

**JOINT EXERCISE OF POWERS AGREEMENT
BETWEEN CONTRA COSTA COUNTY AND
EAST BAY REGIONAL PARK DISTRICT FOR THE
MARSH DRIVE BRIDGE REPLACEMENT PROJECT -
BICYCLE AND PEDESTRIAN TRAIL ADDITION**

COUNTY PROJECT NO. 0662-6R4119
FEDERAL PROJECT NO. BRLS-5928(128)

1. Parties: Effective on _____, 2021 (“EFFECTIVE DATE”) the COUNTY OF CONTRA COSTA, a political subdivision of the State of California, hereinafter referred to as the “COUNTY,” and the EAST BAY REGIONAL PARK DISTRICT, a California special district, hereinafter referred to as “EBRPD,” enter into this Joint Exercise of Powers Agreement (“AGREEMENT”) pursuant to Government Code Section 6500, et seq., as follows:

2. Purpose and Scope of Work:

- a. The COUNTY will replace the Marsh Drive Bridge over Walnut Creek, improve roadway approaches on the eastern and western side of the bridge structure that crosses over Walnut Creek, and make related improvements and utility relocations (the “PROJECT”). The PROJECT will correct the deficiencies of the existing bridge.
- b. The existing Iron Horse Trail (“IHT” or “Trail”) currently starts at the southeast corner of the existing Marsh Drive Bridge, and it runs to the south, parallel to the Walnut Creek Channel. EBRPD is in the planning stage of its project to extend the Trail over Walnut Creek, north across Marsh Drive, and then further north along the levee access road to a point terminating approximately at Imhoff Drive, in Contra Costa County (the “IHT EXTENSION PROJECT”). The IHT EXTENSION PROJECT will include bicycle and pedestrian trail for the length of the extension.
- c. At EBRPD’s request and in accordance with this AGREEMENT, the COUNTY will accommodate EBRPD’s IHT EXTENSION PROJECT by including in its PROJECT all of the following (collectively, the “IHT PREPARATION WORK”): a 10-foot clear dimension ADA-compliant Class I multi-use path on the southern side of the bridge; the reconstruction of the fence and gate for the revised connection location of the IHT and Marsh Drive on the southeastern side of the bridge structure, installing pull boxes and conduit to accommodate the EBRPD’s future construction of a mid-block crossing by EBRPD west of the new bridge structure.
- d. Following the COUNTY’s completion of the PROJECT, EBRPD intends to proceed with its IHT EXTENSION PROJECT based on the timing requirements set forth herein. The IHT EXTENSION PROJECT will include: constructing the

northern trail extension on levee access road and a mid-block crossing of Marsh Drive, including but not limited to, signal poles, signal lights, push buttons, and signage and striping, and other improvements in County road right-of-way, that meet current Contra Costa County code and California MUTCD standards (the "ENCROACHING TRAIL IMPROVEMENTS"); and removing any bollards/barriers installed by as part of the COUNTY's PROJECT to dissuade trail users from crossing Marsh Drive until EBRPD completes the IHT EXTENSION PROJECT.

- e. The PROJECT will be constructed by the COUNTY. The PROJECT includes the IHT PREPARATION WORK. The COUNTY will complete the IHT PREPARATION WORK in accordance with EBRPD standards, which EBRPD shall provide to the COUNTY during the PROJECT design phase.
- f. Following all necessary approvals (e.g., CEQA compliance) and the COUNTY's completion of its PROJECT, EBRPD will construct the IHT EXTENSION PROJECT.
- g. The purpose of this AGREEMENT is to provide for apportionment of the duties and costs between the COUNTY and EBRPD with respect to the PROJECT and the IHT EXTENSION PROJECT.

3. Responsibilities of COUNTY and EBRPD:

- a. The COUNTY shall perform the following activities:
 - i. Act as the lead agency for the PROJECT.
 - ii. Prepare contract plans and specifications for the PROJECT, hereinafter referred to as "CONTRACT DOCUMENTS."
 - iii. Prepare and submit to EBRPD 95% design stage review documents, and any necessary changes to those documents, all hereinafter referred to as "REVIEW DOCUMENTS", for the PROJECT to enable EBRPD to review the IHT PREPARATION WORK.
 - iv. Advertise the PROJECT for public bid and consider awarding a construction contract.
 - v. Perform all preliminary and construction engineering, surveys, materials testing, contract administration, and inspection of the PROJECT.
 - vi. Provide EBRPD with copies of any contractor submittals for review if they involve deviations from the work shown on the REVIEW DOCUMENTS

that impact IHT PREPARATION WORK and/or EBRPD facilities during the construction.

