

**FUNDING AGREEMENT BETWEEN THE
CONTRA COSTA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT
AND THE CITY OF RICHMOND FOR CONTRIBUTION TO THE
WILDCAT CREEK FISH PASSAGE IMPLEMENTATION PROJECT**

This Funding Agreement ("Agreement") is entered into as of _____, 2026, ("Effective Date") by and between Contra Costa County Flood Control and Water Conservation District, a flood control district organized under the laws of the State of California ("District"), and the City of Richmond, a municipal corporation ("City"). The District and the City are sometimes referred to herein together as the "Parties," and each as a "Party."

RECITALS

- A. The Wildcat Creek Fish Passage Implementation Project ("Project") is a District-sponsored project that consists of improving fish passage in Wildcat Creek by retrofitting an existing fish ladder, widening a sedimentation basin, and modifying a flood control structure, as shown in Figure 1 attached hereto. The Project is located in the North Richmond area.
- B. The District was the lead agency for Project environmental review under the California Environmental Quality Act ("CEQA"). A CEQA mitigated negative declaration was approved for the Project, and, on September 13, 2024, the District filed a CEQA notice of determination with the State Clearinghouse.
- C. The City and the District have discussed Project improvements. The City has determined that the Project provides a benefit the City, and the City desires to contribute to the Project costs under the terms of this Agreement.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the City and the District agree as follows:

1. **TERM; EXPIRATION AND TERMINATION.** The term of this Agreement commences on the Effective Date, and it expires following the District's acceptance of the Project as complete under Section 4.1. Notwithstanding the foregoing, the District may terminate

this Agreement upon 90 calendar day written notice to the City that the District has determined, in its sole discretion, that it will not proceed with the Project. In addition, a brief rationale will be provided to justify the determination.

2. CONTRIBUTION OF FUNDS

- 2.1. The City agrees to contribute Seven Hundred Eighty Thousand Dollars (\$780,000) ("City Contribution") to the District, which the District shall use to pay Project costs described in Section 3.1, below.
- 2.2. The City shall pay the entire amount of the City Contribution to the District within 90 days after the Effective Date of this Agreement.

3. USE OF CITY FUNDS

- 3.1. The District shall use the City Contribution solely for Project construction costs, including costs of the fish ladder improvements.
- 3.2. Any amount of the City Contribution remaining unspent after completion of the Project shall be returned to the City within 90 days after the District accepts the Project as complete, unless otherwise agreed in writing by both Parties.
- 3.3. Upon request by the City, the District will provide the City a summary accounting of how the City Contribution was used to pay Project costs.
- 3.4. If the District, in its sole discretion, decides to not pursue the Project, the District will refund any remaining amount of the City Contribution to the City within 60 days after giving the City a notice of termination of this Agreement under Section 1.

4. PROJECT IMPLEMENTATION

- 4.1. The District shall be responsible for the planning, design, permitting, construction, operation, and maintenance of the Project. City shall be invited to participate in pre-construction, weekly construction, and project closeout meetings.
- 4.2. The District will pay all costs for Project construction, design, engineering, contract administration, maintenance, long-term monitoring, and all other Project-related costs that are in excess of the amount of the City Contribution.

5. PROJECT MAINTENANCE

- 5.1. Within 30 working days after the District notifies the City that Project construction is complete, District and City representatives will conduct a joint final inspection of the Project prior to District accepting the Project as complete.
- 5.2. Following the District's acceptance of the Project as complete, the District will operate and maintain the Project, and it will assume total responsibility for the Project.

5.3. The requirements Section 4.2 shall survive the expiration or termination of this Agreement.

6. INDEMNIFICATION

6.1. The District shall indemnify, defend, and hold harmless the City, its officers, employees, and agents from and against any and all claims, damages, liabilities, and expenses (collectively, "Liabilities") arising from the District's implementation of the Project, except to the extent any Liabilities are caused by the negligence or willful misconduct of the City.

6.2. The City shall indemnify, defend, and hold harmless the District, its officers, employees, and agents from and against any Liabilities that arise from the City's actions or omissions related to this Agreement, except to the extent that any Liabilities are caused by the negligence or willful misconduct of the District.

6.3. This requirements of this Section 6 shall survive the expiration or termination of this Agreement.

7. GENERAL PROVISIONS

7.1. **Governing Law:** This Agreement will be governed by and construed in accordance with California law. The venue of any litigation arising out of this Agreement will be Contra Costa County.

7.2. **Amendments:** This Agreement may be modified or amended only in writing following the approval of the governing bodies of both Parties.

7.3. **Severability:** In the event that any one or more of the phrases, sentences, clauses, paragraphs, or sections contained in this Agreement shall be declared invalid or unenforceable by valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining phrases, sentences, clauses, paragraphs, or sections of this Agreement, which shall be interpreted to carry out the intent of the Parties hereunder.

7.4. **Entire Agreement:** This Agreement contains the entire understanding of the Parties relating to the subject matter of this Agreement. No promise, representation, warranty, or covenant not included in this Agreement has been or is relied upon by any Party.

7.5. **No Third-Party Beneficiaries:** There are no third-party beneficiaries to this Agreement.

7.6. **Waiver:** No delay or omission in the exercise of any right or remedy of a non-defaulting Party on any default shall impair such right or remedy or be construed as a waiver. No consent or approval of either Party shall be deemed to waive or render

unnecessary such Party's consent to or approval of any subsequent act of the other Party. Any waiver by either Party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

7.7. Counterparts. This Agreement may be executed in any number of counterparts, which, taken together, shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date first written above.

CONTRA COSTA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

Warren Lai, Chief Engineer

Signature: _____

CITY OF RICHMOND

City Manager

Signature: _____

Name: _____ Title: _____



FIGURE 1
WILDCAT CREEK FISH PASSAGE
IMPLEMENTATION PROJECT