

Attachment A

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Board of Supervisors
County of Monterey, State of California

Resolution No. 22-_____

In the matter of the application of:)
Carmel River Floodplain Restoration and)
Environmental Enhancement (REF140048))
(SCH#2011021038) Resolution by the Monterey)
County Board of Supervisors:)
a. Approve an Addendum to the Final)
Environmental Impact Report for the Carmel River)
Floodplain Restoration and Environmental)
Enhancement (CRFREE) Project (REF140048) to)
amend mitigation measure HF-5 to allow specified)
construction involving initial floodplain restoration)
work on the east side of State Route 1, before)
construction of the causeway portion of the)
CRFREE Project; and)
b. Revise the Mitigation, Monitoring and Report)
Plan for the CRFREE Project to incorporate)
changes to the Final EIR as adopted by the Board)
of Supervisors on January 28, 2020, and to amend)
mitigation measure HF-5.)
[Carmel River Floodplain Restoration and)
Environmental Enhancement (CRFREE), State)
Route 1, Carmel, CA, 93923, Carmel Area Land)
Use Plan, Assessor’s Parcel Numbers (APNs))
243-071-005-000, 243-071-006-000, 243-071-)
007-000, 243-021-007-000, 157-121-001-000)
and 243-081-005-000, 243-071-008-000])
)
)

The addendum to the previously certified Environmental Impact Report, and amendment to a Hydrology and Floodplain (HF) mitigation measure for the Carmel River Floodplain Restoration and Environmental Enhancement (CRFREE) Project came on for public hearing before the Monterey County Board of Supervisors on August 30, 2022. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Board of Supervisors finds and decides as follows:

FINDINGS

- 1. FINDING: PROCESS** – The County has processed the subject amendment to mitigation measure HF-5 (a Hydrology and Floodplain mitigation measure) of the CRFREE Project in compliance with all applicable procedural requirements. The

mitigation measure was identified in the certified CRFREE Final Environmental Impact Report (FEIR) (Board of Supervisors Resolution No. 20-015) and adopted Mitigation Monitoring and Reporting Plan (MMRP) (Board of Supervisors' Resolution No:21-163 (Housing and Community Development Project REF 140048)) ("Project").

EVIDENCE: a) Certification of FEIR – On January 28, 2020, the Board of Supervisors certified a FEIR entitled *Environmental Impact Report, Carmel River Floodplain Restoration and Environmental Enhancement Project* for the CRFREE Project (SCH#2011021038), Board of Supervisors Resolution No. 20-015. (Attachment B of the August 30, 2022, staff report to the Board of Supervisors)

b) Adoption of Mitigation Monitoring and Reporting Plan: On June 15, 2021, the Board of Supervisors approved the CRFREE Project, and adopted a Mitigation Monitoring and Reporting Plan, Board of Supervisors Resolution No. 21-163. As described in Finding 1, Evidence "a" the CRFREE Project consists of two interdependent components: The Floodplain Restoration (Levee Removal/Enhancement Area), and the Causeway.

c) The FEIR identified that the CRFREE Project will increase water surface elevation at the Carmel Area Wastewater District (CAWD) pipelines by 0.4 feet in a 10-year event and increase the velocity by 1.3fps. In a 100-year event the impacts are slightly less pronounced as the Carmel Lagoon is in a backwater condition in both pre-and post-CRFREE Project scenarios. In the 100-year event the WSE is predicted to increase 0.3 feet, and velocity is predicted to increase 0.7 fps. The increase in velocity at the CAWD pipelines during a 10-year event will increase the velocity above the threshold for scour. The FEIR identified that to mitigate for the impact of the CRFREE Project on the outfall and sewer force main pipelines in the south arm of the Carmel River Lagoon (CAWD Pipelines), the CAWD Pipelines will be moved underground, referred to as the Undergrounding Project. As stated on page 328 of the FEIR; 'To mitigate potential adverse effects associated with the Proposed Project, the Undergrounding Project must be implemented prior to completion of the Proposed Project'.

