

Notice of Public Meeting

San Diego River Conservancy

A public meeting of the Governing Board of
The San Diego River Conservancy
will be held Thursday,

July 8, 2010
1:30 pm – 3:30 pm

Meeting Location

County of San Diego Administration Center (CAC)
Room 302
1600 Pacific Highway, San Diego, California 92101

Tele-Conference Location: 1416 Ninth Street
Resources Agency Conference Room 1305 Sacramento, CA 95814
(877) 287-0283 / Pass code 606349

Contact: Michael Nelson
(619) 645-3183

Meeting Agenda

1. Roll Call
2. Approval of Minutes
3. Public Comment

Any person may address the Governing Board at this time regarding any matter within the Board's authority. Presentations will be limited to three minutes for individuals and five minutes for representatives of organizations. Submission of information in writing is encouraged.

4. Chairperson's and Governing Board Members' Report
5. Deputy Attorney's General Report
6. SANDAG - Environmental Mitigation Program - 2010 Land Management Grant Awards (Partners: County of San Diego, the Cities of San Diego and Santee, Lakeside's River Park Conservancy)

Presentation and Report:

Michael Nelson, Executive Officer
Ann Van Leer, SDRC Consultant

Recommendation: Adopt Resolution 10-04

7. San Diego River Trail: Gaps Analysis

Presentation and Report:

Michael Nelson, Executive Officer
Mark Carpenter, KTU+A

Recommendation: Adopt Resolution 10-05

8. City of San Diego – Carlton Oaks Golf Course: City of San Diego's Proposed Sale of Approximately 65.4 acres (Public and Closed Sessions)

The City of San Diego proposes to sell the approximately 65.4 acres the Public Utility Department owns at Carlton Oaks Golf Course to TY Investments, the golf course operator. The Conservancy has a right of first refusal under the SDRC Act and certain rights under the Surplus Land act to acquire the property. The City has set July 12, 2010 as the deadline for the Conservancy to exercise these rights. Following a Report and Presentation by the Executive Officer, the Governing Board may choose to meet in Closed Session so they may discuss the status of negotiations, provide direction and consider necessary actions regarding the City of San Diego's proposed sale or may discuss the matter in open session. . .

Closed Session pursuant to Government Code section 11126, subdivision (c) (7)

Property Description: An approximately 65.4 acre portion of Assessor's Parcel Number 383-080-03 which is a portion of Carlton Oaks Golf Course

Negotiators: Michael Nelson, Executive Officer; Ann Van Leer SDRC Consultant, Hayley Peterson, Deputy Attorney General

Presentation

Michael Nelson, Executive Officer

Recommendation: Adopt Resolution 10-06A or 10-06B

9. Executive Officer's Report

The following topics may be included in the Executive Officers Report. The Board may take action regarding any of them:

Water Bond Fact Sheet

SEPs

Proposition 40 & 84 Project Status

10. Adjournment

Accessibility

If you require a disability related modification or accommodation to attend or participate in this meeting, including auxiliary aids or services, please call Michael Nelson at 619-645-3183

State of California
San Diego River Conservancy

EXECUTIVE OFFICER'S SUMMARY REPORT
Meeting of July 8, 2010

ITEM: 1

SUBJECT: **ROLL CALL AND INTRODUCTIONS**

State of California
San Diego River Conservancy

EXECUTIVE OFFICER'S SUMMARY REPORT
Meeting of July 8, 2010

ITEM: 2

SUBJECT: **APPROVAL OF MINUTES**
The Board will consider adoption of the **May 6, 2010**
public meeting minutes.

PURPOSE: The minutes of the **May 6, 2010**
Board Meeting is attached for your review.

RECOMMENDATION: Approve minutes

SAN DIEGO RIVER CONSERVANCY (SDRC)
Minutes of May 6, 2010 Public Meeting

(Draft Minutes for Approval on July 8, 2010)

Chairperson Donna Frye called the May 6, 2010 meeting of the San Diego River Conservancy to order at approximately 1:05 p.m.

1. Roll Call

Members Present

Donna Frye, Chair	Council Member, City of San Diego
Dianne Jacob	Supervisor, Second District (arrived 2:15 pm)
Bryan Cash	Natural Resources Agency, Alternate Designee (via phone)
Miriam Ingenito	Department of Finance, Alternate Designee (via phone)
Ruth Hayward	Public at Large
Toni Atkins	Public at Large
Ben Clay	Public at Large (via phone)
John Donnelly	Wildlife Conservation Board (via phone)
David King	San Diego Regional Water Quality Board
Andrew Poat	Public at Large (arrived 1:25 pm)
Anne Miller Haddad	Public at Large

Absent

Jerry Sanders	Mayor, City of San Diego
Ronie Clark	Department of Parks and Recreation, Alternate Designee

Staff Members Present

Michael Nelson,	Executive Officer
Jamee Patterson,	Deputy Attorney General
Julia Richards,	Administrative Services Manager
Ann Van Leer,	Consultant, San Diego River Conservancy
Jim King	Consultant, State Coastal Conservancy

2. Approval of Minutes

Ruth Hayward moved approval of the minutes of the January 7, 2010 public meeting. The motion was seconded by Toni Atkins and the minutes were unanimously adopted.

Ruth Hayward moved approval of the minutes of the March 4, 2010 public meeting. The motion was seconded by Toni Atkins and the minutes were adopted unanimously.

3. Public Comment

Any person may address the Governing Board at this time regarding any matter within the Board's authority. Presentations will be limited to three minutes for individuals and five minutes for representatives of organizations. Submission of information in writing is encouraged.

Rob Hutzel, Executive Director of the San Diego River Park Foundation, and **Robin Rierdan** Executive Director of Lakeside River Park Conservancy both thanked the SDRC Governing board member for sponsorship of their events; San Diego River Days and the Run for San Diego River.

4. Chairperson's and Governing Board Members' Report

No Report.

5. Deputy Attorney General's Report

No Report

6. Tributary Canyons: Feasibility Study- Preliminary Planning

Presentation and Report:

Michael Nelson, Executive Officer

Jim King, SCC &SDRC Consultant

Dick Rol, Foothill Associates

Recommendation: Adoption Resolution 10-01

Mike Nelson reminded the Board that it had discussed and approved Resolutions previously for the Tributary Canyons project. He stated that SDRC and the Coastal Conservancy had procured this feasibility study. It is a project that connects three communities (Serra Mesa, Normal Heights, and Mission Valley) and crossed the river at Mission Valley. He said that the analysis found the project to be feasible and a copy had been included in the meeting materials. He stated the project is feasible and that the Board's approval was sought to request funds from the Coastal Conservancy to begin the detailed planning and design necessary to move it forward. He recalled that the Board was first introduced to the project during a presentation by Andy Spurlock representing Citizens Coordinate for Century 3 (C-3) and Eric Bowlby from the Sierra Club's Canyonlands Program. Their presentation described how similar projects had helped communities redefine themselves by connecting them to their natural resources; helping them think differently about their community's infrastructure, and providing recreation and access to natural resources. He concluded that the project represented a convergence of public policy, community engagement, and was consistent with SDRC Strategic Plan.

