Board of Directors

Board Meeting Agenda

July 7, 2020
SPECIAL NOTICE REGARDING PUBLIC PARTICIPATION AT THE EAST BAY REGIONAL PARK DISTRICT BOARD OF DIRECTORS MEETING
SCHEDULED FOR TUESDAY, JULY 7, 2020 at 1:00 PM

Pursuant to Governor Newsom’s Executive Order No. N-29-20 and the Alameda County Health Officer’s Shelter in Place Orders, effective March 31, 2020 and May 4, 2020, the East Bay Regional Park District Headquarters will not be open to the public and the Board of Directors and staff will be participating in the Board meetings via phone/video conferencing.

Members of the public can listen and view the meeting in the following way:

Via the Park District’s live video stream which can be found at: https://youtu.be/btvX2b8UfXQ

Public comments may be submitted one of three ways:

1. **Via email** to Yolande Barial Knight, Clerk of the Board, at ybarial@ebparks.org. Email must contain in the subject line public comments – not on the agenda or public comments – agenda item #. It is preferred that these written comments be submitted by Monday, July 6, at 3:00pm.

2. **Via voicemail** at (510) 544-2016. The caller must start the message by stating public comments – not on the agenda or public comments – agenda item # followed by their name and place of residence, followed by their comments. It is preferred that these voicemail comments be submitted by Monday, July 6, at 3:00 pm.

3. **Live via zoom.** If you would like to make a live public comment during the meeting this option is available through the virtual meeting platform: https://zoom.us/j/98023503946. Note that this virtual meeting platform link will let you into the virtual meeting for the purpose of providing a public comment. If you do not intend to make a public comment please use the youtube link at https://youtu.be/btvX2b8UfXQ to observe the meeting. It is preferred that those requesting to speak during the meeting contact the Clerk of the Board at ybarial@ebparks.org by 3:00 pm on Monday, July 6, 2020 via email or voicemail (510) 544-2016 to provide name and the subject of the public comment or item to be addressed.

Comments received during the meeting and up until the public comment period on the relevant agenda item is closed, will be provided in writing to the Board of Directors, included transcribed voicemails. All comments received by the close of the public comment period will be available after the meeting as supplemental materials and will become part of the official meeting record. **If you have any questions** please contact Yolande Barial Knight, Clerk of the Board, at ybarial@ebparks.org or (510) 544-2016.
MEMO to the BOARD OF DIRECTORS
EAST BAY REGIONAL PARK DISTRICT

The Regular Session of the **JULY 7, 2020**
Board Meeting is scheduled to commence via teleconference at 1:00 p.m.

Park District’s live video stream can be found at: [https://youtu.be/btvX2b8UfXQ](https://youtu.be/btvX2b8UfXQ)

Respectfully submitted,

[Signature]
ROBERT E. DOYLE
General Manager
AGENDA

REGULAR MEETING OF JULY 7, 2020
BOARD OF DIRECTORS
EAST BAY REGIONAL PARK DISTRICT

11:30 a.m.  ROLL CALL  (Virtual)
PUBLIC COMMENTS

CLOSED SESSION

A. Conference with Labor Negotiator: Government Code Section 54957.6
   1. Agency Negotiator: Robert E. Doyle, Ana M. Alvarez, Kip Walsh
   Employee Organizations: AFSCME Local 2428, Police Association
   Unrepresented Employees: Managers, Confidentials and Seasonals

B. Conference with Legal Counsel:
   1. Anticipated Litigation – Significant Exposure to Litigation Pursuant to Government Code Section 54956.9 (d)(2): 1 case

1:00 p.m.  OPEN SESSION  (Virtual)
PLEDGE OF ALLEGIANCE

A. APPROVAL OF AGENDA
B. PUBLIC COMMENTS

Public comments may be submitted one of three ways:
   1. Via email to Yolande Barial Knight, Clerk of the Board, at ybarial@ebparks.org. Email must contain in the subject line public comments – not on the agenda or public comments – agenda item #.
   2. Via voicemail at (510) 544-2016. The caller must start the message by stating public comments – not on the agenda or public comments – agenda item # followed by their name and place of residence, followed by their comments.
3. If you are interested in speaking during Public Comments, please contact the Clerk of the Board at ybarial@ebparks.org for call in information by 3:00 pm on Monday, July 6, 2020. Email must contain in the subject line Board meeting 7-7-20 call in request. If you would like to provide public comment through the virtual meeting platform, please use https://zoom.us/j/98023503946 to participate. Note that this virtual meeting platform link will let you into the virtual meeting waiting room and then into the meeting for the purpose to provide comment. Please use the YouTube link https://youtu.be/btvX2b8UfXQ to observe the meeting when you are not providing public comment.

C. SPECIAL UPDATE

I. General Manager’s Update on the Status of the East Bay Regional Park District Emergency During the COVID-19 Pandemic.

1:25 p.m. D. BUSINESS BEFORE THE BOARD

I. CONSENT CALENDAR

a. Approval of District Check Listing for the Period of May 18, 2020 to May 31, 2020
   (Auker/Doyle) (Resolution) (No Cost)

b. Approval of the Minutes for the Board Meeting of June 2, 2020
   (Barial Knight) (Resolution) (No Cost)

c. Authorization to Implement Compensation Equity Adjustments for Unrepresented Seasonal Classifications; Approve and Adopt an Amendment to the East Bay Regional Park District Salary Schedule as of July 18, 2020; and Appropriate Funds in the 2020 Budget
   (Walsh/Alvarez) (Resolution) (Budget Change)

d. Authorization to Renew a Special Use Agreement with Girl Scouts of Northern California: Briones Regional Park
   (Margulici/O’Connor) (Resolution) (No Cost)

e. Authorization to Enter Into an Agreement with 2Air Services to Install Microwave and Wireless Communications Equipment: Del Valle Regional Park
   (Tallerico/Auker) (Resolution) (Budgeted Funds)

f. Approval of Second Amendment to the Redwood Canyon Golf Course Lease: Lake Chabot Regional Park
   (Margulici/O’Connor) (Resolution) (No Cost)

g. Authorization to Enter into an Agreement with Romaldo Cruz for Caretaker Services for the Roddy Ranch Property: Deer Valley Regional Park
   (Margulici/O’Connor) (Resolution) (Budgeted Funds)

h. Authorization to Execute a Contract with Balance Hydrologics for Consulting Services for the Jewel Lake Feasibility Study Project: Tilden Regional Park
   (Goorjian/Kelchner) (Resolution) (Budgeted Funds)

i. Authorization to Award a Construction Contract to Integra Construction Services Inc. to Construct Residence and Appropriate Funds: Camp Arroyo Regional Recreation Area
   (Rasmussen/Auker) (Resolution) (Budget Change)
j. Authorization to Award a Construction Contract to Kerex Engineering Inc. to Construct a Restroom at Jordan Pond and Appropriate Funds: Garin Regional Park  
   (Rasmussen/Auker) (Resolution) (Budget Change)

k. Authorization to Purchase One Caterpillar D2 Dozer from Peterson CAT for Equipment Replacement  
   (McCrystle/O’Connor) (Resolution) (Budgeted Funds)

L. Authorization to Purchase One Tractor from John Deere Company for Equipment Replacement  
   (McCrystle/O’Connor) (Resolution) (Budgeted Funds)

m. Approval of Application for Grant Funds for California Climate Investments Urban Greening Program for Public Access Improvements: Martin Luther King Jr. Shoreline  
   (Hornbeck/Auker) (Resolution) (Rev Authorization)

n. Authorization to Apply for Grant Funds from the Wildlife Conservation Board Public Access Program and Authorize Matching Funds: Del Valle Regional Park  
   (Hornbeck/Auker) (Resolution) (Rev Authorization)

o. Acceptance of First Quarter 2020 General Fund and Other Governmental Funds Financial Report  
   (Strawson O’Hara/Auker) (Resolution) (No Cost)

   (Strawson O’Hara/Auker) (Resolution) (No Cost)

1:40 p.m.  

2. ACQUISITION, STEWARDSHIP AND DEVELOPMENT DIVISION

a. Certification of Environmental Impact Report, including Adoption of the CEQA Findings Report and the Associated Mitigation, Monitoring, and Reporting Program; and Adoption of the Land Use Plan: Concord Hills Regional Park  
   (Holt/Kelchner) (Resolution) (No Cost)

b. Authorization to Award a Construction Contract with Power Engineering Construction Co. for the Restore Encinal Beach and to Transfer and Appropriate Funds: Alameda Point Regional Shoreline  
   (Goorjian/Kelchner) (Resolution) (Budget Change)

2:00 p.m.  

3. FINANCE AND MANAGEMENT SERVICES DIVISION

a. Authorization to Amend the 2020 Budget for Mid-Year Appropriations and Transfers  
   (Spaulding/Auker/Alvarez) (Resolution) (Budget Change)

2:15 p.m.  

4. BOARD AND STAFF REPORTS

a. Actions Taken by Other Jurisdictions Affecting the Park District  
   (Doyle)
2:30 p.m. 5. GENERAL MANAGER’S COMMENTS


2:45 p.m. 6. ANNOUNCEMENTS FROM CLOSED SESSION

2:50 p.m. 7. BOARD COMMITTEE REPORTS

a. Finance Committee (4/29/20) (Coffey)
b. Legislative Committee (5/22/20) (Waespi)

3:00 p.m. 8. BOARD COMMENTS

4:00 p.m. E. ADJOURNMENT
D. BUSINESS BEFORE THE BOARD

I. CONSENT CALENDAR

a. Approval of District Check Listing for the Period of May 18, 2020 Through May 31, 2020 (Auker/Doyle)

RECOMMENDATION

It is recommended that the Board of Directors approve the Check Listing for the period of May 18, 2020 through May 31, 2020.

Per Resolution No. 1992-1-40, adopted by the Board on January 21, 1992, a copy of the Check Listing has been provided to the Board Treasurer for review. A copy of the Check Listing has also been provided to the Clerk of the Board and will become a part of the Official District Records.
EAST BAY REGIONAL PARK DISTRICT

RESOLUTION NO.: 2020 – 07 -

July 7, 2020

APPROVAL OF DISTRICT CHECK LISTING FOR THE PERIOD OF
MAY 18, 2020 THROUGH MAY 31, 2020

WHEREAS, District Resolution No. 1992 - 1 - 40, adopted by the Board of Directors on January 21, 1992, requires that a listing of District checks be provided to the Board Treasurer for review;

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of the East Bay Regional Park District hereby approves the check listing for the period of May 18, 2020 through May 31, 2020;

Moved by Director , seconded by Director , and adopted this 7th day of July, 2020 by the following vote:

FOR:

AGAINST:

ABSTAIN:

ABSENT:
AGENDA
REGULAR MEETING
BOARD OF DIRECTORS

EAST BAY REGIONAL PARK DISTRICT

Tuesday, July 7, 2020

D. BUSINESS BEFORE THE BOARD

1. CONSENT CALENDAR

   b. Approval of the Minutes for the Board Meeting of June 2, 2020
       ________________________________ (Barial Knight)
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The East Bay Regional Park District Board Meeting, which was held virtually on June 2, 2020, called its **Closed Session** to order at 11:30 a.m. by Board President Ellen Corbett.

**ROLL CALL**

**Directors Remote:** Ellen Corbett, President  
Dee Rosario, Vice President  
Beverly Lane, Secretary  
Colin Coffey, Treasurer  
Dennis Waespi  
Elizabeth Echols  
Ayn Wieskamp  

**The Open Session** of the Board Meeting was called to order at 1:30 p.m. by **President Corbett**.

**Staff Remote:** Robert Doyle, Ana Alvarez, Carol Victor, Jim O'Connor, Anthony Ciaburro, Debra Auker, Kristina Kelchner, Carol Johnson, Erich Pfuehler, Alan Love, Brian Holt, Mary Mattingly, Jim Tallerico, Jonathan Hobbs, Alice Kinne Aileen Theile, Chris Barton, Katie Quick, Lisa Baldinger, Kip Walsh, Matthew Graul, David Phulps, Peter Fitch, Katie Hornbeck, Ira Bletz, Anne Kassebaum, Deborah Spaulding, Dave Mason, Robert Lacy, Mycile Cahambing, Sharon Clay  

**Guests:** Tim Seufert  

**PLEDGE OF ALLEGIANCE**

**Director Corbett** opened the meeting and stated that consistent with Governor Gavin Newsom’s Executive Order N-25-20 issued on March 12, 2020 in response to the threat of COVID-19, and the Alameda County Health Department’s Order dated March 16, 2020, the Board of Directors may utilize teleconferencing to remotely participate in meetings.

**President Corbett** asked if the Board members had any questions about the meeting process. There were none.

**A. APPROVAL OF AGENDA**

By motion of **Director Lane**, and seconded by **Director Waespi**, the Board voted unanimously to approve the amended agenda which removed item 2a Adoption of Land Use Plan, and Certification of Environmental Impact Report; Adoption of the Associated Mitigation, Monitoring, and Reporting Program, and Adoption of the CEQA Findings Report: Concord Hills Regional Park. Roll Call Vote unanimous.

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

**Directors Against:** None.

**Directors Absent:** None.

**B. PUBLIC COMMENTS**

**President Corbett** thanked the public and staff for attending the virtual Board meeting that was streaming live on zoom. **Corbett** acknowledged that with the new technology there may be some challenges, staff will endeavor to improve the meeting platform. **Corbett** explained that public comments were to be submitted in advance by e-mail to ybarial@ebparks.org or left by voice message at 510-544-2016. This allows the Clerk time
to provide the Board members with the comments in advance of the meeting. President Corbett explained that emails or voicemail received after the deadline will be provided to the Board of Directors and become part of the public record of the meeting.

Clerk Knight announced receipt of eight written comments, five of which were form letters and the others were different.

Email letters were read into the record from Veronica Peng, Sonal Gandhi, Randy Buswell, Rujul Pathak, Jannet Benz which related to keeping the entrance to Stanford Staging area at Mission Peak closed due to the civil unrest. Scott Bartlebaugh commented on the management of cattle at Crocket Hills, Neil Tsutsui encouraged the Park District to release a statement about the recent killings and harassment of black people and the use of disproportionate force. Eri Suzuki, District employee asked that the Board affirm they vehemently condemn the actions of the police officers who murdered George Floyd, the unjust treatment of so many others, and work to support fairness at the District with its employees. Mark Hanson thanked the Board for making it easier for the public to attend the Board meeting during these challenging weeks.

President Corbett encouraged the Board members to discuss the current events. Corbett stated that she was shaken by the tragic murder of George Floyd and for all the other tragic deaths and murders especially in the African American community. There are numerous ways the Park District can respond to what has happened. Corbett suggested board and staff reach out to employees to make sure they have resources needed to help them during this difficult time and to ensure they feel respected, particularly our employees of color. It takes a moment like this to rededicate ourselves as a Park District, to review all of the District’s practices and make certain staff are doing all that can be done as a public agency with public resources. It is quite fortunate that we have public open lands where people feel welcome, safe and find peace. Corbett stated the District is at a turning point in our history. Corbett asked the Board to consider requesting staff to come back before the Board with a solution ensuring the openness of our parks, by condemning what happened in Minneapolis and of history and affirming our employees. Director Rosario stated he would second a resolution. Rosario read from a blog a statement about racism that is still there below the surface and the history of black, brown and native peoples. Rosario reminded the Board that he had spoken about the rising tide of discrimination against Asians during this COVID pandemic and asked all to look around and stand up in the face of discrimination everywhere. Director Echols said that she is heartbroken by the killings of George Floyd, Breonna Taylor and Ahmaud Arbery which is the latest in a long history of systemic and institutional racism from the beginning of our county and by the atrocities committed against native people. She strongly agreed that there should be a resolution that condemns what is happening, supports black lives, and supports the protestors trying to make their voices heard at great danger to themselves. Echols stated her strong belief that District employees should be safe at work, welcome and cared for, and to make sure District parks and open spaces are a refuge where people feel welcome and safe. Director Lane said that during this period of crises she thanked employees for enabling visitors to get into the parks. Lane stated her distress at the persistent racism that persists in this country. Lane stated she her belief in black lives matter, and the importance to support the protestors. Lane gave a tribute to the police chiefs, the councils, the governors and elected leaders who have worked to bring a different paradigm and who have reacted with empathy and intelligence during this time. Lane added that her distress spills out knowing that the U.S. president is not up to the task. Director Wieskamp remarked about Director Dotson and the Dotson family for their strength over the years and what was accomplished over the years and the Dotson Family Marsh. Wieskamp commented staff has worked hard to encourage people of color to come into the parks, and it is worthwhile to work together. She added that she thought of Director Dotson as a friend. Director Coffey appreciated all the comments and Director Corbett’s comments echoed his sentiments. Director Waespi agreed with the Board members and added it was an awful tragedy last week and throughout history and we don’t seem to learn, but his is hopeful for change. Waespi commented the Park District is a safe, welcoming and a refuge for park users.
Corbett asked on behalf of the Board for staff to prepare a resolution to bring back to the next board meeting in June. District Counsel Victor stated that staff will prepare a resolution reflecting the sentiments of the Board and bring it back at the next board meeting.

C. SPECIAL UPDATE

I. General Manager's Update on the Status of the East Bay Regional Park District Emergency During the COVID-19 Pandemic.

General Manager Doyle thanked the Board for their comments and added we all feel this sad time deeply. Our parks are public spaces where we welcome everyone. Staff have been working hard to get more parks open and safe. The death toll has surpassed 100,000 in the US, and the bad economic climate is affecting so many front-line workers. This is a time where District employees should remain humble, listen, and remain a welcoming place of respite and recreation. Doyle read the vision of the Park District and stated we invite all regardless of where they live. Doyle continued that we need to be united in solving the injustices that have happened in a very divided country, and more can always to done for social equity and environmental justice. Doyle quoted 1880’s Frederick Olmsted who said there was economic disparity and he believed that a healthy society including parks, should bring people together in service to each other. Over 100 years later, we are facing the same issues and are perhaps more divided due to the economic and civil unrest. The District needs to support all staff, and in particular staff of color, not tolerate any form of prejudice, and strive to have a diverse and safe workforce. Doyle asked Alice Kinser, Training Supervisor, to comment on pertinent work the District is ready to set into motion. Kinser said that in partnership with the Workforce Diversity committee and leadership from Director Rosario and late Director Dotson the Board approved funding to provide training to the District workforce to address inequities in this year. Kinser was happy to announce that Human Resources will be able to offer the pilot of this training this month. While the timing of this training is timely, staff have been working on it over the past year, including holding focus groups with staff to understand how we can best cocreate a culture of belonging at the District. Based on staff feedback, this training will go beyond implicit bias and delve into microaggressions, and tools on how we can interrupt bias in the workplace. This is an important step in continuing to train and maintain a well-qualified and diverse workforce which reflects the communities the Park District serves. President Corbett thanked Kinner and the Workforce Diversity committee.

Doyle invited AGM of Public Safety Chief Ciaburro to express his thoughts during this time. Doyle stated he is extremely proud of the well-trained Public Safety Division. Chief Ciaburro reported that Public Safety is highly trained police department, and continues to undergo the training that was discussed by Alice Kinner. Ciaburro thanked public safety staff and commended them for their work throughout the COVID and the civil unrest they have encountered. It is a tribute to them, their training, and their command staff. Chief Ciaburro stated Public Safety is having continuing discussions, and he has made it clear that racism is absolutely unacceptable. Chief Ciaburro offered his condolences to the family of Mr. Floyd and the state of Minnesota. He commented that as an American we grieve with them and what happened is unacceptable. It is a tragedy and is underscored by the deaths of protestors and police officers over the last 7 days and he condemned those actions. Chief Ciaburro ended with a call to action that as Americans and law enforcement we have a long and difficult road to travel but we will continue to advance.

GM Doyle thanked staff for working Memorial Day and two more parks including Mission Peak and Pt. Isabel need to open. Doyle thanked Public Affairs for the messaging and staff for placing PSAs with health messaging to bring a mask and wear a mask while in the parks. There is now a two- county 8pm curfew. District resources are limited and staff are doing their best to adapt and provide public safety and health to the public and staff. Doyle expressed his deep appreciation and pride for staff. He commented on his concern for their well-being and reminded them that Human Resources provides a lot of services including counseling.
Corbett encouraged all staff to keep reaching out and talking to each other, and continue to direct their commitment to the Park District as a way to move us all forward during this time.

D. BUSINESS BEFORE THE BOARD

I. CONSENT CALENDAR

By motion of Director Wieskamp, and seconded by Director Rosario, the Board voted unanimously to approve the Consent Calendar.

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

Directors Against: None.

Directors Absent: None.

a. Approval of District Check Listing for the Period of April 13, 2020 to May 30, 2020
   Resolution No. 2020 – 06 - 110 (attached)

b. Approval of the Minutes for the Board Meeting of May 19, 2020

c. Approval of Resolution Ordering and Giving Notice of an Election to be Held in the East Bay Regional Park District for the Purpose of Electing Three Directors and Requesting the Board of Supervisors of Alameda and Contra Costa Counties to Consolidate the District Election with the Statewide General Election Being Held November 3, 2020
   Resolution No. 2020 – 06 - 111 (attached)

d. Authorization to Renew the East Bay Regional Park District’s Insurance Program
   Resolution No. 2020 – 06 - 112 (attached)

e. Authorization to Award a Contract to Weldon Exhibits for Design, Construction and Installation of Del Valle Visitor Center Exhibits: Del Valle Regional Park
   Resolution No. 2020 – 06 - 113 (attached)

Carol Johnson, AGM Public Affairs, introduced Jonathan Hobbs, Creative Design Manager. Hobbs said exhibits are designed for prescribed space, so the social distancing solution is to limit the number of people and direct them via wayfinding between exhibits. Ira Bletz, Regional Interpretive and Recreation Services Manager agreed, adding that people can be spread out among the exhibits to create a flow through the space. Director Rosario asked if there will be possibilities for the public to propose art projects in some of the installations. Jim O’Connor, AGM Operations, said that the District has already started incorporating public art in exhibits. Director Lane asked how the planning is going to begin opening visitor centers. Anne Kassebaum, Chief of Interpretive and Recreation replied she and Bletz are working with Alice Kinner on a Reoperation Plan. Director Coffey asked if the proposed contractor Weldon, has done other projects for the District. Bletz said that Weldon did the coal mining experience exhibit at Black Diamond. Director Coffey said he and Director Lane were impressed with the coal mine experience. Lane thanked Hobbs and staff for the new and increased signage.

f. Authorization to Accept and Appropriate Reimbursement from the State for the Extended Maintenance of the State-Mandated 9-1-1 Telephone System in the Public Safety Communications Center
   Resolution No. 2020 – 06 - 114 (attached)
g. Authorization to Accept Cal Trans Mitigation Funding for the East Island Shorebird Sanctuary Project at Martin Luther King Jr. Regional Shoreline
Resolution No. 2020 – 06 - 115 (attached)

3. FINANCE AND MANAGEMENT SERVICES DIVISION

By motion of Director Lane, and seconded by Director Wieskamp, the Board voted unanimously to approve the Item 3a.

Directors For: Colin Coffey, Ellen Corbett, Elizabeth Echols, Beverly Lane, Dee Rosario, Dennis Waespi, Ayn Wieskamp.
Directors Against: None.
Directors Absent: None.

a. Approval of Engineer's Report for Fiscal Year 2020/2021, Adopt Resolution Confirming Diagram and Assessment, Order Maintenance, Improvements and Levy Annual Assessment for Alameda County/Contra Costa County Regional Trails Landscaping and Lighting Assessment District No. 1, including ZB-1 (Five Canyons), ZB-2 (Dublin Hills), ZB-3 (Walpert Ridge), ZB-4 (San Ramon Hills), ZB-5 (Stone Valley), and ZB-6 (Sibley Volcanic)
Resolution No. 2020 – 06 - 116 (attached)

Deborah Spaulding, Assistant Finance Officer presented this report. Spaulding said that this item comes before the Board three times and this is the final approval. Spaulding noted there are five actions today in addition to the public hearing. Spaulding provided background and context. GM Doyle thanked Pat O'Brien who brought the two-county assessment vote to the District which allows the District to create zones of benefit. Doyle detailed specific properties on the map giving historical perspective. Spaulding discussed some special projects and photos of projects underway including vault toilets, improved trails and water meters. Director Lane appreciated GM Doyle's historical perspective. She remarked on the initial resistance from the public and developers and acknowledged Pat O'Brien's work. Director Rosario suggested a change to correct the name of the Skyline Trail to the Skyline National Trail. Director Coffey asked if protests were received. The Clerk of the Board, Spaulding and GM Doyle did not recall receiving any protests. Tim Seufert, NPS Consultant, said this is a technical requirement that state law requires.

President Corbett opened the Public Hearing. The Clerk announced that there were no comments. President Corbett closed the Public Hearing.

Director Coffey asked the status of Ardenwood. Jim O'Connor, AGM Operations replied Ardenwood remains closed and will be included in the Reoperation Plan.

By motion of Director Waespi, and seconded by Director Rosario, the Board voted unanimously to approve the Item 3b.

Directors For: Colin Coffey, Ellen Corbett, Elizabeth Echols, Beverly Lane, Dee Rosario, Dennis Waespi, Ayn Wieskamp.
Directors Against: None.
Directors Absent: None.

b. Resolution Overruling Protests (Pursuant to the Landscaping & Lighting Act of 1972
Resolution No. 2020 – 06 - 117 (attached)
4. BOARD AND STAFF REPORTS
General Manager discussed the item on this report.

5. GENERAL MANAGER’S COMMENTS
Public Affairs and Government Affairs jointly presented an overview of Public and Legislative Engagement efforts to communicate to key stakeholders during an unprecedented increase in visitation since the initial Bay Area COVID-19 Shelter-in-Place Order was issued on March 16.

Carol Johnson, AGM of Public Affairs and Executive Director of the Regional Parks Foundation acknowledged the entire team of Public Affairs including Dave Mason, Public Information Supervisor; Juliana Schirmer, Chief Administrative Officer of the Regional Parks Foundation; and Jonathan Hobbs, Creative Design Manager. Johnson discussed key stakeholders, public and District messaging, social media posts, Nextdoor, #We Are Parks campaign and Regional Parks Foundation. Lisa Baldinger, Legislative and Policy Management Analyst, discussed government affairs efforts to determine messaging and to get it on as many channels as possible. Staff have worked with Together Bay Area and California Special Districts Association to amplify the importance of special districts. GM Doyle commented he appreciated the communication among Public Affairs, Regional Park Foundation and Government Affairs. Doyle thanked the Board for the direction to keep parks open. Director Waespi stated that this is an incredibly successful program. Director Lane said the PSAs are great and she was pleased to see the District advertisement in the Sunday East Bay Times.

6. ANNOUNCEMENTS FROM CLOSED SESSION

District Counsel Victor said that are no announcements.

7. BOARD COMMENTS

Director Corbett reported on meetings attended. Director Corbett
- Attended the Alameda Liaison meeting;
- Attended the Operations Committee meeting;
- Attended three EOC meetings;
- Attended the Finance Committee zoom meeting;
- Attended the Regional Parks Foundation zoom meeting;
- Attended the Ad Hoc GM transition zoom meeting;
- Attended the CARPD virtual meeting Awards ceremony;
- Attended the Virtual Walk and Talk with Assemblymember Rob Bonta.

Corbett asked if the Diversity committee report from the RPF will be shared? Corbett thanked Lisa Baldinger, Erich Pfuehler, James Frank, Yulie Padmore and the Board for meetings with federal and state elected officials. Corbett stated her appreciation for Chief Ciaburro and the Public Safety officers for their professionalism in interacting with the public. She gave special thanks to Brede, Love and Cotcher.

Director Rosario
- Attended COVID Task Force meetings on May 20 and 27th;
- Attended the Ad Hoc Housing zoom meeting with Wieskamp;
- Attended the Operations Committee zoom meeting;
- Attended the Finance Committee zoom meeting;
- Attended the CARPD conference on 28th and 29th virtually.

Rosario said that he is looking forward to the unconscious bias training and thanked HR staff, DGM Alvarez and Kip Walsh for their work. Rosario also thanked Public Safety and the police officers for their work.
Director Lane reported on meetings attended. Director Lane
- Attended a Legislative Committee zoom meeting;
- Attended a zoom meeting with Danville Rotary.

Lane talked about parks she visited and her experiences. Lane requested more information from staff about visitor center opening plans, the use of picnic tables and available lakes.

Director Coffey reported on meetings attended. Director Coffey
- Attended the Hercules Democratic Club zoom meeting;
- Attended the Finance Committee zoom meeting;
- Attended the CARPD Conference for the awards ceremony.

Coffey said there is a strong yearning for family picnicking and hopes management is working with health officials to make picnic tables available to families if it proves safe. Coffey spent the day at the Bay Trail segment of Golden Gate fields.

Director Waespi reported on meetings attended. Director Waespi
- Attended the CARPD Conference on the 28th and 29th virtually;
- Attended the June 20 and 27 COVID Taskforce zoom meetings;
- Attended the Operations Committee zoom meeting;
- Attended the Legislative Committee zoom meeting.

Waespi complimented staff, police and AFSCME. He toured Ward 3 on Memorial Day, visited Cull Canyon and met staff. Found out that Victor Reyes is retiring at end of month. He gave thanks to the Fuels Reduction crew. Waespi asked if goats are working and about a needle stick at Pt. Isabel. Ciaburro replied the goats will be working soon.

Director Wieskamp reported on meetings attended. Director Wieskamp
- Attended the Ad Hoc Housing zoom meeting with Wieskamp;
- Attended the Operations Committee zoom meeting.

Director Wieskamp commented on the Sunday Chronicle article on the Zoom Boom, talked to park supervisors Gordon Wiley at Mission Peak and Shelly Miller at Del Valle. Wieskamp talked to Kelly Barrington regarding the residences and stated he should be included in the meeting with Director Rosario.

Director Echols reported on meetings attended. Director Echols
- Spoke at the Wildfire Canyon Fires Response Group cohosted by Alameda County Supervisor John Gioia with Fire Chief Aileen Theile and Assistant Fire Chief Brad Gallup;
- Attended the Legislative Committee zoom meeting.

Director Echols commented on the opening of Pt. Isabel. She thanked Doyle, O’Connor and team, PIDO and windsurfers for getting the message out to open the park safely. Echols reported she walked in Tilden Park. Echols encouraged staff to open lakes and picnic areas and how the District can meet the county requirements for camps.

E. ADJOURNMENT

Director Rosario closed the meeting in honor, recognition and in the memory of George Floyd, Breonna Taylor, Ahmaud Arbery and the 100,000 deaths due to COVID-19.

President Corbett adjourned the meeting at 4:23 p.m.
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AGENDA
REGULAR MEETING
BOARD OF DIRECTORS

EAST BAY REGIONAL PARK DISTRICT

Tuesday, July 7, 2020

D. BUSINESS BEFORE THE BOARD

I. CONSENT CALENDAR

c. Authorization to Implement Compensation Equity Adjustments for Unrepresented Seasonal Classifications; Approve and Adopt an Amendment to the East Bay Regional Park District Salary Schedule as of July 18, 2020 and Appropriate Funds in the 2020 Budget (Walsh/Alvarez)

RECOMMENDATION

The General Manager recommends that the Board of Directors authorize implementation of changes in compensation in the form of equity adjustments for unrepresented Seasonal classifications; approve and adopt an amendment to the Park District's Salary Schedule, which includes the proposed equity adjustments, effective July 18, 2020 as noted below and attached; and to authorize the appropriation of General Funds to the 2020 Budget for this action, if needed.

REVENUE/COST

Based on the Adopted 2020 Budget, the cost of proposed equity adjustments for all unrepresented Seasonal classifications will be approximately $68,600. The exact costs for wage adjustments and salary-related benefits for this calendar year will be charged to impacted departments. As such, this proposed action authorizes an appropriation from the General Fund to impacted department budgets, if additional funding is required. Subsequent annual adopted budgets will incorporate the increased in wages and benefit costs.

BACKGROUND

The mission of the East Bay Regional Park District is delivered through a Classification Plan that incorporates a seasonal category of employees, referred to as “Seasonals,” who work during the peak operational seasons. There are currently twelve unrepresented seasonal classifications, as identified in the Park District’s Salary Schedule, including Recreation Leaders, Interpretive Student Aides, Gate Attendants, Student Laborers, Interns and Public Safety Student Aides. The 2020 Operating Budget includes sixty full-time equivalents (FTEs) for seasonal work under these twelve classifications.
Over the past two years Ralph Andersen & Associates, consulting firm, has led a Classification & Compensation Study (Study) to evaluate whether the Park District salaries are competitive with the public sector employment market. The Study found that the salaries for the unrepresented seasonal classifications had fallen approximately 17% below market. Unrepresented Seasonals are the lowest paid classifications in the Park District's Compensation Plan. The proposed equity adjustment would bring the lowest wages up to a minimum of $15 per hour. Additionally, staff is proposing to adjust related classifications proportionally, as noted in the attached Salary Schedule Amendment, effective July 18, 2020. These actions would bring the compensation wages into greater alignment with the Park District's employment philosophy.

There are also three Seasonal classifications represented by AFSCME Local 2428 – Lifeguard I, II and III. The wage rates for those classifications were analyzed as part of the Study conducted of AFSCME-represented positions in 2019. There were no changes to Lifeguard wages as a result of the Study and this report and its recommendations do not include those classifications.

At the December 3, 2019 public meeting of the Board of Directors, staff requested to postpone the item on the Consent Calendar on pay equity adjustments for Seasonal classifications to consider concerns raised by AFSCME Local 2428 (Union) during the meeting. Although the group of Seasonal classifications being recommended for adjustment are not represented by organized labor, Park District staff met with the Union to gain a better understanding of their voiced concerns. The proposed changes in compensation incorporates a revision to align the Public Safety Student Aide with Interpretive Student Aide II, as suggested by the Union and supported by staff.

Implementation of the equity adjustment recommendation will increase the pay rates for the Park District's lowest paid workers and will bring those rates into greater alignment with pay rates for similar jobs in the Bay Area public sector market.

ALTERNATIVES

None recommended.

ATTACHMENT

I. Proposed East Bay Regional Park District Salary Schedule as of July 18, 2020
EAST BAY REGIONAL PARK DISTRICT

RESOLUTION NO.: 2020 – 07 -

July 7, 2020

AUTHORIZATION TO IMPLEMENT SALARY ADJUSTMENTS FOR SEASONAL CLASSIFICATIONS AND APPROVE AND ADOPT AN AMENDMENT TO THE EAST BAY REGIONAL PARK DISTRICT SALARY SCHEDULE AS OF JULY 18, 2020 AND APPROPRIATE FUNDS IN THE 2020 BUDGET

WHEREAS, the East Bay Regional Park District Board of Directors establishes wages and benefits for employees of the Park District; and

WHEREAS, seasonal classifications, except for Lifeguards, are unrepresented and governed by the Personnel Administrative Manual; and

WHEREAS, the East Bay Regional Park District consulted with Ralph Anderson and Associates to provide a classification and compensation study and recommendation based on market data; and

WHEREAS, the East Bay Regional Park District is committed to providing a competitive wage for its seasonal employees at no less than $15.00 per hour; and

WHEREAS, the salary ranges set forth in Attachment I shall reflect salary changes provided in any Memorandum of Understanding, Side Letters of Agreement, or resolution setting forth the wages, hours, and other terms and conditions of employment for all employees of the East Bay Regional Park District;

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of the East Bay Regional Park District hereby authorizes the adoption of the salary schedule effective July 18, 2020; and

BE IT FURTHER RESOLVED that the Chief Financial Officer is hereby authorized to make the necessary appropriations to the 2020 budget up to $68,612 which may be deemed necessary or appropriate to accomplish the intentions of this resolution.

BE IT FURTHER RESOLVED that the General Manager is hereby authorized and directed, on behalf of the Park 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 , seconded by Director , and adopted this 7th day of July 2020, by the following vote:
FOR:

AGAINST:

ABSTAIN:

ABSENT:
### Annual Cost of Living Adjustment:
- Effective the pay period that includes April 1, 2017, a general increase of 4.3% is authorized.
- Effective the pay period that includes April 1, 2018, a general increase of 3.0% is authorized.
- Effective the pay period that includes April 1, 2019, a general increase of 3.0% is authorized.
- Effective the pay period that includes April 1, 2020, a general increase of 2.5% is authorized.

### Range Adjustments for Lifeguards:
- Effective the pay period that includes January 1, 2018, a new Step F at 2.5% above Step E will be added for Lifeguard I.
- Effective the pay period that includes January 1, 2018, a new Step D at 2.5% above Step C will be added for Lifeguard II and III.

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## East Bay Regional Park District
### Salary Schedule - Seasonal

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<td>$2,736.93</td>
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**Returnee Incentive Pay does not apply to the following classifications:**
- Interpreive Student Aide I/II - Step B is awarded at the completion of 1 year AND 800 hours of service, with receipt of performance appraisal.
- Lifeguard I/II/III - next step is awarded if 350 hours of service were completed in the prior season.
- Public Safety Student Aide - Step B is awarded at 1 year of service.
D. BUSINESS BEFORE THE BOARD

1. CONSENT CALENDAR

d. Authorization to Renew a Special Use Agreement with Girl Scouts of Northern California: Briones Regional Park (Margulici/O’Connor)

RECOMMENDATION

The General Manager and the Board Operations Committee, by unanimous vote at the June 18, 2020 meeting, recommend that the Board of Directors authorize a five-year term agreement, with a second five-year term option, for the exclusive use of 4.5 acres of Briones Regional Park with the renewal of the Special Use Agreement with the Girl Scouts of Northern California for an annual fee of $1,500, plus an annual 2% increase.

REVENUE/COST

The Park District can expect annual revenue of $1,500 with an annual increase of 2%.

BACKGROUND

Camp Twin Canyons is located at the end of Springhill Road and is adjacent to Briones Regional Park. The Girl Scouts have owned Camp Twin Canyons since 1963. From September through May, the camp is primarily used on weekends by Girl Scout troops, and during the week by home schoolers and other groups. During the summer, the Girl Scout council operates a day camp program for 150 girls per week, with a staff of approximately 30.

Through a Special Use Agreement originally approved in 1997, the Girl Scouts leased approximately 1.2 acres of the level valley area of Buckeye Ranch from the Park District for a security residence. The Park District’s Land Use Plan for Buckeye Ranch, completed in 1999, permitted the Girl Scouts to expand their lease area from 1.2 acres to 4.5 acres, and allowed the Girl Scouts to add additional activities only for their Camp Twin Canyons site. No camp capacity expansion is allowed as part of this use. The security residence and a shop/garage structure, both belonging to the Girl Scouts, is located between the fence line of Camp Twin Canyons and Briones at the Buckeye Ranch access point. In addition to the residence and the activities area, there is enough flat land to have a traffic loop to allow camper drop offs within the boundary of the Girl Scout camp while maintaining one-way traffic on the narrow entrance road.
The original Special Use Agreement fee was $500 per year. Over time, the fee has increased to $1,263.48 per year. The new fee will be $1,500 per year and will increase each year of the agreement by 2%.

The current agreement expired on May 31, 2020.

ALTERNATIVES

None are recommended.
EAST BAY REGIONAL PARK DISTRICT

RESOLUTION NO.: 2020 - 07 -

July 7, 2020

AUTHORIZATION TO RENEW A SPECIAL USE AGREEMENT WITH GIRL SCOUTS OF NORTHERN CALIFORNIA: BRIONES REGIONAL PARK

WHEREAS, the Girl Scouts of Northern California (Girl Scouts) own Camp Twin Canyons, located at the end of Springhill Road and adjacent to the portion of Briones Regional Park known as Buckeye Ranch; and

WHEREAS, through a 1997 Special Use Agreement, the Park District leased 1.2 acres of Buckeye Ranch to the Girl Scouts for a security residence; and

WHEREAS, the 1999 Land Use Plan permitted the Girl Scouts to expand their area from 1.2 acres to 4.5 acres to allow the Girl Scouts to add additional activities for their campers and add a traffic loop to allow camper drop offs within the boundary of the Girl Scout camp while maintaining one-way traffic on the privately owned narrow entrance road; and

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the East Bay Regional Park District hereby authorize the General Manager to renew the Special Use Agreement with the Girl Scouts of Northern California for a 5-year term and a second 5-year term, in Park District’s sole discretion, for the exclusive use of 4.5 acres of Briones Regional Park for an annual fee of $1,500, with an annual 2% increase coded to Briones Regional Park Other Property Usage account 101-5171-130-3791; and

BE IT FURTHER RESOLVED, that the General Manager is hereby authorized and directed, on behalf of the Park 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 , seconded by Director , and adopted this 7th day of July, 2020 by the following vote:

FOR:

AGAINST:

ABSTAIN:

ABSENT:
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D. BUSINESS BEFORE THE BOARD

I. CONSENT CALENDAR

e. Authorization to Enter Into an Agreement with 2Air Services to Install Microwave and Wireless Communications Equipment: Del Valle Regional Park (Tallerico/Auker)

RECOMMENDATION

The General Manager recommends the Board of Directors authorize the sole source agreement with 2Air Services of Livermore, CA for the installation of Microwave and wireless communications equipment at Del Valle Regional Park (Del Valle) and install two Microwave towers for voice, data and Supervisory Control and Data Acquisition (SCADA) software used to monitor the waste treatment stations.

REVENUE/COST

The contract cost is $85,000 for equipment including installation. Budgeted funds are available in Account # 553-5916-203-6444 in the amount of $85,000.

BACKGROUND

The District has an agreement with a private microwave tower owner to provide access into the Del Valle that connects to the District’s network.

The microwave connection provides a central communications conduit from Del Valle to the District’s network infrastructure. Using various wireless technologies, voice and data will share the same wireless communication path to connect the park offices, kiosks, lifeguard stations and SCADA waste pump stations to the District’s network.

2Air Services of Livermore, CA has successfully installed similar projects for the District at Black Diamond, Anthony Chabot and Lake Chabot Regional Park using the same technologies. 2Air Services has a proven track record with the District and is familiar with its technology configuration; therefore, staff recommends a sole source agreement for 2Air Services.
The State of California Parks and Recreation Department has approved construction of the two Microwave towers. They are requesting access to the West Beach tower to install an advanced fire detection camera.

District Counsel has reviewed and approved the proposed sole source agreement with 2Air Services.

**ALTERNATIVES**

The Board could direct staff to bid the project. Due to the complexity of the project and engineering completed to date, this alternative is not recommended.
EAST BAY REGIONAL PARK DISTRICT

RESOLUTION NO.: 2020 – 07 -

July 7, 2020

AUTHORIZATION TO ENTER INTO AN AGREEMENT WITH 2AIR SERVICES TO INSTALL MICROWAVE AND WIRELESS COMMUNICATIONS EQUIPMENT:

DEL VALLE REGIONAL PARK

WHEREAS, the East Bay Regional Park District is responsible for maintaining reliable voice, data and SCADA communications at Del Valle Regional Park (Del Valle); and

WHEREAS, the East Bay Regional Park District has an opportunity to upgrade the Del Valle Microwave network to improve performance for voice, data and SCADA communications; and

WHEREAS, the State of California Parks and Recreation Department has approved the installation of two Microwave towers Del Valle; and

WHEREAS, 2Air Services of Livermore, CA has submitted a written proposal to accomplish the SCADA and Microwave upgrade work, and staff recommends that this firm be awarded this contract as a sole source on the basis of the company’s unique knowledge and familiarity with this specific project; and

WHEREAS, sufficient funds are budgeted and available for this purpose in account 553-5916-203-6444;

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the East Bay Regional Park District hereby authorizes the General Manager to execute a sole source agreement with 2Air Services, Livermore, California and approve the project in the amount of $85,000 for the installation of microwave and wireless communications equipment at Del Valle;

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 , seconded by Director , and adopted this 7th day of July, 2020, by the following vote:

FOR:
AGAINST:
ABSTAIN:
ABSENT:

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D. BUSINESS BEFORE THE BOARD

1. CONSENT CALENDAR

  f. Approval of Second Amendment to the Redwood Canyon Golf Course  
     Lease: Lake Chabot Regional Park  
     (Margulici/O’Connor)

RECOMMENDATION

The General Manager and the Board Operations Committee, by unanimous vote at the June 18, 2020 meeting, recommends the Redwood Canyon Golf Course Lease be amended a second time to clarify and correct certain provisions of the Lease at no additional cost to the Park District.

REVENUE/COST

There will be no additional cost to the Park District for this action.

BACKGROUND

Touchstone Golf, LLC (Tenant) entered into a Lease with the Park District (Landlord) effective July 1, 2017 for the operation of the Redwood Canyon Golf Course in Lake Chabot Regional Park.

Since 2017 Touchstone has completed significant capital improvements to Redwood Canyon, using Touchstone’s own capital investment funds as well as the Park District’s Concession Maintenance Fund (CMF) for Redwood Canyon. Improvements to the course irrigation and drainage have resulted in better playing conditions as well as increased energy and water efficiency. Through a sublease to Wedgewood Weddings, Touchstone has developed a successful weddings and event banquet facility. Touchstone has been working towards certification by the Audubon Cooperative Sanctuary Program for Golf Courses and expects to receive approval by the end of 2020. As of May 4, 2020, Redwood Canyon was the first Park District Concession to reopen after the Shelter-In-Place and has effectively implemented social distancing measures to ensure a safe playing experience.

In order to further build on upon the productive relationship for operating Redwood Canyon Golf Course, Park District staff and the Tenant are proposing a second amendment to the Lease to clarify and correct certain provisions of the Lease as follows:

- Clarification of Rent Abatement Implementation
- Clarification of Approval Process for Course Closure
Summary of Second Amendment provisions:

1. Clarification of Rent Abatement Implementation -
   Due to the history of flooding at Redwood Canyon Golf Course, including major flooding in 2017 just prior to the commencement of the Touchstone Golf Lease, the lease includes a provision for rent abatement in the case of course closure due to Force Majeure (“Acts of God”). Staff will provide a detailed report of the Rent Abatement terms included in the current lease, challenges and proposed resolution.

2. Clarification of Approval Process for Course Closure -
   Staff recommends clarification of the process for course closure such that Tenant will notify Park Supervisor, Unit Manager, and Business Services Manager immediately of emergency closure or force majeure closure and make every effort to reopen as soon as the course is safe.

3. Extension of Completion Deadline for Wedding Area Improvements -
   The Park District is responsible for compliance of the wedding garden portion of Redwood Canyon with all applicable Americans with Disabilities Act (ADA) laws. The Park District has already completed temporary adjustments or improvements to the wedding garden to provide a reasonable accommodation pending the final improvements. The deadline for completing the final improvements is recommended to be extended by one year, to March 2021, in order to schedule the work so as not to impact already scheduled weddings and events.

4. Clarification of the Terms for Apartment Use -
   Staff recommends clarifying that the onsite apartment may be used occasionally for short-term, temporary housing upon approval of the Park District and providing the appropriate insurance for this use. The current lease does not allow for any use of the apartment whatsoever.

5. Clarification of Certain Administrative Items -
   Staff and Touchstone would like to clarify and correct certain administrative items of the Lease. For example, the correction mislabeled exhibits and clarification of the Concession Maintenance Fund (CMF) Process. Whereas the current lease includes a detailed 5-year implementation plan for CMF, the Second Amendment will clarify that the CMF project list may be updated annually with the approval of the Park District. This is consistent with the CMF process for all concessionaires.

**ALTERNATIVES**

None are recommended.
EAST BAY REGIONAL PARK DISTRICT

RESOLUTION NO.: 2020 - 07 -

July 7, 2020

APPROVAL OF SECOND AMENDMENT TO THE REDWOOD CANYON GOLF COURSE LEASE: LAKE CHABOT REGIONAL PARK

WHEREAS, Touchstone Golf, LLC (Tenant) entered into a Lease with the Park District (Landlord) effective July 1, 2017 for the operation of the Redwood Canyon Golf Course in Lake Chabot Regional Park; and

WHEREAS, in order to further build on upon the productive relationship for operating Redwood Canyon Golf Course, Park District staff and the Tenant are proposing a second amendment to the Lease to clarify and correct certain provisions of the Lease as follows: Clarification of Rent Abatement Implementation, Clarification of Approval Process for Course Closure, Extension of Completion Deadline for Wedding Area Improvements, Clarification of the Terms for Apartment Use, and Clarification of Certain Administrative Items including correcting exhibit labels and CMF Process; and

WHEREAS, the Board Operations Committee, by unanimous vote at the June 18, 2020 meeting, recommends approval of the Second Amendment of the Redwood Canyon Golf Course Lease by the full Board of Directors;

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the East Bay Regional Park District hereby authorize the General Manager to amend the Redwood Canyon Golf Course Lease a second time to clarify and correct certain provisions of the Lease at no additional cost to the Park District; and

BE IT FURTHER RESOLVED, that the General Manager or his designee is hereby authorized and directed, on behalf of the Park 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 , seconded by Director , and adopted this 7th day of July, 2020 by the following vote:

FOR:

AGAINST:

ABSTAIN:

ABSENT:
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AGENDA
REGULAR MEETING
BOARD OF DIRECTORS

EAST BAY REGIONAL PARK DISTRICT

Tuesday, July 7, 2020

D. BUSINESS BEFORE THE BOARD

I. CONSENT CALENDAR

   g. Authorization to Enter into an Agreement with Romaldo Cruz for
      Caretaker Services for the Roddy Ranch Property: Deer Valley Regional
      Park ................................................. (Margulici/O’Connor)

RECOMMENDATION

The General Manager and the Board Operations Committee, by unanimous vote at its June
18, 2020 meeting, recommend that the Board of Directors authorize an Agreement with
Romaldo Cruz for caretaking services at the Roddy Ranch property at Deer Valley Regional
Park. The Agreement will be for one year, with two additional one-year extensions (maximum
total term of three years) upon mutual agreement between the Park District and Mr. Cruz.

REVENUE/COST

There is no payment to the caretaker, however the cost to the Park District for this action
is approximately $930 per year, which represents the cost of electricity paid by the Park
District for security lighting and a well pump that fills a large storage tank which supplies utility
water to the caretaker residence, other buildings in the area, and a cattle trough at the Roddy
Ranch Property at Deer Valley Regional Park. These utilities costs are paid from the
Operations services budget of the Interpretive Parklands Unit, Deer Valley at 101-5161-119-6616.

BACKGROUND

Deer Valley Regional Park, located in Contra Costa County, requires caretaker services to
monitor a group of residential and storage buildings on the property (Roddy Ranch). Roddy
Ranch has been in landbank status since its purchase in July of 2014, and will continue to be
closed to the public during the evaluation, construction, and development phases of the future
park. Future uses of the property will be determined in the land use planning process.

Romaldo Cruz, a long-time employee of Jack and Donna Roddy, the former owners of Roddy
Ranch, has lived on-site and provided caretaker services for the group of residential and
agricultural buildings in that area of the property. In addition to conducting nightly patrols,
Mr. Cruz handled plumbing, fencing, and general maintenance of Roddy Ranch. As part of an
agreement with the Roddy Family, Mr. Cruz continued to provide caretaker services after the Park District’s purchase of Roddy Ranch in 2014. The Roddy Family vacated the property in May 2020 which ended their leaseback with the Park District. A new agreement is required for Mr. Cruz to continue caretaker services for Roddy Ranch. Caretaker duties would include daily patrol of the area, reporting unauthorized activity and emergency or hazardous situations to the appropriate authority, maintaining landscaping and fire clearance around the residence, acting as a resource for Park District staff by sharing information about the property, and maintaining regular communication with Park District staff.

Staff recommends entering into an Agreement for Caretaker Services for Roddy Ranch at Deer Valley Regional Park with Romaldo Cruz for one year, with two additional one-year extensions upon mutual agreement between the Park District and Mr. Cruz, for a maximum total term of 3 years.

ALTERNATIVES

None are recommended.
EAST BAY REGIONAL PARK DISTRICT

RESOLUTION NO.: 2020 – 07 -

July 7, 2020

AUTHORIZATION TO ENTER INTO AN AGREEMENT WITH
ROMALDO CRUZ FOR CARETAKER SERVICES FOR THE RODDY RANCH
PROPERTY: DEER VALLEY REGIONAL PARK

WHEREAS, the East Bay Regional Park District (Park District) requires caretaker services to monitor the Roddy Ranch property at Deer Valley Regional Park for safety and security during its development phase; and

WHEREAS, caretaker services were provided by Romaldo Cruz for former property-owners Jack and Donna Roddy prior to and after the Park District purchase of the Roddy Ranch property in 2014 and until the Roddy Family vacated the property in May 2020; and

WHEREAS, the Park District utilizes an Agreement for Caretaker Services for routine patrolling of the site, reporting unauthorized use of the site or emergency or other hazardous situations to the appropriate authority, acting as a resource for Park District staff by sharing information about the site, as well as maintaining regular communication with Park District staff; and

WHEREAS, staff recommends Romaldo Cruz to continue providing caretaker services for the site due to his knowledge, skills, and years of experience providing these services; and

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the East Bay Regional Park District hereby authorizes entering into an Agreement with Romaldo Cruz for caretaker services at the Roddy Ranch property at Deer Valley Regional Park for one year, with the possibility of two one-year term extensions upon mutual agreement between the Park District and Romaldo Cruz, with operating costs of approximately $930 per year, which represents the cost of electricity paid by the Park District for security lighting and a well pump which supplies utility water to the caretaker residence, other buildings in the area, and a cattle trough at the property with such costs paid from the Operations services budget of the Interpretive Parklands Unit, Deer Valley at 101-5161-119-6616; and

BE IT FURTHER RESOLVED, that the General Manager is hereby authorized and directed, on behalf of the Park 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 the resolution.

Moved by Director , seconded by Director , and adopted this 7th day of July, 2020, by the following vote:
D. BUSINESS BEFORE THE BOARD

I. CONSENT CALENDAR

h. Authorization to Execute a Contract with Balance Hydrologics for Consulting Services for the Jewel Lake Feasibility Study Project: Tilden Regional Park (Goorjian/Kelchner)

RECOMMENDATION

The General Manager recommends that the Board of Directors authorize executing a contract with Balance Hydrologics of Berkeley, California for design and restoration engineering services for a Jewel Lake long-term maintenance study at Tilden Regional Park in the amount of $366,981.

REVENUE/COST

The current action executes a professional services contract for the pre-design phase. The total cost to design, permit and construct this project is to be determined and will require additional funding. Partial funds are currently available in the Conduct Jewel Lake Feasibility Study (No. 527800) and additional funds are anticipated to be transferred to the project upon adoption of the 2020 Mid-year budget.

SOURCE OF FUNDS

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Conduct Jewel Lake Feasibility Study Project (No. 527800)</td>
<td>$200,000</td>
</tr>
<tr>
<td>Encumbrances and Expenditures to Date</td>
<td>0</td>
</tr>
<tr>
<td>Transfer &amp; Appropriation from 2020 Mid-year Budget</td>
<td>$250,000</td>
</tr>
</tbody>
</table>

TOTAL SOURCE OF FUNDS $450,000

USE OF FUNDS

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contract with Balance Hydrologics for Consulting Services</td>
<td>$366,981</td>
</tr>
<tr>
<td>Other Project Costs (professional services and administration)</td>
<td>$83,019</td>
</tr>
</tbody>
</table>

TOTAL USE OF FUNDS $450,000

BACKGROUND

This project is to provide a feasibility report to recommend preliminary design options that maintain Jewel Lake in Tilden Regional Park as an open water body, allow for and improve
sediment transport and create fish passage around a complete barrier. Additionally, the study will assess the costs of such an activity along with the costs associated with dredging.

Jewel Lake is an approximately 2-acre reservoir located in Tilden Nature Area. Originally built in 1921 as a drinking water reservoir, it now serves as important habitat for a variety of wildlife species and is enjoyed by tens of thousands of park users annually. Tilden Regional Park occupies most of the Wildcat Creek watershed and much of the sediment and erosion related problems of this watershed occur in the park. The District is interested in exploring options to maintain Jewel Lake as an open water body for the next 50 years. Creating a bypass is currently the preferred long-term option identified that will allow sediment to continue downstream and reconnect the upper and lower portions of the stream to allow for native rainbow trout fish passage, currently inaccessible. The District would like to evaluate short-term options for sediment movement and fish passage that can be achieved without a bypass.

A Request for Proposals (RFP) for consultant services was developed and was advertised on March 3, 2020. Staff received four proposals from the following firms: Balance Hydrologics, Environmental Science Associates, FlowWest, and Foth Engineering. Balance Hydrologics of Berkeley, California was selected based on their understanding of the scope of work, their proposed methodology to deliver the project, the qualifications of their project team and the firms experience working on similar projects.

The consultant’s scope of services is anticipated to extend through spring of 2021 and includes design development and feasibility, conceptual and preliminary designs, public engagement and draft feasibility report assessing alternatives including preliminary technical feasibility assessment of alternative designs; design implementation strategies and final feasibility report, concept plan and preliminary cost estimate.

