



Midpeninsula Regional
Open Space District

R-21-144
Meeting 21-30
October 27, 2021

AGENDA ITEM 6

AGENDA ITEM

Award of Contract for Cultural Resources Support to Implement the Bear Creek Redwoods Vegetation Treatment Project

GENERAL MANAGER'S RECOMMENDATIONS *den*

1. Authorize the General Manager to enter into a contract with Rincon Consultants, Inc., of Santa Cruz, CA to complete the Bear Creek Redwoods Cultural Resources Surveys to support implementation of the Vegetation Treatment Project for a base amount of \$63,845.
2. Authorize a 15% contingency of \$9,577 to cover unforeseen tasks beyond the current scope for a total not-to-exceed contract amount of \$73,422.

SUMMARY

The Board of Directors approved the Bear Creek Redwoods Open Space Preserve (Preserve) Vegetation Treatment Project (VTP) on April 28, 2021 (R-21-56). The VTP is an ecological restoration project that provides wildland fire protection and fuels management at the Preserve. An award of contract for the vegetation treatment is also being considered separately at the October 27, 2021 meeting. If that contract is not awarded, this award of contract for cultural resource surveys is not necessary. The VTP is a partnership project with the California Board of Forestry and Fire Protection (Board of Forestry). As part of this partnership, the Project was evaluated per the California Environmental Quality Act (CEQA) as an activity covered by the Board of Forestry California Vegetation Treatment Program (CalVTP) Programmatic Environmental Impact Report (PEIR) using a Project-Specific Analysis (PSA). The CalVTP and PSA require best management practices and avoidance and minimization measures for cultural resources. The proposed contract will provide site analysis and appropriate site-specific avoidance measures for cultural resources prior to implementing the VTP.

DISCUSSION

The VTP's specific restoration objectives include promoting forest health and resiliency by removing trees killed by sudden oak death (SOD), removing invasive species, reducing the density of heavy brush, and providing ecosystem and habitat improvements to increase fire resiliency. For more VTP details refer to report [R-21-56, minutes](#). Prior to implementation, the District must undertake a variety of pre-treatment studies, including cultural resources assessments. Although the Preserve has been the subject of several prior cultural resource investigations, certain remote areas of the VTP have not been fully assessed because they were outside of the proposed public access areas. Further, the Preserve has the highest known concentration of cultural resources within District landholdings (mainly associated with the

Alma College Cultural Landscape), requiring a proportional level of analysis to avoid the potential for an incidental impact on those resources. While the VTP avoids built environmental resources and minimizes ground disturbance, the potential to impact cultural resources remains, and thus, the PSA requires specific analysis. This work generally includes background review of historical information, pedestrian surveys of all treatment areas, limited subsurface testing as needed, consultation with local Native American tribes as needed, potentially documenting any new resources, drafting a report, and providing training for construction staff that will implement the VTP (see Attachment 1).

Additionally, a revegetation project is planned at the southern end of the Preserve along Skyline (Highway 35) at the former tree farm site. This work is being implemented under the Wildland Fire Environmental Impact Report and Preserve Plan Environmental Impact Report and requires a pedestrian survey and short report prior the necessary soil disturbance to plant trees.

Consultant Selection Process

Staff posted the Request for Proposal and Qualifications on BidSync, where 43 firms viewed the proposal over a month-long period. Additionally, the RFPQ was emailed to consultants who have previously expressed interest in cultural resource services for the District. The RFPQ included both the Bear Creek Historic Debris Data Recovery project and the Cultural Resources Support for the Vegetation Treatment Project to encourage bidding. Four firms attended a site walk for the Bear Creek Debris Data Recovery Project and discussed the VTP project. Rincon was the only firm to provide a proposal for this project. Staff has confirmed the pricing is in-line with estimates from another cultural resources firm that considered bidding for this work, but were too busy to perform the activities within the project schedule. Rincon is qualified to perform this work and the price is fair and reasonable.

FISCAL IMPACT

The FY22 adopted budget includes \$250,000 for the 61023 - Los Gatos Creek Watershed - Wildland Fire Resiliency project. At this same October 27, 2021 meeting, the Board is also considering a separate award of contract for the vegetation treatment work (R-21-142). There are sufficient funds in the project budget to cover both recommended actions and expenditures.

