

CITY OF YUBA CITY
STAFF REPORT

Date: October 20, 2009
To: Honorable Mayor & Members of the City Council
From: Community Development Department
Presentation By: Aaron M. Busch, Community Development Director

Summary

Subject: Memorandum of Understanding between the City of Yuba City and Sutter County regarding local cost sharing for the Joint Habitat Conservation Plan/Natural Community Conservation Plan (HCP/NCCP).

Recommendation: Authorize the City Manager to sign a Memorandum of Understanding between the City of Yuba City and Sutter County regarding local cost sharing for the Joint Habitat Conservation Plan/Natural Community Conservation Plan (HCP/NCCP).

Fiscal Impact: The potential cost for Yuba City is expected to be approximately \$40,000, spread over 3-4 fiscal years, however, that amount could change (higher or lower) depending on grant funding. City's share to be funded from the General Plan Update fund, account number 901080-65514 which has a balance of \$385,000.

Background:

In January 2004, Sutter County and Yuba County formed a Joint Habitat Conservation Plan/Natural Community Conservation Plan (HCP/NCCP) in cooperation with the California Department of Fish and Game (DFG), the U.S. Fish and Wildlife Service and Caltrans, with Sutter County acting as the lead agency. Originally, the project was initiated as a requirement of the U.S. Fish and Wildlife Service through a Biological Opinion issued for a local highway improvement project that required Incidental Take Permits (ITP). Since that time, the process has evolved to develop responsible local land use decisions that balance land development with sustainable resource conservation.

Funding for the HCP/NCCP has been provided through several grants and local funding sources. In January 2009, Sutter County accepted another grant from the DFG to continue work on this project. Future grants have been applied for to continue the work to finalize this plan. Each grant has a local match which Sutter County and Yuba County share. In February 2004, Sutter County and Yuba County signed a Memorandum of Understanding which required Sutter County to pay 35% and Yuba County 65%. The considerations in arriving at this ratio included: the gross number of acres designated within each county's general plan for covered activities within the project area; the timing of development and related projects in the project area; the number of covered species with habitat in each county's portion of the project area; and, the gross total number of acres in each county's portion of the project area. Since then the boundaries have changed so that the gross total number of acres in Sutter County has increased and the gross number of total acres in Yuba County has

decreased. As a result of the boundary adjustments to the project area, the two Counties entered into a Memorandum of Understanding earlier this year which provided that each County will pay 50% of the local matching requirement of the grant.

Analysis:

Last year, the two Counties invited the local jurisdictions within each county to participate in the formation of the HCP/NCCP so that they could benefit from its formation. Thus far, the Cities of Yuba City and Live Oak are the only jurisdictions who have expressed interest to join in this project. By participating in this program, the cities will be able to utilize the provisions of the HCP/NCCP as a form of environmental mitigation for most foreseeable public and private land development projects. This includes: public road and utility infrastructure projects; public and private drainage projects; and, large scale private land use development such as the Lincoln East Specific Plan.

Since both cities of Yuba City and Live Oak are interested in actively participating in the formation of the HCP/NCCP, these two jurisdictions will share in the costs currently allocated to Sutter County. Of the 50% Sutter County local cost share ratio, Yuba City's cost share is 10 percent, while Live Oak's cost share is 5%, with the balance to be paid by Sutter County. If the cities of Marysville and Wheatland decide to join, they will reduce the contribution for Yuba County.

There is no specific methodology used to determine the 10 percent cost ratio. Rather it is a negotiated amount based on the relative benefit to each agency for Incidental Take Permits for future projects, sizes of the spheres of influences in terms of acreage and the number of endangered species within each agencies project areas. At this time the estimated cost to complete the project is \$1,600,000 with grant funds estimated at \$1,200,000 and the local agencies match estimated at \$400,000. Yuba City's estimated cost at this time is \$40,000 or 10 percent of the \$400,000 estimated local match requirement. Another way to look at the Yuba City cost share is the estimated \$40,000 cost is only 2.5 percent of the total estimated project costs of \$1,600,000 over a period of several fiscal years.

Fiscal Impact:

The potential cost for Yuba City is expected to be approximately \$40,000, spread over 3-4 fiscal years, however, that amount could change (higher or lower) depending on grant funding. City's share to be funded from the General Plan Update fund, account number 901080-65514 which has a balance of \$385,000. It should be noted that in order to receive a similar environmental conservation and mitigation benefit that will be provided through the HCP/NCCP process, the costs to the City would be at least 4-5 times more expensive than the amount requested for this effort.

