

COASTAL CONSERVANCY

Staff Recommendation

February 15, 2024

PACIFIC SHORES ACQUISITION PROGRAM PHASE IV

Project Nos. 19-044-01 and 19-044-03

Project Manager: Joel Gerwein

RECOMMENDED ACTION: Authorization to disburse up to \$1,300,000 to the Smith River Alliance, of which \$500,000 is to conduct pre-acquisition planning activities and minor clean-up actions for beach, dune, wetland, upland, and forested parcels within and in the vicinity of the Pacific Shores Subdivision, adjacent to the Lake Earl Wildlife Area in Del Norte County, and \$800,000 is to acquire those same parcels.

LOCATION: Lake Earl Wildlife Area, Del Norte County

EXHIBITS

Exhibit 1: [Project Location Map](#)

Exhibit 2: [Pacific Shores Pre-Acquisition Feasibility Study Phase III staff recommendation dated December 12, 2019](#)

Exhibit 3: [Pacific Shores Acquisition Program staff recommendation dated May 27, 2021](#)

Exhibit 4: [Project Letters](#)

RESOLUTION AND FINDINGS

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

Resolution:

The State Coastal Conservancy hereby authorizes a grant of an amount not to exceed one million three hundred thousand (\$1,300,000) to Smith River Alliance (“the grantee”), of which five hundred thousand (\$500,000) is to conduct pre-acquisition planning activities and minor clean-up actions for beach, dune, wetland, upland, and forested parcels within and in the vicinity of the Pacific Shores Subdivision, adjacent to the Lake Earl Wildlife Area in Del Norte County, and eight hundred thousand (\$800,000) is to acquire those same parcels.

1. Prior to commencement of the project, the grantee shall submit for the review and written approval of the Executive Officer of the Conservancy (Executive Officer) the following:
 - a. A work program, schedule, and budget for each grant.
 - b. Names and qualifications of any additional contractors to be retained in carrying out the project.
2. Prior to the disbursement of funds for acquisition of each parcel, 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 acquisitions including, without limitation, 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.
3. The grantee shall pay no more than fair market value for each parcel, as established in an appraisal approved by the Executive Officer.
4. Each parcel acquired under this authorization shall be managed and operated for natural resource protection; habitat preservation, restoration, and enhancement; cultural resource preservation; and public access that is compatible with those purposes. The property shall be permanently dedicated to those purposes by an appropriate instrument approved by the Executive Officer.
5. Conservancy funding shall be acknowledged by erecting and maintaining a sign on at least one of the acquired parcels or in a nearby publicly-viewable area, the design and location of which are to be approved by the Executive Officer.
6. The grantee shall acquire only those parcels for which there is a willing seller.

Findings:

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

1. The proposed project is consistent with Chapter 6 of Division 21 of the Public Resources Code, regarding coastal resource enhancement projects.
2. The proposed project is consistent with the current Conservancy Project Selection Criteria.
3. Smith River Alliance is a nonprofit organization organized under section 501(c)(3) of the U.S. Internal Revenue Code.

STAFF RECOMMENDATION

PROJECT SUMMARY:

Staff recommends the Conservancy authorize a grant of up to \$1,300,000 to Smith River Alliance (SRA), of which \$500,000 is to enable pre-acquisition planning and minor clean-up

actions for additional parcels within and in the vicinity of the Pacific Shores Subdivision, adjacent to the Lake Earl Wildlife Area in Del Norte County, and \$800,000 is for acquisition of those additional parcels.

On December 12, 2019, the Conservancy authorized a grant of \$588,000 to SRA to conduct pre-acquisition planning, including appraisals, title research, and environmental analyses, and minor clean-up actions for Pacific Shores parcels (Exhibit 2). With the grant, SRA has prepared 71 lots for acquisition. SRA has spent \$483,877 of the pre-acquisition grant funds and anticipates spending approximately \$70,000 in the next month, which would leave a balance of approximately \$74,000. The recommended new grant will fund pre-acquisition planning and minor clean-up for additional Pacific Shores parcels. These activities include appraisals, title reports, negotiations, debris removal, and, for some parcels, Phase II environmental study costs, and additional costs associated with complex transactions, such as the acquisition of a large parcel from the Del Norte County Unified School District and acquisition of County-owned lots acquired through property tax default.

On May 27, 2021, the Conservancy authorized a grant of \$940,000 to SRA to acquire Pacific Shores parcels (Exhibit 3). SRA has spent \$598,862.35 of the acquisition grant funds and anticipates spending an additional \$70,000 in the coming month, leaving a balance of approximately \$270,000. Those remaining funds will be sufficient for the acquisition of two large parcels that SRA hopes to acquire in the coming year. Fair market value of the Pacific Shores parcels and closing costs are expected to increase this year. The recommended grant will allow SRA to continue the Pacific Shores Acquisition Project at the current pace of 50 parcels acquired annually over the next two years.

