



## MEMORANDUM

**TO:** City Council

**FROM:** Steven B. Kahn, Interim Public Works Director

**BY:** Shannon Sweeney, City Engineer

**SUBJECT:** Consideration of Agreement for Contractor Services for Arroyo Grande Creek Fallen and Undermined Tree, Debris Removal; Finding the Project Exempt from Review under California Environmental Quality Act pursuant to State Guidelines Section 15269 and Executive Order No. N-10-23 and Direct Staff to File a Notice of Exemption

**DATE:** October 10, 2023

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### **SUMMARY OF ACTION:**

Award an agreement for contractor services to Bunyon Brothers Tree Care, Inc (Bunyon Bros.) for the removal of fallen and undermined trees and debris that resulted from the January 2023 storm events. Pending Council approval, City will continue seeking several Right of Entry agreements to perform repairs or replacement of existing levees, weirs, and other conveyance and flood-control infrastructure, debris removal, sediment removal, and vegetation management. The work will include silt and vegetation removal in Tally Ho Creek. Collectively the work contemplated by this item is referred to herein as the "Project," and staff is recommending the City Council find the Project exempt from CEQA.

### **IMPACT ON FINANCIAL AND PERSONNEL RESOURCES:**

Bunyon Bros. bid to remove fallen and undermined trees and debris from Arroyo Grande Creek is \$109,500.00 (Exhibit B of Attachment 1). Because this work is directly connected to the early 2023 storm event damage, staff will submit reimbursement requests to Federal Emergency Management Agency (FEMA) and California Governor's Office of Emergency Services (Cal OES) for the cost to perform this work. FEMA assistance will be provided at a 75% federal cost share totaling \$82,125.00. Cal OES assistance will be provided at an 18.75% state cost share totaling \$20,531.25. The City is responsible for the remaining 6.25% totaling \$6,843.75. This debris removal is part of the Arroyo Grande Creek Remediation Project, which is included in the FY 2023-24 Budget.

### **RECOMMENDATION:**

1) Authorize the City Manager to execute the agreement for Contractor Services with Bunyon Brothers Tree Care, Inc. for Arroyo Grande Creek fallen and undermined tree

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## **City Council**

### **Consideration of Agreement for Contractor Services for Arroyo Grande Creek Fallen and Undermined Tree, Debris Removal; Finding the Project Exempt from Review under California Environmental Quality Act pursuant to State Guidelines Section 15269 and Executive Order No. N-10-23 and Direct Staff to File a Notice of Exemption**

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and debris removal; and 2) Make findings that the entire Project is exempt from the California Environmental Quality Act (CEQA) under CEQA Guidelines section 15269 and Executive Order No. N-10-23 and direct staff to file a Notice of Exemption for this project.

#### **BACKGROUND:**

The City of Arroyo Grande incurred significant damage associated with the rainstorms of early 2023. In Arroyo Grande Creek this includes large-scale deposit of vegetation/tree branch debris, whole fallen trees, and severe undermining of the root system of several trees. Because of the large amount debris at several locations, staff explored the option of hiring contract services to remove these fallen trees and debris.

Ordinarily, such work would involve significant environmental permitting which would significantly delay the completion of this Project. However, on August 4, 2023, Governor Gavin Newsom signed Executive Order N– 10 – 23 (Attachment 2). This executive order suspends certain statutes, rules, and requirements for the purposes of debris removal, sediment removal, and vegetation management in certain waterbodies, including Arroyo Grande Creek, provided that the activity meets the following conditions (partial list of conditions; only those conditions applicable to this work are listed):

- The activity is necessary to respond to conditions caused by the 2022 – 2023 winter storm events and is necessary to avoid future damage from high streamflow events in the upcoming rainy season.
- Removal of sediment or vegetation or both serves to either reestablish a functional low flow channel or reestablish channel capacity or clear sediment and debris from the river channel near structures such as bridges.
- Removal of sediment or vegetation or both is limited to portions of the channel that are dry.
- No more than 30% of the total native vegetation within the stream channel and bank is removed each river mile.
- The activity is completed by November 1, 2023.

All the above conditions can be met for this project and pending Council approval, City staff will continue to move forward seeking the necessary Right of Entry from affected private property owners.

#### **ANALYSIS OF ISSUES:**

Executive Order N–10–23 gives City staff a unique opportunity to address materials in the creek resulting from the 2022-2023 Winter Storm Events that are likely to cause problems in the near future, during the next rainy season. The debris and fallen and undermined trees have a high probability of washing downstream during what is

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anticipated to be a wet winter, which would clog stream flows and storm drains and cause potential structural damage to City infrastructure such as bridge abutments/columns.

**ALTERNATIVES:**

The following alternatives are provided for the Council's consideration:

1. Authorize the City Manager to award the agreement for contractor services for the removal of fallen and undermined trees and debris from Arroyo Grande Creek to Bunyon Brothers and make the necessary CEQA findings for the Project;
2. Do not authorize this agreement; or
3. Provide other direction to staff.

**ADVANTAGES:**

Implementing the Project allows the City to provide an emergency response to damage caused by the 2022-2023 Winter Storm Events, specifically removing fallen and undermined trees and debris from the creek. The Project will help avoid damage caused by storms in the upcoming rainy season.

**DISADVANTAGES:**

Failure to implement the Project may result in damage to City infrastructure or other public and/or private property caused by storms in the upcoming rainy season.

**ENVIRONMENTAL REVIEW:**

This Project is exempt from CEQA under paragraph 2.c. of Executive Order N-10-23, which states that CEQA shall not apply to vegetation and debris removal from creeks or streams if the conditions discussed above are met. The Project is an emergency response to remove vegetation and debris in the Arroyo Grande Creek caused by the 2022-2023 Winter Storm Events. As explained above, the Project will comply with all applicable provisions of Executive Order N-10-23 and thus qualifies for the exemption.

The Project is also statutorily exempt from CEQA under CEQA Guidelines section 15269 subdivision (a) because the Project is an action taken to mitigate an emergency in an area where the Governor previously declared a state of emergency; and subdivision (c), because the Project is a specific action taken to mitigate an emergency, specifically emergency conditions created by the 2022-2023 Winter Storm Events.

**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.

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Attachments:

1. Proposed Agreement for Contractor Services
2. Executive Order N-10-23