

RESOLUTION NO. 26-10

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RICHMOND SUPPORT FOR THE WILDCAT CREEK TRAIL OVER-CROSSING OF THE RICHMOND PARKWAY AND AUTHORIZATION TO EXECUTE A COOPERATIVE FUNDING AGREEMENT

WHEREAS, the East Bay Regional Park District operates and maintains the Wildcat Creek Regional Trail, which currently crosses under the Richmond Parkway by way of an under-crossing structure built by the U.S. Army Corps of Engineers; and

WHEREAS, the trail under-crossing was designed with a flood wall which would be occasionally overtopped by Winter flows from Wildcat Creek leaving behind silt and debris requiring the under-crossing to be cleaned out by the Park District prior to its use in the Spring; and

WHEREAS, over the last decade, the inundation of the under-crossing by Wildcat Creek has become much more frequent, severely limiting the amount of time that the trail can be used at this location; and

WHEREAS, EBRPD commissioned an engineering study to analyze the feasibility of retrofitting the existing under-crossing or alternative ways to have the trail cross the Parkway; and

WHEREAS, the study indicated only two (2) feasible crossings for the trail, construction of an over-crossing at an estimated cost of \$7-8 million or more frequent dredging of the creek and a reconstruction of the existing under-crossing; and

WHEREAS, the Contra Costa County does not have the operational funding needed to increase the frequency of creek dredging at this time and does not expect to have it in the future;

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Richmond supports the effort to build an over-crossing for the Wildcat Creek Trail, at the Richmond Parkway and authorizes the execution of a Cooperative Funding Agreement (Attachment A) with the East Bay Regional Park District and Contra Costa County which will commit these agencies to acquiring the land tenure and funding necessary for the project and memorialize the City of Richmond's commitment to maintain the structure; and

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

Attachment A

COOPERATIVE FUNDING AGREEMENT BETWEEN EAST BAY REGIONAL
PARK DISTRICT, CITY OF RICHMOND AND CONTRA COSTA COUNTY FOR THE
CONSTRUCTION
OF THE WILDCAT CREEK TRAIL OVER-CROSSING OF THE RICHMOND PARKWAY

This Agreement made and entered into on the xxth day of Xxx, 2010, by and between the
East Bay Regional
Park District, hereinafter referred to as "EBRPD", the City of Richmond, hereinafter
referred to as "CITY"
and Contra Costa County, hereinafter referred to as "COUNTY."

WITNESSETH

WHEREAS, EBRPD, CITY and COUNTY desire to provide for a safe crossing of the
Richmond Parkway for the Wildcat Creek Regional Trail; and

WHEREAS, the trail currently utilizes an under-crossing, designed and built by the
U.S. Army Corps of Engineers to cross the Parkway; and

WHEREAS, the under-crossing is frequently inundated with flows from Wildcat
Creek, filling the structure with sediment and debris that severely limit the use of the
structure and it is not cost effective or practical to continually clear accumulated debris;
and

WHEREAS, EBRPD commissioned an engineering study to analyze the feasibility of
retrofitting the existing under-crossing or alternative ways to have the trail cross the
Parkway; and

WHEREAS, the study indicated only two (2) feasible crossings for the trail, construction
of an over-crossing at an estimated cost of \$7-8 million or more frequent dredging of the
creek and a reconstruction of the existing under-crossing; and

WHEREAS, the COUNTY does not have the operational funding needed to increase the
frequency of creek dredging at this time and does not expect to have it in the future;
and

WHEREAS, the construction of an over-crossing is the remaining and best long-term
alternative means for crossing the Parkway and shall hereinafter be referred to as the
"PROJECT";

NOW, THEREFORE, it is mutually agreed as follows:

- I. RESPONSIBILTIY FOR THE PROJECT: EBRPD shall be the lead agency for the PROJECT and will work in cooperation with the CITY and COUNTY to identify and acquire the capital funding required for its construction.
2. PROVISION OF SUITABLE LAND TENURE: COUNTY shall be responsible for delivering land tenure for the PROJECT on the east side of the Parkway, adequate for the acquisition of grant funds. CITY shall be responsible for delivering land tenure for the PROJECT crossing of the Parkway, adequate for the acquisition of grant funds. COUNTY and EBRPD shall jointly be responsible for delivering land tenure for the PROJECT on the west side of the Parkway, adequate for the acquisition of grant funds.
3. ACQUISITION OF FUNDING: CITY, COUNTY and EBRPD shall cooperatively seek and apply for funds required to design, permit and construct the PROJECT. EBRPD shall be responsible for collecting, accounting, and disbursing all funds received through these fund raising efforts and shall establish and maintain an independent account, to hold these funds.
4. REVIEW/APPROVAL: EBRPD shall be responsible for developing the final construction plans and specifications for the PROJECT and obtaining approvals as required by the CITY or COUNTY prior to the start of construction.
5. WAIVER OF FEES: CITY and COUNTY shall waive all fees for review, permitting and inspection of the PROJECT.
6. OWNERSHIP: At the completion of construction, the CITY will have ownership of the PROJECT and all fixed improvements.

IT IS MUTUALLY AGREED AS FOLLOWS:

- (1) This Agreement may be amended or canceled by written consent of all three parties.
- (2) Notices regarding this agreement shall be sent by first class mail, postage prepaid, to EBRPD at P. O. Box 5381, Oakland, CA 94605-0381 and to CITY at Xxxxxx and COUNTY at Xxxxx.
- (3) This Agreement shall run five (5) years from its effective, unless otherwise terminated or amended.
- (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) EBRPD agrees to indemnify and hold harmless CITY and COUNTY, its Board of Supervisors, City Council Members, officers, agents, employees and assigns from and against any and all loss, damage, liability, claims, suits, costs and expenses whatsoever, including reasonable attorneys' fees regardless of the merits or outcome of the work conducted or performed by EBRPD pursuant to this Agreement.

(7) CITY agrees to indemnify and hold harmless EBRPD and COUNTY, its Board of Directors, Board of Supervisors, officers, agents, employees and assigns from and against any and all loss, damage, liability, claims, suits, costs and expenses whatsoever, including reasonable attorneys' fees regardless of the merits or outcome of the work conducted or performed by CITY pursuant to this Agreement.

(8) COUNTY agrees to indemnify and hold harmless EBRPD and CITY, its Board of Directors, City Council Members, officers, agents, employees and assigns from and against any and all loss, damage, liability, claims, suits, costs and expenses whatsoever, including reasonable attorneys' fees regardless of the merits or outcome of the work conducted or performed by COUNTY pursuant to this Agreement.

(9) The parties hereto agree that work on final construction plans and drawings will not commence unless and until full funding for the estimated costs of the design and construction of the Project have been obtained.

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

I certify that the foregoing Resolution was passed and adopted by the City Council of the City of Richmond at a regular meeting of the City Council held on February 16, 2010, by the following vote:

AYES: Councilmembers Butt, Lopez, Rogers, Viramontes, Vice Mayor Ritterman, and Mayor McLaughlin

NOES: Councilmembers Bates

ABSTENTIONS: None.

ABSENT: None.

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DIANE HOLMES
Clerk of the City of Richmond

(SEAL)

Approved:

GAYLE MCLAUGHLIN
Mayor

Approved as to form:

RANDY RIDDLE
City Attorney

State of California }
County of Contra Costa } : ss.
City of Richmond }

I certify that the foregoing is a true copy of **Resolution No. 26-10**, finally passed and adopted by the City Council of the City of Richmond at a regular meeting held on February 16, 2010.