He then introduced Mary Small and Jim King of the State Coastal Conservancy, as well as, Dick Rol with Foothills and Associates, who conducted the feasibility study and prepared the report.

Jim King began the presentation by stating that the project, which proposed linking the river with upland neighborhoods, was a vision that had been expressed previously in a number of documents. He mentioned the City's General plan, three Community Plans, the City's River Park Master Plan, the San Diego River Park Concept Plan, the River Coalition Work Plan; that all spoke to this project in one form or another. He emphasized that the Tributary Canyon project was a community development project that could someday be included in the City's Public Facilities Financing Plans

Dick Rol provided a PowerPoint Presentation and demonstrated that the trail will connect within and between neighborhoods while promoting environmental awareness. He testified that the project had been designed to avoid environmental impacts, but also to restore existing degraded environments.

What follows are bullet points and summaries of an overview and the three parts and phases for the recommended route:

Overview

Length: 17,500 ft (approximately 3 miles)

Canyon and urban trails

- Connections from Normal Heights to Serra Mesa connecting through Ellison Canyon and points of interest : Qualcomm, Mission Valley Library, Fenton Market place, and the trolley.
- Existing usable trails cover about half of the project
- Improvements needed existing informal trails, significant improvement needed
- New trails and alignments needed for only 2,500 ft.

Project Parts

Part 1: Canyon Trails (Ellison and Sandrock)

- Features: Trail Improvements, Trailheads, Habitat Restoration, Interpretive Elements
- Recommendation -Initiate Real Estate work & Follow with Design and Permitting
- Cost \$734,000

Part 2: Mission Valley Urban Trail

- Features: Wayfinding Elements & Trail Improvements
- Recommendation -Initiate design and permitting after Part 1 Canyon Trails implementation
- Cost :\$230,000

Part 3: San Diego River Crossing

- Features: Bridge Alternatives, Plaza/Park Alternatives, Trolley Connection, SD River Trail Connection, Interpretive Elements
- Recommendation - Present conceptual solutions in Mission Valley Community Plan Update process

Ruth Hayward asked whether there were statistics on how many parcels were contiguous to the canyon trails; the percentage of property owners that had attended public meetings; and, what was the cost of the trails?

Dick Rol responded that there were 19 parcels in Ellison Canyon with 17 different owners, and that one of the owners is SDG&E and the others are residential lots. He stated that a quantifiable analysis of support and non support had not been conducted.

Ruth Hayward said that even if the canyon trails never materialized, she hoped the Conservancy would discuss a bridge that crosses the river.

Donna Frye remarked that the purpose of a bridge across the river is to connect the canyons on either side and should they not connect, then perhaps the crossing should be reconsidered.

Bryan Cash inquired about the management of the properties once acquired and the acquisition costs?

Dick Rol said that though no decision had been made there would probably be a preference that the ownership of the trail easements would be with the City of San Diego. He also suggested that another viable option would involve the identification of a non-profit organization to hold the easements. He estimates that the cost for the trails to be approximately \$1 million excluding the bridge crossing.

Bryan Cash questioned the \$20,000 on Part 3 of the report and asked what tasks would be performed?

Jim King answered that community planning would be performed through facilitated workshops, forums and presentations in the communities.

Bryan Cash suggested that perhaps the Executive Officer could perform those tasks.

Mike Nelson said that was acceptable to him.

Miriam Ingenito commented that the \$20,000 may not presently be needed, but could be made a later time later in the trails planning process.

Donna Frye stated that though there were various points of view expressed regarding the recommended actions there seemed to be general agreement and support for Part 1A : Canyon Trails / Normal Heights and Serra Mesa Canyons (\$50,000 Real Estate Analysis) and Task 1B : Canyon Trails / Normal Heights and Serra Mesa Canyons (\$170,000 securing landowner agreements); but there appeared to be differences of opinion whether Part 3 (\$20,000 Community planning , facilitation, and outreach) if included should be funded.2.

Bryan Cash moved for approval of Part 1A, 1B and Part 3 without funding (\$20,000). The motion was seconded by **Ben Clay**. Results polled 7 aye's, 2 no's. The motion was approved.

Ben Clay asked Mike Nelson who might ultimately be responsible for the bridge; SDRC or another public agency?

Mike Nelson responded that no decision had been made regarding the entity that would be responsible, that at this point SDRC doesn't envision building and/or operating the bridge. He said that typically SDRC works through its partners. He emphasized that at this stage of project development, a decision regarding management of the bridge was premature, which is one reason why the recommendation regarding the crossing focused on public outreach and fully engaging the community in a discussion about a crossing of the San Diego River at Mission Valley.

Donna Frye said that speaking as a Councilmember and a member of the community that a bridge already existed in the Mission Valley Community Plan. She stated that the Plan was to be updated, but had been postponed.

Ben Clay asked whether the proposed bridge would be in the wrong location if the Qualcomm site was redeveloped into a regional park.

Donna Frye said she believes that the bridge is in the same location as the approved bridge which is listed in the Mission Valley Community Plan. She added that there was so much uncertainty over the redevelopment of the Qualcomm site; it was hard to predict what might occur.

Jim King stated that the feasibility report provided several footbridge alignments and designs, that they were conceptual, and suggested that SDRC might wish to consider other alignments, particularly if the Community Plan update is not moving forward.

Mike Nelson said the staff recommendation reflected recognition that the crossing was an important, though controversial element of the project, but also an acknowledgement that there was considerable support for the canyon trails element. So, staff proposed to first answer the real estate questions confronting the design and construction of the canyon trails, while fully engaging the community in a discussion about the crossing and its location.

Kevin Johnson a representative of the Friends of Normal Heights Canyons testified that the value of funding as it relates to this project was a very good investment. He expressed confidence that State and local agencies would receive a substantial return on investment for every dollar expended. He then described the habitat restoration projects, canyon tours, and clean up days the Friends of Normal Heights Canyons and Friends of Serra Mesa, two of the most active groups in the county, performed throughout the year. He also informed the Board in Ellison Canyon, the Carmelite Monastery owns about half of the canyon, and that his group had met with them and that they were supportive of the preferred alignment.

Kathy Keehan, Executive Director of the San Diego County Bicycle Coalition (SDCBC) testified that there was a vast need within the bike community for access to Mission Valley from the mesas and presently few good options for the cyclists. She also raised questions about ADA accessibility, trail maintenance and surfaces, and emphasized how important it was for these issues to be considered in the design of the project.

Rob Hutsel spoke as Chair of the San Diego River Coalition. He said that the Tributary Canyon Project included three of the Coalition's earliest projects, which had been identified as important to the establishment of a River Park. He added that it was essential to connect communities to the river and have the river connect to the community; that these two trails would do just that. He advised the Board that the Coalition had always separated canyon trails from the river bridge as separate projects. He hoped that the feasibility of a crossing would move forward quickly because of the uncertainties associated with Qualcomm Stadium. He concluded by saying that the River Coalition has been studying the bridge crossing for eight years and believes the best route for the trail crossing would be one that ended at stadium practice field.

