



Santa Clara Valley Water District

File No.: 17-0475

Agenda Date: 7/11/2017

Item No.: *5.1.

BOARD AGENDA MEMORANDUM

SUBJECT:

Valley Habitat Agency Request for Partnership Funding under Safe Clean Water Project (SCW) D7 for Acquisition of Lands for Habitat Preservation, Including Potential Opportunities for Securing Lands for a Future Enlarged Pacheco Reservoir.

RECOMMENDATION:

- A. Receive and discuss information on:
 - i. The Valley Habitat Agency (VHA) Second Annual Report and progress to date in fulfillment of Conservation Strategy, including providing mitigation for District activities; and
 - ii. The draft criteria for allocation of Safe Clean Water Partnership for the Conservation of Habitat Lands - Project D7; and
- B. Authorize the Interim Chief Executive Officer to negotiate a partnership agreement with the VHA to support the acquisition and management of preserve lands to fulfill the long-term conservation goals of the Valley Habitat Plan and to secure lands for a potential enlarged Pacheco Reservoir, which is being evaluated as part of the 2017 Water Supply Master Plan update.

SUMMARY:

This memo updates the progress of the Santa Clara Valley Habitat Agency (VHA) implementation of the Santa Clara Valley Habitat Plan (Habitat Plan) and provides draft criteria to identify suitable conservation partnerships to support the District's Safe Clean Water Program and water supply and environmental objectives.

The VHA was established in May 2013, to implement the Habitat Plan under a Joint Powers Authority between Santa Clara County and the cities of San Jose, Gilroy and Morgan Hill; it is governed by a Governing Board made up of elected officials from the cities and the county. The District participates on the VHA Implementation Board which includes representatives from all the participating agencies. Director LeZotte has represented the District on this board since its inception and is currently chair of the Implementation Board.

The Habitat Plan is a 50-year regional plan intended to protect endangered species and natural

resources while allowing for future development in Santa Clara County. In 2013, the Habitat Plan was adopted by local participating agencies and permits were issued by the US Fish and Wildlife Service and California Department of Fish and Wildlife.

The Habitat Plan provides fifty-year permits, for incidental take of endangered species to the 'co-permittees' - VHA, the District, Santa Clara County, Santa Clara County Transportation Authority (VTA) and the cities of San Jose, Gilroy and Morgan Hill -- for public and private projects. The Habitat Plan sets fees to compensate for species impacts resulting from permitted projects. The funds are used by the VHA to acquire preserve areas which are managed to meet the Habitat Plan conservation strategy developed to fulfill the requirements specified by the federal Endangered Species Act (ESA), the California Natural Conservation Planning Act (NCCP) and the California Endangered Species Act (CESA).

The first two years of Habitat Plan implementation (FY2013-2015) focused on establishment of the agency, its financial accounting and governance needed to set up the fee structure to support land acquisition for compensatory mitigation. The Second Annual Report (FY2015-2016) demonstrates that the agency is providing a strong regulatory foundation - during this past year some 57 projects received incidental take coverage. The Executive Summary of this Annual Report is provided as Attachment 1; (the full Annual Report is provided at <http://scv-habitatagency.org/>). For the District, over the past few years, the Habitat Plan has permitted over 40 projects, including dam, pipeline and recharge facility maintenance activities, and it has streamlined permit acquisition by several months.

Overall, co-permittees' public and private projects have impacted 600.8 acres that must be mitigated through establishment of preserve lands. To fulfill the permit requirements, the VHA has been evaluating lands for acquisition as preserve areas, and seeking to find partners to do so. Participation in partnerships with the VHA in acquisition of large ecologically important preserve areas is the key purpose of the District's Safe Clean Water (SCW) Project D7 - partnerships for the Conservation of Habitat Lands. This program provides up to \$8 million in District funding for such acquisitions; currently the 5-Year Target provides up to \$2 million for acquisition of property for the conservation of habitat lands.

To assist in the evaluation of potential partnerships for land acquisition, at its December 2015 review, the SCW Independent Monitoring Committee asked District staff to develop a decision-making process that would ensure that the funding is linked to D7 project benefits. These benefits are:

- fulfills a portion of the district's mitigation requirements under the Habitat Plan;
- protects, enhances, and restores natural resources in Santa Clara County
- contributes to the recovery or special status species;
- coordinates regional mitigation projects to create larger, less fragmented conservation lands that are more beneficial for wildlife and the environment; and
- provides for endangered species and wetlands mitigation for future water supply and flood protection projects.

To this end, the attached draft Criteria for Allocation of Partnership Funding for the Conservation of

Habitat Lands (Attachment 2) has been developed to evaluate potential habitat conservation partnerships. These criteria integrate Project D7 benefits, District mitigation priorities and the conservation strategies in the Habitat Plan - the formal framework for resource agency approval of mitigation lands in Santa Clara County.

Currently, the VHA and a consortium (an NGO, a foundation, and an investor-owned utility) are evaluating the acquisition of a large property surrounding the existing Pacheco Reservoir that could fulfill current and future Habitat Plan mitigation requirements (Attachment 3: Map of the El Toro Ranch). While it is still early in the negotiation process, Edmund Sullivan, Executive Officer of the VHA, provided to District staff information regarding the potential acquisition. He also asked whether the District would like to participate in the acquisition due to our Safe Clean Water program and our interest in the potential enlargement of the Pacheco Reservoir, which would affect the management of the preserve area. A review of the potential acquisition against staff's draft criteria in Attachment 2 indicates that the acquisition could support Project D7 purposes. It could also provide an avenue to accommodate an enlarged Pacheco Reservoir, which is being evaluated as part of the 2017 Water Supply Master Plan update.

FINANCIAL IMPACT:

Funding is available in the Safe Clean Water Program reserves; however, Board future approval of a budget adjustment would be needed to allocate and expend funding in FY 2018.

CEQA:

The Santa Clara Valley Habitat Plan, Environmental Impact Report was prepared in August 2012 by the Santa Clara Valley Habitat Agency, the lead agency under CEQA. The District Board of Directors, acting as a responsible agency, adopted the Habitat Plan and the EIR on September 25, 2012; the Habitat Plan identifies acquisition of land to enrolled under conservation easement as preserve areas.

ATTACHMENTS:

Attachment 1: VHA Annual Report Executive Summary
Attachment 2: Draft Criteria SCW D7 FY17-18
Attachment 3: Map of the El Toro Ranch

UNCLASSIFIED MANAGER:

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