CLARK COUNTY BOARD OF COMMISSIONERS
AGENDA ITEM

Petitioner: Marci Henson, Director, Department of Environment and Sustainability

Recommendation:

Approve and authorize the Chair to sign the Enabling Instrument for the Clark County In-Lieu Fee Program between Clark County, the U.S. Army Corps of Engineers, the U.S. Environmental Protection Agency Region 9, and the Nevada Division of Environmental Protection; and authorize the Director of the Department of Environment and Sustainability, or designee, to sign subsequent Instrument modifications approved by the Interagency Review Team; or take such other action as deemed appropriate. (For possible action)

FISCAL IMPACT:

Fund #:	2360.200 (to be created)	Fund Name:	Habitat Conservation Program
Fund Center:	1300215020	Funded PGM/Grant:	N/A
Amount:	N/A		
Description:	N/A		
Additional Comments:	N/A		

BACKGROUND:

Section 404 of the Clean Water Act requires a permit from the U.S. Army Corps of Engineers (USACE) to discharge dredged or fill material into waters of the United States, and requires compensatory mitigation for impacts that cannot be avoided. An in-lieu fee program allows a permittee to meet that obligation by paying a fee to a program sponsor, which pools the funds to build and manage restoration projects. Clark County is not within the service area of an approved mitigation bank or in-lieu fee program, so permittees generally must mitigate on their own. The Regional Flood Control District estimates that flood control projects alone will affect approximately 35 acres of stream and wetland resources over the next ten years. A County-sponsored program provides a local option and aligns with the Clark County Multiple Species Habitat Conservation Plan.

The Enabling Instrument is the governing document required by 33 CFR Part 332.8. It establishes a program area covering Clark County (divided into three service areas); authorizes wetland and riverine/stream credits; and sets the compensation planning framework, mitigation plan review process, credit release and tracking procedures, financial assurances, and reporting requirements. It requires the County to establish a dedicated program fund before collecting fees, caps administrative use of fee revenue at 10.4%, and requests 20 advance credits so the program can begin issuing credits while the first mitigation projects are built.

This Enabling Instrument was prepared by the Department of Environment and Sustainability, in coordination with the Regional Flood Control District, and reviewed and approved by the Interagency Review Team. It takes effect on the date of the last signature, and USACE approval allows the program to be used for United States Department of the Army permits. Related agreements requiring Board action will be brought forward separately.

The Enabling Instrument backup document may be viewed at the following link:
https://ccagenda.clarkcountynv.gov/agendaitems/agendaitem/26-2206/131118206

Cleared for Agenda

10/06/2026

File ID#

26-2206