Dick Rol in response to questions raised by Kathy Keehan stated that ADA compliance in steep topography of canyons is a difficult, but that the report in its discussion of each trail reach provides some information regarding possibilities for ADA access. He said that in Ellison Canyon, the steep slope near the very top of the trailhead would be very difficult to make ADA accessible. He continued that the remainder of the canyon was at a 10% slope which could be acceptable for more adventurous wheelchair users, but there may be no way to achieve standards along much of that canyon. He explained that for Sandrock Canyon there were more opportunities and that the vast majority of Sandrock Canyon could be made accessible with a little effort. He concluded by saying that the trails will not be paved; that for the majority of trails a preliminary recommendation is for a Class 2 or gravel base to improve their four season utilization.

Toni Atkins said she was pleased that this project was moving forward. She acknowledged and thanked the work done by Kevin Johnson and the Friends of Normal Heights Canyons and expressed her gratitude to Todd Gloria's staff for maintaining District 2's active involvement in the project.

7. San Diego River Conservancy 2010 Work Plan

Presentation and Report:

Michael Nelson, Executive Officer

Recommendation: Adoption Resolution 10-02

Mike Nelson reported that his recommendations for the 2010 Work Plan were similar to last year's. He stated that many of the financial circumstances which confronted the State of California, the Nation, and the San Diego River Conservancy in 2009 remain. Expenditures and disbursements for General Obligation Bond funded projects and programs have been severely curtailed and in most instances, suspended. He encouraged the Boards continued endorsement of goals and objectives initiated in 2009, as well as the new initiatives found in the Draft 2010 WP. He provided a PowerPoint presentation with the following bullet points to summarize the 2010 Plan:

- Pursue new and existing funding opportunities, particularly those that might occur from a re-prioritization of current operating and capital programs.
- Explore governance and organizational structures that would assist the Conservancy in accomplishment of its objectives.
- Examine and develop business practices and processes that promote efficiency and effective operations and service.
- Maintain a commitment to implement the strategic plan and complete projects approved by the Board of Governors and the San Diego River Coalition.
- Develop a program and or projects that commence implementation of the San Diego River Conservancy Act's requirement to pursue cultural resource planning within the watershed.
- Collaborate with San Diego Regional Water Quality Control Board (SDRWCQCB) on the establishment of projects or programs that are consistent with the strategic plans for both agencies.

Bryan Cash remarked that as a result of the last bond sale, some Proposition 84 funding had been made available for the Conservancies.

Mike Nelson stated he was aware of the results of the last bond sale and was presently working with the State Coastal Conservancy to take advantage of this positive development.

Andrew Poat moved to approve SDRC's 2010 Work Plan. The motion was seconded by **Ann Miller Hadaad**. The motion carried unanimously.

Donna Frye announced that she had to leave and turned the meeting over to SDRC, Vice Chair **Andrew Poat**.

8. San Diego River Conservancy Office Relocation

Recommendation: Adoption Resolution 10-03

Mike Nelson asked the Board Members to consider authorizing the relocation of SDRC offices from its current location at 1350 Front Street to the NTC Promenade at Liberty Station because it provided superior space at less cost to SDRC and offered quality meeting space and unlimited parking for the Board, SDRC staff and its partners. He presented an aerial photograph of NTC, a floor plan and a spread sheet which compared lease rates.

Miriam Ingenito explained that SDRC should work with the Department of General Services, who handles the leasing of office space for all state agencies in California.

Andrew Poat questioned how SDRC's lease is integrated into the State Office Building in which SDRC is presently located.

Mike Nelson stated that he had initiated conversations with DGS regarding a possible relocation and they had informed him that it was necessary for SDRC to identify a tenant to backfill the Conservancy's existing space.

Miriam Ingenito noted that the resolution as written approves relocation and did not require further discussions with DGS and DOF. She said that while she was comfortable with the Executive Officer having further discussions and working with Departments of General Services and Finance, she was not comfortable with a Resolution approving relocation at today's meeting.

Donna Frye suggested that perhaps the concerns that had been raised could be resolved by directing the Executive Officer to have further discussions with the appropriate agencies regarding whether SDRC can rent, own or relocate the office and then to report back to the Board at the next meeting.

Bryan Cash moved the motion as amended by Donna Frye in favor of "further discussion to determine whether or not the Conservancy will rent, own or relocate the office and then report back at the next Board meeting". It was seconded by **Toni Atkins**. The motion carried unanimously.

9. San Diego River Trail: Status of Gaps Analysis

Presentation

Mark Carpenter, KTU+A

Mike Nelson recalled that SDRC had formed an intergovernmental working group comprised of key officials from jurisdictions and stakeholders along the River to prepare a work plan that will acknowledge each jurisdiction's commitment to the trail, guide the construction, management and prioritization of new segments. He said that KTU+A had been retained by the River and Coastal Conservancies to identify what was planned and proposed, but more importantly, identify where the "gaps" along the San Diego River Trail were located. He then introduced Mark Carpenter of KTU+A.

Mark Carpenter advised that he had prepared and provided draft maps to the jurisdictions and stakeholders for review. He showed a map to the Board and explained that these maps he had prepared identified what his analysis had indicated was either planned or built and where the gap

segments existed on the ground along the 52 mile trail. He stated that he had received comments from all three jurisdictions and key stakeholders and was following up with each to review their comments with them. He indicated that he had met with the City of San Diego, and was scheduling a follow up with the City of Santee and the County of San Diego to review their comments. He also said he was having some difficulty working through the various trail types and trail definitions across multiple jurisdictions.

Mark Carpenter stated that he was optimistic he could incorporate the comments of the three jurisdictions as well as stakeholders and provide a more complete document to the Board at its July meeting.

Andrew Poat thanked Mark and inquired if there were questions from the Board.

Diane Jacob asked that Mayor Voepel of Santee be invited to attend SDRC's July meeting.

10. Executive Officer's Report

The following topics may be included in the Executive Officers Report. The Board may take action regarding any of them:

Carlton Oaks Golf Course (partial sale)
Proposition 40 & 84 Project Status
SANDAG/ Environmental Mitigation Program Land Management Grant
National Coastal Wetlands Conservation Grant Program

Carlton Oaks

Mike Nelson said that he had been advised by the Real Estate Assets Department, that the City of San Diego would propose a sale of 64.5 acres of property at the Carlton Oaks Golf Course. He advised the Board that the City's Draft Master Plan for San Diego River Park, as well as the San Diego River Park Conceptual Plan had identified the property as a key site that was important to the development of the River Park. He continued by pointing out that the property was adjacent to the Conservancy invasives control and habitat restoration project that has received more than \$900,000 in state and local funding; additionally, it was parcel that was key to establishing a linkage of the River Park Trail between Mast Park in Santee and Mission Trails Regional Park. Mike provided a brief Power Point presentation that outlined the property to be sold, its importance to River Park plans, and the SDRC restoration project.