d) As described in Finding 5, Evidence 'g', the CRFREE Project will potentially have an adverse effect on hydrology and water quality that is mitigated to less than significant with incorporation of mitigation measures HF-3, HF-4, and HF-5 with the purpose to underground the CAWD outfall and sewer force main pipelines that cross the south arm of the Carmel River Lagoon.

e) HF-5: Mitigation measure HF-5 prevents the County from issuing a Notice to Proceed to commence construction of the CRFREE Project until: 1) The County has received written assurances from CAWD that CAWD has obtained all required governmental approvals to proceed with the Undergrounding

Project, and CAWD has awarded a construction contract to construct the Undergrounding Project. 2) CAWD provides written assurances to the County that the necessary funding for the Undergrounding Project has been secured, and that the County concurs. 3) The agreement between County and CAWD to address funding has been fully executed.

f) Phasing of the CRFREE Project: In November 2021, the County of Monterey was notified by the Department of Water Resources that the remaining approximately \$4.5 million of the County's Flood Corridor grant for implementation of the CRFREE Project would expire in June 2023, with no opportunity of extension. To utilize these expiring grant funds, the CRFREE Projected is required to begin construction by late 2022. On January 18, 2022, the Monterey County Capital Improvement Committee received a report on the status of the CRFREE Project and directed staff to phase the CRFREE Project into two phases. Phase 1 shall involve the grading of approximately 349,000 cubic yards of onsite material to contour the floodplain and construct a portion of the Managed Flood Conveyance Channels (MFCAs). This excavated material will be utilized onsite to lift an agricultural preserve out of the 100-year floodplain.

g) Construction of Phase 1: On August 30, 2022, the Board of Supervisors is considering in a separate action to award a contract to Granite Construction Company for the CRFREE Project, Phase 1, Project 7200 (Project 7200). Prior to awarding the contract, the mitigation measure HF-5 must be amended to allow for the County to issue a Notice to Proceed to Granite Construction Company for Phase 1 of the CRFREE Project.

h) Description of Phase 2: Phase 2 of the CRFREE Project will likely begin in 2024 and involves the remainder of the project construction. Phase 2 will involve grading to create notches in the levees along the south bank of the lower Carmel River, restoration of the lower Carmel River floodplain immediately to the east of SR 1 and within the Project area to the west of SR 1, and construction of a causeway along SR 1, restoring connectivity between the lower Carmel River floodplain and the south arm of the Carmel River Lagoon. Impacts to CAWD's pipelines as identified in the *Final Environmental Impact Report, Carmel River Floodplain Environmental Enhancement Project* will not occur until the connectivity between the Carmel River and the south arm of the Carmel River Lagoon has been restored by constructing a causeway under SR 1, removing the SR 1 detour road, and removal of the notches in the Carmel River south bank levees. The causeway will be constructed before the notches in the levees are graded.

i) Addendum to the FEIR *Environmental Impact Report, Carmel River Floodplain Restoration and Environmental Enhancement*

Project (CRFREE FEIR): An addendum has been prepared pursuant to Article 11, Section 15164 of the California Environmental Quality Act Guidelines. The proposed draft addendum to the CRFREE FEIR clarifies the description of phase 1 work on the CRFREE Project east of State Route 1 and does not lessen the description of the impact of the CRFREE Project on the CAWD pipelines. (Attachment D of the August 30, 2022, staff report to the Board of Supervisors)

j) Amendment to the approved MMRP: Mitigation measure HF-5 of the 2021 approved MMRP has been amended to clarify that the County will meet the conditions of HF-5 prior to the construction of the causeway portion of the project, likely in Phase 2 of the CRFREE Project. (Attachment E of the August 30, 2022, staff report to the Board of Supervisors)

- 2. FINDING: ADDENDUM** – A technical addendum to the CRFREE 2020 EIR, entitled *Environmental Impact Report, Carmel River Floodplain Restoration and Environmental Enhancement Project* has been prepared pursuant to Article 11, Section 15164 of the CEQA guidelines to address Mitigation Measure HF-5 of the FEIR. The Board finds that the revision of the FEIR in regards mitigation measure HF-5 does not change the impact of the CRFREE Project on the CAWD pipelines and will allow for the CRFREE Project to begin Phase 1 construction.

