

## MEMORANDUM

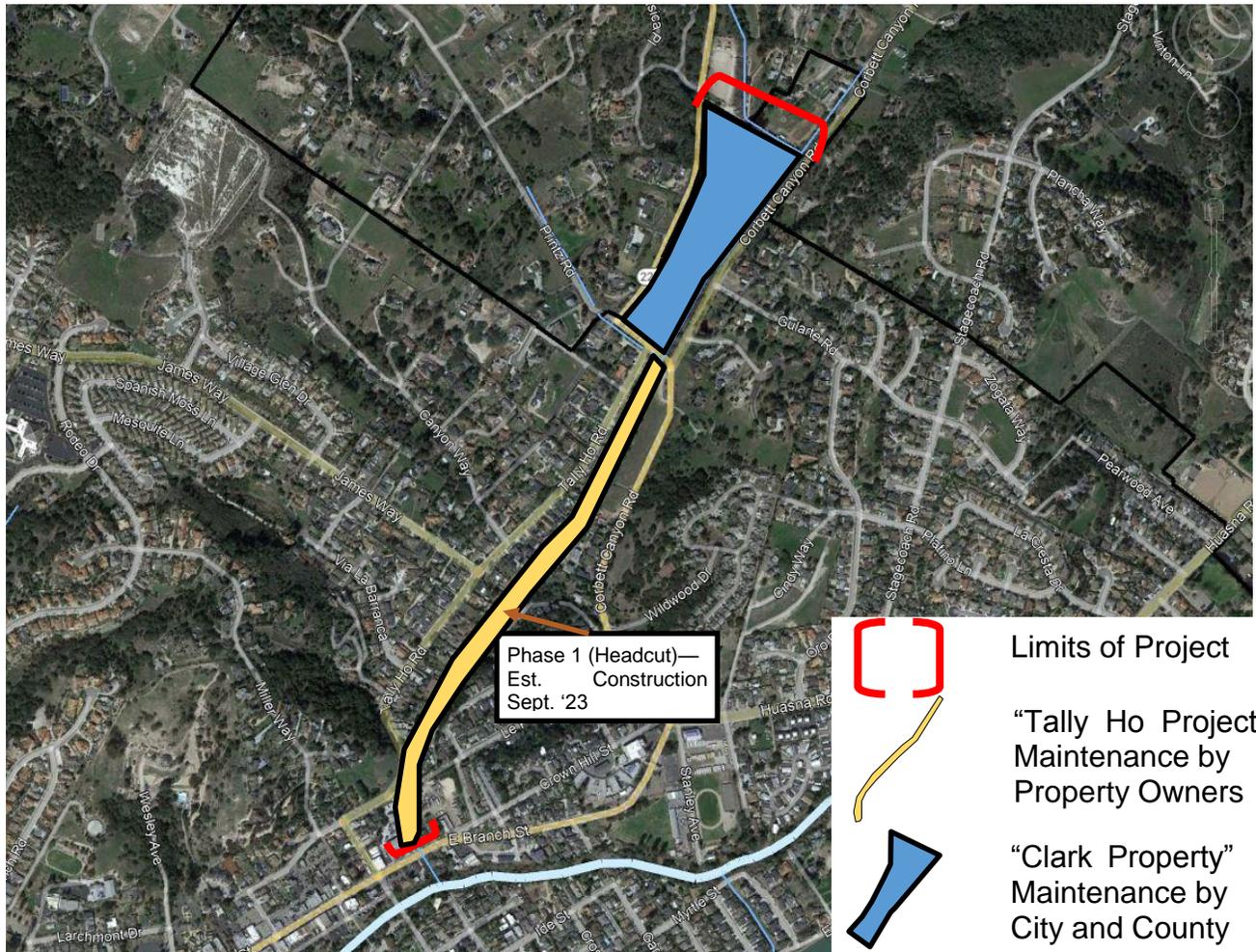
**TO:** City Council

**FROM:** Brian Pedrotti, Community Development Director

**BY:** Patrick Holub, Associate Planner

**SUBJECT:** Consideration of Conditional Use Permit 23-001 and Request for Fee Waiver; Corbett Creek Floodplain and Stream Restoration Project- Corbett Creek Between E Branch St and 379 Corbett Canyon Rd; Applicant - Coastal San Luis Resource Conservation District

**DATE:** July 25, 2023



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**PROJECT OBJECTIVES:**

The primary objectives of the Corbett Creek Floodplain and Stream Restoration project are: improve water quality; restore the riparian habitat to a more natural state; improve flood capacity within Corbett Creek; and reduce downstream flooding impacts within and south of the City.

