

COASTAL CONSERVANCY

Staff Recommendation  
May 27, 2021

**CITY OF CHULA VISTA FAIVRE STREET PROPERTY EXCHANGE**

Project No. 00-028-01  
Project Manager: Avra Heller

**RECOMMENDED ACTION:** Authorization for the City of Chula Vista to remove use restrictions on 1.86 acres of the Conservancy-funded, City-owned Faivre Street property in the lower Otay River Valley in exchange for the City's acquisition and restriction of a property of equal size and equal or greater value in the Otay River Valley.

**LOCATION:** City of Chula Vista, San Diego County

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EXHIBITS

- Exhibit 1: [Project Location Map](#)
  - Exhibit 2: [Existing Faivre Street Property Description](#)
  - Exhibit 3: [Exchange Property Description](#)
  - Exhibit 4: [April 27, 2000 Staff Recommendation](#)
  - Exhibit 5: [City of Chula Vista Notice of Exemption for Homeless Bridge Shelter Project and related improvements](#)
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**RESOLUTION AND FINDINGS**

Staff recommends that the State Coastal Conservancy adopt the following resolution and findings.

Resolution:

The State Coastal Conservancy hereby authorizes its Executive Officer and the City of Chula Vista ("City") to remove use restrictions on 1.86 acres of the Conservancy-funded, City-owned Faivre Street property in the lower Otay River Valley in exchange for the City's acquisition and restriction of a property of equal size and equal or greater value, subject to the following conditions:

1. Prior to the acquisition of the exchange property, the City shall submit for the review and approval of the Executive Officer of the Conservancy (Executive Officer):

- a. All relevant acquisition documents for acquisition of the exchange property, including, without limitation, the appraisal proving the property is of greater or equal value to the Faivre Street property, purchase and sale agreement, deed, escrow instructions, environmental or hazardous materials assessment, and title report; and
  - b. A baseline conditions report.
2. The property acquired under this authorization shall be managed and operated for the purpose of habitat protection and restoration, open space protection and public access. The property shall be permanently restricted to those purposes by an appropriate instrument approved by the Executive Officer.
  3. The restrictions on the Faivre Street property shall not be removed until the exchange property is acquired and restricted to the purposes of habitat protection and restoration, open space protection and public access.

Findings:

As described further in the accompanying staff recommendation and attached exhibits, the State Coastal Conservancy hereby finds that:

1. The proposed authorization is consistent with Chapter 6 of Division 21 of the Public Resources Code (Sections 31251-31270) regarding the enhancement of coastal resources.
2. The proposed authorization will fulfill the original purposes of the acquisition of the Faivre Street property while facilitating a project that has multiple benefits for the public.

## **STAFF RECOMMENDATION**

### **PROJECT SUMMARY:**

Staff recommends the Conservancy authorize the removal of its required use restrictions on a portion of property acquired by the City of Chula Vista (the “City”) with Conservancy funding in the lower Otay River Valley in exchange for the City’s acquiring and restricting property of equal size and equal or greater financial and resource value located elsewhere in the lower Otay River Valley (“exchange property”). The Conservancy-funded property is the 2.55-acre Faivre Street property located near the intersection of Faivre Street and Broadway in Chula Vista. The exchange property is located 5.5 miles east of the Faivre Street property, in Chula Vista.

The City requests this exchange to enable it to build and operate a homeless shelter on a 1.86-acre portion of the Faivre Street property. The remaining 0.69-acre portion of the Faivre Street property and the exchange property will be held in perpetuity for the purposes of the original Faivre Street purchase – that of habitat protection and restoration, open space protection and public access. Staff recommends the exchange because the exchange property provides similar resource value as the Faivre Street property and because the exchange will enable a project that has multiple public benefits. The homeless shelter project will help an underserved community and, in providing shelter to unsheltered persons, will protect habitat and improve public use of the Otay Valley Regional Park.

### Acquisition of the Faivre Street Property

On October 27, 1992, the Conservancy approved Phases I and II of the Otay River Valley Enhancement Plan (ORVEP) and authorized funding for acquisitions of property to help implement the ORVEP. The ORVEP establishes goals and implementing actions for balancing resource protection and public access in the Otay River Valley. The staff recommendation for approval of the ORVEP Phases I and II indicated that the ORVEP would help complete, and become part of, the Otay Valley Regional Park Concept Plan. On April 27, 2000, the Conservancy authorized additional funding for acquisition of property to implement the ORVEP (Exhibit 5). The source of the additional funding was an appropriation to the Conservancy from the state's general fund specifically for acquisition lands in the Otay River Valley.

