

COASTAL CONSERVANCY

Staff Recommendation

June 18, 2019

**COYOTE VALLEY ACQUISITION - SOBRATO SOUTH**

Project No. 19-038-01

Project Manager: Brenda Buxton

**RECOMMENDED ACTION:** Authorization to disburse up to \$5,000,000 to the Santa Clara Valley Open Space Authority to acquire the approximately 235-acre Sobrato South property for protection of open space, natural floodplain, wildlife habitat, biological resources, and agriculture; natural resource restoration; and compatible public access as part of a larger Coyote Valley open space acquisition effort in the City of San Jose in Santa Clara County.

**LOCATION:** Coyote Valley, San José, Santa Clara County (Exhibit 1)

**PROGRAM CATEGORY:** San Francisco Bay Area Conservancy Program

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EXHIBITS

Exhibit 1: [Project Location Maps](#)

Exhibit 2: [Bay Nature Article: The Last Big Save](#)

Exhibit 3: [Coyote Valley Landscape Linkage](#)

Exhibit 4: [Project Letters](#)

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**RESOLUTION AND FINDINGS:**

Staff recommends that the State Coastal Conservancy adopt the following resolution pursuant to Sections 31160-31165 of the Public Resources Code:

“The State Coastal Conservancy hereby authorizes the disbursement of an amount not to exceed five million dollars (\$5,000,000) to the Santa Clara Valley Open Space Authority (“the grantee”) to acquire the approximately 235-acre Sobrato South property (consisting of Santa Clara County Assessor Parcel Numbers 712-03-111 and 712-03-112) for protection of open space, natural floodplain, wildlife habitat, biological resources, and agriculture; natural resource restoration; and public access compatible with all of the foregoing uses and protections.

This authorization is subject to the following conditions:

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1. Prior to the disbursement of funds for the acquisition, the grantee shall submit for the review and approval of the Executive Officer of the Conservancy (Executive Officer):
  - a. All relevant acquisition documents for the acquisition including, without limitation, the appraisal, purchase and sale agreement, deed, escrow instructions, environmental or hazardous materials assessment, and title report;
  - b. A baseline conditions report; and
  - c. Evidence that sufficient funds are available to complete the acquisition.
2. The grantee shall pay no more than fair market value for the property, as established in an appraisal approved by the Executive Officer.
3. The property acquired under this authorization shall be managed and operated for wildlife habitat protection, water quality protection, agricultural preservation, open space and public access. The property shall be permanently dedicated to those purposes by an appropriate instrument approved by the Executive Officer.
4. Conservancy funding shall be acknowledged by erecting and maintaining a sign on the property or in a nearby publicly-viewable area, the design and location of which are to be approved by the Executive Officer.”

Staff further recommends that the Conservancy adopt the following findings:

“Based on the accompanying staff report and attached exhibits, the State Coastal Conservancy hereby finds that:

1. The proposed authorization is consistent with Chapter 4.5 of Division 21 of the Public Resources Code, regarding the San Francisco Bay Area Conservancy.
2. The proposed project is consistent with the current Conservancy Project Selection Criteria and Guidelines.”

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### PROJECT SUMMARY:

Staff recommends the Conservancy authorize disbursement of up to \$5,000,000 to the Santa Clara Valley Open Space Authority (OSA) to acquire the Sobrato South property, one of the properties critical to a decades-long effort to permanently protect the Coyote Valley open space. The property will be acquired for protection of open space, natural floodplain, wildlife habitat, biological resources, and agriculture; natural resource restoration; and public access compatible with all of the foregoing uses and protections. An area of grazing and agricultural lands south of the urbanized portion of San José, Coyote Valley has been proposed for multiple, large scale housing and office park developments over the last few decades. While these development proposals enjoyed support for their economic development potential, they also generated significant controversy because they were likely to increase urban sprawl, degrade

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the environment, and eliminate agriculture from the area. (See “Project History” below and Bay Nature article in Exhibit 2.)

