

Santa Clara Valley Open Space Authority

Findings Regarding the CEQA Environmental Checklist and Addendum for the Coyote Ridge Open Space Preserve Public Access Improvement Project

INTRODUCTION

The Santa Clara Valley Open Space Authority (Authority), in the exercise of its independent judgement, makes and adopts the following findings regarding its consideration of the potential environmental impacts of and decision to approve the public access improvements on the Coyote Ridge Open Space Preserve (CRID) in unincorporated Santa Clara County (the "project") within the scope of the Santa Clara Valley Habitat Plan (Habitat Plan) Environmental Impact Report/Environmental Impact Statement (EIR/EIS). In accordance with the California Environmental Quality Act (CEQA) (Public Resources Code [PRC], Sections 21000 et seq.) and the CEQA Guidelines Sections 15000 et seq., the Authority has considered the Habitat Plan EIR/EIS, State Clearinghouse Number 2010122059, which was certified by the County of Santa Clara on October 9, 2012, and the Environmental Checklist/Addendum thereto, dated August 2021, for the Authority's approval of the Coyote Ridge Open Space Preserve Public Access Improvement Project (Checklist/Addendum 2021).

The Habitat Plan EIR/EIS, as supplemented by the information contained in the Checklist/Addendum dated August 2021, contains the environmental analysis and information necessary for the Authority to understand the potential environmental effects of the Coyote Ridge Open Space Preserve Public Access Improvement Project (hereafter the "project") and to consider approval of the project recognizing its environmental effects, as set forth below.

STATUTORY REQUIREMENTS FOR FINDINGS

Public Resources Code Section 21002 provides that "public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects." The same section provides that the procedures required by CEQA "are intended to assist public agencies in systematically identifying both the significant effects of projects and the feasible alternatives or feasible mitigation measures which will avoid or substantially lessen such significant effects." (PRC Section 21002). Section 21002 goes on to provide that "in the event [that] specific economic, social, or other conditions make infeasible such project alternatives or such mitigation measures, individual projects may be approved in spite of one or more significant effects thereof."

The mandate and principles announced in PRC Section 21002 are implemented, in part, through the requirement that agencies must adopt findings before approving projects for which EIRs are required. (See PRC, Section 21081, subd. (a); CEQA Guidelines, Section 15091, subd. (a)). For each significant environmental effect identified in an EIR for a project, the approving agency must issue a written finding reaching one or more of three permissible conclusions:

- 1 Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.
- 2 Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.

- 3 Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.

Public Resources Code Section 21061.1 defines “feasible” to mean “capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, legal, and technological factors.”

With respect to a project for which significant impacts are not avoided or substantially lessened, a public agency, after adopting proper findings, may nevertheless approve the project if the agency first adopts a Statement of Overriding Considerations setting forth the specific reasons why the agency found that the project’s “benefits” rendered “acceptable” its “unavoidable adverse environmental effects.” (CEQA Guidelines Sections 15093, 15043, subd. (b); see also PRC, Section 21081, subd. (b)).

As explained in the Findings of Fact under the California Environmental Quality Act and the Natural Community Conservation Planning Act and Natural Community Conservation Plan Permit for the Santa Clara Valley Habitat Plan (July 2013), and the Draft Habitat Plan EIR/EIS, the Final Habitat Plan EIR/EIS, and associated appendices (collectively the “Habitat Plan EIR/EIS”) the implementation of the Habitat Plan would not result in significant and unavoidable environmental effects with the implementation of mitigation measures. Similarly, all of the potentially significant environmental impacts of the project would be reduced to less than significant with mitigation.

When a lead agency proposes to implement a project that is consistent with the Covered Activities included in the Habitat Plan and the project is within the Permit Area of the Habitat Plan (i.e., the geographic extent of analysis covered in the EIR/EIS), it may be approved using a finding that the project is within the scope of the EIR/EIS for its CEQA compliance, consistent with CEQA Guidelines Section 15168(c)(2). When a lead agency approves a project using an addendum, it must also adopt its own CEQA findings pursuant to CEQA Guidelines Section 15164, which is the case for this project.