Mike Nelson advised the Board that SDRC once formally notified would have two opportunities to intervene; the first was the Surplus Property Code, and the second was a First Right of Refusal which is a provision of the San Diego River Conservancy Act.

Mike stated if he received notification before the next board meeting he would like to prepare a formal response presenting SDRC's issues and expressing an interest in the sale. This would allow SDRC to be in a position to do more than simply object, but actually contemplate acquisition.

Rob Hutsel, executive director of the San Diego River Park Foundation said that this property is one of the most important public open spaces that exist on the river. It's one of a few properties that offer real potential to restore and improve the river's hydrology. Hopefully, this situation may present an opportunity to work with the City of Santee and the County Diego. He suggested that if this predicament should require acquisition by SDRC and its partners, it should be given serious consideration.

Mike Nelson said he planned to ask Ann Van Leer to prepare a report for the Board that would explore various real estate strategies and scenarios to protect the property.

Dianne Jacob expressed a desire to move forward and asked that the Executive Officer make a recommendation in simple terms.

Mike Nelson said his recommendation would be to authorize the Executive Officer to formally respond to the City of San Diego regarding any notification of a proposal to sell public property at the Carlton Oaks Golf Course, and to take the actions necessary to preserve an opportunity for SDRC to protect and possibly acquire the property.

Dianne Jacob proposed the recommendation in form of a motion. " To authorize the Executive Officer to formally respond to the City of San Diego regarding any proposal to sell public property at Carlton Oaks Golf Course and take the actions necessary to preserve an opportunity for SDRC to protect and possibly acquire the property if necessary".

Toni Atkins seconded the motion.

Andrew Poat asked if this was going to become a bidding war.

Mike Nelson responded that he doubted that would be the case, but SDRC should be in a position to respond immediately; and, if it should it decide to exercise its First Right of Refusal or to engage the City through the Surplus Land Code, it should be prepared to secure the funding necessary to acquire whatever interest in the property is appropriate.

Bryan Cash reminded everyone that a State approved appraisal would have to be obtained before the property could be purchased.

Ruth Hayward inquired about a circumstance where the decisions that affected the sale could be occur before the July meeting.

Mike Nelson stated that he was confident the statutory opportunities SDRC had would provide sufficient time for the Board to act. He also noted that funding for a potential acquisition would require securing appraisals and SCC approval, which could not be accomplished before fall.

Ruth Hayward asked if the City Council had the final say.

Mike Nelson responded that the City Council was required to approve the sale.

Supervisor Dianne Jacob moved to approve authorizing the Executive Officer to formally respond to the City of San Diego regarding any notification to sell public property at Carlton Oaks Golf Course, take the actions necessary to preserve an opportunity for SDRC to act, and return to the July meeting with options, including the possibility of acquiring the property to protect it. The motion was seconded by Toni Atkins and approved unanimously.

Status of Proposition 40 and 84 funds

Mike Nelson reported that Prop 40 money was completely encumbered and all projects were underway; and, as Bryan Cash reported some Proposition 84 funding was available and staff was working with the Coastal Conservancy to secure funding for SDRC projects.

SANDAG/ Environmental Mitigation Program, Land Management Grants

Mike Nelson informed the Board that SANDAG's Environmental Mitigation Program has recommended funding SDRC's grant application for approximately \$600,000. If SDRC is formally notified, staff will ask the Board to approve grants to distribute the funds to our partners: County of San Diego, City of Santee, Lakeside's River Park Conservancy and the City of San Diego.

National Coastal Wetlands Conservation Grant Program

SDRC has assisted the Friends of Famosa Slough in their attempts to restore these historic wetlands. This organization has asked SDRC to apply for a federal grant for purposes of restoring the slough. SDRC would apply for the funds and then if successfully provided funding to the Friends to acquire properties necessary to complete the project.

Andrew Poat asked when that would happen.

Ann Van Leer mentioned if the grant was successful it would be November/December 2010.

11. Adjournment

State of California
San Diego River Conservancy

EXECUTIVE OFFICER'S SUMMARY REPORT
Meeting of July 8, 2010

ITEM: **3**

SUBJECT: **PUBLIC COMMENT**

PURPOSE: Any person may address the Governing Board at this time regarding any matter within the Board's authority which is not on the agenda. Submission of information in writing is encouraged. Presentations will be limited to three minutes for individuals and five minutes for representatives of organizations. Presentation times may be reduced depending on the number of speakers.

State of California
San Diego River Conservancy

EXECUTIVE OFFICER'S SUMMARY REPORT
Meeting of July 8, 2010

ITEM: **4**

SUBJECT: **CHAIRPERSON'S AND GOVERNING BOARD
MEMBER'S COMMENTS**

PURPOSE: These items are for Board discussion only and the Board
will take no formal action.

State of California
San Diego River Conservancy

EXECUTIVE OFFICER'S SUMMARY REPORT
Meeting of July 8, 2010

ITEM: **5**

SUBJECT: **DEPUTY ATTORNEY GENERAL'S REPORT**

This item is for Board discussion only and the Board will take no formal action. *(Hayley Peterson)*

State of California
San Diego River Conservancy

EXECUTIVE OFFICER'S SUMMARY REPORT
Meeting of July 8, 2010

ITEM: 6

SUBJECT: **SANDAG - Environmental Mitigation Program –
2010 Land Management Grant Awards (Partners:
County of San Diego, the Cities of San Diego and
Santee, Lakeside's River Park Conservancy)**

Presentation and Report:
Michael Nelson, Executive Officer
Ann Van Leer, SDRC Consultant

**Recommendation: Adopt Resolutions
10-04A and 10-04B**

EXECUTIVE OFFICER'S SUMMARY REPORT
Meeting of July 8, 2010

ITEM: 10-04A

SUBJECT: **AUTHORIZING ACCEPTANCE OF A GRANT FROM THE SAN DIEGO ASSOCIATION OF GOVERNMENTS (SANDAG) ENVIRONMENTAL MITIGATION PROGRAM FOR \$527,739 FOR INVASIVES CONTROL, HABITAT RESTORATION AND ACCESS CONTROL AT MULTIPLE LOCATIONS ALONG THE SAN DIEGO RIVER.**

PURPOSE: The Board may consider adoption of Resolution 10-04A accepting an EMP grant from SANDAG for \$527,739, should it be awarded by the SANDAG Board, for invasives control, habitat restoration and access control at multiple locations along the San Diego River in the City of San Diego, City of Santee and in the County of San Diego in Lakeside and the El Monte Valley. Item 10-04B is a companion item that would authorize the executive officer to sub-grant some of the funds to SDRC's partners.

STRATEGIC PLAN
CONSISTENCY:

This item will help to implement Program 3, Natural and Cultural Resources Preservation and Restoration, *Project 1, Remove Invasive Non-Native Plants and Restore the Land*. This will also help to implement Program 2, Recreation and Education, Project 3, *Make it Safe and Make it Visible*

BACKGROUND:

Project Summary: The ***TransNet*** Extension Ordinance and Expenditure Plan, approved countywide by voters in November 2004, includes an Environmental Mitigation Program (EMP) which is a funding allocation category for the costs to mitigate habitat impacts for regional transportation projects.

