COUNTY OF HUMBOLDT

For the meeting of: 8/22/2023

File #: 23-1072

To: Board of Supervisors

From: Planning and Building Department

Agenda Section: Departmental

SUBJECT:
Allocation of Water Quality Improvement Grant Funds from the Friends of the Eel River Mitigation and Remediation Grant Fund and Supplemental Budget in FY 2023/2024 (4/5 Vote Required)

RECOMMENDATION(S):
That the Board of Supervisors:

1. Receive and consider the staff report and grant applications (Attachment 1), and accept public comment; and
2. Approve the attached supplemental budget for budget unit 1200-325, Public Works Road Maintenance for $287,008 (Attachment 2) (4/5 vote required); and
3. Approve the allocation to the Department of Public Works Road Maintenance by approving the attached Resolution (Attachment 3).

SOURCE OF FUNDING:
Mitigation and Remediation Fund 3929

DISCUSSION:
The Board of Supervisors asked the Planning and Building Department to reconsider unfunded applications from the Friends of the Eel River Mitigation and Remediation Fund from the July 11, 2023 board meeting and bring additional funding recommendations forward within 30 days. On July 11, 2023, the Board approved a motion to:

> *Approve the recommended slate of grant applications from the Mitigation and Remediation Fund by approving the Resolution awarding $543,034 to the recommended applications, reconsider funding other projects within priority watersheds with the remaining fund balance of $287,008, and direct staff to return within 30 days with alternative recommendations for the $287,008 which may include additional grant funding for projects or allocation of those funds to the Department of Public Works.*

The fund was established in 2019 through a settlement agreement between Friends of the Eel River (FOER) and the county. The settlement dictated the fund shall be used to fund sediment reduction programs associated with roads serving cannabis cultivation sites located in impacted and refuge watersheds. At least 80% of funds are to be used for physical road improvements. Properties in the abatement process are not eligible for funding.

The program guidelines approved by the Board prioritizes grants to cannabis cultivators and road maintenance associations based upon water quality benefits according to the following criteria:

1) Highest priority will be given to projects with one or more stream crossings and corrective grading within and close to a stream channel.
2) Improvements to roads in priority sub watersheds identified in Resolution 18-43 (Resolution Establishing a Cap on the Number of Commercial Cannabis Cultivation Permits and Acres).
3) Roads serving cultivation sites approved under the 2016 Commercial Medical Marijuana Land Use Ordinance when the improvements will bring the road into compliance with the standards of the 2018 Commercial Cannabis Land Use Ordinance.
4) Locations in highly erodible soils, steep slopes, proximity to watercourses, and the presence of impacted fisheries.

On July 11, 2023, the Board approved funding for nine projects addressing road improvements from Round 2 of the Friends of the Eel River Grant Fund. There were eight unfunded projects. The Board directed staff to reconsider the unfunded projects after the applicants had the opportunity to address deficiencies in their respective grant applications. Staff contacted the applicants of the unfunded projects and invited them to submit additional information to bring their applications into better standing for reconsideration.

Four applicants submitted additional information for reconsideration and on July 31, 2023, the review committee, consisting of county staff, California Department of Fish and Wildlife and Regional Water Quality Control Board, met to discuss the applications.

The motion passed by the Board on July 11, 2023, specifically stated that reconsideration for funding was *only* for projects located within the mapped priority watershed listed in Resolution 18-43. Two of the projects are located within the mapped priority watersheds. However, those two projects are not recommended for funding for the reasons listed in the table below.

The other two projects, located outside the mapped watersheds, could be supported if the Board chooses to consider Alternative Recommendation Number 1. The conditions and comments for funding those two projects are listed in the table under Alternatives to Staff Recommendations.

Grant Application	***Project Description and Staff Notes***	***Funding Request***	***Recommended Funding***

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Delaney (Located in priority watershed)	Replaces two (2) culverts and one (1) bridge. Original Recommendation: no funding because CDFW LSA has had no movement for a year. No enrollment with RWQCB for parcel 220-282-019. *Current Recommendation: No funding because there is no Site Management Plan with RWQCB to agree on scope of work needed. Upgrading ATV bridge does not meet intent of this grant program.*	$71,274	$0
Sproul Creek (Located in priority watershed)	Upgrades fourteen (14) water crossings and addresses eighteen (18) erosion/sediments control projects. Original Recommendation: no funding because property has Cleanup and Abatement Order from RWQCB and Notice of Violation from CDFW. *Current Recommendation: No funding because settlement agreement states "the county shall ensure that grants from the fund shall not be available, either directly or indirectly, to any property in the abatement process."*	$117,170	$0
Aldebaran (Located outside priority watershed)	Replaces one (1) culvert on Homestead Road and removes legacy hydroelectric infrastructure. Original Recommendation: no funding because there is no RWQCB water quality certificate or site management plan and CDFW is missing reporting requirements. *Current Recommendation: Located outside mapped priority watersheds.*	$17,040	$0
Eagle Creek Ranch/ EcoMeds (Located outside priority watershed)	Rock armors two (2) culverts and removes water bladder. Original Recommendation: no funding because CDFW is missing all reporting requirements and scope of work does not reflect needed work (removal of tires from the creek). *Current Recommendation: Located outside mapped priority watersheds.*	$24,486	$0
	Total	$229,970	$0