The Authority adopts these findings to document its exercise of its independent judgment regarding the potential environmental effects analyzed in the Habitat Plan EIR/EIS and the Environmental Checklist/Addendum and to document its reasoning for approving the project.

BACKGROUND AND PROJECT DESCRIPTION

The Santa Clara Valley Open Space Authority (“Authority”) is proposing to implement public access improvements on the Coyote Ridge Open Space Preserve (CRID) in unincorporated Santa Clara County (the “project”). The project consists of establishing an approximately 7.5-mile trail network and constructing three rest areas and two overlooks for passive recreation. The project public access features would connect to the main trail system via short trail segments developed to be consistent with the Architectural Barriers Act Accessibility Guidelines for Outdoor Developed Areas (ABA). Additional appurtenant features would include service vehicle pullouts; interpretive and wayfinding signage, and restoration of disturbed areas with stockpiled native soils or application of an appropriate non-irrigated seed mix (to be approved by the Habitat Agency or qualified biologist).

The project’s access and recreation-related improvements are within the Santa Clara Valley Habitat Plan Reserve System-enrolled portion of the Authority’s CRID. Project activities are therefore allowed by the Habitat Agency through the conservation easement agreement for the property and are considered later activities consistent with the Habitat Plan and are covered by the Program EIR/EIS that was prepared for the Habitat Plan. An Addendum to an EIR is appropriate when a previously certified EIR has been prepared and some changes or revisions to the project are proposed, or the circumstances surrounding the project have changed, but none of the changes or revisions would result in new or substantially more severe significant environmental impacts, consistent with Public Resources Code Section 21166 and CEQA Guidelines Sections 15162, 15163, 15164, and 15168. In this case, there are no changes or revisions to the project; however, there are changed circumstances relative to the conditions when the Habitat EIR/EIS was certified in 2012. Accordingly, the Authority is seeking CEQA compliance for the proposed project as a later activity covered by the Habitat Plan EIR/EIS, using a joint Environmental Checklist and Addendum.

ENVIRONMENTAL REVIEW PROCESS

The Environmental Checklist/Addendum was prepared for the project in compliance with CEQA to document the Authority's determination that the proposed public access improvements are consistent with the Covered Activities included in the Habitat Plan EIR/EIS, that the project is within the Permit Area of the Habitat Plan, and that a subsequent or supplemental EIR is not necessary. While the project is consistent with the Covered Activities evaluated in the Habitat Plan EIR/EIS and is within the Permit Area of the Habitat Plan, the Habitat Plan EIR/EIS was prepared in 2012, and there are changed circumstances. Specifically, there are additional special-status wildlife species with the potential to occur in the project area that were not evaluated in the Habitat Plan EIR/EIS. Therefore, approving a combined Environmental Checklist and Addendum is appropriate for this project.

The Environmental Checklist/Addendum analyzes the environmental effects of the project in relation to the environmental analysis covered in the Habitat Plan EIR/EIS with regard to the following environmental topic areas: Biological Resources, Land Use, Agriculture, Public Services, Recreation, Hydrology and Water Quality, Hazardous Materials, Cultural Resources, Transportation and Circulation, Noise, Air Quality and Greenhouse Gas Emissions, Mineral Resources, and Wildfire. The Checklist/Addendum evaluates each resource in terms of whether the project, including the "changed circumstance" of additional special-status species, would result in significant impacts that would be substantially more severe than those covered in the Habitat Plan EIR/EIS and/or would result in any new significant impacts that were not covered in the EIR/EIS. As documented in the Environmental Checklist/Addendum, implementation of the project would not cause any new significant environmental impacts nor an increase in the severity of significant impacts previously identified in the Habitat Plan EIR/EIS.

The Checklist/Addendum also identifies Environmental Protection Measures (EPMs) and applicable Habitat Plan Conditions on Covered Activities and mitigation measures adopted as part of the Habitat Plan EIR/EIS relevant to the project that have been incorporated into and must be implemented as part of the project. All EPMs, applicable Habitat Plan Conditions, and applicable Habitat Plan EIR/EIS mitigation measures are included in the Mitigation Monitoring and Reporting Program (MMRP) and are made conditions of approval for the project.

