

R-22-49
Meeting 22-07
April 14, 2022

AGENDA ITEM #2

To: Board of Directors
Open Space Authority

From: Andrea Mackenzie
General Manager

SUBJECT

Consider Approval and Adoption of California Environmental Quality Act (CEQA) Documents for the Coyote Ridge Open Space Preserve Public Access Improvement Project, Project Approval, and Authorization to Execute Participating Special Entity Agreement with Santa Clara Valley Habitat Agency

REVENUE/COST

Costs to-date for the Coyote Ridge Open Space Preserve Public Access Improvement Project totals approximately \$800,000. These costs include site inventory and assessments for biological and cultural resources to inform the environmental review, CEQA compliance, planning, design, engineering, and permit fees. Remaining project costs are anticipated to total \$3.7M, including pre-construction surveys, biological and cultural monitoring, permit fees (described herein), and project construction. The overall project budget for the Coyote Ridge Open Space Preserve Public Access Improvement Project is approximately \$4.5M. The Authority has secured a total of \$3,320,441 in public and private grant funding for this project, or over 70% of the total project cost.

A filing fee to the County of Santa Clara for the Malech Road Public Access Improvement Project Initial Study/Mitigated Negative Declaration (IS/MND) will total \$2,598. A filing fee to the County of Santa Clara for the Coyote Ridge Open Space Preserve Public Access Improvement Project Environmental Checklist and Addendum (Environmental Checklist/Addendum) will total \$50.00.

Santa Clara Valley Habitat Agency (HA) permit costs associated with fees for impacts to natural land cover for this project total \$520,865.30. A summary of fees due to HA is included in Exhibit D.

Approximate Project Costs Through Completion

Project Component	Cost
CEQA Compliance: cultural and biological resources surveys and reports, pre-construction biological and cultural surveys and training, CEQA documentation, County and State filing fees	\$0.3M
Pre-Construction Planning and Design: planning, design, engineering, County and State Water Board permit fees	\$0.8M
Habitat Agency Permit Fee: impact fee for Malech Road property*	\$0.5M
Project Construction: hard construction including materials, labor, and contingency funds for unexpected conditions**	\$2.9M
TOTAL	\$4.5M

Notes

* The Authority may recoup this fee in the future through the sale of a conservation easement over an approximately 45-acre portion of serpentine land cover at Coyote Valley Open Space Preserve that has been identified as a priority by the Habitat Agency. Following negotiations with the HA, the potential sale of a conservation easement will be brought to the Board of Directors for future review and approval.

**Estimate only based on project construction cost estimate. Actual construction cost will be approved separately by the Board of Directors following a public bidding process and award of contract.

BACKGROUND

The Coyote Ridge Open Space Preserve (Preserve) was established in 2015 with the acquisition of the 1,831-acre property purchased through extensive grant and partner funding. Through this acquisition, the property was encumbered with a conservation easement and enrolled in the Santa Clara Valley Habitat Conservation Plan/Natural Communities Conservation Plan (Habitat Plan) Reserve System. The Preserve was envisioned as a future open space destination serving San José and the surrounding region; therefore, the conservation easement includes trails and other public access amenities as allowed uses. Today, the Preserve totals 1,860 acres, and is comprised of the 1,831 acres of land which has been enrolled in the Reserve System, and 29 acres of un-enrolled lands, known as the Malech Road Property. The 29-acre Malech Road Property was purchased by the Authority in 2013, in advance of the larger property acquisition. The property was purchased with the intention to develop a parking lot and public staging area for the greater preserve due to the site's relatively gentle topography and easily accessible location off Highway 101.

