _____, 2020 ("EFFECTIVE DATE"), by and between the East Bay Regional Park District, hereinafter referred to as "EBRPD," and Contra Costa County, hereinafter referred to as "COUNTY". EBRPD and COUNTY are sometimes referred to herein together as the "Parties" and each as a "Party."

RECITALS

WHEREAS, the U.S. Navy compensated the COUNTY an undisclosed fee amount in the early 1990s to help the COUNTY mitigate the closure of the Port Chicago Highway through the Concord Naval Weapons Station. When the COUNTY closed that road at the Navy's request, an east-west arterial that linked Bay Point, Clyde and Concord, and provided access to the waterfront was lost.

WHEREAS, the Board of Supervisors adopted in 1991, and updated in 2008 and 2010, the Navy Mitigation Expenditure Plan, which includes a road and trail project list and allocates funds to specified road and trail projects on that list.

WHEREAS, the Great California Delta Trail Segment IA, hereinafter referred to as "PROJECT," will construct the first segment of the Great California Delta Trail from Bay Point Waterfront Park to Pittsburg. The PROJECT is included on the Navy Mitigation Fund Expenditure Plan project list (Project #9). A PROJECT map is attached as Exhibit "A".

WHEREAS, the PROJECT will implement the first segment of this trail along McAvoy Road, and it will include the construction of approximately 525 feet of paved class 3 trail between the existing staging area and the planned Harrier Loop Trail Improvements. To further support the trail construction, the adjacent overflow parking lot also will be improved as part of the PROJECT. Site furnishings including salvage and (re)installation of park gate and traffic control are included in the PROJECT.

WHEREAS, COUNTY is willing to provide a portion of the PROJECT funding, and EBRPD will accept that funding, under the terms of this AGREEMENT.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Parties mutually agree as follows:

**Funding Agreement
Great California Delta Trail from Bay Point Waterfront to Pittsburg, Segment IA**

SECTION I

COUNTY AGREES:

(1) That its Public Works Director, or designee, will process a reimbursement to EBRPD for actual expenses that EBRPD incurs related to the PROJECT up to, but not to exceed, **\$100,000**, within 30 days of receipt of a cost summary and an invoice from the EBRPD, provided that the Public Works Director, or designee, determines that EBRPD's reimbursement request is consistent with the PROJECT budget attached as Exhibit "B".

SECTION II

EBRPD AGREES:

(1) To implement the PROJECT, including but not limited to consultant selection, the development of consultant services agreement, administration of the contract, final review of the work product, and disseminating work products as required.

(2) To provide draft project plans to COUNTY for review and comments.

(3) To coordinate comments on the plans as appropriate.

SECTION III

IT IS MUTUALLY AGREED AS FOLLOWS:

(1) The term of this AGREEMENT begins on the EFFECTIVE DATE, and it expires upon the satisfaction of the Parties' obligations under Section I and Section II, above.

(2) EBRPD shall indemnify, defend, and hold harmless COUNTY, its Board of Supervisors, officers, agents, employees, contractors, successors, and assigns (collectively, the "COUNTY INDEMNITEES") from and against any and all losses, damages, liabilities, claims, suits, costs, and expenses whatsoever, including reasonable attorneys' fees, (collectively, "LIABILITIES") arising out of or connected with (a) EBRPD's obligations under this AGREEMENT, (b) EBRPD's use of funds provided by the COUNTY under this AGREEMENT, or (c) the design, construction, implementation, maintenance, removal, replacement, modification, repair, or operation of the PROJECT. However, notwithstanding the foregoing, EBRPD shall not be required to indemnify, defend, and hold harmless the COUNTY INDEMNITEES from any LIABILITIES that arise from the sole negligence or sole willful misconduct of the COUNTY INDEMNITEES or any of them. The requirements of this Section III(2) shall survive the expiration or termination of this AGREEMENT.