**SUMMARY OF ACTION:**

Conduct a public hearing, discuss and consider a Resolution adopting the Planning Commission's recommendation to approve a Conditional Use Permit for the Corbett Creek Floodplain and Stream Restoration project, and find the Addendum to the project's 2013 IS/MND adequately addresses all environmental impacts and approve a fee waiver of the associated CUP application fees in the amount of \$6,388.

**IMPACT ON FINANCIAL AND PERSONNEL RESOURCES:**

Future funding for the operation and maintenance of the Clark Property sediment basin component of the project will be required. The City is in discussion with the County of San Luis Obispo and the San Luis Obispo Flood Control and Water Conservation District ("District") to determine a long-term funding source. No staff time or staff costs are anticipated in conjunction with the construction project. Preliminary cost analyses are in development, with the County sharing half of the costs involved.

The applicant, the Coastal San Luis Resource Conservation District (RCD), is also requesting a fee waiver in the amount of \$6,388, which is the amount of the application fee for the Conditional Use Permit (CUP).

Funding for construction of the project is being provided by the RCD through grant funding received from the Department of Water Resources (DWR). In total, the RCD received a grant in the amount of \$831,420 to complete the project.

**RECOMMENDATION:**

Adopt a Resolution adopting the Planning Commission's recommendation to approve Conditional Use Permit 23-001 for the Corbett Creek Floodplain and Stream Restoration Project and find the Addendum to the project's 2013 IS/MND adequately all addresses environmental impacts and approve a fee waiver of the associated CUP application fees in the amount of \$6,388.

**BACKGROUND:**

Corbett Creek, a tributary to Arroyo Grande Creek, runs north and south along the west side of Corbett Canyon Road before passing under the Printz Road Bridge. From there, Corbett Creek continues south along the east side of Tally Ho Road before reaching its confluence with the Arroyo Grande Creek near East Branch Street.

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In 2007, the City received a Civil Liability Complaint Notice from the California Regional Water Quality Control Board that a violation in the form of a sewage spill had occurred in Arroyo Grande Creek, and the City was required to make restitution by expending \$60,000 on supplemental environmental projects (SEP) within the City's jurisdiction.

In partial response to the requirement, the City partnered with the RCD by providing \$19,000 in initial funds toward an SEP, and later \$42,000 to perform preliminary studies of the Clark Property and studies of Corbett Creek. Because Corbett Creek is a tributary to Arroyo Grande Creek, water quality improvements along Corbett Creek have impacts on the water quality in Arroyo Grande Creek, although they are separate water bodies. Subsequently, the City also participated with the RCD in a grant application to the Department of Water Resources (DWR) for the Urban Streams Restoration Program that would provide funds for implementation of the Clark floodplain project and provide funds for design of a headcut project within Corbett Creek. A "headcut" is defined as an erosional feature that resemble a cliff or waterfall within the stream channel. As the water from the creek passes over the headcut, it erodes the creek bottom, contributing to streambed erosion and reduced flood capacity within the creek. Other partners in the grant application included Central Coast Salmon Enhancement (now known as Creeklands Conservation), California Coastal Conservancy, and landowner Mr. Michael Clark. The grant for \$831,420 was awarded to RCD by the DWR, and part of the grant agreement is the City's delivery of funds and staff time. The RCD continues to provide the administrative services for the project which includes contracting the services of subconsultants to provide design plans and reports. Full design plans have been completed, while plans for the Clark property sediment basins are at 50% design. Between 2007 and 2012, the City provided \$84,000 in funding to RCD for subconsultant services, including: appraisal of the Clark property easement; conceptual level project designs; biological surveys; development of the previously approved MND; and other environmental compliance components. By providing the \$84,000 in funding, the City's has met their obligations for the grant application and no further funds are being requested for the construction phase of the project.

The City Council approved a Memorandum of Understanding between the City and the RCD in November 2012 (see Attachment 2) for design and implementation of the project. The Planning Commission reviewed the same project and adopted the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program. A lack of funding for maintenance of the sediment basin caused the RCD to lose grant funding for the project, which was not reviewed by the City Council at that time. Because the CUP was not reviewed or approved by the Council and due to a lack of long-term maintenance funding, the project was not able to be completed, thus the existence of a time gap in progress on the project until today.