The Coyote Ridge Open Space Preserve Public Access Improvement Project (project) will provide the infrastructure to support public access and enjoyment of the Preserve, while protecting sensitive natural resources. The project was conceived, planned, and designed as the first and largest phase of improvements over the two assemblages that comprise the Preserve. The Preserve's location is critical for conservation of special status species and sensitive habitat as well as strengthening regional landscape connectivity. It also presents opportunities to educate visitors about the importance of this unique landscape in the form of outdoor education, interpretation, and low-impact recreation. Much of the exceptional conservation value of the Preserve is attributable to the expansive serpentine grassland habitat that comprises much of the Preserve. Species endemic to serpentine grasslands include the Bay checkerspot butterfly and plant species such as fragrant fritillary, Metcalf Canyon jewelflower, most beautiful jewelflower, Santa Clara Valley dudleya, and smooth lessingia. The Preserve also provides habitat for threatened pond-breeding amphibians and tule elk.

Following the acquisition of the Preserve, the Authority prepared the Coyote Ridge Open Space Preserve Management and Monitoring Plan which was finalized and approved by the HA in 2019. Between 2018 and 2019, the Authority undertook a series of biological and cultural resource inventories and assessments. In 2019, Staff initiated the concept design phase for the public access improvements along with environmental review and documentation under CEQA. These have been developed over time and are reflected in the current 90% project designs recommended for approval by the Board.

Due to the rare land cover type and presence of special status botanical species at the project site, the Authority is seeking "take authorization" through HA permitting, which undergoes review by the Wildlife Agencies. The HA permitting process for this project is further described below.

DISCUSSION

Coyote Ridge Open Space Preserve Public Access Improvement Project CEQA Review

In summary, the project would include the development of a new parking lot and staging area off Malech Road, a central gathering area and restroom, hiking trails, picnic area, rest areas and overlooks with benches, and interpretive signage as illustrated in Exhibit E. Project construction is anticipated to begin Fall 2022.

The CEQA analyses for this project is referred to in two parts due to the classification of documentation based on the project sites as they relate to the Habitat Plan Reserve System:

- Part 1: Malech Road Property (29-acre non-enrolled lands as described above): Initial Study and Mitigated Negative Declaration
- Part 2: Coyote Ridge Open Space Preserve (1,831-acre Habitat Plan Reserve System-enrolled lands as described above): Environmental Checklist and Addendum to the Santa Clara Valley Habitat Plan Program EIR/EIS

The proposed project improvements located on the Malech Road site are on a portion of the Preserve not enrolled in the Habitat Plan Reserve System. For this work, the Authority drafted an Initial Study (IS) and, pursuant to the analysis therein, is recommending adoption of a Mitigated Negative Declaration (MND). Please see below for a more detailed description of the Malech Road Public Access Improvement Project IS/MND and Coyote Ridge Open Space Preserve Environmental Checklist/Addendum processes.

Approximately 1,831 acres of Coyote Ridge Open Space Preserve are enrolled in the Santa Clara Valley Habitat Agency's Reserve System. The Reserve System was created under the Habitat Plan to protect critical habitat in our region. The CEQA analysis for the Coyote Ridge Open Space Preserve Public Access Improvement Project (on the portion of the Preserve enrolled in the Reserve System) is evaluated and tiered under the Environmental Impact Report (EIR) that was developed for the Habitat Plan in 2012. The proposed actions on the Preserve were identified in the Habitat Plan EIR, therefore, the Authority was able to tier from that document through an Environmental Checklist and Addendum (Environmental Checklist/Addendum), using the Habitat Plan EIR as a basis to analyze project impacts.

CEQA Part 1: Malech Road Property Public Access Improvements Initial Study and Mitigated Negative Declaration

Proposed public access improvements at the Malech Road Preserve entry include a parking and staging area and new public access features within the boundary of the 29-acre Malech Road property. The project would include the establishment of a formal entrance with a paved access road and public parking area with 22 vehicle stalls including two Americans with Disabilities Act (ADA) stalls; a gravel overflow lot accommodating up to 22 vehicles; an ADA accessible central gathering area with entry kiosk and ADA restroom; walking/hiking trails compliant with the Architectural Barriers Act Accessibility Guidelines for Outdoor Developed Areas (ABA); ABA accessible picnic and overlook public use areas; and site furnishings such as picnic tables, benches, shade structures, bicycle racks, wayfinding, and interpretive signage. Ancillary site development includes a small service vehicle parking area; perimeter fencing; low retaining walls and curbs; and stormwater treatment areas. Graded and/or disturbed areas will be revegetated using native stockpiled soils or an appropriate non-irrigated seed mix (to be approved by the Santa Clara Valley Habitat Agency or qualified biologist). See Exhibit F for a full description of the project.