The April 2000 authorization was for the purchase of multiple properties in the city of San Diego and in Chula Vista totaling 90 acres within the lower Otay River Valley. Some of the properties were acquired by the City of Chula Vista, including the 2.55 acre Faivre Street property (Exhibit 2). The Faivre Street property, APN 629-040-2500, was within the scope of the ORVEP, and located in the ORVEP area designated as appropriate for development of a staging area. (Figure 18 of the ORVEP.) In accordance with the terms of the Conservancy's grant, Grant Agreement 00-029, the City recorded an agreement on title to the Faivre Street property restricting use of the property to habitat protection and restoration, open space protection, and public access as provided in the Otay River Valley Enhancement Plan. The City subsequently established a trailhead, parking lot, and a trail (connecting to the Otay River Trail) on a 0.69-acre portion of the site. The remaining 1.86 acres of this property have remained vacant and unused, and are the subject of this request for an exchange of property.

### The Proposed Homeless Shelter Project

The proposed property exchange will allow the City to build a transitional homeless shelter ("Bridge Shelter") on the 1.86 acres of currently unused land at the Faivre Street property. The City has explained that the Otay River Valley is being adversely affected by encampments of unsheltered individuals. The encampments have resulted in fire hazards, crime and safety concerns, degradation of the environment, and degradation of opportunities for public use and enjoyment of the recreational area. The City also explained that the US 9<sup>th</sup> Circuit Court of Appeals' 2019 ruling in Martin, et al. vs. the City of Boise, prevents the City from enforcing laws barring encampments in public spaces unless the City provides alternative sheltering options.

The City noted that the Governor's Executive Order N-23-20 recognizes a statewide shelter crisis and encourages local cities and counties to increase housing options for those experiencing homelessness. To address these concerns and to reduce impacts to the Otay River Valley, the City is planning the Bridge Shelter with support services to serve 50-150 unsheltered individuals. The Bridge Shelter will prepare participants for permanent housing. The City has identified the 1.86-acre portion of the Faivre Street property as an ideal location for this shelter as it is zoned for limited industrial use (compliant with the purposes of a temporary shelter), has no habitat value for the Otay River Valley, and is within walking distance of public transportation and other services and amenities. There is also discussion with the County of San

Diego about the County potentially installing a community garden on the property adjacent to the shelter.

In May of 2020 the City submitted a request to the Conservancy to approve use of a portion of the Faivre Street property (1.86 acres) to install the Bridge Shelter. The City will retain the trailhead, parking lot, and public trail on the 0.69-acre portion of the Faivre Street property, but requested to use the remaining area for the Bridge Shelter. However, installing the Bridge Shelter would be inconsistent with the Conservancy-required use restrictions, which restrict use of the property to habitat, open space and public access. Conservancy Staff recommends to the Conservancy that it authorize the exchange as a solution.

#### The Exchange Property

The exchange property, APN 645-030-2000, (Exhibit 3) is located 5.5 miles east of the Faivre Street property, is currently owned by a private landowner, HomeFed Corporation, is zoned for Active Recreation (see Exhibit 1), and lies within the scope of the Otay Valley Regional Park Concept Plan (OVRP Concept Plan). The property has a mix of non-native grassland vegetation with a few patches of adjacent coastal scrub. The exchange property sits directly adjacent to the existing floodway and is bordered on the North, South, and East by the area's Habitat Conservation / Multiple Species Conservation Program (MSCP) reserve. A conceptual trail alignment for the Otay Valley Regional Park (OVRP) runs through the proposed exchange property. The purchase of this property will allow for a trail to be placed on the least sensitive biological area of the property, and allow for the planned trail connection described in the OVRP Concept Plan. Restricting the property to habitat protection and restoration, public access and open space is consistent with City's MSCP sub area plan, General Plan and OVRP Concept plan. Thus, the exchange property provides the same resource values as the original acquisition of the Faivre Street property.

**Grant Applicant Qualifications:** The City of Chula Vista is the current landowner and manager of the Faivre Street property and will, if approved, acquire the exchange property to be managed and operated in perpetuity for the purpose of habitat protection and restoration, open space protection and public access. The City has indicated that they have the funding available to acquire the exchange property and are in the appraisal process now. The City has the existing expertise and jurisdiction to manage the public open space for the purpose of the acquisition.