61023 - Los Gatos Creek Watershed - Wildland Fire Resiliency	Prior Year Actuals	FY22 Adopted	FY23 Projected	FY24 Projected	Estimated Future Years	TOTAL
District Funded (Fund 10):	\$0	\$250,000	\$250,000	\$250,000	\$250,000	\$1,000,000
Total Budget:	\$0	\$250,000	\$250,000	\$250,000	\$250,000	\$1,000,000
Spent-to-Date (as of 10/12/21):	\$0	\$0	\$0	\$0	\$0	\$0
Encumbrances:	\$0	(\$14,860)	\$0	\$0	\$0	(\$14,860)
Rincon Consultants, Inc Contract:	\$0	(\$63,845)	\$0	\$0	\$0	(\$63,845)
Rincon Consultants, Inc. Contingency:	\$0	(\$9,577)	(\$60,000)	(\$60,000)	(\$60,000)	(\$189,577)
Santa Clara County Ecological Concerns Contract:	\$0	(\$60,000)	\$0	\$0	\$0	(\$60,000)
Contingent 3-year extension:	\$0	\$0	(\$60,000)	(\$60,000)	(\$60,000)	(\$180,000)
Budget Remaining (Proposed):	\$0	\$101,718	\$130,000	\$130,000	\$130,000	\$491,718

The recommended action is not funded by Measure AA.

BOARD AND COMMITTEE REVIEW

The Board of Directors reviewed and approved the VTP at the April 28, 2021 meeting ([R-21-56, Minutes](#))

On June 9, 2021, the Board authorized the General Manager to enter into an agreement with the Santa Clara County Firesafe Council to perform vegetation management activities using a grant from CAL FIRE ([R-21-76, Minutes](#)).

PUBLIC NOTICE

Public notice was provided as required by the Brown Act.

CEQA COMPLIANCE

The VTP is covered by the CalVTP PEIR and the PSA. Findings from the cultural resources survey will be incorporated into the project when implemented.

NEXT STEPS

Should the Board approve the contract, Rincon Consultants, Inc., will undertake the cultural resources assessments, which will facilitate the VTP implementation.

Attachment(s)

1. Vegetation Treatment Project Map and Excerpts from the Project Specific Analysis

Responsible Department Head:

Kirk Lenington, Natural Resources Manager

Prepared by:

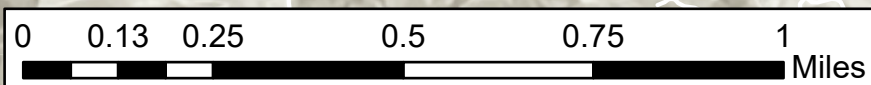
Aaron Hébert, Sr. Resources Management Specialist

Midpeninsula Regional Open Space District Field Verified Treatment Areas - Bear Creek Redwoods CAL Fire CCI FHG

Attachment 1: Map and PSA Excerpts

Legend

- ▲ Equipment Access Points
- Staging Areas
- Bear Creek Road
- - - BCR Seasonal Road
- - - Equipment Access Trails
- Highway 17
- ... MROSD Class II
- ... MROSD Class III
- MROSD Preserve Boundary
- BCR Pond
- ▨ BCR Treatment Area - 174.5 acres
- ▨ BCR Plantation Treatment Areas - 7.1 acres
- ▨ BCR Brush Treatment Area - 54.4 acres
- ▨ BCR Handwork Treatment Area - 9.4 acres



SCALE 1:16000

SK 7/16/20

Sources: Esri, Airbus DS, USGS, NOAA, NASA, CGIAR, N. Robinson, NCEAS, NLS, OS, NMA, Geodastystyrelsen, Rijkswaterstaat, GSA, Geoland, FEMA, Intermap and the GIS user community, sources: Esri, HERE, Garmin, FAO, NOAA/USGS, ©OpenStreetMap contributors, and the GIS User Community

