



**Department:** Public Works  
**Cost Center:** 5301  
**For Agenda of:** 7/16/2024  
**Placement:** Consent  
**Estimated Time:** N/A

**FROM:** Matt Horn, Public Works Director  
**Prepared By:** Noah Maidrand, Engineer II

**SUBJECT:** AUTHORIZATION TO ADVERTISE MID-HIGUERA BYPASS PROJECT,  
SPECIFICATION NO. 2090649

## RECOMMENDATION

1. Approve the project plans and special provisions for the Mid-Higuera Bypass, Specification Number 2090649; and,
2. Authorize staff to advertise for bids; and,
3. Authorize the City Manager to award the construction contract pursuant to Section 3.24.190 of the Municipal Code for the bid total, if the lowest responsible bid is within the Engineer's Estimate of \$9,400,000; and,
4. Authorize the City Engineer to approve Contract Change Orders up to available project budget and up to any amended budget subsequently approved by the City Manager up to \$200,000; and,
5. Appropriate \$225,000 in Zone 9 County funding to the project, as recommended by the Zone 9 Advisory Committee and adopted in the County FY24/25 budget; and,
6. Adopt a Draft Resolution entitled, "A Resolution of the City Council of the City of San Luis Obispo, California, authorizing appropriation of Capital Projects Reserve Funds to support the Mid-Higuera Bypass, Specification Number 2090649" to authorize the following:
  - a. Authorize the Finance Director to appropriate up to \$1,000,000 of LRM funds from the Capital Reserve of the Capital Outlay Fund to Mid-Higuera Bypass (Account 2090649) upon award of the construction contract; and,
  - b. Authorize the Finance Director to transfer up to \$1,000,000 of LRM funds from Roadway Sealing 2024, Project Account 2000615 to Mid-Higuera Bypass (Account 2090649) upon award of the construction contract; and
7. Authorize the City Manager to execute cost sharing agreements, utility relocation agreements, service fee agreements including payment of services with SoCal Gas, PG&E, and Telecom Services within available project budget; and
8. Authorize the Mayor to execute Public Utility Distribution Easement Agreements with PG&E in a final form satisfactory to the City Attorney.

## POLICY CONTEXT

On May 17, 2022, Council approved a Purchasing Policy Update to the Financial Management Manual that required Council approval for Public Projects that cost over \$200,000.

The Mid-Higuera Bypass (“Project”) was identified in the Council-adopted Waterway Management Plan as a preferred project. The Waterway Management Plan was prepared as part of the San Luis Obispo Creek Waterway Management Program which was created in coordination with the San Luis Obispo County Flood Control and Water Conservation District Zone 9 Advisory Committee (Zone 9 Committee) and adopted by City Council in 2003 (Resolution No. 9494). This followed the requirement from the Army Corp of Engineers to create a comprehensive plan for the SLO Creek Watershed in 1996 after several significant flood events.

## DISCUSSION

### Background

The Project was identified in the Council adopted Waterway Management Plan as a way to reduce flooding from San Luis Obispo Creek along the Mid-Higuera Corridor (see Figure 1, right). The Mid-Higuera Corridor suffers from frequent flooding from 10-Year storm events (1 in 10 chance every year). The Project will increase flood capacity by 40% during a 25-year storm event and reduce the floodwater surface elevation by 6-18 inches depending upon the location within the project limits. Key project components that will increase flood capacity include:

- Excavating over 23,000 cubic yards of soil for flood benches and two bypass channels (see Attachment E) to create additional pathways for flood water.
- Replacing the existing Bianchi Lane Bridge, which was originally constructed in 1905 and is structurally failing, with a new concrete bridge with nearly double the span and an increased surface elevation which will allow more water to flow under during large storm events.
- Removing over 70 trees and shrubs that constrict flow within the creek channel, many of which are non-native and invasive.
- Replanting over 300 native trees and shrubs to provide a healthy riparian habitat and tree canopy.



Figure 1: Mid-Higuera Bypass Project Location

**Project**

Staff is recommending approving the project design and advertising the project in order to secure a construction contract by fall of this year, planning for construction work to begin in 2025. The project will need to begin construction following the next rainy season with the majority of work being completed between June 1<sup>st</sup> and October 1<sup>st</sup>, 2025, in order to comply with all creek regulatory permits and meet Proposition 1 grant funding deadlines with the State. Staff executed a Proposition 1 grant funding agreement with the State on March 14, 2023, which allocated \$6,078,707 in State funding for this project. To meet legislative deadlines under Proposition 1, all work for the project must be completed by March 31, 2026, and no funds may be requested after September 30, 2026. Staff will work concurrently to complete utility relocation and easement acquisition throughout the fall in preparation for construction in 2025.

