



TO: Santa Clara Valley Habitat Agency Implementation Board

FROM: Kenneth R. Schreiber, Interim Executive Officer

SUBJECT: Participating Special Entity Agreement with Santa Clara County Open Space Authority for the Coyote Valley Open Space Preserve Project, Phase 1

Recommended Actions:

1. Adopt a Resolution of California Environmental Quality Act (CEQA) findings that the Environmental Assessment/Initial Study/Mitigated Negative Declaration prepared by the Santa Clara County Open Space Authority for the Coyote Valley Open Space Preserve Use and Management Plan Draft Initial Study was completed in compliance with CEQA, reflects the Habitat Agency's independent judgment and analysis, and includes the adoption of a mitigation monitoring and reporting program. CEQA: The environmental impacts of the Coyote Valley Preserve Project, Phase 1 were addressed by a Mitigated Negative Declaration approved by the Board of Directors of the Santa Clara County Open Space Authority on September 26, 2013.
2. Adopt a Resolution making positive findings for and approving a Participating Special Entity Agreement with the Santa Clara County Open Space Authority for the Coyote Valley Open Space Preserve Project, Phase 1.

Discussion:

The adopted Habitat Plan provides that the Habitat Agency can grant coverage for activities proposed by government or regulated utilities that have not directly received State and federal permits through the adopted Habitat Plan. The governmental or regulated utilities receiving Habitat Plan coverage are called Participating Special Entities (PSEs). On October 17, 2013, the Implementation Board adopted Policies for the review and approval of PSEs. This staff report recommends approval of a PSE Agreement with the Santa Clara County Open Space Authority for Coyote Valley Open Space Preserve Project, Phase 1. The recommendation is consistent with the application's review by senior staff from the Co-Permittees (i.e., the Management Team), consultants to the Agency, and the Executive Officer.

Project Description:

Santa Clara County Open Space Authority (OSA) proposes to construct the Coyote Valley Public Access Improvements within the Coyote Valley Open Space Preserve (Coyote Valley). Coyote Valley

Preserve is located off of Palm Avenue in the unincorporated portion of south San Jose. The proposed project is Phase 1 of a two phase project¹. A site plan is provided as Exhibit 1 of the PSE Agreement, which is attached hereto as Attachment 3.

The proposed project includes a roadway approach, public staging area, and new trails. The staging area will consist of a paved 28-vehicle parking area, three trailer equestrian parking area, and a vault toilet facility and storm water retention grass swale areas. The construction of 2.7 miles of new trail segments will connect with 1 mile of existing roads on the property, and result in a 3.7 mile Foothills Loop Trail.

Environmental Review:

As lead agency for the proposed project, the Open Space Authority conducted CEQA review by preparing the Coyote Valley Open Space Preserve Use and Management Plan Draft Initial Study dated July 25, 2013, which was approved by OSA's Board of Directors on September 26, 2013. A copy of the IS/MND is provided online (<http://www.scv-habitatplan.org>) for review by the Implementation Board prior to approval of the resolutions for this project. The hardcopy IS/MND documents are available for public review at the Habitat Agency office at 535 Alkire Avenue, Morgan Hill, CA 95037. In order to approve the PSE agreement with the OSA, the Implementation Board must make its own CEQA findings as a responsible agency before it can act to approve the agreement with OSA. A resolution is attached hereto as Attachment 1 for adoption of CEQA findings by the Implementation Board for this project.

Land Cover Impacts:

The proposed project will result in 4.2 acres of permanent impacts and 0.9 acres of temporary impacts (Table 1). The proposed project includes both linear and nonlinear project components. For all non-linear project components, the development area (project footprint plus buffers) was used to calculate impacts. For linear project components, only the project footprint was used to calculate impacts. Land cover types within the proposed project parcels are displayed in Exhibit 1 of the PSE Agreement.