In 2009, the Conservancy submitted a grant to SANDAG's EMP grant program which was not funded. While the 2009 grant ranked high, the reason given for not funding the

[Item 10-04A, Accepting a grant from SANDAG: July 8, 2010]

Conservancy's application was that the then-proposed "match," the Conservancy's Proposition 40 funds, were frozen by the state and thus could not be scored or considered. When later the funds were unfrozen and work began on the Carlton Oaks invasives control project, the Conservancy revised the SANDAG grant and re-submitted it in 2010. Both the 2009 and 2010 applications were prepared with key stakeholders to satisfy a number of objectives drawn from river planning documents.

The 2010 application proposed a five-year integrated project of (1) invasive species control and re-treatment along with restoration, (2) access control including fencing, (3) park patrol and river cleanups, and (4) laying the groundwork for future restoration through outreach to private property owners. The major change between the 2009 and 2010 applications was that the Carlton Oaks Golf Course invasives control work could be used as a match. Additionally, the 2010 SANDAG application sought funds to leverage the success of the current Carlton Oaks invasives control project by treating the last remaining untreated parcel in the Carlton Oaks project area and carrying out additional re-treatments, over and beyond what Prop 40 will fund. Additionally, the 2010 application included new funding requests for access control, including fence repair in Lakeside and invasive plant control at El Monte Park.

Project Discussion: The 2010 grant is a partnership of the Conservancy, the County of San Diego, the City of San Diego (which has provided the lands for the Carlton Oaks invasive control work) the City of Santee, and the Lakeside River Park Conservancy. The grant was structured based on priorities defined by each partner consistent with SANDAG's goals for the EMP program. While it was originally envisioned that each partner would carry out the work it had recommended, the projects have evolved such that a blending of the project components has occurred so that some of the grant work is now proposed to be shared between two or more partners.

The four tasks and the partner leads are summarized below. The SANDAG staff report is presented for review in the supporting documents.

Executive Officer's Summary Report

[Item 10-04A, Accepting a grant from SANDAG: July 8, 2010]

Task	Purpose	Lead	River Location
1	Invasive Control and Habitat Enhancement	SDRC, Santee, County	Carlton Oaks, Mast Park and Mission Creek, and Cactus Park and El Monte Park
2	Access Control	County, Santee, LRPC	Cactus Park
3	Park Patrol	LRPC	2.7 miles in Lakeside from the Santee border to Ashwood Ave
4	Landowner outreach	LRPC	From base of El Capitan Dam to Santee (including the Los Coches, Marilla and Oaks Creek tributaries)

While the 2010 request to SANDAG was for 5 years of funding, SANDAG staff has recommended the project be funded for 3 years. The Conservancy's 2010 grant was the highest ranked of all 2010 applications by the EMP Advisory Committee and #1 on the EMP award list. The SANDAG Board is scheduled to hear its staff recommendation on September 24, 2010.

Recommendation: Adopt resolution 10-04 to accept a three year grant from SANDAG for invasives control, habitat restoration and access control at multiple locations along the San Diego River and authorize the executive officer to negotiate a contract with SANDAG should the grant be awarded by SANDAG on September 24th.

SUPPORTING DOCUMENTS:

Resolution 10-04A: Accepting an Environmental Mitigation Program grant of \$527,739 from SANDAG

SANDAG Staff Report

[Item 10-04A, Accepting a grant from SANDAG: July 8, 2010]

Resolution No: 10-04A

**RESOLUTION OF THE GOVERNING BOARD OF THE SAN DIEGO RIVER CONSERVANCY
AUTHORIZING ACCEPTANCE OF A GRANT FROM THE SAN DIEGO ASSOCIATION OF
GOVERNMENTS (SANDAG) ENVIRONMENTAL MITIGATION PROGRAM FOR \$527,739 FOR
INVASIVES CONTROL, HABITAT RESTORATION AND ACCESS CONTROL AT MULTIPLE
LOCATIONS ALONG THE SAN DIEGO RIVER**

WHEREAS, the San Diego Association of Governments has recommended funds be granted to the Conservancy from the Environmental Mitigation Program to mitigate habitat impacts for regional transportation projects; and

WHEREAS, the Governing Board of the San Diego River Conservancy finds the acceptance of grant funding for these purposes to be consistent with its enabling statute and strategic plan which directs the Conservancy to restore the river including Strategic Plan Program 3, Natural and Cultural Resources Preservation and Restoration, Project 1 *Remove Invasive Non-Native Plants and Restore the Land* as well as Program 2, Recreation and Education, Project 3, *Make it Safe and Make it Visible*; and

WHEREAS, this project represents a strong partnership between the Conservancy, the County of San Diego, the City of San Diego, the City of Santee and the Lakeside River Park Conservancy; and

WHEREAS, the Governing Board of the San Diego River Conservancy has reviewed the proposed projects that constitute the elements of the grant including: invasive control and habitat enhancement; access control; park patrol and landowner outreach.

NOW, THEREFORE, BE IT RESOLVED that the San Diego River Conservancy's Governing Board:

1. Authorizes acceptance of a grant from the San Diego Association of Governments (SANDAG) Environmental Mitigation Program for \$527,739 for invasives control, habitat restoration and access control at multiple locations along the San Diego River.
2. Appoints the Executive Officer, or designee, as agent to conduct all negotiations, execute and submit all documents including, but not limited to applications, grant agreements, sub-grants, and payment requests and so on, which may be necessary for the completion of the aforementioned grant project(s).

Approved and adopted the 8th day of July, 2010. I, the undersigned, hereby certify that the foregoing Resolution Number 10--04 was duly adopted by the San Diego River Conservancy's Governing Board.

Roll Call Vote:

Ayes: _____

Nos: _____

Absent _____

Michael J. Nelson, Executive Officer
San Diego River Conservancy

EXECUTIVE OFFICER'S SUMMARY REPORT
Meeting of July 8, 2010

ITEM: 10-04B

SUBJECT: AUTHORIZING SUB-GRANTS TO THE COUNTY OF SAN DIEGO, CITY OF SANTEE AND THE LAKESIDE RIVER PARK CONSERVANCY FROM THE SANDAG EMP GRANT, FOR INVASIVES CONTROL, HABITAT RESTORATION AND ACCESS CONTROL ALONG THE SAN DIEGO RIVER.

PURPOSE: The Board may consider adoption of Resolution 10-04B authorizing sub-grants from SANDAG EMP funds for invasives control, habitat restoration and access control along the San Diego River. This is a companion item to 10-04A which authorizes the Conservancy to accept a grant of \$527,739 from SANDAG should it be awarded for this purpose.

STRATEGIC PLAN CONSISTENCY: This item will help to implement Program 3, Natural and Cultural Resources Preservation and Restoration, *Project 1, Remove Invasive Non-Native Plants and Restore the Land* and Program 2, Recreation and Education, *Project 3, Make it Safe and Make it Visible*.

