



# Monterey County

## Capital Improvement Committee Report

March 11, 2019

**Legistar File Number: 19-0097**

**Introduced:** 2/22/2019

**Current Status:** Agenda Ready

**Version:** 1

**Matter Type:** General Agenda Item

- a) Receive a project report on the Carmel River Lagoon Project;
- b) Provide direction to staff, as appropriate.

### **RECOMMENDATION:**

It is recommended that the Capital Improvement Committee:

- a) Receive a project report on the Carmel River Lagoon Project;
- b) Provide direction to staff, as appropriate.

### **SUMMARY:**

At its July 24, 2018 meeting, the Board of Supervisors received a status update on the long-term Carmel River Lagoon Project ("Long-Term Project"), as well as sandbar management activities that took place during FY 2017-18. After consideration of several options to advance the Long-Term Project, the Board directed staff to explore the possibility of a mid-slope wall Scenic Road Protection Structure (SRPS) alternative, to conduct additional technical studies, as needed, for SRPS alternatives that are determined to be feasible in the technical studies, and to move forward with the completion of the environmental review process. No additional funding was allocated, but the Board directed staff to seek outside funding, particularly from other stakeholders, to advance the Long-Term Project and sandbar management activities.

RMA staff continues to advance the Long-Term Project within the limits of existing staff resources. Staff met with various stakeholders to seek outside funding for the Long-Term Project, including the Carmel Area Wastewater District (CAWD), the State Coastal Conservancy (SCC), and the County Service Area 1 (CSA-1) Advisory Committee. As of this report, no outside funding has been secured. The CAWD General Manager recommended that the CAWD Board of Directors consider a resolution to provide funding assistance for sandbar management activities. The CAWD Board of Directors ultimately voted to postpone staff's proposal after revisiting the resolution three times. Staff has also met with the Monterey County Board of Supervisors District 5 office and the Monterey County Water Resources Agency (MCWRA) to discuss potential steps to establish a flood control assessment district in the lower Carmel area to address the funding needs of the Long-Term Project.

Prior to the 2018-2019 rain season, County staff secured all permits required for Carmel Lagoon sandbar management activities. In November 2018, RMA-Public Works crews installed a contiguous sandbag wall to protect the lagoon-adjacent properties. On January 4, 2019, the County took action to manage the Carmel Lagoon sandbar in preparation for possible flooding of properties in and around the Lagoon. Subsequently, on January 7, the river breached the sandbar and has remained open since that time with constant flow of the Carmel River. To date, costs for sandbar management this year are approximately \$37,420 for Public Works staff time, equipment rentals, and equipment operator fees.

These costs were not budgeted, and work performed by Public Works is not an eligible expense under the Road Fund, so it must be reimbursed.

RMA will continue to engage with stakeholders and to work with the County's Strategic Grant Program to identify and apply for grant funds needed to complete the planning, construction, and post construction monitoring phases of the Long-Term Project. It is estimated that completion of the additional technical studies and the completion of the environmental review process will cost approximately \$755,000. Staff is preparing to submit a budget augmentation request for FY 2019-20 to fund a portion of the environmental review process and additional planning/design work required to advance the Long-Term Project. Staff will also submit a budget augmentation request to fund Sandbar Management activities for the 2019-2020 rain season.

#### **DISCUSSION:**

The Long-Term Project is located within and adjacent to the Carmel River State Beach and Lagoon between Highway 1 and the Pacific Ocean in the unincorporated Carmel area of Monterey County, California. The Long-Term Project is a multi-objective, multi-year, and multi-organizational effort to improve habitat for threatened and endangered species in the lower Carmel River and Lagoon, improve natural floodplain function, and protect public infrastructure, while maintaining or improving flood risk to existing developed areas.