In 1993, the legislature created OSA to help protect the ecological, agricultural, and recreational values of Santa Clara County, including Coyote Valley. In recent years, the OSA has embarked on an ambitious program to highlight the environmental and recreational values of Coyote Valley and to permanently protect these values by acquiring key properties. One of the significant regional values of the Coyote Valley is that it provides a linkage between the Santa Cruz Mountains and the Diablo Range for both the movement of wildlife and for the migration of species as the climate changes. Further information about this connection is provided in Exhibit 3. Coyote Valley also is the planned connection route for the Bay Area Ridge Trail, the Juan Bautista de Anza National Historic Trail, and other regional trails. Furthermore, the undeveloped lands of Coyote Valley feature significant water resources including the Coyote Creek riparian corridor, Laguna Seca (one of the largest freshwater wetlands in the South Bay), and the Santa Clara groundwater basin. The natural floodplains provided by the undeveloped lands of the Coyote Creek watershed reduce and delay peak flows, providing a flood protection benefit to the City of San José downstream. Finally, the farm and rangelands of the valley are important agricultural and scenic resources.

The OSA has focused on the northern portion of Coyote Valley as it is the most threatened. In fact, many of the properties have been permitted for office parks or other computer industry facilities but remain undeveloped due to the market downturn of the 2008-9 recession. While current market conditions have made the property owners interested in selling, the properties remain highly developable.

The OSA’s goal is to acquire three of the largest northern Coyote Valley properties: Brandenburg (divided into East and West segments), Sobrato North and Sobrato South (see attached Exhibit 1). This proposed authorization would provide Conservancy funding for the Sobrato South acquisition. This property was identified as top conservation priority in the Wildlife Conservation Board’s Santa Cruz Mountains Conceptual Area Protection Plan. The Conservation Lands Network has identified about 44 acres of the property as a critical linkage. Combined with the other properties, the Sobrato South property will help provide a permanently protected area of land across the Valley floor with tremendous potential to protect habitat, water quality, agricultural and open space and public access.

The Sobrato South acquisition terms require that the Brandenburg, Sobrato North and Sobrato South parcels be acquired together because of the properties’ interrelated infrastructure easements. To successfully complete this complicated and costly acquisition, the OSA is working with Peninsula Open Space Trust (POST) and the City of San José. The City of San José acquired part of the Brandenburg property, Brandenburg East, and OSA holds a conservation easement over this property. POST acquired the remainder of the Brandenburg property, Brandenburg West, and the Sobrato North. POST will eventually transfer its interests in the Brandenburg West and the Sobrato North properties to OSA, likely next year. POST is also the buyer under the Sobrato South acquisition agreement but will assign its rights to purchase the Sobrato

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South property to OSA and provide \$1,000,000 toward the acquisition. OSA anticipates that the remaining \$15,000,000 necessary to complete the acquisition will be coming from the Wildlife Conservation Board (\$10,000,000) and from the Conservancy (\$5,000,000).

**Site Description:** Coyote Valley is the undeveloped area south of the City of San José and north of Morgan Hill, between the Santa Cruz Mountains and the Diablo Range. U.S. 101 runs along the eastern side of Coyote Valley and Coyote Creek winds through the valley bottom. The Sobrato South property is in the northern portion of Coyote Valley and is currently used for cattle grazing and hay farming. The Sobrato South property also includes Spreckles Hill, an oak covered hill rising from the valley floor. With approximately twenty-two acres of wetland habitats (ponds and a half a mile of Fisher Creek), the Sobrato South property provides suitable habitat for California Red Legged Frog, California Tiger Salamander, tri-colored blackbird, and burrowing owl. Additionally, the OSA has conducted a GPS collar study of bobcats in this landscape and have observed them utilizing Fisher Creek as a corridor through this property. Surveys indicate the area is a hot spot for bird activities (over 252 species have been documented in Coyote Valley), and one of only two known breeding sites for Swainson's Hawks in the area. The property is currently owned by a Sobrato Corporation (SI 70, LLC) which acquired the property for a research campus development. Although this development did not go forward, adjacent parcels owned by the Sobrato Corporation have been developed into a satellite facility for a local junior college.