**ALTERNATIVES**

No alternatives are recommended.
EAST BAY REGIONAL PARK DISTRICT

RESOLUTION NO.: 2020 – 07 -

July 7, 2020

AUTHORIZATION TO EXECUTE A CONTRACT WITH
BALANCE HYDROLOGICS FOR CONSULTING SERVICES
FOR THE JEWEL LAKE FEASIBILITY STUDY PROJECT:
TILDEN REGIONAL PARK

WHEREAS, Jewel Lake in Tilden Regional Park, an approximately 2-acre reservoir, which serves as important habitat for a variety of wildlife species and is enjoyed by tens of thousands of park users annually; and

WHEREAS, Jewel Lake has received increased sedimentation that is impacting the open water and habitat; and

WHEREAS, the Park District wants to assess the feasibility of improving habitat and address the sedimentation of Jewel Lake; and

WHEREAS, the Park District advertised a Request for Proposals for professional design, engineering for feasibility and initial studies, through conceptual pre-design development; and

WHEREAS, the Park District received proposals from four firms; and

WHEREAS, after evaluating the firms, the Park District determined Balance Hydrologics to be the highest ranked firm, and has successfully negotiated contract terms and conditions including a fee not to exceed $366,981; and

WHEREAS, there are partial funds are currently available in the Conduct Jewel Lake Feasibility Study Project (No. 527800) and additional funds are anticipated to be transferred to the project upon adoption of the 2020 Mid-year budget for this purpose;

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of the East Bay Regional Park District hereby authorizes executing a contract for consulting services with Balance Hydrologics of Berkeley, California in the amount of $366,981 for professional design, engineering for feasibility and initial studies, through conceptual pre-design development for Conduct Jewel Lake Feasibility Study Project (No. 527800); 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 , seconded by Director and approved the 7th day of July, 2020 by the following vote:

FOR:

AGAINST:

ABSTAIN:

ABSENT:
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D. BUSINESS BEFORE THE BOARD

I. CONSENT CALENDAR

i. Authorization to Award a Construction Contract to Integra Construction Services Inc. to Construct Residence and Appropriate Funds: Camp Arroyo Regional Recreation Area (Rasmussen/Auker)

RECOMMENDATION

The General Manager recommends that the Board of Directors award a construction contract to Integra Construction Services Inc of Pleasanton, CA for the Replace Residence Trailer project at Camp Arroyo, and appropriation of funds from the Major Infrastructure Renovation and Replacement fund.

REVENUE/COST

This action requests an additional $247,209 from the Major Infrastructure Renovation and Replacement fund (553) and authorizes a construction contract in the amount of $359,000 from the Replace Residence Trailer.

SOURCE OF FUNDS

<table>
<thead>
<tr>
<th>Source</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Existing Budget, Replace Residence Trailer (#158800)</td>
<td>$210,000</td>
</tr>
<tr>
<td>New Appropriation from Major Infrastructure (553)</td>
<td>$247,209</td>
</tr>
<tr>
<td>AVAILABLE</td>
<td>$457,209</td>
</tr>
</tbody>
</table>

USE OF FUNDS

<table>
<thead>
<tr>
<th>Use</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Replace Residence Trailer (#158800)</td>
<td>$26,409</td>
</tr>
<tr>
<td>Expenditures and Encumbrances to Date</td>
<td>$359,000</td>
</tr>
<tr>
<td>Award to Integra Construction Services</td>
<td>$71,800</td>
</tr>
<tr>
<td>Remaining for Contingency and Inspection</td>
<td>TOTAL $457,209</td>
</tr>
</tbody>
</table>

BACKGROUND

The existing residence trailer used by the camp director at Camp Arroyo has reached the end of its useful life. Installed in 2002, it is small, only 400 square feet, with one bedroom and not designed for long term residency. The new residence will be approximately 800 square feet and
have two bedrooms. In addition, the residence will have a number of sustainable features including: sustainably sourced lumber, heat pump HVAC and water heater, and cementitious siding, energy efficient metal roof, spray foam insulation and concrete slab foundation all of which also resists rodents. Finally, the existing holding tank will be replaced with a new septic system (Exhibit 1).

The Notice to Bidders was published on February 6, 2020 to the Park District’s online plan room and posted to the Dodge Data Construction Plan Room. Five firms purchased Bid Documents and three firms submitted bids on May 28, 2020 as follows:

<table>
<thead>
<tr>
<th>PLANHOLDER</th>
<th>BID TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Integra Construction Services</td>
<td>$359,000.00</td>
</tr>
<tr>
<td>GEMS Environmental Management</td>
<td>$528,700.00</td>
</tr>
<tr>
<td>Done Right Construction</td>
<td>$550,000.00</td>
</tr>
</tbody>
</table>

The bid submitted by Integra Construction Services Inc of Pleasanton, CA met the specifications and conditions for the project; therefore, Integra Construction Services Inc of Pleasanton, CA is the lowest responsible bidder.

ALTERNATIVES

No alternatives are recommended.
AUTHORIZATION AWARD A CONSTRUCTION CONTRACT TO INTEGRA CONSTRUCTION SERVICES INC. TO CONSTRUCT RESIDENCE AND TO APPROPRIATE FUNDS: CAMP ARROYO REGIONAL RECREATION AREA

WHEREAS, the residential trailer used by the camp director at Camp Arroyo has reached the end if its useful life. Installed in 2002, it is 400 square feet, with one bedroom and not designed for long term residency; and

WHEREAS, the new residence will be approximately 800 square feet and have two bedrooms, and environmentally sustainable features including: sustainably sourced lumber, heat pump HVAC and water heater, cementitious siding, energy efficient metal roof, spray foam insulation and concrete slab foundation. The existing holding tank will be replaced with a new septic system (Exhibit 1); and

WHEREAS, the Notice to Bidders was published on February 6, 2020 to the Park District’s online plan room and posted to the Dodge Data Construction Plan Room. Five firms purchased Bid Documents and four firms submitted bids on May 28, 2020 as follows:

<table>
<thead>
<tr>
<th>PLANHOLDER</th>
<th>BID TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Integra Construction Services</td>
<td>$359,000</td>
</tr>
<tr>
<td>GEMS Environmental Management</td>
<td>$528,700</td>
</tr>
<tr>
<td>Done Right Construction</td>
<td>$550,000</td>
</tr>
</tbody>
</table>

WHEREAS, the bid submitted by Integra Construction Services Inc of Pleasanton, CA met the specifications and conditions for the project; therefore, Integra Construction Services Inc of Pleasanton, CA is the lowest responsible bidder;

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of the East Bay Regional Park District authorizes the following:

1. Award of a $359,000 construction contract to Integra Construction Services Inc of Pleasanton, CA for the Replace Residence Trailer project at Camp Arroyo; and

2. Appropriation of $247,209 in Major Infrastructure Renovation and Replacement funds (553) to Replace Residence Trailer (#158800), per the Budget Change Form attached hereto;
BE IT FURTHER RESOLVED that the General Manager is hereby authorized and directed, on behalf of the Park District and in its name, to execute and deliver such documents and such acts as may be deemed necessary or appropriate to accomplish the intentions of this resolution.

Moved by Director ___________, seconded by Director ___________, and adopted this 7th day of July, 2020 by the following vote:

FOR:

AGAINST:

ABSTAIN:

ABSENT:
Replace Residence, Camp Arroyo

Park Entrances
- Public Entrance
- Service Entrance

East Bay Regional Park District.
Site managed by GIS Services.
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As being presented at the Board of Directors meeting on July 7, 2020 the General Manager recommends that the Board of Directors appropriate $247,209 of Major Infrastructure Renovation and Replace fund to project 158800 Replace Residence Cabin, Camp Arroyo Recreation Area

As approved at the Board of Directors Meeting on date: 7/7/2020
Board of Directors Resolution Number: 2020-07

Signature:
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AGENDA
REGULAR MEETING
BOARD OF DIRECTORS

EAST BAY REGIONAL PARK DISTRICT

Tuesday, July 7, 2020

D. BUSINESS BEFORE THE BOARD

1. CONSENT CALENDAR

   j. Authorization to Award a Construction Contract to Kerex Engineering Inc. to Construct a Restroom at Jordan Pond and Appropriate Funds: Garin Regional Park (Rasmussen/Auker)

RECOMMENDATION

The General Manager recommends that the Board of Directors award a construction contract to Kerex Engineering Inc of Pleasant Hill, CA for the Jordan Pond Restroom project at Garin Regional Park and appropriate funds from the Major Infrastructure Renovation and Replacement fund.

REVENUE/COST

This action requests an appropriation of $252,500 from the Major Infrastructure Renovation and Replacement fund (553) and awards a $219,500 construction contract to Kerex Engineering Inc of Pleasant Hill, CA for the project.

SOURCE OF FUNDS

Construct Jordan Pond Restroom (#161300)
New Appropriation from Major Infrastructure (553) $252,500
AVAILABLE $252,500

USE OF FUNDS

Construct Jordan Pond Restroom (161300)
Award to Kerex Engineering $219,500
Remaining for contingency and inspection $33,000
TOTAL $252,500

BACKGROUND

The Park District has the long-term goal of replacing chemical toilets throughout the District with new pre-cast concrete restrooms. The new restrooms are more comfortable for park visitors, more sanitary and eliminate the cost and emissions from the sanitation truck needed to service chemical toilets. This project will replace the chemical toilet near Jordan Pond at Garin
with a two stall ADA flush restroom with drinking fountain (Exhibit 1).

The Notice to Bidders was published on February 26, 2020 to the Park District’s online plan room and posted to the Dodge Data Construction Plan Room. Two firms purchased Bid Documents and four firms submitted bids on May 28, 2020 as follows:

<table>
<thead>
<tr>
<th>PLANHOLDER</th>
<th>BID TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kerex Engineering</td>
<td>$219,500</td>
</tr>
<tr>
<td>Bay Construction</td>
<td>$266,750</td>
</tr>
</tbody>
</table>

The bid submitted by Kerex Engineering Inc of Pleasant Hill, CA met the specifications and conditions for the project; therefore, Kerex Engineering Inc of Pleasant Hill, CA is the lowest responsible bidder.

**ALTERNATIVES**

No alternatives are recommended.
EAST BAY REGIONAL PARK DISTRICT

RESOLUTION NO.: 2020 – 07 -

July 7, 2020

AUTHORIZATION TO AWARD A CONSTRUCTION CONTRACT TO KEREX ENGINEERING INC. TO CONSTRUCT A RESTROOM AT JORDAN POND AND APPROPRIATE FUNDS: GARIN REGIONAL PARK

WHEREAS, the Park District has the long-term goal of replacing chemical toilets throughout the District with new pre-cast concrete restrooms. The new restrooms are more comfortable for park visitors, more sanitary and eliminate the cost and emissions from the sanitation truck needed to service chemical toilets; and

WHEREAS, this project will replace the chemical toilet near Jordan Pond at Garin with a two-stall ADA flush restroom with drinking fountain (Exhibit 1); and

WHEREAS, the Notice to Bidders was published on February 26, 2020 to the Park District’s online plan room and posted to the Dodge Data Construction Plan Room. Five firms purchased Bid Documents and two firms submitted bids on May 28, 2020 as follows:

<table>
<thead>
<tr>
<th>PLANHOLDER</th>
<th>BID TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kerex Engineering</td>
<td>$219,500</td>
</tr>
<tr>
<td>Bay Construction</td>
<td>$266,750</td>
</tr>
</tbody>
</table>

WHEREAS, the bid submitted by Kerex Engineering Inc of Pleasant Hill, CA met the specifications and conditions for the project; therefore, Kerex Engineering Inc of Pleasant Hill, CA is the lowest responsible bidder;

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of the East Bay Regional Park District authorizes the following:

1. Award of a $219,500 construction contract to Kerex Engineering Inc of Pleasant Hill, CA for the Construct Jordan Pond Restroom project at Garin Regional Park; and

2. Appropriation of $252,500 in Major Infrastructure Renovation and Replacement funds (553) to Construct Jordan Pond Restroom (161300), per the Budget Change Form attached hereto;

BE IT FURTHER RESOLVED that the General Manager is hereby authorized and directed, on behalf of the Park District and in its name, to execute and deliver such documents and such acts as may be deemed necessary or appropriate to accomplish the intentions of this resolution.
Moved by Director [first name], seconded by Director [second name], and adopted this 7th day of July, 2020 by the following vote:

FOR:

AGAINST:

ABSTAIN:

ABSENT:
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As being presented at the Board of Directors meeting on July 7, 2020 the General Manager recommends that the Board of Directors appropriate $252,500 from the Major Infrastructure Renovation and Replace Fund and establish new Capital Improvement Project 161300 to Construct Jordan Pond Restroom.

As approved at the Board of Directors Meeting on date: 7/7/2020
Board of Directors Resolution Number: 2020-07-
D. BUSINESS BEFORE THE BOARD

1. CONSENT CALENDAR

  k. Authorization to Purchase One Caterpillar D2 Dozer from Peterson CAT for Equipment Replacement (McCristle/O’Connor)

RECOMMENDATION

The General Manager recommends that the Board of Directors authorize the purchase of one Caterpillar D2 Dozer from Peterson CAT of Pasadena, California at a total cost of $142,474 for equipment replacement.

REVENUE/COST

For the purpose of purchasing replacement fleet equipment, a budget transfer will be required to move funds that were allocated to the Fire Department 2020 Budget 554-8310-000-7505 (Rolling Stock >$25,000), into the Roads & Trails Major Equipment Replacement Budget 554-5954-000-7505.

PROPOSED ENCUMBRANCE:

<table>
<thead>
<tr>
<th>Base Price</th>
<th>$131,615</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sales Tax</td>
<td>$10,859</td>
</tr>
<tr>
<td>Proposed Encumbrance</td>
<td>$142,474</td>
</tr>
</tbody>
</table>

BACKGROUND

This new Caterpillar D2 Dozer will replace Roads & Trails current dozer (#648) purchased in 2001, which is being retired due to age and declining condition.

<table>
<thead>
<tr>
<th>LOCATION</th>
<th>#</th>
<th>YEAR</th>
<th>TYPE</th>
</tr>
</thead>
<tbody>
<tr>
<td>ROADS &amp; TRAILS</td>
<td>648</td>
<td>2001</td>
<td>CATERPILLAR DOZER</td>
</tr>
</tbody>
</table>
This new Caterpillar D2 Dozer is available for purchase directly from Peterson CAT by means of Sourcewell Construction Equipment Contract #032119-CAT. The contract pricing is the result of a competitive bid process and open to all federal, state and local governmental entities. Public agencies electing to use this method of equipment acquisition avoid the administrative costs of seeking formal bids.

ALTERNATIVES

For this purchase, staff has determined that there is no significant advantage in formally seeking other bids; therefore, none are recommended.
EAST BAY REGIONAL PARK DISTRICT

RESOLUTION NO.: 2020 – 07 -

July 7, 2020

AUTHORIZATION TO PURCHASE ONE CATERPILLAR D2 DOZER FROM PETERSON CAT FOR EQUIPMENT REPLACEMENT

WHEREAS, the East Bay Regional Park District (Park District) has included funding in its proposed 2020 Budget for the purchase of new equipment; and

WHEREAS, the Park District has the need to purchase one Caterpillar D2 Dozer to replace current Caterpillar Dozer, #648, assigned to Roads & Trails; and

WHEREAS, Petersen CAT of Pasadena, California is a recognized vendor offering suitable equipment based on the results of competitively bid pricing through Sourcewell Construction Equipment Contract #032119-CAT;

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of the East Bay Regional Park District hereby authorizes the purchase of one Caterpillar D2 Dozer for a total cost of $142,474, with said amount to be transferred from the Fire Department Rolling Stock budget into the 2020 Budget Roads & Trails Major Equipment Replacement Account 554-5954-000-7505 (Rolling Stock >$25,000); and

BE IT FURTHER RESOLVED, that the General Manager is hereby authorized and directed, on behalf of the Park 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 , seconded by Director , and adopted this 7th day of July, 2020, by the following vote:

FOR:

AGAINST:

ABSTAIN:

ABSENT:
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As being presented at the Board of Directors meeting on July 07, 2020, the General Manager recommends that the Board of Directors reallocate to authorize the purchase of Caterpillar D2 Dozer from Peterson CAT at a total cost of $142,474.
Page Left Blank Intentionally
AGENDA
REGULAR MEETING
BOARD OF DIRECTORS

EAST BAY REGIONAL PARK DISTRICT

Tuesday, July 7, 2020

D. BUSINESS BEFORE THE BOARD

I. CONSENT CALENDAR

L. Authorization to Purchase One Tractor from John Deere Company for Equipment Replacement (McCrystle/O'Connor)

RECOMMENDATION

The General Manager recommends that the Board of Directors authorize the purchase of one tractor from John Deere Company of Cary, North Carolina at a total cost of $81,573 for equipment replacement.

REVENUE/COST

For the purpose of purchasing replacement fleet equipment, funds have been allocated in the East Bay Regional Park District’s (Park District) 2020 Budget: Las Trampas Major Equipment Replacement Account 554-5161-170-7505 (Rolling Stock >$25,000).

PROPOSED ENCUMBRANCE:

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
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</thead>
<tbody>
<tr>
<td>Base Price</td>
<td>$ 75,350</td>
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<tr>
<td>CA Tire Fee</td>
<td>7</td>
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<tr>
<td>Sales Tax</td>
<td>6,216</td>
</tr>
<tr>
<td>Proposed Encumbrance</td>
<td>$ 81,573</td>
</tr>
</tbody>
</table>

BACKGROUND

This new John Deere tractor will replace current Park District tractor assigned to Las Trampas which is being retired due to age and declining condition.

<table>
<thead>
<tr>
<th>LOCATION</th>
<th>#</th>
<th>YEAR</th>
<th>TYPE</th>
</tr>
</thead>
<tbody>
<tr>
<td>LAS TRAMPAS</td>
<td>735</td>
<td>2004</td>
<td>TRACTOR, J.D. 110 LOADER/BACKHOE</td>
</tr>
</tbody>
</table>
This new tractor is diesel engine powered and will be refueled using non-petroleum based Renewable Diesel (RD-99).

The John Deere tractor is available for purchase directly from John Deere Company by means of Sourcewell Grounds Maintenance Contract #021815-DAC. The contract pricing is the result of a competitive bid process and open to all federal, state and local governmental entities. Public agencies electing to use this method of equipment acquisition avoid the administrative costs of seeking formal bids.

ALTERNATIVES

For this purchase, staff has determined that there is no significant advantage in formally seeking other bids; therefore, none are recommended.
EAST BAY REGIONAL PARK DISTRICT

RESOLUTION NO.: 2020 - 07 -

July 7, 2020

AUTHORIZATION TO PURCHASE ONE TRACTOR FROM JOHN DEERE COMPANY FOR EQUIPMENT REPLACEMENT

WHEREAS, the East Bay Regional Park District (Park District) has included funding in its proposed 2020 Budget for the purchase of new equipment; and

WHEREAS, the Park District has the need to replace one tractor which is being retired due to age and declining condition; and

WHEREAS, John Deere Company of Cary, North Carolina is a recognized vendor offering suitable equipment based on the results of competitively bid pricing through Sourcwell Grounds Maintenance Contract #021815-DAC;

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of the East Bay Regional Park District hereby authorizes the purchase of one John Deere tractor for a total cost of $81,573, with said sum to be encumbered from the 2020 Budget; Las Trampas Major Equipment Replacement Account 554-5161-170-7505 (Rolling Stock >$25,000); and

BE IT FURTHER RESOLVED, that the General Manager is hereby authorized and directed, on behalf of the Park 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 , seconded by Director , and adopted this 7th day of July, 2020, by the following vote:

FOR:

AGAINST:

ABSTAIN:

ABSENT:
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D. BUSINESS BEFORE THE BOARD

I. CONSENT CALENDAR

m. Approval of Application for Grant Funds for California Climate Investments Urban Greening Program for Public Access Improvements: Martin Luther King Jr. Shoreline (Hornbeck/Auker)

RECOMMENDATION

The General Manager recommends that the Board of Directors approve an application for grant funds from the California Climate Investments Urban Greening Program for Public Access Improvements at the Tidewater Area of Martin Luther King Jr. Regional Shoreline.

REVENUE/COST

This action approves a grant application of approximately $1,400,000. There is no matching fund requirement for this grant. Grant funds would be budgeted into existing project #154300 (Improve Public Access). When completed, this project may increase the long-term operating cost of the Park District.

BACKGROUND

This action proposes authorization of a grant applications for California Climate Investment Urban Greening funding for public access improvements at the Tidewater Area of Martin Luther King Jr Shoreline.

Signed into law in 2006, Assembly Bill (AB) 32, also known as the California Global Warming Solutions Act of 2006 required a sharp reduction of greenhouse gas (GHG) emissions to 1990 levels by 2020. AB 32 was the first program to take a comprehensive, long-term approach to addressing climate change to improve the environment and natural resources while maintaining a robust economy. Recently signed into law, Senate Bill (SB) 32 confirms the State’s continued commitment to reducing GHG emissions by directing emissions reductions to meet a target of 40% below 1990 levels by 2030.

Signed into law on September 14, 2016, SB 859 (Chapter 368, Statutes of 2016) authorized the expenditure of $1.2 billion in Cap and Trade revenues, also known as the Greenhouse Gas Reduction Fund (GGRF), for projects aimed to reduce GHG emissions. The California Natural
Resources Agency (Agency) was allocated funds to its Urban Greening Program specifically for green infrastructure projects that reduce GHG emissions and provide multiple benefits.

The Tidewater project is an excellent fit for the Urban Greening program as the project will transform a former industrial location into a park, with over 200 trees planted on the approximately 6.5-acre site. In addition, the project has multiple benefits including providing a new recreational destination along the Oakland Estuary with small and large group picnic spaces, a play area for children, a network of pathways, and gathering spaces for educational or recreational outings. The park will also provide staging for hikers and bikers utilizing the San Francisco Bay Trail and for small-craft boaters using the Tidewater Boating Center and boat launch. The improvements will bring new park users to this area and increase recreational activity along the shoreline for families in neighboring communities, youth and teachers from nearby schools, and residents throughout the East Bay looking for a waterfront experience.

**ALTERNATIVES**

No alternatives are recommended.
EAST BAY REGIONAL PARK DISTRICT

RESOLUTION NO.: 2020 – 07 -

July 7, 2020

APPROVAL OF APPLICATION FOR GRANT FUNDS FOR CALIFORNIA CLIMATE INVESTMENTS URBAN GREENING PROGRAM FOR PUBLIC ACCESS IMPROVEMENTS: MARTIN LUTHER KING JR. REGIONAL SHORELINE

WHEREAS, the Legislature and Governor of the State of California have provided funds for the program shown above; and

WHEREAS, the California Natural Resources Agency has been delegated the responsibility for the administration of this grant program, establishing necessary procedures; and

WHEREAS, said procedures established by the California Natural Resources Agency require a resolution certifying the approval of application(s) by the Applicants governing board before submission of said application(s) to the State; and

WHEREAS, the applicant, if selected, will enter into an agreement with the State of California to carry out the Project

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the East Bay Regional Park District:

1. Approves the filing of an application for the Tidewater Public Access Improvement Project, and

2. Certifies that applicant understands the assurances and certification in the application, and

3. Certifies that applicant or title holder will have sufficient funds to operate and maintain the project consistent with the land tenure requirements; or will secure the resources to do so, and

4. Certifies that it will comply with the provisions of Section 1771.5 of the State Labor Code, and

5. If applicable, certifies that the project will comply with any laws and regulations including, but not limited to, legal requirements for building codes, health and safety codes, disabled access laws, environmental laws and, that prior to commencement of construction, all applicable permits will have been obtained, and

6. Certifies that applicant will work towards the Governor’s State Planning Priorities intended to promote equity, strengthen the economy, protect the environment, and promote public health and safety as included in Government Code Section 65041.1, and
7. Appoints the General Manager or Assistant General Manager of Finance and Management Services/CFO, or designee, as agent to conduct all negotiations, execute and submit all documents including, but not limited to applications, agreements, payment requests and so on, which may be necessary for the completion of the aforementioned project(s).

BE IT FURTHER RESOLVED, that the Assistant General Manager of Finance and Management Services/CFO or Budget Manager is hereby authorized to amend the current year’s budget, without further Board action, upon receipt of the executed contract from the Grants Manager. The budget amendment will include an increase in budgeted revenue and a corresponding increase in appropriation for the amount stipulated in the contract.

Moved by Director ____________, seconded by Director ____________, and adopted this 7th day of July, 2020, by the following vote,

FOR:

AGAINST:

ABSTAIN:

ABSENT:
IMPROVE PUBLIC ACCESS
Martin Luther King Jr. Regional Shoreline
Oakland, Alameda County, CA

BOAT DOCK
TIDEWATER AQUATIC CENTER
RESTROOM
PROJECT AREA
D. BUSINESS BEFORE THE BOARD

I. CONSENT CALENDAR

n. Authorization to Apply for Grant Funds from the Wildlife Conservation Board Public Access Program and Authorize Matching Funds: Del Valle Regional Park (Hornbeck/Auker)

RECOMMENDATION

The General Manager recommends that the Board of Directors authorize an application for grant funds to the Wildlife Conservation Board’s Public Access Program to replace the west side women’s restroom at Del Valle Regional Park, and the appropriation of Major Infrastructure Renovation and Replacement Fund matching funds if the grant is received.

REVENUE/COST

This action proposes a grant application of approximately $300,000 to the Wildlife Conservation Board’s Public Access program. If the funds are received, the Park District will need to appropriate $300,000 as a match from the District’s Major Infrastructure Renovation and Replacement Fund (553), for a total project budget of approximately $600,000. This project will not increase the ongoing operational costs of the District.

BACKGROUND

The Wildlife Conservation Board (WCB) carries out a public access development program to improve public access to hunting, fishing, or other wildlife-oriented recreation throughout California. Financial assistance is available to State and federal agencies, cities, counties and public districts or corporations for development of public access facilities such as fishing piers or floats, access roads, boat launching ramps, trails, boardwalks, interpretive facilities, and lake or stream improvements. Support facilities such as restrooms and parking areas are also eligible for funding under this program. Approximately $3,000,000 is available state-wide through this grant solicitation.

The District seeks funds to replace the existing women’s restrooms, near the west side visitor center. The west side visitor center is one of the District most popular recreational facilities. The
restroom building is nearly 50-years old. The exposed wood timber construction of the building is subjected to weathering and decay; and is in need of replacement. The building will be replaced with a precast concrete structure with gender neutral restroom units.

**ALTERNATIVES**

No alternatives are recommended.
EAST BAY REGIONAL PARK DISTRICT

RESOLUTION NO.: 2020 – 07 -

July 7, 2020

AUTHORIZATION TO APPLY FOR GRANT FUNDS FROM THE WILDLIFE CONSERVATION BOARD PUBLIC ACCESS PROGRAM AND AUTHORIZE MATCHING FUNDS: DEL VALLE REGIONAL PARK

WHEREAS, the East Bay Regional Park District is seeking funding from the California Wildlife Conservation Board Public Access Program for projects that create or enhance wildlife-oriented recreation; and

WHEREAS, District procedures require Board Approval for all grant applications; and

WHEREAS, said application contains assurances and certifications that the applicant must comply with in order to enter into an agreement with the Wildlife Conservation Board;

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of the East Bay Regional Park District hereby:

1. Approves the filing of an application with the Wildlife Conservation Board up to the maximum amount allowed under the program; and

2. Certifies that Grantee understands the assurances and certification in the application form; and

3. Certifies that Grantee has or will have sufficient funds to operate and maintain the project; and

4. Authorizes and directs the General Manager or Assistant General Manager of Finance and Management Services/CFO, on behalf of the District and in its name, to accept grant funds and execute and deliver such documents including, but not limited to applications, agreements, payment requests and amendments and to do such acts as may be deemed or appropriate to accomplish the intentions of this resolution; and

BE IT FURTHER RESOLVED, that the Chief Financial Officer or Budget Manager is hereby authorized to amend the current year’s budget, without further Board action, upon receipt of the executed contract from the Grants Manager. The budget amendment will include an increase in budgeted revenue and a corresponding increase in appropriation for the amount stipulated in the contract.

Moved by Director , seconded by Director , and approved this 7th day of July, 2020, by the following vote:
Del Valle West Side Restrooms at Del Valle Regional Park, Livermore
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D.  BUSINESS BEFORE THE BOARD

1.  CONSENT CALENDAR

   o.  Acceptance of First Quarter 2020 General Fund and Other Governmental Funds Financial Report (Strawson O’Hara/ Auker)

RECOMMENDATION

The General Manager and the Board Finance Committee by unanimous vote at its June 24, 2020 meeting recommend that the Board of Directors accept the First Quarter 2020 General Fund and Other Governmental Funds Financial Report.

REVENUE/COST

There is no revenue/cost impact associated with the acceptance of the report.

BACKGROUND

As of March 31, 2020, the Park District’s revenues and expenditures are consistent with projections for the first quarter. However, as detailed in the April 29th Finance Committee report on Estimated Fiscal Impacts of the COVID-19 Pandemic, fiscal impacts of the COVID-19 pandemic related to the current 2020 Budget are still to be determined. Expenditures for the remainder of 2020 are difficult to predict. Also, if the Park District is unable to provide its full “summer focus” programming, such as opening swim facilities, summer camps, and other activities, then certain operational costs and related revenues would be reduced. The Finance Department will continue to monitor the situation, and update projections as necessary.

<table>
<thead>
<tr>
<th>General Fund</th>
<th>Budget 2020</th>
<th>Actual thru 3/31/20</th>
<th>% of Budget</th>
<th>Variance</th>
<th>Complete</th>
</tr>
</thead>
<tbody>
<tr>
<td>Revenue*</td>
<td>$171,126,880</td>
<td>$15,007,234</td>
<td>$156,119,646</td>
<td>8.8%</td>
<td></td>
</tr>
<tr>
<td>Expenditures*</td>
<td>173,807,349</td>
<td>38,716,396</td>
<td>135,090,954</td>
<td>22.3%</td>
<td></td>
</tr>
<tr>
<td>net change in Fund Balance</td>
<td>(2,680,469)</td>
<td>(23,709,161)</td>
<td>(21,028,692)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

* includes transfers
At the end of the first quarter, the District’s General Fund revenues were $15 million, which is 8.8% of total revenue budgeted for the year. This is consistent with the prior year which was 9% of total revenue for the first quarter.

General Fund expenditures as of March 31 were $38.7 million, or 22.3% of the total budget for the year, which is as expected and consistent with prior years.

It is normal for first quarter expenditures to exceed revenues; the District has set aside fund balance reserves to cover the time between January 1 and mid-April, when the next major payment of property tax revenues is received.

DESCRIPTION

The budget cycle of the District includes adoption of the annual budget in December of each year, budget amendments during the year as approved by the Board of Directors, and a mid-year budget review process in June/July. Mid-year budget review is an important component of the budget process and allows the District to utilize one-time savings and excess revenues identified at the end of each year for replenishing reserves, paying down unfunded liabilities, setting aside funding for important initiatives to carry out the mission of the District, such as environmental restoration, funding for infrastructure and aging structures, management of hazardous vegetation and fuels.

The report and attachments summarize 2020 revenues and expenditures for the entire District through March 31. This information is provided to the Board as required by the Board Operating Guidelines.

The charts in Attachment A provide an overview of the past five years of revenues and expenditures.

The table at the bottom of Attachment A provides a preliminary projection of unassigned fund balance in the General Fund.

Attachment B provides additional detailed information on the General Fund. Areas in which revenues or expenditures were 10 percent higher or lower than expected are explained in footnotes.

Attachment C provides summarized financial information for all other governmental funds.

ALTERNATIVES

No alternatives are recommended.
EAST BAY REGIONAL PARK DISTRICT

RESOLUTION NO.: 2020 – 07 -

July 7, 2020

ACCEPTANCE OF FIRST QUARTER 2020 GENERAL FUND AND OTHER GOVERNMENTAL FUNDS FINANCIAL REPORT

WHEREAS, the East Bay Regional Park District Finance Department prepares Quarterly Financial Reports and presents the results to the Board Finance Committee; and

WHEREAS, the Quarterly Financial Reports help inform the Board of Directors, public, and District management of the financial position of the District; and

WHEREAS, on June 24, 2020, the Board Finance Committee reviewed the Quarterly General Fund and Other Governmental Funds Financial Report for the period ending March 31, 2020, and unanimously recommended its favorable consideration by the Board of Directors;

NOW, THEREFORE BE IT RESOLVED, that the Board of Directors of the East Bay Regional Park District hereby accepts the General Fund and Other Governmental Funds Financial Report for the quarter ending March 31, 2020.

Moved by Director , seconded by Director and approved on this 7th day of July 2020, by the following vote:

FOR:

AGAINST:

ABSTAIN:

ABSENT:
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**General Fund Revenues**

<table>
<thead>
<tr>
<th>Year</th>
<th>Total Revenues (in millions)</th>
<th>Property Taxes (in millions)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016</td>
<td>$80</td>
<td>$80</td>
</tr>
<tr>
<td>2017</td>
<td>$90</td>
<td>$90</td>
</tr>
<tr>
<td>2018</td>
<td>$100</td>
<td>$100</td>
</tr>
<tr>
<td>2019</td>
<td>$110</td>
<td>$110</td>
</tr>
<tr>
<td>2020</td>
<td>$120</td>
<td>$120</td>
</tr>
</tbody>
</table>

**General Fund Expenditures**

<table>
<thead>
<tr>
<th>Year</th>
<th>Total Expenditures (in millions)</th>
<th>Salaries &amp; Benefits (in millions)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016</td>
<td>$60</td>
<td>$60</td>
</tr>
<tr>
<td>2017</td>
<td>$80</td>
<td>$80</td>
</tr>
<tr>
<td>2018</td>
<td>$100</td>
<td>$100</td>
</tr>
<tr>
<td>2019</td>
<td>$120</td>
<td>$120</td>
</tr>
<tr>
<td>2020</td>
<td>$140</td>
<td>$140</td>
</tr>
</tbody>
</table>

**Budgetary General Fund Unassigned Fund Balance**

- **Unaudited Beginning Unassigned Fund Balance as of 1/1/20**: $71,299,357
- **2020 Projected Revenue**: $171,126,880
- **2020 Budgeted Expenditures**: $(173,807,349)

**Estimated Ending Fund Balance as of 12/31/20**: $68,618,887

**Reserve Target per Policy** *(32% of annual revenue)*: $54,760,602

**Estimated Excess (deficit) over 32% Reserve**: $13,858,286

*The Fund Balance Reserve Policy states that 32% of annual revenue is the minimum reserve to be maintained by the District to provide emergency funding in the event of a disaster, temporary revenue shortfall, or other qualified circumstance. Use of the funds requires Board of Director approval.*
Attachment B

East Bay Regional Park District
GENERAL FUND QUARTERLY FINANCIAL REPORT
For the Period Ending March 31, 2020
Amended Budget
2020

Current YTD^
Actuals 2020

Actual vs.
Budget

% of Budget
Complete

Prior YTD^
Actuals 2019

% Budget
3/31/2019

REVENUE
Property Taxes
Charges for Services
Property Usage
Investment Earnings and Other
Transfers In
Total Revenue and Transfers In

154,500,000
10,483,370
1,844,990
4,292,520
6,000
171,126,880

12,107,351
1,335,256
288,263
1,270,363
6,000
15,007,234

142,392,649
9,148,114
1,556,727
3,022,157
0
156,119,646

7.8%
12.7%
15.6%
29.6%
100.0%
8.8%

11,456,178
2,032,649
281,080
666,646
6,000
14,442,554

8.0%
19.0%
15.7%
17.0%
100.0%
9.0%

EXPENDITURES
Salary & Benefits
Supplies
Services
Capital Outlay
Other Expense
Interfund Charges
Transfers Out
Total Expenditures and Transfers Out

114,751,728
9,834,230
20,896,962
3,482,149
232,000
13,268,080
11,342,200
173,807,349

19,776,247
1,068,750
2,589,250
621,443
2,153
3,316,353
11,342,200
38,716,396

94,975,481
8,765,481
18,307,711
2,860,707
229,847
9,951,727
0
135,090,954

17.2%
10.9%
12.4%
17.8%
0.9%
25.0%
100.0%
22.3%

18,518,903
1,312,066
2,404,150
229,167
2,921
1,698,948
15,381,461
39,547,615

17.2%
13.7%
12.0%
8.6%
1.3%
25.0%
100.0%
24.4%

NET REVENUE OVER / (UNDER)

(2,680,469)
Amended Budget
2020

EXPENDITURES BY DIVISION
Board of Directors
General Manager
Clerk of the Board
Human Resources
Total Executive & Legislative

(23,709,161) $
Current YTD^
Actuals 2020

21,028,692
Budget
Variance

3

4
5
6
7

$ (25,105,061)
% of Budget
Complete

Prior YTD^
Actuals 2019

% Budget
3/31/2019

375,180
4,496,860
520,530
3,711,395
9,103,965

28,490
695,311
100,958
594,770
1,419,530

346,690
3,801,549
419,572
3,116,625
7,684,435

7.6%
15.5%
19.4%
16.0%
15.6%

28,499
619,059
69,097
539,699
1,256,355

8.1%
16.3%
21.7%
15.8%
15.9%

Legal Division
Finance and Management Services
Public Affairs
Total District-Wide Support

3,214,397
12,602,872
6,324,827
22,142,095

518,077
2,369,863
1,117,500
4,005,440

2,696,320
10,233,009
5,207,326
18,136,656

16.1%
18.8%
17.7%
18.1%

353,715
1,869,295
930,998
3,154,008

13.3%
17.7%
15.8%
16.5%

Operations Admin & Business Services
Park Operations
Interpretive and Recreation Services
Maintenance and Skilled Trades
Total Operations

9,566,336
40,299,004
12,877,971
18,140,476
80,883,787

2,198,477
6,530,219
2,039,342
2,951,481
13,719,518

7,367,859
33,768,785
10,838,629
15,188,996
67,164,269

23.0%
16.2%
15.8%
16.3%
17.0%

1,419,414
6,406,528
2,084,998
2,684,472
12,595,412

21.3%
17.1%
17.6%
16.0%
17.3%

Administration, Design & Construction
Planning & Land Acquisition
Stewardship Department
Total Acquisition, Stewardship & Development

1,917,930
5,043,253
6,656,545
13,617,728

351,533
905,175
1,211,259
2,467,967

1,566,397
4,138,078
5,445,285
11,149,761

18.3%
17.9%
18.2%
18.1%

261,108
790,025
944,071
1,995,203

17.7%
18.3%
16.0%
17.1%

Public Safety Administration
11,070,211
Police Department
17,014,770
Fire Department
7,882,594
Total Public Safety
35,967,575
Non-departmental
750,000
Transfers Out
11,342,200
Total Expenditures and Transfers Out
173,807,349
^ Current Year to Date (YTD) Actuals excluding Encumbrances.

2,033,868
2,694,273
1,033,599
5,761,740
11,342,200
38,716,396

9,036,343
14,320,497
6,848,995
30,205,834
750,000
$ 134,340,954

18.4%
15.8%
13.1%
16.0%
0.0%
100.0%
22.3%

1,670,398
2,583,422
911,357
5,165,176
15,381,461
$ 39,547,615

17.6%
16.5%
12.6%
15.9%
0.0%
100.0%
24.4%

Notes: The percent of year completed equals 25% at March 31. Variances over or under 10% were reviewed and are explained below.
Prior year data is presented for comparison purposes.
1. Property tax revenues are as expected for the first quarter; payments are primarily received in April (Q2) and December (Q4) each year.
2. Charges for Services were below budget due to cancellations of permits/programs due to the COVID-19 pandemic.
3. Transfers in are at 100% because the transactions are completed immediately after budget adoption.
4. Supplies appear low, however, when encumbrances are included expenditures are on target.
5. Service expenditures appear low in first quarter, however, when encumbrances are included expenditures are on target.
6. Annual $200,000 payment to Livermore Area Recreation & Park District was completed in April 2020 and will be included in Q2 reports.
7. Transfers out are typically completed as soon as the budget for the transfer is approved by the Board.
8. Board expenditures are low in supplies & services primarily because contingency funds have not yet been allocated.
9. Fire department's salary & benefits are lower than expected due to personnel vacancies.
10. Non-departmental expenditures include the remaining $750k planned contribution to the Pension Trust

91

1
2

8

9
10


## Special Revenue Funds

<table>
<thead>
<tr>
<th></th>
<th>Amended Budget 2020</th>
<th>Current YTD(^*$^) Actuals 2020</th>
<th>Budget</th>
<th>% of Budget</th>
<th>Prior YTD(^*$^) Actuals 2019</th>
<th>% Budget at 3/31/19</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Revenues(^*$^)</td>
<td>18,868,829</td>
<td>2,024,363</td>
<td>16,844,466</td>
<td>10.7%</td>
<td>1,714,139</td>
<td>17.7%</td>
</tr>
<tr>
<td>Total Expenditures(^**^)</td>
<td>17,327,860</td>
<td>2,109,655</td>
<td>15,218,204</td>
<td>12.2%</td>
<td>2,468,173</td>
<td>12.3%</td>
</tr>
</tbody>
</table>

Special Revenue funds include Measure CC, LLD funds, Zones of Benefit, and Measure WW Local Grants.

Revenues are low in part because bond fund reimbursements for Measure WW local grants are still in progress.

Expenditures are low primarily because Measure WW local grants have drawn $721k of the $9 million budgeted.

## Project Funds

<table>
<thead>
<tr>
<th></th>
<th>Amended Budget 2020</th>
<th>Current YTD(^*$^) Actuals 2020</th>
<th>Actual vs. % of Budget</th>
<th>Prior YTD(^*$^) Actuals 2019</th>
<th>% Budget at 3/31/19</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Revenues(^*$^)</td>
<td>29,153,333</td>
<td>11,687,382</td>
<td>17,465,950</td>
<td>40.1%</td>
<td>13,434,296</td>
</tr>
<tr>
<td>Total Expenditures(^**^)</td>
<td>75,966,176</td>
<td>4,334,782</td>
<td>71,631,394</td>
<td>5.7%</td>
<td>18,974,412</td>
</tr>
</tbody>
</table>

Project Funds are used primarily for land acquisition and construction. Revenues are reflected at 40.1% of budget due to approval of the 2020 budget appropriations and related transfers-in which are recorded upon approval.

Project fund expenditures are under budget for the 1st quarter, however, when encumbrances are included expenditures are on target.

## Debt Service Funds

<table>
<thead>
<tr>
<th></th>
<th>Amended Budget 2020</th>
<th>Current YTD(^*$^) Actuals 2020</th>
<th>Actual vs. % of Budget</th>
<th>Prior YTD(^*$^) Actuals 2019</th>
<th>% Budget at 3/31/19</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Revenues(^*$^)</td>
<td>29,516,390</td>
<td>4,531,253</td>
<td>24,985,137</td>
<td>15.4%</td>
<td>2,317,454</td>
</tr>
<tr>
<td>Total Expenditures(^**^)</td>
<td>29,319,280</td>
<td>3,049,275</td>
<td>26,270,005</td>
<td>10.4%</td>
<td>3,560,225</td>
</tr>
</tbody>
</table>

Debt Service revenues and expenditures are related to scheduled debt service payments for Measure WW bonds.

## Internal Service Funds

<table>
<thead>
<tr>
<th></th>
<th>Amended Budget 2020</th>
<th>Current YTD(^*$^) Actuals 2020</th>
<th>Actual vs. % of Budget</th>
<th>Prior YTD(^*$^) Actuals 2019</th>
<th>% Budget at 3/31/19</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Revenues(^*$^)</td>
<td>19,286,720</td>
<td>5,456,037</td>
<td>13,830,683</td>
<td>28.3%</td>
<td>2,769,315</td>
</tr>
<tr>
<td>Total Expenditures(^**^)</td>
<td>19,551,303</td>
<td>3,035,251</td>
<td>16,516,053</td>
<td>15.5%</td>
<td>1,906,876</td>
</tr>
</tbody>
</table>

Internal Service funds pay for services that are allocated District-wide, including costs of General Liability, Major Infrastructure, Equipment and Employee Benefits.

Notes:
\(^*^\) Current Year to Date (YTD) Actuals do not include Encumbrances (known obligations/contracts thru March 31).
\(^*^\) including transfers in
\(^**^\) including transfers out

The percent of year completed equals 25% at March 31. Prior year data is presented for comparison purposes.
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D. BUSINESS BEFORE THE BOARD

1. CONSENT CALENDAR


RECOMMENDATION

The General Manager, Board Finance Committee (by unanimous vote), and the Park Advisory Committee recommend that the Board of Directors accept the:

1. Comprehensive Annual Financial Report (CAFR) for the year ended December 31, 2019;
2. Auditor’s Communication with Those Charged with Governance dated June 16, 2020;
3. Single Audit Report (Uniform Guidance); and

REVENUE/COST

There is no cost associated with this action.

BACKGROUND

State law and Board policy calls for the Park District to undergo an independent audit of its financial statements on an annual basis. The Park District contracts with the Certified Public Accounting firm of Brown Armstrong Accountancy Corporation (Brown Armstrong) as the Park District’s independent auditor. They have completed their audit for the period ended December 31, 2019. Based on their review, Brown Armstrong’s Independent Auditor’s Report confirms that the Park District’s financial statements, in all material respects, fairly present the financial position of the Park District and are in conformance with generally accepted accounting principles. Furthermore, during fieldwork, Brown Armstrong found no material weaknesses in the Park District’s internal control structure. In other words, the Park District has received a “clean” audit opinion with no exceptions or qualifications expressed.
Comprehensive Annual Financial Report

SUMMARY

The Park District is in sound financial condition. The complete reconciliation of the 2019 fiscal year, as recorded in detail in this draft CAFR, demonstrates the continuing effectiveness of the Park District’s sustainable financial approach and the strong support of the Board of Directors toward financial transparency and long-term planning. The CAFR records the continuing commitment of public funds to providing services through expenditures on land acquisition, development projects, employee wages and benefits, debt service on bonds, and all required and recommended governmental activities necessary to operate the Park District. These year-end financial results will be used as the basis for making recommendations to the Board of Directors for future budgets. Additional funding related to the COVID-19 response and set aside of funds to prepare for the long-term impacts of the Coronavirus pandemic on future budgets will be considered.

The Government-wide Statement of Net Position (page 31) displays the Park District’s total net position as of December 31, 2019. Net position totaled $847.5 million, which increased by $62.8 million in 2019 primarily due to an increase in capital assets, property tax revenue being greater than budgeted, and salaries and benefits savings due to staff vacancies.

For 2019, governmental funds had an overall decrease in fund balance while the net position of the proprietary fund increased.

- General Fund ending fund balance increased $16.6 million (page 38). This is attributed to increased property tax revenue and interest income, as well as personnel and operating expenditures below budget.
- Debt Service Fund ending fund balance increased $4.5 million (page 38), in preparation for the required March 1 debt service payment due date.
- Project Fund ending fund balance decreased $27.7 million (page 38), due to the use of bond proceeds during the year for acquisition and development project costs.
- Non-major governmental funds increased $1.1 million (page 39) which was similar to prior year.
- Proprietary (Internal Service) fund net position increased $3.0 million (page 45) primarily due to an increase in funding for the Major Infrastructure Renovation and Replacement reserves.

DETAIL

The Financial Section of the Park District’s 2019 Comprehensive Annual Financial Report (CAFR) begins with the Independent Auditors’ Report (page 14), which expresses their opinion that “the financial statements referred to above present fairly, in all material respects, the respective financial position of the governmental activities, each major fund, and the aggregate remaining fund information of the District as of December 31, 2019, and the respective changes in financial position and, where applicable, cash flows thereof for the year then ended in accordance with accounting principles generally accepted in the United States of America.”

Management’s Discussion and Analysis (MD&A) follows and includes financial highlights for the year (page 17), an overview of the financial statements (pages 18-19), and an analysis of the
government-wide (pages 20-22) and the fund financial statements, as noted below (pages 22-24).

Summary Statement of Changes in Net Position
Total Primary Government
For the Years Ended December 31, 2019, and 2018 (in thousands)

Additionally, General Fund budget highlights are included (page 22-23), as are capital asset and debt administration summaries (pages 25-26). Finally, economic factors impacting the 2020 and 2021 budgets are briefly discussed (pages 26-27).

The Government-wide Statement of Net Position and Statement of Activities follow the MD&A. These government-wide statements are reported on the full accrual basis, unlike the Governmental Fund Balance Sheet and Statement of Revenues, Expenditures and Changes in Fund Balances, which are presented on the modified accrual basis. The major differences between full accrual and modified accrual are that full accrual recognizes revenues earned but unavailable, includes depreciation expense, and does not include capital asset and debt service principal costs as expenses. A detailed reconciliation between government-wide and governmental statements are included on pages 37 and 40-41 of the CAFR.

The Statement of Net Position (page 31) includes assets and liabilities not included on the Governmental Fund Balance Sheet, including:

- Capital assets (non-depreciable and depreciable net of depreciation) ($727.2 million)
- Deferred outflows on advance refunding of Measure WW bonds ($2.5 million)
Deferred outflows related to Other Post-Employment Benefits (OPEB) ($2.8 million)
Deferred outflows related to pension liabilities ($30.6 million)
Interest payable on general obligation bonds ($2.1 million)
Compensated absences for governmental funds ($7.0 million)
Long-term debt outstanding (177.8 million)
Pollution remediation obligation ($6.1 million)
Net OPEB liability ($10.0 million)
Net pension liability for the EBRPD and CalPERS pension plans ($127.0 million)
Deferred inflows related to OPEB & pension liabilities ($17.5 million)

Summary Statement of Changes in Net Position
Total Primary Government
For the Years Ended December 31, 2019, and 2018 (in thousands)

<table>
<thead>
<tr>
<th>Governmental Activities</th>
<th>2019</th>
<th>2018</th>
<th>Change From Prior Year</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Assets:</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Current and other assets</td>
<td>$468,915</td>
<td>$464,813</td>
<td>$4,102</td>
</tr>
<tr>
<td>Capital assets, net</td>
<td>727,188</td>
<td>695,894</td>
<td>31,294</td>
</tr>
<tr>
<td>Total assets</td>
<td>1,196,103</td>
<td>1,160,707</td>
<td>35,396</td>
</tr>
<tr>
<td><strong>Deferred outflows of resources</strong></td>
<td>35,876</td>
<td>33,465</td>
<td>2,411</td>
</tr>
<tr>
<td><strong>Liabilities:</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Current and other liabilities</td>
<td>25,810</td>
<td>27,108</td>
<td>(1,298)</td>
</tr>
<tr>
<td>Long-term liabilities</td>
<td>341,257</td>
<td>377,082</td>
<td>(35,825)</td>
</tr>
<tr>
<td>Total liabilities</td>
<td>367,067</td>
<td>404,190</td>
<td>(37,123)</td>
</tr>
<tr>
<td><strong>Deferred inflows of resources</strong></td>
<td>17,451</td>
<td>5,342</td>
<td>12,109</td>
</tr>
<tr>
<td><strong>Net Position:</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Net investment in capital assets</td>
<td>637,478</td>
<td>612,183</td>
<td>25,295</td>
</tr>
<tr>
<td>Restricted</td>
<td>108,183</td>
<td>92,902</td>
<td>15,281</td>
</tr>
<tr>
<td>Unrestricted</td>
<td>101,800</td>
<td>79,555</td>
<td>22,245</td>
</tr>
<tr>
<td>Total net position</td>
<td>$847,461</td>
<td>$784,640</td>
<td>$62,821</td>
</tr>
</tbody>
</table>

The Statement of Activities (page 32) provides revenue and expense information by function, demonstrating the subsidy each function received from general revenues (property tax and unrestricted interest income).

The governmental fund statements, which follow the government-wide statements, include General Fund, Debt Service Fund, Project Fund and Non-Major Funds (detailed information is presented in the Supplementary Information section of the CAFR).

General Fund ending fund balance, included in the governmental fund financial statements (page 38) increased $16.6 million. Comparison of significant items between 2019 and 2018 are as follows:
• General Fund revenues increased $10.7 million for a total of $168.5 million, compared to $157.8 million in 2018, with the largest increases attributed to property tax revenue ($7.6 million) and interest and other investment income ($3.8).

• General Fund expenditures totaled $131.5 million compared to $128.9 million in 2018, with the increase ($2.5 million) primarily due to negotiated wage increases, additional pension contributions and investments in major infrastructure renovation and replacement.

• 2019 General Fund transfers out totaled $22.0 million and funded the following:

<table>
<thead>
<tr>
<th>Projects</th>
<th>$11.6 million</th>
</tr>
</thead>
<tbody>
<tr>
<td>Major Infrastructure Renovation and Replacement Fund</td>
<td>$9.0 million</td>
</tr>
<tr>
<td>Debt Service</td>
<td>$1.4 million</td>
</tr>
</tbody>
</table>

Debt service fund balance, included in the governmental fund financial statements, (page 38) increased $4.5 million in 2019, attributable to an increase in property tax levies for scheduled Measure WW Bond payments.

Project fund balance, included in the governmental fund financial statements (page 38) decreased $27.7 million to an ending fund balance of $115.5 million primarily due to several projects undertaken in 2019 including installation of a new coal mine exhibit at Black Diamond Mines Regional Preserve and design of a new interpretive pavilion at Shadow Cliffs Regional Recreation Area.

Proprietary fund statements (pages 44-46) include internal service funds which are used to account for goods and services provided by the internal service departments to other Park District departments. Funds accounted for in this category include: workers’ compensation, major infrastructure renovation and replacement, major equipment replacement, general liability, and employee benefits.

Fiduciary fund statements (pages 48-49) include information about the EBRPD Retirement Plans, in which the Park District has a fiduciary responsibility over these closed plans.

Notes to the Basic Financial Statements follow (pages 52-97), providing information about significant accounting policies, and details about cash and investments, capital assets, long term liabilities, fund equity, OPEB, and retirement plans and contribution status, as well as other items required to be disclosed.

Required Supplementary Information (RSI) is the next section of the CAFR, and includes the mandated General Fund budget to actual comparison, as noted on the next page (page 101), information related to the funding status of the Park District’s retirement plans (pages 102-108), and information related to the Park District’s OPEB liability and contributions (pages 109-110). As noted on the General Fund budget to actual comparison:

• General Fund revenue exceeded budget by $8.3 million. Of that amount, $4.9 million was the result of increased property tax revenue and $4.0 million the result of higher than anticipated interest earnings.

• General Fund expenditures were less than final appropriations by $14.2 million, the majority of which was related to unexpended repairs and maintenance supplies and
services ($5.3 million) and salary and benefits savings due to position vacancies ($8.4 million).

General Fund – Budget and Actual – Schedule of Revenues, Expenditures and Changes in Fund Balance

<table>
<thead>
<tr>
<th></th>
<th>Original Budget</th>
<th>Final Budget</th>
<th>Actual Amounts</th>
<th>Variance from Final Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>REVENUES</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Property taxes and assessments</td>
<td>$143,900,000</td>
<td>$143,900,000</td>
<td>$148,796,831</td>
<td>$4,896,831</td>
</tr>
<tr>
<td>Charges for services</td>
<td>10,688,070</td>
<td>10,688,070</td>
<td>9,859,358</td>
<td>(828,712)</td>
</tr>
<tr>
<td>Interest</td>
<td>2,550,000</td>
<td>2,550,000</td>
<td>6,505,874</td>
<td>3,955,874</td>
</tr>
<tr>
<td>Property usage</td>
<td>1,744,990</td>
<td>1,793,440</td>
<td>1,909,255</td>
<td>115,815</td>
</tr>
<tr>
<td>Interagency agreements and grants</td>
<td>489,220</td>
<td>339,220</td>
<td>302,101</td>
<td>(37,119)</td>
</tr>
<tr>
<td>Miscellaneous</td>
<td>882,030</td>
<td>921,886</td>
<td>1,125,510</td>
<td>203,624</td>
</tr>
<tr>
<td><strong>Total revenues</strong></td>
<td>160,254,310</td>
<td>160,192,616</td>
<td>168,498,929</td>
<td>8,306,313</td>
</tr>
<tr>
<td><strong>EXPENDITURES</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Current:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Acquisition/Stewardship/Development Division</td>
<td>11,480,320</td>
<td>12,044,332</td>
<td>11,017,942</td>
<td>1,026,390</td>
</tr>
<tr>
<td>Executive/Legislative Division</td>
<td>7,908,350</td>
<td>7,887,707</td>
<td>6,776,726</td>
<td>1,110,981</td>
</tr>
<tr>
<td>Finance/Management Services Division</td>
<td>10,394,900</td>
<td>10,852,898</td>
<td>9,685,456</td>
<td>1,167,442</td>
</tr>
<tr>
<td>Legal Division</td>
<td>2,623,360</td>
<td>2,949,546</td>
<td>2,522,594</td>
<td>426,952</td>
</tr>
<tr>
<td>Operations Division</td>
<td>70,159,010</td>
<td>71,605,587</td>
<td>65,983,523</td>
<td>5,622,064</td>
</tr>
<tr>
<td>Public Affairs Division</td>
<td>5,698,820</td>
<td>5,989,212</td>
<td>5,245,023</td>
<td>744,189</td>
</tr>
<tr>
<td>Public Safety Division</td>
<td>32,027,370</td>
<td>30,697,893</td>
<td>27,158,269</td>
<td>3,539,624</td>
</tr>
<tr>
<td>Capital outlay</td>
<td>1,200,420</td>
<td>3,599,107</td>
<td>3,060,755</td>
<td>538,352</td>
</tr>
<tr>
<td><strong>Total expenditures</strong></td>
<td>141,492,550</td>
<td>145,626,282</td>
<td>131,450,288</td>
<td>14,175,994</td>
</tr>
<tr>
<td><strong>REVENUES OVER EXPENDITURES</strong></td>
<td>18,761,760</td>
<td>14,566,334</td>
<td>37,048,641</td>
<td>22,482,307</td>
</tr>
<tr>
<td><strong>OTHER FINANCING SOURCES (USES)</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sale of capital assets</td>
<td>300,000</td>
<td>150,000</td>
<td>169,807</td>
<td>19,807</td>
</tr>
<tr>
<td>Transfers in</td>
<td>5,000</td>
<td>533,510</td>
<td>1,382,302</td>
<td>848,792</td>
</tr>
<tr>
<td>Transfers out</td>
<td>(15,317,440)</td>
<td>(22,040,221)</td>
<td>(22,040,221)</td>
<td>-</td>
</tr>
<tr>
<td><strong>Total other financing sources (uses)</strong></td>
<td>(15,161,440)</td>
<td>(21,356,711)</td>
<td>(20,488,112)</td>
<td>868,599</td>
</tr>
<tr>
<td><strong>NET CHANGE IN FUND BALANCE</strong></td>
<td>$3,600,320</td>
<td>$ (6,790,377)</td>
<td>$16,560,529</td>
<td>$23,350,906</td>
</tr>
<tr>
<td>Beginning of year</td>
<td></td>
<td></td>
<td>126,700,919</td>
<td></td>
</tr>
<tr>
<td>End of year</td>
<td>$</td>
<td>$143,261,448</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

The Supplementary Information section (pages 113-137) contains details of non-major funds, budget to actual for other governmental funds, and details of internal service funds and fiduciary funds.