RECORD OF PROCEEDINGS

In accordance with Public Resources Code Section 21167, subdivision (e), the record of proceedings for the Authority's decision to approve the project includes the following documents at a minimum:

- ▶ The certified Final Habitat Plan EIR/EIS, including the Draft Habitat Plan EIR/EIS, responses to comments on the Draft EIR/EIS, and appendices;
- ▶ All recommendations and findings adopted by the County of Santa Clara in connection with the Habitat Plan EIR/EIS and all documents cited or referred to therein;
- ▶ All reports, studies, memoranda, maps, staff reports, or other planning documents relating to the project prepared by the Authority and consultants to the Authority;
- ▶ Matters of common knowledge to the Authority, including but not limited to federal, state, and local laws and regulations;
- ▶ Any documents expressly cited in these findings, in addition to those cited above; and
- ▶ Any other materials required for the record of proceedings by Public Resources Code section 21167.6, subdivision (e).

Pursuant to CEQA Guidelines Section 15091, subdivision (e), the documents constituting the record of proceedings, including the Environmental Checklist/Addendum, are available for review during normal business hours at the Authority's administrative offices at 33 Las Colinas Lane, San Jose, CA 95119. The custodian of these documents is Kellie Guerra, Clerk of the Board of Directors.

MITIGATION MONITORING AND REPORTING PROGRAM

An MMRP was adopted by the Authority for the project. The MMRP will remain available for public review during the compliance period at the address listed above. The Final MMRP is approved in conjunction with the approval of the project and adoption of these Findings.

ENVIRONMENTAL IMPACTS AND FINDINGS

Findings For Determinations of Less Than Significant

The Authority has reviewed and considered the information in the Habitat Plan EIR/EIS addressing potential environmental effects, proposed mitigation measures, and alternatives. The Authority, relying on the facts and analysis in the Habitat Plan EIR/EIS and the Environmental Checklist/Addendum, which were presented to the Authority and reviewed and considered prior to any approvals, concurs with the conclusions of the Habitat Plan EIR/EIS and the Environmental Checklist/Addendum regarding the potential environmental effects of the Habitat Plan and the project.

The Authority concurs with the conclusions in the Habitat Plan EIR/EIS and Environmental Checklist/Addendum that all of the following impacts will be less than significant (see Table 1).

Table 1 Environmental Resource Areas Determined to Have a Less-than-Significant Impact

Biological Resources
Have a substantial adverse effect, either directly or indirectly, on any of the special-status species identified in Section 5.1.3
Have a substantial adverse effect to special-status wildlife not addressed in the EIR/EIS
Public Services
Result in substantial adverse physical impacts associated with the provision of new or physically altered police or fire facilities, the construction of which could cause significant environmental impacts
Recreation
Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated
Include recreation facilities or require the construction or expansion of recreation facilities which might have an adverse physical effect on the environment
Decrease access to existing recreation facilities
Hydrology
Violate water quality standards, provide substantial additional sources of polluted runoff, or otherwise degrade water quality
Substantially alter existing drainage patterns, or substantially increase the rate or amount of surface runoff, in a manner that would result in erosion or siltation on- or offsite
Expose people or structures to a significant risk of loss, injury, or death due to flooding
Hazardous Materials
Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous waste
Transportation and Circulation
Result in a substantial increase in traffic compared to existing traffic volumes and the capacity of the existing road system
Result in safety hazards due to design features or incompatible uses (e.g., hazards to vehicular, pedestrian, and bicycle traffic) or inadequate emergency access

Noise
Expose people to noise levels in excess of standards established in the local General Plan or Noise Ordinance
Result in a substantial permanent increase in the ambient noise levels in the Study Area
Result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above ambient levels
Air Quality and Greenhouse Gas Emissions
Conflict with or obstruct implementation of the applicable air quality plan
Violate any ambient air quality standard or contribute substantially to an existing or projected air quality violation
Result in a cumulatively considerable net increase of any criteria pollutant for which a region is nonattainment
Expose sensitive receptors to substantial pollutant concentrations
Create objectionable odors affecting a substantial number of people
Generate greenhouse gas emissions, either directly or indirectly, that may have a significant effect on the environment
Conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of greenhouse gases
Wildfire
Expose people or property to a significant risk of loss, injury, or death involving wildland fires