**Utility Relocation**

Staff are currently coordinating with utility companies to design and execute the relocation of facilities that conflict with the Project. Staff anticipate relocation costs from PG&E, SoCal Gas, and AT&T will not exceed \$600,000. PG&E has submitted the cost of relocation of their facilities not covered under the City Franchise Agreement at \$218,565. SoCal Gas and AT&T relocation costs are subject to final design but anticipated to be less than that of PG&E. Staff are requesting delegated authority for the City Manager to execute service fee agreements within available project budget (Recommendation 7).

**PG&E Easement**

Existing PG&E facilities need to be relocated to accommodate Project construction, as referenced in the paragraph above. The revised alignment for PG&E facilities cross City owned open space. To accommodate this relocation, PG&E requests a no cost easement permitting the right to construct, replace, maintain, and inspect the defined easement area within City Open Space (Attachment D). Further, in executing the easement the City agrees not to place or construct any building or structure within the agreed upon easement areas. Staff is requesting that Council authorize the Mayor to execute this easement agreement with PG&E in a form subject to approval of the City Attorney (Recommendation 8).

**SoCal Gas**

Existing SoCal Gas facilities need to be relocated to accommodate Project construction, including a buried gas pipeline that currently runs under the Bianchi Lane Bridge which is planned to be demolished and relocated as part of this project. The existing facilities are located across City open space and an adjacent private property on the west side of the creek. SoCal Gas maintains a private easement across both parcels for their existing facilities and claims that the City is liable for all costs incurred for relocating the facilities; however, City staff have countered that since the easement across the City property was not recorded on the property, the relocation work across this parcel would be subject the Franchise Agreement that SoCal Gas executed with the City in 1978, and therefore SoCal Gas would be liable for the cost of the work.

Staff proposes the cost of the facility relocation be shared between the City and SoCal Gas in a manner proportional to the total length of pipe across each parcel. The portion of existing gas line to be relocated that lies on City property is approximately 40% of the total length, while 60% of the existing gas line to be relocated lies on private property over which SoCal Gas maintains a private easement. As such, staff have proposed that the cost of the facility relocation be shared at a rate of 60% City cost to 40% SoCal Gas cost, though final share remains subject to negotiation with SoCal Gas and Staff is requesting that delegated authority be provide to the City Manager to execute the final agreement if within available project funding (Recommendation 7).

**Previous Council or Advisory Body Action**

- [October 2003](#): Council adopts the Waterway Management Plan, identifying the Mid-Higuera Bypass as a preferred project.
- [January 2012](#): Council appropriates Zone 9 funds for Preliminary Design Services for the Project.
- [August 2018](#): San Luis Obispo County Board of Supervisors certifies the Final SEIR.
- [September 2019](#): Council appropriates additional Zone 9 funds for Final Design Services.
- [January 2020](#): Council authorizes staff to pursue the State Coastal Watershed Flood Risk Reduction Grant for the Project.
- [July 2021](#): Council authorizes staff to pursue the State Urban Flood Protection Grant for the Project.
- [July 2022](#): Council authorizes staff to begin negotiations with property owners to acquire easements necessary to complete the Project.
- [October 2022](#): Planning Commission adopts a Resolution determining the General Plan Conformance of permanent and temporary easements required to complete the Project (GENP-0553-2022).
- [November 2022](#): Council authorizes staff to begin negotiations with additional property owners to acquire easements necessary to complete the Project.
- [October 2023](#): Council authorizes staff to begin negotiations with additional property owners to provide business relocation assistance and acquire public utility easements required to complete the Project.
- [May 2024](#): Council authorizes the Mayor to purchase personal property associated with a business relocation for the Project.
- [June 2024](#): Council adopted the FY 2024-25 Supplemental Budget which allocated an additional \$45,000 from the Water Fund for the Project.

**Public Engagement**

The Zone 9 Advisory Committee recommends specific programs to alleviate and control flood damage, with recognition of the ecological and aesthetic values of the programs. With the purpose and need of the project established in the [Waterway Management Plan](#), the Zone 9 advisory body and community members in attendance have been supportive of the project through its planning, environmental review, and design phases, and have approved yearly funding recommendations to the County Board of Supervisors to support ongoing design and property acquisition work necessary to get the project to the construction phase.

Throughout the planning and design of the Mid-Higuera Bypass Project, Zone 9 Advisory Committee board members and community members have received regular Project updates. Additionally, the project design team and property acquisition consultant have had direct contact with all property owners along the project alignment who will be impacted by construction.

**CONCURRENCE**

The Project has been reviewed by the Flood Control and Water Conservation District Zone 9, County Staff, the Regional Water Quality Control Board, California Department of Fish and Wildlife, and the Army Corp of Engineers.