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**ANALYSIS OF ISSUES:**

Project Description

The project involves watershed-scale improvements along Corbett Creek the “Tally Ho Project”, (Figure 1) and also includes a proposed sedimentation basin just north of Printz Road on Corbett Canyon Road (“The Clark property”). The Clark Property (see Figure 2) is about 16-acres in size and located adjacent to Corbett Creek, a tributary to Arroyo Grande Creek. Although the “Tally Ho Project” includes improvements on several reaches of the creek, only reach 3 has long-term maintenance agreements with property owners. Phasing of the project is described later in this report under “Phasing”.

The project site was identified in the 2006 “Arroyo Grande Creek Erosion, Sedimentation and Flooding Alternatives Study” as a priority site for potential floodplain restoration and sediment retention to remedy existing and predicted problems concerning flood control and environmental degradation within the Arroyo Grande Creek Watershed, particularly within and downstream of the City.

The Initial Study/Mitigated Negative Declaration (IS/MND) prepared for the Corbett Creek Floodplain and Stream Restoration Project (Exhibit “C” of the attached Resolution) identifies several reaches of Corbett Creek (reaches 1-6). The Clark Property is shown as reach 6, while reaches 1-5 encompass the numerous residential properties beginning at the East Branch Street culvert where Corbett Creek joins Arroyo Grande Creek and extends upstream approximately one mile to the Clark Property. Improvements along reaches 1-5 are identified as the “Tally Ho project”.

The Tally Ho project consists of arresting a large headcut (approximately 4-6+ feet high) that is progressively moving upstream, exacerbating bank erosion, and contributing to fine sediment deposition in the main stem of Arroyo Grande Creek. A “headcut” is defined as an erosional feature of intermittent and perennial streams. In periods of low flow, headcuts can resemble a very short cliff or bluff and can result in waterfalls or the creation of riffle zones. Without restoring the channel to its natural state, the headcut will contribute to increased erosivity over time and increased incision of the channel, exacerbating the issue.

The project scope includes regrading of the headcut, an installation of a series of grade controls, and revegetation of the site to stabilize the headcut and prevent further movement upstream and consequent release of sediment. The expected reduction in sediment delivery downstream due to remediation is expected to be approximately 2,500 cubic yards of material over a ten-year period.

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Figure 1- The Tally Ho Project