The CAFR closes with a statistical section, (pages 141-167) which includes multi-year comparisons of financial information, as well as information about our major revenue source, property tax, additional debt information, and Park District statistics.
**Auditor's Communication with Those Charged with Governance**
This communication clarifies that management is responsible for the selection and use of accounting policies and accounting estimates. It also states that the auditors encountered no difficulties while performing the audit, that there have been no material errors in the Park District's financial records, and that there were no disagreements with management.

**Single Audit Report (Uniform Guidance)**
The auditors reviewed one major federal grant programs and confirmed that the Park District complied, in all material respects, with all requirements of major federal grant funding received during the year ended December 31, 2019. There were no financial statement findings nor any federal award findings or questioned costs.

**Agreed Upon Procedures Applied to Appropriations Limit Calculation**
Since 1990, the California Constitution has placed a restriction on public agencies for the annual amount of appropriations from property taxes (Gann Limit). The appropriation limit is based on population and inflationary factors as applied to the prior year appropriation limit. The 2020 appropriation limit, as adjusted for these factors, was $430.7 million. The amount of Park District 2020 appropriation subject to this limitation is $154.5 million, far below the Gann Spending Limitation.

**Conclusion and Acknowledgements**
The General Manager and Deputy General Manager have been of great assistance and have reviewed the year-end results with the auditors. The preparation and timely completion of the annual financial reports is a significant endeavor for the Finance Department staff members, especially Kimberly Balingit (Accounting Manager), Michelle Strawson O'Hara (Assistant Finance Officer), David Sumner (Audit Manager) and Connie Swisher (Confidential Secretary) who have contributed their time and attention to produce the CAFR. Other Park District staff have also responded cooperatively to the many questions and requests for detailed information that accompanies each audit.

This CAFR will be submitted for the Government Finance Officers Association Certificate of Achievement for Excellence in Financial Reporting and staff expects to receive acknowledgment similar to the awards received by the Park District for the past 19 consecutive years.

**ALTERNATIVES**
No alternatives are recommended.

**ATTACHMENTS**
A. 2019 Comprehensive Annual Financial Report: [http://www.ebparks.org/about/budget#CAFR](http://www.ebparks.org/about/budget#CAFR)
B. Auditor’s Communication with Those Charged with Governance
C. Single Audit Report (Uniform Guidance)
D. Independent Accountants’ Report on 2020 Appropriations Limit Calculation (GANN limit)
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EAST BAY REGIONAL PARK DISTRICT

RESOLUTION NO.: 2020 – 07 -

July 7, 2020

ACCEPTANCE OF THE 2019 COMPREHENSIVE ANNUAL FINANCIAL REPORT, AUDITOR’S COMMUNICATION WITH THOSE CHARGED WITH GOVERNANCE DATED JUNE 16, 2020, SINGLE AUDIT REPORT (UNIFORM GUIDANCE), AND INDEPENDENT ACCOUNTANTS’ REPORT ON AGREED UPON PROCEDURES APPLIED TO 2020 APPROPRIATIONS LIMIT CALCULATION REPORT

WHEREAS, the East Bay Regional Park District has retained the Certified Public Accountants firm of Brown Armstrong Accountancy Corporation (Brown Armstrong) for the purpose of auditing the Park District’s financial statements and records to determine that the statements fairly represent the financial position of the Park District as of December 31, 2019; and

WHEREAS, Brown Armstrong, audited the Park District’s financial statements, and in their opinion the financial statements present fairly, in all material respects, the respective financial position of the governmental activities, each major fund, and the aggregate remaining fund information of the District as of December 31, 2019, and the respective changes in financial position and cash flows, in conformity with Generally Accepted Accounting Principles in the U.S.; and

WHEREAS, Brown Armstrong, audited the Park District’s compliance with reporting requirements (Uniform Guidance) for the Park District’s major federal grant programs for the year ended December 31, 2019; and

WHEREAS, Brown Armstrong also performed agreed upon procedures related to 2020 appropriation limit (Gann limit) and noted no exceptions: and

WHEREAS, Brown Armstrong, in connection with their audit activities, observed Park District procedures and stated their findings and recommendations in the Report to Board of Directors and Management; and

WHEREAS, Brown Armstrong are required under AU-C Section 260 to issue an Auditor’s Communication with Those Charged with Governance letter explaining their responsibility under U.S. GAAS and OMB Circular A-133: and

WHEREAS, these financial statements and reports were reviewed and recommended for acceptance by the Park Advisory Committee on June 22, 2020 and the Board Finance Committee on June 24, 2020,

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the East Bay Regional Park District hereby accepts the:

1. Comprehensive Annual Financial Report for the year ended December 31, 2019; and
2. Auditor’s Communication dated June 16, 2020; and
3. Single Audit Report (Uniform Guidance); and

BE IT FURTHER RESOLVED, that the General Manager and the Chief Financial Officer are hereby authorized and directed, on behalf of the Park 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 , seconded by Director , and adopted this 7th day of July, 2020 by the following vote:

FOR:

AGAINST:

ABSTAIN:

ABSENT:
To the Board of Directors
East Bay Regional Park District
Oakland, California

We have audited the financial statements of the governmental activities, each major fund, and the aggregate remaining fund information of the East Bay Regional Park District (the District) as of and for the year ended December 31, 2019. Professional standards require that we provide you with information about our responsibilities under auditing standards generally accepted in the United States of America, Government Auditing Standards, and the Uniform Guidance, as well as certain information related to the planned scope and timing of our audit. We have communicated such information in our letter to you dated November 15, 2019. Professional standards also require that we communicate to you the following information related to our audit.

Significant Audit Matters

Qualitative Aspects of Accounting Practices
Management is responsible for the selection and use of appropriate accounting policies. The significant accounting policies used by the District are described in Note 1 to the financial statements. As described in Note 1(R) of the financial statements, during the year, the District adopted the provisions of the following: Governmental Accounting Standards Board (GASB) Statement No. 83, Certain Asset Retirement Obligations; GASB Statement No. 84, Fiduciary Activities; and GASB Statement No. 88, Certain Debt Disclosures Related to Debt, Including Direct Borrowings and Direct Payments. We noted no transactions entered into by District during the year for which there is a lack of authoritative guidance or consensus. All significant transactions have been recognized in the financial statements in the proper period.

Accounting estimates are an integral part of the financial statements prepared by management and are based on management’s knowledge and experience about past and current events and assumptions about future events. Certain accounting estimates are particularly sensitive because of their significance to the financial statements and because of the possibility that future events affecting them may differ significantly from those expected. The most sensitive estimates affecting the District’s financial statements were:

- Management’s estimate of the fair value of investments is derived by various methods as detailed in Note 2 to the financial statements. We evaluated the key factors and assumptions used to develop the estimate of the fair value of investments in determining that it is reasonable in relation to the financial statements taken as a whole.
- Estimated useful lives of capital assets - Management's estimates of the lives of capital assets for purposes of calculating annual depreciation expense to be reported in the District’s Statement of Activities, which were determined by management, are based on the nature of the capital assets.
- Management's estimates of the net pension liabilities (NPL) for the District’s defined benefit plans, and the net other post-employment benefits (OPEB) liability (NOL) for the District's defined benefit healthcare plan, are based on actuarial valuations. We evaluated the key factors and assumptions used to develop the estimates of the NPL and the NOL in determining that they are reasonable in relation to the financial statements taken as a whole.
• Risk management liabilities - Accrual and disclosure of risk management liabilities, which include worker's compensation and general liabilities, which were based on actuarial studies performed by an independent actuary. We evaluated the key factors and assumptions used to develop the estimates in determining that they are reasonable in relation to the financial statements taken as a whole.

Certain financial statement disclosures are particularly sensitive because of the significance to the financial statement users. The most sensitive estimates and disclosures affecting the District’s financial statements were:

• Cash and Investments (Note 2)
• Capital Assets (Note 5)
• Other Post-Employment Benefits (Note 10)
• Pension Plans (Note 11)
• Risk Management (Note 13)

The financial statement disclosures are neutral, consistent, and clear.

Difficulties Encountered in Performing the Audit
We encountered no difficulties in dealing with management in performing and completing our audit.

Corrected and Uncorrected Misstatements
Professional standards require us to accumulate all known and likely misstatements identified during the audit, other than those that are clearly trivial, and communicate them to the appropriate level of management. Management has corrected all such misstatements. In addition, none of the misstatements detected as a result of audit procedures and corrected by management were material in the aggregate. However, to the individual major general fund, the following material misstatement was detected as a result of audit procedures, and corrected by management:

| General Fund                  | $1,016,794 |
| Unavailable revenue           | $1,016,794 |
| Receivables-Taxes and other receivables | $1,016,794 |

Disagreements with Management
For purposes of this letter, a disagreement with management is a financial accounting, reporting, or auditing matter, whether or not resolved to our satisfaction, that could be significant to the financial statements or the auditor’s report. We are pleased to report that no such disagreements arose during the course of our audit.

Management Representations
We have requested certain representations from management that are included in the management representation letter dated June 16, 2020.

Management Consultations with Other Independent Accountants
In some cases, management may decide to consult with other accountants about auditing and accounting matters, similar to obtaining a “second opinion” on certain situations. If a consultation involves application of an accounting principle to the District’s financial statements, or a determination of the type of auditor’s opinion that may be expressed on those statements, our professional standards require the consulting accountant to check with us to determine that the consultant has all the relevant facts. To our knowledge, there were no such consultations with other accountants.

Other Audit Findings or Issues
We generally discuss a variety of matters, including the application of accounting principles and auditing standards, with management each year prior to retention as District’s auditors. However, these discussions occurred in the normal course of our professional relationship and our responses were not a condition to our retention.
Other Matters

We applied certain limited procedures to management's discussion and analysis; budgetary comparison schedule for the general fund; the schedule of the changes in net pension liability, related ratios, and contributions; and the schedule of changes in the net other post-employment benefits (OPEB) liability, related ratios, and contributions, which are required supplementary information (RSI) that supplement the basic financial statements. Our procedures consisted of inquiries of management regarding the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We did not audit the RSI and do not express an opinion or provide any assurance on the RSI.

We were engaged to report on combining and individual nonmajor fund financial statements (the supplementary information), which accompany the financial statements but are not RSI. With respect to this supplementary information, we made certain inquiries of management and evaluated the form, content, and methods of preparing the information to determine that the information complies with accounting principles generally accepted in the United States of America, the method of preparing it has not changed from the prior period, and the information is appropriate and complete in relation to our audit of the financial statements. We compared and reconciled the supplementary information to the underlying accounting records used to prepare the financial statements or to the financial statements themselves.

We were not engaged to report on the introductory section and statistical section, which accompany the financial statements but are not RSI. Such information has not been subjected to the auditing procedures applied in the audit of the basic financial statements, and accordingly, we do not express an opinion or provide any assurance on it.

Restriction on Use

This information is intended solely for the information and use of the Board of Directors and management of the District and is not intended to be, and should not be, used by anyone other than these specified parties.

BROWN ARMSTRONG ACCOUNTANCY CORPORATION

Bakersfield, California
June 16, 2020
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EAST BAY REGIONAL PARK DISTRICT

SINGLE AUDIT REPORT
(UNIFORM GUIDANCE)

FOR THE YEAR ENDED
DECEMBER 31, 2019
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Compliance and Other Matters

As part of obtaining reasonable assurance about whether the District’s financial statements are free from material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under Government Auditing Standards.

The District's Response to Finding

The District’s response to the finding identified in our audit is described in the accompanying schedule of findings and questioned costs. The District’s response was not subjected to the auditing procedures applied in the audit of the financial statements and, accordingly, we express no opinion on it.

Purpose of this Report

This report is intended solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the District’s internal control or on compliance. This report is an integral part of an audit performed in accordance with Government Auditing Standards in considering the District’s internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

Bakersfield, California
June 16, 2020
INDEPENDENT AUDITOR’S REPORT ON COMPLIANCE FOR EACH MAJOR PROGRAM AND ON INTERNAL CONTROL OVER COMPLIANCE REQUIRED BY THE UNIFORM GUIDANCE

To the Board of Directors
East Bay Regional Park District
Oakland, California

Report on Compliance for Each Major Federal Program

We have audited the East Bay Regional Park District’s (District) compliance with the types of compliance requirements described in the U.S. Office of Management and Budget (OMB) Compliance Supplement that could have direct and material effect on each of the District’s major federal programs for the year ended December 31, 2019. The District’s major federal programs are identified in the summary of auditor’s results section of the accompanying Schedule of Findings and Questioned Costs.

Management’s Responsibility

Management is responsible for compliance with federal statutes, regulations, and the terms and conditions of its federal awards applicable to its federal programs.

Auditor’s Responsibility

Our responsibility is to express an opinion on compliance for each major federal program based on our audit of the types of compliance requirements referred to above. We conducted our audit of compliance in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in Government Auditing Standards, issued by the Comptroller General of the United States; and the audit requirements of Title 2 U.S. Code of Federal Regulations Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance). Those standards and the Uniform Guidance require that we plan and perform the audit to obtain reasonable assurance about whether noncompliance with the types of compliance requirements referred to above that could have a direct and material effect on a major federal program occurred. An audit includes examining, on a test basis, evidence about the District’s compliance with those requirements and performing such other procedures as we considered necessary in the circumstances.

We believe that our audit provides a reasonable basis for our opinion on compliance for each major federal program. However, our audit does not provide a legal determination of the District’s compliance.

Opinion on Each Major Federal Program

In our opinion, the District complied, in all material respects, with the types of compliance requirements referred to above that could have a direct and material effect on each of its major federal programs for the year ended December 31, 2019.
Report on Internal Control Over Compliance

Management of the District is responsible for establishing and maintaining effective internal control over compliance with the types of compliance requirements referred to above. In planning and performing our audit of compliance, we considered the District’s internal control over compliance with the types of requirements that could have a direct and material effect on each major federal program to determine the auditing procedures that are appropriate in the circumstances for the purpose of expressing our opinion on compliance for each major federal program and to test and report on internal control over compliance in accordance with the Uniform Guidance, but not for the purpose of expressing an opinion on the effectiveness of internal control over compliance. Accordingly, we do not express an opinion on the effectiveness of the District’s internal control over compliance.

A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance with a type of compliance requirement of a federal program on a timely basis. A material weakness in internal control over compliance is a deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a type of compliance requirement of a federal program will not be prevented, or detected and corrected, on a timely basis. A significant deficiency in internal control over compliance is a deficiency, or a combination of deficiencies, in internal control over compliance with a type of compliance requirement of a federal program that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Our consideration of internal control over compliance was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control over compliance that might be material weaknesses or significant deficiencies. We did not identify any deficiencies in internal control over compliance that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

Report on Schedule of Expenditures of Federal Awards Required by the Uniform Guidance

We have audited the financial statements of the governmental activities, each major fund, and the aggregate remaining fund information of the District, as of and for the year ended December 31, 2019, and the related notes to the financial statements, which collectively comprise the District’s basic financial statements. We issued our report thereon dated June 16, 2020, which contained unmodified opinions on those financial statements. Our audit was conducted for the purpose of forming opinions on the financial statements that collectively comprise the basic financial statements. The accompanying Schedule of Expenditures of Federal Awards is presented for purposes of additional analysis as required by the Uniform Guidance and is not a required part of the basic financial statements. Such information is the responsibility of management and was derived from and relates directly to the underlying accounting and other records used to prepare the basic financial statements. The information has been subjected to the auditing procedures applied in the audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the basic financial statements or to the basic financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the Schedule of Expenditures of Federal Awards is fairly stated in all material respects in relation to the financial statements as a whole.

The purpose of this report on internal control over compliance is solely to describe the scope of our testing of internal control over compliance and the results of that testing based on the requirements of Uniform Guidance. Accordingly, this report is not suitable for any other purpose.

BROWN ARMSTRONG ACCOUNTANCY CORPORATION

Bakersfield, California
June 16, 2020
### U.S. Department of Interior

Office: Bureau of Reclamation  
Central Valley Project Conservation Program  
District Wide Longhorn Fairy Shrimp & Vernal Pool Study  
Federal CFDA Number: 15.564  
Federal Expenditures: $23,792  
Passed-Through To Subrecipients: $-

Office: Fish and Wildlife Service  
Passed through East Contra Costa County Habitat Conservancy  
Cooperative Endangered Species Conservation Fund  
Olesen Acquisition  
Federal CFDA Number: 15.615  
Passed through East Contra Costa County Habitat Conservancy  
Federal Expenditures: $512,250  
Passed-Through To Subrecipients: $-

Office: National Park Service  
Passed through California Department of Parks and Recreation  
Outdoor Recreation Acquisition, Development and Planning  
Bay Point Shoreline - Restoration and Public Access  
District Wide Longhorn Fairy Shrimp & Vernal Pool Study  
Federal CFDA Number: 15.916  
Passed through California Department of Parks and Recreation  
Federal Expenditures: $81,560  
Passed-Through To Subrecipients: $-

Office: National Park Service  
Cultural Resources Management  
Port Chicago Memorial Signs  
Federal CFDA Number: 15.946  
Passed through National Park Service  
Federal Expenditures: $60,570  
Passed-Through To Subrecipients: $-

**Total U.S. Department of Interior**  
Federal Expenditures: $678,172  
Passed-Through To Subrecipients: $-

### U.S. Department of Homeland Security

Office: FEMA  
Passed through CalOES  
Disaster Grants - Public Assistance DR-4301  
Las Trampas - Repair Rocky Ridge Road  
District Wide - Repair Three Ponds  
Hayward Shoreline - Dredge Ponds and Repair Levees  
District Wide - Repair Trail/Road Slope  
District Wide - Repair Culverts  
Black Diamond - Restore 3 Bonds  
Vasco Hills - Repair Ponds  
District Wide - Repair Slopes  
Federal CFDA Number: 97.036  
Passed through CalOES  
Federal Expenditures: $260,339  
Passed-Through To Subrecipients: $-

**Total Passed through CalOES**  
Federal Expenditures: $260,339  
Passed-Through To Subrecipients: $-
### U.S Department of Homeland Security (Continued)

**Passed through California Emergency Management Agency**
- Hazard Mitigation Grant
  - District Wide - Oakland PDM06- East Bay Hill Fuels Management: 97.039, 2006-0004, $344,128
  - District Wide - Local Hazard Mitigation Plan Update: 97.039, 001-91010-DR1731, $830,912
- **Total Passed through California Emergency Management Agency**: $1,175,040

**Passed through Alameda County**
- Homeland Security Grant
  - District Wide - Replace Helicopter Camera: 97.067, 2016-00102, $200,000
- **Total Passed through Alameda County**: $200,000

**Total U.S. Department of Homeland Security**: $1,635,379

**TOTAL CURRENT EXPENDITURES OF FEDERAL AWARDS**: $2,313,551
NOTE 1 – BASIS OF PRESENTATION

The accompanying schedule of expenditures of federal awards (Schedule) includes the federal award activity of the East Bay Regional Park District (the District) under programs of the federal government for the year ended December, 31, 2019. The information in the Schedule is presented in accordance with the requirements of Title 2 U.S. Code of Federal Regulations Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance). Because the Schedule presents only a selected portion of the operations of the District, it is not intended to and does not present the financial position, changes in net position, or cash flows of the District.

NOTE 2 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Expenditures reported on the Schedule are reported on the modified accrual basis of accounting. Such expenditures are recognized following the cost principles contained in the Uniform Guidance, wherein certain types of expenditures are not allowable or are limited as to reimbursement.

NOTE 3 – CATALOG OF FEDERAL DOMESTIC ASSISTANCE (CFDA) NUMBERS

The CFDA numbers included in this report were determined based on the program name, review of grant contract information, and the General Services Administration office’s Catalog of Federal Domestic Assistance.

NOTE 4 – PASS-THROUGH ENTITIES’ IDENTIFYING NUMBER

When federal awards were received from a pass-through entity, this shows, if available, the identifying number assigned by the pass-through entity. When no identifying number is shown, the District has determined that no identifying number is assigned for the program or the District was unable to obtain an identifying number from the pass-through entity.

NOTE 5 – INDIRECT COST RATE

The District has not elected to use the 10-percent de minimis indirect cost rate allowed under the Uniform Guidance.
SCHEDULE FINDINGS AND QUESTIONED COSTS
I. SUMMARY OF AUDITOR’S RESULTS

Financial Statements

1. Type of auditor’s report issued: Unmodified

2. Internal control over financial reporting:
   a. Material weakness identified? ___ Yes X No
   b. Significant deficiencies identified not considered to be material weaknesses? X Yes ___ No

3. Noncompliance material to financial statements noted? ___ Yes X No

Federal Awards

1. Internal control over major federal programs:
   a. Material weakness identified? ___ Yes X No
   b. Significant deficiencies identified not considered to be material weaknesses? ___ Yes X No

2. Type of auditor’s report issued on compliance for major programs: Unmodified

3. Any audit findings disclosed that are required to be reported in accordance with the Uniform Guidance? ___ Yes X No

4. Identification of major programs:
   
<table>
<thead>
<tr>
<th>CFDA Numbers</th>
<th>Name of Federal Program or Cluster</th>
</tr>
</thead>
<tbody>
<tr>
<td>97.039</td>
<td>Hazard Mitigation Grant</td>
</tr>
</tbody>
</table>

5. Dollar threshold used to distinguish between Type A and Type B programs: $750,000

6. Auditee qualified as low-risk auditee under the Uniform Guidance? X Yes ___ No

II. FINANCIAL STATEMENT FINDINGS

Finding 2019-001 – Unavailable Property Tax Revenue (Significant Deficiency)

Criteria

In accordance with Accounting Principles Generally Accepted in the United States of America, financial statements should be free of any material misstatements.
**Condition**

During our review of the unavailable revenue calculation for property taxes, we noted that that two of the 2019-20 estimated assessment levy amounts were not correctly reported in the current year.

**Cause of Condition**

Delays in receiving estimates from the County due to COVID-19 closures contributed to this Management oversight when preparing the worksheet.

**Effect or Possible Effect of Condition**

The effect resulted in a material overstatement of $1.016 million for unavailable revenues a deferred inflow of resources and taxes and other receivables on the balance sheet in the General Fund. There was no impact to the Statement of Revenues, Expenditures, and Changes in Fund Balances.

**Recommendation**

We recommend that management thoroughly review all worksheets that are prepared.

**Management Response and Corrective Action Plan**

Management has corrected the finding of the overstatement of the 2019-2020 tax levy estimates that impacted accounts receivable and unavailable revenue on the General Fund Balance Sheet. Management has taken the corrective action of applying due diligence when reviewing the District’s audit workpapers supporting the CAFR.
No findings in the prior year.
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INDEPENDENT ACCOUNTANT’S REPORT
ON APPLYING AGREED-UPON PROCEDURES

To the Board of Directors
East Bay Regional Park District
Oakland, California

We have performed the procedures enumerated below to the accompanying Appropriations Limitation Worksheet for the East Bay Regional Park District (the District), which were suggested by the League of California Cities and presented in the publication entitled Agreed Upon Procedures Applied to the Appropriations Limitation Prescribed by Article XIII-B of the California Constitution and agreed to by the District for the year ended December 31, 2020, were performed solely to assist the District in meeting the requirements of Section 1.5 of Article XIII-B of the California Constitution. The District management is responsible for the Appropriations Limit Increment. The sufficiency of the procedures is solely the responsibility of the specified users of this report. Consequently, we make no representation regarding the sufficiency of the procedures for which this report has been requested or for any other purpose.

The following procedures were performed and our results are described below:

A. We obtained the accompanying Appropriations Limitation Worksheet and determined that the District calculated its 2020 Appropriations Limit at $430,693,503 and annual adjustment factors used were adopted by resolution of the Board of Directors. We also determined that the population and inflation options were selected by a recorded vote of the Board of Directors.

Results: No exceptions were noted as a result of our procedures.

B. For the accompanying Appropriations Limitation Worksheet, we added last year’s limit to the annual adjustment, and agreed the resulting amount to this year’s limit.

Results: No exceptions were noted as a result of our procedures.

C. For the accompanying Appropriations Limitation Worksheet, we agreed the current year information to the appropriations supporting worksheets described in Letter A above.

Results: No exceptions were noted as a result of our procedures.

D. For the accompanying Appropriations Limitation Worksheet, we agreed the prior year appropriations limit to the prior year appropriations limit as adopted by the Board of Directors.

Results: No exceptions were noted as a result of our procedures.
This agreed-upon procedures engagement was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. We were not engaged to, and did not, conduct an examination or review, the objective of which would be the expression of an opinion or conclusion, respectively, on the accompanying Appropriations Limit Increment. Accordingly, we do not express such an opinion or conclusion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you. No procedures have been performed with respect to the determination of the appropriation limit for the base year, as defined by Article XIII-B of the California Constitution.

This report is intended for the information of management and the District’s Board of Directors, and is not intended to be, and should not be, used by anyone other than these specific parties; however, this restriction is not intended to limit the distribution of this report, which is a matter of public record.

BROWN ARMSTRONG
ACCOUNTANCY CORPORATION

Bakersfield, California
June 16, 2020
EAST BAY REGIONAL PARK DISTRICT
APPROPRIATIONS LIMITATION WORKSHEET
FOR THE YEAR ENDED DECEMBER 31, 2020

A. Last Year’s Limit $ 412,434,304
B. Adjustment Factors:
   1. Population % 1.00556
   2. Inflation % 1.0385
   Total Adjustment % 1.0443
C. Annual Adjustment 18,259,199
D. This Year’s Limit* $ 430,693,503

*Amount may not calculate exactly due to the rounding of percentages.
NOTE 1 – PURPOSE OF LIMITED PROCEDURES REVIEW

Under Article XIII-B of the California Constitution (the Gann Spending Limitation Initiative), California governmental agencies are restricted as to the amount of annual appropriations from proceeds of taxes. Effective for years beginning on or after July 1, 1990, under Section 1.5 of Article XIII-B, the annual calculation of the appropriations limit is subject to a limited procedures review in connection with the annual audit.

NOTE 2 – METHOD OF CALCULATION

Under Section 1.5 of Article XIII-B, for fiscal years beginning on or after July 1, 1990, the appropriations limit is required to be calculated based on the limit for the fiscal year 1986-1987 adjusted for the inflation and population factors discussed in Notes 3 and 4 below.

NOTE 3 – POPULATION FACTORS

A California governmental agency may use as its population factor either the annual percentage change of the jurisdiction’s own population or the annual percentage change in population of counties where the jurisdiction is located. The factor adopted by the East Bay Regional Park District (the District) for the year 2020 represents the annual percentage change in population for the County of Alameda and County of Contra Costa.

NOTE 4 – INFLATION FACTORS

A California governmental agency may use as its inflation factor either the annual percentage change in the 4th quarter per capita personal income (which percentage is supplied by the State Department of Finance) or the percentage change in the local assessment roll from the preceding fiscal year due to the change of local nonresidential construction. The factor adopted by the District for the year 2020 represents the annual percentage change for per capita personal income.

NOTE 5 – OTHER ADJUSTMENTS

A California government agency may be required to adjust its projected appropriations limit when certain events occur, such as the transfer of responsibility for services to, or from, another government agency or private entity. The District had no expected adjustments for the year ending December 31, 2020.
AGENDA
REGULAR MEETING
BOARD OF DIRECTORS
EAST BAY REGIONAL PARK DISTRICT
Tuesday, July 7, 2020

D. BUSINESS BEFORE THE BOARD

2. ACQUISITION, STEWARDSHIP & DEVELOPMENT DIVISION

a. Certification of Environmental Impact Report, including Adoption of the CEQA Findings Report and the Associated Mitigation, Monitoring, and Reporting Program; and Adoption of the Land Use Plan: Concord Hills Regional Park (Holt/Kelchner)

RECOMMENDATION

The General Manager recommends that the Board of Directors:

1. Make Findings and certify the Environmental Impact Report for the Concord Hills Regional Park Land Use Plan (as amended by the Errata), including adoption of the CEQA Findings report and the associated Mitigation, Monitoring and Reporting Program; and

2. Adopt the Concord Hills Regional Park Land Use Plan.

REVENUE/COST

There are minor filing fees associated with filing the CEQA notices. There are no other direct costs related to the proposed actions. Funding for future implementation of the Land Use Plan (LUP) recommendations will be considered through the regular Park District budget procedures, grant opportunities, and other project financing strategies.

BACKGROUND

Native American groups lived in the East Bay for thousands of years. The Chupcan, a sub-group of the people now known as Bay Miwok, lived the lower Diablo Valley, including the project area and what are now the sites of the cities of Concord and Walnut Creek. The large land grants known as Rancho Los Medanos (8,860 acres) and Rancho Monte del Diablo (17,920 acres covering most of present-day Concord and the project area) were given by the Mexican government in the 1830s and encompassed mountains, plains, and coastal areas between the current communities of Walnut Creek and Concord to Antioch and Pittsburg. The ranchos were primarily used as cattle operations, many of which relied on Bay Miwok laborers. The California Gold Rush of 1848 transformed the state and cattle ranching, orchards, and sheep grazing dominated use of the landscape until discovery of coal on the slopes of Mount Diablo led to an
influx of population as mining took hold. The mining boom ended in the 1880s and agricultural use of much of the project area resumed its prominence with establishment of new dairy farms, walnut orchards, and grain fields.

Following the bombing of Pearl Harbor in 1941, the United States Navy, (Navy) established the former Naval Magazine Port Chicago, as a subordinate facility to the nearby Mare Island depot. The facility originally served as a transfer depot where sailors worked 24 hours a day to unload ammunition from train cars onto ships destined for the Pacific Theatre during World War II.

Subsequent to a deadly explosion of ammunitions being loaded at Port Chicago on July 17, 1944, the Navy acquired an additional 6,300 acres of inland property for development of revetments and magazines and became the principal ammunition loading port and storage point for ammunition and explosives on the Pacific Coast. The base was re-designated as the U.S. Naval Weapons Station Concord, or Concord Naval Weapons Station (CNWS) in 1963 and continued to operate through the Vietnam, Korean, and Cold War era conflicts.

The inland area of the CNWS was deactivated in 1997 due to changes in military operations at which time Congressman George Miller facilitated a joint use study to identify potential uses for the area not in operation by the Navy. A list of potential joint use concepts was developed by the East Bay Regional Park District (Park District), Contra Costa County, and the City of Concord that focused on recreation and open space use of the property. The report was presented to the U.S. Navy in 2000, but implementation of the recommendation was stalled following the heightened security concerns related to the events of September 11, 2001.

The Base Realignment and Closure (BRAC) Commission recommended closure of the 5,028-acre inland area of the CNWS in November of 2005.

Since that time, the Park District has worked closely with the National Park Service (NPS), the City of Concord, the Navy and various state and federal regulatory agencies in planning for reuse of the inland portion of the CNWS. The Park District’s efforts have also included participation as a member of the Concord Community Reuse Project Technical Advisory Group and Community Advisory Council.

Details of the various plans, approvals, and agreements that have been put in place since the formal closure of the CNWS are provided below.

CONCORD COMMUNITY REUSE PROJECT REUSE PLAN

Following closure of the inland area of the CNWS, the Concord City Council was appointed as the Local Reuse Authority (LRA) authorized with developing a Reuse Plan that would guide the disposition and development of the former CNWS. Pursuant to federal base closure law, the City of Concord solicited interest from local agencies and homeless service providers regarding interest in the property and uses that should be considered in the development of the Reuse Plan.

The Park District submitted a Letter of Interest to the City of Concord, serving as the LRA, on
September 26, 2007 expressing interest in a Public Benefit Conveyance (PBC) of a significant portion of the former CNWS and an interest in working closely with the City of Concord to identify the appropriate areas that should be reserved for open space preservation and passive recreation.

The City of Concord adopted the Concord Community Reuse Plan and Environmental Impact Report in 2010. The City adopted the “Clustered Villages” alternative that sought to maximize open space protection while balancing development and resource conservation. The “Clustered Villages” concept largely preserved the eastern portion of the property for parks and open space, while designating the western portion of the property for development of approximately 12,000 homes, 6 million square feet of commercial development, and various other uses including over 700 acres of community and neighborhood parks. The Reuse Plan designated 2,387 acres as “open space” to be conveyed to the Park District through a PBC for the purposes of establishing a new regional park consistent with the Park District’s letter of interest issued in 2007.

The Reuse Plan became the basis for federal environmental review and analysis under the National Environmental Policy Act (NEPA) to evaluate the disposition and redevelopment of federal property and analysis under federal resource protection and environmental remediation policies.

CONCORD COMMUNITY REUSE PROJECT AREA PLAN

In 2012, the Concord City Council (City Council), sitting as the LRA, approved the Concord Community Reuse Project Area Plan. The LRA then developed the Area Plan to incorporate the Reuse Plan into the City’s General Plan, converting the goals and concepts developed in the Reuse Plan into a set of policies and standards for local land use, transportation, environmental protection, affordable housing, that would become a part of the City’s General Plan for the area of the former CNWS.

The Area Plan reaffirmed the prior City Council’s direction on the Reuse Plan and designated up to 2,537 acres of the former CNWS as conservation open space for the purposes of establishing a new regional park to be conveyed to the Park District through a PBC.

NATIONAL PARK SERVICE – FEDERAL LANDS TO PARKS PROGRAM

On September 3, 2013, the Board of Directors authorized the Park District (Resolution 2013-9-198) to submit an application to the NPS for a PBC through the Federal Lands to Parks Program. The Park District requested approximately 2,540 acres of the surplus property through a PBC for public park and recreational use, by application to the NPS dated September 26, 2013.

On May 8, 2014, the NPS approved the Park District’s application for a PBC and submitted a “Request for Assignment” to the U.S. Navy for up to 2,540 acres for the purposes of public park and recreation purposes and granting a public benefit allowance of 100 percent of fair market value of the property. The PBC is to be developed and used in accordance with the Program of Utilization for which the Park District’s draft Land Use Plan, described below, is the basis.
NATIONAL HISTORIC PRESERVATION ACT (SECTION 106)

On April 10, 2017, Section 106 of the Memorandum of Agreement (MOA) between the Navy, the California State Historic Preservation Office, the City of Concord (City), and Park District was executed, in accordance with the provisions of the National Historic Preservation Act, which sets forth in full all obligations of the signatories under the National Historic Preservation Act and implementing regulations.

The Navy identified two historic properties (both prehistoric archaeological sites) in the inland area of the CNWS; one of these resources is located within the PBC area. As outlined in the MOA, the Park District will protect and preserve the resource within a Resource Conservation Area as identified in the preferred alternative of the LUP.

FEDERAL ENDANGERED SPECIES ACT (SECTION 7)

On May 30, 2017, the United States Fish and Wildlife Service issued a Biological Opinion (BO) pursuant to Section 7 of the Endangered Species Act for the transfer and redevelopment of the former CNWS, including the Park District’s future Concord Hills Regional Park. The BO designates the majority of the undeveloped area of the PBC as a conservation area and identifies conservation measures to be implemented by both the City and the Park District for the protection and preservation of three federally listed species on the PBC area as part of the transfer and as mitigation for impacts associated with development of the EDC portion of the property.

The BO also identifies what recreational activities can occur and where recreational facilities can be sited. The BO, and its associated Long-Term Management Plan, were developed in close consultation with the City and in conjunction with the preferred alternative for the aforementioned Concord Hills Regional Park Land Use Plan and is consistent with the future park plans. The Park District continues to work with the City of Concord regarding funding agreements necessary for the City to establish endowments necessary to ensure the long-term management of the conservation area.

COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT

On August 30, 2017, pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), the Navy issued a Phase I Finding of Suitability to Transfer (FOST) for 2,216 acres of the PBC area determining that this area is environmentally suitable for assignment to NPS for deed transfer to the Park District.

The FOST identified the need for Land Use Controls in two areas of magazines, Groups 3 and 5. The Land Use Controls states that no residential uses can be established in these areas. Since these areas would be parklands and no residential use is proposed or contemplated, these Land Use Controls would be consistent with the Park District’s preferred alternative LUP.

An additional 327.82 acres will remain under the ownership of the Navy until it is determined to
be environmentally suitable for assignment by subsequent FOST(s). The Park District and the Navy entered into a Memorandum of Understanding (MOU), described below, that provides for the Park District’s management of the areas retained by the Navy and future conveyance to the Park District once deemed suitable for transfer.

NATIONAL ENVIRONMENTAL POLICY ACT

On September 29, 2017, the Navy issued a Record of Decision (ROD) in the Federal Register recording its compliance with the National Environmental Policy Act (NEPA) and completing its Environmental Impact Statement (EIS). The EIS evaluated the disposal and reuse of the former CNWS, including the planned Concord Hills Regional Park, consistent with the Park District’s draft LUP.

MEMORANDUM OF UNDERSTANDING

On September 4, 2018, the Board of Directors authorized the Park District (Resolution 2018-09-222) to enter into a MOU with the Navy and NPS to formally establish the cooperation and coordination necessary between the Park District and the federal agencies in obtaining the approvals necessary to complete the transfer of property and to ensure implementation of the obligations established through the aforementioned BO and Section 106 MOA.

RECPROCAL EASEMENT AGREEMENT

On May 21, 2019, the Board of Directors authorized the Park District (Resolution 2019-05-099) to enter a Reciprocal Easement Agreement (REA) with the Navy and City of Concord for purposes of ingress, egress, general access, infrastructure development, and utility service.

The agencies identified the need to establish a general agreement providing for access, utility coordination, and infrastructure development; however, the details and exact locations of necessary easements have not yet been defined. Establishment of a general reciprocal easement agreement prior to assignment the PBC property will facilitate establishment of more specific easement agreements as additional design and project details are developed.

ASSIGNMENT OF PHASE I PROPERTY TO NPS

On June 12, 2019, the Navy issued a letter formally assigning the Phase 1 PBC property to the NPS. The Phase I assignment consists of the 2,216 acres found suitable for transfer through the Phase I FOST. An additional 327.82 acres will be assigned in future phases once deemed suitable for transfer. The Phase I assignment acknowledges the Navy agrees with the transfer of the property through a 100% public benefit conveyance through the Federal Lands to Parks Program recognizing the highest and best use of the property for park and recreation purposes.

TRANSFER OF PHASE I PROPERTY TO PARK DISTRICT

With the assignment of the Phase 1 property to the NPS and completion of the MOU providing for the Park District’s management of the Navy retained parcels, and with the Board’s action on
July 2, 2019 (Board Resolution 2019-07-176), the Park District now has constructive possession and management of the PBC area allowing the Park District to commence land management activities in advance of transfer to the Park District of the grant deed. The Park District will continue to work with the NPS to complete the legal descriptions, deed language, and other real estate items necessary for the NPS to formally transfer fee title to the Park District.

CONCORD HILLS LAND USE PLAN

On December 16, 2014, the Board of Directors authorized the Park District (Resolution 2014-12-322) to initiate the development of a Land Use Plan (LUP) and Environmental Impact Report (EIR) for the future Concord Hills Regional Park (Exhibit 1). Staff has developed the LUP in coordination with the Navy’s disposal and reuse process and the various regulatory agreements described below. “Concord Hills Regional Park” has been the working name for the park since 2013; a formal naming process is underway, and the Board Executive Committee, the Park Advisory Committee and the full Board of Directors will take up the selection of a new park name in July and August, 2020.

The LUP (Exhibit 2) has been developed with extensive community input through multiple public meetings, presentations to the Concord Reuse Project Community Advisory Committee, and input from a project stakeholder group made of City of Concord residents and representatives from numerous interested organizations. Additionally, staff has provided the Park District Board of Directors, Park Advisory Committee, and Executive Committee regular updates at key points of development of the LUP.

The LUP includes an extensive trail network, picnic facilities, backcountry and group camping sites, environmental and historic interpretation, and a potential visitors center highlighting the history of the Port Chicago Naval Magazine National Memorial and Diablo Valley history. Additionally, the plan incorporates conditions of the National Historic Preservation Act and Endangered Species Act, described below, for the Concord Reuse Project, including designating a substantial portion of the PBC area as a conservation area for mitigation purposes for the Concord Reuse Project.

The LUP and associated environmental review was released to the public on October 19, 2019, and final versions were released on May 1, 2020.

Land Use Plan Summary
The vision for the Regional Park is supported by five goals. These goals guided the development of the Land Use Plan, and will guide the ongoing development, implementation, and management of the Regional Park:

- **Biological Resources:** Preserve and manage the Regional Park for the protection, enhancement, and restoration of natural resources and reduced risk of wildfire.
- **Cultural and Historic Resources:** Preserve, develop, and manage the Regional Park to benefit the overall landscape character of the parklands and specific cultural and historic resources.
- Circulation and Trails: Develop and manage the Regional Park to complete gaps in regional trails networks, provide a range of recreational trails throughout the Regional Park, and facilitate and encourage multi-modal access to the site (e.g. bike, pedestrian, vehicular, public transit), while utilizing existing disturbed and developed areas and buildings to the extent practicable.

- Recreation and Education Facilities: Develop and manage recreational and educational facilities that offer a range of opportunities to experience the unique natural, cultural, social, and military history of the CNWS and the Central Contra Costa County region.

- Interpretive Facilities: Establish a historical interpretation program and visitor center in partnership with the National Park Service, with support from and in collaboration with the Friends of Port Chicago and others, to honor the veterans who served at the CNWS, to convey the significance of the events at Port Chicago, and to provide displays on the history of Concord and the Diablo Valley region, and to allow convenient public access to the National Park Service’s Port Chicago Naval Magazine National Memorial.

The purpose of the LUP is to guide the development and management of the Regional Park over a period of at least fifty years, with consideration to the site’s natural and cultural resources, recreational and educational opportunities, and relationship to the Concord Reuse Project. The following summarizes key recommendations of the LUP:

- Parkland planning units: Within the expansive 2,543-acre Regional Park, the footprint of recreational uses will be limited to 86 acres (three percent of the total area). Natural Units will constitute approximately 95 percent of the Regional Park, including Special Protection Features on 620 acres, which will be areas where public access will be restricted.

- Biological resources program: The Park District will provide biological resource protection, limitation of public access in certain areas with protected species, and create habitat improvements by removing railroad tracks and former military buildings and structures.

- Magazine reuse: On the Park District property are approximately 75 former weapons magazines. These spaces can be repurposed for other uses, such as picnic sites or locations for arts and cultural expression or habitat enhancement. These magazines offer the Park District a unique opportunity for interpretation and education.

- Visitor Center Complex: The Complex will be the heart of the park, a retrofit of Building IA-24, previously used by the Navy as a machine shop. In partnership with NPS, the Complex will provide a central information hub for the public to learn about the Park and the history of the land, including histories of native peoples, Diablo Valley, the military and the events at Port Chicago.

- Pedestrian/bicycle and equestrian access: the LUP includes trail connections between Concord Hills Regional Park and four neighboring regional trails.

- Trails: The Regional Park will provide a variety of trail experiences for park users. There will be over 22 miles of trails within the Regional Park, as well as over five miles of maintenance roads and former rail lines that will be open for recreational use.

- Camping and Picnic sites: The Regional Park will include one large reservable group campsite and one reservable backcountry campsite. There will be five (5) group picnic sites and 13 small picnic areas.
• The Diablo Center: A new facility will provide an opportunity for special events away from the central activity areas of the Regional Park.
• Community Orchard: Will be located surrounding the remnants of the historic Navy homestead and orchard south of Bailey Road.

CALIFORNIA ENVIRONMENTAL QUALITY ACT

The Park District issued a Notice of Preparation (NOP) on June 23, 2017 for the Environmental Impact Report (EIR) to the Concord Hills LUP. The Park District held a scoping meeting to hear public comment on June 29, 2017, at the Concord Senior Center. The draft Concord Hills Land Use Plan and Draft EIR was released on October 18, 2019 (Exhibit 3). The Park District held three opportunities for the public to comment on the LUP and EIR: a community meeting at the future park, on October 26, 2019; a Park Advisory Committee meeting on November 25, 2019; a Board Executive Committee meeting on December 5, 2019. Comments were also received in writing. Seven comments were received during the comment period, and responses to comments were included in the Final EIR, published May 1, 2020 (Exhibit 4).

The public hearing for the adoption of the EIR and the LUP was originally scheduled for June 2, 2020. On May 29, 2020, after close of the public comment period, distribution of the Final EIR and publication of Board meeting materials, the Park District received two comment letters related to the LUP and EIR. Although not legally obligated to, in order to fully review and analyze the contents of the letters, the Board of Directors continued the public hearing on the consideration of the EIR and the Concord Hills Regional Park LUP to the July 7, 2020 Board meeting. After review of the comment letters received, staff, in consultation with the project consultants, believe there is no significant new information requiring recirculation of the Draft EIR pursuant to Public Resources Code section 21092.1 or CEQA Guidelines Section 15088.5; the current EIR is legally adequate. Although not mandated by CEQA, the District and its consultant PlaceWorks prepared responses to those late comments in a technical analysis (Responses to Late Comments), which included an Errata that adopts minor clarifications and revisions to the EIR. The Errata and Responses to Late Comments are included with this Staff Report as Exhibits 5 and 6, respectively. The Draft and Final EIR found no significant impacts that could not be mitigated to a less than significant level.

Prior to approving the LUP, the Board of Directors is requested to take the following actions: adoption of the Mitigation Monitoring and Reporting Program (MMRP) (Exhibit 7), adoption of the Findings Report (Exhibit 8), and certification of the EIR (as amended by the Errata).

ALTERNATIVES

No alternatives are recommended.

EXHIBITS

• Exhibit 1: Location Map
• Exhibit 2: Land Use Plan (May 1, 2020) — available on project website, https://www.ebparks.org/about/planning/cnws.htm
- Exhibit 3: Executive Summary of Draft EIR — available on project website, https://www.ebparks.org/about/planning/cnws.htm
- Exhibit 4: Final EIR — available on project website, https://www.ebparks.org/about/planning/cnws.htm
- Exhibit 5: Errata to Final EIR — available on project website, https://www.ebparks.org/about/planning/cnws.htm
- Exhibit 6: Responses to Late Comments — available on project website, https://www.ebparks.org/about/planning/cnws.htm
- Exhibit 7: Mitigation, Monitoring and Reporting Plan — available on project website, https://www.ebparks.org/about/planning/cnws.htm
- Exhibit 8: CEQA Findings — available on project website, https://www.ebparks.org/about/planning/cnws.htm
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A RESOLUTION MAKING FINDINGS AND CERTIFYING THE ENVIRONMENTAL IMPACT REPORT FOR THE CONCORD HILLS REGIONAL PARK LAND USE PLAN, INCLUDING ADOPTION OF THE CEQA FINDINGS REPORT AND THE ASSOCIATED MITIGATION, MONITORING, AND REPORTING PROGRAM: CONCORD HILLS REGIONAL PARK

WHEREAS, a Land Use Plan (LUP) for the future regional park at a portion of the former Concord Naval Weapons Station has been prepared for the purposes of: developing and managing the regional park for the protection, enhancement, and restoration of natural resources and reduced risk of wildfire; protecting and interpreting cultural and historic resources; completing gaps in regional trails networks and providing a range of recreational trails; developing and managing recreational, interpretive and educational facilities to experience the unique natural, cultural, social and military history of the parklands; and

WHEREAS, the East Bay Regional Park District (Park District) determined that an Environmental Impact Report (EIR) was required to evaluate the impacts of the proposed LUP; and

WHEREAS, the Park District issued a Notice of Preparation (NOP) on June 23, 2017 for the EIR to the Concord Hills LUP; and

WHEREAS, the Park District held a scoping meeting to hear public comment on the NOP on June 29, 2017, at the Concord Senior Center; and

WHEREAS, a Draft EIR was prepared that provides an evaluation of the potential for the proposed project to result in significant environmental impacts, recommends mitigation measures to address those potential impacts, and concludes that with mitigation measures included in the Mitigation, Monitoring, and Reporting Program (MMRP), these potential impacts would be reduced to a less than significant level; and

WHEREAS, on October 18, 2019, the Park District issued a Notice of Availability to the California Governor’s Office of Planning and Research, and issued a Notice of Availability of the Draft EIR for the project on October 18, 2019 to responsible and trustee agencies and the public, initiating the public review period; and

WHEREAS, the Park District held three opportunities for the public to comment on the LUP and EIR: a community meeting at the future park, on October 26, 2019; a Park Advisory Committee meeting on November 25, 2019; a Board Executive Committee meeting on December 5, 2019; and
WHEREAS, during the public review period, the Park District received seven comments, but no individual or agency provided substantial evidence that a significant adverse environmental impact would occur if the project were adopted, or evidence that required substantial changes or alterations to the project, the impact analysis; and

WHEREAS, the Final EIR was released on May 1, 2020, consisting of the Draft EIR, Comments, and Response to Comments on the Draft EIR, and has been completed in compliance with CEQA; and

WHEREAS, after the close of the CEQA comment period and publication of the Final EIR, the Park District received two additional comment letters, which were addressed in a separate technical analysis; and

WHEREAS, in consideration of the late comments, the Park District prepared an Errata to the EIR, which makes minor changes and clarifications to the EIR and MMRP, none of which require recirculation of the EIR; and

WHEREAS, feasible alternatives to the proposed project have been analyzed and the EIR concludes that the project is the environmentally superior alternative; and

WHEREAS, the MMRP consists of mitigation measures recommended in the EIR for the project and mitigation and monitoring requirements, and has been completed in compliance with the California Environmental Quality Act (CEQA); and

WHEREAS, the MMRP and the Findings Report were presented to the Park District's Board of Directors on July 7, 2020, who reviewed and considered the information contained in these CEQA components prior to considering approval of the project; and

WHEREAS, the East Bay Regional Park District is the custodian of the documents and other material which constitute the record of the proceedings upon which its decision is made at its administrative office, located at 2950 Peralta Oaks Court, Oakland, California, 94605;

NOW, THEREFORE, BE IT RESOLVED that based on the entirety of the record before it, which includes without limitation, the California Environmental Quality Act, Public Resources Code § 21000, et seq. (CEQA) and the CEQA Guidelines, 14 California Code of Regulations § 15000, et seq.; the Concord Hills Land Use Plan, the Concord Hills Land Use Plan EIR, including the Draft and Final EIR, all appendices thereto, and the June 24, 2020 Response to Comments Letter and Errata; all reports, minutes, and public testimony submitted as part of the Board of Director’s July 7, 2020 meeting and any other evidence (within the meaning of Public Resources Code §§ 21080(e) and 21082.2), the Board of Directors of the East Bay Regional Park District hereby finds as follows:

1. The foregoing recitals are true and correct and made a part of this Resolution.
2. The exhibits and attachments, including the Environmental Impact Report for the Concord Hills Land Use Plan (attached as Exhibit 4), Errata to Final EIR (attached as Exhibit 5), Responses to Late Comments (attached as Exhibit 6), the Mitigation Monitoring and Reporting Program (attached as Exhibit 7), and the CEQA Findings (attached as Exhibit 8), are each incorporated by reference as part of this Resolution, as if set forth fully herein.

3. The Final EIR for the project (as amended by the Errata) was prepared and completed in compliance with Public Resources Code section 21000 et seq. and the State CEQA Guidelines section 15000 et seq.

4. Based on the Board of Directors' independent judgment and analysis, the Board of Directors makes the findings regarding the Land Use Plan's potentially significant impacts and less than significant impacts, proposed mitigation measures, and Project alternatives, attached hereto and incorporated by reference.

BE IT FURTHER RESOLVED that the Board of Directors of the East Bay Regional Park District hereby certifies that the Environmental Impact Report for the Concord Hills Regional Park Land Use Plan (as amended) has been prepared in compliance with CEQA, reflects the Park District's independent judgment and analysis, and was presented to the Board of Directors which reviewed and considered the information in the Final EIR, and:

BE IT FURTHER RESOLVED, that the Board of Directors hereby adopts the Mitigation, Monitoring, and Reporting Program; and

BE IT FURTHER RESOLVED, that the Board of Directors hereby adopts the Findings Report; 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, including the filing of a Notice of Determination with the Contra Costa County Clerk’s Office pursuant to Public Resources Code § 21152(a) and CEQA Guidelines § 15094(a).

Moved by Director , seconded by Director , and adopted this 7th day of July, 2020, by the following vote:

FOR:

AGAINST:

ABSTAIN:

ABSENT:
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WHEREAS, the United States Department of the Navy (Navy) deactivated the inland area of the Concord Naval Weapons Station (CNWS) in 1997; and

WHEREAS, in 1999, Congressman George Miller initiated a Joint Use Study with participation from Contra Costa County, the City of Concord, and the East Bay Regional Park District (Park District) to identify joint use of the property where the concepts developed focused on park and open space use of the property and were presented to the Navy, but never implemented due to security concerns in the wake of the events of September 11, 2001; and

WHEREAS, the Base Realignment and Closure (BRAC) Commission recommended closure of the CNWS in 2005; and

WHEREAS, on March 6, 2007, the Navy declared approximately 5,028 acres of property at the former CNWS to be surplus to the needs of the federal government; and

WHEREAS, on September 26, 2007, the Board of Directors authorized the East Bay Regional Park District to submit a Letter of Interest to the City of Concord, as the Local Reuse Authority, expressing interest in a Public Benefit Conveyance (PBC) of a portion of the former CNWS; and

WHEREAS, the City of Concord adopted the Concord Community Reuse Project in 2010 that designated 2,387 acres as “open space” for the establishment of a new regional park to be conveyed to the Park District through a PBC through the Federal Lands to Parks Program; and

WHEREAS, the City of Concord adopted the Concord Community Reuse Project Area Plan in 2012 that incorporates the Reuse Project into the City’s General Plan and designated 2,537 acres as conservation open space to be conveyed to the Park District for a new regional park; and

WHEREAS, on September 3, 2013, the Board of Directors authorized the Park District to submit an application to the National Park Service (NPS) for 2,540 acres of the surplus property for public park and recreational use through a PBC authorized (Board Resolution 2013-9-198); and
WHEREAS, on December 14, 2014, the Board of Directors authorized the Park District to initiate the development of a Land Use Plan (LUP) and Environmental Impact Report (EIR) for the future Concord Hills Regional Park (Board Resolution 2014-12-322); and

WHEREAS, on April 10, 2017, a Section 106 Memorandum of Agreement (MOA) between the Navy, the California State Historic Preservation Officer, the City of Concord, and Park District was executed, in accordance with the provisions of the National Historic Preservation Act, including provisions for protection of one identified archaeologic site within the PBC area; and

WHEREAS, on May 30, 2017, the United States Fish and Wildlife Service issued a Biological Opinion (BO) pursuant to Section 7 of the Endangered Species Act for the transfer and redevelopment of the former CNWS, including the Park District’s future Concord Hills Regional Park; and

WHEREAS, on July 28, 2017, issued a Finding of Suitability to Transfer (“FOST”) where the Navy determined that 2,216 acres of the PBC area is environmentally suitable for assignment to NPS for deed transfer to the Park District; and

WHEREAS, approximately 327.82 acres of the PBC area will continue to be under the ownership of the Navy until it is determined to be environmentally suitable for assignment by subsequent FOST(s); and

WHEREAS, on September 29, 2017, issued a Record of Decision (ROD) in the Federal Register recording its compliance with the National Environmental Policy Act (NEPA) and completing its Environmental Impact Statement (EIS), which evaluated the disposal and reuse of the CNWS including the future Concord Hills Regional Park; and

WHEREAS, on September 4, 2018, the Board of Directors authorized the Park District to enter into a MOU with the Navy and National Park Service to formally establish the cooperation and coordination necessary between the Park District and the federal agencies in obtaining the approvals necessary to complete the transfer of property and to ensure implementation of the obligations established through the aforementioned BO and Section 106 MOA (Board Resolution 2018-09-222); and

WHEREAS, on May 21, 2019, the Board of Directors authorized the Park District to enter a Reciprocal Easement Agreement (REA) with the U.S. Navy and City of Concord for purposes of ingress, egress, general access, infrastructure development, and utility service (Board Resolution 2019-05-099); and

WHEREAS, on June 12, 2019, the Navy issued a letter formally assigning the Phase I PBC property to the National Park Service. The Phase I assignment consists of the 2,216 acres found suitable for transfer through the Phase I FOST; and

WHEREAS, on July 2, 2019, the Board of Directors authorized the Park District to accept the Phase I Public Benefit Conveyance of 2,216.02 acres through a no cost Public Benefit
Conveyance through the National Park Service Federal Lands to Parks program (Board Resolution 2019-07-176); and

WHEREAS, the Land Use Plan proposes developing and managing the regional park for the protection, enhancement, and restoration of natural resources and reduced risk of wildfire; proposes to develop and manage the park to protect and interpret cultural and historic resources; to complete gaps in regional trails networks; and to provide a range of recreational trails throughout the regional park; and to develop and manage recreational, interpretive and educational facilities to experience the unique natural, cultural, social and military history of the parklands; and

WHEREAS, on May 7, 2020, the Board Executive Committee reviewed the LUP and EIR and recommended its consideration by the full Board of Directors; and

WHEREAS, on May 18, 2020, the Park District’s Park Advisory Committee reviewed the LUP and the EIR and recommended its consideration by the full Board of Directors; and

WHEREAS, on June 2, 2020, the Board of Directors continued the public hearing for the LUP and EIR, in order to allow staff time to analyze and respond to late comments received after the expiration of the CEQA comment period and after the Park District’s publication of the Final EIR; and

WHEREAS, “Concord Hills” is a working name for the future regional park and the Board of Directors will adopt a final name in a future and separate action; and

WHEREAS, on July 7, 2020, the Final EIR was presented to the Park District’s Board of Directors who reviewed and considered the information provided in the EIR and Errata making minor revisions and clarifications to the EIR; and

WHEREAS, on July 7, 2020, by separate resolution, the Park District’s Board of Directors certified the EIR for the project, including adoption of the CEQA Findings Report and the accompanying Mitigation, Monitoring and Reporting Plan for the EIR; and

WHEREAS, the East Bay Regional Park District is the custodian of the documents and other material which constitute the record of the proceedings upon which its decision is made at its administrative office, located at 2950 Peralta Oaks Court, Oakland, California, 94605;

NOW, THEREFORE, BE IT RESOLVED that based on the entirety of the record before it, which includes without limitation, the California Environmental Quality Act, Public Resources Code § 21000, et seq. (CEQA) and the CEQA Guidelines, 14 California Code of Regulations § 15000, et seq.; the Concord Hills Land Use Plan, the Concord Hills Land use Plan EIR, including the Draft and Final EIR, all appendices thereto, the June 24, 2020 Response to Comments and Errata; all reports, minutes, and public testimony submitted as part of the Board of Director’s July 7, 2020 meeting and any other evidence (within the meaning of Public Resources Code §§ 21080(e) and 21082.2), the Board of Directors of the East Bay Regional Park District hereby finds as follows:
1. The foregoing recitals are true and correct and made a part of this Resolution.

