



County of Monterey

Item No.

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: A 24-367

August 13, 2024

Introduced: 7/16/2024

Current Status: Agenda Ready

Version: 1

Matter Type: BoS Agreement

- a. Approve and authorize the Housing and Community Development Director to execute the Grant and Purchase of Easements and Escrow Instructions Agreement (Agreement) between the County of Monterey and Clinton Eastwood, as his sole and separate property, as to an undivided 1/2 interest, and Margaret Eastwood, as Trustee of the Margaret Eastwood Trust U/D/T dated August 21, 1990, as to an undivided 1/2 interest, for the conveyance of a permanent easement and temporary construction easement across a portion of Assessor's Parcel Number (APN) 243-071-008 for the construction and maintenance of improvements and appurtenances related to the Carmel River Floodplain Restoration and Environmental Enhancement (CRFREE) Project, contingent upon entering into an agreement for grant funding with the California Office of Emergency Services for funding under the Federal Emergency Management Agency Hazard Mitigation Grant Program; and
- b. Authorize the Director of Housing and Community Development to execute any related documents needed to complete the transaction, including, but not limited to, any future amendments to the Agreement subject to review and approval as to form by the Office of the County Counsel.

PRIOR CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) ACTION:

Approval of contracts is not a Project under CEQA. The Environmental Impact Report (EIR) for the CRFREE Project was certified by the Board of Supervisors on January 20, 2020. The CRFREE Project was approved and the corresponding Mitigation Monitoring and Reporting Program (MMRP) was adopted by the Board of Supervisors on June 15, 2021.

RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Approve and authorize the Housing and Community Development Director to execute the Grant and Purchase of Easements and Escrow Instructions Agreement (Agreement) between the County of Monterey and Clinton Eastwood, as his sole and separate property, as to an undivided 1/2 interest, and Margaret Eastwood, as Trustee of the Margaret Eastwood Trust U/D/T dated August 21, 1990, as to an undivided 1/2 interest, for the conveyance of a permanent easement and temporary construction easement across a portion of Assessor's Parcel Number (APN) 243-071-008 for the construction and maintenance of improvements and appurtenances related to the Carmel River Floodplain Restoration and Environmental Enhancement (CRFREE) Project, contingent upon entering into an agreement for grant funding with the California Office of Emergency Services for funding under the Federal Emergency Management Agency Hazard Mitigation Grant Program; and
- b. Authorize the Director of Housing and Community Development to execute any related documents needed to complete the transaction, including, but not limited to, any future amendments to the Agreement subject to review and approval as to form by the Office of the County Counsel.

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 Carmel Lagoon.

Execution of the Grant and Purchase of Easements and Escrow Instructions Agreement (Agreement) will allow the County to purchase a temporary construction easement and permanent access easement (collectively “Easements”) on a portion of Assessor’s Parcel Number (APN) 243-071-008 (the “Parcel) from Clinton Eastwood, as his sole and separate property, as to an undivided 1/2 interest, and Margaret Eastwood, as Trustee of the Margaret Eastwood Trust U/D/T dated August 21, 1990, as to an undivided 1/2 interest (Attachment A). A temporary construction easement is required on a 0.53 acre portion the Parcel depicted in E-1 and E-2 of Attachment B, to allow construction activities to commence related to the CRFREE Project including but not limited to grubbing, grading, and planting. A permanent access easement (PAE) is required on a 0.29 acre portion of the Parcel described in E-3 of attachment B to provide Big Sur Land Trust (BSLT) and its contractors access rights in perpetuity to operate and maintain an agricultural heritage area, defined in the approved 2020 CRFREE Project EIR on page 17 as an “Agricultural Preserve”. Board approval of the Agreement will provide for purchase of the PAE from Clinton Eastwood and the Margaret Eastwood Trust U/D/T dated August 21, 1990, which will be conveyed directly to the BSLT.