Permanent impacts will result from the roadway, staging area, and trail loop and total 4.2 acres. Treated together, the roadway leading from Palm Avenue, the staging area (vehicle/equestrian parking areas and restroom facility) are considered a nonlinear project component; therefore a 50-foot (ft) buffer was applied to calculate the permanent impact area. The Foothills Loop Trail is considered a linear project component; therefore the 4-ft wide footprint of the trail was used to calculate the permanent impact area. The land cover types that will be permanently impacted by these project components include 0.2 acre of California annual grassland, 2.9 acres of grain, row crop, hay and pasture, disked/short-term fallowed, and 1.1 acres of mixed oak woodland and forest.

¹ Phase 2 includes an outdoor learning center and ADA accessible trail. These future public access improvements are contingent upon future funding and not part of the proposed project.

Temporary impacts, 0.9 acres, will occur during trail construction. A temporary impact buffer (1.5 ft on each side) was applied to the length of the Foothills Loop Trail to account for temporary construction impacts. The land cover types that will be temporarily impacted include 0.1 acre of California annual grassland, 0.04² acre of grain, row crop, hay and pasture, disked/short-term fallowed, and 0.8 acres of mixed oak woodland and forest.

Temporary impacts associated with the construction staging area, minor grading, and grass swale are within permanent impact buffers, as such no additional land cover impacts are attributed to these project components. The construction staging area will be located within OSA property immediately adjacent to the Coyote Valley access road from Palm Avenue. Since the construction staging area and its 10-ft buffer is within the permanent impact 50-ft buffer, no additional impacts were considered for this project component. Minor grading and grass swales immediately adjacent to the roadway and staging area are considered temporary impacts, where the footprint of these impacts are within the 50-ft permanent impact area calculated for the staging area and roadway. Like the construction staging area, no additional temporary impacts were attributed to the minor grading and grass swales.

Table 1. Natural Communities and Land Cover Impacts in the Development Area

| Natural community and land cover types (in acres, except where noted) | Acreage of land cover “permanently impacted” by project | Acreage of land cover “temporarily impacted” by project |
|--|---|---|
| <i>Grasslands</i> | | |
| California Annual Grassland | 0.2 | 0.1 |
| <i>Oak Woodland</i> | | |
| Mixed Oak Woodland and Forest | 1.1 | 0.8 |
| <i>Agricultural</i> | | |
| Grain, Row Crop, Hay and Pasture, Disked/Short-Term Fallowed | 2.9 | 0.0 |
| Total | 4.2 | 0.9 |

Conditions:

The activity will comply with all applicable Habitat Plan conditions. Habitat Plan conditions that specifically apply to this project are: Condition 1, Condition 3, and Condition 14. Exhibit 2 of the attached PSE Agreement (Attachment 3) identifies specific conditions of importance for this application.

Fees:

Consistent with the adopted PSE policy, the applicant will pay the following fees. The total mitigation fees are \$52,040.98 (Table 2). The development area is within Fee Zones A and B. The land cover fees

² The value of 0.04 acre of temporary impacts to grain, row crop, hay and pasture, disked/short-term fallowed land cover type rounds to zero as required by the Habitat Plan. All impacts to land cover types are reported to the nearest tenth (0.1) of an acre, other than riparian and wetland land cover types which are reported to the nearest hundredth (0.01) of an acre.

are \$51,486.00 for permanent impacts and \$554.98 for temporary impacts. Also, an estimated 125 new daily vehicle trips will occur at the new project site for a total of \$450 in nitrogen deposition fees. The PSE charge is either \$5,000 or 10 percent of mitigation fees, whichever is greater. In this case, 10 percent of the mitigation fees or \$5,204.00 is greater. Administrative costs will be reimbursed by the applicant based on actual costs of staff labor.