2. By separate Resolution, the Board of Directors, exercising its independent judgment and analysis, has found that an EIR was prepared for the Concord Hills LUP in accordance with CEQA, and certifies the EIR for the Concord Hills LUP.

BE IT FURTHER RESOLVED, that the Board of Directors of the East Bay Regional Park District hereby adopts the Land Use Plan for the Concord Hills Regional Park, with the following recognition:

1) That the Park District Board of Directors will select a name for the new regional park in a separate resolution; 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 , seconded by Director , and adopted this 7th day of July, 2020, by the following vote:

FOR:

AGAINST:
ABSTAIN:
ABSENT:
Exhibit 1
Board of Directors - July 7, 2020
Concord Hills Regional Park

Phase 1
Public Benefit Conveyance to EBRPD

Vicinity Map
MEMORANDUM

DATE June 24, 2020
TO Attn: Yolande Barial Knight, Clerk of the Board
East Bay Regional Park District, Board of Directors
Robert E. Doyle, General Manager
2950 Peralta Oaks Court
Oakland, California 94605
FROM PlaceWorks
SUBJECT Errata to the Concord Hills Land Use Plan Final EIR

This Errata to the Concord Hills Land Use Plan Final Environmental Impact Report (EIR) is provided in response to late public comments. This Errata further documents and explains the trip generation calculations supporting the air quality, GHG, and traffic analysis in the EIR. It also includes revisions to the EIR.

Addition - Trip Generation Data

DRAFT EIR TRIP AND VISITOR ESTIMATES

Draft EIR Trip Estimates
Trip estimates for the proposed project were calculated based off of the visitor estimate prepared for the project and reflects the assumption that 10 percent of visitors would walk or bike to the site. Table 1 presents the trip estimates utilized in the Draft EIR analysis.

As reflected in the sections below, the trip data utilized in the Draft EIR (and shown in Table 1) are based on conservative (i.e., high) visitor estimates and are higher than trip data based on the Institute of Transportation Engineers (ITE) Trip Generation Manual. Therefore, the trip data used in the Draft EIR analysis is considered to be robust and more than reasonable to support the conclusions in the Draft EIR, and no revisions to the Draft EIR are required.
Visitor Estimates

The visitor estimates on which the Draft EIR trip estimates are based are in Table 4 at the end of this Errata. The visitor estimates are conservatively high, as described further below. By using the visitor estimates as the basis of trip calculations, the EIR reflects a conservative approach.

The assumption that 10 percent of park visitors at full buildout would walk or bike to the Regional Park is conservative, in that a higher percentage of visitors can be reasonably expected to walk or bike to the park. As stated on page 3-39 of the Draft EIR:

> While the majority of visitors would be expected to arrive by car, some visitors, especially those from adjoining residential neighborhoods, would arrive by bike or by walking. . . . Based on use patterns at existing regional parks with similar surroundings, the District anticipates that 20 percent, and ultimately as many as 50 percent, of visits would arrive on foot or on bikes. However, for the purposes of the analysis in this EIR, it is assumed that 10 percent of trips at full buildout are expected to arrive via transit or on bikes or on foot.

Visitor estimates were developed for each phase of the project buildout based on the anticipated demand and capacity of the proposed access features (including trail mileage and number of picnic

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Notes:

a. Visitor data in the Draft EIR (966 weekday, 2,398 weekend) reflected total site usage of all facilities and did not account for visitors who would utilize more than one facility. For the purposes of trip generation, the visitor number assumes the following visitors are making internal trips (i.e., they are accessing another on-site use during their visit): Small Picnic, Group Picnic (weekend only), Group Campsite, Backcountry Campsite, and Phase 3 Increased Joint Visitor Center.

b. Assumes one third of weekday visitors and two thirds of weekend visitors are families and/or group carpoolers (i.e., 4 visitors per car).

c. Assumes three buses or school buses will visit the site daily (accommodating approximately 100 people).

d. Assumes 2 people per car for all other visitors.

areas and other access features). Estimates considered visitation data from the National Park Service’s nearby sites, District staffing projections for Land Bank Status and Phase 1, National Recreation and Park Association standards for estimating visitation, and visitation at other District facilities. All estimates were intentionally conservative (i.e. representing a “worst-case” scenario). For example, trail capacity was assumed to be 90 users per day per mile, based on National Recreation and Park Association standards for urban trails, rather than the standards for rural trails (the National Recreation and Park Association standard is 90 users per day per mile on urban trails and 40 users per day per mile on rural trails). Estimates for the Regional Park visitor center considered National Park Service data for visitation at nearby sites (ranging from 45,000 to 75,000 annual visitors) and assumed over 40,000 in Phase 2 and over 60,000 in Phase 3 for the visitor center alone. Estimates were also considered against visitation rates at other District parks. Based on 2016 visitation data, annual park visitation ranges from approximately 60,000 to over 1 million annually for parks with more amenities and attractions that are located in proximity to higher density areas. Concord Hills Regional Park will have important destinations such as the Joint Use Visitor Center but will primarily be used for passive recreation, and therefore would be expected to have visitation rates similar to other passive recreation areas such as Anthony Chabot Regional Park which received 419,000 visitors in 2016.

Whereas visitor data is calculated for park planning purposes based on anticipated visitor demand for planned features and amenities (e.g., anticipating the number of trail users, the number of parking spaces needed throughout the site at various facilities, the number and location of restrooms needed, etc), the trip data is calculated based on anticipated mode share and mobility patterns. As noted in Table 1, whereas visitor estimates reflect the total number of users of all facilities at the Regional Park, trip estimates account for the expectation that many visitors will utilize more than one facility during their visit. For example, a person using a campsite or picnic area will also utilize a trail during their visit. As mentioned in the notes in Table 1, for the purposes of trip generation, it was assumed that the following visitors are making internal trips (i.e., they are accessing another on-site use during their visit): Small Picnic, Group Picnic (weekend only), Group Campsite, Backcountry Campsite, and Phase 3 Increased Joint Visitor Center. (These visitor categories align with the categories used in the visitor estimates in Table 4 of this Errata.)

As further noted the references in Table 1, trip estimates also reflect that many visitors will travel to the site as groups or as families. It is assumed that one third of weekday and two thirds of weekend visitors will be making group trips. All other park visitors arriving via car are assumed to travel with two persons per vehicle. Many of the park facilities will be geared toward families and groups, such as the Visitor Center Complex multi-purpose room for community gatherings, amphitheater for outdoor programming, reservable group picnic areas and smaller informal picnic areas, and the proposed Diablo Center.

Additionally, trip estimates reflect that up to three buses will access the site daily. As shown on Figure 3-3 of the Draft EIR, the Regional Park is located in close proximity to many schools. As described above, the Regional Park would include many facilities geared toward and reservable for groups. In addition to the facilities noted above, the Regional Park would include many educational facilities and would be a desirable location for field trips. The proposed Visitor Center Complex would provide
information about the park and historic information about the Port Chicago Naval Magazine National Memorial. In addition, the Regional Park would provide magazine exhibit space, a War and Peace Interpretive Trail, outdoor classrooms, trails along historic rail corridors, overlooks, and a community orchard with educational programming.

Trip estimates also reflect the assumption that 10 percent of park visitors will walk or bike to the site. As described on page 3-39 of the Draft EIR, this assumption is conservatively low, as the District anticipates that up to half of visitors may ultimately walk or bike to the site. Moreover, trip estimates do not assume that any users will access the site via transit, despite the Land Use Plan’s proposed connection to the Mount Diablo Creek Trail that is planned as a greenway to connect to North Concord/Martinez BART station. Again, this means the visitor and trip generation rates are remarkably conservative.

Lastly, the total visitation estimate for Phase 3 (560,909 total annual visitors) assumes that visitation will be greater than visitation to Anthony Chabot Regional Park, even though Chabot is located in much closer proximity to dense Bay Area communities and has numerous attractions compared to the Regional Park being analyzed in this EIR.

INSTITUTE OF TRANSPORTATION ENGINEERS TRIP GENERATION MANUAL

Trip generation calculations presented below that use the Institute of Transportation Engineers (ITE) Trip Generation Manual are based on the Land Use Plan’s Recreation/Staging Units area of 126 acres.\(^1\) Because land use categories for parks were revised in the 10\(^{th}\) edition of the ITE Trip Generation Manual, the information below presents trip generation calculations for both the 9\(^{th}\) and 10\(^{th}\) editions.

ITE Trip Generation Manual, 10\(^{th}\) Edition

Using standard trip rates from the most recent ITE Trip Generation Manual, 10\(^{th}\) Edition, for a Public Park (land use category 411), which is defined in the manual as public parks owned by a municipal, county, State, or federal agency, the proposed project could be expected to generate 98 weekday daily trips (i.e., approximately six times lower than the trip data utilized for the Draft EIR and shown in Table 1). Please see Table 2.

\(^1\) The trip generation estimates are based on the Recreation/Staging Units area of 126 acres as ITE’s description of this land use category (411) acknowledged that park areas that are used more intensively varied across the studies considered and cautioned against use of acreage as an independent variable. The 126-acre area includes the area of park under trail use and expected to accommodate active and passive uses by park visitors. Given that the remaining 95 percent of the Regional Park is dedicated to conservation and is severely restricted for public access and use, applying the ITE trip generation rate to the 126 acres of park area was deemed appropriate and reasonable.
### Table 2  Trip Generation Using ITE Trip Generation Manual, 10th Edition

<table>
<thead>
<tr>
<th>Land Use</th>
<th>ITE Code</th>
<th>Size  (Acres)</th>
<th>Weekday Daily</th>
<th>AM Peak Hour</th>
<th>PM Peak Hour</th>
<th>Weekday AM Peak Hour</th>
<th>PM Peak Hour</th>
</tr>
</thead>
<tbody>
<tr>
<td>Public Park</td>
<td>411</td>
<td>126</td>
<td>0.78</td>
<td>0.02</td>
<td>0.11</td>
<td>98</td>
<td>3</td>
</tr>
</tbody>
</table>


### ITE Trip Generation Manual, 9th Edition

Because land use categories for parks were revised in the 10th edition of the ITE Trip Generation Manual, and reflect a reduced rate per acre, the information below presents trip generation calculations for the 9th edition using two ITE land use categories.

As shown in Table 3, using standard trip rates for a Regional Park (land use category 417), the proposed project could be expected to generate 576 weekday daily trips (i.e., 10 trips fewer than the trip data utilized for the Draft EIR and shown in Table 1).

As shown in Table 3, using standard trip rates for a County Park (land use category 412), the proposed project could be expected to generate 287 weekday daily trips (i.e., less than half of the trips considered in the Draft EIR and shown in Table 1).

### Table 3  Trip Generation Using ITE Trip Generation Manual, 9th Edition

<table>
<thead>
<tr>
<th>Land Use</th>
<th>ITE Code</th>
<th>Size  (Acres)</th>
<th>Weekday Daily</th>
<th>AM Peak Hour</th>
<th>PM Peak Hour</th>
<th>Weekday AM Peak Hour</th>
<th>PM Peak Hour</th>
</tr>
</thead>
<tbody>
<tr>
<td>Regional Park</td>
<td>417</td>
<td>126</td>
<td>4.57</td>
<td>0.04</td>
<td>0.20</td>
<td>576</td>
<td>6</td>
</tr>
<tr>
<td>County Park</td>
<td>412</td>
<td>126</td>
<td>2.28</td>
<td>0.02</td>
<td>0.09</td>
<td>287</td>
<td>3</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Phasing</th>
<th>Typical Visitation</th>
<th>Events</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Weekday</td>
<td>Weekend</td>
</tr>
<tr>
<td>Land Bank Status</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Naturalist-led Tours</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Phase 1 – South of Baily Road</td>
<td>220</td>
<td>736</td>
</tr>
<tr>
<td>Trails</td>
<td>165</td>
<td>496</td>
</tr>
<tr>
<td>Group Picnic</td>
<td>25</td>
<td>75</td>
</tr>
<tr>
<td>Small Picnic</td>
<td>15</td>
<td>45</td>
</tr>
<tr>
<td>Group Campsite</td>
<td>10</td>
<td>100</td>
</tr>
<tr>
<td>Community Orchard</td>
<td>5</td>
<td>20</td>
</tr>
<tr>
<td>Phase 2 - Joint Visitor Center Complex and Initial Park Trails</td>
<td>564</td>
<td>1,766</td>
</tr>
<tr>
<td>Continued visitation from Phase 1</td>
<td>220</td>
<td>736</td>
</tr>
<tr>
<td>Trails - Phase 2</td>
<td>268</td>
<td>805</td>
</tr>
<tr>
<td>Joint Visitor Center and Associated Structures</td>
<td>75</td>
<td>225</td>
</tr>
<tr>
<td>POCH Annual Commemorative Event</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Mid-sized events</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Phase 3 - Build Out</td>
<td>1,074</td>
<td>2,665</td>
</tr>
<tr>
<td>Continued visitation from Phase 1 and Phase 2</td>
<td>564</td>
<td>1,766</td>
</tr>
<tr>
<td>Trails - Phase 3</td>
<td>200</td>
<td>600</td>
</tr>
<tr>
<td>Joint Visitor Center- Assumed increased use in Phase 3</td>
<td>225</td>
<td>56</td>
</tr>
<tr>
<td>POCH Annual Commemorative Event</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Mid-sized events</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Group Picnic</td>
<td>38</td>
<td>113</td>
</tr>
<tr>
<td>Small Picnic</td>
<td>18</td>
<td>53</td>
</tr>
<tr>
<td>Backcountry Campsite</td>
<td>13</td>
<td>25</td>
</tr>
<tr>
<td>The Diablo Center Education/Event Space</td>
<td>18</td>
<td>53</td>
</tr>
</tbody>
</table>

Revisions to the EIR

The text below presents changes to the Draft EIR that resulted from preparation of responses to comment letters received from Farella Braun + Martel and the California Native Plant Society. In each case, the page and location on the page in the Draft EIR is presented, followed by the text revision. Underline text represents language that has been added to the EIR; text with strikethrough has been deleted from the EIR. The revisions in this chapter do not require recirculation of the Draft EIR because they do not constitute “significant new information” under Section 15088.5 of the CEQA Guidelines.

Table 3-3 on page 3-40 of the Draft EIR is hereby amended as follows:

<table>
<thead>
<tr>
<th>Mode</th>
<th>Typical Visitors</th>
<th>Typical Weekend Visitors</th>
</tr>
</thead>
<tbody>
<tr>
<td>Auto</td>
<td>1,018</td>
<td>2,450</td>
</tr>
<tr>
<td>Bike or Walk</td>
<td>107</td>
<td>266</td>
</tr>
<tr>
<td><strong>Total Visitors</strong></td>
<td><strong>1,125</strong></td>
<td><strong>2,716</strong></td>
</tr>
</tbody>
</table>

Note: These totals include staff. Source: PlaceWorks, 2018.

The last paragraph on page 4.3-39, continuing onto page 4.3-40, of the Draft EIR is hereby amended as follows:

Although no special-status plant species have been identified on the project site, there is potential for one species with a California rare plant ranking of Rank 1B (rare, threatened, or endangered in California and elsewhere), big tarplant, to be present on the site. Conservation of CRPR 1B species is important because their populations contribute to preserving the genetic resources for the species and ensuring persistence of rare species in the county and state. Thus, the proposed Land Use Plan, which has been prepared consistent with the Long-Term Management Plan (LTMP), includes a management prescription (identified as BIO 25)\(^{51}\) to monitor and document the presence and relative abundance of special-status species, including big tarplant, within the project site over time and inform management to aid this species.\(^{54}\) In addition, the proposed Land Use Plan includes management prescriptions BIO 17 through BIO 20 to minimize the spread of existing nonnative invasive plants and prevent the unintentional introduction and spread of invasive plant species that can degrade the value of habitat for native species (see also the discussion under Impact BIO-2).

\(^{51}\) Concord Hills Regional Park Land Use Plan, 2019, Table 4-1
\(^{54}\) City of Concord and East Bay Regional Park District, December 3, 2018, Concord Reuse Project Area Plan On-Site Conservation Lands Long-Term Management Plan, prepared by H.T. Harvey & Associates.
Mitigation Measure BIO-1.1a on page 4.3-40 of the Draft EIR was revised in the Final EIR; the text is hereby restored to its original language, as follows:

Mitigation Measure BIO-1.1a: Pre-Activity Survey. A focused survey for big tarplant will be conducted within suitable habitat in areas of the project site that may experience ground disturbing activities. The surveys will be conducted prior to initial ground disturbance and during the appropriate blooming period (late summer and early fall). The survey area will include all suitable habitat that may be impacted as well as a 50-foot buffer. Surveys are to be conducted in a year with near-average or above-average precipitation. The purpose of the surveys will be to assess the presence or absence of big tarplant. If this species is not found in the survey area, then no further mitigation will be warranted. If big tarplant is found in the impact area, then Mitigation Measures BIO-1.1b and BIO-1.1c will be implemented.

Mitigation Measure BIO-1.1c on page 4.3-41 of the Draft EIR is hereby amended as follows:

Mitigation Measure BIO-1.1c: Implementation of Plan Management Prescriptions BIO-8 through BIO-16. Management of Existing Populations. The destruction of populations of big tarplant on the project site shall be mitigated by specifically managing portions of the Regional Park’s open grasslands within designated Natural Units that support this species, or occupied habitat on other District lands. The vast majority of the Los Medanos Hills and areas located southeast of Bailey Road are not proposed for development. These same areas represent the most suitable habitat for big tarplant on the project site. A review of the regional occurrences of this species reported in various databases reveals that off-site populations generally occur on specific soil types (namely Altamont clay, Altamont-Fontana Complex, and Diablo clay). These same soil types underlie much of the Natural Units within the project boundaries. As such, in the event that big tarplant is impacted by construction activities, the species may also be present within areas that will not be impacted. Either within the project site or on other District lands that support big tarplant, the District will manage and monitor the population in perpetuity as part of the District’s long-term management of the area supporting big tarplant. Such management will occur at a 2:1 (mitigation:impact) ratio in terms of the number of individual plants, specific habitat management measures (i.e., Plan management prescriptions BIO-8 through BIO-16 identified in Chapter 4 of the proposed Land Use Plan) to enhance the open space for the California red-legged frog, California tiger salamander, and burrowing owl, will also benefit the germination, growth, and long-term viability of populations of the big tarplant, if it is present.

Mitigation Measure BIO-3a on page 4.3-58 of the Draft EIR is hereby amended as follows:

Mitigation Measure BIO-3a: Permitting. Prior to placing any fill in jurisdictional wetlands and/or other waters of the U.S. or state, the District will provide the necessary permit application/notification materials to the USACE for a Clean Water Act Section 404 permit, to the RWQCB for Clean Water Act Section 401 water quality certification, and to the CDFW for a Fish and Game Code Section 1602 Streambed Alteration Agreement, as applicable (e.g.,
impacts to jurisdictional wetlands that are not in a channel may not necessitate CDFW notification). The District will comply with all conditions of these permits/agreements when performing the work—for example, if any. At a minimum, the District shall provide compensatory mitigation at a ratio of at least 1:1 (acres lost to acres preserved or restored). Compensatory mitigation shall ensure that replacement wetlands or waters provide equal or greater habitat and aquatic function and value either on-site or off-site, required by one or more permit/agreement, then the District will provide such mitigation in accordance with permit/agreement requirements.

The section “Construction Noise and Vibration” on page 4.11-18, continuing onto page 4.11-19, of the Draft EIR is hereby amended as follows:

Like stationary-source noise, construction noise and vibration impacts are confined to a localized area of impact. Cumulative impacts would only occur if other projects were being constructed in the immediate vicinity of the project’s construction activities at the same time as the project. Construction noise and vibration associated with implementation of the proposed Plan would be phased over 31 years. Proposed project construction would involve a limited construction effort in relation to the 2,543-acre proposed project site, due both to the relatively small development area (35 acres) and because many proposed facilities would involve adaptive reuse of existing buildings or reuse of parts of existing buildings. In addition, construction sites would be scattered throughout the site. The proposed visitor center is likely to be the closest portion of the Plan that would involve the construction of buildings and grading to potential future developments under the Concord Reuse Project. As discussed above, at a distance of 100 feet from a construction or demolition site, 8-hour average noise from the various types of equipment will, at times, range from 73 to 84 dBA. At a distance of over 350 feet from potential future development under the Concord Reuse Project (and conservatively not accounting for any shielding or ground absorption), construction noise levels would range from 62 to 73 dBA and would not exceed the FTA threshold of 80 dBA. At this distance, construction noise from buildout of the proposed Regional Park would not contribute substantially to a cumulative construction noise or vibration impact.

The proposed facility closest to future residents on the Faria/Southwest Hills development (which is located within the City of Pittsburg) would be the Eagle’s Nest Backcountry Campsite. Although the specific location of the campsite has not yet been determined, based on the Land Use Plan, the campsite would be approximately 250 to 500 feet from the project site boundary. As described on page 3-31 of the Draft EIR, this campsite would be accessible only by trail. Therefore, its use would be relatively low intensity, and heavy construction equipment and visitor vehicles would not be able to access the site. Consequently, no loud construction or land use noises would occur from that site. Construction of the Eagle’s Nest Backcountry Campsite would not involve the use of a substantial number of large off-road construction equipment. Construction activities are anticipated to include a minor amount of site clearing and grading. No buildings would be created; the only structure would be a vault restroom, which is a small free-standing structure. The City of Pittsburg Municipal Code Chapter 9.44 prohibits the use of pile driving, steam shovels, pneumatic hammers, derrick, and electric hoists during the hours of 10:00 p.m. and 7:00 a.m. None of these pieces of equipment are
anticipated for construction of Eagle’s Nest Backcountry Campsite and nighttime work is not proposed. Further, Section 18.82.040 of the Pittsburg Municipal Code limits construction noise to 65 decibels at the property line of the receiving sensitive use. The most noise-intensive construction equipment anticipated for use at the Eagle’s Nest Backcountry Campsite is a backhoe. The reference noise level for backhoes from the Federal Highway Administration Roadway Construction Noise Model is 78 dBA Lmax (maximum A-weighted decibels) at a distance of 50 feet (FHWA 2008). At a distance of approximately 250 feet (the shortest potential distance from the campsite to the property line) from the proposed Eagle’s Nest Backcountry Campsite to the proposed Faria/Southwest Hills Annexation Project, construction noise would attenuate to 64 dBA Lmax or less and would therefore not exceed the City of Pittsburg’s limit of 65 decibels. This computation conservatively does not factor in the dense vegetation that exists between the proposed campsite and Faria/Southwest Hills Annexation Project or topographical features which would provide acoustical shielding and further reduce construction noise levels. Therefore, this impact is considered to be less than significant.
MEMORANDUM

DATE       June 24, 2020
TO         Attn: Yolande Barial Knight, Clerk of the Board
           East Bay Regional Park District, Board of Directors
           Robert E. Doyle, General Manager
           2950 Peralta Oaks Court
           Oakland, California 94605
FROM       PlaceWorks
SUBJECT    Responses to Comment Letters Received After the Close of the Public Review Period

PlaceWorks has reviewed the comment letters received from Farella Braun + Martel (“Comment Letter A”) and the California Native Plant Society (“CNPS,” “Comment Letter B”) on the Concord Hills Regional Park Land Use Plan Environmental Impact Report (EIR). This technical analysis provides responses to the comments contained in these letters. The responses were prepared in consultation with Environmental Science Associates, East Bay Regional Park District (District) staff, and the District’s legal counsel Downey Brand LLP.

Copies of the comment letters are attached to this technical analysis, along with annotations that identify each individual comment number. The numbering below corresponds to the annotated comment numbers in the attached letters. Further, because the comments provided by Farella Braun + Martel and CNPS were not timely submitted as part of the duly noticed public comment period on the Draft Environmental Impact Report, they are considered late comments for which no response is required. (Pub. Resources Code, § 21091(d)(1) [“The lead agency shall consider comments it receives on a draft environmental impact report . . . if those comments are received within the public review period.”].) Nonetheless, this technical analysis is provided voluntarily by the District for informational purposes. (Id., § 21091(d)(2)(A) [“The lead agency may also respond to comments that are received after the close of the public review period.”]; see also Guidelines, § 15088(a).) In some cases, revisions have been made to the Draft EIR, as shown in the Errata to the Concord Hills Land Use Plan Final EIR (“Errata”), incorporated as Attachment C to this technical analysis. The Errata containing additions and revisions to the EIR that are proposed to be included as part of the Board of Directors’ certification of the EIR.

Responses to Comment Letter A

Response A-01
The comment is an introduction to the comments that follow. Comment Letter A raises several concerns related to the extent of development and the level of detail provided in the EIR. In doing so,
however, Comment A-01 and the comments to follow misconstrue and greatly exaggerate the scope of the Regional Park, its footprint, and the level of impacts associated with the limited recreation and visitation anticipated to occur within a relatively small portion of the former Concord Naval Weapons Station (“CNWS”). As described on page 3-1 of the Draft EIR:

“The project site is located on approximately 2,543 acres in the City of Concord. The vast majority of the proposed project, approximately 2,417 acres, or 95 percent of the site, would be designated as a conservation area and preserved for conservation and management of natural and cultural resources. Public access within the conservation area would be limited to passive recreation trails. The remainder of the property, approximately 126 acres, or 5 percent of the site, would be available for recreation and park facilities, primarily on land already developed with existing facilities (building sites, paved and unpaved roads, parking areas, bunkers, and railroad tracks from the United States Department of the Navy’s (Navy) operation of the property) that will be reused.”

Thus, the vast majority of the former CNWS will be preserved in its natural state. The “development” that the comment alludes to comprises only 5 percent of the former CNWS. Of that, only a fraction involves any “new” development, as the balance maximizes the reuse of existing developed areas such as buildings, roadways, rail lines, and trails. The comment thus fails to acknowledge that the portion of the Regional Park actually devoted to physical human activity is extraordinarily limited and confined to discrete areas that are almost all disturbed or previously developed due to prior use as an active Naval base. For the balance of the former CNWS—2,415 acres or 95 percent—park lands will remain in their open space and natural condition, and managed for cultural, historical, and biological values.

In addition, the proposed Concord Hills Regional Park Land Use Plan, as a land use plan, is a policy document that will guide development and management of the future Regional Park; the proposed Plan analyzed in the EIR is not a specific development project. There are details of the Land Use Plan that are not, and cannot be, known about precise development plans or specific trail connections or alignments unless and until other developments immediately adjacent to the Park are resolved.

Despite the Land Use Plan’s relatively small footprint, limited human use, and preservation of existing open space values, the EIR thoroughly identified, reviewed, and evaluated the potentially significant adverse impacts of converting the former Navy use to Regional Park uses.

Lastly, the comment provides some case law regarding the general standards governing EIRs prepared under CEQA. Please see Responses A-02 through A-35 for specific analysis addressing each of the issues referenced in this introductory section of Comment Letter A.

Response A-02
The commenter correctly notes that the EIR is a program-level EIR, and that future, site-specific projects within the proposed Regional Park will be subject to the appropriate level of environmental analysis when plans for those specific projects are proposed. As stated on page 2-5 of the Draft EIR,
“this program EIR is not project-specific, and does not evaluate the impacts of individual projects that may be proposed in the future. All future development projects within the Concord Hills Regional Park area that qualify as a ‘project’ under CEQA are subject to compliance with CEQA, which may require additional, project-specific environmental analysis.” A program EIR is particularly appropriate to support this level of planning document. (See Citizens for a Sustainable Treasure Island v. City and County of San Francisco (2014) 227 Cal.App.4th 1036, 1047 ("Treasure Island") ["a ‘program EIR’ evaluates the broad policy direction of a planning document, such as a general plan, but does not examine the potential site-specific impacts of the many individual projects that may be proposed in the future consistent with the plan."]], citing Pub. Resources Code, §§ 21068.5, 21093; Guidelines, §§ 15168, 15385.) The level of specificity, in turn, is determined "by the nature of the project and the ‘rule of reason’ [citation], rather than any semantic label accorded to the EIR.” (Treasure Island, 227 Cal.App.4th at 1048 [internal quotations omitted], quoting Friends of Mammoth v. Town of Mammoth Lakes Redevelopment Agency (2000) 82 Cal.App.4th 511, 533.) Tellingly, the First Appellate District in Treasure Island granted the City and County of San Francisco significant leeway in the level of detail assigned an EIR designed to support a plan for redevelopment of a former naval station over a 15 to 20-year period, which is less than the planning horizon for the Concord Hills Regional Park and for much more intense development.

Response A-03

The comment states that the EIR does not have sufficient detail to support individual components of the Land Use Plan (e.g., the visitor complex, campgrounds, parking lots, and trails). This is not accurate. Pages 3-15 through 3-40 of the Draft EIR describe the components of the proposed Plan in detail. For example, Section 3.3.6, Park Circulation, describes and maps public vehicular roads, maintenance roads, and trails; this section also includes Table 3-1, which provides the surface material, width, permitted uses, reuse amount, new development amount, and total length of these circulation routes. Trails are also described in Section 3.3.7.2. The Visitor Center Complex is described in Section 3.3.7.1; as described on page 3-29 of the Draft EIR, it would be a retrofit of existing Building IA-24. The locations of proposed campsites are described on page 3-31 and are mapped on Figure 3-7. A conceptual site plan for the Visitor Center Complex is provided in Figure 3-9, which illustrates the anticipated building footprint, outdoor areas, and parking. Section 3.5, Site Preparation, describes the specific areas of the site where grading, construction staging, demolition, and other construction activities would occur. Table 3-2 provides detailed phasing information for when each component of the Regional Park is intended to be implemented.

A project description needs only so much detail as necessary to evaluate the impacts at that level of review—that is, the level of detail befitting the “nature of the project” and according to the “rule of reason”—here, a land use plan. (See Treasure Island, 227 Cal.App.4th 1036, 1047-1052.) An EIR need not “produce detailed information about the environmental impacts of a future [] facility whose scope is uncertain.” (Towards Responsibility in Planning v. City Council (1988) 200 Cal.App.3d 671, 681 (finding EIR did not evaluate environmental impacts of expansion of a wastewater treatment plant designed to serve the project area when the details regarding the size and nature of any plant expansion were uncertain).) Here, as described in Response A-08 below, final park program and
specific building plans are yet to be developed as they rely on future assembly of land and further evaluation of existing buildings and site for adaptive reuse as future park amenities and maintenance buildings. Moreover, the Land Use Plan is a programmatic EIR—not a project-level document—precisely because of the longtime horizon and the details that will still need to be developed. Specifically, when a project is to be implemented in phases, the EIR is not deficient simply because the description of future approvals is not precisely defined. (See Sierra Club v. City of Orange (2008) 163 Cal.App.4th 523, 533 (upholding EIR’s project description when EIR described the project site, the project boundary, and the city’s sphere of influence but the EIR did not precisely define what areas the city would annex in the future as the city had not yet determined the boundaries of the area to be annexed).) Please also see Responses A-04 through A-12.

Response A-04
The comment does not explain how the EIR fails to adequately analyze potential impacts to biological resources. Therefore, a detailed response cannot be provided. However, the Draft EIR identified and evaluated in some detail the considerable biological data collected to date, as well as the potentially significant impacts of the Plan on biological resources generally and on threatened and endangered species specifically (Draft EIR, at pages 4.3-1 through 4.3-63). Contrary to the comment, the biological data relied on by the EIR was more than sufficient. Indeed, as the comment notes, approximately 95 percent of the Regional Park will be preserved and managed expressly for the sensitive biological resources on-site, which is intended to improve—not degrade—the natural baseline condition for species and habitats.

Response A-05
The comment incorrectly states that the EIR relies on unsupported assumptions regarding weekday and peak hour vehicle trips. The Draft EIR provided the calculated weekday and peak hour trips and explained why a detailed traffic study and analysis for the project was not required. As stated on page 4.14-15 of the Draft EIR, the proposed project would generate approximately 590 weekday vehicle trips, with approximately 35 and 77 trips during the AM and PM peak hour, respectively. This includes trips by both park employees and visitors. As described on page 4.14-15 of the Draft EIR, the project’s estimated peak-hour vehicle trips would be well below the 100-trip threshold set by the Contra Costa Transportation Authority (CCTA) and the City of Concord for a full (detailed) traffic impact analysis.¹

As discussed in detail below, trip estimates for the proposed Regional Park were calculated based on visitor estimates prepared for the project by the District, and the conservative assumption that at least 10 percent of visitors would walk or bike to the site. Table 1 below presents visitor data, trip estimates, and trip generation assumptions that formed the basis of the Draft EIR’s analysis, and are now included in the EIR by the Errata (see Attachment C).

Table 1  Total Projected Employees, Visitors, and Trips per Day by Mode (at Full Buildout, 2050)

<table>
<thead>
<tr>
<th></th>
<th>Typical Weekday Visitors and Employees</th>
<th>Typical Weekend Visitors and Employees</th>
<th>Typical Weekday Trips</th>
<th>Typical Weekend Trips</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employees</td>
<td>52</td>
<td>52</td>
<td>104 (^a)</td>
<td>104 (^a)</td>
</tr>
<tr>
<td>Auto</td>
<td>52</td>
<td>52</td>
<td>104</td>
<td>104</td>
</tr>
<tr>
<td>Bike or Walk</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Visitors</td>
<td>1,074</td>
<td>2,665</td>
<td>591</td>
<td>1,466</td>
</tr>
<tr>
<td>Auto</td>
<td>966</td>
<td>2,398</td>
<td>483 (^b)</td>
<td>1,199 (^c)</td>
</tr>
<tr>
<td>Bike or Walk</td>
<td>107</td>
<td>266</td>
<td>107</td>
<td>266</td>
</tr>
<tr>
<td>Total Auto</td>
<td>1,018</td>
<td>2,450</td>
<td>587</td>
<td>1,303</td>
</tr>
<tr>
<td><strong>Peak Hour</strong></td>
<td>N/A</td>
<td>N/A</td>
<td>AM: 35</td>
<td>N/A</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>PM: 77</td>
<td></td>
</tr>
<tr>
<td>Total Bike or Walk</td>
<td>107</td>
<td>266</td>
<td>107</td>
<td>266</td>
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<tr>
<td><strong>Total</strong></td>
<td>1,126</td>
<td>2,717</td>
<td>695</td>
<td>1,570</td>
</tr>
</tbody>
</table>

Notes:

a. Employee trips include 2 trips per day for 52 employees.

b. Weekday visitor trips reflect the following assumptions: approximately 30 percent of visitors will utilize more than one on-site facility (e.g. a visitor will use both a trail and a picnic area); one third of visitors are families and/or group carpoolers (i.e. 4 visitors per car); three school buses or school buses will visit the site daily (accommodating approximately 100 people); all other visitors will visit with an average of 2 visitors per car.

c. Weekend visitor trips reflect the following assumptions: approximately 20 percent of visitors will utilize more than one on-site facility (e.g. a visitor will use both a trail and a picnic area); two thirds of visitors are families and/or group carpoolers (i.e. 4 visitors per car); three school buses or school buses will visit the site daily (accommodating approximately 100 people); all other visitors will visit with an average of 2 visitors per car.


The Table 1 trip generation calculations are conservative and, if anything, likely overstate the reasonably likely trip generation rates by (1) under-estimating the percentage of park visitors expected to walk or bike to the Regional Park, and (2) over-estimating park visitation during the week. As stated on page 3-39 of the Draft EIR, “While the majority of visitors would be expected to arrive by car, some visitors, especially those from adjoining residential neighborhoods, would arrive by bike or by walking. . . . Based on use patterns at existing regional parks with similar surroundings, the District anticipates that 20 percent, and ultimately as many as 50 percent, of visits would arrive on foot or on bikes.”\(^2\)

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\(^2\) See also Personal communications with Brian Holt, Chief of Planning/GIS, June 17, 2020.
Similarly, the District developed its visitor estimates based on possible worst-case demand estimates, as well as the capacity of proposed park features (e.g., trail mileage and number of picnic areas and access features). In estimating visitation, the District considered visitation data from the National Park Service’s nearby sites, District staffing projections, National Recreation and Park Association (NRPA) standards, and visitation levels observed at other District facilities. The District found this method to be conservative. For example, based on the NRPA standards for urban trails, trail capacity was assumed to be 90 users per day per mile. That rate is much higher than the NRPA standards for rural trails, which in some ways are more analogous to the Concord Hills Regional Park. Likewise, the National Park Service data for visitation at nearby parks ranges from 45,000 to 75,000 annual visitors; whereas, the District assumed that up to 60,000 annual visitors in Phase 3 of the Regional Park at the proposed Visitor Center alone. The District’s visitation numbers are well within the existing National Park Service data, even though Concord Hills Regional Park may receive less visitors than certain federal parks in the region. Lastly, the District considered visitation rates at other District parks, including Anthony Chabot Regional Park. Located near more densely populated urban centers, Chabot received about 419,000 visitors in 2016; the Draft EIR, however, assumed a total visitation for Phase 3 of the Project at 560,909 total annual visitors. That visitation level is substantially greater than Chabot, even though the Project has fewer attractions, less recreational area, and is proposed to be located in a more remote and less populated area than Chabot.

Although the District’s method for estimating trip generation rates relied on data more specific to existing District and surrounding park facilities, the District and its consultants PlaceWorks and ESA also referenced and applied the Institute of Transportation Engineers (ITE) Trip Generation Manual (9th and 10th Editions) for purposes of evaluating this comment. Using standard trip rates from the ITE Manual (10th Edition) for a “public park” land use, the proposed project could be expected to generate only 98 average trips per day on weekdays, with only a fraction of those trips expected to occur during peak hours. (See Errata, Table 2 – Trip Generation Using ITE Trip Generation Manual, 10th Edition, in Attachment C.) This is only a fraction of the estimated 587 vehicle trips per day disclosed and analyzed in the Draft EIR. While now superseded by the 10th Edition, the 9th Edition of the ITE Manual included trip generation rates for a “regional park” land use, which is more analogous to the Concord

3 See communication from Brian Holt, Chief of Planning/GIS, East Bay Regional Park District, to Isby Fleischmann, Senior Associate, PlaceWorks (dated July 17, 2017, at 12:50 PM) regarding park visitation data for the District’s parks for the years 2015 through 2017.

4 See id.

5 See id.

6 The public park land use designation is defined in the ITE Manual (10th Edition) as public parks owned by a municipal, county, state, or federal agency. See also Rosenblum, Shadde. Senior Technical Associate, Environmental Science Associates. Personal communication with Alexis Mena, PlaceWorks. June 5, 2020.
Hills Regional Park. Based on the trip generation rates included in the 9th Edition, the proposed project was estimated to generate approximately 576 weekday daily trips—about 10 trips fewer per day than disclosed and analyzed in the Draft EIR. (See Errata, Table 3 – Trip Generation Using ITE Trip Generation Manual, 9th Edition, in Attachment C.) This further demonstrates that the trip generation rates utilized in the Draft EIR were conservative and reasonable.

Fourth, and finally, given that the Regional Park will have three distinct points of ingress/egress to the Regional Park, peak-hour trips are expected to be distributed among the three distinct points. Thus, empirical evidence suggests that there is no reasonable possibility that the Regional Park’s trip generation at any given intersection or roadway would result in significant adverse impacts. Indeed, the comment presents no evidence otherwise. Thus, more a detailed traffic impact analysis was not warranted.

Response A-06
The comment incorrectly states that the absence of a full traffic impact analysis resulted in a flawed air quality and greenhouse gas (GHG) emissions impacts analysis. Chapters 4.2, Air Quality, and 4.7, Greenhouse Gas Emissions, of the Draft EIR provide detailed analyses of air quality and GHG emissions impacts based on modeling conducted for the EIR. (See, e.g., Draft EIR, at pages 4.2-28 and 4.2-29, 4.7-21 through 4.7-26.) As set forth in Response A-05, the peak-hour vehicle trips estimated at full buildout of the Regional Park are appropriate as they are conservative, particularly given the fact that during the week (when peak trips occur), regional parks experience substantially lower visitation than weekends (off-peak). Consequently, the EIR’s calculations of the air and GHG emissions were likewise conservative, and will result in less-than-significant impacts in these areas. The comment does not show otherwise.

Response A-07
While a stand-alone acoustical study was not developed for the EIR, noise impacts were analyzed as described in Chapter 4.11, Noise, of the Draft EIR. The cumulative analysis in Chapter 4.11 of the Draft EIR includes a discussion of cumulative construction noise and vibration, which explains that project construction would involve a relatively small development area (35 acres out of 2,543 acres, or 0.014 percent) (Draft EIR, at page 4.11-18). As discussed in the Draft EIR noise analysis, the most intensive construction activities would be associated with construction of the Corp Yard, which is approximately 1,260 feet (a quarter mile) northeast of residences. The proposed facility closest to future residents on the Faria/Southwest Hills development site (based on the figure on page 17 of the comment letter; see Comment A-36) would be the Eagle’s Nest Backcountry Campsite. Based on the Land Use Plan, the campsite would be approximately 250 to 500 feet from the project site boundary. As described on page 3-31 of the Draft EIR, this campsite would be accessible only by trail. Therefore, its use would be

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7 Personal communications with Brian Holt, Chief of Planning/GIS, and Devan Reiff, Principal Planner, East Bay Regional Park District, June 17, 2020.
relatively low intensity, and heavy construction equipment and visitor vehicles would not be able to access the site. Consequently, no loud construction or land use noises would occur from that site.

Page 4.11-19 of the Draft EIR explains that, at a distance of over 350 feet from potential future developments (and conservatively not accounting for any shielding by natural terrain, landscaping, or ground absorption), construction noise levels would range from 62 to 73 dBA and would not exceed the FTA threshold of 80 dBA. Construction of the Eagle’s Nest Backcountry Campsite would not involve the use of a substantial number of large off-road construction equipment. Construction activities are anticipated to include a minor amount of site clearing and grading. No buildings would be created; the only structure would be a vault restroom, which is a small free-standing structure. The nearest adjacent properties are within the City of Pittsburg, which borders Concord. Although it would not apply within the Regional Park and City of Concord, the City of Pittsburg Municipal Code Chapter 9.44 prohibits the use of pile driving, steam shovels, pneumatic hammers, derrick, and electric hoists during the hours of 10:00 p.m. and 7:00 a.m. None of these pieces of equipment are anticipated for construction of Eagle’s Nest Backcountry Campsite, nor would the construction include nighttime work. Further, Section 18.82.040 of the Pittsburg Municipal Code limits construction noise to 65 decibels at the property line of the receiving sensitive use. The most noise-intensive construction equipment anticipated for use at the Eagle’s Nest Backcountry Campsite is a backhoe. The reference noise level for backhoes from the Federal Highway Administration Roadway Construction Noise Model is 78 dBA Lmax (maximum A-weighted decibels) at a distance of 50 feet (FHWA 2008). At a distance of approximately 250 feet (the shortest potential distance from the campsite to the property line) from the proposed Eagle’s Nest Backcountry Campsite to the proposed Faria/Southwest Hills Annexation Project, construction noise would attenuate to 64 dBA Lmax or less and would therefore not exceed the City of Pittsburg’s limit of 65 decibels. This computation conservatively does not factor in the dense vegetation that exists between the proposed campsite and Faria/Southwest Hills Annexation Project or topographical features which would provide acoustical shielding and further reduce construction noise levels. Plus, there are currently no sensitive receptors or other uses at the property line. Consequently, there is no possibility of an adverse noise impact at this location and for the limited work proposed.

In terms of operational noise, as discussed in the Draft EIR, campsites and trails would not generate substantial noise levels. The proposed Land Use Plan does not propose active recreation facilities (e.g., team sports fields, hardcourts). Proposed outdoor lighting would be for safety and security purposes only, and not to enable nighttime use of recreational facilities. There is no parking lot proposed for the Eagle’s Nest Backcountry Campsite, further limiting visitation and associated sources of noise. Again, this analysis of noise does not factor in the dense vegetation that exists between the proposed campsite and Faria/Southwest Hills Annexation Project or topographical features which would provide acoustical shielding and further reduce construction noise levels. Therefore, it is not expected that establishment of camping facilities at this site would have the potential to create any significant construction or operational impacts to future sensitive receptors at the Faria/Southwest Hills development site.
Response A-08

Without citing any evidence, the comment claims the Draft EIR did not sufficiently analyze the potential for liquefaction, lateral spreading, or unstable geologic units to the proposed development of the Regional Park. To the extent the comment is suggesting that the Draft EIR should have evaluated the existing environment’s impact on future buildings or uses of the Regional Park, such analysis is not required. (See Response A-48; see also California Building Industry Assn. v. Bay Area Air Quality Management Dist. (2015) 62 Cal.4th 369, 386 [“CEQA generally does not require an analysis of how existing environmental conditions will impact a project’s future users or residents.”]; Berkeley Hills Watershed Coalition v. City of Berkeley (2019) 31 Cal.App.5th 880, 892.) Further, the Draft EIR did, in fact, evaluate the possibility of these geologic hazards on-site, finding that the proposed Plan’s impacts related to liquefaction, lateral spreading, and unstable geologic units would be less than significant. (See Draft EIR, at pages 4.6-1 through 4.6-22.)

There are approximately 50 existing buildings and sites which have been evaluated for potential suitability for incorporation into the future Regional Park (Land Use Plan, at page 59). As discussed on page 59 of the Land Use Plan, as a result of this evaluation, several structures and associated sites were identified as having high potential for reuse. Table 2-2 of the Land Use Plan provides an overview of existing buildings and a discussion of suitability for incorporation into the future Regional Park. However, a further evaluation and constraints analysis will be conducted prior to finalizing decisions about reuse of particular buildings or sites (Land Use Plan, at pages 59 to 60). Moreover, the program for the park is yet to be refined as the implementation of the proposed park will depend on incremental land conveyance to the District, among other factors (e.g., financing, adjacent land uses, phasing of improvements and management) (Land Use Plan, at page 59, and Response to A-39). Thus, the extent of reuse of existing buildings and sites is not fully known without further evaluation and specific building plans that, to date, have not been developed for the proposed Regional Park. Because specific building plans have not been developed for the proposed Regional Park, site-specific geotechnical analyses will need to be conducted at the individual project stage. Please also see Response A-44. Nevertheless, with State and local regulatory mandates mandating adherence to building codes, the project’s possible effects in this area are less than significant. (See Oakland Heritage Alliance v. City of Oakland (2011) 195 Cal.App.4th 884 [adherence to State building codes addressed possible geologic hazards]; North Coast Rivers Alliance v. Marin Municipal Water Dist. Bd. Of Directors (2013) 216 Cal.App.4th 614, 633-635 [relying in part on California Building Code, upheld EIR’s consideration of geologic conditions and seismic hazards].) Again, the Regional Park redevelopment of roadways, trails, buildings, or other structures is extraordinarily limited, and is not expected to exacerbate any geologic hazards. Indeed, most of the area (95 percent) will remain in its baseline state, and preserved as open space. The Plan does not propose to construct or repurpose structures in an unstable geologic unit or otherwise directly or indirectly cause any substantial adverse effects, including the risk of loss, injury, or death involving liquefaction or lateral spreading.

Response A-09

As discussed above in Response A-08, final park program and specific building plans for the park are yet to be developed. Accordingly, impact discussion HYD-1 in the Draft EIR acknowledges that,
“depending on location and building site characteristics, new and replaced impervious areas have the potential to provide new sources of non-point source pollution to receiving waters such as Mount Diablo Creek and Rattlesnake Creek.” The comment fails to acknowledge that the area that may be subject to some new development and impervious surfaces is very small—about 16.5 acres—and is not immediately adjacent to any local water bodies. Moreover, as described in Response 07-04 in the Final EIR, stormwater would be managed on-site through a combination of low impact development (LID), source control best management practices (BMPs) and treatment control measures. Stormwater control would be implemented in compliance with Mitigation Measures HYD-1.1 and HYD-1.2 in the Draft EIR and the City of Concord’s Municipal Code, which together provide significant protections for local water quality. These are common and effective means to treat and manage on-site stormwater. (See Endangered Habitats League, 131 Cal.App.4th at 795.)

Please also see Response A-20.

Response A-10
Please see Response A-47.

Response A-11
The proposed Land Use Plan provides a vision for potential future trail connections but does not propose specific, detailed trail alignments. As described in the Land Use Plan on page 124, “the potential to develop regional trail connections . . . will be determined in part by future acquisitions of adjacent lands and/or partnerships with other entities.” As future connections to off-site locations would be dependent on the desire of neighboring landowners to work with the District to implement trail connections, these details cannot be finalized at this time and would be speculative. (Berkeley Keep Jets Over the Bay Committee v. Board of Port Com’rs (2001) 91 Cal.App.4th 1344, 1360-1362 [when evaluating airport development plan, agency was not required to evaluate certain runway projects that “existed only as concepts in long-range plans”]; Friends of the Sierra Railroad v. Tuolumne Park & Recreation Dist. (2007) 147 Cal.App.4th 643, 647, 651 [when considering transfer of right-of-way, agency was not required to consider development of surrounding property when nature of that development was unknown].)

Response A-12
The water tank referenced by the Contra Costa Water District (CCWD) comment letter would be located on District land but is not part of the proposed Plan. As stated in Response 06-01 of the Final EIR, mention of the planned water storage tank for the Concord Reuse Project was added to the Draft EIR (Chapter 4.15, Utilities and Service Systems) in Chapter 3 of the Final EIR simply at the request of CCWD. The water tank would be installed as a separate project with its own independent utility; it is not required to serve the proposed Regional Park and is not part of the proposed Land Use Plan that is the project analyzed in the EIR. According to CCWD, the water tank is expected to be installed to serve the Concord Reuse Project, for which the City of Concord is still in the planning stages. Because the specifications and location of the water tank are currently unknown and beyond the acreage retained and reserved by the U.S. Navy for future conveyance to the Park District, it would be speculative to
assess the potential environmental impacts of the water tank placement as a cumulative project. If and when a water tank is proposed in the future, it would be required to undergo environmental analysis under CEQA.

Response A-13

The comment summarizes Comments A-03 through A-12. Please see Responses A-03 through A-12.

Response A-14

The comment suggests that the Draft EIR lacks sufficient information as to the baseline or environmental setting to allow for an understanding of those conditions and project impacts. Under CEQA, “[a]n EIR must include a description of the physical environmental conditions in the vicinity of the project.” (Guidelines, § 15125(a).) That description of the environmental setting, however, “shall be no longer than is necessary to provide an understanding of the significant effects of the proposed project and its alternatives.” (Id.; see also California Oak Foundation v. The Regents of the University of California (2010) 188 Cal.App.4th 240 at 263–264 [rejecting charge that the EIR’s environmental setting failed to include information from a draft fault rupture study].) The EIR’s description of the setting may include additional information in appended studies. (Sierra Club v. City of Orange (2008) 163 Cal.App.4th 523, 540.)

Here, the Draft EIR described the regional and local setting, as well as the regulatory framework governing biological resources, noise, and traffic. (Draft EIR, in Sections 4.3.1, 4.11.1, and 4.14.1, respectively.) As a remote site with existing development and historical use as an active Naval base, the environmental setting and site conditions described in the EIR and appended studies were more than sufficient to provide an understanding of the effects of the Project and its alternatives. The discussion of existing conditions accurately reflects that, while the site is currently largely inactive and contains large areas of grassland and other natural resources, its prior use as a naval weapons station has degraded the environmental quality of the site (Draft EIR, at pages 4.3-11 to 4.3-12). The project’s restoration activities, limited development footprint, and reuse of previously developed areas of the site would be largely beneficial when compared to both the existing conditions and prior uses of the site.

Please also see Responses A-15 through A-18.

Response A-15

The comment suggests that the Draft EIR relies on incomplete and outdated data with regard to its biological resources analysis and in evaluating existing baseline conditions. Contrary to the suggestion by the commenter, the reliance on decades of wildlife survey results, from the early 1980s to the present, strengthens the environmental baseline on which the EIR is based by allowing for analysis of patterns of species’ distributions in the project area. For example, surveys dating back to 1982, with additional surveys conducted over the course of nearly four decades, have consistently demonstrated that California tiger salamanders are present in certain parts of the project site (and the larger Concord Reuse Project area) and are absent from others. Such long-term datasets are rarely available
to support impact analyses, yet this project is one of few that can rely on a long series of surveys to corroborate the conclusions in the EIR.

In addition, over the past 10 years, the City of Concord and District have coordinated with natural resources agencies on the biological resources in the project area. Beginning in 2010, the City of Concord convened an interagency meeting that included the District and all relevant natural resources agencies, including the U.S. Fish and Wildlife Service (USFWS) and the California Department of Fish and Wildlife (CDFW), to discuss plans for the City’s Concord Reuse Project and the Regional Park for habitat conservation and park planning. Over the past decade, the City has continued to meet with these agencies, and the District has been included in many of these meetings. The City and District were engaged in an intensive consultation with the USFWS during preparation of the USFWS’s Biological Opinion, which covered both projects. As new biological information (e.g., resulting from surveys conducted by Navy contractors) became available, that information was incorporated into the consultation, resulting in a comprehensive May 2017 Biological Opinion that covered both the City’s and District’s activities. The 2017 Biological Opinion lends further support to the conclusions and analysis of the EIR, and the EIR’s determination that the Regional Park’s impacts on special-status species will be less than significant. Further, throughout the past decade, the Navy has had consultants perform a number of biological surveys in conjunction with the Navy’s remediation activities, which have occurred in numerous locations throughout the Concord Reuse Project/Concord Hills Regional Park area. These surveys, which have focused on special-status plants and animals, have been made available to the District, and their results were incorporated into the impact assessment in the EIR as appropriate. The City is currently consulting with the CDFW pursuant to the California Endangered Species Act, and the District has been involved in those conversations with respect to issues pertaining to the Regional Park. As a result, up-to-date information on biological resources is incorporated into District’s assessment of resources on the project site and has been discussed at length with the USFWS and CDFW.

The comment also neglects to acknowledge that, under CEQA, biological and topographical surveys and maps are not required for every species addressed in the EIR, particularly where, as here, the project’s effects are less than significant. (See San Joaquin Raptor Rescue Center. V. County of Merced (2007) 149 Cal.App.4th 645, 666 [analysis of impacts need not be “so exhaustively detailed as to include every conceivable study or permutation of the data”]; Save Round Valley Alliance v. County of Inyo (2007) 157 Cal.App.4th 1437, 1468 [quantified analysis of biological impacts not required].) Again, with 95 percent of the Regional Park to be dedicated to habitat preservation and management for sensitive species, along with the long history of reliable and consistent data available at the former CNWS, there is no gap in the data that the comment suggests.

Response A-16

The comment incorrectly states that the no traffic studies were cited in the Draft EIR. As shown on page 4.14-9 of the Draft EIR, the EIR cites a traffic analysis prepared by Kittleson and Associates for the 2014 Draft Environmental Impact Statement for the Disposal and Reuse of the Former Naval Weapons Station Seal Beach, Detachment Concord.
As described on page 4.14-15 of the Draft EIR, the project’s estimated peak-hour vehicle trips would be well below the 100-trip threshold set by the CCTA and the City of Concord for a full (detailed) traffic impact analysis. For this reason, it was not necessary to conduct new traffic counts for the proposed project, and the analysis of existing traffic conditions on roadway segments, freeway segments, freeway ramps, and intersections relied upon the existing conditions traffic analysis provided in the Draft Environmental Impact Statement for the Disposal and Reuse of the Former Naval Weapons Station Seal Beach, Detachment Concord. Please also see Response A-05.

Response A-17
Please see Response A-06.

Response A-18
Please see Response A-07.