The fund has $287,008 remaining for funding the projects in this Board item. None of the above projects are recommended for funding which would leave $287,008 in the fund.

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There are no further allocations planned to add to this fund from county cannabis civil enforcement actions. In concert with CDFW and RWQCB, and with the support of Friends of the Eel River, staff is recommending the remaining balance of $287,008 be transferred to the Department of Public Works to address the list of pre-approved high priority road improvement projects that will reduce sediment delivery. This means that there will not be another round of grant funding to cannabis applicants for individual road improvements.

FINANCIAL IMPACT:
Transferring the remaining balance to Public Works will deplete the entire fund balance. Administration of the Mitigation and Remediation Fund is supported by existing staff costs by the General Fund. A supplemental budget request (Attachment 2) shows the allocation of Friends of the Eel River Fund 3929 to the Department of Public Works.

STRATEGIC FRAMEWORK:
This action supports your Board's Strategic Framework by facilitating public/private partnerships to solve problems.

OTHER AGENCY INVOLVEMENT:
Auditor-Controller, County Counsel, Public Works, California Department of Fish and Wildlife and the Regional Water Quality Control Board

ALTERNATIVES TO STAFF RECOMMENDATIONS:

1. In both Round 1 and Round 2 of the grant funding the Board approved projects located outside of the priority watersheds as mapped in Resolution 18-43. These projects demonstrated a high level of water quality benefits and were supported by CDFW and the RWQCB. The motion to reconsider funding additional applications brought forward with this Board item was specifically for projects located within the priority watersheds. However, the Board may choose to consider funding projects located outside of the watersheds if they promote similar level of water quality benefits as the previous applications. The table below shows the conditions and comments for funding the projects located outside the mapped priority watersheds.

Alternative Recommendation Number 1			
Grant Application	***Project Description and***	***Funding Requested***	***Funding Supported***

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Aldebaran (Located outside priority watershed)	Replaces one (1) culvert and removes legacy hyd infrastructure. Original funding because there is quality certificate or site and CDFW is missing re requirements. *Current C funding could be suppor securing 401 certificatio funding based on remov grant amount.*	$17,040	$14,623
Eagle Creek Ranch/ EcoMeds (Located outside priority watershed)	Rock armors two (2) cul water bladder. Original no funding because CDI reporting requirements a does not reflect needed v tires from the creek). *Cu Full funding could be su on the completion of in- by RWQCB and CDFW year of approval.*	$24,486	$24,486
	Total		$39,109

If this alternative is chosen, it is recommended that the Board of Supervisors:

a. Approve the attached supplemental budget for budget unit 1100-282-910, Friends of the Eel River Budget, for $39,109 and 1200-325, Public Works Road Maintenance Fund for $247,899 (Attachment 4) (4/5 vote required); and

b. Approve the grant applications in Alternative Recommendation Number 1 from the Mitigation and Remediation Fund Awards by approving the attached Resolution (Attachment 5); and

c. Authorize the Director of the Planning and Building Department to execute the grant agreements after review and approval by County Counsel and Risk Management.

2. The Board may choose alternative funding amounts at its discretion to better fit the administration of the Mitigation and Remediation Fund. The recommended funding amounts are consistent with the Program Guidelines with input from the referral agencies, particularly CDFW and RWQCB, so staff does not recommend further consideration of this alternative.

ATTACHMENTS:
Attachment 1: Round 2 - 2022 Grant Applications
Attachment 2: Supplemental Budget for Staff Recommendation

Attachment 3: Resolution for Staff Recommendation
Attachment 4: Supplemental Budget for Alternative Recommendation No. 1
Attachment 5: Resolution for Alternative Recommendation No. 1

PREVIOUS ACTION/REFERRAL:
Board Order No.: L-1, J-2, H-1, D-49, I-3
Meeting of: December 1, 2019, August 17, 2021, June 14, 2022, June 27, 2023, July 11, 2023
File No.: 19-1675, 21-1136, 22-691, 23-750, 23-952