- vii. Issue an encroachment permit to EBRPD for construction of the ENCROACHING TRAIL IMPROVEMENTS that lie within COUNTY road right-of-way.
 - viii. Approve and, if designed in accordance with applicable standards, accept the design of the ENCROACHING TRAIL IMPROVEMENTS. The applicable standards of the ENCROACHING TRAIL IMPROVEMENTS include the Contra Costa County code provisions and California MUTCD standards in effect at the time the design is submitted to the COUNTY for review. For the purposes of this AGREEMENT, and unless otherwise agreed to by the Parties' representatives, the ENCROACHING TRAIL IMPROVEMENTS will include a Pedestrian Hybrid Beacon (PHB) system with sensors other than loop detection (e.g. video, infrared, other technology, or combination thereof), or equivalent features.
 - ix. Approve and accept, or request reasonable changes to, design plans and submittals of the ENCROACHING TRAIL IMPROVEMENTS within thirty (30) days after receiving those plans and submittals from EBRPD.
 - x. Participate in the pre-construction meeting and other construction meetings as needed for the ENCROACHING TRAIL IMPROVEMENTS and consult with EBRPD, as necessary, to enable proper completion of those improvements within the COUNTY road right-of-way.
 - xi. At the end of construction of the PROJECT, and separately at the end of construction for the IHT EXTENSION PROJECT, participate in joint final inspections with EBRPD and provide written final approvals, as more particularly described herein.
- b. EBRPD shall perform the following activities:
- i. Promptly upon receipt from the COUNTY, review and approve in writing the portions of the REVIEW DOCUMENTS specific to the IHT PREPARATION WORK and to any PROJECT features that affect EBRPD facilities. EBRPD shall have thirty (30) days following receipt of REVIEW DOCUMENTS to either approve the REVIEW DOCUMENTS in writing or, if necessary, to request in writing that the COUNTY make reasonable modifications to the REVIEW DOCUMENTS. If EBRPD does not in writing either approve or request reasonable changes to the REVIEW DOCUMENTS within that thirty (30) day period, the REVIEW DOCUMENTS shall be deemed approved by EBRPD.

- ii. Participate in the pre-construction meeting and other construction meetings as needed for the PROJECT and consult with the COUNTY, as necessary, to enable the IHT PREPARATION WORK to be completed.
- iii. To the extent that contractor submittals for the IHT PREPARATION WORK and any PROJECT features that affect EBRPD facilities substantially deviate from the REVIEW DOCUMENTS previously approved by EBRPD, EBRPD shall review in a timely manner and communicate, by the date designated by the COUNTY's representative, EBRPD's acceptance of those changes.
- iv. Conduct periodic field inspections of the IHT PREPARATION WORK and any PROJECT work that affects EBRPD's IHT EXTENSION PROJECT and/or EBRPD facilities during construction. In the event that the IHT PREPARATION WORK is not being constructed in accordance with the REVIEW DOCUMENTS, and any change orders approved by EBRPD, EBRPD shall bring such deviations to the attention of the COUNTY in a prompt manner.
- v. At the end of construction for the IHT PREPARATION WORK, and separately at the end of construction for the IHT EXTENSION PROJECT, and prior to acceptance, participate in joint final inspections with the COUNTY and provide written final approvals as more particularly described herein.
- vi. Following all required planning and environmental approvals (e.g., CEQA compliance), begin construction of the IHT EXTENSION PROJECT within five years after the COUNTY accepts its PROJECT as complete.
- vii. Complete construction of the IHT EXTENSION PROJECT within two years after that project construction commences,
- viii. Obtain a COUNTY encroachment permit for the ENCROACHING TRAIL IMPROVEMENTS; and Obtain a Contra Costa County Flood Control and Water Conservation District ("FLOOD CONTROL") encroachment permit for IHT EXTENSION PROJECT work located outside of COUNTY road right-of-way and on lands owned by FLOOD CONTROL.
- ix. Obtain permits, approvals, and agreements for the IHT EXTENSION PROJECT components in the City of Concord "CITY" road right-of-way. This includes entering into a maintenance agreement with the CITY for the portion of the IHT that lies within City's Marsh Drive Right of Way.
- x. Coordinate the construction of ENCROACHING TRAIL IMPROVEMENTS with the COUNTY.