On December 20, 2022, Clinton Eastwood and Margaret Eastwood, Trustee of the Margaret Eastwood Trust U/D/T dated August 21, 1990, were notified of the decision to appraise the property. In a meeting on September 8, 2023, representatives of Clinton Eastwood and Trustee Margaret Eastwood verbally indicated their intention to accept the offer of compensation. On November 15, 2023, Clinton Eastwood and Trustee Margaret Eastwood were notified via letter of their right to compensation for the appraised amount of \$84,100, and informed of the County’s intended process to fund the appraised value utilizing grant funds from the Department of Water Resources Coastal Watershed Flood Risk Reduction grant. Subsequent meetings in early 2024 with the California Department of Transportation (Caltrans) and representatives of Clinton Eastwood and Trustee Margaret Eastwood led to the decision to update the appraisal to 1) Define the term of the TCE for a four-year period as required by Caltrans, and 2) Define the location of the TCE to limit County’s entry to the property only to the area necessary for construction of the CRFREE Project. On March 26, 2024, the Easements were re-appraised at \$99,200. (Attachment C) On June 28, 2024, the representatives of Clinton Eastwood and Trustee Margaret Eastwood were provided the updated appraisal via email and have accepted this updated appraisal.

The CRFREE Project is entirely grant funded, including the acquisition of the Easements. The offer of \$99,200 is contingent upon the availability of funding from the Department of Water Resources Coastal Watershed Flood Risk Reduction grant (DWR CWFRR Grant), executed April 26, 2022. Expenditures under the DWR CWFRR Grant are contingent upon Federal funds. The County will enter into the Agreement and release the payment of \$99,200 for the Easements upon receipt of

Federal funds under the FEMA/CalOES Hazard Mitigation Grant Program.

Approval of this recommendation will authorize the Director of HCD to sign the Agreement and record necessary easement agreements for the CRFREE project construction and maintenance on land owned by Clinton Eastwood and the Margaret Eastwood Trust U/D/T dated August 21, 1990, with approval as to form by the Office of the County Counsel, following the award of federal funds from the FEMA/CalOES Hazard Mitigation Grant Program.

OTHER AGENCY INVOLVEMENT:

Big Sur Land Trust (BSLT) is co-sponsor for the CRFREE Project. 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. The Public Works, Facilities and Parks Real Property Section assisted with the development of the Grant and Purchase of Easements and Escrow Instructions Agreement and respective Easement documents.

ENVIRONMENTAL REVIEW

The Project Environmental Impact Report (EIR) was certified by the Board of Supervisors during a public hearing on January 20, 2020. The U.S. Fish and Wildlife Service (USFWS), as lead federal agency for the floodplain restoration portion of the CRFREE Project issued a finding of no significant impact (FONSI) on October 30, 2020. The Project was approved, and the corresponding Mitigation Monitoring and Reporting Program (MMRP) was adopted by the Board of Supervisors on June 15, 2021. Federal environmental review was completed on April 23, 2021, when Caltrans, as the lead federal agency for the causeway portion of the Project, issued a FONSI consistent with the USFWS. However, the Federal Emergency Management Agency (FEMA) internal environmental review process, as it relates to FEMA grant funding, is still pending.

FINANCING:

Based on the December 2023 95% Design Engineers estimate, CRFREE is estimated to cost approximately \$57.8 million to complete the final design, construction, and restoration efforts, including construction management and soft costs (Attachment D). Funding for the CRFREE Project comes from State, Federal and local grants and funds, including from Monterey Peninsula Regional Parks District (MPRPD) fair share contribution for a left-hand turn lane on State Highway 1. The Project responsibility for cost of utility relocation and contribution from utility companies is estimated and will be better determined later this year. The County and Big Sur Land Trust currently have been awarded \$29.8 million in unexpended grant funds for the Project pre-construction, construction, and monitoring, with an additional \$27 million pending award from CalOES/FEMA (Attachment D). The CRFREE Project is budgeted in Capital Project Fund 404, Unit 8564 with \$14.6 million budgeted in the FY24-25 Adopted Budget.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

If approved, this action supports the Board of Supervisors' Strategic Initiatives for Administration and Infrastructure. The CRFREE 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, Acting Chief of Planning

Approved by: Craig Spencer, HCD Director CS

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

Attachment A - Grant and Purchase of Easements and Escrow Instructions Agreement

Attachment B - Appraisal map

Attachment C - Appraisal

Attachment D - CRFREE Grant Funding