Table 2. Fees and Charges

| Fee type | Impact type | Fee rate | Number of Units | Fee Multiplication Factor | Total |
|---|-------------------------|-----------------------------|-----------------------|---------------------------|--------------------------------------|
| <i>Land Cover Fees</i> | | | | | |
| Zone A | Permanent | \$15,416 per acre | 1.3 | | \$20,040.80 |
| | Temporary | | 0.9 | 0.04 | \$554.98 |
| Zone B | Permanent | \$10,688 per acre | 2.9 | | \$30,995.20 |
| | Temporary | | | | |
| <i>Special Fees</i> | | | | | |
| | Nitrogen deposition fee | \$3.60 per new vehicle trip | 125 new vehicle trips | | \$450.00 |
| Total Mitigation Fees | | | | | \$52,040.98 |
| PSE Charge (\$5,000 or 10% of mitigation fees, whichever is greater) | | | | | \$5,204.00 |
| Administrative Costs | | | | | Reimbursement of actual costs |

Required findings for approval:

The Implementation Board may approve a PSE Agreement only if it makes each of the following findings:

1. The proposed activity complies with all terms and requirements of the Governing Documents.

The application from Santa Clara County Open Space Authority for the Coyote Valley Open Space Preserve Project, Phase 1 has been reviewed for consistency with the adopted Habitat Plan, Implementation Agreement, and other applicable governing documents and has been found to be consistent with the terms and requirements of those documents.

2. The Wildlife Agencies have concurred in writing with approval of the PSE.

The Wildlife Agencies have concurred via email on April 1, 2014 with approval of the Participating Special Entity Agreement for Coyote Valley Open Space Preserve Project, Phase 1 as described in the project application.

3. The impacts of the proposed activity fall within those analyzed in the Habitat Plan, the ESA Section 7 biological opinion for the Habitat Plan, and the Plan's EIR/EIS in general type, location, magnitude and effects.

The impacts of proposed activities of the Coyote Valley Open Space Preserve Project, Phase 1 have been reviewed for consistency with the Habitat Plan, the ESA Section 7 biological opinion for the Habitat Plan, and the Plan's EIR/EIS and have been found to be consistent in general type, location, magnitude and effects.

4. The impacts of the proposed activity do not deplete the amount of take coverage to such an extent that not enough is available for future Covered Activities.

The impacts of proposed activities of the Coyote Valley Open Space Preserve Project, Phase 1 have been analyzed for consistency with the Habitat Plan and have been found, individually and in combination with other PSE applications, to not deplete take coverage to an unwarranted extent.

5. The proposed activity does not conflict with the conservation strategy or the ability of the Agency to meet Habitat Plan goals and objectives.

The proposed activities of the Coyote Valley Open Space Preserve Project, Phase 1 have been analyzed and have been found to not conflict with the conservation strategy or ability of the Agency to meet Habitat Plan goals and objectives. While the project is in an area of High Conservation Priority land area, the project as designed minimizes impacts on and is consistent with conservation oriented use of the land, does not impose conflicts with conservation of the broader area within which the project is located and does not conflict with species movement linkages.

6. The PSE Agreement will further the ability of the Agency to implement Habitat Plan goals and objectives.

Implementation of the Coyote Valley Open Space Preserve Project, Phase 1 activities will further the ability of the Agency to implement Habitat Plan goals and objectives through payment of fees and facilitating use of the Habitat Plan's conditions of approval for an activity not directly covered by the Habitat Plan's permits and requirements. .

In conclusion, it is recommended that the Implementation Board approve both of the attached Resolutions making required CEQA findings for the project (Attachment 1) and approving the PSE Agreement with the Santa Clara County Open Space Authority for the Coyote Valley Open Space Preserve Project, Phase 1 activities (Attachment 2).

Attachments:

- Attachment 1 – CEQA Resolution
- Attachment 2 – PSE Agreement Resolution
- Attachment 3 – PSE Agreement

Copies: Andrea MacKenzie, Matt Freeman and Rachel Santos, Santa Clara County Open Space Authority