

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Planning and Building	(2) MEETING DATE 10/7/2014	(3) CONTACT/PHONE Steve McMasters, Supervising Planner/(805) 781-5096		
(4) SUBJECT Request to approve an agreement with the California Missions Foundation for special services to administer \$415,000 in cultural resources mitigation funds from the Mission Gardens Tract Map (TR 2527) in San Miguel. District 1.				
(5) RECOMMENDED ACTION It is recommended that the Board approve and sign the attached agreement with California Missions Foundation (CMF) to receive and administer mitigation funds resulting from the Mission Gardens Tract Map (TR2527) project.				
(6) FUNDING SOURCE(S) Mission Gardens Mitigation Fund	(7) CURRENT YEAR FINANCIAL IMPACT \$415,000.00	(8) ANNUAL FINANCIAL IMPACT \$0.00	(9) BUDGETED? N/A	
(10) AGENDA PLACEMENT <input checked="" type="checkbox"/> Consent <input type="checkbox"/> Presentation <input type="checkbox"/> Hearing (Time Est. ___) <input type="checkbox"/> Board Business (Time Est. ___)				
(11) EXECUTED DOCUMENTS <input type="checkbox"/> Resolutions <input type="checkbox"/> Contracts <input type="checkbox"/> Ordinances <input checked="" type="checkbox"/> N/A				
(12) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) N/A			(13) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: <input type="checkbox"/> 4/5 Vote Required <input checked="" type="checkbox"/> N/A	
(14) LOCATION MAP N/A	(15) BUSINESS IMPACT STATEMENT? No	(16) AGENDA ITEM HISTORY <input checked="" type="checkbox"/> N/A Date: _____		
(17) ADMINISTRATIVE OFFICE REVIEW Lisa M. Howe				
(18) SUPERVISOR DISTRICT(S) District 1				

County of San Luis Obispo



TO: Board of Supervisors

FROM: Planning and Building / Steve McMasters, Supervising Planner

VIA: Ellen Carroll, Planning Manager & Environmental Coordinator

DATE: 10/7/2014

SUBJECT: Request to approve an agreement with the California Missions Foundation for special services to administer \$415,000 in cultural resources mitigation funds from the Mission Gardens Tract Map (TR 2527) in San Miguel. District 1.

RECOMMENDATION

It is recommended that the Board approve and sign the attached agreement with California Missions Foundation (CMF) to receive and administer mitigation funds resulting from the Mission Gardens Tract Map (TR2527) project.

DISCUSSION

The Mission Gardens Project (Tract Map and Conditional Use Permit/TR2527) includes the subdivision of three existing parcels totaling 50.55 acres into: 58 residential parcels ranging from 5,360 square feet to 12,500 square feet, one residential parcel of 4.75 acres, one 11.16 acre open space parcel with a 6,000 square foot building envelope, for the purpose of sale and/or development, and one non-buildable open space parcel of 20.22 acres and a 2.43 acre remainder lot, and the development of the residential parcels with single family residences.

On April 4, 2006 the Board of Supervisors certified a Final Environmental Impact Report (FEIR) and approved the Mission Gardens Project with comprehensive conditions of approval incorporating mitigation measure identified in the FEIR. These conditions of approval included a number of measures addressing impacts to cultural resources from the project including premature grading of the site and an adjacent property. The premature grading resulted in significant impacts to cultural resources related to Mission San Miguel and the Native American community associated with the Mission. The EIR recommended, and the conditions of approval included provisions for the creation of a mitigation fund. The purpose of the fund is to provide for evaluation and/or preservation of historic or archaeological sites associated with Mission San Miguel, especially as they relate to Native American culture and history at the Mission. This fund was intended as compensatory mitigation for illegal grading activities associated with the tract that significantly impacted cultural resources on the adjacent property. The condition is as follows:

46. *Prior to approval of tract improvement plans, the applicant shall provide funding for ...an cultural resource management firm with demonstrated expertise in Mission era structures and resources to provide the following:*

*(c)(1) Develop estimates for the cost of archaeologically excavating the impacted area of 31 neophyte rooms (equaling approximately 1,054 square meters) on the Diocese property as an offset for the impact that occurred due to the unauthorized grading of the Diocese properties and the project site. The total estimated volume of material destroyed and subject to mitigation is 105.4 cubic meters. A payment program shall be instituted, phased with the recordation of the tract, that provides for the equivalent of excavation of 100% of the disturbed volume. Monies shall be paid by the project applicant with credit in the amount of \$35,000 for funds utilized for prior testing during the EIR evaluation. Credit shall not be given for those studies that evaluated resources or impacts on the project site (TR2527). These funds shall be held in trust by the California Mission Studies Association, **California Missions Foundation***

(emphasis added) or a comparable non-profit organization to be used for historical or archaeological studies, or restoration activities of resources or sites associated with San Miguel Mission. Preference of use of the funds shall be given to studies or resources related to Native American culture at the Mission. The program, payment phasing and fund administering organization shall be approved by the County of San Luis Obispo in consultation with the State of California, Office of Historic Preservation and representatives of the Salinan Tribe.,

The developer of the proposed project proceeded with preparation of tract improvement plans and attempted to meet many of the conditions of approval that were required to be satisfied prior to County approval of the tract improvement plans. The developer eventually lost the property and project to the loan holder (Coast National Bank) through foreclosure. In 2011 Coast National Bank requested the removal of the condition of approval establishing the mitigation fund. The Board of Supervisors denied the request and the conditions of approval established with the project approval in 2006 remained in effect.

Coast National Bank filed a lawsuit challenging the action of the Board. Pursuant to a settlement agreement entered into between Coast National Bank and the County on April 1, 2014, Coast National Bank agreed to satisfy condition 46(c)(1) described above by making immediate payment of \$415,000 to the County. As required by Condition 46(c)(1), the \$415,000 is to be provided to a qualified non-profit organization such as the California Missions Foundation for administration in accordance with the purposes and requirements of the condition of approval.

California Missions Foundation (CMF)

California Missions Foundation is a 501(c)3 non-profit, established in 1998 with the objective of preserving and protecting the California missions by funding projects from stabilization of structures to conservation of paintings and artifacts and conducting archaeological research. The funds provided by the developer and to be administered by CMF would be held in a special account with limitations on use as provided in the condition of approval and established in the attached agreement. CMF developed a possible work plan for review by the County which has been attached to the agreement as an example of scope of work that is consistent with the funding use limitations established in the agreement.

OTHER AGENCY INVOLVEMENT/IMPACT

County Counsel has reviewed this agreement as to its form and effect.

FINANCIAL CONSIDERATIONS

The funds provided for in the agreement were provided to satisfy condition 46(c)(1) of the conditions of approval of Vesting Tentative Tract Map 2527 and pursuant to a settlement agreement entered into on April 1, 2014.

RESULTS

The implementation of the agreement will satisfy condition of approval 46(c) of Tract 2527. This will allow the project to proceed consistent with the other provisions in the conditions of approval. This is consistent with the countywide goals of providing a well-governed and livable community.

ATTACHMENTS

1. Agreement for Special Services to Administer Mission Gardens Mitigation Fund with Exhibit A.