- xii. Provide the COUNTY 95% design stage plans and specifications for the ENCROACHING TRAIL IMPROVEMENTS to enable the COUNTY to review the plans to ensure the improvements comply with all applicable codes and standards, including the most recent version of the Contra Costa County code and California MUTCD standards in effect at the time the design is submitted to the COUNTY for review. Within 30 days following receipt of the plans and specifications from EBRPD, the COUNTY will either approve the plans and specifications in writing or, if necessary, request in writing that EBRPD make reasonable modifications to the plans and specifications to the extent necessary to ensure they comply with applicable codes and standards. If the COUNTY does not respond in writing within that 30-day period, the plans and specifications shall be deemed accepted by the COUNTY.
- xiii. Serve as the lead agency for the IHT EXTENSION PROJECT, including the ENCROACHING TRAIL IMPROVEMENTS.

4. Financial Responsibility:

- a. Except as provided herein, the COUNTY shall be responsible for all costs and expenses required to plan, design, implement, construct, operate, repair, and maintain the PROJECT. EBRPD shall be responsible for all costs and expenses required to satisfy all of EBRPD's obligations under this AGREEMENT, including, but not limited to, reviewing the REVIEW DOCUMENTS, reviewing PROJECT change orders and other items, and participating in joint inspections of the PROJECT and the IHT EXTENSION PROJECT. EBRPD shall be solely responsible for all costs and expenses required to plan, design, implement, construct, operate, repair, replace, and maintain the IHT EXTENSION PROJECT except as listed hereafter for the ENCROACHING TRAIL IMPROVEMENTS inside COUNTY road right-of-way:
 - i. When completed, EBRPD will keep and maintain in a clean and safe condition, including the removal of graffiti, vandalism, trash, and other foreign debris, the ENCROACHING TRAIL IMPROVEMENTS inside COUNTY road right-of-way; but no obligation to maintain structural deterioration or other deficiencies of the bridge that is part of the IHT PREPARATION WORK or midblock crossing that is part of the IHT EXTENSION PROJECT in COUNTY road right-of-way. EBRPD is responsible for obtaining all permits, approvals, and agreements for the IHT EXTENSION PROJECT components in the CITY road right-of-way. This includes entering into a maintenance agreement with the CITY for the portion of the IHT that lies within the City's Marsh Drive Right of Way.

- ii. COUNTY shall be solely responsible for all costs and expenses required to operate, repair, replace, and maintain the ENCROACHING TRAIL IMPROVEMENTS inside COUNTY road right-of-way except for the responsibilities of EBRPD listed above. This includes COUNTY maintaining the structural deterioration or other deficiencies of the bridge that is part of the IHT PREPARATION WORK and the midblock crossing that is part of the IHT EXTENSION PROJECT. COUNTY will be responsible for operating, repairing, replacing, and maintaining the midblock crossing including signal poles, signal lights, push buttons, signage and striping.
 - b. The federal Highway Bridge Program (HBP) will fund 88.53% of the PROJECT cost with the remaining 11.47% coming from a local match. To account for the local match attributable to the IHT PREPARATION WORK, which benefits EBRPD, EBRPD shall pay the COUNTY the amount of \$25,000. This cost is based on an assumed unit cost of structural concrete of \$1,300 per cubic yard and the additional bridge width needed to accommodate the path. The additional width of 4 feet 10 inches is the difference between 11 feet of width required to construct 10-foot clear path and 1-foot wide pedestrian railing compared to a sidewalk with a width of 6 feet 2 inches that the COUNTY would be constructing if no multi-use path was placed on the bridge. The cost of the exterior pedestrian railing is part of the PROJECT but is not included in the estimated cost that EBRPD is responsible for since the additional cost of railing is offset by the cost of the raised sidewalk that the COUNTY would be constructing if this multi-use path was not placed on the bridge.
 - c. The designation of the multi-use path on the bridge as a federal HBP participating item is based on EBRPD's guarantee that it will (a) begin construction of the IHT EXTENSION PROJECT within five years after the COUNTY accepts the PROJET as complete, and (b) complete construction of the IHT EXTENSION PROJECT within two years after construction begins. If EBRPD fails, refuses, or is unable to satisfy those requirements, immediately upon demand by the COUNTY, EBRPD shall pay the COUNTY 100% of the amount of both the federal (88.53% of participating costs) and local share (11.47% of participating costs) of the actual construction costs or the amount required by Caltrans, whichever is greater, for the IHT PREPARATION WORK. The COUNTY will provide the actual amounts associated with those percentages to EBRPD when those costs are available and following a request by EBRPD.
 - d. The obligations contained in this Section 4, inclusive of Subsections 4(a) through 4(c) shall survive the expiration or termination of this AGREEMENT.
5. Payment, Changes to Scope, Advertisement, and Return of Payment:

- a. Within thirty (30) days after the COUNTY advertises and solicits bids for construction of the PROJECT, EBRPD shall submit payment of \$25,000 to the COUNTY, which represents the estimated local share of the IHT PREPARATION WORK. If EBRPD fails to make its payment on time, the COUNTY, at its sole discretion, may delete the IHT PREPARATION WORK from the PROJECT and it may immediately terminate this AGREEMENT upon written notice to EBRPD, notwithstanding anything to the contrary in Section 10. In the event that this AGREEMENT is terminated under this Section 5(a), EBRPD shall reimburse the COUNTY for any costs that the COUNTY actually incurs to remove the IHT PREPARATION WORK from the PROJECT. The obligations in this Section 5(a) shall survive the termination or expiration of this AGREEMENT.
- b. If, within 120 days after its initial advertisement to solicit bids for the PROJECT, the COUNTY does not award a construction contract or notify EBRPD of its decision to reject all bids and readvertise the PROJECT, the COUNTY shall refund the \$25,000 to EBRPD. If, within 120 days after its initial advertisement of the PROJECT, the COUNTY rejects all bids and elects to readvertise the PROJECT, the COUNTY shall have an additional 120 days to readvertise the PROJECT, consider all bids, and consider awarding a PROJECT construction contract. If the COUNTY fails to award a PROJECT construction contract within that subsequent 120-day period, the COUNTY shall refund the \$25,000 back to EBRPD. If the COUNTY does not award a construction contract following either the first or the second advertisement, the COUNTY may elect to terminate this AGREEMENT and refund the \$25,000 to EBRPD.
- c. The COUNTY reserves the right to reject all bids and nothing in this AGREEMENT compels the COUNTY to award a contract for PROJECT construction.

6. Insurance and Hold Harmless:

- a. The COUNTY will ensure that the CONTRACT DOCUMENTS for the PROJECT include provisions requiring: (a) that the COUNTY's PROJECT contractor name EBRPD, and its directors, officers, contractors, agents, and employees as additional insureds under the contractor's liability insurance policies; and (b) that the COUNTY's PROJECT contractor indemnify EBRPD, and its directors, officers, contractors, agents, and employees, ("EBRPD INDEMNITEES") to the same extent as the contractor indemnifies the COUNTY. EBRPD shall ensure that the contract documents for EBRPD's IHT EXTENSION PROJECT include provisions requiring: (a) that EBRPD's project contractor name the COUNTY, and its officers, employees, agents, and representatives, as additional insureds under the contractor's liability insurance policies; and (b) that EBRPD's project contractor indemnify the COUNTY, and its officers, employees, contractors, agents, and representatives ("COUNTY INDEMNITEES"), to the same extent as the contractor indemnifies EBRPD.

- b. Neither EBRPD, nor any officer or employee thereof, shall be responsible for any damage or liability occurring because of anything done or omitted to be done by the COUNTY in connection with any work delegated to the COUNTY under this AGREEMENT. The COUNTY shall indemnify, defend, and hold harmless EBRPD INDEMNITEES from any LIABILITIES, but only to the extent that those LIABILITIES arise from or are connected with the COUNTY's performance of its obligations under this AGREEMENT
- c. Neither the COUNTY, nor any officer or employee thereof, shall be responsible for any damage or liability occurring because of anything done or omitted to be done by EBRPD in connection with any work delegated to EBRPD under this AGREEMENT. EBRPD shall indemnify, defend, and hold harmless the COUNTY INDEMNITEES from any LIABILITIES, but only to the extent that those LIABILITIES arise from or are connected with EBRPD's performance of its obligations under this AGREEMENT.
- d. EBRPD acknowledges that entry into the PROJECT construction area carries a certain risks and, notwithstanding anything to the contrary in this AGREEMENT, EBRPD, on behalf of itself and its officers, employees, agents, and representatives, hereby releases the COUNTY INDEMNITEES from any and all LIABILITIES that arise from or are connected with the entry within the PROJECT construction area by any of EBRPD's officers, employees, agents, or representatives, except where any such LIABILITIES are caused by the sole negligence or willful misconduct of any COUNTY INDEMNITEES. As to the releases contained in this Section 6(d), EBRPD, on behalf of itself and its officers, employees, agents, and representatives, knowingly waives the right to make any claim against any COUNTY INDEMNITEES for such LIABILITIES, and EBRPD, on behalf of itself and its officers, employees, agents, and representatives, expressly waives all rights provided by section 1542 of the California Civil Code, which provides as follows:

"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR."
- e. Notwithstanding anything to the contrary in this AGREEMENT, EBRPD shall defend, indemnify, and hold harmless the COUNTY INDEMNITEES, from and against any LIABILITIES that that arise from or are connected with the entry within the PROJECT construction area by any of EBRPD's officers, employees, agents, or representatives, except where such LIABILITIES are caused by the sole negligence or willful misconduct of any COUNTY INDEMNITEES

- f. Nothing in this AGREEMENT is intended to affect the legal liability of either Party to third parties by imposing any standard of care different from that normally imposed by law.
- g. The obligations in this Section 6, inclusive of subsections 6(a) through 6(f), shall survive the expiration or termination of this AGREEMENT.

7. Acceptance:

- a. Upon completion of construction of the PROJECT, on a day and at a time designated by the COUNTY's representative, EBRPD's representative and the COUNTY's representative shall conduct a joint final inspection of the IHT PREPARATION WORK to confirm that the work has been completed in accordance with all applicable standards, specifications, and PROJECT plans. Within ten (10) days after that joint final inspection, EBRPD shall notify the COUNTY in writing either (i) of its acceptance of the IHT PREPARATION WORK, which acceptance shall not be unreasonably withheld, or (ii) of the specific reason(s) the work does not conform to applicable standards, specifications, or PROJECT plans. After receiving EBRPD's acceptance, or after remediating any nonconforming work, the COUNTY may accept the PROJECT as complete. If EBRPD fails to respond in writing within the time specified above, that failure shall be deemed EBRPD's acceptance of the IHT PREPARATION WORK.
- b. Upon completion of the IHT EXTENSION PROJECT, on a day and at a time designated by EBRPD's representative, EBRPD's representative and the COUNTY's representative shall conduct a joint final inspection of the ENCROACHING TRAIL IMPROVEMENTS to confirm that work has been completed in accordance with all applicable standards, specifications, and project plans. Within ten (10) days after that joint final inspection, the COUNTY shall notify EBRPD in writing either (i) of its acceptance of the ENCROACHING TRAIL IMPROVEMENTS, which acceptance shall not be unreasonably withheld, or (ii) of the specific reasons the improvements do not conform to applicable standards, specifications, and project plans. After receiving the COUNTY's acceptance, or after remediating any nonconforming improvements, EBRPD may accept the IHT EXTENSION PROJECT as complete. If the COUNTY fails to respond in writing within the time specified above, that failure shall be deemed an acceptance of the ENCROACHING TRAIL IMPROVEMENTS.
- c. Following the COUNTY's acceptance of the PROJECT as complete, the COUNTY shall own, operate, maintain, and be solely responsible for the PROJECT. Beginning upon the COUNTY's acceptance of the PROJECT as complete, the COUNTY shall indemnify, defend, and hold harmless EBRPD, its officers, employees, agents, and representatives ("EBRPD INDEMNITEES") from all LIABILITIES that arise from or are connected with the PROJECT, including the use of PROJECT facilities or improvements by the public. However,

notwithstanding the foregoing, the COUNTY shall have no obligation to indemnify EBRPD INDEMNITEES from any LIABILITIES to the extent that the LIABILITIES arise from or are connected with the negligence or willful misconduct of any EBRPD INDEMNITEES. The obligations under this Section 7(c) shall survive the expiration or termination of this AGREEMENT.

