



**COMMUNITY DEVELOPMENT AGENCY
LONG RANGE PLANNING DIVISION**

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January 13, 2015

TO: Board of Supervisors

FROM: Shawna Purvines, Principal Planner

Subject: Biological Policy Update Project Schedule, Key Milestones and Recommendation for Contract Amendment to Address Oak Woodland In-Lieu Fee Program.

Recommendation

The Community Development Agency, Long Range Planning Division recommends the Board:

1. Discuss and approve a project schedule for the General Plan Biological Resource Policy Update to ensure this project can be achieved within the project schedule;
2. Determine that the current in-lieu fee amount as previously adopted in the Oak Woodland Management Plan should be re-analyzed to ensure consistency with State law; and
3. Authorize the Chair to sign Amendment I to Agreement for Services No. 425-S1411 with Dudek, expanding the scope of work to include the re-analysis of the In-Lieu Fee (Attachment 9C), increasing the not-to-exceed amount of the Agreement by \$24,600 for a not-to-exceed total amount of \$401,700, contingent upon review and approval of the Amendment by County Counsel and Risk Management.

Fiscal Impact/Change to Net County Cost

There is no change to Net County Cost associated with this agenda item. Sufficient appropriations have been included in the Long Range Planning's Fiscal Year (FY) 2014/15 Adopted Budget and will be included in future budgets as necessary for the term of the Agreement.

Background

The court decision overturning the Oak Woodland Management Plan (OWMP) has prompted the County to address, at a minimum, the implementation of certain oak tree policies in the General Plan. These policies are interrelated with several other biological policies. After reviewing options presented on September 24, 2012, the Board

determined that all the related biological policies should be reviewed and considered for revisions to ensure that the goals and objectives of the General Plan can be achieved.

On March 11, 2014 the Board approved and authorized the Chair to sign Agreement 425-S1411 with an outside consulting firm, Dudek, for a term of three (3) years to proceed with a program to review and potentially amend several General Plan policies related to biological resources.

On July 28, 2014, the Board received information on the historical work completed to date on the Integrated Natural Resource Management Plan (INRMP) and OWMP in the Background Memo (Attachment 5B) and a set of draft options in the Policy Options Memo (Attachment 5C) for Board consideration to determine next steps. The Policy Options Memo outlined four (4) broad policy approaches available to the County moving forward. The Policy Options Memo included an analysis of each potential option, including the pros and cons, public involvement opportunities and approaches, rough timelines for completing the process, and examples of how policies would be implemented for several hypothetical development scenarios. In addition to Attachments 5B and 5C, the Background Memo and Policy Option Memo can be found on the projects dedicated webpage at:

<http://www.edcgov.us/Government/LongRangePlanning/Environmental/BioPolicyUpdate.aspx>

On October 7, 2014, the Board conducted a workshop and directed staff to proceed with Policy Option 3 (mitigation/conservation option), and the timely implementation of the OWMP, specifically related to Option B of General Plan Policy 7.4.4.4 (oak woodland in-lieu fee option), with direction given to include a methodology within the OWMP for re-establishment of the in-lieu fee program. Under Policy Option 3, the intent is to amend the General Plan policies to redefine the County's program for management of and mitigation for biological resource impacts.

On November 21, 2014, the Board selected Approach A and directed staff to bring back a schedule outlining decision points, critical steps and key milestones for the project.

Reason for Recommendation

Policy Option 3 includes reviewing and potentially updating General Plan policies, OWMP, Priority Conservation Areas (PCAs), and Important Biological Corridors (IBCs). Under this option, the revised policies and implementation measures would lay out the requirements for analysis and mitigation of impacts, define the roles of project developers and the County in implementing mitigation, and prioritize mitigation opportunities.

To expedite preparing the revised policies, implementation measures, and OWMP, the Board directed staff to return in January with the project schedule and that the public participation component of the project take place at Board meetings/workshops. To

ensure proper and timely notification of the Board meetings/workshops on this project, staff is recommending the Board approve the project schedule along with key milestones and decision points as outlined below and further discussed in Attachment 9B (Dudek Memo).