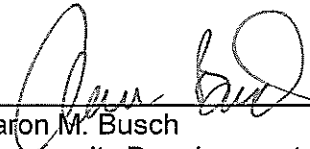
Alternatives:

Deny the request and direct staff to seek other viable alternatives for providing opportunities for environmental mitigation.

Recommendation:


Authorize the City Manager to sign a Memorandum of Understanding (Exhibit A) between the City of Yuba City and Sutter County regarding local cost sharing for the Joint Habitat Conservation Plan/Natural Community Conservation Plan (HCP/NCCP).

Prepared By:



Aaron M. Busch
Community Development Director


Submitted By:

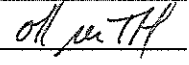


Steven R. Jepsen
City Manager

Reviewed By:

Finance
City Attorney
Other: (Name, Title)





Exhibits

- A. HCP/NCCP Memorandum of Understanding

**MEMORANDUM OF UNDERSTANDING BETWEEN
THE CITY OF YUBA CITY AND THE COUNTY OF SUTTER
REGARDING THE SHARING OF COSTS FOR THE DEVELOPMENT
OF THE YUBA-SUTTER REGIONAL HCP/NCCP**

This Memorandum of Understanding ("MOU") between the City of Yuba City ("Yuba City"), a municipal corporation and the County of Sutter ("Sutter"), a political subdivision of the State of California, is made with reference to the following facts:

- A. Yuba County and Sutter County are jointly preparing a Habitat Conservation Plan/Natural Community Conservation Plan ("HCP/NCCP") pursuant to their letters of May 2001 to the United States Fish and Wildlife Service and the California Fish and Game Department for Incidental Take Permits ("ITP"). The adoption of the HCP/NCCP and the issuance of the ITP are necessary for development to occur within the Project Area. Yuba City desires to participate in this effort for its incorporated area and its sphere of influence.
- B. The local entities (Cities of Yuba City and Live Oak) are cooperatively working together for the development of the HCP/NCCP to protect endangered species and their habitat and to receive ITP's for projects which may occur in their jurisdictions.
- C. The process of developing the HCP/NCCP will cover multiple years and will require major funding from a variety of sources that remain uncertain from year to year.
- D. The development of the HCP/NCCP is a complex process that may involve other jurisdictions at a variety of levels such as interested parties, stakeholders, or joint permittees.
- E. Because of the complex and long-term nature of the process, the local entities have determined to proceed in phases.
- F. Since January 2003, Sutter County has acted on behalf of the local entities to maintain coordination and cooperation among various federal, state, and local agencies. Sutter County shall continue to act as the project lead.
- G. Because Yuba City and Sutter are similarly interested in the preparation of the HCP/NCCP and the issuance of the ITP, Yuba City and Sutter desire to share the costs of development of the HCP/NCCP on a rational and equitable basis. Each party shall be responsible for its share of costs as set forth herein.

Now therefore, Yuba City and Sutter agree as follows:

1. Recitals Incorporated

The above recitals are incorporated by reference into this agreement.

2. Term of the MOU

This MOU shall be effective as of October 20, 2009 and shall remain in effect until the

HCP/NCCP work is completed and all funding issues are resolved.

3. Yuba City share of local entities costs

The Yuba City share of the local entities share is 10 percent.

4. Applying the Cost Sharing Ratio

- (a) The Yuba City share of local entities costs shall be applied to actual costs incurred.
- (b) Sutter shall provide Yuba City with a statement in April, July, October, and January of each year, showing the actual costs for the previous three months. Yuba City agrees to pay the agreed upon share of total expenses to Sutter within 30 days of receiving the statement.
- (c) Sutter shall provide Yuba City with an annual estimate of grant monies to be received and projected costs for the next fiscal year. The cost estimate shall be provided by March 31st of each year.

5. Amendments

This MOU may only be amended in writing, by mutual consent signed by both parties.

6. Notices

Any notice or other correspondence to a party shall be deemed given when received by the other party. All such notices or correspondence shall be placed in the United States mail, first class, postage prepaid, and addressed to the party at the following address:

Notices to Yuba City:

Department of Community Development
Aaron Busch, Director
1201 Civic Center Blvd.
Yuba City, CA 95993

Notices to Sutter County:

Larry Bagley, Community Services Director
1130 Civic Center Boulevard
Yuba City, CA 95993

COUNTY OF SUTTER

By: _____
Chairman

Date: _____

APPROVED AS TO FORM

By: _____
County Counsel, Sutter County

ATTEST

By: _____
Clerk of the Sutter County
Board of Supervisors

CITY OF YUBA CITY

By: _____
Mayor

Date: _____

APPROVED AS TO FORM

By: _____
City Attorney

By: _____
City Clerk