In fiscal year 2018-2019, the Authority retained Ascent Environmental, Inc. (Ascent) through a Request for Proposals (RFP) and subsequent award of contract for CEQA/NEPA (National Environmental Policy Act) Environmental Consulting Services. As a work order under this contract, Ascent prepared the Malech Road Public Access Improvement Project Initial Study, pursuant to the CEQA requirements (Public Resources Code Sections 21000 et seq.) and guidelines (Code Regulations sections 15000 et seq.).

The IS, dated March 2022 (Exhibit F), includes measures that mitigate the project's effects to the environment to a level less than significant. Through the IS, potentially significant impacts to Biological Resources, Cultural Resources, Tribal Cultural Resources, and Geology and Soils were identified. Through revisions to the project design and recommended mitigations, these impacts are reduced to a level of less than significant. The complete Mitigation Monitoring and Reporting Program is included in Exhibit G.

The Draft IS/MND was prepared and circulated publicly from December 14, 2021, to January 14, 2022. A Notice of Intent (NOI) to adopt a Mitigated Negative Declaration was submitted to the Governor's Office of Planning and Research CEQAnet Web Portal and Santa Clara County on December 14, 2021. The NOI was published in the San Jose Post-Record on December 14, 2021 and was distributed to interested parties and individuals and Preserve neighbors. A total of nine (9) comments letters were received and are compiled in Exhibit H. Seven (7) comments were administrative in nature and one (1) comment expressed support for the project. One (1) letter received from the California Native Plant Society included comments pertaining to the IS/MND. None of the comments were substantive or required additional analysis or other change to the document.

The IS/MND concludes that the proposed project, with mitigations, would not result in significant impacts to the environment. The IS/MND (Exhibit F) and Mitigation Monitoring and Reporting Program (Exhibit G) are presented for review and adoption by the Board of Directors.

CEQA Part 2: Coyote Ridge Open Space Preserve Public Access Improvements Environmental Checklist and Addendum to the Santa Clara Valley Habitat Plan Environmental Impact Report/Environmental Impact Statement

The proposed Coyote Ridge Open Space Preserve public access improvements include establishing an approximately 7.5-mile trail network via existing ranch/service roads and one (1) mile of new trail construction as an alternative for public access to an unsustainable section of existing ranch/service road. The project additionally includes constructing three rest areas, two scenic overlooks, and a small service vehicle parking area along this trail network. Rest area and overlook features will include shade structures, seating, and interpretive signage. See Exhibit I for a full description of the project.

The proposed improvements would occur on the 1,831-acre portion of the Preserve that is enrolled in the Habitat Plan Reserve System and are covered activities evaluated through the Santa Clara Valley Habitat Plan Environmental Impact Report/Environmental Impact Statement (Habitat Plan EIR/EIS). Additionally, the proposed project is allowed through the aforementioned recorded conservation easement for the Preserve, pursuant to its enrollment in the Habitat Plan Reserve System. The Habitat Plan EIR/EIS was certified by the Santa Clara County Board of Supervisors on October 9, 2012. Ascent, as part of their work order for this project, prepared the Coyote Ridge Open Space Preserve Public Access Improvement Project Environmental Checklist and Addendum to the Habitat Plan EIR/EIS

(Environmental Checklist/Addendum), pursuant to the CEQA requirements (Public Resources Code Sections 21000 et seq.) and guidelines (Code Regulations sections 15000 et seq.).