The Project plans (Attachment B) and special provisions (Attachment C) have been reviewed and have concurrence from the City Biologist, the Public Works Department, the Utilities Department, and the Community Development Department.

**ENVIRONMENTAL REVIEW**

A Final Environmental Impact Report for the San Luis Obispo Creek Watershed Waterway Management Plan was certified in 2003 (State Clearinghouse Number 2002091075). A Final (SEIR) for the Mid-Higuera Bypass was prepared by County staff focusing on the following mitigations: biological resources, cultural resources, air quality, visual resources, hazardous materials, drainage/erosion and sedimentation, and noise. On August 21, 2018, San Luis Obispo County Board of Supervisors certified the SEIR. SEIR State Clearinghouse Number is SCH2016021077. The Project plans and special provisions have been prepared in accordance with the required mitigation measures as determined in the SEIR.

The City has acquired all necessary permits to complete the Project from the Regional Water Quality Control Board, California Department of Fish and Wildlife, and the Army Corp of Engineers.

**FISCAL IMPACT**

Budgeted: Yes

Budget Year: 2024-25

Funding Identified: Yes

**Fiscal Analysis:**

<b>Funding Sources</b>	<b>Total Budget Available*</b>	<b>Current Funding Request</b>	<b>Remaining Balance</b>	<b>Annual Ongoing Cost</b>
General Fund (LRM)	\$3,420,505.23	\$1,000,000	\$0	\$0
State	\$6,078,707	\$0	\$0	\$0
Federal	\$0	\$0	\$0	\$0
Fees	\$0	\$0	\$0	\$0
Zone 9	\$1,349,118.30	\$225,000	\$0	\$0
Water Fund	\$145,000	\$0	\$0	\$0
Capital Reserve Fund (LRM)	\$4,010,000	\$1,000,000	\$3,010,000	\$0
<b>Total</b>	<b>\$15,003,330.53</b>	<b>\$2,250,000</b>	<b>\$3,010,000</b>	<b>\$0</b>

*\*Including Supplemental Budget Allocations*

<b>Mid-Higuera Bypass Project, Specification 2090649</b>							
	<b>Mid-Higuera Bypass (2090649)</b>				<b>Roadway Sealing 2024 (2000615)</b>	<b>Capital Reserve</b>	<b>Project Total Cost</b>
	<b>Capital Outlay Fund - LRM</b>	<b>Water Fund</b>	<b>County Zone 9 Funding</b>	<b>State Grant Funding</b>	<b>Capital Outlay Fund - LRM</b>		
Engineer's Estimate	\$402,175	\$145,000	\$1,274,118	\$5,828,707	\$750,000	\$1,000,000	\$9,400,000
Contingency (10%)	\$976,331	\$0	\$0	\$0	\$0	\$0	\$976,331
<b>Total Construction Estimate</b>	<b>\$1,378,505</b>	<b>\$145,000</b>	<b>\$1,274,118</b>	<b>\$5,828,707</b>	<b>\$750,000</b>	<b>\$1,000,000</b>	<b>\$10,376,331</b>
Utility Relocation	\$600,000	\$0	\$0	\$0	\$0	\$0	\$600,000
Property Acquisition	\$290,000	\$0	\$0	\$0	\$0	\$0	\$290,000
Design Administration and Support	\$0	\$0	\$75,000	\$0	\$0	\$0	\$75,000
Construction Management/Monitoring	\$1,150,000	\$0	\$0	\$250,000	\$250,000	0	\$1,650,000
Printing	\$2,000	\$0	\$0	\$0	\$0	\$0	\$2,000
<b>Total Project Cost</b>	<b>\$3,420,505</b>	<b>\$145,000</b>	<b>\$1,349,118</b>	<b>\$6,078,707</b>	<b>\$1,000,000</b>	<b>\$1,000,000</b>	<b>\$12,993,331</b>
<b>Percentage of Project Cost</b>	<b>26%</b>	<b>1%</b>	<b>10%</b>	<b>47%</b>	<b>8%</b>	<b>8%</b>	<b>100%</b>
<b>Available Project Funding</b>							
Current Account Balance	\$570,505	\$100,000	\$1,124,118	\$6,078,707	\$0	\$10,000	\$7,883,331
Additional Funding in 24/25 FY	\$2,850,000	\$45,000	\$225,000	\$0	\$5,523,775	\$4,000,000	\$12,643,775
<b>Total Available Budget</b>	<b>\$3,420,505</b>	<b>\$145,000</b>	<b>\$1,349,118</b>	<b>\$6,078,707</b>	<b>\$5,523,775</b>	<b>\$4,010,000</b>	<b>\$20,527,106</b>