- d. Following EBRPD's acceptance of the IHT EXTENSION PROJECT as complete, EBRPD shall own, operate, maintain, and be solely responsible for the IHT EXTENSION PROJECT, but not the ENCROACHING TRAIL IMPROVEMENTS that are a part of the IHT EXTENSION PROJECT except as described in Section 4(a). Following acceptance, COUNTY shall own, operate, maintain, and be solely responsible for the ENCROACHING TRAIL IMPROVEMENTS except as described in Section 4(a). Beginning when EBRPD accepts the IHT EXTENSION PROJECT as complete, EBRPD shall indemnify, defend, and hold harmless the COUNTY INDEMNITEES from all LIABILITIES that arise from or are connected with the IHT EXTENSION PROJECT, including but not limited to the use of IHT EXTENSION PROJECT facilities or improvements by the public. Notwithstanding the foregoing, EBRPD shall have no obligation to indemnify, defend, and hold harmless COUNTY INDEMNITEES from any LIABILITIES to the extent that the LIABILITIES arise from or are connected with the negligence or willful misconduct of any COUNTY INDEMNITEES. The obligations under this Section 7(d) shall survive the expiration or termination of this AGREEMENT.
- e. To the extent that any portions of the IHT EXTENSION PROJECT will be located on lands owned by FLOOD CONTROL, before commencing construction of the IHT EXTENSION PROJECT, EBRPD shall enter into a license agreement or use agreement, or an amendment to an existing agreement, to allow EBRPD to maintain those project improvements, and to require EBRPD to operate, maintain, repair, and keep clean and free of graffiti all IHT EXTENSION PROJECT improvements located on those lands, at its sole cost and expense. That license agreement or use agreement, or amendment to an existing agreement, shall further require EBRPD to indemnify, defend, and hold harmless FLOOD CONTROL, and its officers, employees, contractors, and representatives, from all LIABILITIES that arise from or are connected with the design, construction, operation, maintenance, repair, or use by the public of the IHT EXTENSION PROJECT improvements located on lands owned by FLOOD CONTROL.
- f. Before commencing construction of the IHT EXTENSION PROJECT, EBRPD shall enter into a license agreement with the COUNTY that requires EBRPD to keep and maintain in a clean and safe condition, including the removal of graffiti, vandalism, trash, and other foreign debris the ENCROACHING TRAIL IMPROVEMENTS and the IHT PREPARATION WORK located within COUNTY road right-of-way as described in Section 4(a). That license agreement shall further require EBRPD to indemnify, defend, and hold harmless the COUNTY

INDEMNITEES from all LIABILITIES that arise from or are connected with EBRPD's activities under that license agreement or the use of the IHT PREPARATION WORK by the public. Before commencing construction of the IHT EXTENSION PROJECT, EBRPD shall obtain permits, approvals, and agreements for the IHT EXTENSION PROJECT components in the CITY road right-of-way. This includes entering into a maintenance agreement with the CITY for the portion of the IHT within the City's Marsh Drive Right of Way.

8. Agreement Modification: This AGREEMENT shall be subject to modification only with the written consent of both parties. Neither party shall unreasonably withhold its consent to the implementation and accomplishment of the overall purpose for which this AGREEMENT is drafted.

9. Operations: The parties agree to meet as needed from time to time to discuss operational concerns or issues as they may periodically arise.

10. Agreement Term; Termination: The term of this AGREEMENT begins on the EFFECTIVE DATE, and the term of this AGREEMENT expires upon EBRPD's acceptance of the IHT EXTENSION PROJECT as complete following its construction. Unless a section of this AGREEMENT provides otherwise, this AGREEMENT may be terminated only through the mutual, written consent of the Parties, in which case the terms listed in Section 5 shall determine the remaining financial obligations of the parties to each other. AGREEMENT terms that expressly survive the expiration or termination of this AGREEMENT shall survive and remain enforceable against the Parties hereto following any such expiration or termination of this AGREEMENT.

11. Agreement Execution: This AGREEMENT may be executed in one or more counterparts, each of which shall be an original and all of which taken together shall constitute one instrument.

12. Entire Agreement: This AGREEMENT contains the entire understanding of the parties relating to the subject matter of this AGREEMENT. Any representation or promise of the parties relating to the PROJECT, the IHT PREPARATION WORK, or the IHT EXTENSION PROJECT shall not be enforceable unless it is contained in this AGREEMENT or in a subsequent written modification of this AGREEMENT executed by both parties.

13. Notices: All notices (including requests, demands, approvals, or other communications) under this AGREEMENT shall be in writing.

a. Notice shall be sufficiently given for all purposes as follows:

i. When delivered by first class mail, postage prepaid, notice shall be deemed delivered three (3) business days after deposit in the United States Mail.

- ii. When mailed by certified mail with return receipt requested, notice is effective on receipt if delivery is confirmed by a return receipt.
 - iii. When delivered by overnight delivery by a nationally recognized overnight courier, notice shall be deemed delivered one (1) business day after deposit with that courier.
 - iv. When personally delivered to the recipient, notice shall be deemed delivered on that date personally delivered.
- b. The place for delivery of all notices given under this AGREEMENT shall be as follows:

Contra Costa County Public Works Department
Attn: Brian M. Balbas, Director
255 Glacier Drive
Martinez, CA 94553

East Bay Regional Park District
Attn: General Manager
2950 Peralta Oaks Court
Oakland, CA 94605

or to such other addresses as COUNTY and EBRPD may respectively designate by written notice to the other.

