



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 Sierra Vista Trail and Staging 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 Sierra Vista Open Space Preserve Proposed Vehicle/Equestrian Staging Areas and Multi-Use Trail Project Initial Study dated December 23, 2013 as 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 Sierra Vista Trail and Staging Project, Phase 1 were addressed by a Mitigated Negative Declaration approved by the Santa Clara County Open Space Authority on February 13, 2014.
2. Adopt a Resolution making positive findings and approving a Participating Special Entity Agreement with the Santa Clara County Open Space Authority for the Sierra Vista Trail and Staging 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 the Sierra Vista Trail and Staging 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:

The Santa Clara County Open Space Authority (OSA) proposes to construct the Sierra Vista Trail and Staging Project within the Sierra Vista Open Space Preserve (Sierra Vista). Sierra Vista is located in the

foothills of the Diablo Range northeast of San Jose, California. A site plan is attached as Exhibit 1 of the PSE Agreement, which is attached hereto as Attachment 3.

The proposed project is phase one of a two phase project<sup>1</sup>. Only phase one is proposed for coverage at this time. The proposed project includes the construction of one paved staging/parking area for vehicles and trailers to the south of Sierra Road and new unpaved trails. The staging/parking area will be constructed on the south side of Sierra Road. It will contain 21 standard automobile parking stalls and two 55 feet by 28 feet equestrian parking stalls. The trail loop (Northern Loop Trail) consists of an approximately 1.0-mile section to the north of Sierra Road and an approximately 0.3-mile trail section south of Sierra Road that connects to an existing trail. New trail surfaces will be constructed using mechanized trail-building equipment, such as a trail machine and mini-grader. Approximately 30 percent of the proposed trail extension will not require a new trail bed construction or grading and will require little brush clearing or grading, as the OSA will use an existing ranch road and cattle footpath.

Environmental Review:

As lead agency for the proposed project, the Open Space Authority conducted CEQA review by preparing the Sierra Vista Open Space Preserve Initial Study/ Mitigated Negative Declaration (IS/MND), dated December 23, 2013. The IS/MND was approved by the Board of Directors on February 13, 2014. 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 Open Space Authority, 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 2.2 acres of permanent impacts and 0.5 acres of temporary impacts. The proposed development area includes permanent and temporary impact areas, as well as impact buffers. The permanent impact area is a 4-foot (ft.) wide trail and staging/parking area. The temporary impact area is a construction staging area and a 1.5-ft wide impact area on each side of the trail. A 50-ft permanent impact buffer is applied around the staging/parking area, and a 10-ft buffer around the temporary staging area. Because the proposed trail is a public project linear feature, the 50-ft buffer around permanent impact area associated with the trail (rather than the staging/parking area) does not apply to the trail portion of the proposed project.

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<sup>1</sup> The project will be implemented using a phased approach, with the staging area to the north of Sierra Road being constructed only if it is determined to be warranted following the completion of the trails and staging area to the south of Sierra Road. The second phase (to be constructed if there is high demand after the first phase is completed) will include construction of a parking lot on the north side of Sierra Road (opposite the Phase 1 lot) consisting of 21 standard automobile parking stalls and two 55 ft by 28 ft equestrian parking stalls. However, construction of the second phase is not part of this application. Should it be determined that that second phase of construction is required, the OSA will apply for a separate permit for that phase of construction.

Trail construction will result in 0.6 acres of permanent impacts and 0.4 acres of temporary impacts. The proposed staging/parking area will result in a total of 1.6 acres of permanent impacts. The construction staging area will result in temporary impacts to 0.1 acre. Table 1 summarizes the land cover types within the development area by permanent and temporary impact acreages. Per Habitat Plan requirements, land cover acreages are calculated to the nearest tenth (0.1) of an acre other than riparian and wetland land cover types that are calculated to the nearest hundredth (0.01) of an acre. Therefore, some of the land cover acreages provided in Table 1 have been rounded down to zero even though small impacts to those land cover types will occur. Exhibit 1 of the PSE Agreement displays the land cover types within the project parcels.

**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	0.6	0.4
<i>Oak Woodland</i>		
Valley Oak Woodland	0.0	0.0
<i>Agricultural</i>		
Grain, Row Crop, Hay and Pasture, Disked/Short-Term Fallowed	1.4	0.1
<i>Developed</i>		
Urban-Suburban	0.2	0.0
<b>Total</b>	<b>2.2</b>	<b>0.5</b>

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 \$31,975.52 (Table 2). The entire development area is within Fee Zone A. The land cover fees are \$30,832.00 for permanent impacts and \$308.32 for temporary impacts. The new project will also result in an estimated 232 new daily vehicle trips, which equals \$835.20 in total nitrogen deposition fees. The PSE charge is either \$5,000 or 10 percent of mitigation fees, whichever is greater. In this case, \$5,000 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	2.0 acres		\$30,832.00
	Temporary		0.5 acres	0.04	\$308.32
<i>Special Fees</i>					
	Nitrogen deposition fee	\$3.60 per new vehicle trip	232 new vehicle trips		\$835.20
<b>Total Mitigation Fees</b>					<b>\$31,975.52</b>
<b>PSE Charge (\$5,000 or 10% of mitigation fees, whichever is greater)</b>					<b>\$5,000</b>
<b>Administrative Costs</b>					<b>Reimbursement of actual costs</b>

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 Sierra Vista Trail and Staging 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 dated April 1, 2014 with the approval of the Participating Special Entity Agreement for the Sierra Vista Trail and Staging 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 Sierra Vista Trail and Staging 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 Sierra Vista Trail and Staging 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 Sierra Vista Trail and Staging 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. The project is not in a High or Moderate Conservation Priority land area 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 Sierra Vista Trail and Staging 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 Sierra Vista Trail and Staging 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, Rachel Santos, Santa Clara County Open Space Authority