



## MEMORANDUM

**TO:** City Council

**FROM:** Bill Robeson, Assistant City Manager/Director of Public Works

**BY:** Shannon Sweeney, City Engineer

**SUBJECT:** Traffic Way Bridge Compensatory Mitigation Memorandum of Understanding

**DATE:** February 11, 2025

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### **RECOMMENDATION:**

Adopt a Resolution authorizing the City Manager to execute the proposed Memorandum of Understanding (MOU) with the Land Conservancy of San Luis Obispo County ("Land Conservancy") to contribute funds to support long-term maintenance of the Black Lake Ecological Area ("Black Lake Project") as environmental mitigation for the Traffic Way Bridge Replacement Project.

### **IMPACT ON FINANCIAL AND PERSONNEL RESOURCES:**

The proposed MOU transfers an expected \$100,000 to a restricted fund for the Land Conservancy to use for long-term maintenance of wetland planting for the Black Lake Project. 88.53% will be paid through the Highway Bridge Program (HBP) and 11.57% will be paid through Local Sales Tax Measure O Funds. This is roughly equivalent to the funds the City would be required to pay to meet these regulatory requirements if the City had adequate land to do so.

### **BACKGROUND:**

Over a series of annual inspections, Caltrans determined the Traffic Way Bridge needed to be replaced and placed it in the federal HBP. The HBP provides funding for bridge repair and replacement. It provides 88.53% of federal funding and a required local match of 11.47%. The Traffic Way Bridge Replacement Project is progressing as scheduled. However, the current matter contends with inadequate land within Arroyo Grande Creek to provide off-site mitigation opportunities on City property. The options below, especially the recommended option of contributing funds to support long-term maintenance of the Black Lake Ecological Area to satisfy the Regional Water Quality Control Board (the "Regional Board") mitigation requirement, are viable solutions.

**ANALYSIS OF ISSUES:**

The City awarded a construction contract to Granite Construction Company on [December 10, 2024](#)<sup>1</sup>. At that time, it was noted that the City had not yet acquired a Regional Board 401 permit for this project. This permit is needed prior to beginning construction in Arroyo Grande Creek, which is expected in June 2025. The delay in obtaining the 401 permit involves the challenge to find adequate City property to complete off-site mitigation, which is environmental planting and other improvements required to compensate for unavoidable disruption to plants and habitat associated with construction.

City staff spent considerable time exploring options for providing mitigation work using Arroyo Grande Creek property already owned by the City. Off-site mitigation requires roughly 0.2 acres of land. However, only 0.09 acres of land is available for mitigation, which is adjacent to the Swinging Bridge. Adequate land is available adjacent to Mason Street Bridge, but using this land for off-site mitigation would then complicate mitigation requirements applicable to the Mason Street Bridge for a future bridge replacement project in that location. For the City to meet the requirements of the 401 permit, while avoiding the other two locations described above, the City would need to secure easements on private property, then regularly access that property to plant and maintain the site(s) for a minimum of five years. Additional costs would be expected to secure the necessary easement(s).

City staff have worked with the Resources Conservation District to contribute funding to a project within the Arroyo Grande Creek Management Plan so that mitigation funds would be applied to the impacted water body, even if not within the City's jurisdiction. Unfortunately, this proposal was not acceptable to the Regional Board due to the timeframe within which those projects would likely be completed.

The Black Lake Project in southern San Luis Obispo County could provide a potential solution. The City's environmental subconsultant discussed with the Land Conservancy that payment into a restricted fund for long-term maintenance of wetland plants could satisfy the Regional Board requirement. The Black Lake Project involves improving a degrading wetland in partnership with the United States Fish and Wildlife Service (USFWS). This project is permitted and involves planting of targeted sensitive plant species ("Exhibit A" of Attachment 1 - Exhibit A).

Benefits of this approach include:

- A restricted fund has already been set up and has accepted other funds for long-term maintenance of the ecological site.
- The project received a 401 Certification, so the Regional Board is familiar with this beneficial project.

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<sup>1</sup><https://pub-arroyogrande.escribemeetings.com/Meeting.aspx?Id=d97188a8-cbd4-44a5-8b29-561fdea7102b&Agenda=Agenda&lang=English&Item=62&Tab=attachments>

- The restoration efforts are in line with Regional Board objectives of protecting water quality and improving habitat conditions, as well as other beneficial uses.