EVIDENCE: a) The purpose of this Addendum is to consider the FEIR adopted by the County of Monterey Board of Supervisors, and to formally amend HF-5 in the FEIR to allow specified construction involving initial floodplain restoration work on the east side of State Route 1, before construction of the causeway portion of the CRFREE Project, designed to not affect the downstream flows that could impact the CAWD Pipelines. This is the initial floodplain restoration work. The Draft Amended Mitigation Measure HF-5 is provided in Attachment C of the August 30, 2022, staff report to the Board of Supervisors. The language to be amended is found on pages 146, 329, A-15 of the FEIR entitled *Environmental Impact Report, Carmel River Floodplain Restoration and Environmental Enhancement Project*.

b) The addendum to the FIER to modify mitigation measure HF-5 would not result in any new significant environmental effects or an increase in the severity of a previously identified significant impact. The Draft Amended Mitigation Measure HF-5 does not change the required construction phasing of the CRFREE Project so that the Undergrounding Project is complete prior to any CRFREE Project changes to the existing floodplain conditions as required per Mitigation Measure HF-3. Specifically, the existing south bank river levee and the temporary State Route 1 detour road will remain intact until the Undergrounding Project is complete. Therefore, the addendum to the FEIR to amend HF-5 would not require major revisions of the previous information due to the involvement of new

significant environmental effects or a substantial increase in the severity of a previously identified significant effect.

c) With approval of this resolution, the following underlined language shall be added after the final bullet 'C' as new language at the end of the mitigation measure on pages 146, 329, A-15 of the FEIR, and in the first sentence of HF-5, to read as follows:

HF – 5 The County shall not issue a Notice to Proceed to commence construction of the Proposed Project until all of the following have occurred:

- A. The County has received in writing the following assurances from CAWD:
 - 1. CAWD has obtained all required governmental approvals to proceed with the Undergrounding Project, and
 - 2. CAWD has awarded a construction contract to construct the Undergrounding Project; and
- B. The County shall not issue a Notice to Proceed to commence construction of the Proposed Project unless and until CAWD has provided written assurance that, in its opinion, the necessary funding for the Undergrounding Project has been secured in order for CAWD to proceed, and the County has concurred.
- C. The agreement referenced in HF-4 between CAWD and County has been fully executed.

(As used herein, "Notice to Proceed" means authorization to the contractor to commence construction.)

On August 30, 2022, this mitigation HF-5 was amended to allow specified construction to proceed prior to the County meeting the requirements of A, B and C above. Specifically, CAWD agreed that the foregoing HF-5 sections A-C shall not apply to the work contained in the contract approved by the Board of Supervisors on August 30, 2022, entitled ***Carmel River Floodplain Restoration and Environmental Enhancement - Phase 1 (Project Initial Floodplain Restoration Work), Project 7200*** ("Project 7200").

Project 7200 involves initial floodplain restoration work on the east side of State Route 1 on 105 acres of property owned by BSLT and MPRPD. Project 7200 consists of grading approximately 349,000 cubic yards of onsite material to contour the floodplain and construct a portion of the Managed Flood Conveyance Channels (MFCAs). This excavated material will be utilized onsite to lift an agricultural preserve out of the 100-year floodplain. Trees and vegetation on the sections of the levee slated for future notching will be cut to the ground surface with the exception of a maximum of 39 trees with root wads that will be salvaged from the existing onsite levee and will be placed and secured with willow stakes in the floodplain restoration area to provide floodplain habitat.

After Project 7200's grading and earthwork is complete, all disturbed areas will be seeded with erosion control seed mix. A section of the graded area will be planted and irrigated to establish a willow and cottonwood riparian forest for habitat restoration.

CAWD agreed that Project 7200 may proceed because the work is designed to not affect the downstream flows that could impact the CAWD Pipelines. Notwithstanding the foregoing, in no event shall any work be performed that affects downstream flows in a manner that could impact the CAWD Pipelines.