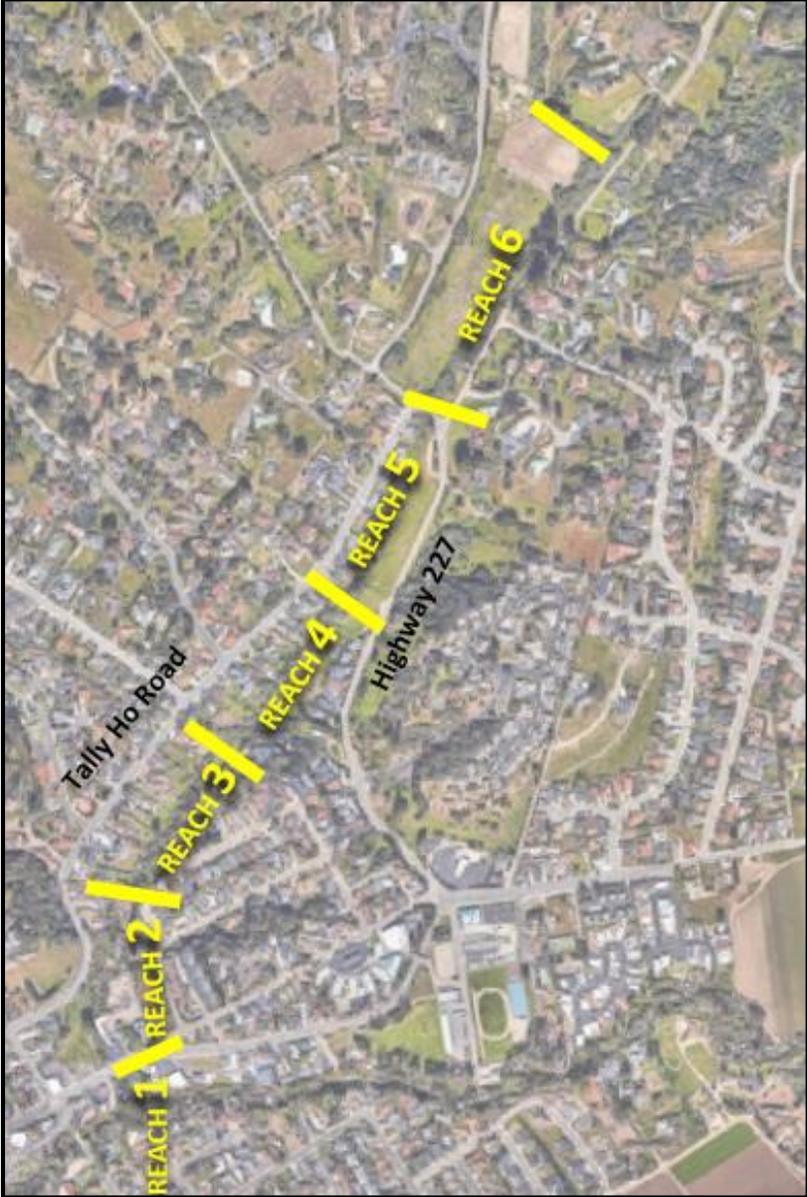


Figure 2 – Reach 6 – The Clark Property Sediment Basins

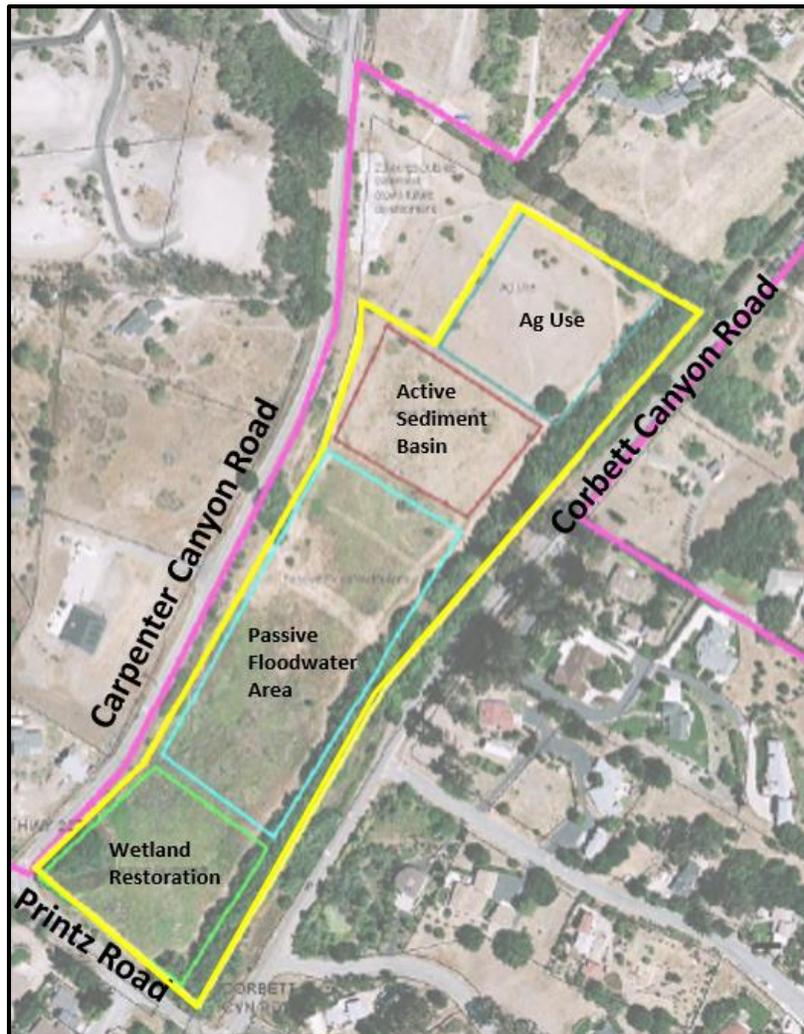


Figure 2 shows the location of the project and delineates each of the project reaches.

