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Request for Approval of the Paradise Cut Flood and Conservation Easement Acquisition Project as a Result of Satisfying the Conditions of Approval

Staff Report

RECOMMENDATION

Staff recommends that the Board consider the materials provided to satisfy the conditions placed on the approval of the Paradise Cut Flood and Conservation Easement Acquisition Project (Prop 1-Y1-2015-010), approve the Project, release the reserved funds, and authorize the Executive Director to execute the grant agreement.

PROJECT BACKGROUND

The Paradise Cut Flood and Conservation Easement Acquisition Project will acquire flood and conservation easements on 1,170 acres needed to protect Swainson's hawk habitat and to begin to secure land for a new flood bypass along the San Joaquin River south of Paradise Cut. Acquisition of flood and conservation easements will enable managers to ensure that the land can be managed as floodplain-compatible agriculture and habitat that will not be converted to perennial crops inconsistent with habitat requirements for Swainson's hawk.

At the May 25, 2016 Board meeting, the Delta Conservancy's Board reserved funds for the Paradise Cut Flood and Conservation Easement Acquisition Project pending completion of the CEQA process and conditioned upon the submission of the required land acquisition documents listed in the Conservancy's acquisition checklist, Section 1-3. In August 2016, the Board approved updated Grant Guidelines with a new acquisition checklist. At the September 2016 Board meeting, the Board decided that the Paradise Cut Flood and Conservation Easement Acquisition Project would be asked to submit items in Section 1 of the new acquisition checklist, which includes the following:

- A table including: parcel numbers, acreage, willing seller name and address, breakdown of how the funds will be budgeted, and an acquisition schedule
- Copy of Purchase and Sale or Option Agreement, or Willing Seller Letter(s)
- Appraisal or Estimation of Fair Market Value
- Map showing lands that will be acquired, including parcel lines and numbers

Going forward, the project will be subject to the requirements in the subsequent sections of the new checklist.

CEQA BACKGROUND

On February 16, 2017, the San Joaquin County Resource Conservancy District (RCD), which is the lead agency for CEQA, made their lead agency findings for the Paradise Cut Flood and Conservation

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Easement Acquisition Project. The RCD determined that the project is exempt from CEQA pursuant to 14 CA Code of Regulations sections 15313 (acquisitions of land for wildlife conservation), 15317 (open space contracts or easements), and 15325 (transfers of ownership in land to preserve natural conditions). The RCD filed its notice of exemption with the County of San Joaquin on March 6, 2017. The RCD findings and notice of exemption have been reviewed by Conservancy staff and are included with this report for the Board's review.

APPLICATION STATUS

The grant applicant, the San Joaquin County Resource Conservation District, has submitted the following materials to the Conservancy:

- A table including: parcel numbers, acreage, willing seller name and address, breakdown of how the funds will be budgeted, and an acquisition schedule
- Willing Seller Letter(s)
- Estimation of Fair Market Value
- Map showing lands that will be acquired, including parcel lines and numbers

All of the materials are included with this report. In submitting these materials, the RCD has satisfied the conditions placed on this project's approval.

At the time of proposal, the applicant did not specify which parcels would be purchased with the Conservancy's funding. Since that time, the project team has advanced negotiations with the landowners of the highest priority property in the project's acquisition zone. This property, the Borges/Machado property, is comprised of three parcels encompassing 1,170 acres. The included willing seller letters from the landowners indicate their interest in proceeding with the negotiation. The total acquisition cost for a flood and conservation easement on this property is projected to be between \$10.3-12.2 million. The project team has secured a grant from the California Department of Fish and Wildlife (CDFW) Prop 1 grant program for \$2 million, and is pursuing the remaining funding from the Prop 1 funds held by the Department of Water Resources that have been designated by Governor Brown to be used in response to the recent flooding crisis. As stated in the grant proposal to the Conservancy, the project team has used Delta Conservancy funding to leverage other state funds needed to purchase flood and conservation easements, and they will continue to do so until they have enough funding to acquire the entire Borges/Machado property. If the applicant and their partners are unable to secure additional funds, the RCD will use the Conservancy and CDFW funding it has secured to purchase an easement on a portion of the Borges/Machado property (approximately 385 acres depending on the final appraisal) within the acquisition zone. The RCD will not spend any of the Conservancy's funding until the necessary approvals to close escrow are in place; Delta Conservancy funds will be transferred directly into an escrow account only when all requisite conditions and tasks are fulfilled, and required documents are approved by the Conservancy's legal counsel. Prior to transferring money into escrow for this project, the Department of General Services (DGS) will review and approve an appraisal of the fair market value of the property proposed for acquisition.

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BUDGET

The Paradise Cut Flood and Conservation Easement Acquisition Project proposal requests \$2,000,000 from the Conservancy. As described above, this funding will cover the cost of purchasing a flood and conservation easement over land in the Paradise Cut area. This project was considered as part of the 2015/2016 grant cycle of the Delta Conservancy Prop 1 Ecosystem Restoration and Water Quality Grant Program. For the 2015/2016 grant cycle, the Conservancy approved, conditionally approved, or reserved funding for nine projects that requested approximately \$6.3 million in grant funding.

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