SRA has made significant progress under each grant. The Pacific Shores Acquisition Project is complex because it involves closing on a large number of small parcels owned by multiple absentee landowners, as well as closing on County-owned lots acquired through property tax default proceedings. This complexity has resulted in an extended timeline for the project, due to challenges with securing title company services and communicating with a large number of landowners. SRA has worked with multiple title companies to secure the necessary title reports, and is now contracting with a company that has successfully completed several acquisitions of groups of parcels. It was necessary to contract with a separate title company for the tax default properties, as this is a specialized service with unique legal requirements, and SRA has now contracted with a specialized title company for that purpose and successfully completed a tax-default transaction. Since 2019, 69 half-acre parcels and one larger parcel have been acquired, leaving 353 of the original 1,535 parcels remaining in private ownership. Note that the 2021 staff recommendation (Exhibit 3) stated that there were approximately 430 parcels remaining to be acquired. Since that time, a more detailed accounting indicates that there were 423 parcels to be acquired in 2021. The larger parcel that has been acquired comprises 25 acres, and an additional 9.4-acre parcel is pending acquisition. In the first year of the grant, the pace of acquisition was slow, with only nine lots acquired. This was due to challenges with title companies referenced above, which have now been resolved. In the last eighteen months, SRA has acquired 60 half-acre parcels and two larger parcels, and expects to continue acquiring parcels at this rate or better. SRA expects that this additional funding will

allow for the acquisition of 100 additional parcels over the next two years. Staff is thus recommending the Conservancy authorize additional funds to continue the program.

The project is fully described in the staff recommendations included in Exhibits 2 and 3. No significant changes have been made to the project.

Grant Applicant Qualifications: SRA was incorporated in 1980, and its mission is to provide for the long-term protection, restoration, and stewardship of natural resources within the Smith River watershed. SRA has a record of success completing two previous Conservancy-funded phases of feasibility studies for Pacific Shores acquisitions, which resulted in public acquisition of 711 lots. Under the current grants to SRA, an additional 69 half-acre lots and one large parcel have been acquired. SRA is thus well qualified to undertake the work proposed in this authorization. SRA has also successfully managed other grants from the Conservancy, including grants for restoration of watershed lands, restoration planning, and fish barrier removal.

CONSISTENCY WITH CONSERVANCY'S PROJECT SELECTION CRITERIA:

The proposed project is consistent with the Conservancy's Project Selection Criteria, last updated on September 23, 2021, in the following respects:

1. Extent to which the project helps the Conservancy accomplish the objectives in the Strategic Plan.

See the "Consistency with Conservancy's Strategic Plan" section below.

2. Project is a good investment of state resources.

The project provides important benefits for a reasonable investment of funds. Lake Earl, California's largest coastal lagoon, has long been identified as a critical natural resource, providing habitat for over 300 species of birds on the Pacific Flyway. Continuing the lot acquisition program will help to resolve the longstanding controversy over development in this sensitive area and advances the State's 30X30 Executive Order goals for protection of conservation lands. The project area also contains sensitive cultural resources which are important to protect.

The project also reduces potential vulnerability to sea level rise. Pacific Shores subdivision has significant ocean frontage and is thus vulnerable to sea level rise. Acquiring lots from willing sellers will ensure that no development will occur. In addition, as additional lots are acquired, and entire blocks within the subdivision move into public ownership, there is an opportunity to remove existing roads and restore wetlands and dune habitat, thereby creating a landscape that may be more resilient to climate change.

The project is generally consistent with several state plans, and specifically with the following:

The **2015 California State Wildlife Action Plan** identifies Coastal Dune and Bluff scrub in the North Coast and Klamath Province as a conservation target, and acquisition of priority habitat through fee title acquisition as a conservation strategy. The plan further identifies engaging with state agencies and the NGO community to achieve shared objectives. The Marine Province

recommendations in the SWAP include acquiring property to secure high-quality estuary and lagoon ecosystems.

The proposed project is also consistent with the **2004 Pacific Coast Joint Venture Strategic Plan Update**, which recommends acquiring additional lands for addition to existing wildlife areas as those lands become available as an objective for Northern California. The plan also identifies the Lake Earl Wildlife Area and the adjacent Tolowa Dunes State Park as particularly important for migratory and overwintering water-associated birds.

3. Project includes a serious effort to engage tribes. Examples of tribal engagement include good faith, documented efforts to work with tribes traditionally and culturally affiliated to the project area.

