



TO: Santa Clara Valley Habitat Agency Implementation Board

FROM: Kenneth R. Schreiber, Interim Executive Officer

SUBJECT: Participating Special Entity Agreement with Gavilan Joint Community College District for the Gavilan College Gilroy Campus Modernization 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 Gavilan Joint Community College District for the Gavilan College Gilroy Campus Modernization Project Initial Study and Mitigated Negative Declaration dated September 2012 and October 2012 respectively 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 Gilroy Campus Modernization Project, Phase 1 were addressed by the Mitigated Negative Declaration approved by the Gavilan Joint Community College District on November 13, 2012.
2. Adopt a Resolution making positive findings and approving a Participating Special Entity Agreement with the Gavilan Joint Community College District for the Gavilan College Gilroy Campus Modernization 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 Gavilan Joint Community College District for the Gavilan College Gilroy Campus Modernization 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: Gavilan proposes to implement several facility and infrastructure upgrades at their Gilroy campus. The proposed project is phase 1 of a two phase project. A site plan is attached as Exhibit 1 of the PSE Agreement.

The proposed project includes the following project components:

- Relocation of the Gilroy Early College Academy (GECA) portables around the campus' central courtyard.
- Expansion of Parking Lot C southward from its existing location along with a new access road from Loop Road.
- Improvements to the water storage and distribution systems.
- Construction of one outdoor classroom, the Pond Life Overlook Classroom related to the campus' new Environmental Research Center.

Environmental Review:

As lead agency for the proposed project, the Gavilan Joint Community College District conducted CEQA review by preparing the Gavilan College Gilroy Campus Modernization Project Initial Study and Mitigated Negative Declaration dated September 2012 and October 2012 respectively (IS/MND). The IS/MND was approved by the Board of Trustees of the District on November 13, 2012. The IS/MND 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. A Biological Opinion was prepared by USFWS on January 7, 2014. Take of the Central California tiger salamander and California red-legged frog by the proposed project will be authorized through the Habitat Plan's incidental take permit if the listed provisions included in the Biological Opinion are met by Gavilan Joint Community College District. The Biological Opinion also stated that the Project, if implemented as described, complies with all applicable conditions required by the SCVHP and concluded consultation. The Biological Opinion is included in Attachment 1 of the PSE Agreement.

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 District, the Implementation Board must make its own CEQA findings as a responsible agency before it can act to approve the agreement with the District. 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 4.77 acres of permanent impacts and 6.8 acres of temporary impacts (Table 1). In all cases, the proposed development area (project footprint plus buffers) was used to calculate impacts. Exhibit 1 of the attached PSE agreement displays the land cover types within the proposed project parcels.

The majority of the proposed project impacts will occur within developed or landscaped areas of the college campus, which are classified as the urban-suburban land cover type. This includes the majority of new water pipelines, the GECA campus consolidation, and the Pond Life Overlook

Classroom. Impacts to these land cover types are 1.8 acres of permanent impacts and 6.5 acres of temporary impacts.

Two proposed project elements will have temporary or permanent impacts to California annual grassland land cover. This includes temporary impacts as a result of trenching to install pipelines from the water tank site to the developed areas on campus; permanent impacts as a result of the expansion of Parking Lot C; and permanent impacts resulting from the replacement of water tanks. Impacts to California annual grassland are 2.4 acres of permanent impacts and 0.3 acres of temporary impacts.

Smaller quantities of land cover types will also be impacted by the proposed project. The installation of new water tanks will result in 0.5 acre permanent impacts to blue oak woodland. The expansion of Parking Lot C will result in permanent impacts to 0.03 acres of a seasonal wetland swale. A portion of the 50 foot buffer for both the Parking Lot C expansion and the Pond Life Overlook classroom includes the manmade Duck Pond, which results in permanent impacts to 0.04 acres of the pond.

