

## City of Fort Worth, Texas

## Mayor and Council Communication

**DATE:** 02/10/26

**M&C FILE NUMBER:** M&C 26-0104

**LOG NAME:** 20LOVING AVE CULVERT AND CHANNEL USACE MITI BANK AGREEMENT

**SUBJECT**

(CD 2) Authorize Execution of a Mitigation Bank Credit Purchase Agreement with Mustang Creek Mitigation Holdings, LLC in the Amount of \$193,148.00 for the Purchase of Mitigation Credits from the United States Army Corps of Engineers for the Loving Avenue Channel and Culvert Improvements Project

**RECOMMENDATION:**

It is recommended that the City Council authorize execution of a Mitigation Bank Credit Purchase Agreement with Mustang Creek Mitigation Holdings, LLC in the amount of \$193,148.00 for the purchase of mitigation credits from the United States Army Corps of Engineers for the Loving Avenue Channel and Culvert Improvements project (City Project No. C00626).

## DISCUSSION:

The purpose of this Mayor and Council Communication (M&C) is to authorize execution of a Mitigation Bank Credit Purchase Agreement for the purchase of mitigation credits from the United States Army Corps of Engineers (USACE).

The Loving Avenue Channel and Culvert Improvements project was initiated to mitigate hazardous roadway overtopping, potential home flooding, and erosion threats to residential homes in the project area. The initial construction project did not trigger the Waters of the United States (U.S.) mitigation requirements due to its size.

However, due to the failure of a portion of the previously constructed channel lined with articulated concrete block, additional improvements will be needed to repair the failed portion and line an additional 100 feet of channel to mitigate future failures. This additional scope of work triggers the Waters of the U.S. mitigation requirements due to the increasing impact on the natural channel.

In accordance with Section 404 of the Clean Water Act, the Loving Avenue Culvert and Channel Improvements Project requires a Nationwide Permit 43 (NWP 43) from the USACE because it involves the construction of a stormwater management facility, including a culvert crossing and erosion control armoring, across Waters of the U.S., specifically Loving Channel. This permit authorizes the discharge of dredged or fill material associated with the channel and culvert construction within areas designated as Waters of the U.S.

The magnitude of the stream impact necessitates compensatory mitigation, which can be achieved in one of three ways: by creating additional habitat on-site or at an alternate location approved by the USACE, or by purchasing mitigation credits from a mitigation bank. The City of Fort Worth (City) is adopting the latter approach because mitigation banks assume responsibility for the long-term success of the mitigation site, thereby relieving the City of this responsibility. The NWP 43 Stormwater Management Facilities authorization, combined with the mitigation bank credits, ensures compliance with federal regulations, allowing for the additional channel lining improvements to be constructed and the project to be completed.

Mustang Creek Mitigation Holdings, LLC is an established mitigation bank that allows for the sale of mitigation credits to third parties in need of such mitigation, as approved by USACE. A Purchase of Mitigation Agreement, in the amount of \$193,148.00 from Mustang Creek Mitigation Holdings, LLC, will be executed for the transfer of credits to compensate for the loss of aquatic resources.

Funding is budgeted in the Stormwater Capital Projects Fund for the Transportation & Public Works Department to fund the Loving Avenue Channel and Culvert Improvements project, as appropriated.

The project is located in COUNCIL DISTRICT 2.

**FISCAL INFORMATION / CERTIFICATION:**

The Director of Finance certifies that funds are available in the current capital budget, as previously appropriated, in the Stormwater Capital Projects Fund for the Loving Avenue Channel & Culver project to support the approval of the above recommendation and execution of the agreement. Prior to any expenditure being incurred, the Transportation & Public Works Department has the responsibility to validate the availability of funds.

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