



Date: October 9, 2007
Committee Meeting Date: October 18, 2007
Board Meeting Date: November 1, 2007
ACTION X DISCUSSION INFO

BOARD MEMORANDUM

TO: Administration and Finance Committee
Santa Clara Valley Transportation Authority
Board of Directors

THROUGH: Michael T. Burns
General Manager

FROM: John H. Ristow
Acting Chief CMA Officer

SUBJECT: Santa Clara Valley Habitat Conservation Plan/Natural Community
Conservation Plan Budget and Cost Allocation

Policy-Related Action: Yes Government Code Section 84308 Applies: No

RECOMMENDATION:

Approve the budget and cost allocation for the Santa Clara Valley Habitat Conservation Plan/
Natural Community Conservation Plan.

BACKGROUND:

On July 31, 2001, VTA received a letter of Formal Endangered Species Consultation (Biological
Opinion) issued by the United States Fish and Wildlife Service (USFWS), which required VTA
to commit to two major actions before proceeding with construction of the U.S. 101 Widening,
the State Route 85/U.S. 101 South Interchange, and Consolidated Biological Mitigation Projects.
One action required the purchase of 333 acres of Bay Checkerspot Butterfly habitat. VTA
completed the habitat purchase in January 2005.

The second major action, which is the subject of this memorandum, required the City of San Jose
(City), the County of Santa Clara (County), the Santa Clara Valley Water District (SCVWD),
and VTA, collectively known as the Local Partners, to provide individual financial commitments
to assist with the development of a Habitat Conservation Plan/Natural Community Conservation
Plan (HCP/NCCP). Last year, the Cities of Gilroy and Morgan Hill also joined the Local
Partners in the preparation of an HCP/NCCP. The HCP/NCCP will support the USFWS and the

California Department of Fish and Game (CDFG) in efforts to conserve federally and state listed species in the Cities of San Jose, Gilroy, and Morgan Hill and in southern Santa Clara County. On May 5, 2005 and June 1, 2006, the VTA Board of Directors previously approved the Cost Share Allocation for the preparation of the plan. The Memorandum of Understanding (MOU) among the Local Partners requires each governing body to approve an annual budget for the plan.

DISCUSSION:

The HCP/NCCP budget and cost allocation is provided as Attachment A. The allocation has been reviewed by the HCP/NCCP Management Team and Governing Body Liaison Group, which consist of representatives from each participating agency. San Jose City Council Member Forrest Williams is VTA's representative on the Governing Body Liaison Group. Supervisor Don Gage is one of Santa Clara County's representatives on the Liaison Group. Each of the Local Partners is also in the process of taking the HCP/NCCP budget and cost allocation to their respective governing bodies for review and approval.

VTA's total contribution is estimated at \$556,796 (see Attachment A) plus a one-fifth share of processing the implementing agreement and permits, which have yet to be determined. The VTA Board action of May 5, 2005 allocated \$750,000 (includes VTA staff time) to this program. Santa Clara County serves as the lead agency and fiscal agent for the project. Therefore funds are paid to the County.

The project is within the projected budget. The Project accomplishments since the last Board action are provided as Attachment B.

ALTERNATIVES:

The VTA Board could choose to not approve the budget and cost allocations. Not approving the budget and cost share would potentially dissolve the partnership and possibly terminate the project, requiring VTA to pursue incidental take permits under the Endangered Species Act through other means requiring both additional cost and time.

FISCAL IMPACT:

Appropriation is included in the VTA 1996 MBTIP (Measure B Transportation Improvement Program) Capital budget and no increase is required. Funding for the VTA cost share of the HCP/NCCP is provided by a contribution of \$600,000 from the 1996 MBTIP and from a VTA contribution of \$150,000 from funds remaining from the Bay Checkerspot Butterfly Habitat purchase.