Response A-19
The comment cites general case law on the environmental baseline, and suggests that the EIR for this project must be recirculated to provide more information on the baseline. It is worth noting that both cases cited in the comment—Citizens for East Shore Parks v. State Lands Commission (2011) 202 Cal.App.4th 549 and Neighbors for Smart Rail v. Exposition Metro Line Construction Authority (2013) 57 Cal.4th 439—upheld the respective baselines at issue. Here, as stated above, significant information is provided on the overall setting, yet CEQA mandates only so much detail as necessary to address the particular impact. (Guidelines, § 15125(a) [an EIR’s description of the project’s environmental setting “shall be no longer than is necessary to provide an understanding of the significant effects of the proposed project and its alternatives.”].) Here, the Regional Park proposes to preserve (or actually enhance) the baseline environmental conditions for 95 percent of the project area, and the remaining 5 percent will include minimal new development and passive recreation. Thus, while the overall acreage of the Regional Park is large, the potential area of impact is small. With such a small footprint, the level of information on the project’s environmental setting is more than sufficient.

Please also see Responses A-15 through A-18.

Response A-20
Without providing specifics, the comment suggests that certain mitigation measures have been impermissibly deferred. Deferral of mitigation is permitted if “the agency (1) commits itself to mitigation; and (2) spells out . . . the possible mitigation options that meet ‘specific performance criteria’ contained in the report.” (Save Cuyama Valley v. Santa Barbara County (2013) 213 Cal.App.4th 1059, 1070–1072 [rejecting challenge to mitigation related to hydrology impacts of a mine].) Such deferral may include mitigation in an EIR that relies on “completion of a future study” to determine “the details of exactly how mitigation will be achieved under the identified measures.” (Oakland Heritage Alliance, 195 Cal.App.4th at 906 [citations omitted]; see also City of Hayward v. Trustees of Cal. State Univ. (2015) 242 Cal.App.4th 833, 855.) Further, contrary to the comment’s summary of the

As outlined below, the project’s mitigation does not defer mitigation or the mitigation appropriately relies on review by the applicable regulatory agencies or compliance with regulatory mandates to address impacts related to biological resources, wetlands, stormwater, and geology and soils. Please see Responses A-21 through A-24.

Response A-21

The comment incorrectly states that the Long Term Management Plan (LTMP) has not been completed and that the EIR relies on the LTMP for mitigation. The LTMP was prepared jointly by the City of Concord and the District to describe the biological resources present on the project site and how those resources would be managed both in the near-term and in perpetuity. The LTMP has been completed and was approved by the USFWS on December 3, 2018. The Final EIR is hereby revised to expressly reference the approved LTMP (see Errata in Attachment C). Moreover, the LTMP is not, as the comment suggests, mitigation for the impacts of the Regional Park; rather, it is to help manage and improve the existing baseline habitat so that it may be protected in perpetuity. It is required by the Navy and U.S. Fish & Wildlife Service as a condition of the underlying transfer of the CNWS, and thus is imposed as a land management framework for the habitat within the Regional Park by these federal agencies, not as a requirement of the District’s Land Use Plan.

The EIR imposes numerous mitigation measures for the protection of biological resources, including Mitigation Measures BIO-1.1 through BIO-5. Mitigation may take many forms, and includes any measure that avoids, minimizes, rectifies, reduces, or compensates for the impact. (Guidelines, § 15370; Save Panache Valley v. San Benito County (2013) 217 Cal.App.4th 503, 528–529 [measures may reduce and minimize, but need not avoid impact altogether].) The EIR, in turn, need not analyze every measure imaginable. (See Gilroy Citizens for Responsible Planning v. City of Gilroy (2006) 140 Cal.App.4th 911, 935; San Franciscans for Responsible Growth v. City and County of San Francisco (1989) 209 Cal.App.3d 1502, 1519.) Indeed, the lead agency has discretion to impose specific mitigation measures and determine which measures are effective at mitigating the impact. (Association of Irritated Residents v. Madera County (2003) 107 Cal.App.4th 1383, 1397–1398; Environmental Council of Sacramento v. City of Sacramento (2006) 142 Cal.App.4th 1018, 1041 [lead agency properly evaluated effectiveness of mitigation for loss of Swainson’s hawk habitat].) Nowhere does Comment Letter A attempt to provide any evidence to suggest that Mitigation Measures BIO-1.1 through BIO-5 would be ineffective at avoiding, minimizing, or mitigating specific impacts of the Regional Park on biological resources, impacts to which are minimal to begin with.

Response A-22

The comment suggests that the Draft EIR must specify which resource agencies will need to issue permits and approvals for impacts to wetlands. First, the Regional Park anticipates minimal impacts to
federal and State waters and wetlands (if any), amounting to a total loss of up to 0.05 acres of wetlands or other waters incidental to the construction or modification of drainage crossings (Draft EIR, at pages 4.3-57 to 4-58; Mitigation Monitoring and Reporting Program [MMRP], at page 1-13.) The areas of potential impact, however, do not provide high-quality aquatic or wetland habitat for wildlife (Draft EIR, at page 4.3-58). Further, the District’s proposed Land Use Plan employs siting and design guidelines developed expressly to protect undeveloped habitats, and the majority of roads and trails will be located along the existing road and rail network. Of the few new trail alignments proposed, they will avoid impacts on jurisdictional waters where feasible.

Second, Mitigation Measure BIO-3a and BIO-3b already specify which resources agencies would be responsible for issuance of permits and approvals for mitigation related to jurisdictional wetlands, and BIO-3b expressly includes minimization measures. This is an appropriate form of mitigation. (See Endangered Habitats League, Inc. v. County of Orange (2005) 131 Cal.App.4th 777 [approving habitat preservation or “one of several possible habitat loss permits from relevant agencies.”]; California Native Plant Society v. City of Rancho Cordova (2009) 172 Cal.App.4th 603, 621 [“the agency does not have to commit to any particular mitigation measure in the EIR” and “the details of exactly how mitigation will be achieved under the identified measures can be deferred pending completion of a future study.”].) To help refine the mitigation, however, the following revisions can be incorporated in MM BIO-3a:

**Mitigation Measure BIO-3a:** Permitting. Prior to placing any fill in jurisdictional wetlands and/or other waters of the U.S. or state, the District will provide the necessary permit application/notification materials to the USACE for a Clean Water Act Section 404 permit, to the RWQCB for Clean Water Act Section 401 water quality certification, and to the CDFW for a Fish and Game Code Section 1602 Streambed Alteration Agreement, as applicable (e.g., impacts to jurisdictional wetlands that are not in a channel may not necessitate CDFW notification). The District will comply with all conditions of these permits/agreements when performing the work—for example, if any At a minimum, the District shall provide compensatory mitigation at a ratio of at least 1:1 (acres lost to acres preserved or restored). Compensatory mitigation shall ensure that replacement wetlands or waters provide equal or greater habitat and aquatic function and value either on-site or off-site, as required by one or more permit/agreement, then the District will provide such mitigation in accordance with permit/agreement requirements.

**Response A-23**

The comment argues that the Draft EIR’s stormwater mitigation impermissibly relies on regulatory requirements and standards and lacks sufficient evidence of the mitigation’s effectiveness.

The EIR describes the effectiveness of Mitigation Measure HYD-1.1 on page 4.9-18 and of Mitigation Measure HYD-1.2 on pages 4.9-19 to 4.9-20. Mitigation Measures HYD-1.1 and HYD-1.2 mandate that, before construction, the District prepare a Storm Water Pollution Prevention Plan (SWPPP) and Stormwater Control Plan (SCP) in consultation with applicable agencies and in compliance with the statewide NPDES Construction General Permit, Chapter 16 of the City of Concord’s Municipal Code 16,
and the regional NPDES MS4 Permit, respectively. In turn, the Mitigation Measures HYD-1.1 and HYD-1.2 (and the NPDES permits references) prescribe design requirements, best management practices (BMPs), and other features that must be included to control all sources of potential stormwater runoff and to completely eliminate, control, or treat all non-stormwater discharges as necessary to protect receiving water quality. Such control features include, but are not limited to “Low impact development (LID) site design principles (e.g., preserving natural drainage channels, treating stormwater runoff at its source rather than in downstream centralized controls)” and “Treatment control measures (e.g., bioretention, porous pavement, vegetated swales) targeting any potential pollutants such as sediment, pathogens, metals, nutrients (nitrogen and phosphorus compounds), oxygen-demanding substances, organic compounds (e.g., PCBs, pesticides), oil and grease, and trash and debris.” (MMRP, at pages 1-20 and 1-21.) These are common and effective means to treat and manage stormwater management on-site, and do not constitute improper deferral. (See Endangered Habitats League, 131 Cal.App.4th at 795 [upholding BMPs as a form of mitigation].)

Please also see Response A-43.

Response A-24

Please see Response A-44.

Response A-25

The comment states that the District cannot rely on compliance with regulatory standards as mitigation, and that the Draft EIR is incomplete for this reason. There is a long line of CEQA case law finding compliance with applicable regulatory standards to provide a basis for determining that the project will not have a significant environmental impact in appropriate situations. (See, e.g., Tracy First v. City of Tracy (2009) 177 Cal.App.4th 912, 933-934 [finding City proceeded in the manner required by law when it relied on the California Building Energy Efficiency Standards in determining that the project would not have a significant energy impact]; Oakland Heritage Alliance v. City of Oakland (2011) 195 Cal.App.4th 884, 906 [finding compliance with regulations as proper where it is reasonable to expect compliance and upholding the city’s reliance on standards in the building code and city building ordinances to mitigate seismic impacts].) Similarly here, where park program is yet to be finalized and specific site plans for future development projects under the Land Use Plan have not yet been developed as they rely on further evaluation of existing buildings on-site for adaptive reuse and future land assembly, reliance on compliance with regulatory measures such as the City’s and State’s building codes to reduce impacts from seismic ground shaking and liquefaction is common, reasonable, and historically proven to be effective. This is particularly true here, since the project would require building permits from the City.

Further, in absence of information for some of the project elements in part due to dependence on further funding, land assembly status, and further evaluation to determine adaptive reuse of existing buildings, CEQA Guidelines Section 15145 does not require a review of impacts that are based on speculation.
Please also see Responses A-21 through A-24.

**Response A-26**

Comment A-26 introduces the next section of the letter without providing any factual or other specific information regarding the EIR or the proposed Plan. Therefore, please see Responses A-27 through A-34.

**Response A-27**

Without providing any evidence or otherwise identifying a particular cumulative project or impact, the comment suggests that the Draft EIR neglected to address the cumulative impacts of planned nearby projects. The comment is not accurate, as the Draft EIR evaluated cumulative projects in each individual impact analysis chapter. (See, e.g., Draft EIR, at pages 4.2 through 4.5 [describing approach to cumulative impacts analysis].) Given the very small footprint and largely passive uses of the Regional Park considered in the Land Use Plan Amendment and the Draft EIR, the fact that almost all of the project’s possible cumulative impacts would be less than cumulatively considerable or less than significant is not surprising.

An EIR must “discuss cumulative impacts of a project when the project’s incremental effect is cumulatively considerable.” (Guidelines, § 15130(a).) Cumulative impacts are those incremental effects of a project added to the effects of other “closely related past, present, and reasonably foreseeable probable future projects.” (Pub. Resources Code, § 21083 (b)(2); Guidelines, § 15355.) Where, however, the incremental effect “is not ‘cumulatively considerable,’ a lead agency need not consider that effect significant, but shall briefly describe its basis for concluding that the incremental effect is not cumulatively considerable.” (Guidelines, § 15130(a); San Francisco Baykeeper, Inc. v. State Lands Com. (2015) 242 Cal.App.4th 202, 222.) The discussion “need not provide as great detail as is provided for the effects attributable to the project alone” and “should be guided by the standards of practicality and reasonableness.” (Guidelines, § 15130(b).) Courts have readily upheld an EIR’s truncated cumulative effects analysis where the overall problem and the project’s incremental effects are difficult to quantify. (See, e.g., Sierra Club v. West Side Irrigation Dist. (2005) 128 Cal.App.4th 690, 700–702 [incremental impacts of a proposed water transfer not cumulatively considerable simply due to the presence of other water transfers within the watershed]; Santa Monica Baykeeper v. City of Malibu (2011) 193 Cal.App.4th 1538, 1559–1560 [no cumulative effects analysis to groundwater was required where causal link could not be established].) The same is true here, where the Regional Park’s incremental contribution to cumulative impacts is either miniscule (e.g., traffic, noise, air quality, or GHG emissions) or may actually result in some environmental benefits (e.g., biological resources).

Please also see Response A-49 below.

**Response A-28**

The commenter states that Chapter 3, Project Description, of the Draft EIR presents inconsistent vehicle miles traveled (VMT) data. The Project Description in the Draft EIR presents visitor estimates
(see Table 3-3 in the Draft EIR) but does not present vehicle trip or VMT data. Table 3-3 mistakenly refers the total visitors as total trips. The Errata (see Attachment C) clarifies the trip generation data used in the Draft EIR. As stated in the Draft EIR, total daily vehicle trips to and from the Regional Park during the week (when peak hours occur) are only 587.

The commenter incorrectly states that trip data is inconsistent between the Project Description, GHG emissions, and energy analyses. Table 3-3 on page 3-40 of the Draft EIR states that 2,716 people would visit the Regional Park (2,450 by auto) on a typical weekend day at full buildout (2050). This number represents total visitors and includes both park visitors and employees; it does not represent vehicle trips. Page 4.7-22 in Chapter 4.7, Greenhouse Gas (GHG) Emissions, of the Draft EIR states that 2,665 people would visit the Regional Park. This number represents visitors only (employees are reflected in the analysis as well but are described separately) and does not represent vehicle trips or VMT. Page 4.5-11 of Chapter 4.5, Energy, of the Draft EIR states that the project would generate approximately 1,300 typical weekend trips. This number represents vehicle trips and not visitors. Please see Response A-05 and A-49 regarding clarification on calculation of project trips.

Regarding phasing, as described on page 3-36 of the Draft EIR and in Table 3-2 on page 3-38 of the Draft EIR, development and opening of the park would occur over three development phases. The three development phases do not include an initial phase, referred to as “Land Bank Status,” during which the park would remain closed to the public as funding becomes available to initiate the three development phases. Consequently, the EIR was accurate in describing only three development phases. Please also see Response A-39.

Response A-29
The comment suggests that certain comments on the Notice of Preparation (NOP) were not addressed in the Draft EIR. While any person may submit relevant information to the lead agency to assist in the preparation of the draft EIR, the lead agency must consider this information and, it may at its election, include it in the EIR. (Pub. Resources Code, § 21082.1(b); Guidelines, § 15084(c).) However, only the significant effects of a particular project must be carried forward and addressed in the EIR. (Guidelines, §§ 15126, 15126.2 [“An EIR shall identify and focus on the significant environmental effects of the proposed project.”].) In this instance, the District considered all public comments submitted on the NOP and Draft EIR, and each of the issues raised in the comments have been addressed in the Draft or Final EIR (as amended by the Errata in Attachment C).

Please see Responses A-30 through A-33.

Response A-30
The comment suggests that certain comments on the Draft EIR were not addressed in the Final EIR, including two comments related to the red-legged frog preserve. Given the EIR’s in-depth and exhaustive responses, the comment is incorrect. Further, as a threshold matter, individual responses to comments need not be “exhaustive and thorough.” (Twain Harte Homeowners Assn. Inc. v. County of Tuolumne (1982) 138 Cal.App.3d 664, 686.) Indeed, “[w]here a general comment is made, a general
response is sufficient.” (Browning-Ferris Indus. v. City Council (1986) 181 Cal.App.3d 852, 862.) And failure to respond to a particular comment is not prejudicial where the comment is “demonstrably repetitive of material already considered” or “adequately addressed elsewhere.” (Environmental Protection Information Ctr. v. Dept. of Forestry & Fire Protection (2008) 44 Cal.4th 459, 487 fn.9.)

As explained in Response 01-01 in the Final EIR, the referenced red-legged frog ponds are located within an area of the proposed Regional Park that will be managed as a “Natural Unit” and will be maintained privately as part of a mitigation program following an oil pipeline leak that was identified in 2011 in the Phillips 66 Company’s Line 200.8 The proposed Plan does not propose any active uses or physical improvements within this area, and will not in any way alter or impede the ongoing nature of that reserve. Consequently, the response was sufficient.

Response A-31

The comment complains that the District’s response to the City concerning trail locations did not adequately explain why coordination on trail alignments could not occur at this stage. The response is self-explanatory. To date, the City has not undertaken sufficient planning of its own to identify specific trail alignments, and the City did not seek in its comment or since to identify any specific trail alignments. The District, on the other hand, has identified the possible trail alignments within the Regional Park, nearly all of which occur on existing roads or other disturbed or developed pathways. The District has proposed no new trails, either on-site or off-site, connecting adjacent properties. Rather, connections to trails off-site, if any, would be dependent entirely on the City and other adjacent landowners. For the District to undertake that level of planning, particularly at this early stage and without any details provided by adjacent landowners or the City, would amount to pure speculation. The District will continue to consult with the City and other adjacent land owners and conduct further environmental review to the extent that new trials are identified that will result in new or more severe impacts to the physical environment.

Please also see Response A-11.

Response A-32

CEQA Guidelines Section 15145 does not require review of impacts based on speculation. The comment correctly notes that the design and size of the Diablo Center have not yet been determined. And while it is known that the Diablo Center could fit within the existing 15,000-square-foot footprint of Building 87, it is unknown at this stage whether the Diablo Center will encompass a building or will simply amount to an outdoor venue. Adoption of the Land Use Plan itself does not amount to any

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determination by the District to actually carry out the Diablo Center. And without knowing the type of building, size of structure, timing of construction, proposed building materials, utility demands, and other project-specific information, it would be speculative to analyze the project-level impacts of the future Diablo Center. If the Diablo Center is constructed as a building within the existing footprint of Building 87, its construction and operation impacts would be limited given its reuse of an existing building footprint, replacement of an existing building, and distance from sensitive receptors. If the Diablo Center is constructed as an outdoor space, its construction impacts would be even more limited.

The EIR is a program-level document that analyzes the potential effects of the District’s adoption of the proposed Land Use Plan. This approach is consistent with Section 15168(a)(3) of the CEQA Guidelines, which provides that a program EIR may be prepared for a series of actions that are related “in connection with the issuance of rules, regulations, plans, or other general criteria to govern the conduct of a continuing program.” The proposed Land Use Plan illustrates the schematic organization of a future Regional Park and will guide the development and management of the Regional Park, but it does not provide a detailed development program for specific future site improvements. As stated on page 2-5 of the Draft EIR, “this program EIR is not project-specific, and does not evaluate the impacts of individual projects that may be proposed in the future. All future development projects within the Concord Hills Regional Park area that qualify as a ‘project’ under CEQA are subject to compliance with CEQA, which may require additional, project-specific environmental analysis.”

Response A-33
The required rezoning would ensure consistency between City zoning and the proposed Regional Park. The rezoning would not, in itself, create any physical impacts or result in any changes to the proposed Plan. Future development of the proposed Regional Park would occur consistent with the proposed Land Use Plan.

Response A-34
Rather than offering any specific alternatives for consideration, Comment A-34 suggests that the District was obligated under CEQA to consider and evaluate alternatives beyond those evaluated under the EIR—the No Project and Limited Footprint Alternatives. The comment misconstrues the requirements of CEQA and the limited nature of the project, which itself necessitates a narrower set of alternatives.

CEQA does not require an EIR to consider every conceivable project alternative and the selection of alternatives is subject only to a rule of reason. (Guidelines, § 15126.6(a), (f); *Citizens of Goleta Valley v. Bd. Of Supervisors* (1990) 52 Cal.3d 553, 556 (“Goleta”).) To satisfy CEQA, the EIR’s range of alternatives must examine in detail only those that would feasibly attain most of the basic project objectives while avoiding or substantially lessening any of a project’s significant effects. (Guidelines, § 15126.6(a), (f) [emphasis added].) But “CEQA establishes no categorical legal imperative as to the scope of alternatives to be analyzed in an EIR. Each case must be evaluated on its facts, which in turn
must be reviewed in light of the statutory purpose.” (California Native Plant Society v. City of Santa Cruz (2009) 177 Cal.App.4th 957, 987, citing Goleta, 52 Cal.3d at 566-567.)

Further, an EIR need not address proffered alternatives that do not provide distinct environmental advantages over the project or are already within the range of alternatives addressed in the EIR. (Guidelines, § 15126.6(b); Village Laguna of Laguna Beach, Inc. v. Bd. Of Supervisors (1982) 134 Cal.App.3d 1022, 1028–1029 [rejecting call to evaluate alternative falling within the densities already included in the EIR]; Tracy First v. City of Tracy (2009) 177 Cal.App.4th 912, 929–930 [rejecting call for reduced-size store alternative because alternative would not reduce significant impacts of the project].) The District was not required to evaluate additional variations of the Land Use Plan, particularly where, as here, such alternatives would not provide meaningful environmental benefits beyond over the alternatives already evaluated. (Marin Municipal Water Dist. V. KG Land Cal. Corp. (1991) 235 Cal.App.3d 1652, 1666 [Final EIR properly rejected alternatives where, among other things, alternative did not provide substantial environmental advantages]; see also California Native Plant Society, 177 Cal.App.4th at 993.)

The Draft EIR considered two project alternatives in detail: (1) a no project alternative; and (2) a limited footprint alternative. Under the No Project Alternative, the proposed Land Use Plan would not be adopted, the future Regional Park would not be developed, and the project site would remain largely in its existing use, with the exception that the remediation activities planned by the United States Navy would occur. Under the Limited Footprint Alternative, the proposed Land Use Plan would be amended such that future Regional Park uses would be scaled back to focus the intensity of use in the previously developed areas of the project site. The EIR further determined that the proposed Land Use Plan would not result in any significant environmental impacts after mitigation; thus, the EIR’s alternative analysis was reasonable under CEQA.

Please also see Response A-45.

Response A-35

Claiming that the Draft EIR must be overhauled to address the issues raised above, the comment suggests that the Draft EIR must be revised and recirculated for public review. While repeatedly misstating that the claimed deficiencies are severe, nowhere does the comment identify any “significant new information” satisfying the criteria for recirculation under CEQA. Neither the Final EIR nor the comment itself point to any new or substantially more severe impacts than those already identified in the Draft EIR, nor do they evidence the rejection of a new and feasible mitigation measure or project alternative that would clearly lessen the environmental impacts of the project.

Recirculation of an EIR is only required when the lead agency adds “significant new information” to an EIR after circulation for public review. (Pub. Resources Code, § 21092.1; Guidelines, § 15088.5(a).) Recirculation is required where the new disclosure shows a “new significant impact,” a “substantial increase in the severity” of an impact that cannot be mitigated, or a “feasible project alternative or mitigation measure considerably different from the others previously analyzed would clearly lessen” the project’s impacts “but the project’s proponents decline to adopt it.” (Guidelines, § 15088.5(a)(1)–
(3); Residents Against Specific Plan 380 v. County of Riverside (2017) 9 Cal. App. 5th 941, 964, citing Laurel Heights Improvement Assn. v. Regents of University of California (1993) 6 Cal.4th 1112, 1129 ("Laurel Heights II"). However, “[r]ecirculation is not required where the new information added to the EIR merely clarifies or amplifies or makes insignificant modifications in an adequate EIR.” (Guidelines, § 15088.5(b); San Francisco Baykeeper, Inc. v. State Lands Commission (2015) 242 Cal.App.4th 202, 224–225.) “Recirculation is intended to be the exception, rather than the general rule” and “is not intended ‘to promote endless rounds of revision and recirculation of EIRs.’” (Save Our Peninsula Committee v. Monterey County Bd. of Supervisors (2001) 87 Cal.App.4th 99, 133–134, quoting Laurel Heights II, 6 Cal.4th at 1132.)

In each of the areas identified by the comment—biological resources, GHG emissions, and air quality—the EIR evaluated the Land Use Plan’s potentially significant impacts, disclosed those potential impacts, and adopted mitigation where necessary to reduce those impacts to a less-than-significant level. With such a relatively small portion of the former CNWS proposed for redevelopment, a focus on reuse of previously developed sites, and a substantial restoration component, the proposed Land Use Plan would not result in any “new significant impact” or “substantial increase in the severity” of an impact that cannot be mitigated. Consequently, there is no “significant new information” triggering the need to recirculate the EIR.

Response A-36
The comment is a map showing points of interest on the proposed Regional Park alongside the Faria/Southwest Hills proposed land use plan.

Response A-37
Please see Responses A-02 and A-32 regarding why further project details cannot be provided and are not necessary for analysis in this program-level EIR. In short, a lead agency preparing a program EIR must disclose what it reasonably can. (Cleveland National Forest Foundation v. San Diego Assn. of Governments (2017) 17 Cal.App.5th 413, 440.) As Comment Letter A acknowledges, the EIR identifies several project-level components that, depending on the ultimate scope and alignment of those components, may require future CEQA review. This comports with Guidelines Section 15168. (San Franciscans for Livable Neighborhoods v. City and County of San Francisco (2018) 26 Cal.App.5th 596, 607-608 [agency may dispense with further environmental review of future activities if adequately covered in program EIR]; Citizens for a Sustainable Treasure Island v. City and County of San (2014) 227 Cal.App.4th 1036, 1051 [components not adequately covered in program EIR may be subject to subsequent environmental review].)

Response A-38
Regarding the adequacy of baseline information in the evaluation of biological resource impacts, please see Response A-15.

Regarding references, the EIR provides footnote references in the document footer throughout the document. Please also see Response A-50.
As noted in Response A-21, an LTMP was prepared jointly by the City of Concord and District to describe the biological resources present on the project site and how those resources would be managed both in the near-term and in perpetuity. The LTMP has been completed and was approved by the USFWS on December 3, 2018.

Regarding buffers between recreational facilities and California red-legged frog and California tiger salamander breeding sites, the Draft EIR finds that buffers would be sufficient to avoid impacts to these species. As described on pages 4.3-41 to 4.3-42 of the Draft EIR:

The majority of California red-legged frog and California tiger salamander breeding habitat on the project site would be located within Natural Units, which would be planned and managed to preserve and enhance natural habitat with only lower intensity recreational uses and facilities (primarily trails) permitted. In addition, approximately 620 acres within the Natural Units, including the majority of known California red-legged frog and California tiger salamander breeding sites, would be distinguished as Special Protection Features (SPFs) within which public access would be restricted. Further, the proposed Plan includes siting and design guidelines for the protection of biological resources, including the following measures relevant to the California red-legged frog and California tiger salamander:

- All new trails, roads, and all other recreational facilities will maintain a buffer of at least 500 feet from California red-legged frog and California tiger salamander breeding habitat.
- Group picnic sites and camping areas will be sited over 1,000 feet from any California red-legged frog or California tiger salamander breeding habitat.
- Existing roads used for regional park access should maintain a buffer of at least 500 feet from California red-legged frog and California tiger salamander breeding habitat, wherever possible. Where buffers are not feasible, fencing, signage, reduced speed limit, and other management barriers will be used to restrict trail users to the designated trails.

Regarding the baseline noise environment, noise conditions are evaluated qualitatively because a more detailed noise analysis was not warranted due to the distance (in addition to the natural terrain and landscaping providing natural attenuation) between future on-site construction activities and sensitive receptors. Development under the proposed Land Use Plan would not require the use of heavy construction equipment within 1,500 feet of sensitive receptors or require substantial amounts

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9 Also see the May 2017 Biological Opinion issued by the USFWS, which further confirms that any development and passive recreation within the Regional Park will not jeopardize nor preclude recovery of the California red-legged frog and Central California tiger salamander. (May 30, 2017 Letter from U.S. Fish & Wildlife Service to U.S. Army Corps of Engineers and Department of the Navy re Formal Consultation on the Proposed Transfer and Redevelopment of the Former Concord Naval Weapons Station, Contra Costa County, California (“Biological Opinion”), pages 63-64.)
of haul (Draft EIR, at pages 4.11-15 to 4.11-16). In addition, the 35 acres of developed recreation and operations facilities that are envisioned in the Land Use Plan would be constructed incrementally over several years (Draft EIR, at page 4.11-15).

Regarding the baseline traffic environment, a full traffic analysis was not warranted due to the relatively low peak-hour vehicle trips that would be generated by the project. As described on page 4.14-15 of the Draft EIR, the project’s estimated peak-hour vehicle trips would be well below the 100-trip threshold set by the CCTA and the City of Concord for a full (detailed) traffic impact analysis. Please also see Response A-05. Further, in light Senate Bill 743 (2013), auto delay, Level of Service, and other similar measures of vehicular capacity or traffic congestion have been eliminated as a basis for determining significant impacts under CEQA. (See Pub. Resources Code, § 21099; Citizens for Positive Growth & Preservation v. City of Sacramento (2019) 43 Cal.App.5th 609 (finding automobile delay, as described solely by level of service or similar measures of vehicular capacity or traffic congestion, shall not be considered a significant impact on the environment).)

Response A-39

Regarding whether the project would be developed in three or four phases, please see Response A-28. Regarding timing, Land Bank Status began with the 2019 conveyance of the project site from the National Parks Service to the District. Implementation will be incremental and based on the availability of funding and could extend beyond 2050. Also, some aspects of the park, such as trail connections to off-site properties, will depend on the willingness of adjacent landowners to work with the District as well as proposed buildout of those projects which may or may not align with the Concord Reuse Project, all of which are out of the District’s control. While the Land Use Plan assumes a 50-year buildout (i.e. by approximately 2070), the EIR assumes that Phase 3 would be completed by the year 2050 (reflecting a 31-year buildout) to reflect a conservative and worst-case scenario for CEQA purposes.

As stated in Response A-21, the LTMP was completed and approved by USFWS in December 2018.

Response A-40

Please see Response A-22 and Errata (see Attachment C). Mitigation Measure BIO-3a has been strengthened to mandate compensatory mitigation at a minimum of a 1:1 ratio. This satisfies CEQA. (See Environmental Council of Sacramento v. City of Sacramento (2006) 142 Cal.App.4th 1018, 1041-1042 [upholding 0.5:1 mitigation ratio for loss of Swainson’s hawk habitat]; California Native Plant Society v. City of Rancho Cordova (2009) 172 Cal.App.4th 603, 611, 619-623 [upholding minimum mitigation ratio of 1:1 for loss of 15.65 acres of vernal pool and seasonal wetlands].)

Response A-41

As described on page 4.14-15 of the Draft EIR, the project’s estimated peak-hour vehicle trips would be well below the 100-trip threshold set by the CCTA and the City of Concord for a full (detailed)
traffic impact analysis.\textsuperscript{10} Please see Response A-05 regarding visitor estimates and other assumptions for calculation of vehicle trips for the proposed project.

Response A-42

Please see Response A-28. Modeling conducted for the GHG analysis utilized default trip lengths in the California Emissions Estimator Model (CalEEMod), which is 9.5 miles for commercial-to-work trips and 7.3 miles for commercial-to-commercial (i.e., non-work) trips. Because the CalEEMod land use categories do not include all land use types, these categories were used to represent employees and visitors, respectively.

Response A-43

Because specific site plans for future development projects under the Land Use Plan have not yet been developed, it would be speculative to calculate site-specific stormwater volumes and rates. As reflected in impact discussion HYD-1 in Chapter 4.9, Hydrology and Water Quality, of the Draft EIR, the EIR analysis uses an estimate of total acres of impervious area to determine that a potentially significant impact could occur, and recommends Mitigation Measure HYD-1.2 to ensure that future project design plans adhere to stormwater best management practices. As noted on page 4.9-18 of the Draft EIR:

“it is estimated that development of the proposed Regional Park would install approximately 16.5 acres of new development, most of which would be impervious area, and replace 40.5 acres of existing impervious area in certain areas of the site, including buildings (such as the Visitor Center and Native Plant Nursery structures) and paved roads and trails. In other areas, impervious surfaces (such as roads) would be removed. Overall the project would reduce the total impervious area on the site by approximately 41 acres or 33 percent.”

Given the size of the project site (2,543 acres) and the fact that the vast majority of the site will remain as pervious coverage, future specific development projects can be reasonably expected to be designed to handle and manage stormwater on-site.

Response A-44

The comment suggests that the Draft EIR’s discussion of liquefaction, lateral spreading, and unstable geologic units impacts is inadequate and relies on compliance with existing regulations.

The Draft EIR does conclude that the Land Use Plan’s effects related to geology and soils would remain less than significant. What the comment fails to acknowledge, however, is that the Regional Park buildings and facilities would be developed almost entirely on land already developed with

existing facilities. The vast majority of the Regional Park (95 percent) would be preserved as habitat and open space, and left in its current and natural condition. Moreover, the existing buildings on the site—all of which were constructed long before modern building codes—have not been affected by any existing geotechnical issues that pose a concern for redevelopment. Conversely, all future development on the site will be subject to the City of Concord’s building and grading permitting processes and require compliance with the City’s performance standards provided in the California Building Code (CBC) and the City’s Municipal Code.

As described on page 4.6-2 of the Draft EIR, the CBC provides “minimum standards to protect property and public safety by regulating the design and construction of excavations, foundations, building frames, retaining walls, and other building elements to mitigate the effects of seismic shaking and adverse soil conditions. The CBC contains provisions for earthquake safety based on factors including occupancy type, the types of soil and rock on-site, and the strength of ground shaking with specified probability of occurring at a site.” As noted in impact discussion GEO-1 in the Draft EIR, “Any grading permit for development activities within a hillside must have an engineering geology report prepared and submitted to the City.” In addition, the City’s Municipal Code Section 16.10.030 allows the City Engineer to require a geologic report prior to the issuance of any grading permit. Through this process, and through compliance with the California Building Code, project-specific geotechnical issues will be thoroughly addressed consistent with State and local requirements as specific building proposals are developed. (See Oakland Heritage Alliance v. City of Oakland (2011) 195 Cal.App.4th 884 [no deferral of mitigation of geologic hazards where mandated to comply with building code].) Furthermore, as stated on page 4.6-14 of the Draft EIR:

“Pursuant to the California Building Industry Association v. Bay Area Air Quality Management District (2015) 62 Cal.4th 369 and Ballona Wetlands Trust v. City of Los Angeles (2011) 201 Cal.App.4th 455, 473-474, CEQA does not require an EIR to analyze the environmental effects of attracting development and people to a hazardous area, except when the project exacerbates an existing environmental hazard or condition, or when specifically required by statute. Therefore, the discussion of geologic hazards . . . focuses on the extent to which the proposed project could exacerbate [emphasis added] existing hazards.”

The Plan’s proposed uses of future buildings and marginal new development does not exacerbate any existing hazardous condition; rather, future uses will improve those structures and site characteristics as needed to satisfy the extraordinarily strict building codes now in effect.

Response A-45

The comment incorrectly states that the Limited Footprint Alternative evaluated in the Draft EIR includes development throughout the project site. Under both the proposed Plan and the Limited

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11 Personal communications with Brian Holt, Chief of Planning/GIS, and Devan Reiff, Principal Planner, East Bay Regional Park District, June 17, 2020.
Footprint Alternative, the development footprint would be relatively small compared to the size of the total project site. As stated on page 3-1 of the Draft EIR:

“The vast majority of the proposed project, approximately 2,417 acres, or 95 percent of the site, would be designated as a conservation area and preserved for conservation and management of natural and cultural resources. [...] The remainder of the property, approximately 126 acres, or 5 percent of the site, would be available for recreation and park facilities, primarily on land already developed with existing facilities (building sites, paved and unpaved roads, parking areas, bunkers, and railroad tracks from the United States Department of the Navy’s (Navy) operation of the property) that will be reused.”

The Limited Footprint Alternative would involve an even more limited extent of development; as described on page 5-13 of the Draft EIR, this alternative would remove “several miles of trail, the proposed orchard and Diablo Center, two campsites, and several picnic areas and overlooks.” As stated on page 5-4 of the Draft EIR, this alternative would only partially achieve all of the project objectives. As the proposed Plan would leave 95 percent of the project site as designated conservation areas, and the Limited Footprint Alternative would leave more of the site in their existing conditions or returned to a more natural state, a third alternative that leaves even more of the site undeveloped is not required.

The commenter requests an alternative consistent with the City of Concord’s Reuse Plan, Specific Plan, and General Plan. As noted on page 4.10-13 in Chapter 4.10, Land Use and Planning, of the Draft EIR, the proposed Plan would be consistent with the City of Concord’s General Plan land use designation. As noted in Table 4.10-2 of the Draft EIR, the proposed Plan is consistent with the policies of the Concord Reuse Project Area Plan. Additionally, in its comment letter on the Draft EIR, the City of Concord did not express any concerns regarding the consistency of the proposed Plan with the General Plan or its planning documents for the Concord Reuse Project, nor did it express any concerns regarding the alternatives evaluated in the Draft EIR. Therefore, no new alternatives are required.

Please also see Responses A-34, A-46, and A-48.

Response A-46

The CEQA Guidelines do not provide specific guidance for how to characterize the impacts of project alternatives in comparison to the proposed Plan. For example, Section 15126.6(d) of the CEQA Guidelines states “A matrix displaying the major characteristics and significant environmental effects of each alternative may be used to summarize the comparison.” Chapter 5, Alternatives, of the Draft EIR provides information at an adequate level of detail for the reader to understand the effects of the project alternatives and how they compare to the significant impacts of the proposed Plan. The discussion of noise impacts under the No Project Alternative acknowledges that this alternative would not generate construction or operational noise. As noted on page 5-11 of the Draft EIR, neither the proposed Plan nor the No Project Alternative would result in significant noise impacts. Therefore, the impacts are considered to be similar.
Response A-47

The evaluation of agricultural and forestry resources was conducted consistent with Appendix G of the CEQA Guidelines, which identifies the following resources of concern: Prime Farmland, Unique Farmland, Farmland of Statewide Importance, zoning for agricultural use, land subject to a Williamson Act contract, zoning of forest land or timberland, forest land, and farmland or forest land that would be converted to a non-agricultural or non-forest use. As stated on pages 6-1 to 6-2 of the Draft EIR, “There are no agricultural lands classified as Prime Farmland, Unique Farmland, or Farmland of Statewide Importance within Concord. In addition, the Contra Costa County Department of Conservation does not identify lands in Concord that are under Williamson Act contract. Therefore, future development as a result of adoption and implementation of the proposed Plan would not conflict with farmlands of importance or lands under Williamson Act contract. According to 2006 mapping data from the California Department of Forestry and Fire Protection, the City of Concord does not contain any woodland or forestland cover; therefore, the City does not contain land zoned for Timberland Production nor does the Concord Zoning Map identify any areas zoned for Timberland Production. The project site is located within the city of Concord; therefore, none of these uses are mapped within the project site. Moreover, with 95 percent of the Regional Park remaining in open space and in need of active vegetation management, there is no plan to cease the current grazing that occurs on-site. Indeed, grazing is identified as one of several active management tools to help manage the future conservation area for special-status species and their habitats. The LTMP includes Interim Habitat Monitoring, Management, Maintenance, and Reporting Task INT-14, “Manage Localized Grassland Biomass through Selective Grazing.” It also includes Long-Term Habitat Monitoring, Management, Maintenance, and Reporting Task INT-13, “Manage Grazing around Ponds to Maintain or Enhance Habitat.” Likewise, the Biological Opinion issued by the U.S. Fish and Wildlife Service includes Conservation Measure 10a, “Maintenance of appropriate grass heights for listed species via grazing within areas proposed as On-Site Conservation Lands in the 2017 Disposal BO [Biological

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15 City of Concord and East Bay Regional Park District, December 3, 2018, Concord Reuse Project Area Plan On-Site Conservation Lands Long-Term Management Plan, prepared by H.T. Harvey & Associates., Table 7 and Table 8.
Consequently, there is no adverse impact to agricultural or forestry resources, whatsoever.

**Response A-48**

The comment suggests that the Draft EIR failed to consider or conduct certain tests or additional surveys recommended by the City of Concord and others, including with regard to visual simulations, project alternatives, vector control, and botanical surveys. The comment fails to acknowledge that “CEQA does not require a lead agency to conduct every recommended test and perform all recommended research to evaluate the impacts of a proposed project.” (Association of Irritated Residents v. County of Madera (2003) 107 Cal.App.4th 1383, 1396, citing Guidelines, § 15204(a); Cadiz Land Co. v. Rail Cycle (2000) 83 Cal.App.4th 74, 102; Society for California Archaeology v. County of Butte (1977) 65 Cal.App.3d 832, 838-839.) Furthermore, the District here had the “discretion to reject a proposal for additional testing or experimentation.” (Association of Irritated Residents, 107 Cal.App.4th at 1396.)

Regarding visual simulations, the District considered the City’s comment and whether to include some visual simulations in the EIR, but decided that such simulations would not be meaningful from off-site locations due to the very low-intensity nature of the project and the relatively small building area in the context of the entire 2,543 acre site. Under the CEQA Guidelines, Appendix G, the relevant inquiry is whether the project would “[s]ubstantially degrade the existing visual character or quality of the site or its surroundings.” The fact that there are already buildings, water tanks, bunkers, roadways, rails, and fire and walking trails scattered throughout the former CNWS under baseline conditions—some of which on prominent hilltop locations—combined with the limited scenic vistas from off-site locations and marginal development proposed for the Regional Park, further highlights the lack of any possible adverse aesthetic or visual impacts associated with converting the area to a regional park and habitat preserve. (See, e.g., San Francisco Beautiful v. City and County of San Francisco (2014) 226 Cal.App.4th 1012, 1026-1027 [significance of aesthetic impact must be measured in light of the context where it occurs], citing Bowman v. City of Berkeley (2004) 122 Cal.App.4th 572, 589; Clover Valley Foundation v. City of Rocklin (2011) 197 Cal.App.4th 200, 243–244; Citizens for Responsible & Open Government v. City of Grand Terrace (2008) 160 Cal.App.4th 1323, 1337–1338.)

Regarding alternatives, please see Responses A-34, A-45, and A-46.

Regarding vector (mosquito) control, the comment references the Contra Costa Mosquito & Vector Control District’s comments on the NOP, and raises concerns about mosquito population impacts on sensitive receptors and future park visitors. The Final EIR addressed comments submitted by the

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Vector Control District, which provided background on the existing mosquito sources and programs to address vector control and the possible impacts of those existing sources on future Regional Park users. (Final EIR, at pages 5-8 through 5-10.) As acknowledged by the Vector Control District and Chapter 5 of the Final EIR, risks to human health by disease vectors is not a significance threshold addressed in Appendix G of the CEQA Guidelines, and the presence of mosquitoes and the ongoing vector control is part of the existing baseline condition. Moreover, to the extent the current comment is suggesting that the EIR must address the possible impacts of the existing environment on future users of the Regional Park, that too is not a topic for CEQA review. (California Building Industry Assn. v. Bay Area Air Quality Management Dist. (2015) 62 Cal.4th 369, 386 [“CEQA generally does not require an analysis of how existing environmental conditions will impact a project’s future users or residents.”]; Berkeley Hills Watershed Coalition v. City of Berkeley (2019) 31 Cal.App.5th 880, 892; Preserve Poway v. City of Poway (2016) 245 Cal.App.4th 560, 582-584; Clews Land & Livestock, LLC v. City of San Diego (2017) 19 Cal.App.5th 161, 193-195 [no fair argument that locating homes in a fire hazard zone would increase fire risks to the environment].)

Here, in addition to comprising a pre-existing environmental condition, the proposed Plan is not proposing features or activities that would exacerbate the existing sources of mosquitoes. Indeed, existing vector control practices administered by the District and Contra Costa County will likely help reduce the existing sources for mosquitoes from baseline conditions. (See, e.g., Final EIR, at page 5-10.) Moreover, as referenced above, the District implements integrated pest management (IPM) strategies consistent with its adopted Pest Management Policies and Practices resolution throughout its park system. The District uses an IPM Checklist to implement, monitor, and refine the adopted Policies and Practices. The District also prepares an IPM annual report. A principal goal of the District’s IPM program is to protect the public from pests that may be a threat to public health. The District publishes annual reports with updated data on its IPM program.17 The Regional Park manages vegetation with mowing and grazing. Under the proposed project, the District would continue its standard abatement procedures, which include vegetation control, draining puddles that form in parking areas, and managing vegetation in ponds. The District will also continue its partnership with the Vector Control District to coordinate more intensive abatement needs when they arise. But these are all standard, pre-existing practices for the District and its park system, and not a potentially significant impact or mitigation measure arising from this Plan. (See, e.g., Citizens for Environmental Responsibility v. State ex rel. 14th Ag. Assn. (2015) 242 Cal.App.4th 555, 568-569 [a rodeo’s manure management plan was not a “new measure” but rather a “preexisting measure previously implemented to address a preexisting concern” as part of “ongoing ‘normal operations’ of the Fairground.”].)

Finally, development of the Regional Park would also improve access throughout the project site in comparison to existing conditions, which would allow for improved maintenance and access for District staff and mosquito and vector abatement technicians. The project area is also remote, and

there is no evidence of sensitive receptors within the appropriate distance. Consequently, this was not a topic that needed to be addressed further in the EIR.

As to the call for additional botanical surveys, such surveys and maps are not required for every species addressed in the EIR, particularly where, as here, the proposed Plan’s effects are less than significant. (See *San Joaquin Raptor Rescue Center* v. *County of Merced* (2007) 149 Cal.App.4th 645, 666 [analysis of impacts need not be “so exhaustively detailed as to include every conceivable study or permutation of the data”]; *Save Round Valley Alliance v. County of Inyo* (2007) 157 Cal.App.4th 1437, 1468 [quantified analysis of biological impacts not required].) This is particularly true here, where the botanical species referenced have never been identified on the entirety of the former CNWS and 95 percent (or 2,417 acres) of the Regional Park will be preserved and managed to enhance (not degrade) the baseline biological resources setting and the areas slated for passive recreational use or new development are mostly disturbed or already developed. Mitigation Measure BIO-1.1c, as revised in the Errata (see Attachment C), will ensure that sensitive botanical resources will be avoided or protected. Regarding surveys, please also see Responses A-15, B-02, and B-03.

**Response A-49**

Potential impacts to future cumulative development projects, including the Faria/Southwest Hills Development, are evaluated throughout the Draft EIR.

Regarding cumulative air quality effects, as stated on page 4.2-33 of the Draft EIR, “A project that exceeds the BAAQMD’s significance criteria in the context of emissions from all other development projected within the entire SFBAAB would cumulatively contribute to impacts. Thus, per BAAQMD guidelines, the potential for the proposed project to result in cumulative air quality impacts is evaluated on an individual basis irrespective of other projects that may be occurring concurrently in the area (e.g., Concord Reuse Project).”

Regarding cumulative noise effects, please see Response A-07 and discussion on pages 4.11-18 and 4.11-19 of the Draft EIR regarding why the project’s cumulative noise impacts will be less than significant.

Regarding cumulative traffic effects, please see Response A-05, which explains why a full traffic analysis is not required. Further, in light Senate Bill 743 (2013), automobile delay as a measure of Level of Service (LOS), and other similar measures of vehicular capacity or traffic congestion have been eliminated as a basis for determining significant impacts under CEQA. (*Citizens for Positive Growth & Preservation v. City of Sacramento* (2019) 43 Cal.App.5th 609, 625-626 [as of certification of the Guidelines in 2018, automobile delay based on LOS “shall not be considered a significant impact on the environment” under CEQA], citing Pub. Resources Code, § 21099(b)(2); Guidelines, § 15064.3.) The Draft EIR complies with CEQA Guidelines Section 15148 which, as noted, requires an EIR to “cite all documents used in its preparation including, where possible, the page and section number of any technical reports which were used as the basis for any statements in the EIR.” The CEQA Statute and Guidelines do not stipulate a specific format for citations. The Draft EIR provides footnote references throughout the document.
Responses to Comment Letter B

Response B-01
The comment is an introduction to the comments that follow. The District appreciates this input from CNPS. Please see Responses B-02 and B-03.

Response B-02
The District concurs with the suggestion that surveys for big tarplant be conducted in a year with near-average or above-average precipitation. Such language was originally included in Mitigation Measure BIO-1.1a in the Draft EIR. Although it was struck for the Final EIR, the District will restore the original language to ensure that any surveys that are conducted for big tarplant are conducted during a year in which rainfall has been adequate for the species to be detectable if present. See the revised Mitigation Measure BIO-1.1a in the Errata in Attachment C. The District will conduct any such surveys far enough in advance of construction to ensure that Mitigation Measures BIO-1.1b and BIO-1.1c can be implemented, if necessary.

Response B-03
As described in the Draft EIR, grasslands within the project site are ostensibly suitable for big tarplant, and the botanists who conducted the site-wide special-status plant surveys in 2008 determined that rainfall may not have been adequate for that species to have been detected during those 2008 surveys, if it were present. Therefore, the Draft EIR included Mitigation Measures BIO-1.1a, BIO-1.1b, and BIO-1.1c to ensure that adequate surveys are conducted for big tarplant prior to any construction in grassland habitat, and that any tarplant occurrences are either avoided or are compensated for by management of existing populations.

However, there is a very low probability that big tarplant will be impacted by Regional Park construction activities, for several reasons. First, the species has not been seen anywhere in the larger Concord Reuse Project/Concord Hills Regional Park area during a number of biological surveys conducted over the years, including the original 2008 surveys; 2010 wetland delineation field work performed throughout the larger area by H. T. Harvey & Associates plant ecologists; a focused big tarplant survey conducted in August 2019 by H. T. Harvey & Associates that covered more than 2,000 acres of the City’s proposed development area, as well as a portion of the Regional Park within which water tanks may be constructed in the future; and field work by biological consultants to the U.S. Navy who have performed pre-activity surveys and monitoring associated with the Navy’s remediation activities. Second, the absence of any special-status plants observed throughout the larger area during any of these surveys suggests that there is no a priori reason to believe that sensitive habitats supporting special-status plants are likely to be present in the construction area. Third, Regional Park

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18 Steve Rottenborn, H.T. Harvey & Associates, personal communication to the East Bay Regional Park District.
construction activities would affect only a very small proportion of available habitat for this species (approximately 16.5 acres), making it extremely unlikely that big tarplant would be impacted by these activities.

If big tarplant is present in the Regional Park at all, it is far more likely to occur in the vast grasslands that will not be impacted by construction activities than in the 16.5 acres of grassland that will be impacted. The District believes that in the unlikely event that big tarplant is present in construction areas and cannot be avoided, there is a reasonable probability that a population exists within the conservation area that will not be impacted by construction, and that such a population could provide an opportunity for compensatory mitigation. Any big tarplant population in the conservation area is likely to be well-managed by the management and monitoring actions described in the LTMP.

Nevertheless, the District agrees that in the case of a plant that is as regionally rare as big tarplant, it is important that any impacts be adequately mitigated, and that focused mitigation for this species, rather than reliance on the LTMP, is appropriate. The District also agrees with CNPS’s suggestion that mitigation should be provided at a 2:1 ratio. The acreage occupied by rare plants such as big tarplant depends on a variety of factors, including habitat quality and resulting plant densities. For example, 100 individuals of a plant species may be spread out over 10 acres if habitat quality and plant density are low, or they may be concentrated in 0.1 acre if habitat quality is high, resulting in high plant densities. For this reason, the District believes that it is appropriate to apply the 2:1 mitigation ratio to the number of individuals rather than occupied acreage. Mitigation Measure BIO-1.1c has been revised accordingly, as shown in the Errata in Attachment C.
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May 29, 2020

Via E-Mail only

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Re: Comments on Final Environmental Impact Report (FEIR) for Concord Hills Regional Park Land Use Plan: SCH No. 2017062063
Agenda Item No. D.2.a.

Dear General Manager Doyle, Board of Directors, and Clerk of the Board:

In advance of the Board of Directors hearing on June 2, 2020, this letter is submitted on behalf of Discovery Builders, Inc. and Faria Land Investors, LLC (“Faria”) (collectively, “Discovery”) to provide comments on the adequacy of the Final Environmental Impact Report (“FEIR”) for the proposed Concord Hills Regional Park Land Use Plan (the “Project”), which impacts the planned Faria residential development (“Faria”) on a 606-acre parcel directly adjacent to the proposed Project. A map showing the location of Faria and the Concord Hills Project is attached as Exhibit 1.

By incorporating and relying upon the substantially flawed analysis of the Draft EIR (“DEIR”), the FEIR contains analyses and conclusions that are arbitrary, capricious, and not supported by substantial evidence, contrary to the requirements of the California Environmental Quality Act (“CEQA”). For example:
• The biological data relied upon in the analysis is decades old, and does not consider
the current state of animal and plant species, which runs contrary to CEQA and to
recent staff claims that a primary Project goal is to create a “biological hotspot” for
animal and plant species.

• Inadequate consideration of impacts on the Project—and from the Project—related to
visitors and traffic, particularly when accounting for reasonably foreseeable projects
nearby. For instance, the DEIR assumes only minimal increase in traffic for a
conclusion that no detailed traffic study is required. However, it also fails to
adequately study the number of potential visitors and the large residential and other
developments planned nearby, which means that assumption is speculative and
without factual basis.

• As the City of Concord (the “City”) and Contra Costa County agencies pointed out in
their comment letters, the DEIR lacks specificity regarding trail connections,
stormwater runoff, and various other critical planning aspects like the size and scope
of the planned Diablo Center and other facilities and the incorrect zoning for the
Project as proposed. Rather than building these items into the analysis, the DEIR
defers consideration to an uncertain future time.

• Similarly, the mitigation of numerous impacts is deferred, or existing mitigation
refers to plans, guidelines, and actions that have themselves not been developed,
while also purporting to be a programmatic DEIR such that any future projects related
to this DEIR could inappropriately escape thorough environmental review.

• The DEIR and FEIR fail to address all public comments properly, in many cases just
giving conclusory remarks. In one case, and in response to a comment from a Contra
Costa County agency, the FEIR actually inserts for the first time in this process a
reference to a six (6) million gallon water tank as part of the Project, but without any
analysis of its impacts or how such a project may impact mitigation measures.

This letter summarizes Discovery’s comments on the DEIR and includes, attached as
Exhibit 2, a technical letter submitted on behalf of Discovery by RCH Group (“RCH Letter”).
The comments in the technical letter are incorporated herein by reference and supplement this
comment letter.

The Board of Directors (“Board”) should decline to certify the FEIR due to its failure to
uphold CEQA. Instead, the Board should require that the East Bay Regional Park District (the
“District”) prepare and recirculate a new draft EIR that adequately analyzes the Project’s
impacts.

I. OVERVIEW

On October 8, 2019, the East Bay Regional Park District released the Draft EIR for the
Project, which consists of an unplanned and undefined 2,543-acre regional park on property that
is part of the Concord Naval Weapons Station ("CNWS"). DEIR at 1-5. Development of the Project will include construction of undefined staging facilities, parking lots, campgrounds, picnic areas, a park residence, a visitor center complex, an event center, and other recreational, educational, and interpretive facilities, in addition to the development of hiking and biking trails. DEIR at 3-15.

The DEIR purported to perform the environmental analysis required under CEQA, including examination of aesthetics, biological resources, traffic, air quality, greenhouse gases, noise, geology, hazards, and other potential impacts. However, the Draft EIR’s analysis of the Project’s potential impacts on the environment was woefully insufficient, particularly in the areas of biological resources, traffic, air quality, greenhouse gas emissions, noise, geology and soils, hydrology and water quality, and others.

The FEIR, released on May 1, 2020, does nothing to address these deficiencies. Rather, there continue to be significant legal, factual and analytical problems in several areas of the Draft EIR that are not resolved in the FEIR, which are described in more detail below and in the attached technical letter from the RCH Group. Discovery objects to these and other flaws in the analyses, findings, assumptions and mitigation measures presented by the DEIR, as addressed in detail below and in the accompanying technical letter. The issues Discovery has identified render the Draft EIR and Final EIR insufficient as a matter of law and preclude the Board’s certification.

II. ANALYSIS

The EIR is widely recognized as the “heart of CEQA.” *Schelling Bros. v. City of Sebastopol*, 179 Cal. App. 4th 1245, 1257 (2009). Accordingly, CEQA provides that “[a]n EIR should be prepared with a sufficient degree of analysis to provide decisionmakers with information which enables them to make a decision which intelligently takes account of environmental consequences.” 14 Cal. Code Regs. § 15151. To that end, CEQA requires that an EIR address all of the Project’s significant environmental effects, including direct, indirect, and long-term effects. Public Resources Code § 21100(b); 14 Cal Code Regs. §15126.2(a). Agency conclusions, findings, and determinations must be supported by substantial evidence. *Residents Against Specific Plan 380 v. Cty. of Riverside*, 9 Cal. App. 5th 941, 968 (2017). Otherwise, they are deemed a prejudicial abuse of discretion, mandating rejection of the EIR. *See Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova*, 40 Cal. 4th 412, 426 (2007).

Here, the DEIR lacks the analytical rigor and evidentiary support required to meet CEQA’s well-established standards. As detailed in the enclosed technical letter and described below, the DEIR’s analysis of potential impacts and mitigation measures fails to “include detail sufficient to enable those who did not participate in its preparation to understand and to consider meaningfully the issues raised by the proposed project.” *Laurel Heights Improvement Assn. v. Regents of Univ. of California*, 47 Cal. 3d 376, 405 (1988).

In sum, these deficiencies render the EIR wholly inadequate under CEQA and preclude certification by the Board.
A. The Program EIR Is Insufficient To Cover Future Projects Referenced In The Land Use Plan

This programmatic EIR lacks any environmental analysis of numerous later developments envisioned in the Land Use Plan, including the visitor center complex, the Diablo Center, a park residence, interpretive facilities, campgrounds, staging areas, parking lots, picnic areas, and trails.

