



Contra  
Costa  
County

To: Board of Supervisors  
From: Julia R. Bueren, Public Works Director/Chief Engineer  
Date: February 9, 2016

Subject: Referral to Finance Committee of funding shortfall in the Wildcat/San Pablo Creeks Levee Remediation project in North Richmond.

### **RECOMMENDATION(S):**

REFER to the Finance Committee the request of \$900,000 for FY 2016-17 from the County General Fund to cover the funding shortfall in the Wildcat/San Pablo Creeks Levee Remediation project in North Richmond, District 1.

### **FISCAL IMPACT:**

100% General Fund

### **BACKGROUND:**

#### **Original Project Construction**

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 Flood Control District's limited funding ability and

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

Action of Board On: **02/09/2016** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

#### **VOTE OF SUPERVISORS**

AYE: Candace Andersen, District II  
Supervisor  
Mary N. Piepho, District III  
Supervisor  
Karen Mitchoff, District IV  
Supervisor  
Federal D. Glover, District V  
Supervisor

ABSENT: John Gioia, District I  
Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: February 9, 2016

David Twa, County Administrator and Clerk of the Board of Supervisors

By: Stephanie Mello, Deputy

Contact: Mike Carlson  
925-313-2321

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

## BACKGROUND: (CONT'D)

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US Army Corps of Engineers, 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 become the non-federal match for this federal project. The Flood Control District still carries an \$820,000 loan from the original project construction in the early 1990s. With interest, the outstanding balance is now approximately \$1,300,000.

One time proceeds from the sale of District property at 3rd and Brookside and repayment of money owed upon the closure of the County Redevelopment Agency provided \$475,000 that has been set aside to pay down the outstanding project debt.

### **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 level shifted 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 \$935,000.

### **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 is anticipated to double in the coming years to make the FEMA federal 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 for at least another year.

### Financial Picture:

As shown in the table below, the DWR grant covers 90% of the \$1.68 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 \$935,000. Because the project will be competitively bid, the cost of construction reported below is from the engineer's estimate.

Task No.	Task Description	Total Budget for LLCR 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	\$88,459	\$93,258	\$4,799
2	Environmental Permitting and Compliance	\$130,033	\$274,019	\$143,986
3	Real Property Acquisition	\$7,982	\$12,982	\$5,000
4	Design	\$215,782	\$485,735	\$269,953
5	Construction	\$1,108,763	\$1,455,963	\$347,200
6	Reporting	\$33,866	\$33,866	\$0
7	Project Management and Corps 408 Permit	\$99,313	\$264,192	\$164,879
	<b>TOTAL</b>	<b>\$1,684,198</b>	<b>\$2,620,015</b>	<b>\$935,817</b>

### Options for Additional Funding:

The District is considering a number of funding options to cover the deficit in funding. Each is described below along with the likelihood of each approach being applicable or successful.

#### County General Funds

The District is requesting \$900,000 in County general funds as an assurance that the project can move forward with advertising for construction. Without the financial assurance provided by this funding, the District cannot advertise the project nor move forward with construction work this season, and the community will continue to be faced with additional flood risk and may be mapped into the FEMA floodplain. If the project is financially able to proceed in 2016, expenditures will not occur until late Q1 or early Q2 in FY 16-17.

The District will continue to pursue additional funding sources, as specifically detailed below, with the intent to find alternate funding and reduce or eliminate the need for general funds.

#### 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 for 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 intends to pursue County Road Funds for the roadway items included in this 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 Waster 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 Prop 1 Funds**

In September 2015, the District partnered with Urban Tilth on a \$1,204,000 grant application to State Coastal Conservancy (SCC) to address the project's \$900,000 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 as 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 intend to reapply in March, and if the grant application is ultimately approved, no more than approximately \$250,000 would be available to fund the levee project. The other half would be for Urban Tilth projects in the area unrelated to the levee project.

### **EPA San Francisco Bay Water Quality Improvement Fund**

The project is anticipated to be eligible for this annual federal grant program and can use the State DWR grant towards the 50% match. This grant program favors "shovel-ready" implementation projects (which this is), but the project may need other partners to broaden its appeal. The next application round opens in March 2016 and the District intends to apply.

### **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. Thanks to the low tax rate fixed by Prop 13, 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 3<sup>rd</sup> and Brookside (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. Unless the Board provides direction to the contrary, the proceeds from this sale would not be 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 (such as 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 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 (although an initiative is in the works for the November 2016 ballot to possibly provide this ability). 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. The own some of the property in fee, and license other areas from the State and the Flood Control District. Because the direct benefit they derive from the project, the District intends to request 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.

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 intends to request waiver of the approximately \$12,000 appraised value of the access easement and that WCWC further contribute to the project cost.

Finally, EBMUD operates a facility directly adjacent to and protected by the levee on San Pablo Creek. As with the other agencies, the District intends to request EBRPD contribute to overall project cost.

**It is unclear what participation, if any, will come from these requests to other agencies projected by the District's project.**

**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 intends to apply for additional state grants, request funding from the Public Works Department road funds, and request County General Funds to cover the funding shortfall.

**CONSEQUENCE OF NEGATIVE ACTION:**

If not approved, Flood Control will be able to move forward with the project and all parcels with mortgages mapped into the floodplain will be required to purchase flood insurance.