January 13, 2015

1. Determine whether the current in-lieu fee amount should be retained or re-analyzed and updated.

There was considerable discussion at the October and November meeting regarding the timely implementation of the OWMP, specifically related to Option B of General Plan Policy 7.4.4.4 (oak woodland In-Lieu Fee option). At the November 21, 2014 Board meeting, further direction was given to include a methodology within the OWMP for re-establishment of the In-Lieu Fee program. Although not specifically anticipated in Option 3, the Board made an initial decision that a primary goal of this policy update effort is to expand Option 3 to include oak woodland mitigation by reestablishing the County's Oak Woodland Conservation Fund In-Lieu Fee.

Staff recommends the fee be re-analyzed to ensure consistency with current State laws, including but not limited to, requirements of "Assembly Bill 1600". The legal requirements for enactment of a development impact fee program are set forth in Government Code §§ 66000-66025 (the "Mitigation Fee Act"), the bulk of which were adopted as 1987's AB 1600 and thus are commonly referred to as "AB 1600 requirements."

To ensure this project objective can be achieved within the proposed project schedule, staff is recommending the Board authorize a contract amendment to include New Economics and Advisory as a sub consultant to Dudek. The proposed scope of work, specific to the completion of the Oak Woodland Mitigation Fee Program Nexus Study, is discussed in Attachment 9C (New Economics and Advisory Memo).

January 26, 2015 (Tentatively Scheduled)

2. Determine which method of oak woodland measurement (woodland area or canopy cover area), would be used for impact calculations and mitigation area determination.
3. Determine whether to require undercrossings for future four- and six-lane roadway projects to provide for wildlife movement, and if so, determine specific standards for undercrossings (i.e., size, location).

February 23, 2015 (Tentatively Scheduled)

4. Determine a threshold for selection for the two-tiered oak mitigation approach where smaller projects mitigate for tree impacts and larger projects mitigate for oak woodland impacts. This discussion will follow from the Board's decision of item 2 above.

5. Determine whether exemptions to oak woodland impact mitigation requirements included in the current OWMP and General Plan biological resource policies shall remain and/or be revised.
6. Determine whether Priority Conservation Areas (PCA's) will be updated.
7. Determine appropriate mitigation requirements specific to each category of special-status resources (e.g., vegetation communities, plants, wildlife) for inclusion in policies.
8. Determine specific standards for the establishment of IBCs, such as minimum parcel size, contiguous areas, and minimum corridor widths.

March 30, 2015 (Tentatively Scheduled)

9. Determine which important ecological areas identified by the Plant and Wildlife Technical Advisory Committee (PAWTAC) (e.g., aquatic environments, important habitat for migratory deer herds, Pine Hill areas, valley oak woodland, etc.) to include with the PCAs and IBCs as we develop a conservation strategy.
10. Define the County's requirements for maintaining a database of willing sellers within PCAs and IBCs and/or other important biological areas.

May 18, 2015 (Tentatively Scheduled)

11. Present to the Board a draft project description for review and comment. The draft project description will include draft policies proposed for amendment and revised OWMP. Upon approval of a draft project description, staff will begin the environmental review process.

Staff recommends the Board review the dates, revise as needed, and finalize a calendar to ensure adequate project noticing. Staff also recommends the Board approve Amendment 1 to Agreement 425-S1411, contingent upon review and approval by County Counsel and Risk Management.

Clerk of the Board Follow Up Actions

- 1) The Chair will sign two originals of Amendment I to Agreement for Services No. 425-S1411; and
- 2) The Clerk of the Board will return one fully-executed original of Amendment I to Agreement for Services No. 425-S1411 to the Long Range Planning Division for transmittal to the consultant.

Contact

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Community Development Agency, Long Range Planning Division

Concurrences

Contingent upon review and approval of the Amendment by County Counsel and Risk Management.