

# Attachment D

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# Addendum Pursuant to the California Environmental Quality Act

## ARTICLE 11 Section 15164

### HF - 5

#### 1. Introduction

This technical addendum has been prepared pursuant to Article 11 Section 15164 of the California Environmental Quality Act Guidelines to address Mitigation Measure HF-5 of the Environmental Impact Report for the Carmel River Floodplain Restoration and Environmental Enhancement (CRFREE) Project. Mitigation Measure HF-5 involves the timing of the issuance of a Notice to Proceed on the construction of the CRFREE Project, reliant on the County of Monterey (County) obtaining funding for the Carmel Area Wastewater District (CAWD) to move its outfall and sewer force main pipelines in the south arm of the Carmel River Lagoon ('Undergrounding Project'). Mitigation Measure H-5 also times the issuance of the Notice to Proceed for the CRFREE Project, reliant on the County receiving written assurance from the CAWD that CAWD has obtained all governmental approvals and awarded the construction contract to construct the Undergrounding project.

The County of Monterey, as the lead agency for the CRFREE Project, prepared an Environmental Impact Report (EIR) to comply with the requirements of the California Environmental Quality Act (CEQA) (Pub. Resources Code, §21000, *et seq.*). The EIR, entitled *Environmental Impact Report, Carmel River Floodplain Restoration and Environmental Enhancement Project*, provided an analysis of the potential environmental impacts associated with the CRFREE Project. On January 28, 2020, the County of Monterey Board of Supervisors certified the Environmental Impact Report, entitled *Final Environmental Impact Report, Carmel River Floodplain Environmental Enhancement Project* (Adopted EIR). On June 15, 2021, the Board of Supervisors Adopted the Preferred Project as described in the Adopted EIR and Adopted a Mitigation Monitoring and Reporting Plan (MMRP).

The CRFREE Project will increase water surface elevation at the 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 EIR identifies 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 Adopted EIR; *'To mitigate potential adverse effects associated with the Proposed Project, the Undergrounding Project must be implemented prior to completion of the Proposed Project'*.

The Adopted mitigation measures outlined in the Adopted EIR reduce the impact of the CRFREE Project to less than significant. Specifically, HF-3, HF-4, and HF-5 provide avoidance and mitigation measures for the CRFREE Project related to CAWD's pipelines and Undergrounding Project. The Adopted EIR is Attachment B of the August 30, 2022, Staff report to the Board of

Supervisors.

HF-3 and HF-4 require the County to:

- Phase the CRFREE Project construction so that the Undergrounding Project is complete prior to any changes to the existing floodplain conditions by including the following measures:
  - The existing south bank river levee will remain intact until the County is notified by CAWD that the Undergrounding Project is complete;
  - The temporary SR 1 detour road will be constructed to an elevation equal to the existing SR 1 embankment to function as a barrier to maintain flows equal to the existing condition during a flood event;
  - The detour road will remain intact until the Undergrounding Project is complete and CAWD has provided notification to the County of completion; and
- Negotiate in good faith with CAWD for an agreement to address funding and implementation of the Undergrounding Project.

HF-5 prevents the County from issuing a Notice to Proceed to commence construction of the CRFREE Project until:

- The County has received written assurances from CAWD that 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.
- CAWD provides written assurances to the County that the necessary funding for the Undergrounding Project has been secured, and that the County concurs.
- The agreement between County and CAWD to address funding has been fully executed.

## 2. Scope and Purpose of this Addendum

The purpose of this Addendum is to consider the EIR, as Adopted by the County of Monterey Board of Supervisors, and to formally amend HF-5 in the Adopted EIR. Amending HF-5 will allow specified construction involving initial floodplain restoration work to begin on the east side of State Route 1 before construction of the causeway portion of the CRFREE Project. Initial floodplain restoration work is designed to not affect the downstream flows that could impact the CAWD Pipelines. Mitigation Measure HF-5, as written on pages 146, 329, and A-15 of the Adopted EIR, is proposed to be amended as provided in Attachment C of the August 30, 2022, staff report to the Board of Supervisors.

## 3. Analysis

Section 15164 of the CEQA Guidelines governs the preparation of an Addendum to an EIR or Negative Declaration. Section 15164(a) states that the “lead agency... shall prepare an addendum to a previously certified EIR if some changes or additions are necessary but none of the conditions described in Section 15162 calling for the preparation of a subsequent EIR have occurred.” CEQA Guidelines Section 15162(a) indicates that “no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in light of the whole record, one or more of the following:

- 1) Substantial changes are proposed in the project which will require major revisions of the

previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;

- 2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
- 3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the negative declaration was Adopted, shows any of the following:
  - a) The project will have one or more significant effects not discussed in the previous EIR or negative declaration;
  - b) Significant effects previously examined will be substantially more severe than shown in the previous EIR;
  - c) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
  - d) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.”

