

MONTEREY PENINSULA REGIONAL PARK DISTRICT  
BOARD OF DIRECTORS MEETING

**DATE:** February 7, 2024  
**TO:** Board of Directors  
**FROM:** Rafael Payan, General Manager  
Tucker Wisdom-Stack, Legal Counsel  
Christian Marsh, Special Outside Counsel  
**SUBJECT:** Review and Approval of Resolution #2024-01, Approving Rancho Cañada Trail Replacement and Reconstruction Project and Accompanying Lake & Streambed Alteration Agreement and Adopting Findings, Addendum, and CEQA Exemption

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**SUMMARY:**

The Rancho Cañada Trail Replacement and Reconstruction Project (Project) is proposed to resolve a Notice of Violation (NOV) issued by the California Department of Fish and Wildlife (CDFW) regarding the Multi-Benefit Community Trail, which was constructed in the Rancho Cañada Unit of Palo Corona Regional Park (Park) in spring 2022, and to realign and construct new trail segments to enhance accessibility, wayfinding, and nature-based recreational opportunities at the Park after NOV remediation activities and the separate Rancho Cañada Floodplain Restoration Project (Restoration Project) are completed. The Project, and settling the NOV, require Monterey Peninsula Regional Park District (MPRPD) to enter into a Lake and Streambed Agreement (LSAA) with CDFW. The Project and associated LSAA will settle all existing and threatened legal claims against MPRPD related to the NOV.

Staff recommend approval of Resolution #2024-01 (**ATTACHMENT 1**).

**FISCAL IMPACT:**

Staff anticipate that approximately \$75,000 to \$125,000 will be required to develop final designs, bid documents, and permits for the Project. Based on Oregon State Parks Trail Development Cost Estimator Tool, staff estimate that an additional \$175,000 to \$260,000 will be required to implement work necessary to resolve the NOV (site surveys and best management practice implementation, DG removal, reseeding and replanting, pond restoration etc.). The Restoration Project's separate grant funding sources are expected to provide approximately \$6,000,000 toward construction of a 300-foot-long free span bridge and segments of trails within the Restoration Project's footprint. This leaves an additional \$375,000 to \$800,000 that will need to be secured to complete retrofit, realignment, and construction of the Project's final trail network.

**FUNDING SOURCE:**

Assuming that the Restoration Project's grant funding is secured, and the Restoration Project proceeds, the Project, including NOV related work, is expected to require \$625,000 to \$1.185M of additional funding. Of that amount, staff anticipate that approximately \$250,000 to \$385,000 will not qualify for outside grant funding since it relates to a regulatory enforcement matter and would most likely need to be paid from MPRPD funds.

Staff expect to seek public and private grants and donations for the remaining \$375,000 to \$800,000 required to complete the Project, and will request that funding be allocated in the 2024-2025 fiscal year budget to support final design, NOV implementation, and grant seeking efforts.

**FUNDING BALANCE:**

N/A

**DISCUSSION:**

On September 1, 2021, the Monterey Peninsula Regional Park District (MPRPD) Board of Directors authorized staff to enter an agreement with the Big Sur Marathon Foundation to construct a 3-kilometer multi-use trail system on the Rancho Cañada Unit of Palo Corona Regional Park. Construction of the trail was completed on June 7, 2022. On June 14, 2022, the California Department of Fish and Wildlife (CDFW) issued a Notice of Violation (NOV) to the MPRPD, asserting that construction of the Trail within the Carmel River floodplain violated Fish and Game Code sections 1602 (streambed alterations) and 5650 (deleterious materials). The changes are proposed in the context of resolving a Notice of Violation (NOV) issued by the California Department of Fish and Wildlife (CDFW) according to the terms of a Lake and Streambed Alternation Agreement (LSAA) negotiated to settle all existing and threatened legal claims against MPRPD related to the NOV (**ATTACHMENT 2**).

The Project would resolve the NOV by removing decomposed granite (DG) from the Multi-Benefit Community Trail within the 100-yr FEMA floodplain, retiring, retrofitting, or realigning the trail network at the Park according to California State Park Trail Design Standards (CSP Standards), and reseeding native riparian, wetland, and grassland plant communities in areas that are disturbed by Project activities. In addition, the Project would include construction of new trail segments according to CSP Standards to maintain public access at the park as a part of the MPRPD’s effort to retire and replace former golf cart paths with an improved trail network designed to enhance accessibility, wayfinding, and nature-based recreational opportunities at the Park. The existing and proposed Trail alignments are depicted in **Figures 2 and 3 of Attachments 3 and 4**. The Project is proposed to be phased in coordination with the Rancho Cañada Floodplain Restoration Project (Restoration Project) to minimize disturbance at the Property, maintain public access, and support implementation of the Restoration Project. Once the Project and the Restoration Project are completed, a new consolidated trail system would be left for public use.

**CALIFORNIA ENVIRONMENTAL QUALITY ACT CONSIDERATIONS:**

The California Environmental Quality Act (CEQA) requires analysis of agency approvals of discretionary “projects.” A “project,” under CEQA, is defined as “the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.” (CEQA Guidelines section 15378.) The proposed Project is a project under CEQA.