[Signatures on next page.]

CONTRA COSTA COUNTY

By _____
Brian M. Balbas
Public Works Director


APPROVED AS TO FORM:
Sharon L. Anderson
County Counsel

By _____
Deputy County Counsel

**EAST BAY REGIONAL PARK
DISTRICT**

By  _____
Sabrina Landreth
General Manager

ATTEST:
Yolande Barial Knight
Clerk of the Board of Directors,
East Bay Regional Park District

By  _____
Yolande Barial Knight (Mar 19, 2021 16:53 PDT)

RECOMMENDED FOR APPROVAL:
Kristina Kelchner
Assistant General Manager

By  _____
Kristina Kelchner (Mar 11, 2021 08:42 PST)

FORM APPROVED:
Jason Rosenberg
Asst. District Counsel

By  _____
Jason Rosenberg (Mar 11, 2021 08:57 PST)

EAST BAY REGIONAL PARK DISTRICT

RESOLUTION NO.: 2020 – 12 - 275

December 1, 2020

AUTHORIZATION TO ENTER INTO A JOINT EXERCISE OF POWERS AGREEMENT WITH
CONTRA COSTA COUNTY FOR CONSTRUCTION OF THE IRON HORSE TRAIL ON
THE MARSH DRIVE BRIDGE: IRON HORSE TRAIL

WHEREAS, Contra Costa County (County) is replacing the Marsh Drive bridge which will stretch east to west over Walnut Creek near the northern terminus of the Iron Horse Trail (IHT) in Contra Costa County using funds from the Caltrans Highway Bridge Program; and

WHEREAS, the County has included construction of a portion of the IHT as a barrier separated two-way path as part of the Marsh Drive Bridge replacement project which will provide safe and continuous bicycle and pedestrian access to the west side of Walnut Creek; and

WHEREAS, the Highway Bridge Program is covering 88.53% of the cost for the additional width for the trail and the remaining 11.47% needs to be paid for by local matching funds; and

WHEREAS, the County has requested that the Park District pay for the local matching funds for the additional design and construction costs to include the trail as a one-time payment to the County in the amount of \$25,000 and would like to formalize this cost sharing agreement through a Joint Exercise of Powers Agreement (JEPA); and

WHEREAS, funds are available in the Build Trail, Marsh Drive to Benicia (155400) project to fund the payment; and

WHEREAS, within the Highway Bridge Program funding agreement Caltrans requires that construction of an extension of the IHT to the north begin within five years of the Marsh Drive Bridge project completion; and

WHEREAS, this requirement commits the Park District to construct a northern extension of the IHT which will include a signalized mid-block crossing of Marsh Drive and design and construction of a paved section of the IHT to a logical terminus to the north; and

WHEREAS, staff proposes to request appropriation of funds at a later date from the \$1.6M in Tosco Remediation funds to design and construct the signalized mid-block crossing and the northern extension of the IHT along Walnut Creek;

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the East Bay Regional Park District hereby authorizes entering into a Joint Exercise of Powers Agreement with Contra Costa County to contribute a percentage of the local matching funds as a one-time payment in the amount of \$25,000 for additional design and construction costs incurred to include the IHT as part of the Marsh Drive Bridge replacement project; and

BE IT FURTHER RESOLVED, that the General Manager is hereby authorized and directed, on behalf of the District and in its name, to execute and deliver such documents and to do such acts as may be deemed necessary or appropriate to accomplish the intentions of this resolution.

Moved by Director Lane, seconded by Director Rosario, and adopted this 1st day of December, 2020 by the following vote:

FOR: Colin Coffey, Ellen Corbett, Elizabeth Echols, Beverly Lane, Dee Rosario,
Dennis Waespi, Ayn Wieskamp.

AGAINST: None.
ABSTAIN: None.
ABSENT: None.