Tribal engagement related to the project in 2021 led to the identification of multiple cultural resources in the general area where acquisition is occurring. As a result, protection of cultural resources has been added as an acquisition purpose and a required management goal for the protected properties. The Conservancy met with California Department of Fish and Wildlife (CDFW), Wildlife Conservation Board, and the Tolowa Dee-ni' Nation at the beginning of the project to discuss collaboration and partnership on management of the acquired properties, and CDFW continues to work with the Tribe to advance collaborative management of the Lake Earl Wildlife Area and other public lands in the vicinity.

4. Project benefits will be sustainable or resilient over the project lifespan.

Project benefits discussed above in Criterion 2 will continue over the long term because the project involves protecting property in perpetuity. Management by CDFW for habitat and cultural resource protection will ensure that those benefits persist.

5. Project delivers multiple benefits and significant positive impact.

The project delivers multiple benefits as described above in Criterion 2. In addition, the project area is located in a disadvantaged community, and helps the community to resolve a long-term resource protection issue.

PROJECT FINANCING

Proposed Grant for Pre-Acquisition Study

Coastal Conservancy **\$500,000**

Proposed Grant for Acquisition

Coastal Conservancy **\$800,000**

Total **\$1,300,000**

Conservancy funds for this project are expected to come from an appropriation to the Conservancy from the California Drought, Water, Parks, Climate, Coastal Protection, and Outdoors Access for All Act of 2018, California Public Resources Code Sections 80000-80173

(Proposition 68). Pursuant to Chapter 9, Section 80120 (f) the Conservancy may expend funds for the acquisition of parcels that will allow for protection and restoration of coastal dune, wetland, upland, and forest habitat associated with estuarine lagoons and designated wildlife areas. The proposed project consists of pre-acquisition studies, minor clean-up, and acquisition of parcels associated with the Pacific Shores subdivision. Parcels in this subdivision contain dune, wetland, and forest habitat adjacent to CDFW's Lake Earl Wildlife Area, a coastal estuarine lagoon. Thus, the proposed authorization is consistent with the funding source. Further, the proposed project is consistent with the funding guidelines for expenditure of Proposition 68 adopted by the Conservancy on December 6, 2018 as described Exhibit 3. (See Pub. Res. Code section 80010). Proposition 68 requires that at least 15% of funds allocated for Chapter 9 be used for projects that serve Severely Disadvantaged Communities. The proposed project is located in Del Norte County, a small, rural coastal county with approximately 24.6% of its residents living in poverty. Both disadvantaged and severely disadvantaged communities are in close proximity to Pacific Shores. The project will benefit these communities by helping to consolidate public ownership and management of this important natural resource leading to improved site conditions. The project will further benefit these disadvantaged communities by helping to finally resolve the future of Pacific Shores, which has been the subject of much litigation over the years, draining County resources that could otherwise be spent benefitting the community. If these funds are not authorized at this time, the date by which they must be encumbered will pass and they will need to be reappropriated, resulting in a delay in the project.

Unless specifically identified as "Required Match," the other sources of funding and in-kind contributions described above are estimates. The Conservancy does not typically require matching funds or in-kind services, nor does it require documentation of expenditures from other funders or of in-kind services. Typical grant conditions require grantees to provide any funds needed to complete a project.

CONSISTENCY WITH CONSERVANCY'S ENABLING LEGISLATION:

The proposed project is undertaken pursuant to Chapter 6 of Division 21 of the Public Resources Code (Section 31251 et. seq) as described in Exhibit 2 and remains consistent with the purposes of this Chapter.

CONSISTENCY WITH CONSERVANCY'S [2023-2027 STRATEGIC PLAN](#):

Consistent with **Goal 1.1 Commit Funding to Benefit Systemically Excluded Communities**, the proposed project will provide an additional \$1,300,000 to implement a project benefiting a rural, low-income community by providing protected open space for public access and recreation, and increasing sea level rise resilience by preventing inappropriate development.

Consistent with **Goal 3.1 Conserve Land**, the proposed project will protect up to 50 acres of significant coastal property.

CEQA COMPLIANCE:

The pre-acquisition planning activities (preparing appraisals, title reports, negotiations) and minor clean-up actions remain exempt from CEQA as discussed in Exhibit 2, except that

Statutory Exemption under Section 15262 no longer applies. The planning activities are also categorically exempt under Sections 15313, 15316, and 15325 because they are preparing for acquisition of open space parcels for purposes of preserving fish and wildlife habitat, public access, and allowing restoration of natural conditions, as discussed in Exhibit 3. The acquisition of Pacific Shores parcels remains exempt as discussed in Exhibit 3.