BACKGROUND: The County of San Diego (County), City of Santee (Santee) and the Lakeside River Park Conservancy (LRPC) participated in the development of the 2009 and 2010 grants to SANDAG. The Conservancy, the County and Santee's primary focus was on invasive control and habitat enhancement. LRPC proposed a park patrol, river cleanups and landowner outreach. The Conservancy's three partners also sought funds for fencing to control access to sensitive habitat areas. As mentioned in the companion item, 10-04, as the projects have evolved, the partnerships have strengthened and discussions are underway as to how best to implement the grant components. At issue is if the invasives work and/or access control would best be done

Executive Officer's Summary Report

[Item 10-04B, Authorizing Sub-grants of SANDAG EMP funds: July 8, 2010]

under one or more contract(s) and by one or more partners. Accordingly, this action will authorize amounts for each partner but also allow the executive officer to adjust the amounts up or down, if required and agreed to by the partners, and/or have the Conservancy do more of the work directly. The table below summarizes the proposed funding for each partner and the Conservancy to date:

Partner	Original Request to SANDAG	River Location	Proposed Grant Allocation	Change from Original Request to SANDAG
County of San Diego	Invasive Control and Habitat Enhancement plus Access Control	Cactus Park and El Monte Park areas	\$0	SDRC will do Co.-proposed invasives control; LRPC will do Co.-proposed access control (fencing)
City of Santee	Invasive Control and Habitat Enhancement plus Access Control	Mast Park and Mission Creek areas	\$14,000	SDRC will do Santee-proposed invasives control; Santee will do its originally-proposed access control (fencing)
Lakeside River Park Conservancy	Park Patrol/Park Cleanups plus Access Control	Along 2.7 miles of the river in Lakeside from the City of Santee border to Ashwood Ave)	\$195,595	LRPC will install Co.-proposed fencing
Lakeside River Park Conservancy	Landowner Outreach	From base of El Capitan Dam to Santee Boarder (including the Los Coches, Marilla and Oaks Creek tributaries)	\$31,599	
SDRC	Invasives Control and Habitat Enhancement	Private property adjacent to Carlton Oaks (CO) and CO re-treatments; Mast Park, Cactus Park and El Monte Park	\$217,707	SDRC will do all invasive control and restoration for SANDAG grant
SDRC	Admin and Contingency	All areas	\$68,838	
TOTAL	SANDAG EMP	GRANT	\$527,739.00	

Recommendation: Authorize sub-grants to Conservancy partners as per Resolution 10-04B.

SUPPORTING
DOCUMENTS:

Resolution 10-04B Authorizing Sub-grants of SANDAG EMP funds.

Resolution No: 10-04B

**RESOLUTION OF THE GOVERNING BOARD OF THE SAN DIEGO RIVER CONSERVANCY
AUTHORIZING SUB-GRANTS TO THE COUNTY OF SAN DIEGO, CITY OF SANTEE AND THE
LAKESIDE RIVER PARK CONSERVANCY FROM THE SANDAG EMP GRANT FOR INVASIVES
CONTROL, HABITAT RESTORATION AND ACCESS CONTROL ALONG THE SAN DIEGO RIVER**

WHEREAS, the San Diego Association of Governments has recommended funds be granted to the Conservancy from the 2010 Environmental Mitigation Program (EMP) to mitigate habitat impacts for regional transportation projects; and

WHEREAS, the Governing Board of the San Diego River Conservancy finds the acceptance of grant funding for these purposes to be consistent with its enabling statute and strategic plan which directs the Conservancy to restore the river including Strategic Plan Program 3, Natural and Cultural Resources Preservation and Restoration, Project 1 *Remove Invasive Non-Native Plants and Restore the Land*; as well as Program 2, Recreation and Education, Project 3, *Make it Safe and Make it Visible* and

WHEREAS, this SANDAG EMP grant was developed by the Conservancy in partnership with the County of San Diego, the City of San Diego, the City of Santee and the Lakeside River Park Conservancy; and

WHEREAS, the executive officer has reviewed the projects proposed by its partners that constitute the elements of the grant including: invasive control and habitat enhancement; access control; park patrol and landowner outreach and recommends that sub-grants be given to its partners to implement the programs presented to SANDAG in the Conservancy's 2010 EMP application.

NOW, THEREFORE, BE IT RESOLVED that the San Diego River Conservancy's Governing Board:

1. Authorizes sub-grants of 2010 EMP funds to the County of San Diego, City of Santee and Lakeside River Park Conservancy, as required to meet its obligations to SANDAG as per its 2010 EMP grant submittal for invasives control, habitat restoration and access control at multiple locations along the San Diego River.
2. Appoints the Executive Officer, or designee, as agent to conduct all negotiations, execute and submit all documents including, but not limited to scopes of work, applications, grant agreements, sub-grants, and payment requests and so on, which may be necessary for the completion of the aforementioned grant project(s).

Approved and adopted the 8th day of July, 2010. I, the undersigned, hereby certify that the foregoing Resolution Number 10-04 was duly adopted by the San Diego River Conservancy's Governing Board.

Roll Call Vote:

Ayes: _____

Nos: _____

Absent _____

Michael J. Nelson, Executive Officer
San Diego River Conservancy

State of California
San Diego River Conservancy

EXECUTIVE OFFICER'S SUMMARY REPORT
Meeting of July 8, 2010

ITEM: 7

SUBJECT: **SAN DIEGO RIVER TRAIL: GAPS ANALYSIS**

Presentation and Report:
Michael Nelson, Executive Officer
Mark Carpenter, KTU+A

Recommendation: Adoption Resolution 10-05

Resolution No: 10-05

**RESOLUTION OF THE GOVERNING BOARD OF THE SAN DIEGO RIVER CONSERVANCY
ENDORING KTU&A "GAPS ANALYSIS" AND RECOMEDING THE INTERGOVERNMENTAL
WORKING GROUP DEVELOP A CAPITAL STRATEGY AMD PRIORITIZATION FOR
IMPLEMENTATION**

WHEREAS, the San Diego River Trail extends from River's headwaters to its mouth, and is an critically important element of the San Diego River Park, which is consistent with the San Diego River Conservancy Act, as well as, San Diego River Park Conceptual Plan and the City of San Diego's Draft San Diego River Park Master Plan; and

WHEREAS, this project is consistent with Program 2: Recreation & Education and Program and Program 3: Cultural and Cultural Resources Preservation and Restoration of the Conservancy's Strategic Plan; and

WHEREAS, the San Diego River Conservancy (SDRC) at its July 9, 2009 meeting, recommended the establishment of an Intergovernmental Working Group to prepare a work plan and capital strategy that would lead to the funding and the completion of the San Diego River Trail; and

WHEREAS , the Intergovernmental Working Group is a technical working group comprised of key officials from jurisdictions and stakeholders along the River will prepare a Work Plan that will acknowledge each jurisdictions commitment to the trail and guide the construction of new segments; and

WHEREAS, the Governing Board of the San Diego River Conservancy has received a presentation of a draft "Gaps Analysis" for the San Diego River Trail and wishes that it be finalized to include a prioritization of the Gaps which reflects the review and participation of the Intergovernmental Working Group; and

NOW, THEREFORE, BE IT RESOLVED that the San Diego River Conservancy's Governing Board:

1. Requests the Executive Officer and KTU+A to circulate the draft Gaps Analysis to the membership of the Intergovernmental Working Group for their review and comments.
2. Prepare a final report for the Governing Board's consideration at its September meeting that includes a prioritization of Gaps that must be overcome to establish the Trail.

