



TO: Santa Clara Valley Habitat Agency Implementation Board

FROM: Edmund Sullivan, Executive Officer

SUBJECT: Participating Special Entity Agreement with Gavilan Joint Community College District for the Gavilan College Coyote Valley Campus Phase 1 Project

RECOMMENDED ACTIONS:

1. Adopt resolution of California Environmental Quality Act (CEQA) findings that the Final Environmental Impact Report (dated August 2008) and the Addendum to the Final Environmental Impact Report (dated January 2015) prepared by the Gavilan Joint Community College District for the Gavilan College Coyote Campus Project 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 Gavilan College Coyote Valley Campus Phase 1 Project were addressed by the Final Environmental Impact Report and the Addendum to the Final Impact Report approved by the Gavilan Joint Community College District.
2. Adopt resolution making positive findings and approving a Participating Special Entity Agreement with the Gavilan Joint Community College District for the Gavilan College Coyote Valley Campus Phase 1 Project.

BACKGROUND:

The adopted Habitat Plan allows the Habitat Agency to grant coverage for activities proposed by governmental entities or regulated utilities that have not directly received state and federal permits through the adopted Habitat Plan. The governmental entities 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 Gavilan Joint Community College District for the Gavilan College Coyote Valley Campus Phase 1 Project. The recommendation is consistent with the

application's review by the Wildlife Agencies, consultants to the Habitat Agency, and the Executive Officer.

Project Description:

The proposed project is construction of community college campus buildings and a parking lot on the northwestern portion of the 55-acre project site. The proposed project includes 28,300 square feet of campus buildings and a 368 space surface parking lot. The buildings will be one-story and will include administration areas, classrooms, meeting rooms, lounges, exercise and locker rooms. Site access will be from Bailey Avenue. Stormwater runoff from impervious surfaces of the proposed project development will be directed into storm water treatment trenches/bioswales which will be incorporated into the parking lot areas and a new bioretention basin which will be constructed to the west of Buildings A, C and D. A site plan is provided as Exhibit 1 of the PSE Agreement (Attachment 1).

Environmental Review:

As lead agency for the proposed project, the Gavilan Joint Community College District conducted CEQA review by preparing the Gavilan College Coyote Campus Project Draft Environmental Impact Report (DEIR) and Final Environmental Impact Report (FEIR) dated February 2008 and August 2008; respectively. The FEIR was approved by the Board of Trustees of the Gavilan Joint Community College District on September 9, 2008. The EIR documents identified several covered species that may be impacted by the project and incorporated mitigation and avoidance measures to reduce impacts to a less than significant level. The Addendum to the Final Environmental Impact Report to the Gavilan College – Coyote Campus Project (FEIR Addendum) was prepared by Gavilan Joint Community College District in January 2015 in response to the Habitat Agency's denial of the original PSE application in October 2014. The FEIR Addendum was approved by the Board of Trustees of the Gavilan Joint Community College District on February 10, 2015. The Habitat Agency's determination was based on six required PSE findings and four of the findings were not met by this project. These concerns were all related to Phase 2 of the project. Phase 2 of the project was redesigned in the FEIR Addendum to avoid impacts to wetlands and waters of the United States. In addition, the Biological Resources section of their approved 2008 FEIR was updated. Phase 1 project design was not changed.

A copy of the DEIR, FEIR and FEIR Addendum are provided online (<http://www.scv-habitatplan.org>) for review by the Implementation Board prior to approval of the resolutions for this project. The hardcopy CEQA 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 District, the Implementation Board must make its own CEQA findings as a responsible agency before it can act to approve the agreement with the Gavilan Joint Community College District. A resolution is attached (Attachment 2) for adoption of CEQA findings by the Implementation Board for this project.

Land Cover Impacts:

The proposed project impacts are 10.4 acres of permanent impacts including 0.8 acre of California Annual Grassland, 8.8 acres of Grain, Row Crop, Hay and Pasture, Disked/Short-Term Fallowed, and 0.8 acre of Urban-Suburban (Table 1). Land cover types within the proposed project parcels are displayed in Exhibit 1 of the PSE Agreement (Attachment 1).

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	0.8	
<i>Agricultural</i>		
Grain, Row Crop, Hay and Pasture, Disked/Short-Term Fallowed	8.8	
<i>Developed</i>		
Urban-Suburban	0.8	
Total	10.4	

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, Condition 10, Condition 12, Condition 15, and Condition 17. Exhibit 2 of the attached PSE Agreement (Attachment 1) identifies specific conditions of importance for this application.

Fees:

Consistent with the adopted PSE policy, the applicant will pay mitigation fees, a PSE charge, and administrative fees. The total mitigation fees are \$121,456.80 (Table 2). The development area is in land cover Fee Zone B. The land cover fees are \$113,337.60 for permanent impacts and \$0 for temporary impacts. Nitrogen deposition fees for 2040 new daily vehicle trips result in \$8,119.20. The PSE charge is either \$5,000 or 10 percent of mitigation fees, whichever is greater. In this case, \$12,145.68 is greater. Administrative fees are based on the actual costs of staff labor and will be reimbursed by the applicant. The total amount due to the Habitat Agency is \$133,602.48 plus the administrative fees.

Table 2. Fees and Charges

Fee type	Impact type	Fee rate	Acres (or linear feet)	Fee Multiplication Factor	Total
<i>Land Cover Fees</i>					
Zone B	Permanent	\$11,806 per acre	9.6		\$113,337.60
	Temporary				
Urban Areas	Permanent	No fee	0.8		\$0.00
	Temporary				
<i>Specialty Fees (fees are in addition to land cover fees)</i>					
Nitrogen Deposition		\$3.98 per new daily vehicle trips	2040 (new daily vehicle trips)		\$8,119.20
Total Mitigation Fees					\$121,456.80
PSE Charge (\$5,000 or 10% of mitigation fees, whichever is greater)					\$12,145.68
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 findings identified below. Each finding is numbered and followed by a paragraph that explains whether or not the finding has been met.

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

The application from Gavilan Joint Community College District for the Gavilan College Coyote Valley Campus Phase 1 Project 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.

Finding #1 determination: Met

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

The Wildlife Agencies have concurred via email on April 13, 2015 and April 20, 2015 with approval of the Participating Special Entity Agreement for the Gavilan Joint Community College District's Gavilan College Coyote Valley Campus Phase 1 Project as described in the project application.

Finding #2 determination: Met.

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 Gavilan College Coyote Valley Campus Phase 1 Project 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.

Finding #3 determination: Met.

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 Gavilan College Coyote Valley Campus Phase 1 Project 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.

Finding #4 determination: Met.

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 Gavilan College Coyote Valley Campus Phase 1 Project 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.

Finding #5 determination: Met.

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

Implementation of the Gavilan College Coyote Valley Campus Phase 1 Project 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.

Finding #6 determination: Met.

FISCAL IMPACT: Approval of the Gavilan College Coyote Valley Campus Phase 1 Project will result in \$133,602.48 plus reimbursable administrative fees paid to the Habitat Agency to mitigate project impacts through the Habitat Plan's PSE process.

Attachments:

Attachment 1 – CEQA Resolution

Attachment 2 – PSE Agreement Resolution