As such, project-specific CEQA review of these subsequent projects will be required for those later developments—preparation of the DEIR/FEIR does not and will not excuse that obligation. Each project will need to be individually examined to determine what additional environmental review documents must be prepared. 14 Cal. Code Regs. § 15168. The District is prohibited from relying upon this broad program EIR where project-specific review is warranted. As the California Supreme Court has explained, “[f]uture environmental documents may incorporate by reference general discussions from the broader EIR, but a separate EIR is required for later projects that may cause significant environmental effects inadequately addressed in the earlier report.” In re Bay-Delta Programmatic Envt’l Impact Report Coordinated Proceedings, 43 Cal. 4th 1143, 1173 (2008). Given the magnitude of these later development projects, without question subsequent EIRs will be necessary.

To comply with CEQA, the District therefore must not only prepare a new DEIR, but must also ensure that in the future separate EIRs are prepared for each of these later projects that have not undergone any environmental review.

B. The DEIR Cannot Rely On The “Program EIR” Label As A Basis To Defer Required Analysis

While program EIRs are occasionally used in order to minimize redundant environmental review where the lead agency contemplates a series of subsequent projects, a program EIR must still contain the detailed analysis that CEQA requires. Here, the DEIR defers analysis of anticipated significant impacts that can and should be evaluated now, including on biological resources, transportation and traffic, air quality and greenhouse gas emissions, noise, geology and soils, hydrology and water quality, and agricultural and forestry resources. The purported justification is that such analysis can be performed at a later stage of development. That justification is mistaken, as explained below, which renders the DEIR inadequate.

The DEIR purports to be a program-level EIR, despite not having been described as such in the Notice of Preparation (“NOP”) and failing to identify future activities or phased program elements. RCH Letter, § I. Specifically, the DEIR states in the introduction section that “[t]his Draft EIR is a program-level EIR that analyzes implementation of the proposed project.” DEIR at 2-4. Under CEQA, a program EIR may be used to simplify the task of preparing later environmental documents for activities within the program as they are proposed for approval. 14 Cal Code Regs. § 15168(b)–(d). Program EIRs are most commonly utilized in the context of tiering, which “is properly used to defer analysis of environmental impacts and mitigation measures to later phases when the impacts or mitigation measures are not determined by the
first-tier approval decision but are specific to the later phases.” Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova, 40 Cal. 4th 412, 431 (2007).

However, tiering cannot be used out of convenience to avoid full CEQA obligations. Rather, CEQA makes explicitly clear that “[t]iering does not excuse the lead agency from adequately analyzing reasonably foreseeable significant environmental impacts of the project and does not justify deferring such analysis to a later tier EIR or negative declaration.” Id. (quoting 14 Cal. Code Regs. § 15152(b)); see also Stanislaus Nat. Heritage Project v. Cty. of Stanislaus, 48 Cal. App. 4th 182, 199 (1996) (“'[T]iering’ is not a device for deferring the identification of significant environmental impacts that the adoption of a specific plan can be expected to cause.”).

Here, the EIR has failed to adequately analyze an array of reasonably foreseeable significant environmental impacts, including, but not limited to, the following:

- **Biological Resources:** Despite the fact that approximately 95% of the Project area “would be designated as a conservation area and preserved for conservation and management of natural and cultural resources,” the DEIR contains a troubling lack of analysis regarding the potential impacts of development on biological resources. RCH Letter, § II. As stated by District staff during the Board Executive Committee meeting on May 7, 2020, a primary goal of the Project is to create a “biological hotspot” for animal and plant species. The DEIR’s insufficient biological data undermines this purpose.

- **Transportation and Traffic:** Rather than fully calculating and analyzing weekday vehicle trips and peak hour trips, the DEIR relies on unsupported assumptions in asserting that traffic impacts on local roadways would be minimal. RCH Letter, § V. Given the uncertainty of District staff regarding the expected amount of visitation by residents of Pittsburg—which was discussed at the most recent Board Executive Committee meeting—a more detailed traffic analysis must be performed to quantify and evaluate potentially significant impacts.

- **Air Quality and Greenhouse Gas Emissions:** In the absence of a sufficient traffic analysis, the DEIR’s assessments of air quality and greenhouse gas emissions impacts are necessarily flawed. Therefore, updated evaluations of air quality and greenhouse gas emissions must be performed using the data gathered from the required traffic analysis.

- **Noise:** The DEIR necessarily contains inadequate analysis of foreseeable noise impacts because there is no indication that an acoustical study was performed. RCH Letter, § II. Moreover, the DEIR does not address potential noise impacts to sensitive receptors in planned developments in the vicinity of the Project. RCH Letter, § II.

- **Geology and Soils:** The DEIR does not sufficiently analyze potential impacts of liquefaction, lateral spreading, or unstable geologic units relating to development of
the site. RCH Letter, § VIII. Because the site’s geological conditions are unlikely to change, there is no sound reason to defer this analysis.

- **Hydrology and Water Quality:** While the Project envisions development of additional impervious areas, the DEIR does not analyze the potential impacts to local water quality of resulting increased stormwater runoff. RCH Letter, § VII. As stated by the Contra Costa County Flood Control and Water Conservation District in its public comments on the DEIR, the DEIR should discuss the impacts of additional runoff from future Project development on the existing drainage facilities in the downstream areas, including those areas outside of the Project site. FEIR at 5-17, Comment 07-04.

- **Agricultural and Forestry Resources:** While the DEIR acknowledges the existence of agricultural and forestry resources at the site, including cattle grazing and experimental stands of trees planted by the U.S. Forest Service, no substantive analysis of these resources has been performed. RCH Letter, § XI.

- **Trail Connections:** The DEIR references plans to construct trail connections to surrounding areas, but provides no detail regarding their location or their potential impacts. DEIR at 3-25. This issue was raised by the Board of Directors at the most recent Board Executive Committee meeting and by committee members at the most recent Park Advisory Committee meeting, but District staff did not provide additional information in response. Similarly, the City also identified this issue in its public comments on the DEIR. FEIR at 5-11, Comment 04-01. As reflected by these comments from the Board and the City, the DEIR must provide a greater level of analysis with regard to the potentially significant impacts of planned trail connections.

- **CCWD Water Tank:** The FEIR revises the DEIR by incorporating a brief reference to “a new 6-million-gallon CCWD storage tank and related facilities” that the Contra Costa Water District is planning to construct within the boundaries of the Project. FEIR at 3-6. Not only does this addition further demonstrate the inadequacy of the DEIR, but it raises a number of important questions about the potentially significant impacts of this previously unmentioned water tank. As CCWD states in its comment letter on the DEIR, “[w]hile we recognize that the new water tank is in support of the City of Concord’s Concord Reuse Plan, it will be located on EBRPD land, thus the description should be included in this Land Use Plan EIR.” FEIR at 5-16, Comment 06-02. Even if the District is not aware of certain details of the planned water tank, the DEIR, as a program EIR, must include a more substantive analysis of the water tank based on current information.

Such analysis is required and cannot be avoided and deferred. By relying on its “programmatic” label to excuse or delay analysis that could be performed at this time, the DEIR is contrary to CEQA, which mandates that tiering must “not prevent adequate identification of
significant effects of the planning approval at hand.” 14 Cal. Code Regs. § 15152. As courts have explained, “designating an EIR as a program EIR does not by itself decrease the level of analysis otherwise required in the EIR.” Cleveland Nat’l Forest Found. v. San Diego Assn. of Governments, 17 Cal. App. 5th 413, 426 (2017). Instead, courts “focus on whether the EIR provided decision makers with sufficient analysis to intelligently consider the environmental consequences of the project.” Id.

Here, the DEIR fails to provide the required level of analysis with regard to a host of potentially significant impacts, and does not comply with CEQA and cannot be certified as-is.

C. The DEIR Fails To Adequately Define The Environmental Baseline

An EIR’s purpose is to assess a project’s potential impacts on the environment. Thoroughly documenting the existing environmental conditions is therefore a critical initial step in the CEQA analysis. Here, however, the DEIR does not contain enough information to allow for an understanding of existing conditions, particularly with regard to biological resources, traffic, and noise. Further study and documentation of the environmental setting is required to satisfy CEQA.

Every EIR must include a description of the physical environmental conditions in the vicinity of the project, referred to as the environmental “baseline.” 14 Cal. Code Regs. § 15125. As the California Supreme Court has explained, in order to evaluate a project’s impact, the EIR “must delineate environmental conditions prevailing absent the project, defining a ‘baseline’ against which predicted effects can be described and quantified.” Neighbors for Smart Rail v Exposition Metro Line Constr. Auth., 57 Cal. 4th 439, 447 (2013).

This is an essential component of analysis, for “[w]ithout accurate and complete information pertaining to the setting of the project and surrounding uses, it cannot be found that the EIR adequately investigated and discussed the environmental impacts of the development project.” Cleveland Nat’l Forest Found. v. San Diego Assn. of Governments, 17 Cal. App. 5th 413, 439–40 (2017) (internal alterations and quotations omitted); see also Cadiz Land Co. v. Rail Cycle, L.P., 83 Cal. App. 4th 74, 87 (2000) (“If the description of the environmental setting of the project site and surrounding area is inaccurate, incomplete or misleading, the EIR does not comply with CEQA.”). CEQA requires that generally, “the lead agency should describe physical environmental conditions as they exist at the time the notice of preparation is published”—in this case, June 2017. 14 Cal. Code Regs. § 15125(a)(1).

In this instance, the DEIR has altogether failed to perform analysis sufficient to establish the environmental baseline for a number of important areas, including biological resources, traffic, and noise. Particularly concerning is the District’s lack of examination of the existing biological and ecological conditions at the site using relevant, up-to-date information and data. Although the Project site is planned to consist primarily of a “conservation” area, the DEIR largely ignores the Project’s potential impacts on the precise resources purportedly intended for protection under this conservation area designation.
The DEIR’s lackluster analysis fails to define the environmental baseline for multiple categories of potential impacts, including but not limited to the following:

- **Biological Resources:** The DEIR relies on incomplete and outdated data with regard to plant and animal communities potentially present at the site, including certain endangered and special-status species. RCH Letter, § II. For instance, in describing the reptiles and mammals potentially occurring at the site, the DEIR cites wildlife surveys performed as far back as 1999. DEIR at 4.3-18, fn. 15. Biological data that is two decades old does not establish existing environmental conditions. Without an adequate environmental baseline, potential impacts to these important resources cannot be measured and effective mitigation measures cannot be devised and implemented.

- **Traffic:** No traffic studies are cited or studied in the DEIR, despite the Project’s location near significant roadways in a densely populated suburban area. RCH Letter, § V. A full traffic study must be performed for the Project’s potential traffic impacts to be measured.

- **Air Quality and Greenhouse Gas Emissions:** Because a traffic study was not performed, air quality and greenhouse gas emissions are not measured. The required traffic study must be prepared, and the DEIR’s discussion of air quality and greenhouse gas emissions will need to be revised to accurately reflect the environmental baseline.

- **Noise:** The DEIR does not indicate that an acoustical study was performed or that any noise measurements were taken in order to determine the existing ambient noise level at the site. RCH Letter, § II. Without quantification of existing noise levels, the DEIR has not adequately defined existing environmental conditions.

Failing to adequately develop the environmental baseline renders subsequent analysis deficient, because without an accurate description of existing conditions an agency cannot meaningfully assess environmental impacts. 14 Cal. Code Regs. § 1525(a) (explaining that the description of the environmental setting “constitute[s] the baseline physical conditions by which a lead agency determines whether an impact is significant”). Therefore, the DEIR fails to fulfill its requirements under CEQA. *Citizens for E. Shore Parks v. State Lands Com.*, 202 Cal. App. 4th 549, 557 (2011) (“[A]n inappropriate baseline may skew the environmental analysis flowing from it, resulting in an EIR that fails to comply with CEQA.”).

The DEIR’s inadequate baseline analysis also imperils the legitimacy of subsequent programmatic environmental review. While agencies are permitted to adjust the baseline over time (*Citizens for E. Shore Parks v. State Lands Com.*, 202 Cal. App. 4th 549, 563 (2011)), the promise of later environmental review does not remove the obligation of preparing a vigorous initial analysis of the existing environmental conditions. Given the practical possibility of performing a more thorough baseline analysis of the potentially significant impacts discussed above, there is no legitimate reason the District cannot perform the requisite analysis. See
Neighbors for Smart Rail v. Exposition Metro Line Constr. Auth., 57 Cal. 4th 439, 449 (2013) (describing that “CEQA analysis [must] employ a realistic baseline that will give the public and decision makers the most accurate picture practically possible of the project’s likely impacts”).

Accordingly, the District must prepare and recirculate a new draft EIR that includes sufficient analysis to define the Project’s environmental baseline.

D. The DEIR Cannot Defer Mitigation Of Impacts By Relying On Assurances Of Future Regulatory Compliance

A critical component of any EIR is the formulation of mitigation measures that will minimize the project’s potential environmental impacts. As described below, the DEIR claims that compliance with applicable regulatory measures will ensure that potential impacts in the areas of biological resources, wetlands, stormwater, and geology and soils will be less than significant. However, without a more detailed description of these measures and their mitigating effects, the DEIR does not permit a full analysis of the Project’s potential impacts and therefore fails to meet the requirements of CEQA.

Rather than address certain potentially significant impacts, the DEIR indicates that various mitigation measures are being deferred until later stages of the Project. However, “[g]enerally, it is improper to defer the formulation of mitigation measures.” Ctr. for Biological Diversity v. California Dep't of Conservation, etc., 36 Cal. App. 5th 210, 238 (2019). Courts have permitted deferral in certain cases where agencies have demonstrated a need for it. Coastal Hills Rural Pres. v. Cty. of Sonoma, 2 Cal. App. 5th 1234, 1258 (2016). Deferral is permissible only where “the agency (1) commits itself to mitigation; and (2) spells out, in its environmental impact report, the possible mitigation options that would meet ‘specific performance criteria’ contained in the report.” Id. The agency must also identify the type of potential actions that can feasibly achieve that performance standard and that will be considered, analyzed, and potentially incorporated in the mitigation measure. 14 Cal. Code Regs. § 15126.4(a)(1)(B).

Here, the DEIR lacks the specific performance criteria required under CEQA. The DEIR describes plans and regulations with which the Project will comply, including a Long Term Management Plan, but fails to specify how the Project will comply and how compliance would ensure that the Project’s impacts will be less than significant. CEQA regulations require that “[c]ompliance with a regulatory permit or other similar process” constitutes permissible mitigation only “if compliance would result in implementation of measures that would be reasonably expected, based on substantial evidence in the record, to reduce the significant impact to the specified performance standards.” 14 Cal. Code Regs. § 15126.4(a)(1)(B).

The DEIR also fails to point to substantial evidence in the record that shows that compliance with any of the following regulatory processes will reduce potentially significant impacts of the Project.

- **Biological Resources:** Consistent with the DEIR’s overarching approach, its mitigation measures fail to adequately address impacts to biological resources present
East Bay Regional Parks District
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at the site. RCH Letter, § II. While the Notice of Preparation explains that the District will ensure protection of special-status species pursuant to a Long Term Management Plan (“LTMP”), the DEIR contains a notable lack of information about this purported LTMP—which does not appear to have been completed at this point. RCH Letter, § II. As such, there is no meaningful way for the District to ensure that the Project will comply with a plan that has not yet been completed and about which the District appears to have little information. Thus, the DEIR’s reliance on the LTMP to mitigate potential biological resources impacts falls far short of CEQA’s requirement that the District set forth specific performance criteria for the deferred mitigation, since even broad outlines of the LTMP are not provided and were not considered.

• **Wetlands:** The DEIR needs to specify what Resource Agencies will need to issue permits and proposed mitigation, subject to Resource Agency approvals.

• **Stormwater:** The DEIR addresses mitigation of potentially significant construction-related stormwater impacts by asserting that the Project will be required to incorporate regulatory requirements and standards into project design and implementation. RCH Letter, § VII. The DEIR does not provide nor refer to any evidence that compliance with these requirements and standards will ensure mitigation of the potentially significant impacts of stormwater, either during construction or after site development. RCH Letter, § VII.

• **Geology and Soils:** While acknowledging potential impacts such as liquefaction and unstable soils, the DEIR states that compliance with existing regulations will ensure the impact remains less than significant. RCH Letter, § VIII. However, the DEIR does not provide adequate information regarding the potential impacts or the applicable regulations to satisfy CEQA. RCH Letter, § VIII.

An agency cannot simply assert that regulatory compliance will prevent significant adverse impacts without project-specific analysis of potential impacts and the mitigating effect the asserted regulatory compliance would have. For example, in *Californians for Alternatives to Toxics v. Dep’t of Food & Agriculture*, the Fourth District Court of Appeal found that a state agency violated CEQA by failing to perform independent analysis of the project and instead relying on compliance with existing regulatory provisions to essentially mitigate impacts to a less than significant level. 136 Cal. App. 4th 1, 16 (2005). The court explained that by “repeatedly deferr[ing] to the [applicable] regulatory scheme instead of analyzing environmental consequences,” the agency “fell short of its duty under CEQA to meaningfully consider the issues raised by the proposed project.” *Id.* Accordingly, the court held that “[c]ompliance with the law is not enough to support a finding of no significant impact under the CEQA.” *Id.* at 17.

The same scenario exists here. The District has not offered justification for failing to explain at this stage why the formulation of mitigation measures for certain potentially significant impacts can be deferred to a later point in time, nor has it indicated how eventual
compliance with unspecified regulatory requirements will serve as sufficient mitigation. As seen in *Californians for Alternatives to Toxics*, threadbare references to compliance with applicable laws and regulations does not suffice.

Moreover, the simple fact that further information may be available at a later time does not justify delaying the analysis of the Project’s impacts or the formulation of necessary mitigation measures. As courts have held, “[t]he fact more precise information may be available during the next tier of environmental review does not excuse [an agency] from providing what information it reasonably can now.” *Cleveland Nat’l Forest Found. v. San Diego Assn. of Governments*, 17 Cal. App. 5th 413, 440 (2017). Under these circumstances, deferring formulation of mitigation measures “run[s] counter to that policy of CEQA which requires environmental review at the earliest feasible stage in the planning process.” *Sundstrom v. Cty. of Mendocino*, 202 Cal. App. 3d 296, 307 (1988); see also Cal. Pub. Res. Code § 21003.1(b) (“Information relevant to the significant effects of a project, alternatives, and mitigation measures which substantially reduce the effects shall be made available as soon as possible by lead agencies, other public agencies, and interested persons and organizations.”) (emphasis added).

Accordingly, the DEIR is not in compliance with CEQA and cannot be certified.

**E. Additional Shortcomings Render The DEIR Inadequate As A Matter Of Law**

In addition to those discussed above, the DEIR contains a number of additional substantial flaws. These include the failure to consider future projects in assessing cumulative impacts, the failure to adequately address public comments (which failure is amplified in the FEIR’s Responses to Comments), and the failure to provide a reasonable range of alternatives. In addition, the DEIR includes incomplete and inconsistent data. Taken together, these oversights further erode the DEIR’s intended value to decisionmakers and the public as a source of credible environmental analysis.

1. **The DEIR Fails To Consider Reasonably Foreseeable Future Projects And Their Impacts**

CEQA requires consideration of all reasonably foreseeable environmental impacts. Even if certain of a project’s impacts are individually minor, such impacts must be analyzed in the EIR when, in combination with additional impacts from the Project or other projects, they are cumulatively considerable. 14 Cal. Code Regs. § 15130(a); *Citizens for Open Gov’t v. City of Lodi*, 205 Cal. App. 3d 296, 320 (2012). The EIR must account for all impacts that are reasonably foreseeable in light of future activities or developments. *Laurel Heights Improvement Assn. v. Regents of Univ. of California*, 47 Cal. 3d 376, 398 (1988).

In this case, the DEIR has not adequately addressed potential cumulative impacts in light of planned nearby projects. RCH Letter, § XIII. While the DEIR references the potential for cumulative impacts resulting from the Project and a number of listed development projects planned for the vicinity, the DEIR’s cumulative impacts analysis is conclusory and not based on
substantial evidence. By failing to adequately analyze including these cumulative impacts, the DEIR does not meet its requirements under CEQA. See Santa Clarita Org. for Planning the Env’t v. Cty. of Los Angeles, 106 Cal. App. 4th 715, 721 (2003) (“Among the matters that the EIR must consider is the cumulative impact of past, present and probable future projects.” (citing Cal. Pub. Res. Code § 21083(b))).

The failure to adequately address cumulative impacts casts further doubt on the validity of the entirety of the DEIR, because many of the Project’s environmental impacts are inseparable from the impacts of other nearby projects. For instance, the DEIR’s transportation and traffic analysis—which is insufficient on its own, as described above—would be even less accurate when accounting for potential impacts of other projects. In light of the foreseeable impacts of planned future development in the vicinity, the DEIR’s limited cumulative impacts analysis does not suffice.

2. The DEIR Contains Incomplete And Internally Inconsistent Data And Analysis

Because an EIR’s “purpose [is] to inform the public and its responsible officials of the environmental consequences of their decisions before they are made,” it must contain complete and accurate information. Stanislaus Nat. Heritage Project v. Cty. of Stanislaus, 48 Cal. App. 4th 182, 190 (1996).

Here, the DEIR contains numerous inconsistencies that undermine its purported accuracy—an issue that has also been noted by other commenters, including the Contra Costa Water District. See FEIR at 5-16, Comment 06-02. For instance, the project description contains estimates of vehicle trips and vehicle miles traveled (VMT) that are different from those provided in the sections discussing Project impacts on energy and greenhouse gas emissions. RCH Letter, § VI. Furthermore, the project description contains conflicting statements concerning the number of phases in which the Project will be completed. RCH Letter, § III. Relatedly, the DEIR also fails to provide sufficient information regarding the staging and duration of the Project’s development. In addition, the scope and scale of the planned development of the park is not defined.

Accordingly, the DEIR does not provide sufficient information to fully inform decisionmakers and the public about the Project’s environmental impacts, and thereby violates CEQA.

3. The DEIR And FEIR Fail To Adequately Address Meritorious Public Comments

In preparing a draft EIR, “[t]he lead agency must consider all information and comments received.” 14 Cal. Code Regs. § 15084; see also Cal. Pub. Res. Code § 21082.1 (public comments submitted to agency during preparation of draft EIR “shall be considered by the public agency, and may be included, in whole or in part, in any report or declaration”). Here, numerous public comments were submitted in response to the NOP and during the public scoping process.
Certain comments were not addressed in the DEIR, including those relating to trail connectivity, improper deferral of the LTMP, and concerns regarding consistency with the Reuse Plan, Area Plan, Specific Plan, and Concord General Plan. RCH Letter, § XII.

The DEIR’s failure to address these comments—which correspond with some of the major analytical deficiencies identified above—further undermines the legitimacy of its environmental analysis.

Similarly, the FEIR fails to adequately address a number of legitimate public comments submitted on the DEIR, including the following:

- Two commenters expressed concern regarding the Project’s impact on the red-legged frog reserve located at the southern tip of the Project site. FEIR at 5-2, Comments 01-01 and 01-02. While the District responds that “[t]hese ponds are located on the project site but are privately maintained and managed,” the DEIR should have contained a more detailed analysis to ensure that Project operations do not disturb the reserve.

- In its formal comment letter, the City commented that “[s]pecific trail connections into the Concord Hills Regional Park from the [Concord Reuse Project] Specific Plan area still need to be determined and coordinated.” FEIR at 5-11, Comment 04-01. The District responds by indicating that coordination will occur in the future; however, the District does not explain why coordination cannot occur at this stage, nor does it provide any basis for delaying analysis of the potential environmental impacts of these trail connections.

- The City also comments on the lack of specificity with regard to the Diablo Center, stating that the DEIR does not provide the intended size of the Diablo Center or explain whether it will be a fully enclosed building or an outdoor staging facility. FEIR at 5-11, Comment 04-03. While the District responds by stating that the size and design of the Diablo Center have not yet been determined, this fact does not excuse the District from providing any information or analysis whatsoever at this stage—particularly because the District intends for the FEIR to provide a basis for future tiering.

- The City comments that the Project “is within the City of Concord City limits and as such would require a rezoning from the current Study (S) zoning district to an appropriate zoning district.” FEIR at 5-12, Comment 04-05. In response, “[t]he District recognizes that rezoning will be necessary prior to development of the proposed Regional Park” but provides no further information regarding how that process will occur or what its impacts may be. Because rezoning is a substantial endeavor that may significantly affect the development and timing of the Project, the District must provide the City and the general public with a greater level of information than it has done thus far.
The District’s conclusory responses to these public comments do not satisfy CEQA, which expressly mandates that “[c]onclusory statements unsupported by factual information will not suffice” with regard to agency responses to comments submitted on a draft EIR. 14 Cal. Code Regs. § 15088(c). The District must incorporate a more detailed discussion of the issues raised by these public comments in a new draft EIR prepared for the Project.

4. The DEIR Must Include Additional Project Alternatives

CEQA obligates agencies to identify and discuss potential project alternatives. The DEIR provides only two alternatives, the “no-project” alternative and the so-called “limited footprint” alternative. However, the limited footprint alternative will still entail substantial development on the site, resulting in an array of potentially significant impacts. RCH Letter, § VIII. Because CEQA mandates consideration of alternatives that will “avoid or substantially lessen” potential environmental impacts, the DEIR must include a more limited alternative that focuses on preservation of biological resources and habitat while reducing development. Cal. Pub. Res. Code § 21002. Such an alternative would still largely serve the Project’s purposes, chief among which is the conservation and management of natural and cultural resources. DEIR at 1-5.

Failing to provide such an alternative undermines one of the District’s core obligations in preparing an EIR and violates the express requirements of CEQA. See Goleta Valley v. Bd. of Supervisors, 52 Cal. 3d 553, 564 (1990) (“The core of an EIR is the mitigation and alternatives sections.”); 14 Cal. Code Regs. § 15126.6 (“[T]he discussion of alternatives shall focus on alternatives to the project or its location which are capable of avoiding or substantially lessening any significant effects of the project, even if these alternatives would impede to some degree the attainment of the project objectives.”).

Accordingly, the DEIR fails to comply with CEQA.

F. A New Draft EIR Must Be Prepared And Recirculated

For the reasons described above, a new draft EIR must be prepared that addresses the many significant deficiencies in the environmental review conducted by the District. The revised DEIR must then be recirculated for public review and comment in order to fulfill CEQA.

Under CEQA, “[a] lead agency is required to recirculate an EIR when significant new information is added to the EIR after public notice is given of the availability of the draft EIR . . . before certification.” 14 Cal. Code Regs. § 15088.5(a); see also Cal. Pub. Res. Code § 21092.1. Such circumstances exist when, for instance, “[t]he draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.” 14 Cal. Code Regs. § 15088.5(a)(4). Here, the flaws of the current DEIR are so severe as to render it fundamentally inadequate under CEQA, requiring recirculation of a new DEIR.
Much of the analysis in the DEIR must be overhauled in order to address the many deficiencies identified above. For example, the DEIR must be revised and recirculated to allow the public a meaningful opportunity to comment on the biological surveys and traffic studies that must be conducted in order to sufficiently establish the environmental baseline. The updated traffic section will also lead to updated GHG and air quality analysis. Unless the DEIR is dramatically revised to address these and other identified deficiencies, and unless the DEIR is recirculated for further public review, the public and decisionmakers will be deprived of an opportunity for full input and informed decisionmaking, in violation of CEQA. Accordingly, a new version of the DEIR must be prepared and recirculated.

III. CONCLUSION

As a result of the many deficiencies of the DEIR, the FEIR violates CEQA by “omit[ting] material necessary to informed decisionmaking and informed public participation.” Cty. of Amador v. El Dorado Cty. Water Agency, 76 Cal. App. 4th 931, 946 (1999) (“Case law is clear that, in such cases, the error is prejudicial.”). Thus, regardless of the merits of the Project, the FEIR cannot be certified as fully compliant with CEQA. See 14 Cal. Code Regs. § 15090(a)(1) (“Prior to approving a project the lead agency shall certify that . . . [t]he final EIR has been completed in compliance with CEQA.”). As California courts have repeatedly recognized, “the ultimate decision of whether to approve a project, be that decision right or wrong, is a nullity if based upon an EIR that does not provide the decision-makers, and the public with the information about the project that is required by CEQA.” Santiago Cty. Water Dist. v. Cty. of Orange, 118 Cal. App. 3d 818, 829 (1981).

The Board should not certify the FEIR, and should prepare and circulate a new EIR that fully analyzes and mitigates each potential environmental impact of the Project on the basis of substantial evidence, as required to fulfill its obligations under CEQA.

Very truly yours,

Farella Braun + Martel LLP

James H. Colopy

Enclosures:

Exhibit 1: Map of Faria and Concord Hills Projects
Exhibit 2: RCH Group Comment Letter Addressing DEIR
EXHIBIT 1
May 29, 2020

James H. Colopy  
Farella Braun + Martel LLP  
Russ Building  
235 Montgomery Street  
San Francisco, CA 94104

SUBJECT: COMMENTS ON THE EAST BAY REGIONAL PARK DISTRICT  
CONCORD HILLS REGIONAL PARK LAND USE PLAN DRAFT ENVIRONMENTAL  
IMPACT REPORT (OCTOBER 18, 2019) (SCH# 2017062063)

Mr. Colopy,

RCH Group (RCH) has performed a comprehensive review of the East Bay Regional Park District (District) Concord Hills Regional Park Land Use Plan (LUP) Draft Environmental Impact Report (DEIR) dated October 18, 2019. This letter highlights the major deficiencies and technical inadequacies of the DEIR based on the California Environmental Quality Act (CEQA) statute, CEQA Guidelines and published court decisions interpreting CEQA.

I. IMPROPER CATEGORIZATION AS A PROGRAM EIR

The DEIR states on Page 1-3 that the document is a Program EIR. However, this is not reflected in the title of the document nor is it disclosed or reflected in the Notice of Availability (NOA) nor was it described in the Notice of Preparation (NOP) (see Appendix A1 of the DEIR). There is no listing of future activities or phased elements of the LUP anticipated to be covered by a Program EIR and these must be described and disclosed by the District in the interest of full public disclosure.

CEQA allows preparation of a Program EIR (CEQA Guidelines § 15168), however the rationale for doing so is not provided in the DEIR. This deficiency must be corrected in a revised, recirculated Project DEIR and the complete list of potential future activities to be undertaken by the District under the CEQA Program EIR umbrella must be fully described and disclosed in the revised DEIR.
The DEIR should also list any specific construction “projects” to be constructed as part of the proposed project based on the DEIR as opposed to conceptual project elements that are still being designed and/or refined and for which additional, subsequent or supplemental environmental documentation (i.e., CEQA and or NEPA) is anticipated to be required.

II. INADEQUATE EXISTING BASELINE SETTING FOR BIOLOGICAL RESOURCES AND NOISE

The DEIR provides inadequate existing baseline setting information in the Biological Resources section of the DEIR due to the reliance on outdated information and surveys. The data in Table 4.3-2 in the Biological Resources section of the DEIR appears to be based on vegetation community/habitat mapping conducted more than a decade ago. It is also incomplete as it does not cover the entire 2,543-acre proposed project site. It does not appear that as part of the current CEQA review process undertaken by the District for the proposed project, that any current and independent biological resource surveys were conducted for the proposed project. This is a major oversight and a fundamental flaw of the DEIR.

It is impossible to accurately determine the significance of impacts of the proposed project to onsite biological resources if ten-year-old (or older) data was used as the basis of existing conditions (e.g., baseline). In some cases, footnotes in the Biological Resources section of the DEIR cite studies were conducted more than 20 years ago, dating back to 1999.

The wetland delineations for the project site were conducted in 2011. Wetland/Waters of the US/State determination methodologies (USACE and CDFW) and criteria have changed significantly since that time and need updating to current standards.

All the existing conditions discussions in the Biological Resources section of the DEIR (see Pages 4.3-11 through 4.3-27) are in need of verification and updating for factual accuracy since they are the basis of the impact determinations in Chapter 4.3.

The DEIR lacks a “References” section as required by CEQA so the reader must try to piece together the various technical reports and other data sources relied in this section of the EIR. Some EIRs consolidate references at the end of each Chapter (such as Chapter 4.3), whereas this EIR does not even provide that tool for the public and agency reviewer. This is convenient for the Biological Resources Chapter 4.3 since it masks the fact that almost all the
References are 10-20 years old. A review of the technical appendices to the DEIR (Appendix C) and the LUP and its related technical appendices does not reveal the presence of any current vegetation mapping or onsite biological resource surveys (other than a reference to some California Tiger Salamander annual surveys) more current than 2011.

How can the proposed project be designed to avoid impacts to all onsite natural resources when a recent survey has not yet been completed? Moreover, how can the proposed project be designed specifically to preserve natural resources when there is no complete or current understanding of the inventory of resources onsite, their locations and the current status of the habitats? The DEIR must be based upon a scientific data set that is current. A current and comprehensive listing of all potentially rare or sensitive species, or habitats capable of supporting rare species, must be included in the environmental review per CEQA Guidelines Section 15380(b) relative to Endangered, Rare, or Threatened Species. As such, the impact conclusions contained in the Biological Resources section are not supported by evidence in the record.

In their letter on the Notice of Preparation (July 26, 2017), the California Native Plant Society (CNPS) recommended that “comprehensive botanical surveys be conducted for the Environmental Impact Report on the Concord Hills Regional Park Land Use Plan. Additionally, we recommend that the Land Use Plan include a long term management plan for species protection.”

CNPS further indicated that “The park district should perform comprehensive surveys and formulate an accompanying species management plan simultaneously along with preparations for public access. Or, a species management plan should be prepared before progressing with permits and plans for public access. But not after. This is because the process for documenting the occurrences of special-status species on the project site and preparing for their long term needs will necessarily inform appropriate options for placement of park facilities such as roads, trails, buildings, and parking lots.” (Emphasis added).

Unfortunately, because current biological surveys were not conducted, the placement of park facilities such as roads, trails, buildings, and parking lots was determined without current biological resources surveys.

The current status of the federally listed (and state protected) California Tiger Salamander and the Red Legged Frog is not well documented in the EIR. Based on EIR Figure 4.3-3, the endangered salamanders and frogs could be almost anywhere on the Project Site. Unlike plants, the endangered salamander and frogs have daily and annual movement patterns. With the
information provided on Figure 4.4-3 it appears they could be anywhere. The DEIR reinforces that by stating on page 4.3-42, “California red-legged frogs could occur virtually anywhere on the project site, especially during wet-season dispersal.” The DEIR also states on page 4.3-42, “In addition, California tiger salamanders use upland habitats surrounding their breeding sites for aestivation and for dispersal between breeding sites and aestivation area.”

Without current baseline data on biological species it is difficult to figure out where the trails and roadways should be. The EIR appears to be guessing where recreational facilities should be. Are the proposed buffers (see page 4.3-42) between breeding areas and picnic sites and camping areas, trails, roads, and other recreational facilities sufficient? What is the health of the current populations of the federally protected salamander and frogs? The DEIR should have conducted field surveys to measure the baseline setting of these special-status plant and animal species.

The DEIR also fails to include adequate existing baseline setting information related to noise. The description of the existing noise environment on Page 4.11-10 in the Noise section of the DEIR does not include any noise measurements taken to determine the ambient noise level on the project site. There are no measurements to determine the existing noise levels near sensitive receptors adjacent to the project site or noise levels along any roadways that would be used by project traffic. Without an acoustical study that includes noise measurements of the existing noise environment, there is no evidence that the proposed project will be consistent with local regulations (Contra Cost County – Event Noise Limitations, City of Concord Noise and Land Use Compatibility Standards, etc.).

The DEIR also fails to include adequate existing baseline setting information related to transportation and traffic. Page 4.14-9 of the DEIR states the following: “A traffic analysis of existing traffic conditions on roadway segments, freeway segments, freeway ramps, and intersections in the vicinity of the former CNWS was conducted by Kittleson and Associates in 2013, updating data used in the Concord Community Reuse Plan EIR.” The DEIR relies upon existing traffic conditions data that was collected prior to 2010 (Concord Community Reuse Plan EIR) and updated in 2013. It is impossible to accurately determine the significance of impacts of the proposed project to traffic and transportation if seven-year-old (or older) data was used as the basis of existing conditions (e.g., baseline).

According to CEQA, existing (baseline) conditions are intended to be those in existence at the time an NOP is issued. However, the DEIR does not provide existing conditions data (Noise) and improperly relies on outdated “existing
conditions” data (Biological Resources) that cannot be used as the basis for impact determinations in the DEIR, particularly if they are used to support significance conclusions in the DEIR. The District must prepare a noise study that determines existing baseline conditions at key locations adjacent to the project site boundaries and adjacent to roadways that would accommodate project traffic, and must update the baseline biological resources studies with contemporary data if they are to be used as the basis of the impact conclusions in the DEIR.

III. INCONSISTENCY REGARDING THE NUMBER OF DEVELOPMENT PHASES AND FAILURE TO DESCRIBE THE EXECUTION OF PHASES AND PROJECT IMPLEMENTATION

Page 3-36 of the DEIR states that the “Future Regional Park is conceived in three phases...”. However, on the same page the DEIR states, “Development of the proposed Regional Park would be implemented over the following four phases....”. The District should clarify this error.

The DEIR should also describe the expected duration of time anticipated for each of the three (or four) phases that are being contemplated by the District. Section 3.7 of the DEIR states that buildout is anticipated to be complete in 2050 but it is unclear when any of the Phases would be initiated, what the anticipated duration of the individual phases will be, and whether or not any of the phases would overlap with one another. This is basic information that must be disclosed to the public. Table 3-2 of the DEIR states that during the “Land Bank Status” Phase of the proposed project, the restoration / enhancement efforts identified in the Long Term Management Plan (LTMP) will be initiated. If the LTMP is to be implemented as part of the initial phasing of the proposed project, it is unclear why the LTMP has not yet been prepared. In this context, a Program EIR for the LUP that relies on a LTMP as a foundation that does not yet exist is problematic. It appears that preparation of this program DEIR may be premature given that this precursor event (e.g., development of the LTMP for the Regional Park) has not yet occurred.

Page 3-38 of the DEIR states that Phase 3 buildout is anticipated to occur in 15-50 years (i.e., as early as 2035 and late as 2070) presumably depending on funding availability of up to $100 Million needed for the proposed project, site remediation/clean-up of the CERCLA sites (see Land Use Plan Figure 5-1) and a host of other variables including regulatory permitting efforts (USACE, CDFW, RWQCB among others) and yet the DEIR states that buildout is anticipated to be complete in 2050. These two dates must be reconciled by the District and revised in the EIR.

IV. IMPROPER DEFERMENT OF WETLANDS MITIGATION
Under the requirements of CEQA, impact determinations must be based on substantial evidence in the record and mitigation measures must be specifically formulated before project approval. The DEIR should be revised to include potential mitigation measures to wetlands and/or other waters of the U.S. or state in accordance with the requirements of the Resource Agencies.

V. WHY NO TRAFFIC STUDY? FAILURE TO PROVIDE SUPPORTING EVIDENCE FOR TRIP GENERATION AND INCONSISTENT TRIP GENERATION BETWEEN THE PROJECT DESCRIPTION AND TRAFFIC SECTION OF DEIR

The DEIR includes no traffic study for this 2,543-acre project that Proposed Project in an urban area that regularly experiences substantial traffic congestion. The DEIR justifications for no traffic report are because:

1. The peak hour trips from the proposed project are below the 100-trip threshold set by both the CCTA and the City of Concord, which would require a full (detailed) traffic impact analysis; and

2. Under Section 15064.3(b)(1) of CEQA Guidelines, generally land use “projects within one-half mile of either an existing major transit stop or a stop along an existing high quality transit corridor should be presumed to cause a less than significant transportation impact.”

As noted below, our review indicates that the Proposed Project would have more than 100 peak hour trips. Furthermore, there are no major transit stops within one-half mile of the Proposed Park boundaries (see Figure 3-1 in the DEIR). It appears that the Bart stations are closer to 3 miles from the Proposed Park boundaries.

The DEIR should be revised to include a full (detailed) traffic impact analysis. The DEIR needs to assess the traffic impact of the Proposed Project on Bailey Road and Willow Pass Road. Are there additional mitigations that should be included into the project operations?

Page 4.14-15 in the Traffic section of the DEIR states, “Based on the estimated visitor levels upon buildout of the Regional Park, the proposed project would generate approximately 590 weekday vehicle trips, with approximately 35 and 77 trips during the AM and PM peak hour, respectively.” The DEIR fails to provide any supporting evidence or assumptions for the weekday vehicle trips and peak hour trips assumed in the Traffic section and it is unclear if the trip generation came from a qualified traffic engineer or industry standard guidance such as the ITE Trip Generation Manual.
Furthermore, Table 3-3 on Page 3-40 of the DEIR project description indicates that typical weekday automobile visitor trips traveling to the project site would be 1,018 visitor trips per day at full buildout. The number of weekday vehicle trips per day could also be assumed to be twice that number if one trip to the site and one trip from the site per automobile visitor trip is assumed. However, the DEIR provides no supporting assumptions and there is no way to tell if these are one-way trips or round trips.

However, if the number of vehicle trips stated in the project description (1,018) is assumed and the percentage of AM and PM peak hour visitor trips (6% and 13%, respectively) from the Traffic section of the DEIR is assumed, AM and PM peak hour trips from the proposed project should be 61 and 132, respectively. This number of PM peak hour trips from the proposed project is well above the 100-trip threshold set by both the CCTA and the City of Concord, which would require a full (detailed) traffic impact analysis.

The DEIR should be revised to include supporting evidence for trip generation and so that the project description is consistent with the impact analysis within the DEIR. Additionally, based upon the trip generation provided within the DEIR project description, a full (detailed) traffic impact analysis should be provided in the revised DEIR as well.

VI. INCONSISTENT TRIP GENERATION NUMBERS BETWEEN THE PROJECT DESCRIPTION AND VARIOUS IMPACT DISCUSSIONS

The DEIR contains several inconsistencies between the project description and impact discussions other than traffic such as air quality, energy and greenhouse gas emissions.

Air Quality
Page 4.2-29 in the Air Quality section of the DEIR states, “the proposed project would generate a total of 125 average daily weekday trips on opening day and 1,303 weekend trips at buildout.” Table 3-3 on Page 3-40 in the Project Description of the DEIR shows that at full buildout on the weekend 2,450 visitors per day would travel to the proposed project by automobile. The air quality analysis is not consistent with the Project Description and underestimates the amount of vehicle trips generated by the proposed project. Therefore, the proposed project operational emissions in Table 4.2-5 on Page 4.2-30 of the DEIR are also underestimated and are based on a much lower trip generation than what is defined in the DEIR project description.

Energy
Page 4.5-12 in the Energy section of the DEIR states, “at project buildout (year 2050) the proposed project would increase VMT by 1,689,229 annually.” However,
the project buildout VMT estimate is based on a trip generation that is inconsistent with the DEIR project description. The annual VMT estimate of 1,689,229 is based on approximately 587 weekday trips and approximately 1,302 weekend trips per day. Table 3-3 on Page 3-40 in the Project Description of the DEIR shows that at full buildout 1,018 visitors per day would travel to the proposed project by automobile on weekdays and 2,450 visitors per day would travel to the proposed project by automobile on the weekends. The daily trip generation used to calculate the annual VMT estimate in the Energy section is not consistent with the Project Description and underestimates the annual VMT generated by the proposed project, which underestimates the energy consumed by the proposed project.

**Greenhouse Gas Emissions**

Page 4.7-22 in the Greenhouse Gas (GHG) Emissions section of the DEIR states, "Future potential development of the proposed project would accommodate approximately 2,665 average weekend daily visitors, generate one new residence, and employ 52 people at buildout, resulting in an increase in vehicle trips," which is consistent with the estimated daily visitors identified in Table 3-3 on Page 3-40 of the DEIR Project Description. However, the proposed project operational GHG emissions estimates are based on approximately 1,302 weekend trips per day, which is inconsistent with the number of trips stated in the GHG emissions section and the Project Description. While the GHG emissions operational analysis does not call out the number of weekday trips per day, the Project Description defines this number in Table 3-3 on Page 3-40 of the DEIR as 1,018 visitors per day at buildout. However, the proposed project operational GHG emissions estimates are based on approximately 587 weekday trips per day. Therefore, the proposed project operational emissions in Table 4.7-5 on Page 4.7-23 of the DEIR are based on a much lower trip generation than what is defined in the DEIR’s Project Description and the DEIR underestimates the GHG emissions generated during future proposed project operations.

**VII. INADEQUATE ANALYSIS OF HYDROLOGIC AND WATER QUALITY IMPACTS AND RELIANCE ON REGULATORY REQUIREMENTS INCORPORATED INTO MITIGATION MEASURES**

Under the proposed project, stormwater runoff rates and volumes would be increased as a result of the proposed 16.5 acres of new development, most of which would be impervious area (DEIR page 4.9-18). Increased stormwater runoff would increase the transport of pollutants off-site, especially from roads and parking facilities experiencing increased use from park visitors and park staff. Increased stormwater runoff volumes and rates would increase the potential for degrading water quality, erosion and sedimentation, hydromodification, and flooding in receiving surface waters.
Impacts in the Hydrology and Water Quality section of the DEIR relating to water quality, altered drainage patterns, erosion, sedimentation, hydromodification, and flooding both on- and off-site are all determined to be less than significant with implementation of Mitigation Measures HYD-1.1 and HYD-1.2, which require incorporation of regulatory requirements and standards into project design and implementation.

Adherence to regulatory requirements may already be assumed under CEQA. The DEIR offers no supporting analyses to satisfactorily demonstrate that adherence to regulatory requirements incorporated into Mitigation Measures HYD-1.1 and HYD-1.2 ensure impacts under CEQA would be less than significant. Adherence to the law does not automatically mean that CEQA significance thresholds have not been exceeded; adherence to permit conditions can still result in significant impacts under CEQA.

The analyses presented in the Hydrology and Water Quality section of the DEIR must be revised to include supporting analyses that demonstrate that regulatory requirements related to stormwater retention, stormwater treatment, and water quality objectives may feasibly be met, and potential impacts reduced to less-than-significant levels through application of regulatory requirements. Currently the EIR does not include these supporting analyses (evidence).

Furthermore, the DEIR omits details or analysis regarding the degree to which stormwater runoff from the site would increase following development. A full quantification of the potential increase in stormwater volume and flow rates caused by the proposed project is essential to adequately assessing impacts related to water quality, erosion, flooding, sediment transport, and hydromodification both on- and off-site. A full quantification of increases in stormwater volume and flow rates caused by the proposed project is especially critical given that stormwater could be conveyed to Mount Diablo Creek, which is listed as impaired under Section 303(d) of the Clean Water Act (CWA) (DEIR Page 4.9-15). Although the proposed project is assessed at a programmatic level (DEIR Page 2-5), the analyses in the DEIR must reasonably incorporate conservative assumptions relating to future project design, such as building envelopes and stormwater management design and capacity, as well as increases in stormwater volume.

The Hydrology and Water Quality section of the DEIR must be revised to include data and analysis that adequately quantifies site stormwater drainage resulting from implementation of the proposed project and demonstrate consistency with the stormwater retention requirements defined in the regulatory requirements detailed in DEIR Section 4.9.1.1. Supporting analyses
must assess the proposed stormwater treatment and conveyance systems in
the context of quantified stormwater increases to ensure adequate capacity.

Further, the DEIR must be revised to demonstrate how proposed mitigation
measures achieve adherence to Municipal Regional Stormwater NPDES
Permit (MRP) Provision C.3 requiring that post-development hydrologic
conditions substantially mimic pre-development hydrology by minimizing
imperviousness and then by detaining, infiltrating, and filtering runoff in
landscape-based features.

VIII. INADEQUATE ANALYSIS OF GEOLOGICAL AND SOILS IMPACTS
AND RELIANCE ON REGULATORY REQUIREMENTS TO SUPPORT
SIGNIFICANCE CONCLUSIONS

The discussion of potential liquefaction, lateral spreading and unstable
geologic units impacts in the Geology and Soils section of the DEIR is
inadequate and relies upon compliance with existing regulations and
preparation of future engineering reports instead of fully analyzing potential
impacts.

Liquefaction
The impact analysis for liquefaction on Page 4.6-15 of the DEIR does not
clearly or completely explain why the impact would be less than significant.
The analysis should elaborate on what precisely is meant by “mandatory
compliance with existing regulations” and how “submission of engineering reports
and implementation of any proposed recommendations” can reduce liquefaction
impacts. Merely stating that compliance with existing regulations and
following recommendations in submitted engineering reports does not
present sufficient evidence that liquefaction would not be a less than
significant geologic hazard. This impact analysis in the DEIR must be revised
to explain specifically what, if any, industry-accepted standard practices for
addressing liquefaction-prone soils could be employed to reduce liquefaction
hazards, why those remedies would be effective at the project site, and if
application of those remedies could effectively reduce potential ground
failure impacts.

Lateral Spreading
The lateral spreading impact analysis on Page 4.6-16 of the DEIR broadly
presumes that “site-specific grading and compaction that could occur as part of
future development on the site would mitigate any potential impacts from seismically-
induced lateral spreading” without providing any description or substantial
evidence that that would indeed occur. Lateral spreading can impact large
areas and cause considerable damage and, while project specific grading
could alleviate ground failure hazards in some areas, it may not reduce the
potential impact in other areas. The DEIR does not identify specific areas prone to lateral spreading nor does it sufficiently characterize the soils to determine whether the soils are truly prone to failure. This impact analysis of the DEIR should be revised to provide additional details on the extent and type of failure-prone soils and explain how proposed grading and compaction could reduce impacts of seismically induced ground failures to ensure that the impact is less than significant.

**Unstable Geologic Units**

The impact analyses of the five ground failure mechanisms discussed in impact GEO-3 on Page 4.6-17 of the DEIR are too broad to adequately describe how and why the impacts would be reduced to less than significant. Merely stating that the proposed project would comply with existing regulations, prepare and submit soils engineering reports, and/or conduct grading and compaction, does not provide substantial evidence that the potential ground failure impacts can be reduced to a less than significant level. The DEIR must be revised to comprehensively describe the details of the individual actions and explain specifically how these actions would reduce the impact. Without these details, it is not possible to reliably assess the degree of the potential impact.

**IX. FAILURE TO DESCRIBE A RANGE OF REASONABLE PROJECT ALTERNATIVES**

The DEIR fails to describe a range of reasonable alternatives to the project, or the location of the project as required by CEQA Section 15226.6. The DEIR only includes two alternatives, the no project alternative and the limited footprint alternative. However, the limited footprint alternative still includes development throughout the project site.

The DEIR should at the very least include a third alternative, such as an alternative which limits development of park facilities (other than trails) to one defined area of the project site and increases conservation areas on the project site, focusing developed park features farther away from special protection and management features to reduce potentially significant impacts on sensitive areas and biological resources.

The DEIR also should have included an alternative to the proposed project that achieves consistency with the Reuse Plan and/or Specific Plan and City General Plan as outlined by the City of Concord in their comment letter on the NOP.

**X. INACCURATE PROJECT ALTERNATIVES IMPACT ASSESSMENT THAT UNDERESTIMATES IMPACTS**
Table 5-1 on Page 5-5 of the DEIR shows a comparison of impacts from project alternatives and the proposed project. While analysis of project alternatives in a CEQA document is typically less exhaustive, in this case the comparison between the Proposed Project and the No Project Alternative is inaccurate and underestimates the impact comparisons between several environmental impacts (Air Quality, Greenhouse Gases, Energy and Noise). The DEIR states on Page 5-6 of the DEIR that under the No Project Alternative, “the District anticipates that the future Regional Park would not be developed and the project site would remain largely in its existing use, with the exception that the remediation activities planned by the United States Navy would occur.”

For example, noise impacts from the No Project Alternative in the EIR are considered similar to the proposed project. The comparison of noise impacts on Table 5-1 of the DEIR underestimates the noise generated from site preparation, construction activities and operational noise generated from the proposed project and associated uses (overlooks, picnic areas, staging areas, nursery/orchards, parking areas, campsites, trails, public roads and maintenance roads). Considering the proximity from proposed campsites, overlooks and trails on the eastern boundary of the site (bordering a pending residential development project) and the community orchard that is within 500 feet of residences on the western boundary of the site, it is expected that construction and operational noise from the No Project Alternative should be considered an improvement in comparison to the Proposed Project (either symbol > or >> in the Table 5-1) and should not be considered similar to noise impacts generated from the full buildout of the regional park (as currently identified in Table 5-1).

XI. INADEQUATE ANALYSIS OF AGRICULTURE AND FORESTRY RESOURCES

The DEIR dismisses potential impacts to agriculture and forestry resources by only discussing potential impacts in the Impacts Found Not to be Significant section of the DEIR on Page 6-1 and 6-2. The discussion focuses on the greater City of Concord but not the site specifically. According to the LUP, Chapter 2, Existing Conditions, there are existing agriculturally-related livestock grazing activities / uses occurring onsite and there are federally related US Forest Service forest resources on site as well. Page 53 of the LUP notes, “Researchers from the U.S. Forest Service Institute of Forest Genetics planted approximately 90 acres of experimental stands of various pine and eucalyptus species within the CNWS site. Two of these areas are within the project site, both located north of Bailey Road.” These Agricultural and Forestry Resources should be fully described and evaluated in the DEIR, as well as newly proposed cattle corral and grazing infrastructure (see LUP Page 103) rather than summarily
dismissed without any analysis and without any evidence to support such a dismissal.

XII. FAILURE TO ADDRESS MERITORIOUS PUBLIC COMMENTS RECEIVED FROM PUBLIC AGENCIES DURING NOP SCOPING

The DEIR failed to address several meritorious public comments received from public agencies and organizations during the public scoping process for the NOP, yet Page 2-2 of the DEIR states, “All comments were considered by the District in preparing the DEIR.

For example, the City of Concord requested visual simulations from several locations of the project vicinity. Although the DEIR addresses concerns related to changes to the existing visual character of the project site from structures, a road and rail network, magazines, and experimental forest stands (page 4.1-13), the DEIR did not provide visual simulations requested from the City’s comment letter, including visual simulations from Highway 4, the Bunker City Area, and Newhall Park looking toward the hills. The DEIR provided no rationale to explain why certain viewsheds were depicted, while other visual simulations expressly requested by the City were not included. Accordingly, the DEIR’s analysis of potential visual impacts is incomplete and inadequate.

Also as noted previously, the City of Concord noted that an alternative that achieves consistency with the Reuse Plan and/or Specific Plan and City General Plan should be considered.

Furthermore, Contra Costa Mosquito & Vector Control District’s response to the EBRPD’s NOP (2017) detailed an awareness and concern of mosquito sources that exist on the current CNWS (ponds, canals, creeks, ditches and magazines that retain water) and access to the sites already being monitored and treated by the Vector Control District. The Contra Costa Mosquito & Vector Control District requested that the impacts of mosquito sources on the proposed park facilities be discussed in the EIR.

Page 1-6 of the DEIR disclosed mosquito control as an Area of Controversy based on submitted comments received to the NOP. However, the EIR fails to disclose any analysis or mitigation related to existing or future mosquito population impacts on existing and future sensitive receptors as well as visitors of the park, which is expected to reach 560,000 persons annually at full buildout.

In addition, as mentioned above in Section II, Inadequate Existing Baseline Setting For Biological Resources, the DEIR did not address the public
comments from the California Native Plant Society (CNPS) that requested “comprehensive botanical surveys be conducted for the Environmental Impact Report on the Concord Hills Regional Park Land Use Plan. Additionally, we recommend that the Land Use Plan include a long term management plan for species protection.” Neither the comprehensive botanical surveys or the Long Term Management Plan were included in the DEIR.

**XIII. INADEQUATE CONSIDERATION OF CUMULATIVE IMPACTS**

CEQA requires a cumulative impacts analysis (CEQA Guidelines § 15130). The DEIR on page 4-3 lists approximately 14 planned development projects in the immediate vicinity of the project site but fails to consider potential cumulative impacts.

For example, the air quality section on page 4.2-19 of the DEIR states, “The proposed project will not include heavy construction equipment use within 1,500 feet of sensitive receptors.” However, the DEIR does not take into account future sensitive receptors, such as pending residential development located adjacent to the northeast boundary of the project site.

Furthermore, the noise section of the DEIR on page 4.11-10 states, “However, no noise sensitive land uses within the vicinity are proximate to the park (the nearest residence is 2,350 feet from the project site boundary and even farther from the planned active areas). Therefore, the noise limits of the City of Pittsburg Municipal Code would not be directly applicable to activities within the project site.” The DEIR does not consider potential noise impacts on proposed developments, such as the adjacent proposed Faria/Southwest Hills Annexation Project in the City of Pittsburg.

The DEIR also dismisses cumulative traffic impacts by comparing the number of proposed project trips (which were not based upon substantial evidence and were not consistent throughout the DEIR) to larger development projects such as the Concord Community Reuse Project. The DEIR contains no discussion of how traffic could be potentially significant given the cumulative projects in the immediate vicinity such as pending residential development projects like the proposed Faria/Southwest Hills Annexation Project. The DEIR dismisses potential cumulative impacts by stating that the proposed project is much smaller than other cumulative projects in the immediate area.

Since the proposed Plan is a long-term plan and assumes full buildout by 2050 (or sometime between 2035 and 2070?), the DEIR should take into account all proposed/planned projects within the vicinity of the proposed project.
XIV. DEIR LACKS A FULL LIST OF REFERENCES AS REQUIRED BY CEQA

The DEIR fails to include a list of References utilized in the preparation of the DEIR. Per CEQA Section 15148, “Preparation of EIRs is dependent upon information from many sources, including engineering project reports and many scientific documents relating to environmental features. These documents should be cited but not included in the EIR. The EIR shall cite all documents used in its preparation including, where possible, the page and section number of any technical reports which were used as the basis for any statements in the EIR.” All documents used in the preparation of an EIR must be cited in a single location for the benefit of the public in the interest of the EIR serving as an informational document. Without the required References section, members of the public reading the DEIR must try to piece together the various technical reports and other data sources relied upon in the various impact discussions of the DEIR. This is a major deficiency in the DEIR because a fundamental purpose of CEQA is to disclose information to the public and to enhance public participation in the environment review process.