Initial conversations with the Regional Board indicate that they are likely to approve this solution, with the caveat that funds must be placed in a restricted fund for aquatic feature maintenance and monitoring and not for upland planting.

Staff have acted with urgency to obtain the 401 permit to begin construction on the Traffic Way Bridge, and discussions between the Land Conservancy and the Regional Board have been productive. However, the current agreement is still in draft form and undergoing negotiation. Additional changes may be requested by the Land Conservancy or the Regional Board. Accordingly, in the interest of expediency, Staff is requesting that the Council approve the form of this draft MOU and authorize the City Manager to execute the MOU following further negotiations with the Land Conservancy and Regional Board, provided that the MOU is in substantially the same form as the draft provided to Council. Authorization from the Council to enter into this agreement now will better facilitate negotiations between City staff, the Land Conservancy, and the Regional Board.

**ALTERNATIVES:**

The following alternatives are provided for the Council's consideration:

1. Adopt the Resolution approving the City Manager to execute the proposed MOU with the Land Conservancy to commit all required mitigation to the Black Lake Project;
2. Adopt the Resolution approving the City Manager to execute the proposed MOU with the Land Conservancy to commit some of the required mitigation to the Black Lake Project and some of the funding to a 0.09-acre site adjacent to the Swinging Bridge;
3. Do not adopt the Resolution and direct staff to use land adjacent to Mason Street Bridge off-site mitigation requirements for Traffic Way Bridge; or
4. Provide other direction to staff.

**ADVANTAGES:**

The proposed mitigation is the most expedient, cost-effective means to meet regulatory requirements associated with off-site mitigation for the Traffic Way Bridge Replacement Project. While Alternative 2 provides some funding to address work directly in Arroyo Grande Creek, the footprint of available area is small, and more funding will be spent managing the work than to improvements in the creek. Alternative 3 will complicate future bridge work, as improvements adjacent to Mason Street Bridge will need to be replaced on a greater than 1:1 basis, further exacerbating the current issue of not having adequate land within Arroyo Grande Creek to provide off-site mitigation opportunities on City property.

**DISADVANTAGES:**

Proposed long-term maintenance work to be completed with this funding is not within the vicinity of Arroyo Grande Creek or even within the City’s jurisdiction. However, it is the only project within San Luis Obispo County that currently meets the Regional Board’s requirements of timeliness and relevance. Not pursuing this avenue to meet regulatory requirements for the Traffic Way Bridge Replacement Project places associated grant funding at risk.

**ENVIRONMENTAL REVIEW:**

On [September 26, 2023](#)<sup>2</sup>, the City Council adopted a Mitigated Negative Declaration (MND) for the Project (SCH No. 2022060452). The MND analyzed the environmental impacts of the Project in compliance with the California Environmental Quality Act (“CEQA”). The adoption of this Resolution occurs pursuant to and in conformity with the analysis contained within the previously adopted MND. None of the conditions requiring subsequent environmental review called out in Public Resources Code section 21166 or State CEQA Guidelines section 15162 are present. Approval of this Resolution will not directly or indirectly cause any new physical impacts to the environment than what was previously analyzed in the prior MND. Specifically, the approval of this Resolution is (i) not a substantial change proposed in the Project that will require major revisions to the previous MND due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; (ii) not a substantial change with respect to the circumstances under which the Project is undertaken which will require major revisions of the previous MND due to the involvement of new significant effects or a substantial increase in the severity of previously identified significant impacts; and (iii) is not new information of substantial importance that shows the Project will have one or more significant impacts not discussed in the previous MND; that significant impacts previously examined will be substantially more severe than shown in the previous MND; that mitigation measures previously found to be infeasible would in fact be feasible and would substantially reduce one or more significant effects, but the City declined to adopt such measures; or that mitigation measures considerably different from those previously analyzed would substantially reduce one or more significant effects on the environment, but which the City declined to adopt. Thus, none of the conditions requiring subsequent environmental review called out in Public Resources Code section 21166 or State CEQA Guidelines section 15162 are present, and no further environmental review is required.

**PUBLIC NOTIFICATION AND COMMENTS:**

The Agenda was posted at City Hall and on the City’s website in accordance with Government Code Section 54954.2.

**ATTACHMENTS:**

1. Proposed Resolution

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<sup>2</sup> <https://pub-arroyogrande.escribemeetings.com/filestream.ashx?DocumentId=8662>