ATTACHMENT A

Santa Clara Valley Habitat Conservation Plan/ Natural Community Conservation Plan (HCP/NCCP) Budget & Cost Allocation¹

	Previous Actual	FY 2005	FY 2006	FY 2007	FY 2008 (estimated)	FY 2009 (estimated)	TOTAL (estimated)
HCP/NCCP FY Costs	\$60,000	\$893,333	\$833,333	\$973,000	\$545,334	0	\$3,305,000
USFWS Section 6 Grant		240,384	281,579	355,000 (estimated)		0	876,963
Balance to Share	\$60,000	\$652,949	\$551,754	\$618,000	\$545,334	0	\$2,428,037
Partner Shares							
County of Santa Clara		136,226	136,226	123,600	89,555	0	485,607
SCV Water District ²	50,000	123,726	123,726	123,600	64,555	0	485,607
VTA		136,226	136,226	123,600	89,555	0	485,607
City of San Jose ³	10,000	133,726	133,726	123,600	84,555	0	485,607
City of Gilroy		55,000	55,000	61,800	71,004	0	242,804
City of Morgan Hill		55,000	55,000	61,800	71,004	0	242,804
Total Partner Share	\$60,000	\$639,904	\$639,904	\$618,000	\$470,228	0	\$2,428,036
HCP/NCCP FY Funding Total	\$60,000	\$880,288	\$921,483	\$973,000	\$470,228	0	\$3,305,000

Note: Costs of environmental review and permitting process not included. VTA estimates this cost at \$400,000.

¹ Management Team Recommendation and reviewed by Liaison Group of 2/25/06

² Total District Funding includes MacTec Contract (\$50,000 in 2004)

³ Total City of San Jose includes MOU facilitator (\$10,000 in 2003)

ATTACHMENT B

SANTA CLARA VALLEY HABITAT PLAN APRIL 2006-SEPTEMBER 2007 MAJOR ACCOMPLISHMENTS

Science Advisor Process

- The Science Advisor workshop was held on July 6 and 7, 2006
- The Final Report of the Independent Science Advisors was submitted on December 30, 2006 (available on the Plan's website, www.scv-habitatplan.org)
- Presentation on and discussions of the Final Report were held with the Local Staff, Wildlife Agencies staff, Stakeholder Group and Liaison Group
- Professor Jerry Smith, a member of the Science Advisor team, has actively participated in development and discussion of conservation strategies working with staff and consultants and participating in Stakeholder Group and Liaison Group meetings

Stakeholder Group Process

- With the exception of December 2006, the Stakeholder Group has met monthly

Public Information and Outreach

- In February 2006, a contract was approved with Jones & Stokes to provide public information and outreach services
- The first website was replaced, in September 2006, with a new, expanded and more accessible website (www.scv-habitatplan.org)
- Frequently Asked Questions and a Brochure were created (see the website)
- Community Meetings were held on September 28, 2006 and September 26, 2007
- Numerous public presentations on the Habitat Plan have been made by members of the Stakeholders Group and local staff
- The Liaison Group met in April, June, August and October 2006 and February, April, June and August 2007

Development of Resource Data Base and Geographic Information System (GIS)

- A large quantity of data was collected, organized into a GIS format and distributed to local agency and Wildlife Agency staffs
- Draft Chapters 2 (Land Use Covered Activities) and 3 (Physical and Biological Activities) were published in mid-2006
- Chapters 2 and 3 received extensive staff and public review followed by release of second draft Chapters in the Spring of 2007 (available on the Plan's website)

Development of Preliminary Conservation Strategies

- Information was developed and decisions made on definitions of urban boundaries and the final Study Area, treatment of non-covered species in the Habitat Plan, applicable principles of conservation biology, habitat reserve design approaches, the format for

biological goals and objectives and conservation actions, and refinement of the covered species list

- Permit term information was developed
- Between December 2006 and February 2007, six full day workshops were held with local agency staff, consultants and Wildlife Agency staff to discuss and reach initial conclusions regarding biological goals and objectives and conservation actions resulting in an initial list of 22 biological goals, 107 biological objectives and 165 conservation actions
- Draft Chapters 4 (Impact Analysis), 5 (Conservation Strategy) and 6 (Conditions on Covered Activities) were released for review in June 2007 (see the website)
- The contents of draft Chapters 4, 5 and 6 were and continue to be the focus of review by local agency staff, Wildlife Agency staff, the Stakeholder Group, the Liaison Group and members of the public
- The San Francisco Estuary Institute released a Habitat Plan-related memo on the Historic Ecology of South Santa Clara County (see the website)

Environmental Review

- In June 2007, a contract was approved with CH2M HILL for preparation of the Environmental Impact Report and Environmental Impact Statement (EIR/EIS)
- The EIR/EIS scoping meeting was held as part of the September 26th Community Meeting