



Legislation Details (With Text)

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On agenda: 1/24/2023 **Final action:**

Title: Director of Public Works requests approval of a Budget Transfer for the following (4/5 vote required):
1. Increase appropriation by \$37,000 in the Accumulated Capital Outlay Fund (ACO) (Fund 3000, Org 3000000, Object 56100) with the use of its available fund balance to be transferred to Project 22006 (Fund 2040, Org 2040500, Object 48200); and
2. Increase appropriations by \$37,000 in Project 22006 "White-Sobelman Landslide Nuisance Abatement - 3435 Redwood Road", (Fund 2040, Org 2040500, Object 52360) offset by a transfer-in revenue from the ACO.

Sponsors: Board of Supervisors

Indexes:

Code sections:

Attachments: 1. Abatement Budget Summary

Date	Ver.	Action By	Action	Result
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TO: Board of Supervisors

FROM: Steve Lederer, Director of Public Works

REPORT BY: James Reese - Associate Engineer - Public Works

SUBJECT: Budget Transfer for "White-Sobelman Landslide Nuisance Abatement - 3435 Redwood Road", RDS 21-33

RECOMMENDATION

Director of Public Works requests approval of a Budget Transfer for the following (4/5 vote required):

1. Increase appropriation by \$37,000 in the Accumulated Capital Outlay Fund (ACO) (Fund 3000, Org 3000000, Object 56100) with the use of its available fund balance to be transferred to Project 22006 (Fund 2040, Org 2040500, Object 48200); and
2. Increase appropriations by \$37,000 in Project 22006 "White-Sobelman Landslide Nuisance Abatement - 3435 Redwood Road", (Fund 2040, Org 2040500, Object 52360) offset by a transfer-in revenue from the ACO.

EXECUTIVE SUMMARY

Various dangerous and unauthorized improvements were made by the property owner at 3435 Redwood Road, APN: 035-320-002-000, resulting in a landslide that blocked Redwood Rd. for several days. Although Public Works crews cleared slide from Redwood Road, it was necessary for the County to implement hillside improvements to stabilize the site from causing more damage. The County will attempt to recover the costs of this work from the property owner.

The Board of Supervisors awarded a construction contract for \$549,840 to Rehak General Engineering, Rehak began construction on August 2, 2022, and Rehak completed the work on November 2, 2022. During excavation work, the contractor removed unforeseen large boulders, and Public Works staff executed \$74,551 in change orders. Removing the boulders also extended the construction project schedule, which caused extra inspection costs.

The Board authorized a budget of \$800,000 from the County's Accumulated Capital Outlay Fund (ACO) for this project; however, County staff are requesting an additional \$37,000 to close out this project.

FISCAL & STRATEGIC PLAN IMPACT

Is there a Fiscal Impact?	Yes
Is it currently budgeted?	No
Where is it budgeted?	The Board approved a budget transfer from the ACO into the Project (Fund 2040, Org 2040500, Project 22006), and County staff is pursuing reimbursement from the property owner.
Is it Mandatory or Discretionary?	Discretionary
Discretionary Justification:	Funding is needed to close out the project.
Future fiscal impact:	County staff do not anticipate any future fiscal impacts.
Consequences if not approved:	County staff cannot close out the Project.
County Strategic Plan pillar addressed:	Healthy, Safe, and Welcoming Place to Live, Work, and Visit

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: Consideration and possible adoption of a Categorical Exemption Class 1: It has been determined that this type of project does not have a significant effect on the environment and is exempt from the California Environmental Quality Act. [See Class 1 ("Existing Facilities") which may be found in the guidelines for the implementation of the California Environmental Quality Act at 14 CCR §15301; see also Napa County's Local Procedures for Implementing the California Environmental Quality Act, Appendix B.]