Standard Project Requirements	Applicable? (Y/N)	Timing	Implementing Entity	Verifying/Monitoring Entity
<p>water results in runoff. The type of dust suppression method will be selected by the project proponent based on soil, traffic, site-specific conditions, and air quality regulations.</p> <ul style="list-style-type: none"> Remove visible dust, silt, or mud tracked-out on to public paved roadways where sufficient water supplies and access to water is available. The project proponent will remove dust, silt, and mud from vehicles at the conclusion of each workday, or at a minimum of every 24 hours for continuous treatment activities, in accordance with Vehicle Code Section 23113. Suspend ground-disturbing treatment activities, including land clearing and bulldozer lines, when there is visible dust transport (particulate pollution) outside the treatment boundary, if the particulate emissions may "cause injury, detriment, nuisance, or annoyance to any considerable number of persons or to the public, or that endanger the comfort, repose, health, or safety of any of those persons or the public, or that cause, or have a natural tendency to cause, injury or damage to business or property," per Health and Safety Code Section 41700. <p>This SPR applies to all treatment activities and treatment types.</p>				
Archaeological, Historical, and Tribal Cultural Resources Standard Project Requirements				
<p>SPR CUL-1: Conduct Record Search: An archaeological and historical resource record search will be conducted per the applicable state or local agency procedures. Instead of conducting a new search, the project proponent may use recent record searches containing the treatment area requested by a landowner or other public agency in accordance applicable agency guidance. This SPR applies to all treatment activities and treatment types.</p>	<p>Initial Treatment: Y</p> <p>Treatment Maintenance: Y</p>	<p>Prior to treatment</p> <p>Record search of project area and 0.25-mile buffer surrounding project area has been conducted; see PSA for a summary of results.</p>	Midpen	Midpen
<p>SPR CUL-2: Contact Geographically Affiliated Native American Tribes: The project proponent will obtain the latest Native American Heritage Commission (NAHC) provided Native Americans Contact List. Using the appropriate Native Americans Contact List, the project proponent will notify the California Native American Tribes in the counties where the treatment activity is located. The notification will contain the following:</p> <ul style="list-style-type: none"> A written description of the treatment location and boundaries. Brief narrative of the treatment objectives. A description of the activities used (e.g., prescribed burning, mastication) and associated acreages. A map of the treatment area at a sufficient scale to indicate the spatial extent of activities. 	<p>Initial Treatment: Y</p> <p>Treatment Maintenance: Y</p>	<p>Prior to treatment</p> <p>Tribes have been contacted and SLF query completed; see PSA for a summary of consultation and SLF results.</p>	Midpen	Midpen

Standard Project Requirements	Applicable? (Y/N)	Timing	Implementing Entity	Verifying/Monitoring Entity
<ul style="list-style-type: none"> A request for information regarding potential impacts to cultural resources from the proposed treatment. A detailed description of the depth of excavation, if ground disturbance is expected. <p>In addition, the project proponent will contact the NAHC for a review of their Sacred Lands File. This SPR applies to all treatment activities and treatment types.</p>				
<p>SPR-CUL-3: Pre-field Research: The project proponent will conduct research prior to implementing treatments as part of the cultural resource investigation. The purpose of this research is to properly inform survey design, based on the types of resources likely to be encountered within the treatment area, and to be prepared to interpret, record, and evaluate these findings within the context of local history and prehistory. The qualified archaeologist and/or archaeologically-trained resource professional will review records, study maps, read pertinent ethnographic, archaeological, and historical literature specific to the area being studied, and conduct other tasks to maximize the effectiveness of the survey. This SPR applies to all treatment activities and treatment types.</p>	<p>Initial Treatment: Y</p> <p>Treatment Maintenance: Y</p>	Prior to treatment	Midpen	Midpen
<p>SPR CUL-4: Archaeological Surveys: The project proponent will coordinate with an archaeologically-trained resource professional and/or qualified archaeologist to conduct a site-specific survey of the treatment area. The survey methodology (e.g., pedestrian survey, subsurface investigation) depends on whether the area has a low, moderate, or high sensitivity for resources, which is based on whether the records search, pre-field research, and/or Native American consultation identifies archaeological or historical resources near or within the treatment area. A survey report will be completed for every cultural resource survey completed. The specific requirements will comply with the applicable state or local agency procedures. This SPR applies to all treatment activities and treatment types.</p>	<p>Initial Treatment: Y</p> <p>Treatment Maintenance: Y</p>	Prior to treatment	Midpen	Midpen
<p>SPR CUL-5: Treatment of Archaeological Resources: If cultural resources are identified within a treatment area, and cannot be avoided, a qualified archaeologist or archaeologically-trained resource professional will notify the culturally affiliated tribe(s) based on information provided by NAHC and assess, whether an archaeological find qualifies as a unique archaeological resource, an historical resource, or in coordination with said tribe(s), as a tribal cultural resource. The project proponent, in consultation with culturally affiliated tribe(s), will develop effective protection measures for important cultural resources located within treatment areas. These measures may include adjusting the treatment location or design to entirely avoid cultural resource locations or changing treatment activities so that damaging effects to cultural resources will not occur. These protection measures will be written in clear, enforceable language, and will be included in the survey report in accordance with applicable state or local agency procedures. This SPR applies to all treatment activities and treatment types.</p>	<p>Initial Treatment: Y</p> <p>Treatment Maintenance: Y</p>	Prior to and during treatment	Midpen	Midpen