CONCLUSION

Per the issues addressed above in this letter, a revised DEIR should be prepared to correct the major deficiencies and technical inadequacies of the DEIR, and the revised DEIR should be recirculated for public comment in accordance with CEQA Guidelines Section 15088.5 (Recirculation of an EIR Prior to Certification).

Sincerely,

Paul Miller, M.S.
Managing Principal
RCH Group
June 2, 2020

Board of Directors
2950 Peralta Oaks Court
Oakland, CA 94605

Members of the Board

RE: Concord Hills Regional Park FEIR

Dear Members of the Board:

These comments are submitted on behalf of the California Native Plant Society (CNPS) on the Final Environmental Impact Report (FEIR) for the proposed Concord Hills Regional Park project.

First, it is great to see the culmination of years of District work to transform the former Concord Naval Weapons Station turned into plans for a 2,500 acres regional parkland. With you, the East Bay Chapter of the California Native Plant Society welcomes the District’s plans to enhance and restore the grasslands, oak woodland, and riparian natural resources, to transform old pavement into new trails that will allow park users to explore this grand landscape, and to provide a venue to tell the area’s natural, cultural, social and military history within this new parkland site.

The proposed Final Environmental Impact Report (FEIR) for the Concord Hills Regional Park, as well as baseline information in the Draft EIR describes several activities that will help to achieve these objectives. The plan includes restoration plans for oak woodlands and riparian areas. The long-term land management measures described in Land Use Plan Appendices (Measures 6 through 20) describe grazing and invasive weed management commitments that will improve the park for park users and wildlife over time.

We appreciate Final EIR’s plans to protect native plant species and recommend the following two points to avoid and mitigate for project impacts. The following points address baseline information and mitigation for impacts to big tarplant (Blepharizonia plumosa). We believe that the proposed FEIR mitigation measures would not reduce impacts to this plant to less than significant, but could do so with minor changes to the FEIR.
Main FEIR Comments:

1. **FEIR Bio 1.1a (pg. 1-3)** *Proposed modification:* Re-survey for big tarplant during periods of normal to above-normal rainfall.

Surveys conducted by Vollmar and HT Harvey consulting were conducted in 2008 and 2010 (12 and 10 years ago respectively) and are insufficient to be used as representative floristic surveys of the project area. The surveys for big tarplant should be repeated during a year with normal or above-average rainfall to accurately document the existence of special status plants, locally rare plants, and Sensitive Natural Communities. If performed during a year when average precipitation is below average, it is possible that special status species will not be evident. The surveys should be conducted well before any project construction activity so that mitigation measures can be put in place prior to the start of construction.

2. **FEIR Bio 1.1c (pg. 1-4):** *Proposed modification:* Mitigate for big tarplant at a 2:1 replacement ratio.

The FEIR notes that additional populations of big tarplant could exist on site, however there were insufficient surveys for this special status species. Further, the FEIR suggests that mitigation for the loss of big tarplant would occur automatically out of managing “Natural Units” for grazing and invasive species management (as described in mitigation measures Bio 6 through Bio 20). However, there is insufficient survey information to indicate that this species exists in the Natural Units. Also, the protection of rare plant species through appropriate site management is already part of District goals, and this measure would not replace rare plant populations that would be lost through construction activity. Therefore, the presence of these species within the planned 16.5 acres of construction in grasslands should be mitigated for at a 2:1 ratio.

Thank you for the opportunity to provide comments on the FEIR. We look forward to continuing to work with the Park District to improve protection of native plants and their natural communities.

Sincerely,

Jim Hanson, Conservation Committee Chair

Cc: Devan Reiff, Principal Planner
MEMORANDUM

DATE 
June 24, 2020

TO Attn: Yolande Barial Knight, Clerk of the Board
East Bay Regional Park District, Board of Directors
Robert E. Doyle, General Manager
2950 Peralta Oaks Court
Oakland, California 94605

FROM PlaceWorks

SUBJECT Errata to the Concord Hills Land Use Plan Final EIR

This Errata to the Concord Hills Land Use Plan Final Environmental Impact Report (EIR) is provided in response to late public comments. This Errata further documents and explains the trip generation calculations supporting the air quality, GHG, and traffic analysis in the EIR. It also includes revisions to the EIR.

Addition - Trip Generation Data

DRAFT EIR TRIP AND VISITOR ESTIMATES

Draft EIR Trip Estimates
Trip estimates for the proposed project were calculated based off of the visitor estimate prepared for the project and reflects the assumption that 10 percent of visitors would walk or bike to the site. Table 1 presents the trip estimates utilized in the Draft EIR analysis.

As reflected in the sections below, the trip data utilized in the Draft EIR (and shown in Table 1) are based on conservative (i.e., high) visitor estimates and are higher than trip data based on the Institute of Transportation Engineers (ITE) Trip Generation Manual. Therefore, the trip data used in the Draft EIR analysis is considered to be robust and more than reasonable to support the conclusions in the Draft EIR, and no revisions to the Draft EIR are required.
**Table 1**  
**Draft EIR Trip Generation**

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Notes:
- a. Visitor data in the Draft EIR (966 weekday, 2,398 weekend) reflected total site usage of all facilities and did not account for visitors who would utilize more than one facility. For the purposes of trip generation, the visitor number assumes the following visitors are making internal trips (i.e., they are accessing another on-site use during their visit): Small Picnic, Group Picnic (weekend only), Group Campsite, Backcountry Campsite, and Phase 3 Increased Joint Visitor Center.
- b. Assumes one third of weekday visitors and two thirds of weekend visitors are families and/or group carpoolers (i.e., 4 visitors per car).
- c. Assumes three buses or school buses will visit the site daily (accommodating approximately 100 people).
- d. Assumes 2 people per car for the other visitors.


**Visitor Estimates**

The visitor estimates on which the Draft EIR trip estimates are based are in Table 4 at the end of this Errata. The visitor estimates are conservatively high, as described further below. By using the visitor estimates as the basis of trip calculations, the EIR reflects a conservative approach.

The assumption that 10 percent of park visitors at full buildout would walk or bike to the Regional Park is conservative, in that a higher percentage of visitors can be reasonably expected to walk or bike to the park. As stated on page 3-39 of the Draft EIR:

> While the majority of visitors would be expected to arrive by car, some visitors, especially those from adjoining residential neighborhoods, would arrive by bike or by walking... Based on use patterns at existing regional parks with similar surroundings, the District anticipates that 20 percent, and ultimately as many as 50 percent, of visits would arrive on foot or on bikes. However, for the purposes of the analysis in this EIR, it is assumed that 10 percent of trips at full buildout are expected to arrive via transit or on bikes or on foot.

Visitor estimates were developed for each phase of the project buildout based on the anticipated demand and capacity of the proposed access features (including trail mileage and number of picnic
areas and other access features). Estimates considered visitation data from the National Park Service’s nearby sites, District staffing projections for Land Bank Status and Phase 1, National Recreation and Park Association standards for estimating visitation, and visitation at other District facilities. All estimates were intentionally conservative (i.e. representing a “worst-case” scenario). For example, trail capacity was assumed to be 90 users per day per mile, based on National Recreation and Park Association standards for urban trails, rather than the standards for rural trails (the National Recreation and Park Association standard is 90 users per day per mile on urban trails and 40 users per day per mile on rural trails). Estimates for the Regional Park visitor center considered National Park Service data for visitation at nearby sites (ranging from 45,000 to 75,000 annual visitors) and assumed over 40,000 in Phase 2 and over 60,000 in Phase 3 for the visitor center alone. Estimates were also considered against visitation rates at other District parks. Based on 2016 visitation data, annual park visitation ranges from approximately 60,000 to over 1 million annually for parks with more amenities and attractions that are located in proximity to higher density areas. Concord Hills Regional Park will have important destinations such as the Joint Use Visitor Center but will primarily be used for passive recreation, and therefore would be expected to have visitation rates similar to other passive recreation areas such as Anthony Chabot Regional Park which received 419,000 visitors in 2016.

Whereas visitor data is calculated for park planning purposes based on anticipated visitor demand for planned features and amenities (e.g., anticipating the number of trail users, the number of parking spaces needed throughout the site at various facilities, the number and location of restrooms needed, etc), the trip data is calculated based on anticipated mode share and mobility patterns. As noted in Table 1, whereas visitor estimates reflect the total number of users of all facilities at the Regional Park, trip estimates account for the expectation that many visitors will utilize more than one facility during their visit. For example, a person using a campsite or picnic area will also utilize a trail during their visit. As mentioned in the notes in Table 1, for the purposes of trip generation, it was assumed that the following visitors are making internal trips (i.e., they are accessing another on-site use during their visit): Small Picnic, Group Picnic (weekend only), Group Campsite, Backcountry Campsite, and Phase 3 Increased Joint Visitor Center. (These visitor categories align with the categories used in the visitor estimates in Table 4 of this Errata.)

As further noted the references in Table 1, trip estimates also reflect that many visitors will travel to the site as groups or as families. It is assumed that one third of weekday and two thirds of weekend visitors will be making group trips. All other park visitors arriving via car are assumed to travel with two persons per vehicle. Many of the park facilities will be geared toward families and groups, such as the Visitor Center Complex multi-purpose room for community gatherings, amphitheater for outdoor programming, reservable group picnic areas and smaller informal picnic areas, and the proposed Diablo Center.

Additionally, trip estimates reflect that up to three buses will access the site daily. As shown on Figure 3-3 of the Draft EIR, the Regional Park is located in close proximity to many schools. As described above, the Regional Park would include many facilities geared toward and reservable for groups. In addition to the facilities noted above, the Regional Park would include many educational facilities and would be a desirable location for field trips. The proposed Visitor Center Complex would provide
information about the park and historic information about the Port Chicago Naval Magazine National Memorial. In addition, the Regional Park would provide magazine exhibit space, a War and Peace Interpretive Trail, outdoor classrooms, trails along historic rail corridors, overlooks, and a community orchard with educational programming.

Trip estimates also reflect the assumption that 10 percent of park visitors will walk or bike to the site. As described on page 3-39 of the Draft EIR, this assumption is conservatively low, as the District anticipates that up to half of visitors may ultimately walk or bike to the site. Moreover, trip estimates do not assume that any users will access the site via transit, despite the Land Use Plan’s proposed connection to the Mount Diablo Creek Trail that is planned as a greenway to connect to North Concord/Martinez BART station. Again, this means the visitor and trip generation rates are remarkably conservative.

Lastly, the total visitation estimate for Phase 3 (560,909 total annual visitors) assumes that visitation will be greater than visitation to Anthony Chabot Regional Park, even though Chabot is located in much closer proximity to dense Bay Area communities and has numerous attractions compared to the Regional Park being analyzed in this EIR.

INSTITUTE OF TRANSPORTATION ENGINEERS TRIP GENERATION MANUAL

Trip generation calculations presented below that use the Institute of Transportation Engineers (ITE) Trip Generation Manual are based on the Land Use Plan’s Recreation/Staging Units area of 126 acres.\(^1\) Because land use categories for parks were revised in the 10\(^{th}\) edition of the ITE Trip Generation Manual, the information below presents trip generation calculations for both the 9\(^{th}\) and 10\(^{th}\) editions.

ITE Trip Generation Manual, 10\(^{th}\) Edition

Using standard trip rates from the most recent ITE Trip Generation Manual, 10\(^{th}\) Edition, for a Public Park (land use category 411), which is defined in the manual as public parks owned by a municipal, county, State, or federal agency, the proposed project could be expected to generate 98 weekday daily trips (i.e., approximately six times lower than the trip data utilized for the Draft EIR and shown in Table 1). Please see Table 2.

\(^{1}\) The trip generation estimates are based on the Recreation/Staging Units area of 126 acres as ITE’s description of this land use category (411) acknowledged that park areas that are used more intensively varied across the studies considered and cautioned against use of acreage as an independent variable. The 126-acre area includes the area of park under trail use and expected to accommodate active and passive uses by park visitors. Given that the remaining 95 percent of the Regional Park is dedicated to conservation and is severely restricted for public access and use, applying the ITE trip generation rate to the 126 acres of park area was deemed appropriate and reasonable.
**TABLE 2**  
**TRIP GENERATION USING ITE TRIP GENERATION MANUAL, 10TH EDITION**

<table>
<thead>
<tr>
<th>Land Use</th>
<th>ITE Code</th>
<th>Size (Acres)</th>
<th>Weekday AM</th>
<th>AM Peak Hour</th>
<th>PM Peak Hour</th>
<th>Weekday AM</th>
<th>PM Peak Hour</th>
</tr>
</thead>
<tbody>
<tr>
<td>Public Park</td>
<td>411</td>
<td>126</td>
<td>0.78</td>
<td>0.02</td>
<td>0.11</td>
<td>98</td>
<td>3</td>
</tr>
</tbody>
</table>


**ITE Trip Generation Manual, 9th Edition**

Because land use categories for parks were revised in the 10th edition of the ITE Trip Generation Manual, and reflect a reduced rate per acre, the information below presents trip generation calculations for the 9th edition using two ITE land use categories.

As shown in Table 3, using standard trip rates for a Regional Park (land use category 417), the proposed project could be expected to generate 576 weekday daily trips (i.e., 10 trips fewer than the trip data utilized for the Draft EIR and shown in Table 1).

As shown in Table 3, using standard trip rates for a County Park (land use category 412), the proposed project could be expected to generate 287 weekday daily trips (i.e., less than half of the trips considered in the Draft EIR and shown in Table 1).

**TABLE 3**  
**TRIP GENERATION USING ITE TRIP GENERATION MANUAL, 9TH EDITION**

<table>
<thead>
<tr>
<th>Land Use</th>
<th>ITE Code</th>
<th>Size (Acres)</th>
<th>Weekday AM</th>
<th>AM Peak Hour</th>
<th>PM Peak Hour</th>
<th>Weekday AM</th>
<th>PM Peak Hour</th>
</tr>
</thead>
<tbody>
<tr>
<td>Regional Park</td>
<td>417</td>
<td>126</td>
<td>4.57</td>
<td>0.04</td>
<td>0.20</td>
<td>576</td>
<td>6</td>
</tr>
<tr>
<td>County Park</td>
<td>412</td>
<td>126</td>
<td>2.28</td>
<td>0.02</td>
<td>0.09</td>
<td>287</td>
<td>3</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Phasing</th>
<th>Typical Visitation</th>
<th>Events</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Weekday</td>
<td>Weekend</td>
</tr>
<tr>
<td>Land Bank Status</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Naturalist-led Tours</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td><strong>Phase 1 – South of Bailly Road</strong></td>
<td>220</td>
<td>736</td>
</tr>
<tr>
<td>Trails</td>
<td>165</td>
<td>496</td>
</tr>
<tr>
<td>Group Picnic</td>
<td>25</td>
<td>75</td>
</tr>
<tr>
<td>Small Picnic</td>
<td>15</td>
<td>45</td>
</tr>
<tr>
<td>Group Campsite</td>
<td>10</td>
<td>100</td>
</tr>
<tr>
<td>Community Orchard</td>
<td>5</td>
<td>20</td>
</tr>
<tr>
<td><strong>Phase 2 - Joint Visitor Center Complex and Initial Park Trails</strong></td>
<td>564</td>
<td>1,766</td>
</tr>
<tr>
<td>Continued visitation from Phase 1</td>
<td>220</td>
<td>736</td>
</tr>
<tr>
<td>Trails - Phase 2</td>
<td>268</td>
<td>805</td>
</tr>
<tr>
<td>Joint Visitor Center and Associated Structures</td>
<td>75</td>
<td>225</td>
</tr>
<tr>
<td>POCH Annual Commemorative Event</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Mid-sized events</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td><strong>Phase 3 - Build Out</strong></td>
<td>1,074</td>
<td>2,665</td>
</tr>
<tr>
<td>Continued visitation from Phase 1 and Phase 2</td>
<td>564</td>
<td>1,766</td>
</tr>
<tr>
<td>Trails - Phase 3</td>
<td>200</td>
<td>600</td>
</tr>
<tr>
<td>Joint Visitor Center- Assumed increased use in Phase 3</td>
<td>225</td>
<td>56</td>
</tr>
<tr>
<td>POCH Annual Commemorative Event</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Mid-sized events</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Group Picnic</td>
<td>38</td>
<td>113</td>
</tr>
<tr>
<td>Small Picnic</td>
<td>18</td>
<td>53</td>
</tr>
<tr>
<td>Backcountry Campsite</td>
<td>13</td>
<td>25</td>
</tr>
<tr>
<td>The Diablo Center Education/Event Space</td>
<td>18</td>
<td>53</td>
</tr>
</tbody>
</table>

Revisions to the EIR

The text below presents changes to the Draft EIR that resulted from preparation of responses to comment letters received from Farella Braun + Martel and the California Native Plant Society. In each case, the page and location on the page in the Draft EIR is presented, followed by the text revision. Underline text represents language that has been added to the EIR; text with strikethrough has been deleted from the EIR. The revisions in this chapter do not require recirculation of the Draft EIR because they do not constitute “significant new information” under Section 15088.5 of the CEQA Guidelines.

Table 3-3 on page 3-40 of the Draft EIR is hereby amended as follows:

<table>
<thead>
<tr>
<th>Mode</th>
<th>Typical Weekday Visitors</th>
<th>Typical Weekend Visitors</th>
</tr>
</thead>
<tbody>
<tr>
<td>Auto</td>
<td>1,018</td>
<td>2,450</td>
</tr>
<tr>
<td>Bike or Walk</td>
<td>107</td>
<td>266</td>
</tr>
<tr>
<td>Total Visitors-Trips</td>
<td>1,125</td>
<td>2,716</td>
</tr>
</tbody>
</table>

Note: These totals include staff trips.
Source: PlaceWorks, 2018.

The last paragraph on page 4.3-39, continuing onto page 4.3-40, of the Draft EIR is hereby amended as follows:

Although no special-status plant species have been identified on the project site, there is potential for one species with a California rare plant ranking of Rank 1B (rare, threatened, or endangered in California and elsewhere), big tarplant, to be present on the site. Conservation of CRPR 1B species is important because their populations contribute to preserving the genetic resources for the species and ensuring persistence of rare species in the county and state. Thus, the proposed Land Use Plan, which has been prepared consistent with the Long-Term Management Plan (LTMP), includes a management prescription (identified as BIO 25)\(^{51}\) to monitor and document the presence and relative abundance of special-status species, including big tarplant, within the project site over time and inform management to aid this species.\(^{52}\) In addition, the proposed Land Use Plan includes management prescriptions BIO 17 through BIO 20 to minimize the spread of existing nonnative invasive plants and prevent the unintentional introduction and spread of invasive plant species that can degrade the value of habitat for native species (see also the discussion under Impact BIO-2).

\(^{51}\) Concord Hills Regional Park Land Use Plan, 2019, Table 4-1
\(^{52}\) City of Concord and East Bay Regional Park District, December 3, 2018. Concord Reuse Project Area Plan On-Site Conservation Lands Long-Term Management Plan, prepared by H.T. Harvey & Associates.
Mitigation Measure BIO-1.1a on page 4.3-40 of the Draft EIR was revised in the Final EIR; the text is hereby restored to its original language, as follows:

**Mitigation Measure BIO-1.1a: Pre-Activity Survey.** A focused survey for big tarplant will be conducted within suitable habitat in areas of the project site that may experience ground disturbing activities. The surveys will be conducted prior to initial ground disturbance and during the appropriate blooming period (late summer and early fall). The survey area will include all suitable habitat that may be impacted as well as a 50-foot buffer. **Surveys are to be conducted in a year with near-average or above-average precipitation.** The purpose of the surveys will be to assess the presence or absence of big tarplant. If this species is not found in the survey area, then no further mitigation will be warranted. If big tarplant is found in the impact area, then Mitigation Measures BIO-1.1b and BIO-1.1c will be implemented.

**Mitigation Measure BIO-1.1c on page 4.3-41 of the Draft EIR is hereby amended as follows:**

**Mitigation Measure BIO-1.1c: Implementation of Plan Management Prescriptions BIO-8 through BIO-16. Management of Existing Populations.** The destruction of populations of big tarplant on the project site shall be mitigated by specifically managing portions of the Regional Park’s open grasslands within designated Natural Units that support this species, or occupied habitat on other District lands. The vast majority of the Los Medanos Hills and areas located southeast of Bailey Road are not proposed for development. These same areas represent the most suitable habitat for big tarplant on the project site. A review of the regional occurrences of this species reported in various databases reveals that off-site populations generally occur on specific soil types (namely Altamont clay, Altamont-Fontana Complex, and Diablo clay). These same soil types underlie much of the Natural Units within the project boundaries. As such, in the event that big tarplant is impacted by construction activities, the species may also be present within areas that will not be impacted. Either within the project site or on other District lands that support big tarplant, the District will manage and monitor the population in perpetuity as part of the District’s long-term management of the area supporting big tarplant. Such management will occur at a 2:1 (mitigation:impact) ratio in terms of the number of individual plants, specific habitat management measures (i.e., Plan management prescriptions BIO-8 through BIO-16 identified in Chapter 4 of the proposed Land Use Plan) to enhance the open space for the California red-legged frog, California tiger salamander, and burrowing owl, will also benefit the germination, growth, and long-term viability of populations of the big tarplant, if it is present.

**Mitigation Measure BIO-3a on page 4.3-58 of the Draft EIR is hereby amended as follows:**

**Mitigation Measure BIO-3a: Permitting.** Prior to placing any fill in jurisdictional wetlands and/or other waters of the U.S. or state, the District will provide the necessary permit application/notification materials to the USACE for a Clean Water Act Section 404 permit, to the RWQCB for Clean Water Act Section 401 water quality certification, and to the CDFW for a Fish and Game Code Section 1602 Streambed Alteration Agreement, as applicable (e.g.,
impacts to jurisdictional wetlands that are not in a channel may not necessitate CDFW notification). The District will comply with all conditions of these permits/agreements when performing the work; for example, if any construction activities at the same time as the project. Construction noise and vibration associated with implementation of the proposed Plan would be phased over 31 years. Proposed project construction would involve a limited construction effort in relation to the 2,543-acre proposed project site, due both to the relatively small development area (35 acres) and because many proposed facilities would involve adaptive reuse of existing buildings or reuse of parts of existing buildings. In addition, construction sites would be scattered throughout the site. The proposed visitor center is likely to be the closest portion of the Plan that would involve the construction of buildings and grading to potential future developments under the Concord Reuse Project. As discussed above, at a distance of 100 feet from a construction or demolition site, 8-hour average noise from the various types of equipment will, at times, range from 73 to 84 dBA. At a distance of over 350 feet from potential future development under the Concord Reuse Project (and conservatively not accounting for any shielding or ground absorption), construction noise levels would range from 62 to 73 dBA and would not exceed the FTA threshold of 80 dBA. At this distance, construction noise from buildout of the proposed Regional Park would not contribute substantially to a cumulative construction noise or vibration impact.

The proposed facility closest to future residents on the Faria/Southwest Hills development (which is located within the City of Pittsburg) would be the Eagle’s Nest Backcountry Campsite. Although the specific location of the campsite has not yet been determined, based on the Land Use Plan, the campsite would be approximately 250 to 500 feet from the project site boundary. As described on page 3-31 of the Draft EIR, this campsite would be accessible only by trail. Therefore, its use would be relatively low intensity, and heavy construction equipment and visitor vehicles would not be able to access the site. Consequently, no loud construction or land use noises would occur from that site. Construction of the Eagle’s Nest Backcountry Campsite would not involve the use of a substantial number of large off-road construction equipment. Construction activities are anticipated to include a minor amount of site clearing and grading. No buildings would be created; the only structure would be a vault restroom, which is a small free-standing structure. The City of Pittsburg Municipal Code Chapter 9.44 prohibits the use of pile driving, steam shovels, pneumatic hammers, derrick, and electric hoists during the hours of 10:00 p.m. and 7:00 a.m. None of these pieces of equipment are
anticipated for construction of Eagle’s Nest Backcountry Campsite and nighttime work is not proposed. Further, Section 18.82.040 of the Pittsburg Municipal Code limits construction noise to 65 decibels at the property line of the receiving sensitive use. The most noise-intensive construction equipment anticipated for use at the Eagle’s Nest Backcountry Campsite is a backhoe. The reference noise level for backhoes from the Federal Highway Administration Roadway Construction Noise Model is 78 dBA Lmax (maximum A-weighted decibels) at a distance of 50 feet (FHWA 2008). At a distance of approximately 250 feet (the shortest potential distance from the campsite to the property line) from the proposed Eagle’s Nest Backcountry Campsite to the proposed Faria/Southwest Hills Annexation Project, construction noise would attenuate to 64 dBA Lmax or less and would therefore not exceed the City of Pittsburg’s limit of 65 decibels. This computation conservatively does not factor in the dense vegetation that exists between the proposed campsite and Faria/Southwest Hills Annexation Project or topographical features which would provide acoustical shielding and further reduce construction noise levels. Therefore, this impact is considered to be less than significant.
D. BUSINESS BEFORE THE BOARD

2. ACQUISITION, STEWARDSHIP & DEVELOPMENT DIVISION

b. Authorization to Award a Construction Contract with Power Engineering Construction Co. for the Restore Encinal Beach and to Transfer and Appropriate Funds: Alameda Point Regional Shoreline

(Recommendation)

The General Manager recommends the Board of Directors:

1. Authorize the award of a construction contract in the amount of $768,802 to Power Engineering Construction Co. of Alameda, California, the lowest responsive responsible bidder for the Restore Encinal Beach Project (No. 518300) at Alameda Point Regional Shoreline; and

2. Authorize the transfer and appropriation of $425,000 from Measure WW Development Funds from the Alameda Point Allocation Area (WP01) into the Restore Encinal Beach Project (No. 518300) at Alameda Point Regional Shoreline.

REVENUE/COST

This action will authorize a new contract with Power Engineering Construction Co. and will increase the project budget by $425,000 to fund the construction contract and associated project costs including contingency, project management, permits and staff time.

SOURCE OF FUNDS

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Restore Encinal Beach Project (No. 518300)</td>
<td>$913,303</td>
</tr>
<tr>
<td>Encumbrances and Expenditures to Date</td>
<td>(352,171)</td>
</tr>
<tr>
<td>Appropriation of Measure WW Development funds – Alameda Point Shoreline Allocation Area (WP01)</td>
<td>425,000</td>
</tr>
<tr>
<td>AVAILABLE BALANCE</td>
<td>$986,132</td>
</tr>
</tbody>
</table>
USE OF FUNDS

Construction Contract with Power Engineering Construction Co. $ 768,802
Construction Contingency 115,320
Other costs (including project management, permits and contingency) 102,010
REMAINING BALANCE $ 0

After this action there will be $1.728 million remaining in Measure WW Development Funds for the Alameda Point Allocation Area.

BACKGROUND

This project will restore native dune habitat at Encinal Beach, within Alameda Point Regional Shoreline which has been overwhelmed by non-native vegetation. Alameda Point is a Bay shoreline property on the west side of the island of Alameda, leased by the Park District from the City of Alameda (lease initiated on December 31, 2006). This one-acre park has Bay Trail connections and is sheltered by a long rock levee that protects the small bay and serves as a popular spot for marine anglers. While some improvements were made to the park at its inception, the dune area of the beach (~0.5 acres) is overrun with non-native ice plant (Carpobrotus sp.) and the site hosts several legacy structures, making it less than optimal for park users and wildlife. These structures include a large rusting barge (possibly installed for erosion control purposes), a deteriorating chain link fence, and large wooden pier structures that have washed onto the beach.

The project will remove the barge from the shoreline, construct rip rap shoreline protection where the barge is removed, remove the non-native iceplant, clean up the beach and bring in sand to construct sand dunes and increase the usable beach area at high tide. Additionally, native planting will be installed, and connections made to the City of Alameda’s recently renovated boat launch at this site.

The Park District adopted a Mitigated Negative Declaration for the Project in July 2017 and subsequently applied to the San Francisco Bay Restoration Authority (SFBRA) in the fall of 2017 for Measure AA grant funds and was awarded $450,000. Pursuant to Resolution 22 of the SFBRA, in order to receive Measure AA grant funds, a grant recipient must enter into a project labor agreement (PLA) with the local Building Trades Council. On February 4, 2020, the Board approved the PLA for this project by Resolution No. 2020-02-025.

Staff has worked with consultants, the City of Alameda, and regulatory agencies to prepare construction documents and receive permits.

The Park District advertised the construction contract on March 12, 2020 with bids due June 16, 2020. The project was advertised in 13 plan rooms in addition to advertising in the Daily Pacific Builder and on BPXpress. Five bids were submitted and Power Engineering Construction Co. with a bid amount of $768,802 was the lowest responsive bidder. The engineer’s estimate was $700,000. Staff has thoroughly reviewed the bid and recommends accepting it and moving forward with construction.
The basis for determination of the low bid for this project is the aggregate amount of the bidder’s base bid:

<table>
<thead>
<tr>
<th>NAME OF BIDDER</th>
<th>TOTAL BASE BID</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Power Engineering Construction Co.</td>
<td>$ 768,802</td>
</tr>
<tr>
<td>2. Pacific States Environmental Contractors, Inc.</td>
<td>$ 853,849</td>
</tr>
<tr>
<td>3. Brannon Corporation</td>
<td>$ 989,655</td>
</tr>
<tr>
<td>4. McGuire and Hester</td>
<td>$ 996,630</td>
</tr>
<tr>
<td>5. Integra Construction Services, Inc.</td>
<td>$ 1,090,000</td>
</tr>
<tr>
<td>ENGINEER’S ESTIMATE</td>
<td>$ 700,000</td>
</tr>
</tbody>
</table>

**ALTERNATIVES**

No alternatives are recommended.
EAST BAY REGIONAL PARK DISTRICT

RESOLUTION NO.: 2020 – 07 –

July 7, 2020

AUTHORIZATION TO AWARD A CONSTRUCTION CONTRACT WITH POWER ENGINEERING CONSTRUCTION CO. FOR THE RESTORE ENCINAL BEACH PROJECT AND TO TRANSFER AND APPROPRIATE FUNDS: ALAMEDA POINT REGIONAL SHORELINE

WHEREAS, Encinal Beach is a San Francisco Bay shoreline property on the west side of the island of Alameda, which is leased, beginning on December 31, 2006, by the East Bay Regional Park District from the City of Alameda; and

WHEREAS, the beach area is overrun with non-native iceplant and the site hosts several legacy structures which are in disrepair and make the site less than optimal for park users and wildlife; and

WHEREAS, on July 5, 2017 by Resolution No. 2017-07-183, the Board of Directors adopted a Mitigated Negative Declaration for the Restore Encinal Beach Project; and

WHEREAS, the Park District applied for, and was awarded a San Francisco Bay Restoration Authority Measure AA grant in the amount of $450,000 for this shoreline protection project; and

WHEREAS, under the San Francisco Bay Restoration Authority’s “Resolution 22,” all recipients of San Francisco Bay Restoration Authority Measure AA grant funds must enter into a standard project labor agreement (PLA) with the local Building Trades Council on the applicable construction project; and

WHEREAS, On February 4, 2020, the Board approved the PLA for this project; and

WHEREAS, the Park District has developed construction documents and received permitting to remove the structures and improve the beach; and

WHEREAS, the Park District issued those documents for public bidding beginning on March 12 and receiving bids on June 16, 2020; and

WHEREAS, five bids were received by the bid deadline and Power Engineering Construction Co. was the lowest responsive and responsible bidder; and

WHEREAS, additional funding is needed for the construction contract in order to complete the project; and
WHEREAS, there are funds available for transfer from the Alameda Point Allocation Area (WP01) into the Restore Encinal Beach Project (No. 518300);

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of the East Bay Regional Park District hereby authorizes a construction contract with Power Engineering Construction Co. in the amount of $768,802 and a construction contingency of $115,320 to be funded out of the Restore Encinal Beach Project (No. 518300); and

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors hereby authorizes the transfer of $425,000 from development funds in the Alameda Point Allocation Area (WP01) into the Restore Encinal Beach Project (No. 518300) as per the attached budget change form; and

BE IT FURTHER RESOLVED, that the General Manager, or his designee, is hereby authorized and directed, on behalf of the Park 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 , and seconded by , and adopted this 7th day of July 2020, by the following vote:

FOR:

AGAINST:

ABSTAIN:

ABSENT:
Page Left Blank Intentionally
Crown Beach Memorial State Beach
Encinal Beach, Alameda

Crown Beach to Alameda Shoreline Trail
ENCINAL BEACH

VICINITY MAP

Alameda

CROWN BEACH MEMORIAL STATE BEACH
Page Left Blank Intentionally
As being presented at the Board of Directors meeting on July 7, 2020 the General Manager recommends that the Board of Directors authorize the appropriation of $425,000 Measure WW principal funds from the Alameda Pt Allocation Area Development to project 518300 to restore Encinal Beach.
AGENDA
REGULAR MEETING
BOARD OF DIRECTORS

EAST BAY REGIONAL PARK DISTRICT

Tuesday, July 7, 2020

D. BUSINESS BEFORE THE BOARD

3. FINANCE AND MANAGEMENT SERVICES DIVISION
   
a. Authorization to Amend the 2020 Budget for Mid-Year Appropriations and
   Transfers (Spaulding/Auker/Alvarez)

RECOMMENDATION

The General Manager and the Board Finance Committee, by unanimous vote at its June 24, 2020
meeting, recommend that the Board of Directors approve the 2020 Mid-year Budget
appropriation increases and transfers described below and on Exhibit A.

REVENUE/COST

Based on the current financial uncertainties posed by the COVID-19 pandemic, staff recommends
appropriating $13.8 million from General Fund reserves through the Mid-Year Budget
appropriation process, and an additional $2.5 million from non-General Fund sources. This
recommendation also includes providing $2.7 million in reserves for smoothing the effects of
anticipated revenue reductions in the coming year. Detail of these appropriations are described
below and in Exhibit A.

Annually the Park District performs a mid-year budget review and determines if the prior year
audited financial results allow for appropriation of any one-time opportunity funds, which are
funds in excess of the Park District’s Fund Balance Reserve Policy, which recommends a General
Fund reserve of 32% of annual revenue. The Park District’s year-end audit as of December 31,
2019 reflected a $16.5 million in fund balance exceeding the recommended unassigned reserves.
These opportunity funds are the results of property tax revenues received exceeding budget by
3% and General Fund shortfall in expenditures, mainly personnel costs, at 90% of budget, as
reported in the audited financial report.

BACKGROUND

The Mid-year Review process includes a review of estimated revenue and expected expenditures
through the end of the calendar year. This year is unlike any other year due to the Coronavirus
Shelter-in-Place Orders beginning in March 2020, which halted most economic activity in the Bay
Area and the country.
In the month of August, the Park District will receive data related to potential reductions in property tax revenue due to delinquencies which could be as high as 5% in Alameda County. The Park District is on a teeter plan in Contra Costa County; therefore, the County absorbs all delinquencies and pays the Park District based on the amount of tax levied. Also in the same month, the property value assessments will be released by Alameda and Contra Costa counties, which will establish the growth rates of revenue for the 2020-21 fiscal year. The Park District's economic consultants will then provide a 5-year property tax forecast. Average annual sales prices can be an indicator of future property values. Current reports show that May 2020 home sales prices are approximately 2% higher than May 2019 in Alameda County. Contra Costa County shows an annual 3.6% decline in sales prices for the same period. Based on the information available to date, staff is not recommending to reduce the 2020 budgeted property tax revenue. Staff will continue to analyze new data, as it is available and will report back to the Board of Directors.

The Park District’s General Fund expenditures for the first quarter of 2020 are at reported at 22.3% of budget as compared to 24.4% of budget in 2019. Spending has certainly slowed down since the shelter in place was issued in March; however, emergency and COVID-19 related purchases have increased, as part of the Park District’s emergency response. Staff will perform an analysis of the second quarter and will report back to the Board of Directors.

Due to the economic uncertainty facing the Park District, the Mid-year Budget priorities have been modified. Based on Park District fiscal policy, funding reserves and paying down long-term liabilities will remain at the top of the list; however, setting aside funds related to the COVID-19 pandemic is the highest priority.

This year, the following priorities influenced the Mid-Year Budget decision-making process:
1. Funding for COVID-19 response
2. Reserves set-aside for the COVID-19 economic effects
3. Replenishment of depleted Park District reserves
4. Capital projects currently underway with identified funding shortfalls
5. Safe and healthy forest management/fire hazard reduction
6. Funding for infrastructure renovation and replacement fund
7. Reducing pension liabilities / stabilizing future pension costs
8. Environmental remediation / ecological restoration
9. Repairs to damaged trails, parklands and facilities
10. Mitigations / adaptations in preparation for a changing climate

The proposed adjustments are primarily from the General Fund, but also include appropriations from other funding sources.

**Funding for COVID-19 Response**
In total, $600,000 is being allocated to the existing COVID-19 response project (#533800). These funds will address expenditures incurred to-date for personal protective equipment (PPE), cleaning, communications, and signage, and certain physical changes to park infrastructure. These funds also will be utilized for technology needs that were requested by Departments. A listing
of specific requests made during the mid-year budget process that will be funded from the COVID-19 project are listed below:

Operations – Quarry Lakes  Touchless hand dryer for public restrooms
Operations – MAST  50 cell phones for staff in MAST and Business Services
Operations- Parklands Unit  Laptop computers for remotely completing timecards, email, etc.

Funding for Infrastructure Renovation and Replacement Fund
A $5 million transfer from the General Fund’s fund balance to the Major Infrastructure Renovation and Replacement (MIRR) Fund 553 is recommended in support of maintaining the Park District’s major infrastructure, such as buildings, bridges, utilities, and roads. Since the 2020 Budget was adopted, the Board of Directors has appropriated $1,164,498 from the MIRR Fund. The actions proposed at mid-year would achieve the recommended annual funding target per the MIRR Funding Policy (adopted by the Board of Directors in 2019).

Proposed General Fund Appropriations for other High-Priority Projects
The following funding allocations are proposed to address: capital projects currently underway with identified funding shortfalls; Safe and healthy forest management/fire hazard reduction; Reducing pension liabilities / stabilizing future pension costs; Environmental remediation / ecological restoration; Repairs to damaged trails, parklands and facilities; and Mitigations / adaptations in preparation for a changing climate.

<table>
<thead>
<tr>
<th>Division-Location</th>
<th>Description</th>
<th>Coding</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>FMS-District Wide</td>
<td>Aquatic Facilities &amp; Water Resources</td>
<td>536200DS10</td>
<td>2,000,000</td>
</tr>
<tr>
<td>FMS-District Wide</td>
<td>Environmental Remediation</td>
<td>518700DS10</td>
<td>1,000,000</td>
</tr>
<tr>
<td>FMS-District Wide</td>
<td>Pension Liability Contribution-paydown</td>
<td>1019900000</td>
<td>1,000,000</td>
</tr>
<tr>
<td>PS - Helicopter</td>
<td>Additional funds for purchase of Helicopter Eagle 8</td>
<td>158700DS10</td>
<td>770,000</td>
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<tr>
<td>ASD-District Wide</td>
<td>Land Acquisition funding, as match in areas where WW funds are not available</td>
<td>229900DS10</td>
<td>500,000</td>
</tr>
<tr>
<td>OPS-District Wide</td>
<td>Hazardous Tree Removal Program</td>
<td>538500DS10</td>
<td>500,000</td>
</tr>
<tr>
<td>ASD - Point Pinole</td>
<td>Pinole Shores Bridge Railing Repair</td>
<td>147100DS10</td>
<td>350,000</td>
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<tr>
<td>ASD-Tilden</td>
<td>Tilden Nature Area Feasibility Study to Dredge Ponds</td>
<td>3367120105</td>
<td>350,000</td>
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<tr>
<td>OPS-Radke Martinez Shoreline</td>
<td>Turf Irrigation Landscaping</td>
<td>1015171483</td>
<td>325,000</td>
</tr>
<tr>
<td>Division-Location</td>
<td>Description</td>
<td>Coding</td>
<td>Amount</td>
</tr>
<tr>
<td>------------------</td>
<td>-------------</td>
<td>--------</td>
<td>--------</td>
</tr>
<tr>
<td>PS - Administration</td>
<td>Improve Parking Security for Public Safety</td>
<td>161100DS10</td>
<td>250,000</td>
</tr>
<tr>
<td>ASD-Wildland Vegetation</td>
<td>District-Wide Grazing water infrastructure</td>
<td>521700DS10</td>
<td>200,000</td>
</tr>
<tr>
<td>FMS-District Wide</td>
<td>Generator for Trudeau Training Center</td>
<td>3364130000</td>
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<tr>
<td>HR-District Wide</td>
<td>Diversity Equity Inclusion (DEI) Assessment</td>
<td>1012050000</td>
<td>100,000</td>
</tr>
<tr>
<td>OPS-District Wide</td>
<td>Picnic area modifications-Covid related</td>
<td>1015110000</td>
<td>100,000</td>
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<tr>
<td>PS - Communications</td>
<td>Replace 911 Public Safety Answering Point</td>
<td>160600DS10</td>
<td>100,000</td>
</tr>
<tr>
<td>PS - Communications</td>
<td>Replace East Bay Regional Communication System (EBRCS) Fire Radios</td>
<td>536100DS10</td>
<td>75,000</td>
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<tr>
<td>FMS - District-Wide</td>
<td>Microsoft Software Agreement</td>
<td>1014150000</td>
<td>70,000</td>
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<td>ASD-Round Valley</td>
<td>Nunn Property Cattle Fencing</td>
<td>572700DS10</td>
<td>56,000</td>
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<tr>
<td>OPS - Crown Beach</td>
<td>Vermeer Chipper</td>
<td>1015151409</td>
<td>42,000</td>
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<tr>
<td>PS - Fire Dept.</td>
<td>Back-Up Generator for Fire Station 2</td>
<td>1018310000</td>
<td>42,000</td>
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<tr>
<td>OPS-District Wide</td>
<td>Water Bottle Filling Stations (multiple sites)</td>
<td>532500DS10</td>
<td>40,000</td>
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<tr>
<td>PS-Helicopter</td>
<td>Eagle 6 Helicopter Maintenance</td>
<td>1018230000</td>
<td>40,000</td>
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<tr>
<td>OPS-Ardenwood</td>
<td>Ardenwood Farm Equipment Purchase</td>
<td>1015241585</td>
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<td>OPS-Tidewater</td>
<td>HVAC system for Tidewater</td>
<td>1015221000</td>
<td>20,000</td>
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<tr>
<td>OPS-Lake Chabot</td>
<td>Skid Steer Attachment for Tractor</td>
<td>1015141216</td>
<td>15,000</td>
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<tr>
<td>OPS-Oyster Bay</td>
<td>Kawasaki Mule</td>
<td>1015151473</td>
<td>14,500</td>
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<tr>
<td>PS - Recruitment &amp; Training</td>
<td>Field Training Officer Software</td>
<td>1018125000</td>
<td>14,000</td>
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<tr>
<td>OPS - Vasco Hills</td>
<td>Vasco Caretaker Reimbursement</td>
<td>1015161128</td>
<td>12,000</td>
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<tr>
<td>PS - Recruitment &amp; Training</td>
<td>Background investigations for new hires</td>
<td>1018125000</td>
<td>12,000</td>
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<tr>
<td>OPS - Kennedy Grove</td>
<td>Butterfly Garden Supplies</td>
<td>1015131151</td>
<td>10,600</td>
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<tr>
<td>OPS - Don Castro</td>
<td>Rail Fence Supplies</td>
<td>1015131255</td>
<td>10,000</td>
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<tr>
<td>PS - Detectives Unit</td>
<td>Evidence Storage Fees</td>
<td>1018250000</td>
<td>10,000</td>
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<tr>
<td>OPS - Judge John Sutter Shoreline</td>
<td>Pumper for new park site</td>
<td>1015151441</td>
<td>7,000</td>
</tr>
<tr>
<td>Diablo Foothills</td>
<td>Trailers to transport mower &amp; utility vehicle</td>
<td>1015131145</td>
<td>7,000</td>
</tr>
</tbody>
</table>
Proposed Adjustments – Other Funds:
In addition to the allocations proposed from the General Fund, other projects are proposed to be funded from other funding sources: the Major Infrastructure Renovation & Replacement Fund (MIRR), the East Contra Costa County Lighting & Landscaping Assessment Fund (ECCC LLD), the Two County Trail LLD (AC1 - LLD), the Walpert Ridge Zone of Benefit (ZB-5). Additionally, included below are the first appropriations from the Measure FF fund.

<table>
<thead>
<tr>
<th>Division/Location</th>
<th>Description:</th>
<th>Source</th>
<th>Coding</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>ASD-Black Diamond</td>
<td>Arata Ranch Barn Roof</td>
<td>MIRR</td>
<td>157400MIRR</td>
<td>$330,000</td>
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<tr>
<td>OPS-MAST/ Del Valle</td>
<td>Improve Service Yard – Phase 3</td>
<td>MIRR</td>
<td>5535915000</td>
<td>$130,000</td>
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<tr>
<td>ASD- Hayward Shoreline</td>
<td>Repair Piers</td>
<td>MIRR</td>
<td>157900MIRR</td>
<td>$185,000</td>
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<tr>
<td>OPS-MAST</td>
<td>Vaults to Sewer</td>
<td>MIRR</td>
<td>535900MIRR</td>
<td>$500,000</td>
</tr>
<tr>
<td>OPS – Alameda County Trails</td>
<td>Trail Maintenance Blower</td>
<td>Two County LLD</td>
<td>2205141675</td>
<td>$10,000</td>
</tr>
<tr>
<td>OPS – Alameda County Trails</td>
<td>Trail User Counters</td>
<td>Two County LLD</td>
<td>2205141675</td>
<td>$3,275</td>
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<tr>
<td>Ops – East County</td>
<td>Grazing Infrastructure Repairs</td>
<td>East Contra Costa County LLD</td>
<td>530100DSEC</td>
<td>$150,000</td>
</tr>
<tr>
<td>Ops – East County</td>
<td>East County Fencing Repairs</td>
<td>East Contra Costa County LLD</td>
<td>161000DSEC</td>
<td>$50,000</td>
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<tr>
<td>Ops- Walpert Ridge</td>
<td>Replace Meineke Septic System</td>
<td>Walpert Zone of Benefit</td>
<td>161000DSEC</td>
<td>$100,000</td>
</tr>
<tr>
<td>FMS-Green Transportation Improvements</td>
<td>Develop &amp; Maintain SF Bay Trail</td>
<td>Measure FF</td>
<td>154000FS05</td>
<td>$250,000</td>
</tr>
<tr>
<td>FMS-Point Molate</td>
<td>Develop &amp; Maintain SF Bay Trail</td>
<td>Measure FF</td>
<td>154000FS14</td>
<td>$150,000</td>
</tr>
<tr>
<td>FMS-Crown Beach</td>
<td>Upgrade Storm Water Drainage</td>
<td>Measure FF</td>
<td>531400FS03</td>
<td>$500,000</td>
</tr>
<tr>
<td>FMS-Lake Temescal</td>
<td>Temescal Erosion &amp; Watershed Project</td>
<td>Measure FF</td>
<td>534900FR21</td>
<td>$100,000</td>
</tr>
</tbody>
</table>
Capital Projects and Other than Assets (OTA) Appropriations from the 2020 Adopted Budget

The accounting and budgeting system has a “Job Ledger” (JL) to track and budget for all projects. JL projects require a matching appropriation into the Capital Project or OTA Funds in the General Ledger (GL). In the 2020 Adopted Budget, 27 of the 59 projects budgeted in the JL and transferred into the Capital and OTA funds still require GL line-item appropriations to balance the JL. Board approval is requested to implement the GL budget adjustments for these projects. The adopted budget included the project appropriations but did not include the entry to match the JL and the GL. This budget amendment will provide the necessary balancing entry. A summary of the required appropriation is provided below. This is an accounting entry only.

<table>
<thead>
<tr>
<th>Division/Location</th>
<th>Description:</th>
<th>Source</th>
<th>Coding</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Non-Departmental</td>
<td>Construction in Progress</td>
<td>Capital Projects Fund</td>
<td>333XXXXXXX</td>
<td>$216,251</td>
</tr>
<tr>
<td>Non-Departmental</td>
<td>Professional Services</td>
<td>Other Than Assets Fund</td>
<td>336XXXXXXX</td>
<td>4,968,589</td>
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</tbody>
</table>

Uses of General Fund Reserves Prior to Mid-Year
The list below includes all previously approved appropriations of General Fund’s fund balance by the Board of Directions during 2020:

<table>
<thead>
<tr>
<th>Approved Use of Fund Balance to-date</th>
<th>Board Reso.</th>
<th>Coding</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Funding for small trail crew supplies</td>
<td>2020-04-069</td>
<td>101-5945-000</td>
<td>$118,000</td>
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<tr>
<td>911 System maintenance</td>
<td>2020-06-114</td>
<td>101-8130-000</td>
<td>22,725</td>
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<tr>
<td>COVID-19 Response</td>
<td>2020-03-051</td>
<td>Project 533800</td>
<td>250,000</td>
</tr>
<tr>
<td>Update Sewer System Management Plan</td>
<td>2020-04-057</td>
<td>Project 532800</td>
<td>170,000</td>
</tr>
<tr>
<td>Replace Lunchroom Floor</td>
<td>2020-04-076</td>
<td>Project 159600</td>
<td>105,100</td>
</tr>
<tr>
<td>Restore McCosker Creek</td>
<td>2020-05-088</td>
<td>Project 150800</td>
<td>50,000</td>
</tr>
</tbody>
</table>

Total appropriations to-date $715,825

ALTERNATIVES

None are recommended.
WHEREAS, annual adjustments to appropriations are proposed mid-year; and

WHEREAS, the General Manager, Deputy General Manager and Assistant General Managers have reviewed the District’s financial status and activities as of mid-year 2020 and identified needs for funding that:

- Have arisen since the 2020 Adopted Budget was approved,
- Are for unanticipated, important activities that will take place prior to year-end, or;
- Are ‘one-time’ appropriations eligible for use of the ‘one-time’ funding source of the General Fund balance (i.e.: unsuitable for funding ongoing wages, benefits etc.); and

WHEREAS, the Coronavirus Pandemic has affected the economic outlook and requires resources for current needs and reserves for smoothing the effects of anticipated revenue reductions in the coming year; and

WHEREAS, the Board Finance Committee reviewed this item at their meeting on June 24, 2020, and unanimously recommended favorable consideration of these budget actions by the Board of Directors,

NOW, THEREFORE BE IT RESOLVED, that the Board of Directors of the East Bay Regional Park District hereby approves 2020 mid-year budget adjustments and appropriations, including setting aside $2.7 million in General Fund Reserves to address the economic effects of the Coronavirus pandemic, as described in the preceding staff report and in the attached, Exhibit A, and approving an accounting entry to record General Ledger appropriations for projects budgeted in the Job Ledger in the 2020 Adopted Budget; and

BE IT FURTHER RESOLVED, that the General Manager and the Chief Financial Officer are 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 , seconded by Director and approved on this 7th day of July, 2020 by the following vote:

FOR:  
AGAINST:  
ABSENT:  
ABSTAIN:
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## Proposed Replenishment of Contingency/Reserves/Fund Balance

<table>
<thead>
<tr>
<th>#</th>
<th>Fund Source</th>
<th>Description</th>
<th>Amount ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Fin &amp; Mgmt Svcs</td>
<td>Major infrastructure Renovation &amp; Replacement Fund</td>
<td>$5,000,000</td>
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</tbody>
</table>

## Proposed General Fund Appropriations

<table>
<thead>
<tr>
<th>#</th>
<th>Fund Source</th>
<th>Description</th>
<th>Amount ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Fin &amp; Mgmt Svcs</td>
<td>Repair Aquatic Facilities &amp; Water Resources (#536200)</td>
<td>$2,000,000</td>
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<tr>
<td>2</td>
<td>Fin &amp; Mgmt Svcs</td>
<td>Pension Liability Contribution-paydown</td>
<td>1,000,000</td>
</tr>
<tr>
<td>3</td>
<td>Fin &amp; Mgmt Svcs</td>
<td>Environmental Remediation</td>
<td>1,000,000</td>
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<tr>
<td>4</td>
<td>Public Safety</td>
<td>Additional funds for Helicopter Eagle 8 purchase (#158700)</td>
<td>770,000</td>
</tr>
<tr>
<td>5</td>
<td>Fin &amp; Mgmt Svcs</td>
<td>Land Acquisition for areas with no Measure WW (#229900)</td>
<td>500,000</td>
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<tr>
<td>6</td>
<td>Operations</td>
<td>Hazardous Tree Removal Replenish (#538500)</td>
<td>500,000</td>
</tr>
<tr>
<td>7</td>
<td>ASD - Pinole Shores</td>
<td>Bridge Railing Repair (#147100)</td>
<td>350,000</td>
</tr>
<tr>
<td>8</td>
<td>ASD - Tilden Nature Area</td>
<td>Feasibility Study and Dredge Ponds (#572200/#528700)</td>
<td>350,000</td>
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<tr>
<td>9</td>
<td>Operations-Martinez</td>
<td>Turf Irrigation Landscaping</td>
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</tr>
<tr>
<td>10</td>
<td>Public Safety</td>
<td>Improve Parking Security (#161100)</td>
<td>250,000</td>
</tr>
<tr>
<td>11</td>
<td>ASD</td>
<td>District-Wide Grazing Water (#521700)</td>
<td>200,000</td>
</tr>
<tr>
<td>12</td>
<td>Fin &amp; Mgmt Svcs</td>
<td>Generator for Trueude Center</td>
<td>150,000</td>
</tr>
<tr>
<td>13</td>
<td>Human Resources</td>
<td>Diversity Equity and Inclusion Training</td>
<td>100,000</td>
</tr>
<tr>
<td>14</td>
<td>Operations</td>
<td>Picnic Modification Supplies COVID related</td>
<td>100,000</td>
</tr>
<tr>
<td>15</td>
<td>Public Safety</td>
<td>Replace 911 PS Answer Point (#160600)</td>
<td>100,000</td>
</tr>
<tr>
<td>16</td>
<td>Public Safety</td>
<td>Replace EBRCS Fire Radios (#536100)</td>
<td>75,000</td>
</tr>
<tr>
<td>17</td>
<td>Fin &amp; Mgmt Svcs</td>
<td>Microsoft Software Agreement</td>
<td>70,000</td>
</tr>
<tr>
<td>18</td>
<td>ASD</td>
<td>Round Valley Nunn Cattle Fence (#572700)</td>
<td>56,000</td>
</tr>
<tr>
<td>19</td>
<td>Operations</td>
<td>Vermeer Chipper Crown Beach</td>
<td>42,000</td>
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<tr>
<td>20</td>
<td>Public Safety</td>
<td>Back-Up Generator for Fire Station 2</td>
<td>42,000</td>
</tr>
<tr>
<td>21</td>
<td>Fin &amp; Mgmt Svcs</td>
<td>Water Bottle Filling Project (532500)</td>
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<tr>
<td>22</td>
<td>Public Safety</td>
<td>Eagle 6 Maintenance</td>
<td>40,000</td>
</tr>
<tr>
<td>23</td>
<td>Operations - Ardenwood</td>
<td>Farm Equipment</td>
<td>27,000</td>
</tr>
<tr>
<td>24</td>
<td>Operations</td>
<td>HVAC system for Tidewater</td>
<td>20,000</td>
</tr>
<tr>
<td>25</td>
<td>Operations</td>
<td>Skid Steer Attachment Lake Chabot</td>
<td>15,000</td>
</tr>
<tr>
<td>26</td>
<td>Operations - MLK</td>
<td>Kawasaki Mule</td>
<td>14,500</td>
</tr>
<tr>
<td>27</td>
<td>Public Safety</td>
<td>Field Training Officer Software</td>
<td>14,000</td>
</tr>
<tr>
<td>28</td>
<td>Operations - Vasco</td>
<td>Caretaker Reimbursement</td>
<td>12,000</td>
</tr>
<tr>
<td>29</td>
<td>Public Safety</td>
<td>Background investigations</td>
<td>12,000</td>
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<tr>
<td>30</td>
<td>Operations-Kennedy Grove</td>
<td>Butterfly Garden Supplies</td>
<td>10,600</td>
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<tr>
<td>31</td>
<td>Operations-Don Castro</td>
<td>Rail Fence Supplies</td>
<td>10,000</td>
</tr>
<tr>
<td>32</td>
<td>Public Safety</td>
<td>Evidence Storage Fees</td>
<td>10,000</td>
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<tr>
<td>33</td>
<td>Operations - Judge John Sutter</td>
<td>Pumper for new park site</td>
<td>7,000</td>
</tr>
<tr>
<td>34</td>
<td>Operations-Diablo Foothills</td>
<td>Trailers to transport mower and utility vehicle</td>
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## Proposed Other Fund Appropriations

<table>
<thead>
<tr>
<th>#</th>
<th>Fund Source</th>
<th>Description</th>
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<tr>
<td>1</td>
<td>Fin &amp; Mgmt Svcs</td>
<td>Crown Upgrade Storm Water Drainage (#531400) - Measure FF</td>
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<td>2</td>
<td>Fin &amp; Mgmt Svcs</td>
<td>Develop &amp; Maintain SF Bay Trail (#154000), Green Transportation - Measure FF</td>
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<td>3</td>
<td>Fin &amp; Mgmt Svcs</td>
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<td>4</td>
<td>Fin &amp; Mgmt Svcs</td>
<td>Temescal Erosion/Watershed Project (#534900) - Measure FF</td>
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<td>5</td>
<td>Fin &amp; Mgmt Svcs</td>
<td>Grazing Infrastructure (#530100) - ECCC LLD</td>
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<td>6</td>
<td>Fin &amp; Mgmt Svcs</td>
<td>Replace Meincke Septic System (#160900) - Walpert ZOB</td>
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<td>7</td>
<td>Fin &amp; Mgmt Svcs</td>
<td>Repair ECCC Fencing (#161000) - ECCC LLD</td>
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<td>8</td>
<td>Operations</td>
<td>Toro Blower - ACT- Two County LLD</td>
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<td>9</td>
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<td>Operations</td>
<td>Vault to Sewer Proj Maint. (#535900)</td>
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<td>11</td>
<td>Operations - BDM</td>
<td>Arata Ranch Barn Roof (#157400)</td>
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<td>12</td>
<td>ASD</td>
<td>Hayward Shoreline Repair Piers (#157900)</td>
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<td>13</td>
<td>Operations</td>
<td>Del Valle Service Yard 3</td>
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## Proposed COVID General Fund Appropriations

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<tr>
<td>1</td>
<td>Fin &amp; Mgmt Svcs</td>
<td>Additional COVID Emergency Response, including:</td>
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<tr>
<td>2</td>
<td>Fin &amp; Mgmt Svcs</td>
<td>Other hardware/software</td>
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<tr>
<td>3</td>
<td>Operations</td>
<td>Touchless hand dryer Quarry Lakes</td>
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<tr>
<td>4</td>
<td>Operations</td>
<td>Cell Phones and Subscription for MAST and Business Services</td>
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### TOTAL PROPOSED MID-YEAR BUDGET ADJUSTMENTS

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<tr>
<th>#</th>
<th>General Fund Available</th>
<th>Other Special Revenue Funds - Measure FF, LLD</th>
<th>Major Infrastructure Renov. &amp; Replace Fund 553</th>
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## EAST BAY REGIONAL PARK DISTRICT

### NEW APPROPRIATIONS

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<tr>
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<th>INCREASE</th>
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### BETWEEN DEPARTMENTS

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<tr>
<td></td>
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<td>6191</td>
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</tbody>
</table>

As being presented at the Board of Directors meeting on July 07, 2020, the General Manager recommends that the Board of Directors authorize an accounting adjustment to appropriate the GL side to match the JL for certain projects approved in the 2020 Adopted Budget.