Findings For Impacts Mitigated to Less Than Significant

The Habitat Plan EIR/EIS identified a number of potentially significant environmental effects (or impacts) that implementation of the Habitat Plan will contribute to or cause. The County of Santa Clara determined that all of the potentially significant impacts can be avoided through the application of feasible mitigation measures. The County of Santa Clara adopted the findings required by CEQA for all significant impacts. The findings provided a summary description of each impact, described the applicable mitigation measures identified in the Habitat Plan EIR/EIS and adopted by the County of Santa Clara, and stated the County’s findings on the significance of each impact after imposition of the adopted mitigation measures. A full explanation of these environmental findings and conclusions can be found in the Final Habitat Plan EIR/EIS; and the County of Santa Clara incorporated by reference into its findings the discussion in those documents supporting the Final Habitat Plan EIR/EIS determinations. In making those findings, the County of Santa Clara ratified, adopted, and incorporated into the findings the analyses and explanations in the Draft Final Habitat Plan EIR/EIS relating to environmental impacts and mitigation measures, except to the extent any such determinations and conclusions were specifically and expressly modified by the findings.

Not every individual project will have all of the significant environmental impacts that implementation of the Habitat Plan was determined to contribute to or cause. Additionally, some of the environmental impacts predicted by the Habitat Plan EIR/EIS to be potentially significant may be determined to be less severe for an individual project. The impacts and mitigation measures identified below reflect the conclusions of the Environmental Checklist/Addendum by indicating which of the Habitat Plan’s impacts that this project will contribute to or cause. By indicating the project-specific effects of this treatment project as follows, the Authority is hereby making the required findings under CEQA regarding the application or feasibility of mitigation measures to reduce those impacts.

The Authority finds that changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects indicated below, as identified in the Habitat Plan EIR/EIS and the Checklist/Addendum. Implementation of the mitigation measures indicated below to be applicable to the project, which have been required or incorporated into the project, will reduce these impacts to a less than significant level. The Authority hereby directs that these mitigation measures be adopted.

HAZARDOUS MATERIALS

Create a significant hazard to the public or the environment through disturbances that release hazardous materials into the environment

Consistent with Section 11.4 of the Habitat Plan EIR/EIS, implementation of the project would involve ground disturbance associated with constructing recreation facilities. If ground disturbing activities occur at a site where hazardous materials are present, such as in soils containing remnant hazardous waste, construction workers and the environment could be potentially exposed to hazardous materials. Therefore, this was determined to be a potentially significant impact.

Finding:

The Authority's Board of Directors (Board) find that measures have been incorporated into the project which mitigate the significant effects from hazardous materials. Specifically, Mitigation Measure 11-2 of the Habitat Plan EIR/EIS is feasible and is adopted to mitigate significant effects from hazardous materials to a less-than-significant level.

Mitigation Measures:

- ▶ **Mitigation Measure 11-2**
 - As part of each Reserve Management Plan or site restoration plan, a Contingency Plan shall be prepared to address the actions that would be taken during construction in the event that unexpected contaminated soil or groundwater is discovered. The Contingency Plan shall include health and safety considerations, handling and disposal of wastes, reporting requirements, and emergency procedures. The Contingency Plan shall include a requirement that if evidence of contaminated materials is encountered during construction, construction would cease immediately and applicable requirements of the Comprehensive Environmental Release Compensation and Liability Act and the California Code of Regulations Title 22 regarding the disposal of waste would be implemented.

CULTURAL RESOURCE

Result in a substantial adverse change in the significance of a historical resource, archaeological resource, or buried artifacts

Consistent with Section 13.4 of the Habitat Plan EIR/EIS, implementation of the project would involve earthmoving activities, such as grading and excavating, that could result in exposure, damage, or crushing of surface and buried artifacts with potentially significant historical, cultural, or archaeological value. Therefore, this was determined to be a potentially significant impact.

Finding:

The Board finds that measures have been incorporated into the project which mitigate the significant effects on cultural resources. Specifically, Mitigation Measure 13-1 of the Habitat Plan EIR/EIS and Mitigation Measure CUL-1 of the project specific Environmental Checklist/Addendum is feasible and is adopted to mitigate significant effects on cultural resources to a less-than-significant level.