Standard Project Requirements	Applicable? (Y/N)	Timing	Implementing Entity	Verifying/Monitoring Entity
SPR CUL-6: Treatment of Tribal Cultural Resources: The project proponent, in consultation with the culturally affiliated tribe(s), will develop effective protection measures for important tribal cultural resources located within treatment areas. These measures may include adjusting the treatment location or design to entirely avoid cultural resource locations or changing treatment activities so that damaging effects to cultural resources will not occur. The project proponent will defer implementing the treatment until the tribe approves protection measures, or if agreement cannot be reached after a good-faith effort, the proponent determines that any or all feasible measures have been implemented, where feasible, and the resource is either avoided or protected. This SPR applies to all treatment activities and treatment types.	Initial Treatment: Y Treatment Maintenance: Y	Prior to and during treatment	Midpen	Midpen
SPR CUL-7: Avoid Built Historical Resources: If the records search identifies built historical resources, as defined in Section 15064.5 of the State CEQA Guidelines, the project proponent will avoid these resources. Within a buffer of 100 feet of the built historical resource, there will be no prescribed burning or mechanical treatment activities. Buffers less than 100 feet for built historical resources will only be used after consultation with and receipt of written approval from a qualified archaeologist. If the records search does not identify known historical resources in the treatment area, but structures (i.e., buildings, bridges) over 50 years old that have not been evaluated for historic significance are present in the treatment area, they will similarly be avoided. This SPR applies to all treatment activities and treatment types.	Initial Treatment: Y Treatment Maintenance: Y	Prior to treatment	Midpen	Midpen
SPR CUL-8: Cultural Resource Training: The project proponent will train all crew members and contractors implementing treatment activities on the protection of sensitive archaeological, historical, or tribal cultural resources. Workers will be trained to halt work if archaeological or tribal resources are encountered on a treatment site and the treatment method consists of physical disturbance of land surfaces (e.g., soil disturbance). This SPR applies to all treatment activities and treatment types.	Initial Treatment: Y Treatment Maintenance: Y	Prior to and during treatment	Midpen	Midpen
Biological Resources Standard Project Requirements				
SPR BIO-1: Review and Survey Project-Specific Biological Resources. The project proponent will require a qualified RPF or biologist to conduct a data review and reconnaissance-level survey prior to treatment, no more than one year prior to the submittal of the PSA, and no more than one year between completion of the PSA and implementation of the treatment project. The data reviewed will include the biological resources setting, species and sensitive natural communities tables, and habitat information in this PEIR for the ecoregion(s) where the treatment will occur. It will also include review of the best available, current data for the area, including vegetation mapping data, species distribution/range information, CNDDDB, California Native Plant Society (CNPS) Inventory of Rare and Endangered Plants of California, relevant BIOS queries, and relevant general and regional plans. Reconnaissance-level biological	Initial Treatment: Y Treatment Maintenance: Y	Prior to treatment Initial data review and reconnaissance-level survey have been conducted, see PSA for results.	Midpen	Midpen