The RCD has worked with the Clark property owner to obtain a 12.5-acre conservation easement on a portion of the project site to reduce peak flows and chronic fine sediment loading at the confluence of Corbett Canyon and Carpenter Canyon Creeks, which will be designed to achieve multiple objectives:

- Flood protection: floodplain restoration would allow this site to detain peak flows and fine sediment before they reach the mainstem of Arroyo Grande Creek, thereby reducing stress on lower Arroyo Grande Creek where inadequate levees threaten valuable farmland and adjacent urban areas with flooding.

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- Restoration of riparian and floodplain habitat: the proposed project would also have the benefit of restoring riparian and floodplain habitat within the Arroyo Grande Creek watershed, a resource that has been impacted by channelization and encroachment over the last 150 years.
- Water quality protection: this project would improve and protect Arroyo Grande Creek water quality through sediment detention, and by increasing flood protection for the South San Luis Obispo County Sanitation District plant. The South SLO Sanitation Plant is located immediately adjacent to the AG Creek flood control channel, and a levee breach (such as in 2001) or overtopping event could compromise operations at the Sanitation Plant. This project would help reduce peak flows in the AG Creek flood control channel by restoring Corbett Creek's access to the historic floodplain.

Additionally, restoring the impaired stretch of Corbett Creek will reduce future sediment loads to mainstem Arroyo Grande Creek, thereby protecting Central Coast steelhead spawning habitat, as well as improving flood protection to residents adjacent to Corbett Creek and to landowners in the Zone 1/1A Flood Control District at the downstream end of Arroyo Grande Creek.

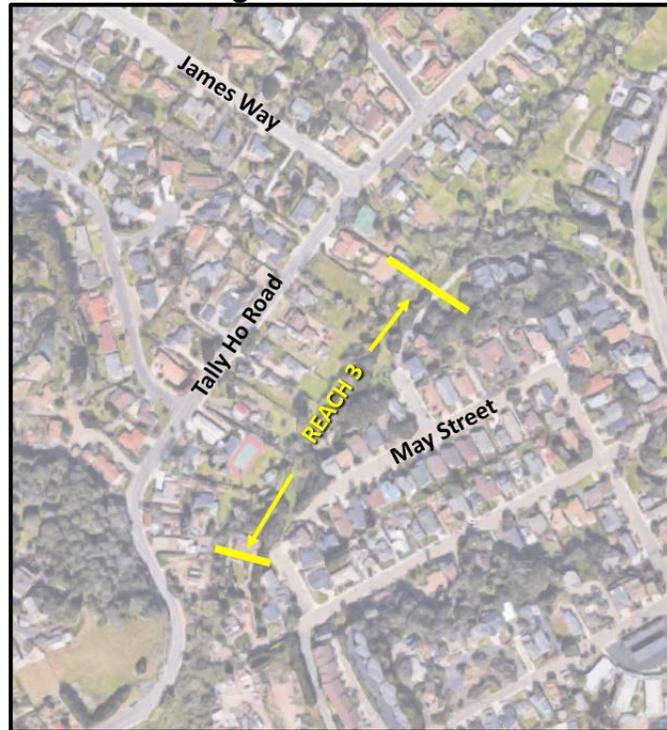
Per [Arroyo Grande Municipal Code Section 16.44.050.C.6](#), "Creeks shall remain in their natural state and shall not be altered unless approved by the city council in conjunction with an application for a conditional use permit and permitted by other responsible agencies." The applicant will be responsible for obtaining any permits required by other responsible agencies such as the California Department of Fish and Wildlife (CDFW) and the Central Coast Regional Water Quality Control Board (CCRWQCB) prior to commencing construction.

#### Phasing

At this time, the RCD has maintenance guarantees from property owners in reach 3; therefore, this is the only portion of the overall project that has an imminent schedule of construction. The RCD is actively working with the property owners in reaches 4-5 to secure maintenance guarantees. If maintenance of the work is guaranteed, additional grant funds may be released from the granting agency and the RCD will be able to accomplish further restoration work upstream of James Way. Approval of the proposed CUP would provide the RCD with the flexibility to accomplish the phases of restoration work as grant funding is made available without the need for separate applications and environmental documents from each property owner.

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Figure 3 – Reach 3



Previous Consideration

On April 16, 2013, the Planning Commission (PC) reviewed the same project and adopted a Resolution adopting a Mitigated Negative Declaration (MND) and Mitigation Monitoring and Reporting Program (MMRP). A lack of funding for maintenance of the sediment basin caused the RCD to lose grant funding for the project, which was not reviewed by the City Council at that time. The staff report and resolution as well as the minutes from the meeting are included as Attachment 4. Because the CUP was not reviewed or approved by the Council and due to a lack of long-term maintenance funding, the project was not able to be completed.

