



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Jeffrey Provenzano

SUBJECT: See Below

DATE: March 23, 2026

Approved

Date:

3/19/26

COUNCIL DISTRICT: 4

SUBJECT: Second Amendment to the Agreement with the Santa Clara Valley Habitat Agency to Manage the Burrowing Owl Habitat

RECOMMENDATION

Adopt a resolution authorizing the City Manager or her designee to execute the Second Amendment to the Agreement between the Santa Clara Valley Habitat Agency and the City of San José for Burrowing Owl Habitat Management at the San José-Santa Clara Regional Wastewater Facility to extend the term for an additional period of five years (July 1, 2026 to June 30, 2031).

SUMMARY AND OUTCOME

The proposed second amendment to the agreement will ensure that the owl habitat near the San José-Santa Clara Regional Wastewater Facility (RWF) will continue to be managed to protect and grow the region's largest and most successful burrowing owl population. It also updates the Release and Waiver of Liability form to include a section for accompanied minors to volunteer and assist with the owl habitat at the RWF. The cost of managing the burrowing owl habitat will remain with the Santa Clara Valley Habitat Agency (SCVHA).

BACKGROUND

The Western Burrowing Owl is listed as a state and federal Species of Special Concern and is a candidate for listing under the California Endangered Species Act under California Department of Fish and Wildlife due to significant ongoing statewide population decreases over the past several decades. The Western Burrowing Owl is a small owl, about nine inches tall, and is typically migratory throughout much of its range,

although many birds reside year-round in California. Western Burrowing Owls are both diurnal and nocturnal and are most active at dawn and dusk. This species does not hoot like most other owl species and are the only owls worldwide that live and nest underground. Western Burrowing Owls use “burrows” such as pipes, crevices in rocks, or burrows dug by other animals.

Western Burrowing Owls have been documented for over two decades to nest at the RWF¹ in the open grasslands also known as the bufferlands. In 2012, the City initiated habitat improvements for the owls onsite. In 2013, the RWF Master Plan Environmental Impact Report (EIR) designated 180 acres as burrowing owl habitat as part of the master plan’s goal to improve habitat and minimize impacts to the local and global environment. In 2014, Cisco Systems donated 21.4 acres of land adjacent to the existing owl habitat to the City and provided additional funding to manage the site, bringing the total acreage of the owl habitat to approximately 201 acres.

The SCVHA was formed in May 2013 and has a major role in implementing the Santa Clara Valley Habitat Plan, which was developed by the Santa Clara Valley Transportation Authority, Santa Clara Valley Water District, County of Santa Clara, and the cities of Gilroy, Morgan Hill, and San José. The Santa Clara Valley Habitat Plan covers about two-thirds of the area of Santa Clara County. It provides streamlined state and federal permitting for public and private projects, while offering a comprehensive and effective way to address impacts of those projects on endangered and threatened species and their habitats, including the Western Burrowing Owl.

In 2016, the City entered into a five-year agreement (July 1, 2016 to June 30, 2021) with the SCVHA to transfer the cost, oversight, and underwriting of management activities. This agreement was extended from July 1, 2016, to June 30, 2026. Management activities by the SCVHA and its contractors include monthly surveys, supplemental feeding, maintaining motion-triggered cameras, vegetation management, and soil burrow management. The work is designed to improve foraging and nesting habitat for the owls. The SCVHA also began a Juvenile Burrowing Owl Overwintering and Release program at the owl habitat in 2020, which addresses high juvenile mortality by capturing and caring for juveniles during their first winter and then releasing them to sites in the Reserve System. The RWF will maintain ownership of the land and continue to manage security services for all RWF land.

In 2023, the City executed and recorded an agreement establishing a permanent Conservation Easement (easement) with the SCVHA to enroll the 201-acre owl habitat into the Reserve System as land-in-lieu of paying development fees for certain identified projects in the Capital Improvement Program. The easement ensures that the owl habitat will be protected and managed in perpetuity to grow the region’s largest and

¹ The legal, official name of the facility remains San José-Santa Clara Water Pollution Control Plant, but beginning in early 2013, the facility was approved to use a new common name, the San José-Santa Clara Regional Wastewater Facility.

most successful burrowing owl population. The SCVHA remains responsible for the cost of managing the owl habitat.

ANALYSIS

Protection and maintenance of the owl habitat is provided under the terms of required mitigation measures in the Mitigation Monitoring and Reporting Program from the RWF Master Plan EIR. Council Policy 6-31 also supports the use of RWF bufferlands to provide direct benefit to habitat lands supporting United States Department of Fish and Wildlife and California Department of Fish and Wildlife special status species. The proposed amendment to the agreement will enable the City to continue protecting and maintaining the habitat through the SCVHA.

Improved habitat quality has increased the number of nesting owls and promoted reproductive success, two goals the City sought to achieve on the bufferlands through the RWF Master Plan EIR. Due to active management of the site, the owl habitat has the highest population density of burrowing owls in the County, enabling this population to provide offspring that can establish new breeding populations and strengthen other existing owl sites throughout the SCVHA Reserve System through the Juvenile Burrowing Owl Overwintering and Release program. This program's efforts require years of implementation before results can be fully realized, but data is already showing success. The peak population at the RWF site was 17 owls (including adults and young) during the first year of the Juvenile Burrowing Owl Overwintering and Release program in 2020. In 2025, the peak population went up to 132 owls.

Since 2016, the SCVHA has successfully met the terms of the agreement and has been an invaluable and reliable partner to the City in maintaining the owl habitat.

The proposed second amendment extends services for five years, allowing the SCVHA to continue the needed management activities and adaptive management practices. It also expands opportunities for community participation and educational outreach by adding an Agreement and Release of Liability waiver that allows accompanied minors to volunteer and assist with management activities. The previous management agreement only allowed volunteers if they were 18 years or older.

EVALUATION AND FOLLOW-UP

No additional follow-up action with the City Council is expected at this time.

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Page 4

COORDINATION

This amendment and memorandum have been coordinated with the City Attorney's Office, the City Manager's Budget Office, and the Planning, Building, and Code Enforcement Department.

PUBLIC OUTREACH

This memorandum will be posted on the City Council Agenda website for the April 14, 2026 City Council meeting.

BOARD, COMMISSION, COMMITTEE RECOMMENDATION AND INPUT

This item is scheduled to be heard at the April 9, 2026 Treatment Plant Advisory Committee meeting. A supplemental memorandum with the Committee's recommendation will be included in the amended City Council meeting agenda.

CEQA

Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment.

PUBLIC SUBSIDY REPORTING

This item does not include a public subsidy as defined in section 53083 or 53083.1 of the California Government Code or the City's Open Government Resolution.

/s/

JEFFREY PROVENZANO, P.E.

Director, Environmental Services Department

For questions, please contact Jennifer Voccola Brown, Watershed Protection Division Manager, Environmental Services Department, at jennifer.brown@sanjoseca.gov or (408) 975-2594.