The Environmental Checklist evaluates the site and activities to determine that environmental effects were covered in the Habitat Plan EIR/EIS and that mitigation measures under the Habitat Plan EIR/EIS are adequate for the activities proposed as part of this project. The Addendum evaluates changes in circumstances and associated potential impacts since the Habitat Plan EIR/EIS was prepared in 2012. Through the environmental review process, additional special-status wildlife species (including monarch butterfly, loggerhead shrike, Swainson's hawk, and mountain lion) with the potential to occur in the project area were identified that were not evaluated in the Habitat Plan EIR/EIS. These additional species are addressed in the Addendum Findings (Exhibit K) and Mitigation Monitoring and Reporting Program (Exhibit J). While not required to be circulated for public review, the Authority posted the Draft Environmental Checklist/Addendum for the Coyote Ridge Open Space Preserve Public Access Improvement Project for public viewing concurrently with the Draft IS/MND for the Malech Road Public Access Improvement Project. These documents were posted beginning December 14, 2021 on the Authority's project web page for Coyote Ridge Open Space Preserve Public Access Planning at: <https://www.openspaceauthority.org/our-work/conservation-projects/coyote-ridge-open-space-preserve.html>.

The complete Mitigation Monitoring and Reporting Program is included in Exhibit J. Following the completion of the Environmental Checklist/Addendum, the required Findings Statement, included herein as Exhibit K, was prepared to summarize the analysis and adequacy of environmental review and mitigation measures for the proposed project.

The Environmental Checklist/Addendum concludes that the proposed actions, with mitigations, would not result in significant impacts to the environment. The Environmental Checklist/Addendum (Exhibit I), Mitigation Monitoring and Reporting Program (Exhibit J), and CEQA Findings (Exhibit K) are presented for review, adoption, and approval by the Board of Directors.

Design Overview and Project Approval

The Authority is committed to protecting the sensitive natural and cultural resources at the Preserve while balancing visitor use and access and experience. CEQA compliance was carefully integrated throughout the design process so all elements could be iterative and ensure that the ultimate design for visitor access can be incorporated while reducing or eliminate impacts on the environment. As described in the "Project Background" section, the Preserve's location is critical for conservation through strengthening regional landscape connectivity and providing visitors with recreational, educational, and interpretive opportunities.

As described in the reference maps and IS/MND (Exhibits E and F) as well as above, the project includes a staging area and various public access amenities along Malech Road. This area is well-suited for a parking and staging area due to its gentle topography and ease of access off Malech Road from Highway 101 or through Coyote Valley. The topography of the Malech Road staging also allowed for a suite of easily accessible features to be included in the project design. These features will allow people of many physical abilities to experience the Preserve, including, for example: school groups, parents with strollers, wheelchairs, and visitors with visual and physical impairments. To add to user experience, the project will provide robust interpretive features highlighting, among other topics, tribal partnerships,

facts about the unique serpentine flora and fauna, and ongoing management of the Preserve. In addition to the Malech Road staging area, three small rest areas including benches and modest shade structures will be incorporated along an approximately 7-mile-long loop trail (Exhibit I). The shade structures are provided to provide hikers a break from the intense summer heat on the property as well as deter visitors from veering off-trail to look for shade under trees. The loop trail primarily utilizes existing ranch roads to minimize disturbance impacts on the sensitive serpentine landscape. Approximately one mile of new trail will be built to avoid an unsustainable and extremely steep section of existing road.

The Authority has secured a total of \$3,320,441 in public and private grant funding for this public access project. Grant funders supporting project design and construction include:

- The Gordon and Betty Moore Foundation provided \$400,000 for public access design and construction in addition to funding for the purchase of the Preserve property.
- The Metropolitan Transit Commission provided \$400,00 through the Priority Conservation Area grant fund.
- California State Parks provided \$2,520,441 through the Recreational Infrastructure Revenue Enhancement grant program.