The PC again reviewed the proposed project at its regular meeting on June 6, 2023. The Commission spoke about their desire to have restoration work occur throughout the entire creek channel and expressed support for the project in general. The PC recommended approval of the project, adopting Planning Commission Resolution 23-2383. The staff report and resolution for this project as well as the minutes from the meeting are included as Attachment 5.

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#### Staff Advisory Committee (SAC)

The SAC reviewed the proposed project on September 8, 2022, and February 2, 2023, and made comments regarding the scope of work, access easements, debris removal, ongoing maintenance costs and future impacts on flooding capacity of the creek. The Committee was extremely supportive of the project and recommended approval to the City Council with no additional conditions added.

#### Outreach and Access

The RCD will be coordinating landowner access for all portions of the project. To date, the RCD has preliminary agreements from several of the landowners involved along the project area. Additionally, the RCD has approval for access from two of the three property owners that own property within the creek channel. It has been determined that these agreements will provide sufficient access to complete the work related to the headcut. As maintenance of the remaining portions of the Tally Ho Project is secured, access agreements will be executed with each of the effected properties along Tally Ho, of which there are thirty-three properties. Agreements and easements for use of the Clark property are fully secured. It is estimated that construction could occur in approximately three years as the designs are completed and maintenance of the basins is guaranteed.

The RCD has coordinated multiple outreach meetings with residents in the project area that aimed to inform residents of the upcoming work, provide resources to the homeowners for maintenance of their property within the floodplain and answer any questions from members of the public regarding the project and the health of the riparian ecosystem. The first community meeting was held at 262 Tally Ho on January 20<sup>th</sup>, primarily to discuss flood damage and provide the residents with resources to assist with the flooding impacts. A second meeting occurred at the City's Council Chambers on April 19, 2023. The RCD provided information regarding the restoration project plans and, along with staff, answered a number of questions related to the project and the creek. A third outreach meeting was held at the Council Chambers on July 19, 2023. The meeting again focused on describing construction and maintenance activities to the residents.

#### Environmental Review

The IS/MND was originally prepared by the City of Arroyo Grande and circulated and certified by the Planning Commission on April 16, 2013. When the project was re-initiated by RCD, staff determined and RCD agreed that as the applicant, they would be the lead agency on the project with the City of Arroyo Grande as a responsible agency. The applicant prepared an addendum to the IS/MND, which is a document that is prepared if only minor technical changes or additions are necessary, or no conditions exist calling for the preparation of a subsequent negative declaration. That addendum was reviewed by the Planning Commission on June 6, 2023. Environmental factors that are potentially affected by the project and analyzed in the IS/MND include biological resources, cultural

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resources, air quality, hydrology/water quality, and noise. The sixteen (16) mitigation measures contained in the environmental document will be incorporated into the project plans as conditions. The MMRP (Exhibit "D" of the attached Resolution) ensures compliance with the adopted mitigation measures during the pre-construction, construction, and post-construction phases of the project.

As part of the project's grant funding, monitoring of the site is required for a period of two (2) years after completion of the project. Monitoring will be completed by RCD staff and is included in their budget for the project. Monitoring activities will ensure that the project's impacts on the riparian habitat will be minimized and that the new vegetation is established to prevent the proliferation of invasive species in the project area.

#### Cultural Resources

California Assembly Bill 52, which became effective on July 1, 2015, revised several portions of California's Public Resources Code to broaden the requirements for tribal consultation and to provide a more formal structure for California's tribes to provide meaningful input to protect their cultural heritage during the CEQA process. California Public Resources Code section 21084.2 now establishes that "a project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment." Lead agencies are required to avoid damaging effects to any tribal cultural resource when feasible. This requires lead agencies to begin consultation with California Native American tribes that are traditionally and culturally affiliated with the geographic area of the proposed project prior to the release of a negative declaration (ND), mitigated negative declaration (MND), or environmental impact report (EIR) for a project.