**Grantee Qualifications:** The OSA is a special district created by the State Legislature in 1993 to preserve hillsides, creek corridors, and other undeveloped land in Santa Clara County through acquisition of fee or conservation easements. The OSA encompasses the Cities of Campbell, Milpitas, Morgan Hill, Santa Clara, and San Jose as well as the unincorporated area of the County that is not within the Midpeninsula Regional Open Space District's jurisdiction. The OSA receives its revenue through benefit assessments that are levied by the OSA, from the 2014 Measure Q parcel tax, and from interest income. These revenues provide the main base for the OSA's acquisition and land improvement work.

The OSA's ability to restore land and promote public access is exemplified by its acquisition and management of several open space preserves, including Rancho Canada del Oro Open Space Preserve, Sierra Vista Open Space Preserve, and the Coyote Valley Open Space Preserve. The OSA has used science-based management and monitoring programs to restore habitat for rare, threatened and endangered species while also providing opportunities for public access. OSA staff is supplemented by a dedicated group of over 150 volunteers who assist with restoration and public access projects

**Project History:** Coyote Valley started to be seen as an area for technology campus expansion as early as the 1970's. The dotcom boom of the late 1990's also generated a slew of computer industry-related development proposals. The development proposal peak, however, was in the early 2000's with the Coyote Valley Specific Plan which proposed technology campuses, residential communities, schools, and retail making a new city with 50,000 jobs and 25,000 homes. Strong opposition and the recession of 2008-9 meant this plan never came to fruition.

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San José’s General Plan was subsequently changed to protect the mid-Coyote Valley area, but this meant that less ambitious development proposals continued to be made for the northern portion of Coyote Valley, including a 30-acre warehouse and distribution center. This land was eventually purchased by POST to prevent this development. On the June 2018 ballot, two conflicting City measures, one proposing housing in north Coyote Valley and another restricting urban growth, ended with the measure to protect Coyote Valley winning. In addition, the City passed a measure in November of that year to provide funds for land conservation; these funds are helping to fund the Brandenburg acquisition. While the development of Coyote Valley may no longer be inevitable, organizations such as the OSA need to continue to work to permanently protect the Coyote Valley.

The Conservancy provided \$1 million in 2015 for OSA’s acquisition of the Coyote Ridge Open Space Preserve, located in the foothills just east of the valley floor. The acquisition of the Sobrato South property will help protect the open space values of this previous acquisition by providing a continuous, protected corridor from the Coyote Ridge (in the Diablo Range) over to the Santa Cruz Mountains for the movement of wildlife and recreational trail users.

### PROJECT FINANCING

<b>Coastal Conservancy</b>	<b>\$5,000,000</b>
Wildlife Conservation Board	\$10,000,000
Peninsula Open Space Trust (POST)	\$1,000,000
<b>Project Total</b>	<b>\$16,000,000</b>

The anticipated source of Conservancy funds for this project is an appropriation from the Water Quality, Supply, and Infrastructure Improvement Act of 2014 (Proposition 1, Water Code section 79700 et seq.). Funds appropriated to the Conservancy derive from Chapter 6 (commencing with Section 79730) and may be used “for multi-benefit water quality, water supply, and watershed protection and restoration projects for the watersheds of the state” (Section 79731). Section 79732 identifies the Chapter 6 purposes as including protecting fish and wildlife corridors, and protecting and restoring natural system that contribute to water supply and quality (Sections 79732(a). Specific purposes of Chapter 6, include: implementing “watershed adaptation projects in order to reduce the impacts of climate change on California’s communities and ecosystems” (79732(a)(2); protecting and restoring “aquatic, wetland, and migratory bird ecosystems, including fish and wildlife corridors” (79732(a)(4); protecting and restoring “rural and urban watershed health to improve watershed storage capacity, forest health, protection of life and property, stormwater resource management, and greenhouse gas reduction” (79732(a)(9); and assisting “in the recovery of endangered, threatened or migratory species by improving watershed health, instream flows, fish passage and coastal or inland wetland restoration. . . (79732a(12). Because the proposed project consists of acquisition of interests in land to protect and restore watershed health, fish and wildlife corridors, and natural system functions that contribute to water supply and quality, as well as helps the

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impacts of climate change, it meets all of the above Chapter 6 purposes and is an appropriate use of Proposition 1 funds.