4.4 ARCHAEOLOGICAL, HISTORICAL, AND TRIBAL CULTURAL RESOURCES

Impact in the PEIR			Project-Specific Checklist					
Environmental Impact Covered in the PEIR	Identify Impact Significance in the PEIR	Identify Location of Impact Analysis in the PEIR	Does the Impact Apply to the Treatment Project?	List SPRs Applicable to the Treatment Project ¹	List MMs Applicable to the Treatment Project ¹	Identify Impact Significance for Treatment Project	Would This Be a Substantially More Severe Significant Impact than Identified in the PEIR?	Is this Impact Within the Scope of the PEIR?
Would the project:								
Impact CUL-1: Cause a Substantial Adverse Change in the Significance of Built Historical Resources	LTS	Impact CUL-1, pp. 3.5-14 – 3.5-15	Yes	CUL-1 CUL-7 CUL-8	NA	LTS	No	Yes
Impact CUL-2: Cause a Substantial Adverse Change in the Significance of Unique Archaeological Resources or Subsurface Historical Resources	SU	Impact CUL-2, pp. 3.5-15 – 3.5-16	Yes	CUL-5 CUL-6 CUL-7 CUL-8	CUL-2	LTSM	No	Yes
Impact CUL-3: Cause a Substantial Adverse Change in the Significance of a Tribal Cultural Resource	LTS	Impact CUL-3, p. 3.5-17	Yes	CUL-1 CUL-2 CUL-3 CUL-4 CUL-5 CUL-6 CUL-8	NA	LTS	No	Yes
Impact CUL-4: Disturb Human Remains	LTS	Impact CUL-4, p. 3.5-18	Yes	NA	NA	LTS	No	Yes

¹NA: not applicable; there are no SPRs and/or MMs identified in the PEIR for this impact.

New Archaeological, Historical, and Tribal Cultural Resource Impacts: Would the treatment result in other impacts to archaeological, historical, and tribal cultural resources that are not evaluated in the CalVTP PEIR?

☐ Yes ☐ No If yes, complete row(s) below and discussion

	Potentially Significant	Less Than Significant with Mitigation Incorporated	Less than Significant
[identify new impact here, if applicable; add rows as needed]	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Discussion

Midpen completed and certified an EIR in 2017 for a use and management plan for the Bear Creek Redwoods Open Space Preserve (Preserve EIR). As a part of this effort, a cultural resources report was prepared that included a cultural records search from the Northwest Information Center (NWIC), which included the currently proposed treatment areas. A total of 27 cultural resources were identified as previously recorded within the Preserve: 10 historical resources, nine historic-era archaeological resources, six prehistoric archaeological resources/sites, and two multicomponent sites containing both historic and prehistoric constituents. The majority of these cultural resources

had not been evaluated for eligibility for the National Register of Historic Places (NRHP) or California Register of Historical Resources (CRHR), and one historical resource and one historic-era archaeological resource were determined to have been previously destroyed. In addition to the previously recorded cultural resources, the Preserve EIR noted 11 undocumented resources present within the Preserve: five historical resources, five historic-era archaeological resources, and one prehistoric archaeological resource that could not be re-located during two subsequent investigations. These resources had been previously identified by Midpen personnel and/or were noted in previous cultural resource investigations but had never been formally recorded on DPR 523 forms or otherwise evaluated for NRHP or CRHR eligibility.

Two additional cultural resource reports, prepared in 2018 and 2019, include the results of archaeological surveys of the Preserve. They were prepared to complete the remaining requirements of the Preserve EIR as they relate to unevaluated cultural resources, including recording them on DPR 523 forms or otherwise evaluating for NRHP or CRHR eligibility. According to these reports, 21 of the previously recorded archaeological sites, some of which overlap with or are immediately adjacent to the proposed treatment areas, were recommended as eligible for the CRHR (Albion Environmental 2018, 2019). The requirements of SPRs CUL-1, CUL-3, and CUL-4 from the CalVTP PEIR have been met by the recent archaeological and historical records search and additional archaeological studies and surveys that occurred for the Preserve EIR.

Consistent with CalVTP SPR CUL-2, an updated Native American contact list was obtained from the Native American Heritage Commission (NAHC). On October 20, 2020, letters inviting the tribes to consult were mailed to the nine tribal representatives indicated by NAHC. No responses were received from any Native American tribes. A September 9, 2020, search of NAHC's sacred lands database returned negative results.