Mitigation Measures:

- ▶ **Mitigation Measure 13-1**
 - In consultation with the USFWS, the Implementing Entity will prepare a Cultural Resources Management Plan to ensure that implementation of the Habitat Plan would not result in significant impacts to historic properties. The plan would consist of the following:
 - Establishment of an Area of Potential Effect for Habitat Plan implementation.

- A summary of known resources in the Area of Potential Effect that are currently listed in the National Register of Historic Places, California Register of Historic Places, or local historic registries.
- Identification of areas of cultural sensitivity in the Area of Potential Effect based on consultation with the Native American Heritage Commission (Sacred Lands file check) and potentially affected tribes (identified by the Native American Heritage Commission).
- Development of a Standard Mitigation Measures Agreement that establishes the mitigation and recordation measures to treat potential adverse effects of undertakings such as relocation of individual properties, recordation, data recovery, and curation.

Mitigation Measure 13-1 has been satisfied through the preparation of the project's cultural resources report and development of additional mitigation measures, included below.

► **Mitigation Measure CUL-1 Implement Cultural Report Protective Measures for the Project**

- In compliance with Habitat Plan Requirements, an Archaeological Resources Assessment Report was prepared for the project. The Authority will implement the project-specific protective measures included in the Report for cultural resource protection as well as measures developed during AB 52 consultation, which include the following:
 - In the event that a prehistoric archeological site (including midden soil, chipped stone, bone, or shell) or a historic-period archaeological site (such as concentrated deposits of bottles, amethyst glass, or historic refuse), is uncovered during grading or other construction activities, all ground-disturbing activity within 50 feet of the discovery shall be halted until a qualified archaeologist can assess the significance of the find. The Authority will be notified of the potential find and a qualified archeologist shall be retained to investigate its significance. If the find is a prehistoric archeological site, the culturally affiliated Native American tribe shall be immediately notified. The tribal representative(s), in consultation with the archaeologist, shall determine if the find is a significant tribal cultural resource (pursuant to PRC Section 21074). The tribal representative will make recommendations for treatment, as necessary. Culturally appropriate treatment may be, but is not limited to, preservation in place, processing materials for reburial, minimizing handling of cultural objects, leaving objects in place within the landscape, returning objects to a location within the project vicinity where they will not be subject to future impacts.
 - Any previously undiscovered resources found during construction will be recorded on appropriate California Department of Parks and Recreation 523 forms and evaluated for significance under all applicable regulatory criteria. If the archaeologist determines that the find does not meet the CRHR standards of significance for cultural resources, construction may proceed. If the find is determined to be significant by the qualified archaeologist (i.e., because the find is determined to constitute either an historical resource or a unique archaeological resource), the archaeologist shall work with the Authority to follow accepted professional standards such as further testing for evaluation or data recovery, as necessary. If artifacts are recovered from significant historic archaeological resources, they shall be housed at a qualified curation facility. The results of the identification, evaluation, and/or data recovery program for any unanticipated discoveries shall be presented in a professional-quality report that details all methods and findings, evaluates the nature and significance of the resources, and analyzes and interprets the results.
 - If any human remains are exposed during construction, they shall be treated in accordance with the California Health and Safety Code and California Public Resources Code (PRC) Sections 5097.94 and 5097.98, in consultation with the Native American Heritage Commission (NAHC).

APPROVALS

The Board hereby takes the following actions:

- ▶ The Board approves and adopts the Final Environmental Checklist/Addendum to confirm that project has complied with CEQA.
- ▶ The Board adopts as conditions of approval of the project all of the EPMs, Habitat Plan Conditions, and mitigation measures within the responsibility and jurisdiction of the Authority.
- ▶ The Board adopts the MMRP for the Environmental Checklist/Addendum.
- ▶ The Board adopts the Findings in their entirety.
- ▶ Having approved and adopted the Final Environmental Checklist/Addendum, incorporated EPMs, Habitat Plan Conditions, and mitigation measures into the project, and adopted the MMRP and the foregoing Findings, the Board hereby directs staff to prepare and file a Notice of Determination for the project.