Approved and adopted the 8th day of July, 2010. I, the undersigned, hereby certify that the foregoing Resolution Number 10--01 was duly adopted by the San Diego River Conservancy's Governing Board.

Roll Call Vote:

Ayes: _____

Nos: _____

Absent _____

Michael J. Nelson, Executive Officer
San Diego River Conservancy

EXECUTIVE OFFICER'S SUMMARY REPORT
Meeting of July 8, 2010

ITEM: 8

SUBJECT: CITY OF SAN DIEGO – CARLTON OAKS GOLF
COURSE: CITY OF SAN DIEGO'S PROPOSED SALE
OF APPROXIMATELY 65.4 ACRES OF LAND (Public
and Closed Sessions)

Presentation and Report:
Michael Nelson, Executive Officer
Mark Carpenter, KTU+A

Recommendation:
Adopt Resolution 10-06A or 10-06B

EXHIBITS

- 8A Staff Report (Resolutions 10-06A and 10-06B)
- 8B Decision Matrix & map
- 8C Resolution 10-06A
- 8D Resolution 10-07B
- 8E Option Agreement & Conservation Easement Deed

EXHIBIT 8A

Staff Report (Resolutions 10-06A and 10-06B)

EXECUTIVE OFFICER'S SUMMARY REPORT
Meeting of July 8, 2010

ITEM: Item 8
(Resolutions 10-06A, 10-06B)

SUBJECT: **Authorizing the following:**
Notify the City of San Diego of the Conservancy's Intent to Purchase or Lease the Approximately 65.4 acre Property at the Carlton Oaks Golf Course.
Exercise First Right of First Refusal to Acquire the Land
Approves the Request to Use of Funds from the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 (Proposition 84)

PURPOSE: The Board may consider the adoption of Resolution 10-06A or 10-06B to preserve the biological, open space and recreational values associated with the 65.4 acres the City of San Diego proposes to sell along the River, as well as the property's potential to implement the San Diego River Park Conceptual Plan and the City of San Diego's Draft San Diego River Park Master Plan.

STRATEGIC PLAN CONSISTENCY: This item addresses all programs of SDRC's Strategic Plan,
Program 1: Land Conservation;
Program 2: Recreation and Education
Program 3: Natural and Cultural Resources Preservation and Restoration
Program 4: Water Quality and Natural Flood Conveyance

BACKGROUND: The City of San Diego has decided to sell 65.4 acres in the floodway of the San Diego River for \$3,000,000 to TY Investments, Inc, (TY) the current golf course operator and owner of the Carlton Oaks Country Club in Santee. The Carlton Oaks golf course is situated partially on lands owned by the City of San Diego (City) and leased to TY and partially on lands owned in fee by TY. It is SDRC's understanding that rather than continuing protracted negotiations over lease terms, the City decided instead to offer the property for sale. The City

[Item 8]

owns approximately 100 acres of property along the river and proposes to sell 65.4 acres; it will retain approximately 36.2 acres of the parcel nearest the river. This retained land is the same area where SDRC and the City are working together to control invasive non-native plants and restore habitat..

The San Diego River Conservancy Act provides SDRC with a first right of refusal to purchase the property. The City formally notified SDRC on May 11, 2010 that it must submit a written response or offer to purchase or lease within 60 days and that unless it did so, the property would be considered cleared for sale by SDRC. Additionally, the City's Real Estate Assets Department notified SDRC on May 24, 2010 that it must submit a notice of its intent to exercise its first right of refusal by July 12, 2010 or the City would assume that SDRC has decided to waive its rights.

The Executive Officer provided a written response which requested the the Mayor consider intervening in the sale, as currently proposed to make certain the biological values of this key riverfront property were protected and that its importance to the development of San Diego River Park was thoughtfully considered. This letter referenced the following:

The **City of San Diego, Draft Master Plan, San Diego River Park** identifies the property as a key site that provides an opportunity to integrate the river experience with adjacent development and the City of Santee and which should focus on connecting Mission Trails Regional Park with Mast Park and Santee Lakes, that these points be linked by a multi-use path system integrated within a larger habitat corridor. Moreover, it suggests an examination of the long term potential for this area to evolve and become part of the San Diego River Park, and that consideration is given to redesigning the golf course to be more sensitive to the hydrology of the river and creating habitat corridors.

The **City of San Diego, Multiple Species Conservation Program's** Sub Area Boundary includes the entire area as a core biological resource area and a corridor that should be targeted for conservation. The **Multiple Habitat Planning Area** includes it as a riparian and wetland resource and suggests that adjacent land uses be managed to ensure minimal impacts.

Since there was no formal response to our letter, SDRC met with and has conducted substantial negotiations in good faith with the prospective buyer, TY Investments, to determine

[Item 8]

whether a Conservation Easement could be donated to, or purchased by SDRC.

Though unwilling to donate a Conservation Easement, TY Investments was willing to negotiate an agreement that would allow SDRC to purchase an easement that would substantially limit development; provided the SDRC waives its first right of refusal and its ability to enter good faith negotiations with the City of San Diego to acquire the property subject to the Surplus Land Code.

SDRC is grateful for TY Investments willingness and attempts to address the issues and concerns staff has with their Agreement and Conservation Easement (attached). They have also advised us that they would be willing to continue negotiations to make the documents acceptable to SDRC and agencies that must approve them. Despite the progress that has been made, the Board must first consider whether this agreement with the golf course operator best achieves SDRC's statutory objectives.

Staff has prepared two Resolutions, 10-6A and 10-06B which provide the Governing Board with two distinct options. We have characterized one as "public" and one as "private". Both attempt to mitigate the loss of present and future conservation benefits public ownership currently provides and the consequences of private ownership if the property is sold. We have listed general bullet points for each option and have attached a Decision Matrix that provides more detailed information for your consideration.

