



Attachment 3

Environmental Services Department

April 13, 2016

Edmund Sullivan, Executive Officer
Santa Clara Valley Habitat Agency
535 Alkire Avenue
Morgan Hill, CA 95037

Dear Mr. Sullivan,

The purpose of this letter is to confirm the City of San José's (City) intent regarding a proposed land-in-lieu of fee arrangement and land management agreement. The City, as the administering agency for the San José -Santa Clara Regional Wastewater Facility (RWF), intends to enter into a land-in-lieu of fees arrangement with the Santa Clara Valley Habitat Agency (HA) to enroll 72 acres belonging to the RWF into the HA Owl Habitat Reserve System. The agreement(s) that would bind the Cities of San José and Santa Clara would require approval from the respective City Councils. It is anticipated that the agreements will be considered on or before June 2016. The following Capital Improvement Projects at the RWF are estimated to impact 20 acres and would be subject to HA fees without this land-in-lieu deal:

Project	Start Date	Estimated Fee Cost*
Fiber Optic Connection	June 2016	\$3,600
Iron Salt Feed Station	June 2016	\$211,600
Construction-Enabling Improvements	July 2016	\$705,300
Digested Sludge Dewatering	September 2019	\$493,700
Grand total		\$1,414,200

*Fee estimates based on HA Land Cover Type (\$17,781/acre) & Burrowing Owl (\$52,752/acre) fee schedules

The enrolled land will be a subset of the larger Burrowing Owl Habitat established in the San José-Santa Clara Regional Wastewater Facility Plant Master Plan (PMP). A formal appraisal of the area as habitat was conducted in September 2015, and the appraisal valued the land at \$40,000/acre. The City also owns the Cisco mitigation area (21.4 acres).

The HA burrowing owl fee schedule would otherwise require an estimated payment in the amount of \$1,414,200 for the above projects. As consideration for not paying the HA fees, the City will enroll 72

acres of habitat in the HA Reserve System in lieu of fees, comprised of the Cisco mitigation area, and another 50.6 acres from the larger RWF habitat area. The remaining balance of the endowment funds tied to the Cisco mitigation area, approximately \$161,000, will also transfer to the HA for purposes of continued maintenance of the habitat at that site. The HA shall not use this money for any purpose outside of this habitat.

The HA has determined a 72 acre enrollment is required to cover the estimated 20 acres of CIP Project Impacts. The appraised value of \$40,000/acre requires a multiplier of 1.8 in order to cover the otherwise applicable fee schedule. The formula becomes 20 acres x 1.8 = 36 acres. That is then doubled to 72 to accommodate a "buffer and recovery" area. The HA has agreed to accepting the 21 acres of the Cisco area as "buffer and recovery" along with 49 acres from the original 180 acres Burrowing Owl Habitat for a total of 72 acres. See attached Vicinity Map.

The City also intends that the HA will, under a 5-year short-term management agreement, assume responsibility for managing the land for burrowing owl habitat beginning July 1, 2016. The land contemplated to be covered by the agreement would include the Burrowing Owl Habitat (180 acres) and the Cisco mitigation area (21.4 acres). Under the management agreement, HA would be responsible for the following maintenance activities:

Activity	Frequency
Repair and maintain burrows and perches in the Area of Activity	Weekly
Conduct a minimum of two burrowing owl breeding season surveys in the area within the Habitat Conservation Plan (HCP) boundary and twelve burrowing owl surveys within the Area of Activity	Monthly
Conduct one Congdon's Tarplant survey in the Area of Activity	Annually
Provide review and input on Burrowing Owl Habitat Management Plan	As needed
Photography of burrowing owls	Ongoing
Install and Maintain Motion-sensing Cameras	Weekly
Project Management	As needed
Habitat Management and Enhancement Activities in Area of Activity	As needed

The City would continue to mow the entire 201 acre habitat upon request by the HA and would bill HA approximately \$3,000/mow, with an estimated frequency of three to four times annually.


for Kerrie Romanow

Director, City of San Jose, Environmental Services Department