As required by Proposition 1, the proposed project provides multiple benefits. The acquisition will protect natural systems that contribute to water supply and quality while also protecting fish and wildlife habitat, as well as significant habitat corridors. In addition, this acquisition enables future public access for regional trails.

In accordance with Section 79707(b), which requires agencies to prioritize “projects that leverage private, federal, or local funding or produce the greatest public benefit,” this project leverages \$1,000,000 from Peninsula Open Space Trust (POST) and \$10,000,000 from the Wildlife Conservation Board for the purchase of Sobrato South. It should be noted that the OSA also contributed \$5,000,000 to acquire the adjacent Brandenburg and Sobrato North properties. The project was selected through a competitive grant process under the Conservancy’s Proposition 1 Grant Program Guidelines adopted in June 2015 (“Prop 1 Guidelines”). (See Section 79706(a)). The proposed project meets each of the evaluation criteria in the Prop 1 Guidelines as described in further detail in this “Project Financing” section, the “Project Summary” section and in the “Consistency with Conservancy’s Project Selection Criteria & Guidelines” section of this report.

### **CONSISTENCY WITH CONSERVANCY’S ENABLING LEGISLATION:**

The Sobrato South acquisition project would be undertaken pursuant to Chapter 4.5 of Division 21 of the Public Resources Code, Sections 31160-31165, which authorizes the Conservancy to award grants to projects located in the nine-county San Francisco Bay Area that address the resource and recreational goals of the San Francisco Bay area. The project will help protect the open space values of the Coyote Valley which is consistent with the goals of the San Francisco Bay Area Conservancy Program which are identified in Section 31162 as: (a) facilitate future public access to ridgetops through regional trails, consistent with adopted master and general plans as well as the rights of private property owners, and without having a significant adverse impact on agricultural operations and environmentally sensitive areas and wildlife; and (b) to protect, restore, and enhance natural habitats and connection corridors, watershed, scenic areas, and other open-space resources of regional importance in the nine bay area counties. In addition, the proposed acquisition is from a willing seller, consistent with Section 31163(a). Finally, the project is consistent with Section 31163(c) as the project 1) follows the recommendations of local and regional plans, 2) will serve a regional constituency, 3) will be implemented in a timely way, 4) provides for opportunities for benefits that could be lost if the project is not quickly implemented, and 5) includes substantial matching funds to support the acquisition.

**CONSISTENCY WITH CONSERVANCY'S [2018-2022 STRATEGIC PLAN](#)**

**GOAL(S) & OBJECTIVE(S):**

Consistent with **Goal 12, Objective B** of the Conservancy's 2018-2022 Strategic Plan, the proposed project will protect wildlife habitat, connecting corridors, scenic areas and other open space resources of regional significance.

Consistent with **Goal 13, Objective C**, the proposed project will complete acquisition projects that increase the amount of land accessible to the public or provide corridors for trails.

Consistent with **Goal 14, Objective A**, the proposed project will protect working lands, including farmland, rangeland, and forests.

**CONSISTENCY WITH CONSERVANCY'S  
PROJECT SELECTION CRITERIA & GUIDELINES:**

The proposed project is consistent with the Conservancy's Project Selection Criteria and Guidelines, last updated on October 2, 2014, in the following respects:

**Required Criteria**

1. **Promotion of the Conservancy's statutory programs and purposes:** See the "Consistency with Conservancy's Enabling Legislation" section above.
2. **Consistency with purposes of the funding source:** See the "Project Financing" section above.
3. **Promotion and implementation of state plans and policies:**

California @ 50 Million: The Environmental Goals and Policy Report: Promotes Pillar 5: Stewarding natural resources, including forests, working lands, and wetlands to ensure that they store carbon, are resilient, and enhance other environmental benefits. Advances the Development Goal to reduce land consumed for development.