- 3. FINDING: AMENDMENT** – A Draft Amended Mitigation Measure HF-5 of the approved Mitigation Monitoring and Reporting Plan of the Carmel River Floodplain Restoration and Environmental Enhancement (CRFREE) EIR has been prepared to clarify the intended phasing of the CRFREE Project, and correct a minor inconsistency between the wording of mitigation measure HF-5 in the FEIR and HF-5 in the MMRP.

EVIDENCE: a) Hydrology and Water Quality: As described in Finding 2, Evidence “m” of this resolution, the CRFREE Project is consistent with applicable County policies for hydrology and the protection of water quality as proposed, conditioned and mitigated. As described in Finding 5, Evidence “g”, the CRFREE Project will potentially have an adverse effect on hydrology and water quality that is mitigated to less than significant with incorporation of mitigation measures. The CAWD outfall and sewer force main pipelines that cross the south arm of the Carmel River Lagoon are located within the south overbank reach. To mitigate potential adverse effects associated with the Project, the undergrounding of CAWD outfall and sewer force main pipelines must be implemented prior to completion of the CRFREE Project.

b) Amendment to HF-5: As shown in Attachment E of the August 30, 2022, Staff report to the Board of Supervisors, the following underlined language shall be added as an amendment to the MMRP with approval of this resolution so that HF-5 reads as follows:

HF – 5: The County shall not issue a Notice to Proceed to commence construction of the Proposed Project until the following has occurred:

- A. The County has received in writing the following assurances from CAWD:
1. CAWD has obtained all required governmental approvals to proceed with the Undergrounding Project, and
 2. CAWD has awarded a construction contract to construct the Undergrounding Project; and
- B. The County shall not issue a Notice to Proceed to commence construction of the Proposed Project unless and until CAWD has provided written assurance that, in its opinion, the necessary funding for the Undergrounding Project has been secured in order for CAWD to proceed, and the County has concurred.

C. The agreement referenced in HF-4 between CAWD and County has been fully executed.

(As used herein, “Notice to Proceed” means authorization to the contractor to commence construction.)

On August 30, 2022, this mitigation HF-5 was amended to allow specified construction to proceed prior to the County meeting the requirements of A, B and C above. Specifically, CAWD agreed that the foregoing HF-5 sections A-C shall not apply to the work contained in the contract approved by the Board of Supervisors on August 30, 2022, entitled ***Carmel River Floodplain Restoration and Environmental Enhancement - Phase 1 (Project Initial Floodplain Restoration Work), Project 7200*** ("Project 7200").

Project 7200 involves initial floodplain restoration work on the east side of State Route 1 on 105 acres of property owned by BSLT and MPRPD. Project 7200 consists of grading approximately 349,000 cubic yards of onsite material to contour the floodplain and construct a portion of the Managed Flood Conveyance Channels (MFCAs). This excavated material will be utilized onsite to lift an agricultural preserve out of the 100-year floodplain. Trees and vegetation on the sections of the levee slated for future notching will be cut to the ground surface with the exception of a maximum of 39 trees with root wads that will be salvaged from the existing onsite levee and will be placed and secured with willow stakes in the floodplain restoration area to provide floodplain habitat.

After Project 7200’s grading and earthwork is complete, all disturbed areas will be seeded with erosion control seed mix. A section of the graded area will be planted and irrigated to establish a willow and cottonwood riparian forest for habitat restoration.

CAWD agreed that Project 7200 may proceed because the work is designed to not affect the downstream flows that could impact the CAWD Pipelines.

Notwithstanding the foregoing, in no event shall any work be performed that affects downstream flows in a manner that could impact the CAWD Pipelines.

4. **FINDING:** CEQA (Addendum) – In accordance with CEQA Guidelines Section 15164(d), the Board of Supervisors considered the addendum (Attachment D of the August 30, 2022, Staff report to the Board of Supervisors) with the FEIR (Attachment B of the August 30, 2022, Staff report to the Board of Supervisors) prior to approving the amendment of HF-5. The Board finds that the amended mitigation measure HF-5 does not cause substantial changes to the project and that there are no substantial changes in circumstances or new information of substantial importance that would require major revisions to the adopted EIR.

