



Santa Lucia Conservancy Mitigation Policy

Adopted by Board of Trustees June, 10, 2022

EXECUTIVE SUMMARY

Due to the surge of new construction on The Preserve, the Santa Lucia Conservancy (SLC) is being asked with greater frequency to consider greater involvement in the preparation, evaluation, implementation, and management of mitigation projects by the Santa Lucia Design Review Board (DRB), Design and Construction Services (DCS), and project proponents (i.e., landowners). Consistent with the Final Environmental Impact Report for the Santa Lucia Preserve Project (FEIR)(1995), The Santa Lucia Preserve Mitigation and Monitoring Plan (1994), and Rancho San Carlos Forest Management Plan (1994), SLC is capable of facilitating such projects which can take a wide variety of forms, ranging from SLC accepting land in fee title, to allowing a restoration project on existing SLC holdings, to SLC initiating projects utilizing collected mitigation fees. In addition, federal, state and local agencies with permitting authority, as well as project proponents outside of The Preserve, periodically inquire whether the Conservancy would consider partnering on mitigation projects.

This document details a comprehensive program that informs and guides SLC's activities in relation to mitigation projects. Mitigation projects require careful consideration and specific steps to avoid any impact upon SLC's identity and credibility. Well-documented challenges from other land trusts facilitating mitigation projects are described in this document, as well as actions to avoid them.

Foremost, SLC will not become substantively involved in mitigation projects until after the relevant permitting agency(s) has identified the specific mitigation requirements for a project. Once identified, SLC will consider accepting the following:

- Protection – fee title and conservation easements. They are conveyed to SLC.
- Creation, Restoration and Enhancement Projects – SLC will consider projects that involve the creation/restoration/enhancement of habitat, but they will require additional evaluation. SLC may consider acceptance of such projects for management only after they have met previously agreed to agency-mandated success criteria.
- Mixed Projects – projects that involve both preservation of existing resources and creation/restoration/enhancement elements.



- Mitigation Fees – ad-hoc fees, in-lieu fee programs, and legal settlements. Ad-hoc fees are one-time fees for a project; a fee program is an established system for collecting fees in-lieu of specific performance.

Criteria have been identified for the evaluation of projects. The criteria include SLC’s mission and priorities, funding, expertise, consistency with existing requirements, other values, due diligence, project size, contiguity, manageability, liability, surrounding land uses, and community/landowner relations.

The decision-making process has three distinct phases:

- 1) A screening process to identify those projects that warrant further consideration;
- 2) Preparation and evaluation of mitigation projects concluding with final approval or rejection of the project by SLC’s Executive Committee;
- 3) When the project gets final approval, implementation occurs, which includes the signing and recording of applicable documents and/or if applicable, posting contingency funds prior to creation/restoration/enhancement activities being initiated.

Before SLC will accept a donation of real property (land in fee or conservation easement), the following conditions must be met:

- The permitting agency(ies) have provided final approval of the mitigation project in the form of public notice or a final letter of approval; and
- Conditions within SLC’s Openlands Exchange Guidelines (2020) are met.

SLC reserves the right to reject any project at any point in the process up to the recording of a conservation easement, or grant deed, and/or posting of contingency funds.



SLC Procedure for Processing Mitigation Fee Requests

SLC periodically receives requests from landowners to accept mitigation fees to satisfy a mitigation requirement. This document outlines a procedure for processing these mitigation fee requests. This document may refer to in-lieu fees (i.e., fees which are paid to fund a general program such as oak woodland preservation or stewardship of a protected property), or ad hoc fees (i.e., fees which are paid to fund a particular project to be implemented in the future such as a specific restoration project or the protection of a particular property). In cases where the request will require substantial staff time, SLC may require a screening fee prior to formal SLC involvement.

Procedure:

- 1) Landowner contacts SLC/DRB/County inquiring about mitigation fees.
- 2) SLC provides landowner with following information if requested:
 - a. Documentation outlining SLC programs/projects which can accept fees (with the understanding that this information does not guarantee that payment of fees to these programs will satisfy the mitigation requirement).
 - b. Documentation outlining SLC's procedure for processing mitigation fee requests.
- 3) Landowner submits to SLC the following:
 - a. A letter formally requesting that SLC accept the fee for a specific project or program.
 - b. Documentation verifying the mitigation requirement including communication from the lead permitting agency authorizing the mitigation fee as means for satisfying the requirement and outlining any requirements attached to receiving the mitigation fee (e.g., time frame for implementation, special responsibilities such as monitoring, etc.).
 - c. In the case of oak woodland mitigation fees, an Arborist Report is prepared by a Registered Professional Forester or Certified Arborist.
- 4) SLC staff prepares a draft approval letter (or in the case of more complex projects, a draft countersigned mitigation agreement document) which identifies the following:



- a. The fee amount and how it will be used.
 - b. Explanation of SLC responsibilities, processing fee, and if applicable, a fee service agreement for additional services rendered.
 - c. Any specific requirements attached to receiving the fee (e.g., timeframe for implementation, etc.).
- 5) SLC submits the draft approval letter to the landowner and lead agency as necessary for their approval.
 - 6) SLC's Executive Committee reviews the request letter, the draft approval letter, and if necessary, the permitting documentation.
 - 7) SLC's Executive Committee approves receipt of the mitigation fee.
 - 8) SLC sends the landowner the approval letter or the mitigation agreement document.
 - 9) The landowner sends a check for full payment to SLC (in the case of a mitigation agreement document, the developer would also return the countersigned letter). SLC subtracts the screening fee to cover staff expenses for processing the mitigation request.
 - 10) SLC sends the lead permitting agencies a letter confirming receipt of full payment along with a copy of the check.