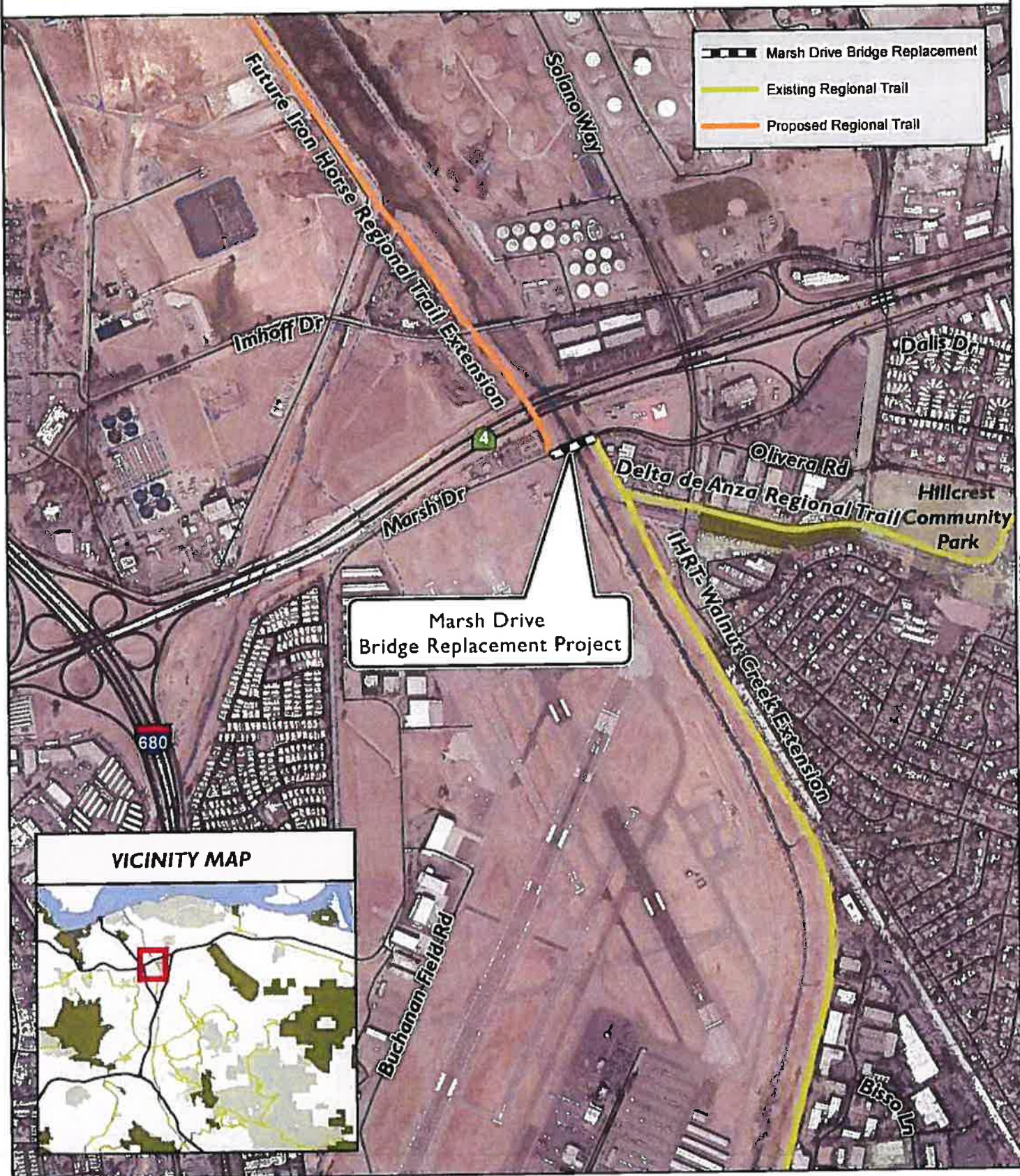
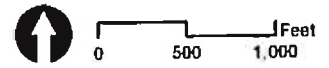

Ellen M. Corbett
Board President

CERTIFICATION

I, Yolande Barial Knight, Clerk of the Board of Directors of the East Bay Regional Park District, do hereby certify that the above and foregoing is a full, true and correct copy of Resolution No. 2020-12-275 adopted by the Board of Directors at a regular meeting held on Dec. 1, 2020.



Iron Horse Regional Trail Marsh Drive Bridge Replacement Project



Signature: 

Email: aalvarez@ebparks.org











JointExercisePowersAgreement_CCCEBRPD_MarshDriveIronHorseTrail_\$25,000

Final Audit Report

2021-03-19

Created:	2021-03-19
By:	Erdem Durgunoğlu (edurgunoglu@ebparks.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAAwk2Vz7x6chgXUGyKjqG9_k9gklzdqR7w

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