EVIDENCE: a) A FEIR for the Carmel River Floodplain Restoration and Environmental Enhancement (CRFREE) Project (SCH#2011021038) was certified by the Board of Supervisors on January 28, 2020 (Resolution No. 20-015).

b) An addendum to the previously certified FEIR for the Carmel River Floodplain Restoration and Environmental Enhancement (CRFREE) Project (SCH#2011021038) has been prepared pursuant to CEQA Guidelines Section 15164 (CCR, tit. 14, sec. 15164). The Addendum attached as Attachment D to the August 30, 2022, Staff report to the Board of Supervisors reflects the County's independent judgement and analysis.

c) In accordance with Public Resources Code Section 21166 and CEQA Guidelines Section 15162(a), the preparation of a subsequent or supplemental FSEIR is not required for the amendment of COA No. 184. The County has determined, on the basis of substantial evidence in light of the whole record, that amendment of HF-5 would not result in substantial project changes that would require major revisions of the FEIR. There are no changes in circumstances and no new information, not known at the time the FEIR was certified, that shows the amendment to the mitigation measure may have a significant environmental effect or a substantial increase in the severity of previously identified significant effects. As described in Finding 1, Evidence "c", the FEIR identified that the CRFREE project would impact the outfall and sewer force main pipelines in the south arm of the Carmel River Lagoon (CAWD Pipelines), and to mitigate for these impacts the CAWD Pipelines will be moved underground prior to the completion of the CRFREE project. As described in Finding 2, Evidence "b", the amendment of mitigation measure HF-5 would not impact the timing of the completion of the CRFREE project following the completion of the CAWD pipeline undergrounding project. Specifically, the existing south bank river levee and the temporary SR 1 detour road will remain intact until the Undergrounding Project is complete.

d) CRFREE project files (REF140048), documents and other material that constitute the record of proceedings are located at Monterey County HCD-Planning, 1441 Schilling Place, 2nd Floor, Salinas, CA 93901 and at the Clerk of the Board of Supervisors located at the Monterey County Government Center, 168 West Alisal Street, 1st floor, Salinas, CA 93901.

5. FINDING: **APPEALABILITY** - The decision by the Board of Supervisors on the amendment to Condition of Approval No. 184 is final and may not be appealed.

EVIDENCE: a) MCC Title 19 Section 19.16.025.A states that an appeal may be made to the Appeal Authority by any person aggrieved by a decision of an Appropriate Authority decision making body other than the Board of Supervisors.
b) MCC Title 21 Section 21.80.050.A states an appeal may be made to the Appeal Authority by any person aggrieved by a decision of an Appropriate Authority other than the Board of Supervisors.

DECISION

NOW, THEREFORE, based on the findings and evidence and the administrative record as a whole, the Monterey County Board of Supervisors does hereby:

- a. Approve an Addendum to the Final Environmental Impact Report for the Carmel River Floodplain Restoration and Environmental Enhancement (CRFREE) Project (REF140048) to amend mitigation measure HF-5 to allow specified construction involving initial floodplain restoration work on the east side of State Route 1, before construction of the causeway portion of the CRFREE Project; and
- b. Revise the Mitigation, Monitoring and Report Plan for the CRFREE Project to incorporate changes to the Final EIR as adopted by the Board of Supervisors on January 28, 2020, and to amend mitigation measure HF-5.

PASSED AND ADOPTED upon this ____ day of August 2022, by roll call vote:

AYES: Supervisors

NOES:

ABSENT:

I, Valerie Ralph, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original resolution of said Board of Supervisors duly made and entered in the minutes thereof Minute Book ____ for the meeting on August 30, 2022.

Dated: August 30, 2022
File Number: RES 21-
Agenda Item:

Valerie Ralph, Clerk of the Board of Supervisors
County of Monterey, State of California

By _____
Deputy

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