BACKGROUND AND DISCUSSION

In response to a slope failure that occurred on the property of 3435 Redwood Road, APN: 035-320-002-000 (the "Subject Property") on February 28, 2019, the County of Napa, Public Works Department closed Redwood Road and began removing debris and soil from Redwood Road. On February 28, and March 7, 2019, County Engineering and Code Compliance staff conducted inspections of the Subject Property following authorization from the owner, Timothy White. Those inspections were to observe and document the landslide and conditions of the hillside for areas of instability that were determined to pose a threat to life and safety. During those inspections staff observed and documented evidence of grading, building, and environmental violations on the

Subject Property, consisting of removal of trees from the hillside, construction of retaining walls backfilled with soil, expansion of an existing parking pad, construction of a detached garage, diversion of run-on to the area where the slope failed, and various items stored outdoors in excess of what is allowed under Napa County Code.

Napa County records indicate that the property owner completed the grading and construction without the benefit of permits. Napa County staff continued periodic site inspections throughout the winter season and identified three areas of continued instability on the subject property that pose a hazard to the property as well as Redwood Road. These areas include the eastern and western flanks of the existing landslide area and the vertical face along the private drive, which was being retained by one of the unpermitted retaining walls. On March 31, 2019, additional material from the existing landslide that slid onto Redwood Road requiring the Department of Public Works to mobilize and remove the soil and debris from the Redwood Road right-of-way.

In an effort to gain voluntary compliance in correcting the Violations, County staff sent a notice of nuisance on April 9, 2019 to identify the violations and provided a reasonable amount of time to correct those violations. The violations had not been corrected and on June 5, 2019, Citation No. CE19-00075-1 was issued to the property owners. The citation directed the property owners to immediately remediate the erosion and slope stability hazards; apply for grading permits and stabilize hillside to mitigate further slope failure; apply for a building or demolition permit for the retaining walls which were constructed without the benefit of permit; and store building materials in one area of not more than 100 square feet. The County did not impose an Administrative penalty.

The property owner formally contested this citation and filed a request for Hearing regarding Citation CE19-00075-1 pursuant to Napa County Code Section 1.28.090. A hearing was held on October 30, 2019, at the Office of Administrative Hearings at which time an Administrative Law Judge ordered that Napa County Citation No. CE19-00075-1 issued to the property owners was affirmed.

After the Hearing Officer denied the appeal of the citation, the property owner filed a complaint for inverse condemnation, seeking damages from the County for the damage caused by the landslide. The County filed a counterclaim for, among other things, abatement of the nuisance. After initial pleadings, the property owners apparently abandoned the property and the litigation. They stopped responding to correspondence and failed to respond to discovery served by the County. As a result, the Court granted terminating sanctions, dismissing their complaint and their answer to the County's cross-claim. The Court then entered judgment in the County's favor.

The Department of Public Works and the Department of Planning, Building and Environmental Services implemented required improvements to stabilize the site. Temporary stabilization measures were installed last winter to protect the site ahead of the expected winter rains.

On June 7, 2022, the Board of Supervisors approved the "White-Sobelman Landslide Nuisance Abatement - 3435 Redwood Road Project," RDS 21-33 Plans and Specifications and authorized to advertise for sealed bids and opening of the bids pursuant to Section 20150.8 of the Public Contract Code. On July 14, 2022, the Clerk of the Board opened bids and the lowest responsive bid was from Rehak General Engineering of Auberry, California. The Board of Supervisors awarded a construction contract for \$549,840 to Rehak General

Engineering, Rehak began construction on August 2, 2022, and Rehak completed the work on November 2, 2022. The completed repair extends a gabion wall that existed, improves drainage with a new culvert and slope stability after being regraded. During excavation work, the contractor removed unforeseen large boulders, and Public Works staff executed \$74,551 in change orders. Removing the boulders also extended the construction project schedule, which caused extra inspection costs.

The Board authorized a budget of \$800,000 from the County's Accumulated Capital Outlay Fund (ACO) for this project; however, County staff are requesting an addition \$37,000 to close out this project.