



Legislation Details (With Board Report)

**File #:** RES 22-114      **Name:** All Party Construction MOU for Carmel River Floodplain Restoration and Environmental Enhancement Project

**Type:** BoS Resolution      **Status:** Passed

**File created:** 5/31/2022      **In control:** Board of Supervisors

**On agenda:** 6/21/2022      **Final action:** 6/21/2022

**Title:** a. Approve and authorize a Memorandum of Understanding (“MOU”), substantially as to form, between the County of Monterey and the Monterey County Water Resources Agency, the Monterey Peninsula Water Management District, the California Department of Parks and Recreation, the Monterey Peninsula Regional Park District, and Big Sur Land Trust for the construction phase of the Carmel River Floodplain Restoration and Environmental Enhancement (CRFREE) Project (REF 140048); and  
 b. Approve and authorize the Director of Housing and Community Development to sign the MOU; and  
 c. Approve Temporary Construction Easements with the Big Sur Land Trust and Monterey Peninsula Regional Parks District for the construction of the CRFREE Project.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Board Report, 2. Attachment A - Draft Resolution, 3. Attachment B - 2022 MOU, 4. Attachment C - Grant funding, 5. Completed Board Order Item No. 92, 6. Completed Resolution Item No. 92, 7. Execited CRFREE\_Construction Phase MOU\_7.1.2022

Date	Ver.	Action By	Action	Result
6/21/2022	1	Board of Supervisors	adopted	

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 b. Approve and authorize the Director of Housing and Community Development to sign the MOU; and  
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RECOMMENDATION:

It is recommended that the Board of Supervisors:

a. Approve and authorize a Memorandum of Understanding (“MOU”), substantially as to form, between the County of Monterey and the Monterey County Water Resources Agency, the Monterey Peninsula Water Management District, the California Department of Parks and Recreation, the Monterey Peninsula Regional Park District, and Big Sur Land Trust for the construction phase of the Carmel River Floodplain Restoration and Environmental Enhancement (CRFREE) Project (REF 140048); and  
 b. Approve and authorize the Director of Housing and Community Development to sign the MOU; and  
 c. Approve Temporary Construction Easements with the Big Sur Land Trust and Monterey Peninsula Regional Parks District for the construction of the CRFREE Project.

SUMMARY/DISCUSSION:

The Carmel River Floodplain Restoration and Environmental Enhancement Project (CRFREE Project) is a

comprehensive effort to improve flood control and restore native riparian habitat, floodplain habitat, and hydrologic function to a portion of the lower floodplain along the Carmel River. Key aspects of the CRFREE Project are to: 1) Create notches in the levees along the south bank of the lower Carmel River, 2) Restore the south lower Carmel River floodplain, and 3) Build a causeway along Highway 1, restoring connectivity between the lower Carmel River Floodplain and the south arm of the Carmel Lagoon.

The CRFREE Project is currently in the final design, permitting, and right of way coordination phase, following the June 2021 Project approval. Efforts to complete the final design, negotiate right of way agreements, and obtain local, State, and Federal permits must be completed prior to the beginning of construction. Initial phased floodplain grading and restoration construction on the east side of Highway 1 is scheduled to begin at the end of calendar year 2022.

A temporary construction easement (TCE) is necessary for the initial grading and floodplain restoration work on property owned by Monterey Peninsula Regional Parks District (MPRPD) and Big Sur Land Trust (BSLT). Final design, permitting, and right of way agreements for the causeway and the west side of Highway 1 floodplain work are in progress and expected to be obtained by mid-2023.

On November 24<sup>th</sup>, 2010, the County of Monterey (County), the Monterey County Water Resources Agency (WRA), the Monterey Peninsula Water Management District (MPWMD), the California State Department of Parks and Recreation (State Parks), and BSLT entered into a Memorandum of Understanding for the purpose of coordinating planning activity for the CRFREE Project (the “2010 MOU”). In 2019, it was established that the 2010 MOU would need to be updated and restated, and MPRPD added as a signatory, as a property owner within the CRFREE Project area. The 2022 MOU is intended to update and supersede the 2010 MOU for all-party coordination, from the final design phase through to the end of the construction phase. In June 2021, a draft MOU was circulated amongst the signatory parties for review and approval. The 2022 MOU has one substantive change from the draft circulated in 2021; a temporary construction easement with BSLT and MPRPD has been added. All Parties have agreed to the MOU, and no further substantive changes are expected.