<b>Construction Cost Breakdown</b>	
<b>Project Element</b>	<b>Cost</b>
Site Management and Permit Compliance	\$ 1,100,000
Bypass Channel Grading	\$ 1,100,000
Bench & Creek Bank Stabilization Grading	\$ 1,400,000
Marsh Street Sediment Removal	\$ 100,000
Bianchi Lane Bridge Replacement & Roadway Improvements	\$ 4,755,000
Riparian Enhancement and Habitat Restoration	\$ 800,000
City-Owned Utility Relocation	\$ 145,000
<b>Total Construction Cost</b>	<b>\$ 9,400,000</b>

To date, approximately \$1,530,000 has been spent towards Project design and easement acquisition from 2012 to present, with approximately \$105,000 in remaining design encumbrance.

The 2023-25 Financial Plan allocated an additional \$2,850,000 in LRM Funds at the start of the 24-25 Fiscal Year to supplement the construction budget and meet our state grant required match fund limits. The FY 2024-25 Supplemental Budget allocated an additional \$45,000 from the Water Fund to account for increased Project costs associated with City-owned utility relocation. At that time, staff were anticipating a significant increase in project cost that exceeded the available budget, but did not have sufficient information available to fully itemize all pertinent costs such as construction management and easement acquisition costs. Since the Project estimate was still being developed, the Supplemental Budget identified that additional funding beyond the allocated \$45,000 would be requested from Council once costs could be finalized.

An additional \$225,000 was allocated by the Zone 9 Committee to help supplement escalated construction costs at the start of the 24-25 Fiscal Year. Staff is recommending Council appropriate this funding to the project account to supplement construction costs (Recommendation 5). Only specific items of work<sup>1</sup> are eligible for Zone 9 reimbursement, and the cost of these items is evaluated at the end of each calendar year with the Zone 9 Committee. \$225,000 was determined to be the amount of construction cost escalation for these items of work since the previous Zone 9 allocation. After bids are received, staff will review the eligible reimbursement items to determine the total of those costs. If the cost of those items exceeds the current Zone 9 funding allocation, staff will have another opportunity to request a funding supplement in Fall 2025, which would be appropriated with the County's FY25/26 budget.

Staff is recommending appropriating \$1,000,000 of Local Revenue Measure funds from the Capital Reserve fund to support construction of the Project per the Draft Resolution (Attachment A) (Recommendation 6a).

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<sup>1</sup> Eligible construction items for Zone 9 reimbursement include: removal of invasive plant species, pruning of trees and roots, tree removal, trash and debris removal, sediment removal, planting & plant establishment work.

## Item 6d

On June 20, 2024, the Roadway Sealing 2024, Specification No. 2000615 received bids significantly lower than the engineer's estimate. Upon award of the construction contract in July of 2024, staff anticipate realized remaining project budget. The anticipated Roadway Sealing 2024 cost following the award to the low bidder is \$3,773,246 and the account balance (2000615) is \$6,741,783, leaving a remaining balance of \$2,968,537 in LRM funds. Staff is recommending transferring \$1,000,000 from the Roadway Sealing 2024, project account 2000615 per the Draft Resolution (Recommendation 6b).

The increase in overall cost of the Project since the 2023-25 Financial Plan is primarily due to construction cost escalation of Bianchi Lane bridge replacement and property value increases related to utility relocation and property easement acquisition.

### ALTERNATIVES

1. **Deny the approval to advertise the Project.** City Council could choose to deny authorization to advertise this project. Staff does not recommend this alternative as the Project is part of the Waterway Management Plan previously adopted by Council. Furthermore, the City received grant funding that must be expended by 2026 and therefore must advertise the project at this time in order to complete construction before the grant deadline.
2. **Deny the allocation of additional LRM funds.** City Council could choose to deny the appropriation of LRM funds from the Capital Reserve Fund Balance and Roadway Sealing 2024 project account until contract award. Staff does not recommend this alternative as a construction contract could not be awarded without additional City funds and this would further increase the risk that the project will not meet the construction timeline.
3. **Deny delegated authority to enter into cost sharing agreement with SoCal Gas.** City Council could choose to deny the delegated authority for the City Manager to enter into a cost sharing agreement with SoCal Gas and require staff to return to Council once the final terms of the agreement have been negotiated. This is not recommended because SoCal Gas must relocate their facilities well in advance of the project entering construction, and there is likely insufficient time to do so due to project schedule constraints of working within the creek.

### ATTACHMENTS

- A - 2090649 Mid-Higuera Bypass Plans
- B - 2090649 Mid-Higuera Bypass Special Provisions
- C - Draft Resolution to Appropriate Capital Reserve Funds
- D - Draft Utility Distribution Easement for City Open Space
- E - Site Overview