Pursuant to a 2013 Memorandum of Understanding (MOU) between the County, US Army Corps of Engineers (USACE), and the National Oceanic and Atmospheric Administration National Marine Fisheries Service (NOAA Fisheries), the project consists of three project components: 1) Ecosystem Protective Barrier (EPB); 2) Scenic Road Protection Structure (SRPS); and 3) Interim Sandbar Management Plan (ISMP). The Capital Improvement Committee (CIC) received the last update on this project on July 9, 2018 (Legistar File No. 18-716).

#### ***Carmel River Lagoon Long Term Project Update***

In past discussions regarding Long-Term Project, State Parks has stated their opposition to the use of State Parks property for the development of the SRPS/EPB. In June 2018, State Parks representatives expressed they would consider a viable like-for-like, contiguous land swap proposal with CSA-1 Advisory Committee to accommodate a mid-slope SRPS. After a land-swap proposal was submitted, discussions between CSA-1 Advisory Committee and State Parks took place, which evolved into State Parks considering the possibility of an easement that could potentially accommodate a mid-slope SRPS wall alternative. On October 22, 2018, RMA staff met with State Parks to lay the groundwork to further consider such an easement to facilitate a mid-slope wall alternative, pending CEQA. State Parks is in the process of drafting an MOU, pending State Park Counsel review, as a next step towards advancing discussions between the County and State Parks. If it is determined that it is not feasible to construct a wall on State Parks property, completely avoiding State lands can be accommodated with a full height wall in the right of way, which would create an approximately 40-foot wall along Scenic Road with the need for safety fencing along the top. Any SRPS alternative faces regulatory hurdles that need to be addressed with the California Coastal Commission for sand replenishment and coastal access (physical and visual), to be addressed with additional technical studies.

To continue the environmental review process, anticipated project tasks for FY20, contingent on allocation of funding for the Long-Term Project, are as follows:

- Complete Additional technical studies for the SRPS alternative, including studies on natural stream alignment and location, beach impacts of the SRPS alternative, and sediment transport.
- Formation of a Technical Advisory Committee (TAC) and stakeholder engagement.
- Response to comments/refinement of Draft Environmental Impact Report (EIR).

Anticipated project tasks for FY 2020-21, contingent on allocation of funding for the Long-Term Project, are as follows:

- Revise and Recirculate Draft EIR.
- Response to comments and refinement of Draft EIR for Final EIR certification.

### ***Sandbar Management Update***

In anticipation of increased flood risk to the Carmel Lagoon-adjacent properties during winter months, staff secured all necessary permits and approvals to allow management activities throughout the 2018-2019 rain season. On January 4, 2019, heavy rain, increasing river flow, and elevated lagoon surface water elevations triggered a need for management action. County crews mobilized and proceeded with sandbar management activities to excavate a 150-foot pilot channel in a southerly direction through the beach to allow the Carmel Lagoon to naturally connect to the ocean, thereby reducing water levels. After a slow opening of the Carmel River Lagoon, on January 7, flows from heavy rain allowed the channel to fully develop, allowing water to evacuate the lagoon and reducing risk of flood in the adjacent areas. Future management action may be required if weather and oceanic conditions cause the lagoon channel to fully close and the flood risk is elevated.

Per the 2013 MOU, if the sandbar does not close naturally after the rain season has ended (generally identified as April 15), the County, in coordination with the US Fish and Wildlife Service (USFWS) and NOAA Fisheries, is required to assure any outlet channel work performed during the winter months is closed off and the sandbar is restored to ensure the optimization of wildlife habitat. This would be based on existing and forecasted conditions that take into account sand availability, wave action, and precipitation.

### ***Fund Seeking for the Long-Term Project and Sandbar Management***

At the time of this report, funding for the advancement of the Long-Term Project has not been identified. Staff has been working with the County's Strategic Grants Program to identify grant opportunities to fund the Long-Term Project. The majority of grant opportunities require applying jurisdictions to contribute matching funds to be eligible/competitive for grant awards. Staff is planning to submit a Budget Augmentation Request for FY 2019-20 that fund some of the remaining planning activities anticipated for FY 2019-20. Alternatively, if the Board approves a funding amount that is less than the full amount requested, these funds could be used as matching funds for potential grant opportunities.