The installation of water pipelines between the campus and the new well site will be primarily placed within the paved Mesa Road. However, temporary impacts will occur to 0.01¹ acre of grain, row crop, hay and pasture, disked/short-term fallowed land cover type due to trenching between Mesa Road and the well site.

Table 1. Natural Communities and Land Cover Impacts in the Development Area

Natural community and land cover types (in acres, except where noted)	Acreege of land cover “permanently impacted” by project	Acreege of land cover “temporarily impacted” by project
<i>Grasslands</i>		
California Annual Grassland	2.4	0.3
<i>Oak Woodland</i>		
Blue Oak Woodland	0.5	
<i>Wetland</i>		
Seasonal Wetland	0.03	
<i>Open Water</i>		
Pond	0.04	
<i>Agricultural</i>		
Grain, Row Crop, Hay and Pasture, Disked/Short-Term Fallowed		0.0
<i>Developed</i>		
Urban-Suburban	1.8	6.5
Total	4.77	6.8

¹ The value of 0.01 acre of temporary impacts to grain, row crop, hay and pasture, disked/short-term fallowed land cover type rounds to zero as required by the Habitat Plan. All impacts to land cover types are reported to the nearest tenth (0.1) of an acre, other than riparian and wetland land cover types which are reported to the nearest hundredth (0.01) of an acre.

Conditions:

The activity will comply with all applicable Habitat Plan conditions as well as the Biological Opinion conditions (Biological Opinion attached to PSE Agreement). Habitat Plan conditions that specifically apply to this project are: Condition 1, Condition 3, Condition 12, Condition 14, and Condition 17. 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 \$63,159.49 (Table 2). The development area is split between land cover Fee Zone A, Fee Zone B, and Urban Areas. The land cover fees are \$45,596.40 for permanent impacts and \$184.99 for temporary impacts. Permanent impacts to wetlands and ponds result in \$17,378.10 in specialty fees. The permanent impact fees are \$62,974.50 and the temporary impact fees are \$184.99. The PSE charge is either \$5,000 or 10 percent of mitigation fees, whichever is greater. In this case, 10 percent of the mitigation fees or \$6,315.94 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	Acres (or linear feet)	Fee Multiplication Factor	Total
<i>Land Cover Fees</i>					
Zone A	Permanent	\$15,416 per acre	2.93		\$45,168.88
	Temporary		0.3	.04	\$184.99
Zone B	Permanent	\$10,688 per acre	0.04		\$427.52
	Temporary		0.0	.04	\$0.00
Urban Areas	Permanent	No fee	1.8		\$0.00
	Temporary		6.5		\$0.00
<i>Special Fees (fees are in addition to land cover fees)</i>					
Wetlands	Permanent	\$374,842 per acre	0.03		\$11,245.26
	Temporary				
Pond	Permanent	\$153,321 per acre	0.04		\$6,132.84
	Temporary				
Total Mitigation Fees					\$63,159.49
PSE Charge (\$5,000 or 10% of mitigation fees, whichever is greater)					\$6,315.94
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 following findings:

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 Gilroy Campus Modernization 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.

CDFW has concurred via email dated April 3, 2014 and USFWS has concurred via a Biological Opinion dated January 7, 2014 with approval of the Participating Special Entity Agreement for the Gavilan College Gilroy Campus Modernization 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 Gavilan College Gilroy Campus Modernization 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 Gavilan College Gilroy Campus Modernization 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 Gavilan College Gilroy Campus Modernization 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 Gavilan College Gilroy Campus Modernization 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 the attached Resolutions making required CEQA findings for the project (Attachment 1) and approving the PSE application from Gavilan Joint Community College District for the Gavilan College Gilroy Campus Modernization Project, Phase 1 project (Attachment 2).

Attachments:

- Attachment 1 – CEQA Resolution
- Attachment 2 – PSE Agreement Resolution
- Attachment 3 - PSE Agreement

Copies: Terry Newman, Gavilan Joint Community College District

Pamela Peterson, Live Oak Associates, Inc.

Rick Hopkins, Live Oak Associates, Inc.