IMPACT CUL-1

Vegetation treatment activities include manual and mechanical treatments, which could damage historical resources if present within a treatment area. The potential for these treatment activities to result in disturbance to, damage to, or destruction of historic resources, including built-environment structures that have not yet been evaluated for historical significance, was examined in the PEIR. According to the NWIC records search and other previous studies of the Preserve, historical resources are located within the Preserve, some of which are within or immediately adjacent to treatment areas. In addition, structures (i.e., buildings, bridges, roadways) over 50 years old that have not been evaluated for historical significance may be present within treatment areas. However, the proposed project would remove trees and other vegetation, and any structures present within treatment areas would be avoided, per SPR CUL-7. This impact is within the scope of the PEIR, because the treatment activities and the intensity of ground disturbance that would occur under the proposed project are consistent with those analyzed in the PEIR. SPRs applicable to this impact are CUL-7 and CUL-8. This impact of the proposed project is consistent with the PEIR and would not constitute a substantially more severe significant impact than what was covered in the PEIR.

IMPACT CUL-2

Vegetation treatment activities would include mechanical treatments that use heavy equipment that could result in ground disturbance as vegetation is removed; this could result in damage to known or unknown archaeological resources if present within a treatment area. The potential for these treatment activities to result in disturbance to, damage to, or destruction of archaeological resources was examined in the PEIR. This impact is within the scope of the PEIR, because the treatment activities and the intensity of ground disturbance that would occur under the proposed project are consistent with those analyzed in the PEIR. SPRs applicable to this impact are CUL-5 through CUL-8. Mitigation Measure CUL-2 would also apply to this treatment to protect any inadvertent discoveries of archaeological resources. This impact of the proposed project is consistent with the PEIR and would not constitute a substantially more severe significant impact than what was covered in the PEIR.

IMPACT CUL-3

As previously summarized, Native American contacts were sent an invitation to consult via certified mail on October 20, 2020, consistent with the requirements of SPR CUL-2. No responses were received from any Native American tribes.

The potential for treatment activities to cause a substantial adverse change in the significance of a tribal cultural resource was examined in the PEIR. Proposed treatment activities include manual and mechanical treatments. Ground-disturbing activities, such as the use of heavy machinery, could inadvertently damage or destroy tribal cultural resources if they are present in treatment areas. The potential for adverse effects on tribal cultural resources during implementation of the proposed project is within the scope of the activities and impacts addressed in the PEIR because the treatment activities and intensity of ground disturbance are consistent with those analyzed in the PEIR. SPRs applicable to this treatment are CUL-1 through CUL-6 and CUL-8. This impact of the proposed project is consistent with the PEIR and would not constitute a substantially more severe significant impact than what was covered in the PEIR.

IMPACT CUL-4

Vegetation treatment activities would include mechanical treatments using heavy equipment; these treatments may use tractors, skidders, masticators, and/or chippers, which could uncover human remains if present in a treatment area. The potential for treatment activities to uncover human remains was examined in the PEIR. The NWIC records search did not reveal any burials or sites containing human remains. This impact is within the scope of the PEIR, because the intensity of ground disturbance under the proposed project is consistent with what was analyzed in the PEIR. Additionally, consistent with the PEIR, the proposed project would comply with California Health and Safety Code Sections 7050.5 and 7052 and Public Resources Code Section 5097 in the event of a discovery. This impact of the proposed project is consistent with the PEIR and would not constitute a substantially more severe significant impact than what was covered in the PEIR.

NEW ARCHAEOLOGICAL, HISTORICAL, AND TRIBAL CULTURAL RESOURCE IMPACTS

The proposed treatments are entirely within the CalVTP treatable landscape and are consistent with the treatment types and activities considered in the CalVTP PEIR. Midpen has considered the site-specific characteristics of the proposed treatment project and determined they are consistent with the applicable environmental and regulatory conditions presented in the CalVTP PEIR (refer to Section 3.5.1, "Environmental Setting," and Section 3.5.2, "Regulatory Setting," in Volume II of the Final PEIR). Midpen has also determined that the circumstances under which the proposed treatment project would be undertaken are also consistent with those considered in the PEIR. No changed circumstances would give rise to new significant impacts not addressed in the PEIR. Therefore, no new impact related to archaeological, historical, or tribal cultural resources would occur that is not covered in the PEIR.