Because AB52 was not in effect at the time when the project's MND was originally adopted in 2013, that MND would not have been sufficient to support approval of the CUP at this time. Recognizing this, City staff partnered with the RCD to contact the Native American Heritage Commission (NAHC) to determine which Native American tribes have requested consultation on projects within our geographical area. In response, the NAHC provided a list of nine (9) tribes that have previously requested to be notified of projects within our area. Each of these tribes were provided with a project description and a map depicting the areas of activity. Of the nine (9) tribes, two (2) contacted the City with questions about the project with one (1) of those discussions resulting in a request for formal consultation with the tribe. A formal consultation meeting was held on April 14, 2023. During that meeting the RCD and the tribal representative were able to come to an agreement regarding monitoring of the site during construction activities. Cultural resource mitigation measures in the MND include: requirements that construction activities be suspended if any cultural resources are unearthed and that the Coroner be contacted in any human remains are located. In addition, archeological and cultural

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resource monitors will be onsite during all grading and excavation activities. Those mitigation measures were previously incorporated in the 2013 MND and, therefore, no new mitigation measures were necessary. Funding for the presence of a cultural monitor will be provided by the RCD and the cultural monitor will be selected by the tribal representative.

#### No Rise Certification

As a requirement of receiving approval to work within the extents of the creek, the applicant is required to certify that the construction activity and associated vegetation management will not result in increased flooding downstream of the project site. The RCD's District Engineer has completed an analysis of the post-construction flooding potential and has concluded that the project will not result in additional flooding compared to pre-project flow rates and channel capacity. City Engineering staff have peer-reviewed the analysis and have concluded that the report was completed by a qualified individual using a methodology that is appropriate for this type of analysis. That analysis is included as Attachment 6.

#### Fee Waiver

The applicant is also requesting a fee waiver in the amount of \$6,388, which is the amount of the application fee for the CUP. Staff is supportive of the fee waiver request because the project serves a public purpose of promoting the public health, safety, and welfare through as reduction in expenditures for flood control, reduction in the need for rescue and relief efforts, and reduction in damage to public facilities and utilities. Further, the project serves a public purpose by safeguarding important environmental and sensitive biological resources contributing to a healthy functioning ecosystem. As the applicant, RCD is a special district established by California law that does not receive annual local tax base but relies on grants, service contracts, and private donations to protect and enhance natural resources through education, restoration, conservation, and collaboration with local stakeholders.

#### **ALTERNATIVES:**

1. Conduct the public hearing and adopt a Resolution approving Conditional Use Permit 23-001, finding the Addendum to the project's 2013 IS/MND adequately addresses all environmental impacts and approving a fee waiver in the amount of \$6,388;
2. Do not approve the Resolution approving Conditional Use Permit 23-001, finding the Addendum to the project's 2013 IS/MND adequately addresses all environmental impacts and approving a fee waiver in the amount of \$6,388 and direct staff to return with a Resolution denying the project; or
3. Provide other direction to staff.

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**ADVANTAGES:**

Completion of the project will have long-term benefits for all properties along this section of the creek and will increase flood capacity within the creek as well as remove invasive species and other debris that is having negative impacts on the health of the ecosystem. This project also aims to reduce risks to life safety and property damage by reducing flooding potential along this stretch of the creek.

**DISADVANTAGES:**

On-going maintenance costs will be necessary to ensure the proper function of the sediment basin.

**ENVIRONMENTAL REVIEW:**

In accordance with the California Environmental Quality Act (CEQA) Guidelines, staff conducted an Initial Study (IS) and prepared a draft Mitigated Negative Declaration (MND) and Mitigation Monitoring and Reporting Program (MMRP). The IS/MND was certified by the Planning Commission on April 16, 2013. Due to the age of the environmental document, the applicant prepared an addendum to the IS/MND. That addendum was reviewed by the Planning Commission on June 6, 2023. The plans, IS/MND, MMRP and Addendum are included as Exhibits "B," "C," "D," and "E," respectively, in the attached Resolution.

**PUBLIC NOTIFICATION AND COMMENTS:**

The Agenda was posted at City Hall and on the City's website in accordance with Government Code Section 54954.2. Notices were sent to property owners located within 500 feet of the project site. No public comments were received. A sign notifying the public of the public hearing was posted at the project site, notifying the public of the public hearings at Planning Commission and City Council.

**Attachments:**

1. Proposed Resolution
2. Memorandum of Understanding (MOU)
3. Planning Commission Resolution 23-2383
4. April 16, 2013, Planning Commission staff report, resolution and minutes
5. June 6, 2023 Planning Commission staff report, resolution and minutes
6. No Rise Certification