The following discussion explains why a subsequent or supplemental EIR is not required under CEQA Guidelines Section 15162 in connection with the draft amended Mitigation Measure HF-5 of the Adopted EIR and why an Addendum is the appropriate level of environmental review.

## I. ANALYSIS

- a. **The Proposed Modification does not entail substantial changes which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects.**

CEQA Guidelines Section 15162(a)(1) provides that no subsequent EIR shall be prepared unless the lead agency determines that “[s]ubstantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects of a substantial increase in the severity of previously identified significant effects.” As noted above, the Draft Amended Mitigation Measure HF-5, or the Proposed Modification, 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 SR 1 detour road will remain intact until the Undergrounding Project is complete. Therefore, the Draft Amended Mitigation Measure 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.

- b. The Proposed Modification would not result in substantial changes with respect to the circumstances under which the project is undertaken which will require major revisions due to the involvement of new significant environmental effects or a substantial increase in the severity of a previously identified significant effect.**

CEQA Guidelines Section 15162(a)(2) provides that no subsequent EIR shall be prepared unless the lead agency determines that “[s]ubstantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects.”

The Draft Amended Mitigation Measure HF-5 would not result in a substantial change with respect to the circumstances under which the project is undertaken, such that there would be additional environmental effects or increase the severity of a previously identified effect beyond those previously identified in the EIR certified in January 2020. The proposed mitigation measure amendment does not change the implementation or timing of the Undergrounding Project before the completion of the CRFREE Project. Therefore, the Draft Amended Mitigation Measure HF-5 would not result in substantial changes with respect to the circumstances under which the Draft Amended Mitigation Measure HF-5 is undertaken which would require major revisions of the ADOPTED EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects.

- c. The Proposed Modification does not entail new information of substantial importance.**

CEQA Guidelines Section 15162(a)(3) provides that no subsequent EIR shall be prepared unless the lead agency determines that “[n]ew information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the negative declaration was Adopted, shows any of the following:

- a) the project will have one or more significant effects not discussed in the previous EIR;
- b) significant effects previously examined will be substantially more severe than shown in the previous EIR;
- c) mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents declined to adopt the mitigation measure or alternative; or,
- d) mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents declined to adopt the mitigation measure or alternative.”

No new information of substantial importance has been identified such that the Draft Amended Mitigation Measure HF-5 would result in: 1) significant environmental effects not identified in the *Final Environmental Impact Report, Carmel River Floodplain Environmental Enhancement Project, CEQA Significance Determinations for Hydrology and Water Quality* ; 2) more severe

environmental effects than described in the *Final Environmental Impact Report, Carmel River Floodplain Environmental Enhancement Project, CEQA Significance Determinations for Hydrology and Water Quality*; 3) mitigation measures or alternatives which were previously determined not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects, but the applicant declines to adopt the measure or alternative; or, 4) mitigation measures or alternatives which are considerably different from those analyzed in the *Final Environmental Impact Report, Carmel River Floodplain Environmental Enhancement Project, CEQA Significance Determinations for Hydrology and Water Quality* would substantially reduce one or more significant effects on the environment, but the County declines to adopt the measures or alternatives.

The Draft Mitigation Measure HF 5 would not result in any additional environmental effects or increase the severity of a previously identified significant effect. Similarly, no additional mitigation measures that are considerably different from those analyzed in the *Final Environmental Impact Report, Carmel River Floodplain Environmental Enhancement Project, CEQA Significance Determinations for Hydrology and Water Quality* have been identified, which would not result in any additional environmental effects beyond those identified in the Final EIR. There is no new information of substantial importance showing any of the items listed in CEQA Guidelines Section 15162(a)(3).

#### 4. Conclusion

This addendum serves to demonstrate the Draft Mitigation Measure HF 5 qualifies for an addendum to the previously certified *Final Environmental Impact Report, Carmel River Floodplain Environmental Enhancement Project, CEQA Significance Determinations for Hydrology and Water Quality* pursuant to CEQA Guidelines Section 15164 to ensure an amended MMRP is Adopted but none of the conditions described in CEQA Guidelines Section 15162 calling for the preparation of a subsequent EIR have occurred. Based on the analysis contained in this Addendum, the Draft Amended Mitigation Measure HF-5 would not: 1) result in any new significant environmental effects or a substantial increase in the severity of previously identified significant effects; 2) would not cause a substantial change with respect to the circumstances under which the Draft Amended Mitigation Measure HF-5 is undertaken, which would require major revisions to the previously certified Adopted EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or, 3) result in new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous Adopted EIR was certified as complete. Based on the foregoing analysis the appropriate level of environmental review for the Draft Amended Mitigation Measure HF-5 would be an Addendum.

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