On February 4, 2019, County staff met with State Coastal Conservancy (SCC) staff to discuss the possibility of using CalAm Settlement funds for the Carmel Lagoon Project. After consideration of the Project, SCC staff determined that the Project is not eligible for funding for CalAm Settlement funding

at this time. The SCC asserted they cannot allocate settlement dollars for planning/design for a project that has no clear path forward and has ongoing challenges (with regard to both the EPB and the SRPS). The Long-Term Project would not be competitive compared to other projects that are more in-line with the SCC and the purpose of the CalAm Settlement. To fund the long term management and maintenance of the Long-Term Project, RMA staff has been exploring the possibility of establishing an assessment district.

Pursuant to Board direction to seek outside stakeholder funding sources for Sandbar Management, in September 2018, County staff met with CAWD staff to explore the possibility of establishing a cost sharing agreement to fund ongoing sandbar management activities on a reimbursement basis. In October 2018, the CAWD General Manager brought a resolution before the CAWD Board of Directors outlining the terms of a potential cost sharing agreement with the County for sandbar management. After three CAWD Board meetings to discuss such a resolution, the CAWD Board postponed taking action citing the need for more information regarding the formation of an assessment district for flood control of the Carmel Lagoon-adjacent properties, as well as more information on the Board of Supervisor's intention to seek outside funding for Sandbar Management activities. Subsequently, the CAWD Board convened an ad-hoc committee to meet with the District 5 office to discuss the Board of Supervisors' direction to seek outside funding for sandbar management. On October 22, 2018, Supervisor Adams met with the CAWD ad-hoc committee and stated that the County would find funding within the County Budget for sandbar management activities in FY 2018-19. On October 25, 2018, the CAWD Board took action to indefinitely postpone an agreement between the County and CAWD for sandbar management activities until the County further advances the possibility of developing an assessment district. On October 31, 2018, the Monterey County District 5 office convened a meeting with the MCWRA, County Counsel, and RMA staff to discuss the process of developing an assessment district focused on flood control for the Carmel Lagoon-adjacent properties and the surrounding areas. RMA staff will continue to research the possibility of an assessment district.

#### ***Status of 2013 Memorandum of Understanding***

In 2010, the Steelhead Association served the County with a 60-day Notice of Intent to file lawsuit. MCWRA filed an application with USACE for on-going breaching activity. NOAA Fisheries informally notified MCWRA that a Jeopardy Opinion had been drafted for that request. If a Jeopardy Opinion were issued, it would require mitigation consisting of long-term solution that avoids or reduces breaching through the planning stages. Beginning in 2011, the County of Monterey, through the RMA, assumed the lead to work with regulatory agencies and apply for permits to manage the sandbar by lowering a portion of the sandbar to allow the lagoon to breach on its own, but at an elevation that avoids flooding the lagoon-adjacent neighborhoods.

In an effort to demonstrate the commitment to assess the project components and implement a long-term solution to mechanical breaching, the County, USACE, and NOAA Fisheries entered into an MOU in 2013. Pursuant to the MOU, the County can conduct sandbar management activities with proper permits to reduce flood risk by following the ISMP, while it applies for permits to the USACE in consultation with NOAA Fisheries to investigate, plan, design and construct the structural project components (SRPS/EPB).

The 2013 MOU sets a target deadline of September 2020 to complete construction of the preferred alternative Long-Term Project, pending project funding. RMA staff has maintained regular communication with NOAA Fisheries and USACE, as well as the other regulatory agencies involved to broadly discuss the Long-Term Project. Because of the complex issues surrounding the project components and the need to identify funding, there is an understanding that the MOU will need to be amended to extend the Long-Term Project completion target deadline.