CA Climate Adaptation Strategy/Safeguarding California: Reducing Climate Risk Plan: Principle 5: Prioritize natural infrastructure solutions build climate preparedness, reduce greenhouse gas emissions, and produce other multiple benefits. – Recommendation B-2: Enhance habitat connectivity and protect climate refugia through strategic acquisition and protection activities.

CA Wildlife Action Plan: Implements goals in the Central Coast Province for Southwest Riparian Forest and Woodland for acres of habitat protection and acres where native species are dominant through the strategy of land acquisition and easements.

Santa Clara Valley Habitat Plan: A joint Habitat Conservation Plan/Natural Community Conservation Planning (NCCP) for Santa Clara County, this plan recognizes and emphasizes the importance of habitat connectivity as part of its Biological Goals and Objectives and Reserve System design. Specifically Goal 2 (Table 5-1a) is a landscape level goal to

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maintain or improve opportunities for movement and genetic exchange of native organisms within and between natural communities inside and connecting to areas outside the study area. A landscape linkage in between the Santa Cruz Mountains and Diablo Range, Linkage 8, is targeted for protection under the NCCP.

4. **Support of the public:** The project has the support of State Senator Jim Beall, State Assembly members Ash Kalra, Marc Levine, Kansen Chu, Robert Rivas, and Mark Stone, San Jose City Mayor Sam Liccardo, Santa Clara Valley Water District, Santa Clara Valley Habitat Agency, Committee for Green Foothills, Greenbelt Alliance, and Audubon California.
5. **Location:** The proposed project would be located within one of the nine bay area counties: Santa Clara.
6. **Need:** As described in the Project Financing section, this acquisition is part of an ambitious effort to acquire three properties critical to save open space in the northern Coyote Valley. The Conservancy's contribution is a key part of the fundraising effort for this project.
7. **Greater-than-local interest:** This acquisition will preserve and provide for future enhancement of a regionally significant wildlife corridor (between the Santa Cruz Mountains and the Diablo Range), groundwater basin, and trail corridor.
8. **Sea level rise vulnerability:** The project is upland and not vulnerable to sea level rise.

### Additional Criteria

9. **Urgency:** The landowner seeks to complete the acquisition in July 2020.
10. **Resolution of more than one issue:** Acquisition of Sobrato South will not only preserve the water resources and agricultural values of the property, but also will preserve a wildlife corridor and trail connection.
11. **Leverage:** See the "Project Financing" section above.
14. **Readiness:** POST has negotiated a purchase agreement with the landowner which will be assigned to the OSA prior to completing the acquisition process.
15. **Realization of prior Conservancy goals:** See "Project History" above.
17. **Cooperation:** This property acquisition has required extensive negotiations between the OSA, POST, and the landowner as well as contributions from numerous public agencies and private contributors to successfully complete this project.
18. **Vulnerability from climate change impacts other than sea level rise:** The acquisition of Sobrato South will maintain a key wildlife corridor that will facilitate adaptation as species seek to migrate in response to changing climate. In addition, the project will provide opportunities to incorporate climate vulnerability and climate resilience into future ecological and hydrological restoration.
19. **Minimization of greenhouse gas emissions:** The acquisition will help discourage urban sprawl development which is associated with increased traffic and auto emissions.



**CEQA COMPLIANCE:**

The Sobrato South acquisition is categorically exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to the CEQA Guidelines at 14 Cal. Code of Reg. Sections 15313(a), 15325 and 15316, which exempt acquisitions of property for purposes of: preserving fish and wildlife habitat; preserving the natural conditions of the property, including plant and animal habitats and its open spaces; and transfer of land to establish a park. The proposed project will preserve the existing natural conditions and habitats of the property, and the management plan for the park has not been developed by Santa Clara Valley Open Space Authority.

Future uses of the property will be evaluated for their potential environmental effect when the Santa Clara Valley Open Space Authority creates a plan for the property. Those potential future activities are not funded, approved, or adopted through this authorization.

Upon approval of the project, Conservancy staff will file a Notice of Exemption.