Staff has held several public meetings to communicate project updates and allow for comment and feedback. These include Citizens' Advisory Committee (CAC), Use and Management Committee (U+M), and Board of Directors meetings. The following is a summary of these publicly noticed meetings:

- October 26, 2017: U+M Meeting
- November 14, 2019: U+M Meeting
- July 27, 2020: CAC Meeting
- August 27, 2020: Board of Directors Meeting
- February 25, 2021: U+M Meeting
- May 24, 2021: CAC Meeting
- June 24, 2021: Board of Directors Meeting

The Coyote Ridge Open Space Preserve Public Access Improvement Project was last presented to the Board of Directors on June 24, 2021. Since that time, Staff have worked with the prime design and engineering consultant, Restoration Design Group (RDG), along with subconsultants, to develop construction document drawings, technical specifications, and construction cost estimates to the 90% level. Progression of these documents has been primarily technical in nature, including development of material selections and construction detailing. There are no significant design changes to report. The project's construction cost estimate is within the budget outlined in this reports' "Revenue/Cost" section. Staff will provide a presentation to the Board of Directors including more detailed information on the project's scope, schedule, budget, permitting, and CEQA process. Following the presentation Staff will request approval of the project prior to commencing the public bidding process necessary to select a contractor to construct the project.

Participating Special Entity Agreement

The Authority is designated as a Participating Special Entity (PSE) through the Habitat Plan. As a PSE, the Authority is seeking permitting coverage for the portion of work occurring on the Malech Road Property,

as described in Exhibit D. The portion of work to be constructed on the Reserve System-enrolled portion of the Preserve is consistent with the HA-held conservation easement over the property and was evaluated and approved by the HA and Wildlife Agencies through the Public Reporting Form process. Through the PSE permitting process, HA determines fees based on ground disturbance of the habitat type surveyed at the project site. Fees for the Malech Road portion of the project were assessed as noted above and included in Exhibit D. The PSE Agreement is attached as Exhibit D for review and authorization to execute by the Board of Directors.

The portion of work to be constructed on the Reserve System-enrolled portion of the Preserve is not required to pay disturbance fees, nor does this portion of the project require a PSE Agreement. The HA and Wildlife Agencies, as conservation easement holders over this portion of the Preserve, determined that the improvements comply with the Habitat Plan, and issued to file a Certificate of Approval (January 4, 2022).

RECOMMENDATION

Staff recommends that the Board of Directors:

- (1) Adopt the Malech Road Public Access Improvement Project IS/MND and Mitigation and Monitoring and Reporting Program.
- (2) Approve the Coyote Ridge Open Space Preserve Public Access Improvement Project Environmental Checklist and Addendum and Adopt CEQA Findings and Mitigation Monitoring and Reporting Program.
- (3) Approve of the Coyote Ridge Open Space Preserve Public Access Improvement Project and Authorize Execution of the Participating Special Entity Agreement.

Prepared by:

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Attachment(s): Resolution 22-38 – A Resolution of The Governing Board of The Santa Clara Valley Open Space Authority Adopting a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program for the Malech Road Public Access Improvement Project

Resolution 22-39 -- A Resolution of The Governing Board of The Santa Clara Valley Open Space Authority Approving an Environmental Checklist and Addendum to The Santa Clara Valley Habitat Plan Final Environmental Impact Report/Environmental Impact Statement and Adopting Related Findings and Mitigation Monitoring and Reporting Program

Resolution 22-40 -- A Resolution of The Governing Board of The Santa Clara Valley Open Space Authority Approving Coyote Ridge Open Space Preserve Public Access Improvement Project and Authorizing the General Manager to Execute Participating Special Entity Agreement with The Santa Clara Valley Habitat Agency and To Pay Fees Associated with The Coyote Ridge Open Space Preserve Public Access Improvement Project

Exhibit D -- Participating Special Entity Agreement
Exhibit E -- Coyote Ridge Open Space Preserve Public Access Improvements Map
Exhibit F -- Malech Road Public Access Improvement Project Final Initial Study/Mitigated Negative Declaration
Exhibit G -- Malech Road Public Access Improvement Project Mitigation Monitoring and Reporting Program
Exhibit H -- Malech Road Public Access Improvement Project Draft IS/MND Public Comment

Exhibit I -- Coyote Ridge Open Space Preserve Public Access Improvement Project Environmental Checklist and Addendum
Exhibit J -- Coyote Ridge Open Space Preserve Public Access Improvement Project Mitigation Monitoring and Reporting Program
Exhibit K -- Coyote Ridge Open Space Preserve Public Access Improvement Project Statement of Findings for Environmental Checklist and Addendum