**OTHER AGENCY INVOLVEMENT:**

The County has entered into an MOU with the USACE in consultation with NOAA Fisheries (aka NMFS). The RMA is also working with the regulatory agencies including the Regional Water Quality Control Board (RWQCB), California Coastal Commission (CCC), and the California Department of Fish and Wildlife (CDFW). The California Department of Parks and Recreation (State Parks) is the underlying landowner of the sandbar/beach areas and provides biological monitoring of protected bird species (snowy plover) for the project. The Monterey Peninsula Water Management District (MPWMD) cooperates to provide lagoon and river condition monitoring and is contracted by the County to provide biological monitoring of protected fish species (steelhead) for sandbar management activities.

Key stakeholders that staff has engaged include State Parks, CAWD, the CSA-1 Advisory Committee, and individual property owners/residents in the Lagoon vicinity.

**FINANCING:**

***Long Term Project Financing***

The County has spent a total of \$779,099 in FY13 through FY17 toward planning and analyzing the long-term Carmel Lagoon Project. No funding was identified for FY 2018-19 for the estimated total costs to complete the remaining preconstruction activities.

Preconstruction cost estimates include the following:

- Additional technical studies, formation of a Technical Advisory Committee and Stakeholder Engagement: \$345,000
- Response to comments/refinement of Draft EIR: \$100,000
- Revise and Recirculate Draft EIR: \$150,000
- Response to comments/refinement of Draft EIR for EIR certification: \$160,000

Design and construction cost estimates for potential SRPS alternatives are as follows:

- Mid-Slope wall = \$11 million
- Full-Height Wall = \$25 million

Design and construction cost estimates for potential EPB alternatives are as follows:

- Preferred Alternative = \$12 million - \$13 million
- Property Line Alternative = \$16 million

Once the Final EIR is complete and a project were selected by the Board, staff would complete a more detailed cost estimate, timeline, and funding strategy to complete the design, construction and

post-construction monitoring of the project. Should the Board ultimately direct staff to pursue a different alternative, then staff will develop a revised project scope and cost estimates.

Staff is planning to submit a Budget Augmentation Request for FY 2019-20 to complete additional technical studies and to complete the environmental documentation process. Staff will continue to work with the County's Strategic Grants Program to seek grant funding for planning and design.

### ***Sandbar Management Financing***

In FY18, the County spent a total of \$81,833 for sandbar management, which included permits for 2018-2019 sandbar management. The five-year average cost for Sandbar Management activities is approximately \$91,800 per year. This includes permits, staff costs, contract services, equipment rental, and equipment operation, as well as costs for closure of the channel in the dry season. In FY 2018-19, the County has spent approximately \$37,420 to date for Public Works staff time, equipment rentals, and equipment operator fees for sandbar management activities in January 2019. This does not include RMA management staff time, which is part of the RMA General Fund baseline budget. Additional costs will be incurred for biological consulting and monitoring services, as well as costs for closure of the sandbar if it does not close naturally after the rain season has ended.

No funding has been identified for sandbar Management activities in FY 2018-19. As in past years, the RMA's Road Fund provides initial funding for sandbar management, which is then reimbursed through the County General Fund, as sandbar management is not an eligible Road Fund expense. On October 12, 2018, RMA staff met with CAO Budget & Analysis staff to discuss sandbar management funding for FY 2018-19. Based on that discussion, the RMA was given confirmation that sandbar management activities are reimbursable as emergency presents and/or action is required to prevent flooding.

Staff is planning to submit a Budget Augmentation Request for FY 2019-20 to fund sandbar management activities. Staff will continue to work with stakeholders to seek funding for ongoing management activities. Additionally, staff will continue to explore the possibility of establishing an assessment district.

### **BOARD OF SUPERVISORS STRATEGIC INITIATIVES:**

The Long-Term Project, as well as sandbar management activities, provides flood protection to public infrastructure, private residents and businesses, as well as riparian habitat. These project benefits are in line with the Board of Supervisor's Strategic Initiatives for Infrastructure and Public Safety.

The Long-Term Project and sandbar management activities are consistent with the following Board of Supervisors Strategic Initiatives:

- ☐ Economic Development
- ☐ Administration
- ☐ Health & Human Services
- ☒ Infrastructure
- ☒ Public Safety

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