(3) Notices regarding this AGREEMENT shall be given (a) by personal delivery, (b) by First Class U.S. Mail, postage prepaid, or (c) by overnight carrier for next business day delivery, and addressed to:

To EBRPD:

Funding Agreement

Great California Delta Trail from Bay Point Waterfront to Pittsburg, Segment IA

Grants Department, Finance and Management Services Division
Attn. Grants Manager
P. O. Box 5381
Oakland, CA 94605-0381

To COUNTY:

Public Works Department, Transportation Engineering
Attn. Assistant Public Works Director
255 Glacier Drive
Martinez, CA 94553.

A notice shall be deemed given on the day it is personally delivered, on the fifth day after mailing, or on the next business day following the date it is deposited with an overnight carrier for next business-day delivery.

(4) This AGREEMENT contains the entire agreement between the Parties with regard to matters described in this AGREEMENT and supersedes all prior agreements, whether written or oral, between the Parties with respect to such subject matter.

(5) This AGREEMENT shall be interpreted and enforced under the laws of the State of California.

(6) If any provision of this AGREEMENT shall be held to be invalid, illegal, unenforceable, or in conflict with the law of any jurisdiction, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

(7) This AGREEMENT may not be modified or amended except in a writing signed by both Parties hereto.

(8) The section headings and captions of this AGREEMENT are, and the arrangement of this AGREEMENT is, for the sole convenience of the Parties to this AGREEMENT. The section headings, captions, and arrangement of this AGREEMENT do not in any way affect, limit, amplify, or modify the terms and provisions of this AGREEMENT. This AGREEMENT shall not be construed as if it had been prepared by one of the Parties, but rather as if all Parties have prepared it. The Parties to this AGREEMENT and their attorneys have read and reviewed this AGREEMENT and agree that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply to the interpretation of this AGREEMENT. The recitals of this AGREEMENT are, and shall be enforceable as, a part of this AGREEMENT.

(9) Unless expressly stated herein, nothing in this AGREEMENT is intended to confer on any person, other than the Parties and their successors and assigns, any rights or remedies by reason of this AGREEMENT.

(10) A waiver of breach of any covenant or provision in this AGREEMENT shall not be deemed a waiver of any other covenant or provision in this AGREEMENT, and no waiver shall be valid unless in writing and executed by the waiving party.

Funding Agreement

Great California Delta Trail from Bay Point Waterfront to Pittsburg, Segment IA

(11) The sole remedy for violation of this AGREEMENT shall be the specific performance of this AGREEMENT.

(12) This AGREEMENT may be executed in one or more counterparts, each of which shall be deemed an original.

(13) In any action or proceeding to enforce or interpret any provision of this AGREEMENT, or where any provision hereof is validly asserted as a defense, each Party shall bear its own attorney's fees, costs, and expenses.

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Great California Delta Trail from Bay Point Waterfront to Pittsburg, Segment IA**

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 hereinabove written.

CONTRA COSTA COUNTY

EAST BAY REGIONAL PARK DISTRICT

By _____
(Signature of Authorized Representative)
Title: _____

By _____
(Signature of Authorized Representative)

Debra Auker
(Print Name of Authorized Representative)

Title: Assistant General Manager, Finance and
Management Services/CFO

Approved as to Form:
Sharon L. Anderson, County Counsel

Approved as to Form:

By _____
Deputy County Counsel

By _____
East Bay Regional Park District
District Counsel

Funding Agreement
Great California Delta Trail from Bay Point Waterfront to Pittsburg, Segment 1A

Exhibit A
PROJECT MAP



Funding Agreement
Great California Delta Trail from Bay Point Waterfront to Pittsburg, Segment 1A

Exhibit B

PROJECT BUDGET

Segment 1A		
Task #	Description	Cost
1	Project Design and Administration	\$5,250
2	Mobilization and Demobilization	\$7,500
3	Construction of Delta Trail Segment 1A	\$51,000
4	Overflow Parking Area Improvements	\$12,000
5	Site Furnishings to salvage and reinstall gate/Traffic Controller	\$8,000
6	Construction Management	\$8,000
7	Biomonitoring/Environmental Compliance	\$8,250
	TOTAL	\$100,000