CEQA Exemptions

MPPRPD staff analyzed the Project and concluded that the Project is exempt from CEQA pursuant to the Class 1, Class 2, and Class 4 categorical exemptions.

The Class 1 exemption applies to the “operation, repair, maintenance, and minor alteration of existing highways and streets, sidewalks, gutters, bicycle and pedestrian trails, and similar facilities involving negligible or no expansion of existing or former use.” (CEQA Guidelines section 15301.) The Project will involve repair, maintenance, and minor alterations to “[e]xisting highways and streets, sidewalks, gutters, bicycle and pedestrian trails, and similar facilities.” (CEQA Guidelines section 15301, subdivision (c).) The proposed Project would involve replacing, realigning, or retiring trails that will largely be in the same site and have the same purpose, with some updated alignments to resolve the NOV and improve overall trail connectivity.

In addition to the Class 1 exemption, at least two other CEQA categorical exemptions cover some or all of the trail restoration work included in the proposed project: (1) Replacement and Reconstruction (Class 2); and (2) Minor Alterations of Land (Class 4). An agency may rely on and cite several different exemptions to support a determination that CEQA review is not required for a particular activity. (See *North Coast Rivers Alliance v. Westlands Water Dist.* (2014) 227 Cal.App.4th 832.) An agency may also combine several exemptions to find an entire project exempt from CEQA. (*Surfrider Foundation v. California Coastal Com.* (1994) 26 Cal.App.4th 151, 156.)

Class 2 consists of “replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced.” (CEQA Guidelines section 15302.) The Project would involve replacing, realigning, or retiring trails that will largely be in the same site and have the same purpose, with some updated alignments to resolve the NOV and improve overall trail connectivity.

The Class 4 exemption consists of “minor public or private alterations in the condition of land, water, and/or vegetation which do not involve removal of healthy, mature, scenic trees except for forestry and agricultural purposes.” (CEQA Guidelines section 15304.) Multiple examples listed in CEQA Guidelines section 15304 apply to the proposed project, including [c] “filling of earth into previously excavated land with material compatible with the natural features of the site;” and [f] “minor trenching and backfilling where the surface is restored.” Additionally, the proposed project would not involve removal of healthy, mature, scenic trees.

MPPRPD staff has considered whether the categorical exemptions relied upon is negated by one of the exceptions identified in CEQA Guidelines section 15300.2 and Public Resources Code section 21084, and upon such consideration, none of the exceptions have been found to apply.

MPPRPD prepared an exemption analysis (**ATTACHMENT 3**) to support its conclusions and findings.

Addendum to the General Development Plan Initial Study/Mitigated Negative Declaration

MPRPD also prepared an addendum to the Palo Corona Regional Park General Development Plan (General Development Plan) and accompanying Initial Study/Mitigated Negative Declaration (IS/MND) in accordance with CEQA Guidelines section 15164, subdivision (b). Section 15164, subdivision (b) of the CEQA Guidelines states that a lead agency may prepare an addendum to an adopted negative declaration if only minor technical changes or additions are necessary or none of the conditions described in Section 15162 calling for the preparation of a subsequent EIR or negative declaration have occurred:

(1) Substantial changes are proposed in the project which will require major revisions of the previous negative declaration . . . due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;

(2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous negative declaration . . . due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or

(3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous negative declaration was adopted . . . shows any of the following:

(A) The project will have one or more significant effects not discussed in the previous negative declaration . . .;

(B) Significant effects previously examined will be substantially more severe than shown in the previous negative declaration;

(C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or

(D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous negative declaration would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

MPRPD staff analyzed the Project and reviewed the IS/MND adopted for the General Development Plan and determined that an addendum to the IS/MND would be appropriate here because the Project involves minor changes to the alignment and construction of trails proposed in the General Development Plan within the Rancho Cañada Unit and none of the conditions requiring supplemental or subsequent environmental review in CEQA Guidelines section 15162 have been met.

MPRPD staff has completed preparation of an addendum to the IS/MND for the General Development Plan (Addendum) (**ATTACHMENT 4**). The Addendum has been prepared in

compliance with CEQA and the State CEQA Guidelines. The Addendum concludes that the Project, which modifies the trail alignment of the General Development Plan, would not result in any new significant environmental effects or a substantial increase in the severity of previously identified significant effects examined in the General Development Plan IS/MND.

**RECOMMENDED ACTION:**

Adopt Resolution #2024-01, approving the Rancho Cañada Trail Replacement and Reconstruction Project and accompanying Lake & Streambed Alteration Agreement and adopting findings, Addendum, and CEQA Exemption (**ATTACHMENT 1**).

**ATTACHMENTS:**

1. [Resolution #2024-01 Approving the Rancho Cañada Trail Replacement and Reconstruction Project; approving accompanying Streambed Alteration Agreement; adopting findings that the Project is exempt from CEQA; and adopting an addendum to the final initial study-mitigated negative declaration for the Palo Corona Regional Park General Development Plan](#)
2. [Final Draft Lake and Streambed Agreement](#)
3. [Exemption Analysis for the Rancho Cañada Trail Replacement and Reconstruction Project](#)
4. [Addendum to the Initial Study/Mitigated Negative Declaration for the Palo Corona Regional Park General Development Plan](#)