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

The Conservancy funded the acquisition of the Faivre Street property pursuant to Chapter 6 of the Conservancy's enabling legislation, Sections 31251-31270 of the Public Resources Code, regarding enhancement of coastal resources and consistent with the Conservancy's interim Program Guidelines adopted May 27, 1999. Chapter 6 authorizes grants to enhance coastal resources that have suffered loss of natural and scenic values due to improper location of improvements, natural or human-induced events, or incompatible land uses. The grants may be used to acquire land within coastal resource enhancement areas to improve resource

management and for other corrective measures that will enhance the natural and scenic character of the areas. Chapter 6 authorizes grants for projects that are located outside the coastal zone if they enhance a watershed resource that is partly in the coastal zone for purposes of enhancing resources of the coastal zone.

The City's acquisition of the Faivre Street property enabled the City to manage it for public access and open space consistent with the ORVEP. Removing 1.86 acres of the Faivre Street property from being managed for public access and open space and instead acquiring and restricting the exchange property is consistent with the ORVEP. Even though the exchange property is not within the scope of the ORVEP, it is within the scope of the larger Otay Valley Regional Park Concept Plan, of which the ORVEP is a component. The entire Otay River Valley is an important natural resource that contributes to maintaining the coastal resources where the Otay River meets San Diego Bay, at the South Bay National Wildlife Refuge. Protecting the exchange property will enhance coastal resources of the Otay River Valley by facilitating appropriate public access and protection of lands on the border of habitat area. Thus, protecting the exchange property is consistent with Chapter 6. Releasing the restrictions from a portion of the Faivre Street property is also consistent with Chapter 6 in that the ORVEP identified this property as appropriate for public access (a staging area). The City has determined that only a portion of the site is necessary to accommodate public access, and that the site can better protect the resources of the Otay Valley by providing a homeless shelter.

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

Consistent with **Goal 2, Objective G** of the Conservancy's 2018-2022 Strategic Plan, the proposed project acquires land to allow for development of coastal public accessways, open-space areas, parks, and inland trails that connect to the coast. The proposed exchange will facilitate protection of land that is needed for a river trail.

**CEQA COMPLIANCE:**

The exchange property will be acquired by the City in order to transfer the use restrictions from the portion of the Faivre Street property being proposed for use by the City as a homeless shelter. The City's acquisition of the exchange property for purposes of habitat restoration, open space and public access is exempt from CEQA under 14 California Code of Regulations Sections 15313 and 15325. Section 15313 exempts acquisitions for purposes of fish and wildlife conservation including for purposes of preserving access to public lands and water where the land will remain in its natural condition. Section 15325 exempts acquisitions for purposes of preserving open space and habitat, and includes acquisitions to preserve open space for park purposes. (Section 13252(f)). The exchange property consists of open space, degraded habitat and a portion of an existing access road. It will be acquired to preserve open space, potentially restore habitat, and allow for public access along the Otay River as part of the Otay Valley Regional Park.

Removing the use restrictions from the 1.86-acre portion of the Faivre Street property will facilitate the City's installation of the transitional homeless shelter, and potentially a

community garden. The shelter will consist of a pre-fabricated building (60 feet X 192.1 feet) and includes the following features:

- Decomposed granite tent area foundation for prefabricated building
- Concrete pad for trash enclosure
- Sanitary area
- Driveway
- Storm drains, gutters, storm drain cleanout
- Auxiliary trailer
- Site lighting
- Perimeter fence
- Decomposed granite multi-use trail
- Biofiltration basin
- Interior sidewalk, sidewalk at 27th Street, and Faivre Street

Minor grading will be required for sidewalk construction and ground disturbance will consist primarily of that associated with standard construction practices, including creating concrete pads, storm water drainage and filtration basin, and extending water, sewer, and electric services. The City concluded that installation of the shelter is categorically exempt from CEQA (See Exhibit 5). The Conservancy finds that the proposed construction of the shelter is categorically exempt under 14 California Code of Regulations Section 15303, which exempts new construction of small structures and Section 15304, which exempts minor alterations to land. The potential community garden would also be categorically exempt under Section 15304 as a minor alteration of land in the form of new landscaping.

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