As approved at the Board of Directors Meeting on date: 7/7/2020
Board of Directors Resolution Number: 2020-07-

Signature:

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S:\BOARD MATERIAL\2020\13- July 7\D-3-a 3 FIN 2020 Mid-Year BCF
D. BUSINESS BEFORE THE BOARD

4. BOARD AND STAFF REPORTS

a. Actions Taken by Other Jurisdictions Affecting the Park District (Doyle)

City of Antioch – Let Antioch Voters Decide Initiative (Sand Creek Focus Area)

On June 9, 2020, the Antioch City Council voted unanimously to adopt a resolution to submit the “Initiative to Change General Plan Designations within the Sand Creek Focus Area and Permanently Require Voter Approval of Amendments to Urban Limit Line,” also known as the “Let Antioch Voters Decide” initiative, to the voters on the November 3, 2020 General Election ballot. Included in the resolution was a decision to not include any City of Antioch argument for or against the initiative. In addition to barring non-rural development, except for previously-approved or later voter-approved projects, in the Sand Creek Focus Area, the Let Antioch Voters Decide initiative would designate 1,850 acres west of Deer Valley Road as rural-residential, agricultural and open space, and would designate a permanent Urban Limit Line (ULL) requiring voter approval for any future changes. The current ULL is set to expire December 31, 2020 unless extended by voters. The City Council adopted a similar initiative on August 28, 2018, but after a legal challenge from developers the court ruled that the initiative was not properly adopted and would need to be placed on a future ballot. The initiative would limit major development in the Sand Creek Focus Area between Black Diamond Mines Regional Preserve and Deer Valley Road.
AGENDA  
REGULAR MEETING  
BOARD OF DIRECTORS  

EAST BAY REGIONAL PARK DISTRICT  

Tuesday, July 7, 2020  

D. BUSINESS BEFORE THE BOARD  
5. GENERAL MANAGER’S COMMENTS  

STAFF PRESENTATION  
Maintenance Superintendent Eric Bowman and Alternative Work Program Supervisor Patrick Demmons will co-present on the Trail Assessment Survey and Maintenance Plan. The Small Trails crew in the Maintenance and Skilled Trades department, newly budgeted in 2019, is tasked with maintaining and improving the Park District’s narrow, natural surface multi-use trails. The Student Conservation Corps-staffed crew also focuses on vegetation/fuel reduction associated with the trail projects. The presentation will highlight work on a GIS-enabled walking survey of all 200+ miles of these trails to catalog erosion issues, tread repair and brushing cycles, and use survey data to create crew-hour based work estimates for a comprehensive maintenance plan.  

GM COMMENTS  
From May 4, 2020 to June 4, 2020 the Public Safety Division handled 1,357 service calls and 2,570 total incidents. Highlights are included below.  

Police  
There were 23 arrests made throughout the Park District for a variety of felony and misdemeanor offenses, including DUI, weapons possession, drug possession, violation of court restraining orders, disorderly conduct, and public intoxication. Officers handled 129 field interviews (contacts without citations or arrests) and issued 609 (372 parking) citations.  

• Anthony Chabot: On May 26, an officer arrested a subject for an outstanding warrant out of Fremont.  

• Contra Costa Canal Trail: On May 26, officers arrested a subject for an outstanding warrant out of Concord.  

• Del Valle: On June 2, a sergeant took a report of theft where a battery was stolen from an electronic message board.  

• Delta DeAnza Trail in Pittsburg: On May 7, an officer responded to the report of robbery where the victim was held at gunpoint and their cell phone stolen.  

• Hayward Shoreline: On May 13, officers and Eagle 6 responded to the report of a vehicle in a restricted area. The driver was arrested for DUI and driving with a suspended license.
• Iron Horse Trail in Walnut Creek: On June 4, a detective took a phone report of a sexual assault where the victim was grabbed while running on the trail.

• Kennedy Grove: On May 5, officers detained a person who was banging their head against a tree. The subject was under the influence of a controlled substance and transported to the hospital for a mental health evaluation.

• Martinez Shoreline: On May 15, an officer arrested and released a subject for being a felon in possession of a stun gun.

• Quarry Lakes: On May 4, an officer took a report of theft where a solar panel and batteries were stolen. Estimated loss is over $1,000.

Also on May 4, an officer arrested a subject for DUI. The vehicle was towed and a passenger on scene was arrested for disorderly conduct and the other passenger was provided a courtesy transport home.

• Redwood: On May 6, an officer took a report of child endangerment. An Emergency Protective Order was issued and the investigation is ongoing.

Fire Operations
• Martin Luther King Jr. Shoreline: On May 26, District fire personnel and the Oakland Fire Department responded to a vegetation fire.

• Round Valley: On May 30, District fire personnel assisted Cal Fire with mop-up of a vegetation fire in which approximately sixty acres burned due to a lightning strike.

Medical
• During the month of May, District fire personnel responded to one vehicle accident, one bicycle accident, and two personal injuries or medical emergencies.

Training
• Fire Station 1: On June 9, District firefighters participated in out-of-county training for skills specific to operation of the OES Engine and other out-of-county protocols.

Fire Fuels Management
• Anthony Chabot: In Recommended Treatment Area AC007, District fire personnel and on-call firefighters completed skid-steer mowing of 40 acres.

The fuels crew assisted park staff with the removal of two downed oak trees reported by a homeowner.

• Claremont Canyon: In Recommended Treatment Area CC003, contractors cleared seven acres of brush along the Panoramic Trail ridgeline and fire roads.
• Lake Chabot: In Recommended Treatment Area LC010, the fuels crew performed weed eating maintenance near homes.

• Tilden: In Recommended Treatment Areas TI015, TI012, and TI006, District fire personnel and Civicorps removed grass and surface fuels by mowing and weed eating.

• Wildcat Canyon: In Recommended Treatment Areas WC009, WC010, and WC011, Napa California Conservation Corps (CCC) maintained and improved the existing fuel break behind the homes in El Cerrito and Kensington. Surface fuels were cleared and down limbs were chipped.

• In Recommended Treatment Areas WC011, TI006, TI012, CC001, CC001, CC003, CC004, CC006, CC007, and CC008, District fire personnel and Civicorps cleared brush from 42 trap lines which are maintained annually to assist with a study counting the Alameda Whipsnake.

Lifeguard Service
• Staff participated in EOC logistics, procurement of supplies, and maintaining inventory.

• Staff prepared and delivered COVID-19 personal protective equipment kits to Park District employees.

• Staff completed site visits of aquatic facilities to assess the feasibility of re-opening.
AGENDA
REGULAR MEETINGS
BOARD OF DIRECTORS

EAST BAY REGIONAL PARK DISTRICT

Tuesday, July 7, 2020

D. BUSINESS BEFORE THE BOARD

7. BOARD COMMITTEE REPORTS

a. Board Legislative Committee (05.22.2020) (Waespi)

Present

Board: Dennis Waespi, Beverly Lane, Elizabeth Echols

Staff: Robert E. Doyle, Erich Pfuehler, Lisa Baldinger, Jeff Rasmussen, Rachel Sater, Yulie Padmore, Katy Hornbeck, Jim Tallerico, Debra Fuller

Consultants: Doug Houston, Peter Umhofer

Public: None

This meeting was called to order at 12:32 pm.

Items to be discussed:

I. STATE LEGISLATION / OTHER MATTERS

A. NEW LEGISLATION – RECOMMENDED BILLS FOR SUPPORT

1. AB 1945 (Salas D-Bakersfield) – Reclassification of Public Safety Dispatchers as First Responders

Legislative Advocate Doug Houston explained this bill would reclassify public safety dispatchers by elevating their classification to first responders. This step would underscore the importance of these workers and their profession in responding to emergencies. Government Affairs Manager Erich Pfuehler commented the District’s Public Safety Division and the AGM for Public Safety brought the legislation to staff’s attention. The bill has their support. Director Dennis Waespi stated as a previous fire fighter he supports and asked if there is a cost involved. Assistant District Counsel Rachel Sater added the legislation appears to be principally a symbolic move acknowledging the importance of dispatchers in emergency response. The bill states it will not change entitlements, so no anticipated financial impact to the District. Doyle added the recognition is well deserved.

2. AB 3030 (Kalra D-San Jose) – “30 x 30” Protection of Land and Water by 2030

Houston stated AB 3030 is aspirational in setting the goals to achieve conservation of 30% of California land and ocean areas. These goals were issued in a report by the Center for American Progress. Pfuehler added the bill is primarily a statement of intent. The concept of protecting at least 30% of land and water...
is a good endeavor. Doyle said E. O. Wilson, an internationally recognized biologist, has an effort called the Half-Earth Project to preserve half of the earth as conservation lands which provides context to the more conservative AB 3030. Legislative Advocate Peter Umhofer added from the federal side there has been a collaborative effort with the National Geographic Society and large organizations to engage with states to meet these goals. The engagement for the 30 X 30 initiative has gone national while laying seeds at the state and local level.


Houston said COVID’s impact on the economy has prompted the legislature to pivot away from the Climate Resiliency Bond. Should AB 3256 continue to advance, it will need to be less about climate and more about economic recovery. The bill was voted out of Assembly Natural Resources Committee last week on a seven to one vote. It is scheduled to be heard by the Assembly Appropriations Committee. Staff has identified a number of funding opportunities in the proposed bond for the District. Efforts around advocacy should focus on AB 3256. Doyle expanded it is critical to pivot support toward jobs. The District tends to think about projects in terms of an amount of money as opposed to the amount of jobs created. Pfuehler and Legislative and Policy Management Analyst Lisa Baldinger along with staff from Acquisition, Stewardship, and Development will formalize the numbers of jobs created in current and future projects. Director Elizabeth Echols agreed strongly with supporting job creation as the District pushes for this bill.

4. SB 1060 (Hill D-San Mateo) – Trails as Historical Resources

Houston provided SB 1060 would require the California Department of Parks and Recreation to register eligible trails as important historical resources. The District has trails it maintains which could be designated as such. Pfuehler included this designation carries no funding. It does create a higher-level designation, provides attention and historical signage.

Motion passes unanimous to support AB 1945, AB 3030, AB 3256 and SB 1060.

B. OTHER STATE MATTERS

1. Governor Newsom’s May Budget Revise

Houston explained the revised budget reflects the impact of COVID and is largely an interim budget. It relies heavily on funding forthcoming from Washington, D.C. The final budget may be crafted in August after income tax projections are better known given the July 15th filing deadline. This also provides more time to see what happens in D.C. Pfuehler noted CAL FIRE funding remains at the same level as it was in January 2020. Director Beverly Lane asked if the funds budgeted for CAL FIRE are additional amounts. Pfuehler clarified the figure is additional money to their base budget called surge funding. It is an extra infusion for disaster mitigation.

2. Other Matters

No other matters

II. FEDERAL LEGISLATION / OTHER MATTERS

A. NEW LEGISLATION - RECOMMENDED BILLS FOR SUPPORT

1. H.R. 5642 Huffman (D-CA) – Active Transportation for Public Lands Act

Pfuehler stated this is an exciting proposal to set aside 5% of Federal Lands Transportation Program funds for construction of paved trails. Umhofer added support for this bill with focus on active transportation would be helpful to the District.
2. **H.R. 5797 (Welch D-VT) – Recreational Trails Program Full Funding Act**

Pfuehler stated, like H.R. 5642, staff was looking at H.R. 5797 pre-shelter-in-place. The bill allocates a significant increase in funding for the Recreational Trails Program. It is consistent with the District’s support of trails. Additionally, it calls attention to the lack of appropriate funding.

3. **S. 3263 (Udall D-NM) and H.R. 5845 (Lowenthal D-CA) – Break Free From Plastic Pollution Act**

Pfuehler said SB 3263 and H.R. 5845 are similar to efforts at the state level. They put in place a federal bottle bill with a 10-cent deposit on every container and ban export of plastic to countries that cannot handle the waste. Additionally, any new plastic products must use 80% recycled material by 2040. Umhofer added there has been a growing effort to look at ways to address plastic pollution. These are worthy bills for the District to support.

4. **S. 3366 (King D-ME) and H.R. 5998 (Golden D-ME) – Free National Parks and Federal Recreational Land Pass for Gold Star Families**

Pfuehler explained S. 3366 would allow Gold Star Families free access to federally managed public lands. The bill would be consistent with prior legislation providing veterans access. Director Waespi stated the bill is a worthy cause and asked about feasibility of the District doing same for Gold Star Families and veterans.

5. **S. 3391 Markey (D-MA) and H.R. 5696 Pappas (D-NH) – Connecting America’s Active Transportation System Act**

Pfuehler provided the America’s Active Transportation System Act is specific to connecting regional active transportation routes while increasing the national system. It allocates $500 million per fiscal year. It can be considered a marker for future transportation bills. Umhofer added the bill specifically identifies multi-county special districts. It is worthy of the Park District’s support.


**B. OTHER FEDERAL MATTERS**

1. **HEROES Act**

Pfuehler explained the Health and Economic Recovery Omnibus Emergency Solutions Act – the HEROES Act – follows the federal relief package signed into law in March. It is the next wave of funding to include state and local assistance. Staff is working with the District’s delegation to confirm special districts are included and eligible.

2. **Other Matters**

Umhofer mentioned Representative John Garamendi will introduce the Special Districts Provide Essential Services Act (H.R. 7073). The bill will ensure special districts are eligible for 5% of state and local government federal relief funding. Representative Garamendi’s office has requested a letter of support from the Park District. Director Waespi supported. They are looking for a Republican to co-sponsor. On June 1st, the Great American Outdoors Act (S. 3422) will be on the Senate floor. An amazing effort for permanent funding of the Land and Water Conservation Fund of $900 million annually. The bill also provides $9.5 billion over five years toward public land maintenance. Director Lane recommended the District provide a letter of support and encourage other districts to do so. Lastly, there is momentum around appropriations bills, the funding bills for agencies and programs.
III. ADDITIONAL COVID-19 UPDATES
Doyle spoke about the new Public Service Announcements for Memorial Day holiday.

IV. ARTICLES
Director Waespi observed in newspaper articles and on TV when referencing parks, he sees District graphics. It is a compliment to the Environmental Graphics program.

V. OPEN FORUM PUBLIC COMMENT
No public comment.

VI. BOARD COMMENTS
No Board comments.

This meeting adjourned at 2:17 PM.

Respectfully submitted by:

Debra Fuller
Confidential Secretary
AGENDA
REGULAR MEETING
BOARD OF DIRECTORS
EAST BAY REGIONAL PARK DISTRICT

Tuesday, July 7, 2020

D. BUSINESS BEFORE THE BOARD

7. BOARD COMMITTEE REPORTS

b. Finance Committee Minutes and Recommended Actions from the Meeting of April 29, 2020 (Coffey)

Attendees
Board: Colin Coffey, Ellen Corbett and Dee Rosario


Speakers: No outside speakers attended the meeting.

Public: Members of the Public were able to access the meeting via live audio stream only. Please see Agenda Item 6 for details regarding Public Comments.

Committee Chair Colin Coffey began the meeting at 12:31PM. Committee Secretary Connie Swisher conducted a roll call of committee members and introduced staff.

Assistant General Manager Debra Auker reviewed the Board Committee meeting procedure in accordance with Governor Newsom’s executive order. Live audio streaming was provided to the public with the opportunity to email or call in prior to the meeting to submit public comments. No public comments had been submitted before the start of the meeting. AGM Auker further explained that the Park District was working with an outside consultant to improve this technology and hoped to invite live public comments during Board meetings in the month of May. AGM Auker also confirmed that the PowerPoint presentation for the Finance Committee meeting was posted on the Park District website for members of the public to follow along with the live audio stream.
Agenda Item No. 1
Estimated Fiscal Impacts of the COVID-19 Pandemic

General Manager Robert Doyle emphasized the economic impact of the COVID-19 pandemic on the Park District’s fiscal solvency and future operations and expressed the need for safety while also stimulating the economy and sending staff back to work. GM Doyle stated that while the Park District is currently in solid standing due to a history of conservative fiscal management, future planning will require careful consideration as revenues decrease and expenses increase.

Assistant Finance Officer Deborah Spaulding provided a review of the 2020 adopted revenue budget, stating that her report would focus on the General Fund since the Special Revenue and Debt Service funds should not be significantly impacted by the economic effects of the pandemic.

AFO Spaulding reported that approximately 90% of General Fund revenue comes from property tax which experienced a 5% withholding ($4.6 million reduction) from Alameda County based on expected delinquencies and defaults. The 5% withholding will be “trued-up” based on actual tax receipts in August. Property Tax revenues from Contra Costa County are on the “Teeter Plan,” which ensures that property tax revenues will be paid to the Park District as assessed.

AFO Spaulding outlined the to-date loss of fees & charges revenue due to the COVID-19 pandemic, stating that $400,000 in charges for service had been refunded as of March and would increase as the Shelter-in-Place Order (SIPO) extends through the end of May. It is projected that this loss could be as much as $5 million to $6 million if park operations are suspended for the entire summer season. However, property usage revenues should not be significantly impacted.

Due to Federal Reserve Bank cuts to interest rates, AFO Spaulding reported that the CAMP and LAIF pooled cash funds had dropped in interest revenue from 2.5% last year to 1.19% and 1.78% respectively, with both rates expected to drop to 0% as the year unfolds. This would result in budget loss of $1 million to $1.5 million in investment earnings.

AFO Spaulding also reported on COVID-19 related expenditures to date, with over $200,000 for personal protective equipment for staff, $115,000 for emergency communications and public information services, $150,000 for staff overtime costs and approximately $1.8 million in emergency leave for staff unable to work during the SIPO.

AFO Spaulding assured the Committee that Finance department staff will continue to monitor future economic impacts of the COVID-19 pandemic and update projections as necessary, particularly during the mid-year budget review process. General Fund reserves would be utilized in the event that 2020 revenues are not sufficient to cover 2020 expenditures. In addition, Park District staff are seeking state and federal reimbursement for COVID-19 related expenses.

AFO Spaulding discussed potential changes in revenue and expenditures in the future, and discussed the process as well as potential scenarios when projecting the Five-Year Revenue & Expenditure Projection based on a significantly negative outcome of the COVID-19 pandemic.

AFO Spaulding shared that California is currently projecting a loss of $20 billion to $50 billion in tax revenues from its $200 billion annual budget. Historically, California has shifted, borrowed, or
redistributed property tax revenues from local governments when it has been unable to meet budgetary requirements for schools. AFO Spaulding assured the Committee that the Park District’s Legislative Team will continue to monitor this situation at the State and Federal level.

Recommendation: This item if for information only. No action is required.

AGM Auker clarified that the gap between expenditures and revenues in the new Five-Year Projection reflects a scenario in which the Park District takes no corrective action and is based largely on the property tax revenue decreases that cannot accurately be predicted at this time. AGM Auker further ensured that Finance department staff would continue working with consultants and making future recommendations to the Board to mitigate these extreme projections.

Director Dee Rosario asked how long reserve funds would last if the Park District took no action to mitigate the deficit depicted in the new Five-Year Projection. AGM Auker stated that Finance staff could come up with a “burn rate,” but would not recommend pursing such a strategy. Current reserve funds total more than $50 million dollars, putting the Park District in a good position to make budget adjustments and recovery.

Director Rosario stated that he’d seen mid-year surplus funds in the $7 – $10 million range which could offer good standing this year even if those surplus funds do not exist. Rosario thanked the Board for its conservative fiscal management and acknowledged AGM Auker’s leadership. AGM Auker clarified that mid-year surplus funds were based on the prior year’s audit and would be used to smooth any budget deficits this year. General Manager Robert Doyle added that any 2020 mid-year surplus funds would be used to fund any incurred losses before using reserve funds.

Director Ellen Corbett expressed the importance of strong messaging to state and federal elected officials that stresses the importance of parks as demonstrated by increased use during the SIPO. This messaging could positively impact the Park District’s ability to secure future funding.

Director Corbett then asked if tax revenue estimates would be corrected later in the year. AFO Spaulding confirmed that tax revenue projections would be adjusted up or down in August once actual receipts have been collected.

Director Corbett asked for clarification regarding the projected loss of revenue during the summer season. AFO Spaulding explained that projected revenue losses are due to loss of programing and cancelled events and assured the Committee that a report on actual losses would be provided at a later time.

Director Corbett asked how Park District investments will be affected by the Federal Reserve’s interest rate cuts. AFO Spaulding explained that interest rate cuts are correlate to a decrease in treasury interest earnings. However, because these funds are considered “safe,” there will be no loss of principle. AGM Auker clarified that any current treasury bonds will earn their maturity investment rate, but new or reinvested funds will receive earnings based on current interest rates.

Director Corbett urged Park District staff to move projects forward that are dependent on state funding before the May budget revise is released and cuts are made. GM Doyle assured the Committee that
bond funds could not be taken away by the state, but bond sales could be postponed. GM Doyle agreed that securing these funds is a high priority and that a project progress report will be forthcoming.

**Director Corbett** expressed appreciation to the board and staff for setting up a pension trust fund and **GM Doyle** acknowledged the Board's leadership for being one of the first districts to create such a fund.

**Director Coffey** requested clarification of the COVID-19 Fiscal Impact Report regarding the CalPERS projected rate increase from 30% to 37% for Miscellaneous Employees over a five-year period beginning in 2022 and asked if this rate increase would be made up by EBRPD contributions.

**AFO Spaulding** explained that CalPERS provides actual rates for 2 years and projected rates into the future based on expected investment returns. CalPERS currently estimates a loss of 5% in investment revenue by the end of 2020. This decrease informed the predicted 7% rate increase to “employer rates” which the Park District would be obligated to pay. **AGM Auker** added that the next CalPERS report is due in August and the Park District’s actuary consultants who are working closely with CalPERS can also offer projections. **AGM Auker** further explained that pension trust funds were set to be drawn on when rates reached 30%, but CalPERS has adjusted some policies and their expected investment returns which may result in an adjusted rate.

**Director Coffey** asked when pension contributions are due. **AFO Spaulding** explained that pension fund contributions were paid every pay period and that unfunded liability payments have been made upfront, resulting in $400,000 savings last year. **AGM Auker** added that CalPERS’s projected employer rates increases will not take effect until 2022. **Director Coffey** expressed relief in knowing the Park District has multiple reserve funds for responding to adverse economic impacts.

**Agenda Item No. 2**

**Concessionaire, Caterer & Lessee Assistance During COVID-19**

Assistant General Manager Jim O’Connor introduced this item, acknowledging how well the Reservations and Business Services department has responded to recent park closures. **AGM O’Connor** also emphasized the economic vulnerability of the Park District’s current concessionaires and the desire to help them through the current crisis.

**Acting Business Services Manager Tiffany Margulici** stated that all 18 Park District concessionaires have been closed since March 17, 2020 due to the SIPO causing a substantial loss of income while still needing to pay maintenance and utility costs. The approved caterers operating within the Park District’s indoor rental facilities have also incurred a substantial loss due to 100+ cancelled events. All 34 lessees will experience varying impacts.

**Margulici** outlined 3 goals of the proposed assistance:

- Maintain concession facilities in good condition
- Retain current concessionaires, caterers and lessees
- Help expedite an economic recovery

**Margulici** proposed the following four actions to meet these goals:

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1. Waive payments from March 1, 2020 to 45 days after the SIPO ends, resulting in an estimated $375,000 loss of revenue.
2. Temporarily expand Concessionaire Maintenance Fund (CMF) eligible items during the SIPO to include costs that are urgent, non-deferable, non-negotiable pre-existing commitments and protect Park District assets or facilities from deterioration. CMF reimbursement would not be available for costs already paid through the Payment Protection Program (PPP).
3. Provide time extensions on capital investments and contract terms allowing concessionaires and caterers time to secure loans, recover gradually and reschedule customer events.
4. Defer lessee payments for 90 days and evaluate requests for rent reductions on a case by case basis.

Director Corbett acknowledged the thoughtful nature of the proposal and the work of the Reservations department.

Director Rosario requested clarification regarding the proposed 90-day payment deferral period for lessees as opposed to a different duration of time. Margulici explained that a 90-day deferral period was consistent with other rent deferral ordinances across the state.

Recommendation: Motioned by Ellen Corbett and seconded by Dee Rosario that the Finance Committee direct staff to prepare a recommendation to the full Board of Directors to:
   1. Temporarily Waive Concessionaire Payments
   2. Temporarily Expand Maintenance Fund Eligible Items
   3. Allow Time Extensions for Capital Investment Deadlines and/or Contract Terms
   4. Defer Lessee Payments and Evaluate Rent Abatement Requests

Motion approved.

Agenda Item No. 3
Execute a Mitigation Funding Agreement with California Department of Fish and Wildlife, Enter into a Reserve Fund Agreement with the National Fish and Wildlife Foundation, and transfer $100,000 into a Reserve Fund to be held in trust by the National Fish and Wildlife Foundation

AGM Kristina Kelchner introduced this item as the next step necessary to implement the Reserve Fund required as part of the Mitigation Funding Agreement with CDFW approved on December 17, 2019 by Board of Directors Resolution 2019-12-323. This agreement requires an appropriation of $100,000 from the General Fund Balance.

AGM Kelchner explained that the $100,000 appropriation is roughly equal to five years of annual monitoring and management costs for the approximately 600 acres of land set aside as mitigation for the Fuels Project. Per the Mitigation Funding Agreement, the Park District would deposit a maximum of $500,000 as more permits are acquired. This is compared to $3 to $5 million that would have been required with traditional endowments. AGM Kelchner added that the Reserve Fund will be held as a trust by the National Fish and Wildlife Foundation (NFWF), a 501(c)3 non-profit organization created by Congress to specifically protect conservation lands.
GM Doyle acknowledged the significance of the Mitigation Funding Agreement, stating that its realization was due to state legislation, multi-agency negotiations and union support.

Director Corbett acknowledged the leadership and reputation of the Park District to realize the Mitigation Fund Agreement

Recommendation: Motioned by Dee Rosario and seconded by Ellen Corbett that the Finance Committee recommend to the full Board of Directors authorization to enter into a Reserve Fund Agreement with NFWF and transfer an initial $100,000 from General Fund Balance into a Reserve Fund, to be held by NFWF as per the Mitigation Funding Agreement with CDFW. Future increases in the Reserve amount, up to $500,000, would require future appropriation action by the Board of Directors. This Reserve Fund Agreement would be brought back to the Board of Directors for review in five years.
Motion approved.

Agenda Item No. 4
Job Order Contracting Quarterly Status Report

Capital Program Manager Ren Bates provided a JOC Program status update. On May 21, 2019 the Board awarded a round of eight $1 million job order contracts. Currently, seven projects are in construction, four projects have been completed and ten projects are being priced. The attachment to the report listed projects in construction, completed projects and projects being priced.

Capital Programs Manager Bates reviewed the job order list, explaining each job contract and the projects that have been completed, noting that not much construction had been done since the last update in February due to the global pandemic and the SIPO.

Capital Programs Manager Bates concluded his presentation by stating that the JOC program is working well, is a beneficial tool to the Park District, and has generated considerable time savings and reduced contracting costs.

Director Rosario asked why the Lake Chabot creek bank repair was done by an outside firm instead of Park District staff. Capital Programs Manager Bates answered that the project needed to be completed quickly and the Roads and Trails crew did not have the capacity to address it in a timely manner.

Recommendation: This item is informational only. No action required.

Agenda Item No. 5
2020 Internal Audit Work Plan and Final 2019 Internal Audit Results

Internal Audit Manager David Sumner summarized the purpose of the Internal Audit department, stating that its function is to perform appraisals that assist management in monitoring whether financial activities are carried out as planned, and whether established internal controls are functioning properly. The audit function also alerts management of any potential issues that arise, so that preventive or remedial actions may be taken.
Internal Audit Manager Sumner stated that Internal Audit Unit staff had reviewed and approved 558 contracts and completed 26 audit projects during the 2019 fiscal year and provided a summary of those projects as well as the recommendations offered to achieve full compliance. A draft 2020 Internal Audit Work Plan was also provided.

Director Coffey asked how the recommendations offered by the Internal Audit Unit are tracked for compliance. Internal Audit Manager Sumner explained that the manager receiving the audit report has the responsibility to implement recommendations or devise an alternative for taking remedial action. However, the Internal Audit Unit does not have the authority to require compliance or penalize non-compliance.

Director Rosario suggested decreasing the time between audits and expressed concern about Oakland Strokes' continued non-compliance regarding local community outreach and asked how their lease and commitment can be enforced. Internal Audit Manager Sumner suggested providing Oakland Strokes staff with specific criteria as well as an annual review process. Director Corbett agreed that providing specific criteria would be a good way to improve and measure compliance. Acting Business Services Manager Margulici reported that Oakland Strokes had taken action to comply with some of the recommendations made on the most recent audit and assured the Finance Committee that Park District staff were in the process of creating measurable public outreach criteria and guidelines, including financial reporting, and would meet with Oakland Strokes staff on a quarterly basis to measure compliance. GM Doyle emphasized the need to ensure compliance for grant funded projects due to strict grant funding requirements, particularly community outreach grants.

Director Corbett expressed concern about the Redwood Valley Railway Corporation’s questionable authority to store petroleum and asked if this could potentially result in regulatory action against the Park District. Internal Audit Manager Sumner explained that the concern of petroleum storage was included in the audit report to allow for early action to mitigate any future issues and assured the Finance Committee that the concern did not currently warrant regulatory action. Chief of Stewardship Matthew Graul added staff would also continue monitoring the area for possible chemical run off, but these inspections were best done after a significant rain event and did not currently appear to warrant regulatory action.

Recommendation: Motioned by Ellen Corbett and seconded by Dee Rosario that the Finance Committee review the report and direct staff to provide the 2020 Internal Audit Plan for acceptance by the Board of Directors.
Motion approved.

Agenda Item No. 6
Public Comments
Members of the Public were notified in the meeting agenda posted on the ebparks.org website on April 24, 2020 that comments could be submitted by email or phone to Committee Secretary Connie Swisher by 4pm on April 28 to be addressed during the meeting. Public Comments could also be submitted during and after the meeting to be presented to the Finance Committee afterward. Committee Secretary Connie Swisher confirmed that no public comments had been received before or during the meeting.
Agenda Item No. 7
Committee Comments
Director Rosario thanked Park District staff for their work and the quality of their reports. Director Corbett asked if there would be a Finance Board Workshop to address current and emerging financial concerns. GM Doyle stated that a Finance Board Workshop, including a review of Capital Grants, was an urgent priority and would work with Park District staff to schedule it as soon as possible.

AGM Auker recognized Finance staff for their continued work during the SIPO, assuring the Finance Committee that high priority items from the annual work plan would continue to be addressed and encouraged Committee members to bring forth any items they felt needed addressing.

Director Coffey closed the meeting by acknowledging the hard work and talent of Park District staff in their delivery of the Finance Committee meeting.

Meeting adjourned at 2:50PM. The next Finance Committee meeting is scheduled for May 27, 2020.

Respectfully submitted,
Ali Haynes, Finance Department
Contra Costa: Iron Horse Trail fires under investigation as arson

Fire official: Community can aid firefighters in holiday run-up

By GEORGE KELLY | gkelly@bayareanewsgroup.com | Bay Area News Group

PUBLISHED: June 29, 2020 at 5:02 p.m. | UPDATED: June 30, 2020 at 11:02 a.m.

CONCORD — Several small fires sprung up Monday beside different parts of the Iron Horse Trail and were under investigation as arson cases, spurring authorities to remind residents of safety tips before the upcoming Fourth of July weekend.

Just before 2:50 p.m., Contra Costa County Fire Protection District firefighters responded to reports of a vegetation fire in the 1200 block of Monument Boulevard, ConFire spokesman Steve Hill said.

After realizing multiple calls were coming in to report fires close to structures along the Iron Horse Train between Bayview Circle to the east and Sherman Drive in Pleasant Hill to the west, firefighters called a second-alarm response, Hill said.

More than 50 firefighters responded aboard 13 engines and trucks to at least two other trail-side locations, containing them by 3:12 p.m. and extinguishing them by 3:30 p.m., with some units remaining for mop-up and overhaul effort. Arson inspectors were at the scene of today’s fires, and were investigating them as arson cases, with police stopping one person for questioning at the scene before determining they were not involved and releasing them, Hill said.

Hill said weather conditions, including warm temperatures, strong northerly winds and low humidity, led district officials to staff heavily over the weekend.

““The fuel out there is dry to a point it wouldn’t normally get until August,” Hill said Monday. “It’s just ready to burn at any spark. If you couple that with the fairly noticeable increase we’ve seen in illegal firework use well ahead of the holiday, you’ve got a formula for disaster.”

More than a dozen district fire responses this month alone have been for fires directly linked to firework use, Hill said, raising the stakes for firefighters already handling a fourfold increase in grass and vegetation fires, as well as increases due to malfunctioning vehicles, carelessly discarded smoking materials, and homeless-encampment activity.

Hill said residents needed to remember that fireworks were not only illegal to use and dangerous given fire-risk conditions, but likely to harm children and young teens who handle them without a sense of potential injury.

He encouraged residents not to use fireworks, to report their use to local law-enforcement and to immediately call 911 in order to keep small fires from growing, and to consider glow-sticks or televised or online firework displays as options for entertainment.
Fires Along Iron Horse Trail In Concord, Pleasant Hill Determined To Be Arson
June 29, 2020 at 5:12 pm
PLEASANT HILL (CBS SF) — A series of fires along a popular walking and cycling trail in Contra Costa County have been determined to be intentionally set, according to fire officials.

A spokesman with Contra Costa County Fire Protection District confirmed that arson was the cause of multiple fires along the Iron Horse Regional Trail Monday afternoon.

Crews responded to the fires reported shortly before 3 p.m. that dotted the trail between the cities of Pleasant Hill and Concord between Sherman and Brookview drives. The fire district wrote on Twitter shortly after 3:15 p.m. that the fires had been contained and nearby structures were no longer threatened.

People are asked to avoid the Iron Horse trail and surface streets in the area while crews mop up and do other work in the area Monday afternoon.

The Iron Horse Regional Trail spans 32 miles from Concord south to Pleasanton, according to the East Bay Regional Park District.
Crews contain multiple fires burning along Iron Horse Trail in Pleasant Hill

by: Erica Pieschke
Posted: Jun 29, 2020 / 03:40 PM PDT / Updated: Jun 29, 2020 / 04:58 PM PDT

PLEASANT HILL, Calif. (KRON) – Fire crews have contained multiple fires that broke out along the Iron Horse Trail in Pleasant Hill on Monday afternoon.

The fires were burning between Sherman Drive and Brookview Drive.

Firefighters say there is no longer a threat to the structures in the area.

Crews are working to mop up the scene and will remain in the area.

Investigators have determined that the fires were started by arson.

A person was questioned on scene, but was not involved, according to authorities.

Fire officials ask you to continue to avoid using the trail and surrounding streets.

Authorities continue to investigate the fires.

No other details have been provided at this time.
Controlled burn in East Bay hills takes on greater importance amid pandemic

By Rob Roth
Published 13 hours ago

Controlled burn in East Bay tries to reduce wildfire risks

During a controlled burn in the East Bay hills, firefighters expressed concern about the chance of wildfires this season.

The Moraga-Orinda Fire District was deliberately burning thick brush and vegetation Tuesday, not far from Campolindo High School in Moraga, before an out-of-control wildfire gets the chance.

"A wildfire starting now has the potential to spread rapidly," said Moraga-Orinda Fire Chief Dave Winnacker.

The recent heat waves have dried out the vegetation. That's a scary proposition with July 4th around the corner.

"The introduction of fireworks or any other source has the potential to start a significant wildfire this time of year," said Winnacker.

At this early point in the fire season in California, firefighters are nervous about the summer and fall.

State records show there have been more than 3,100 fires this year. That's almost twice the number as this time last year. They've burned thousands more acres as well.

"We've seen an increase in the number of early fires then we've had on average in the past," said Cal Fire Deputy Chief Jonathan Cox.

Besides high winds and low humidity Cal Fire has another enemy to fight this year, the coronavirus.

The days of having thousands of firefighters at a base camp are not possible now.

"There is nothing that is going to be easy about this fire season and covid," said Cox. "The fact that we're going to have to keep people socially distant with masks and hand sanitizer as soon as they come into base camp. These are considerations we are putting together on a statewide level."

Evacuation centers for the displaced also will likely be smaller, but with more of them.

Cal Fire says people in fire prone areas should make plans now on where they can go in an emergency.
In the East Bay Hills the Moraga-Orinda fire chief would like to see cattle grazing in the area to help control vegetation.

He hopes the now completed North Orinda Shaded Fuel Break will help firefighters make a stand if a blaze breaks out. Last year they cut a 19-mile path from Lafayette to Tilden Park in Berkeley.

Firefighters are also imploring homeowners to get rid of the dried vegetation on their property, and make a defensible space. That could be what helps save their homes, if a wildfire is bearing down on their neighborhood.
Park It: Find wanted exercise, fresh air on these East Bay trails

From Carquinez Strait to Quarry Lakes, paths generally open for cycling and hiking

By NED MACKAY | East Bay Regional Park District

PUBLISHED: June 21, 2020 at 5:00 a.m. | UPDATED: June 21, 2020 at 6:53 a.m.

Although visitor centers and some other high-use areas in the East Bay Regional Park District are closed to avoid overcrowding during the coronavirus pandemic, the parks and trails are generally open for hiking, riding and bicycling.

With that in mind, here are some suggestions for trails you can take to get some much-needed fresh air and exercise. Remember to go with small groups including mainly your immediate household, maintain social distancing and carry masks for use when distancing isn’t possible. Carry water, and please pack out your trash.

**Carquinez Strait Regional Shoreline:** An easy and very scenic walk or ride is the George Miller Jr. Trail, a 2-mile section between Martinez and Port Costa. It’s paved, wheelchair-accessible and offers great views of the strait with its maritime traffic and Benicia across the water.

To get there, drive west on Carquinez Scenic Drive from the town of Martinez. Park on the road shoulder; don’t block fire gates. Or you can access the west end by driving toward Port Costa on McEwen Road from Highway 4. Turn right on Carquinez Scenic Drive at the bottom of the hill and drive to the end of the road. There are several picnic tables along the way, and there’s a chemical toilet at the Port Costa trailhead parking lot.

For another easy and scenic walk or ride, turn left on Carquinez Scenic Drive and proceed about a mile to the Bull Valley Staging Area on the right. From there, follow the Carquinez Overlook Trail, or go down the hill to Eckley Pier.

**Diablo Foothills Regional Park:** Another easy walk or ride is the Stage Road Trail through Pine Canyon at Castle Rock and Diablo Foothills. It’s about a mile-and-a-half from the start to the state park boundary, and of course you can venture further if you wish.

The trail follows Pine Creek, which is dry in the summer, wet in the rainy season. It’s largely shady. There are lots of views of the imposing Castle Rocks, a nesting place for peregrine falcons. If you are lucky, you may see the falcons. But remember that the Castle Rocks, which are in the state park, are closed from Feb. 1 through July 31 to protect the birds during nesting season.
The park is at the end of Castle Rock Road in Walnut Creek, past Northgate High School. Park at the Orchard Staging Area on the right, then walk through a gate at the end of the lot. Or if the lot at the end of the road has been opened, you can park there. It’s the Castle Rock trailhead.

**Sibley Volcanic Regional Preserve:** Sibley is the East Bay’s backyard volcano. Through eons of geologic action and modern-day quarrying, evidence of a volcano that was active 10 million years ago has been revealed.

At the park entrance there are restrooms and displays describing the park’s volcanic history. Pick up a brochure for a self-guided tour around 11 signposts. The park also has several rock mazes, one of which was built by a local artist. You won’t get lost; the mazes are only one rock high. The entrance to Sibley Preserve is on Skyline Boulevard a short distance south of the intersection with Grizzly Peak Boulevard in the Oakland hills.

**Garin/Dry Creek Pioneer Regional Parks:** The two parks preserve a bit of Hayward’s ranching history. An easy walk at Garin is from the entrance to Jordan Pond and back. If you are more energetic, the trail network leads up to ridgetops with great views of San Francisco Bay. Another feature at Garin is an apple orchard maintained by volunteers. It contains heirloom varieties of apples that are no longer commercially grown. The park is at the end of Garin Avenue off Mission Boulevard.

**Quarry Lakes Regional Recreation Area:** This is a former gravel quarry in Fremont that has been transformed into a park with several lakes. There are lots of completely flat hiking options. Try the Californio, Old Creek, Western Pacific and Isla Tres Rancheros trails for a walk to see waterbirds and a rare fruit tree grove. The park is on Isherwood Way.

There are also lots of hiking opportunities at Sunol Regional Wilderness south of Interstate 680 and the town of Sunol and at Coyote Hills Regional Park on Paseo Padre Parkway in Fremont. However, these parks tend to be crowded, so if you go, go early.

This is just a sample. Several dozen hikes and rides are described in two park district brochures: “Short-Loop Trails — Northern Region” and “Short-Loop Trails — Southern Region.” The brochures are available online at ebparks.org/activities/hiking/shortlooptrails.htm.
Suspect surrenders in series of sexual batteries on Iron Horse Trail in Walnut Creek

There have been at least six reported batteries since March 4

By HARRY HARRIS | hharris@bayareanewsgroup.com | Bay Area News Group
PUBLISHED: June 17, 2020 at 2:24 p.m. | UPDATED: June 18, 2020 at 5:51 a.m.

WALNUT CREEK — A suspect in a series of sexual batteries of female joggers on the Iron Horse Trail since March turned himself in to East Bay Regional Park District police Wednesday morning, authorities said.

Police have not released the man’s name citing an ongoing investigation.

EBRPD police have been investigating at least six sexual batteries of female joggers along the trail which started March 4 with the most recent being June 5. In each attack, the woman were inappropriately grabbed from behind, police said.

They occurred between 4 p.m. and 6 p.m. near the intersection of Treat Boulevard and Jones Road.

In an effort to identify the suspect, EBRPD police released a photo to the media of him which was taken by a witness to the June 5 incident.

Police said in a news release the man who surrendered was identified by at least one of the victims as the suspect and an arrest warrant had been issued for his arrest. He was booked at the Martinez Detention Facility but police did not say on what charges.

Check back for updates.
Contra Costa County Sexual Assault Suspect Arrested

By Bay City News • Published June 17, 2020 • Updated on June 18, 2020 at 12:43 am

A sexual assault suspect was arrested Wednesday morning by the East Bay Regional Park District police following at least one assault on Iron Horse Trail in or near Walnut Creek, police said.

The suspect's name has not been released by police, but police said a series of assaults have occurred on a part of the trail near the intersection of Jones Road and Treat Boulevard between March and June and from 4 p.m. to 6 p.m.

The victims were female joggers who were taking part in recreation on the trail when they were grabbed by an assailant, according to police.

The suspect arrested Wednesday turned himself in to police after a warrant was issued for his arrest. He was taken to jail in Contra Costa County. Police continue to investigate the batteries.
Suspect in sexual battery incidents on Iron Horse Trail in Walnut Creek turns himself in
by: Erica Pieschke
Posted: Jun 17, 2020 / 05:57 PM PDT / Updated: Jun 17, 2020 / 08:31 PM PDT

WALNUT CREEK, Calif. (KRON) – A suspect is in custody after a series of sexual battery incidents that happened on the Iron Horse Trail in Walnut Creek, according to the East Bay Regional Park District Police Department.

After a warrant was issued for the suspect’s arrest, authorities say he turned himself in Wednesday morning to investigators.

The suspect, whose name has not yet been released, was booked at the Martinez Detention Facility.

Authorities say a series of sexual batteries had occurred on the trail between March and June.

Between 4 p.m. and 6 p.m., officials say female joggers were inappropriately grabbed from behind.

The man now in custody was identified as the suspect in at least one of the sexual assaults.

Police continue to investigate and will release more information as they learn more.
Hiking, biking trails, visitor center planned for new Concord Hills Regional Park

By Ned MacKay 1 day ago

Early plans are in motion to turn the former Concord Naval Weapons Station into a park with hiking and biking trails. The future park has been dubbed Concord Hills Regional Park for now, but an official name will be chosen at a later date.

Amid all the coronavirus-related measures, East Bay Regional Park District continues its regular work of planning and opening new parklands for public enjoyment, wildlife habitat protection and historic preservation.

For instance, the park district board of directors plans to certify an environmental impact report soon and approve the land use plan for the new Concord Hills Regional Park.

Concord Hills, for which a permanent official name will be determined at a later date, is the former Concord Naval Weapons Station.

After many years of advocacy by the community and the Park District for access to the closed weapons station land, the Navy recently deeded approximately 5,028 acres of the land for civilian use. Part is assigned to the city of Concord, part to the East Bay Regional Park District.

**Formal signing ceremony**

In July 2019, at a formal signing ceremony, 2,216 acres were transferred to the Park District to create a new Regional Park in partnership with the National Park Service. The property is located between Kirker Pass Road and Highway 4.

In summary, the plan calls for hiking and riding trails, picnic sites at some of the former military structures, and a visitor center that will include exhibits on the history of the site, from Native American habitation to the present. The center will be in a restored and redesigned existing building.

Completion of work on the land use plan and subsequent public access to the new park won’t occur for several years. First access will likely take the form of guided hikes through areas at the south end of the property that have remained in a generally natural state.

You can obtain more information about Concord Hills and take a virtual tour of the new park by visiting the district website, [www.ebparks.org](http://www.ebparks.org). At the top right of the home page, click on “Select a Park or Trail” and pick Concord Hills.
Overnight curfew in East Bay parks

As of this writing, an overnight curfew was declared from 8 p.m. to 5 a.m. at all the East Bay Regional Parks, starting June 1.

The regional parks have always been closed overnight; the new curfew just extended the hours of closure, due to coronavirus and civil unrest concerns. The curfew could be altered or lifted, if circumstances warrant. The park district follows the measures taken by Alameda and Contra Costa County governments.

Point Isabel Regional Shoreline in Richmond, CA

There is some encouraging news as well. Point Isabel Regional Shoreline in Richmond was reopened, with the stipulation that dogs must be leashed at all times, at least for now. The point is well known as an off-leash dog park. But for the duration of the coronavirus emergency, Rover shouldn’t rove unrestrained. In fact, the district now requires dogs to be leashed at all regional parks, not just Point Isabel.

Also, the Stanford Avenue staging area at Mission Peak Regional Preserve has reopened. It was closed through May at the request of the city of Fremont.

Visitors should be aware that parking is limited at Stanford Avenue. This is especially true on high attendance days, and neighborhood parking rules are strictly enforced. More ample parking is available at a trailhead lot within the nearby Ohlone College campus.

For up-to-date information on regional park status, visit the district website at www.ebparks.org. Information is available right at the top of the home page.

Biking trails

In a previous column I mentioned that bicycles should be ridden only on wider regional park trails. But Mike Udkow of the Bicycle Trails Council of the East Bay points out that there are some narrow-gauge, multi-use trails open to bicycle riders in a number of the regional parks. This is true. Bicycle riders should check the park map and the trail signposts, though, before venturing onto a narrow-gauge trail. The main idea is to avoid user conflicts.
Park It: Entrances reopening, some summer activities resuming

Normal operations may restart in mid-July at East Bay parklands, depending on COVID-19 situation

By NED MACKAY | East Bay Regional Park District
PUBLISHED: June 14, 2020 at 5:00 a.m. | UPDATED: June 14, 2020 at 6:47 a.m.

As of June 12, the district planned to reopen the Old Tunnel Road staging area on the Orinda side of Sibley Volcanic Regional Preserve. While the staging area was closed, visitors were parking their cars along the frontage road to Highway 24 just east of the Caldecott Tunnel, an unsafe situation.

At Crown Memorial State Beach in Alameda, the parking lot at the Otis Drive entrance was scheduled to reopen, partly in an effort to alleviate overcrowded street parking. Also reopened was the Tidewater staging area at Martin Luther King Jr. Regional Shoreline in Oakland. Shadow Cliffs Regional Recreation Area in Pleasanton remained walk-in only. And there’s still no picnicking or congregating in large groups.

Starting June 15, the district planned to allow outside day camp operators to host groups of no more than 12 at a time for three weeks for hiking and other activities. Social distancing of campers will be required. And for mid-July, the park district is considering reopening Ardenwood Historic Farm in Fremont and resuming normal operations at Del Valle, Shadow Cliffs, Castle Rock, Quarry Lakes and Lake Chabot regional parklands. This would include camping, picnicking, swimming and boating.

Of course, all the above depends on the status of the coronavirus pandemic as determined by the public health departments of Alameda and Contra Costa Counties. The best source of up-to-date information on the status of your favorite regional park is still the park district’s website, ebparks.org. Links to all the latest COVID-19 information are right at the top of the home page.

Although various park entrances and visitor centers have been closed, most of the regional park trails, within and connecting the parklands, have been open all along. As part of the fight against the coronavirus, park visitors should remember to maintain
social distance of at least 6 feet, keep dogs on leashes at all times, carry face coverings for use when social distancing is not possible, and visit in small groups consisting essentially of immediate household members.

**Fire season:** On top of everything else, the 2020 fire season is under way. District firefighters have already provided mutual aid at several East Bay fires outside regional parklands, and fought one at Point Pinole Regional Shoreline.

Park visitors can help prevent fires by being especially vigilant and careful while roaming the trails. All smoking, including vaping, is prohibited in the regional parks. And if you do spot a fire during your visit, call 911 to report it. If circumstances permit, report the fire’s location, size, direction of burn and whether any people or structures are threatened. However, your own personal safety takes priority, so get away as quickly as you can.

The California Department of Fire and Forestry Protection’s (Cal Fire) website has a wealth of information about how to protect your home and property from wildfires. It’s worth a visit at [fire.ca.gov](http://fire.ca.gov).
Week after Lake Temescal reopens from spill, sewage oozes in again

By Lisa Fernandez
Published 6 days ago

OAKLAND, Calif. - There has been another sewage spill into Oakland's Lake Temescal, which reopened just last week after a previous contamination, the East Bay Regional Park District announced.

Because the spills seem to come too often and too regularly, Park district spokesman Dave Mason said on Thursday that "it may become necessary for the park district to take legal action to protect the beloved lake for the community."

The lake will be closed to fishing until further notice. Swimming is not allowed now anyway because of COVID-19.

The latest spill was on Tuesday stemming from an Oakland pipe.

The previous toxic event occurred in mid-May. In fact, there were three spills on the same day that allowed at least 9,500 gallons of sewage to flow into the body of water, according to the city and the park district. The city said the pipes have been clogged with wipes. Reports of the spills show that the pipes were clogged with tree branches.

"It is unacceptable that the city of Oakland sewer spills continue to impact recreational opportunities at Lake Temescal," the park district said in a statement. "The city of Oakland needs to prioritize and fix their sewer system. Sewer spills are a public health and safety issue."

The Department of Public Works spokesman did not immediately return a call for comment.

The district said that these ongoing sewer spills are also causing additional algae growth, which also impacts the overall health of the lake.

The San Francisco Bay Regional Water Quality Control Board is evaluating the situation.
DEADLINE EXTENDED FOR PUBLIC COMMENT ON HAYWARD SEA LEVEL RISE ADAPTATION PLAN

June 11, 2020

HAYWARD, Calif., June 11, 2020—The City of Hayward, East Bay Regional Park District and Hayward Area Recreation Park District are jointly seeking public input on strategies under consideration for adapting the Hayward shoreline to rising sea levels.

Sea levels are rising and are anticipated to continue rising in San Francisco Bay and globally, a climate-change phenomenon caused by the warming of oceans and increased melting of land-based ice such as glaciers and ice sheets, according to the National Oceanic and Atmospheric Administration.

Adaptation strategies currently under consideration would structurally alter the bay edge within Hayward through a combination of nature-based designs, like gravel beaches and tidal-marsh restoration, and engineered strategies, like levee improvements and tide gates.

The nature-based approaches seek to enhance protective ecological features of the shoreline, while engineered solutions would aim to reduce risk to critical shoreline infrastructure, such as the City’s wastewater treatment plant, the Hayward-San Mateo Bridge, the Bay Trail and the Hayward Shoreline Interpretive Center.

To learn more, go online to www.haywardshorelinemasterplan.com. Community members are encouraged to provide feedback on the Hayward Shoreline Adaptation Master Plan and the adaptation strategies currently under consideration by filling out this comment form. The deadline for public comment has been extended to Friday, June 26.
Rattlesnake sightings three times higher than normal in the Bay Area

By Andrew Chamings
Updated 3:04 pm PDT, Tuesday, June 9, 2020

Photo: TWRC
Rattlesnake sightings in the Bay Area are on the rise.

After an increase in sightings, experts say there may be three times the usual amount of rattlesnakes in the Bay Area right now, reports KPIX.

This year has brought us some unexpected wildlife sightings across the world. Locally, coyotes took advantage of the empty streets of San Francisco through the coronavirus shutdown. Dolphins ventured further up into normally busy shipping lanes in Istanbul. Wild boar were seen snuffling around the city streets in Haifa, Israel. Now... snakes.

But the recent uptick in rattlesnake sightings in the Bay Area has nothing to do with the global pandemic: It's the weather. February was unusually warm for an extended period, leading to adult snakes breeding months earlier than usual. Now they're out and about looking for food, with baby rattlers exploring their habitat soon.

Al Wolf, director of Sonoma County Wildlife Rescue in Petaluma, told KPIX, “This year, it is absolutely crazy. In the next two, three weeks, we'll actually see baby rattlesnakes, the newborns for this year. Usually they are born late August, early September, but we're going to see them in late June and early July this year.”

Rattlesnakes are venomous and dangerous. Around 300 bites are reported in California every year. They consume mice, rats, small birds and other small animals and can be a danger to pets. The East Bay Regional Parks District advises hikers to not walk alone, scan the ground ahead of you as you hike, avoid long grass and keep dogs on a leash.
Police release photo of suspected Iron Horse Trail groper

By Rob Roth
Published 1 day ago

Police on Monday released a photo of a man they say is responsible for groping at least six women over the past three months on a popular trail in Walnut Creek.

WALNUT CREEK, Calif. - East Bay Regional Park District Police Department have released a photo of a man they suspect groped at least six women along the popular Iron Horse Trail in Walnut Creek over the past three months.

The photo is from a video taken Friday by a neighbor living near the trail minutes after the most recent sexual battery.

"We later were able to confirm that the suspect was one in the same. That was the person they saw assault the victim," said EBRPD police Sgt. Giorgio Chevez.

The man who took the video told us he lives behind the Iron Horse Trail. He said his friend called him Friday, moments after seeing what he said was a man groping a woman. He gave him a description.

"He said that girl's face, he will never forget the girl's face. She started crying," said Harris Naemi, who took the video after spotting the man.

"He squared up like he wanted to fight. But jetted off. I sent my friend the video after I confronted him. He confirmed that was the guy," he said.

Police say the sexual batterer gropped three women in March. Then apparently struck again two months later on May 28, 29 and June 5.

Police believe the shelter-in-place order may be the reason there was a two-month gap between assaults.

Investigators are still looking to identify the suspect.

Anyone with information is urged to contact the police tip line at (510) 690-6521.