The 2022 MOU defines the CRFREE Project construction phase responsibilities to the signatory parties. County responsibilities outlined in the 2022 MOU include permitting and construction related activities. The County is responsible for the final design and construction of the CRFREE Project, including contractor procurement. Currently contracted work is funded from currently held grants. Future construction work will be funded out of current and pending grants. Staff time for County engineer review and some Project management time is grant funded in part. BSLT is jointly responsible with the County for implementing Tier 1 compensatory mitigation and is responsible for developing the habitat management plan for the Tier 2 restoration. The County has applied for and received grant funds to conduct these activities, as further described in attachment C. A long-term management agreement (LTMA) will be developed and brought forward to define the post-construction phase of the CRFREE Project.

Signing of this MOU is a key step in allowing the construction phase of the CRFREE Project to commence. The temporary construction easements from the BSLT and MPRPD will grant the County access to undertake grading and restoration efforts to the east of Highway 1. Separate agreements allowing construction access will be sought from the California Department of Transportation (Caltrans) and State Parks. The MOU lays out a path forward to potentially amend the language defining the protection of the State Parks Historic Barn Complex. Caltrans requires this 2022 MOU to be in place prior to the granting of further agreements. A temporary construction easement will be negotiated for with the Eastwood family, who own the property to the south of the Project area, for permission for construction crews to utilize their access road to access the Project

site. All parties have reviewed the MOU and have no further substantial edits.

OTHER AGENCY INVOLVEMENT:

BSLT is co-sponsor for the CRFREE Project. BSLT, State Parks and MPRPD are property owners within the CRFREE Project area. Through a cooperative agreement with Caltrans, the County of Monterey is acting as the Lead Agency under the California Environmental Quality Act for the Project.

ENVIRONMENTAL REVIEW

Environmental review is complete for the CRFREE Project. The Project Environmental Impact Report (EIR) was certified by the Monterey County Board of Supervisors in a public hearing on January 20, 2020, and the Project was approved June 15, 2021. Federal environmental review was completed April 23, 2021, when Caltrans, as lead federal agency for the causeway portion of the Project, issued a finding of no significant impact (FONSI), agreeing with the US Fish and Wildlife Service, as lead federal agency for the floodplain restoration portion of the project, who issued a FONSI on October 30, 2020.

FINANCING:

CRFREE is expected to cost approximately \$45.1 million to complete the final design, construction, and restoration efforts, and will be entirely grant funded. The County has been awarded \$17.2 million in unexpended grant funds. BSLT holds nearly \$1 million in grant funds available for the project. An additional \$25.3 million is pending award from CalOES/FEMA and Caltrans. The County and BSLT are working to raise additional funds to meet the full Project cost. Attachment C further outlines CRFREE grant funding. CRFREE is budgeted in Capital Project Fund 404, Unit 8564. Both BSLT and MPRPD have waived their rights to compensation for the temporary construction easements. Some staff time is available for reimbursement from grant funds. County staff time up to \$89,225 will be funded by the DWR Coastal Flood and Flood Corridor program grants, and the CalOES/FEMA Hazard Mitigation grant, and is not included in the Project cost of \$45.1 million. Additional staff time is included in the FY 2021-22 HCD General Fund 001, Appropriations Unit HCD001, Unit 8542.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

If approved, this action supports the Board of Supervisors' Strategic Initiatives for Administration and Infrastructure. The Project will provide sustainable physical infrastructure and associated flood risk reduction and habitat benefits to promote the safety of area residents and visitors.

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

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Approved by: Melanie Beretti, AICP, Principal Planner

Approved by: Erik V. Lundquist, AICP, HCD Director

The following attachments are on file with the Clerk of the Board:

Attachment A - Draft Resolution

Attachment B - 2022 MOU

Attachment C - Grant funding