Resolution 10-06B (Private Option)

- Substantially limits development rights but does not foreclose development in the future of undefined "recreational" uses at TY's discretion. River and wildlife protections sought by SDRC were not accepted;
- Does not require habitat restoration if golf course use is terminated in the future, foreclosing one of few opportunity sites along the river where major habitat restoration could occur;
- Requires Conservancy to waive its right to purchase ahead of knowing the appraised value of the easement. If the easement value is close to fee value, Board might otherwise choose to purchase fee but would not have that guaranteed right under this approach;

[Item 8]

- Provides methodology for establishment of San Diego River Trail with substantial constraints and limitations; doesn't address trail maintenance or trail uses other than pedestrian;
- Provides opportunity to establish wetlands and habitat mitigation project but type/design of project is determined by TY, not SDRC;
- Threatens SDRC's \$946,095 investment to date to control invasives and restore habitat on adjacent property as allows the maintenance of existing invasives onsite;
- Doesn't provide a right of first refusal for SDRC to purchase in the future should TY decide to sell; and
- SDRC couldn't comply with technical requirements of proposed option agreement as currently written, including the methodology to determine value.

Resolution 10-06A (Public Option) RECOMMENDED

- Allows for full consideration of SDRC's statutory objectives in negotiations between the City, TY, and SDRC that could achieve the principal objectives of the parties;
- Allows for thorough consideration and future implementation of the goals of the San Diego River Park Master Plan, the San Diego River Conceptual Plan and the Conservancy's Strategic Plan;
- Allows a lease back to operate the current golf course or redevelop the course in the future, thus providing revenues for the San Diego River Conservancy and jobs for Santee;
- Guarantees opportunity to restore wetlands and establish new habitat should golf course use cease.

Recommendation: Approve Resolution 10-06A.

SUPPORTING
DOCUMENTS:

Decision Making Matrix
Resolution 10-6A
Resolution 10-06B
Agreement and Conservation Easement Offered by TY
Investments.

EXHIBIT 8B

Decision Matrix and Map

CARLTON OAKS – DECISION MATRIX

1. ISSUES REQUIRING CONSIDERATION TO PROTECT CONSERVATION VALUES AT THE CARLTON OAKS PROPERTY			
ITEMS	WHAT IS AT ISSUE?	WHAT TERM(S) COULD BE APPLIED?	COMMENTS
Ability to build the San Diego River Trail	(1) The City of San Diego (City) is proposing to sell a portion of its Carlton Oaks ownership to the golf course operator, TY Investments, Inc (TY), but has not established the future <i>location</i> of the San Diego River Trail in defining the sale boundary. It is assuming it will be able to locate it on the retained property but that is unknown as planning and permitting are not complete; (2) the means to <i>protect future trail users</i> from golf balls has not been determined; (3) a wildlife buffer to <i>protect wildlife from trail users</i> has not been defined; and (4) the potential liability for trespass to the golf course by future trail users has not been addressed.	Requirement to reserve the public's right to the River trail could be added as term to the City transaction with TY and/or a SDRC transaction. Better, City could complete the planning and permitting of the Trail <i>before</i> the sale so the sale boundary would be adjusted to preserve the right to build the trail.	The City of San Diego may be assuming the San Diego River Trail would be built in the land it is retaining most adjacent to the River on the berm that was created (illegally) by a former golf course owner to reduce flooding of the course. However, there is no guarantee that the regulatory agencies will allow the trail to be constructed there. While trails are allowed in the MSCP/MHPA, and the land to be sold includes a portion of the MHPA, an applicant must prove that a trail is a compatible use; it is not a right. At issue is protection of the least Bell's vireo and other species that might be affected by the trail; the trail would have to be designed to offer species protection or would not be permitted. Additionally, a wetland's delineation has not been done to show where the River's wetlands extend; the trail could be required to be outside the wetlands buffer and yet that buffer hasn't been determined. Since the City is proposing to go ahead with the sale in advance of the trail being permitted, the San Diego River trail's future placement across the Carlton Oaks site is jeopardized by the City's sale as currently proposed.
Protecting existing natural resources on and adjacent to the Property	(1) Should the golf course be developed into another incompatible use in the future that future use could affect resource values of the entire property (including the portion the City of San Diego is retaining); (2) Should golf course be sold, another operator could manage the course in a manner inconsistent with protecting the adjacent habitat that SDRC has allocated \$946,095 to	Conservation ownership or a deed restriction/conservation easement could prohibit any development that would affect existing natural resources; development of biological and natural resource surveys could aid in developing a baseline	Protecting the natural resources of the River is one of the main purposes of the Conservancy. The Carlton Oaks site is one of the most important opportunity sites along the River to protect existing habitat, which is why the Conservancy has invested \$946,095 to date along the City-owned portion of the site along the River (this remainder of City ownership is not proposed for sale at this time).

CARLTON OAKS – DECISION MATRIX

1. ISSUES REQUIRING CONSIDERATION TO PROTECT CONSERVATION VALUES AT THE CARLTON OAKS PROPERTY			
ITEMS	WHAT IS AT ISSUE?	WHAT TERM(S) COULD BE APPLIED?	COMMENTS
	date to restore; (3) actual resource values to be conserve have not been clearly identified by a biological study.	report that could be used to help manage and monitor the current (and future) conservation values of the Property and the larger Carlton Oaks site.	
Protecting the <i>potential</i> to restore and create new habitat on the Property	Restoration of any/all of the golf course area would create new habitat to support endangered, threatened and sensitive species. If done as mitigation, restoration would create a revenue stream that could be used to support the site and other river projects.	Conservation ownership or a deed restriction/conservation easement could prohibit any development that would foreclose the ability to restore the property in the future; decisions on species habitat tradeoffs, if any, would then be held by the conservation owner or easement holder.	The Carlton Oaks site provides one of the best opportunities along the river to restore and create new habitat. The least Bell's vireo has been shown to rapidly occupy newly restored habitat areas along the river. The vireo is actively re-occupying adjacent restored lands in Mission Trails Park to the west and in the Mast Park to the east. Should the golf course be redesigned or abandoned in the future, consideration should be given to restoring the property for habitat as recommended in the Draft San Diego River Master Plan. Other uses that would conflict with this use should be prohibited.
Cultural resources	The site has not been comprehensively surveyed but recent surveys for invasives control found unrecorded sites.	Conservation ownership or a deed restriction to prohibit any development that would affect cultural resources.	Protecting cultural resources is one of the main purposes of the Conservancy.
Mineral resources	Mining, such as sand mining, would affect the natural resources and hydrology of the site.	Mineral rights could be retained by the city or donated or sold to SDRC or a conservation organization.	The San Diego River has been and is currently being mined for sand. Historical photos of the Carlton Oaks site showing the area before the golf course was built with a wide sandy river bottom over the area the City of San Diego is proposing to sell. Sand mining could prove economically viable when the economy improves.
Water rights (volume)	The water underlying the site could be valuable in the future; drawing the water down would affect the	Water rights could be retained by the city or donated or sold to SDRC.	

CARLTON OAKS – DECISION MATRIX

1. ISSUES REQUIRING CONSIDERATION TO PROTECT CONSERVATION VALUES AT THE CARLTON OAKS PROPERTY			
ITEMS	WHAT IS AT ISSUE?	WHAT TERM(S) COULD BE APPLIED?	COMMENTS
	natural resources.		
Water impacts (pollution)	Golf course chemicals could be affecting river water quality	Conservation ownership or a deed restriction to require consultation over chemicals used to manage the golf course: monitoring of water quality as a conservation value will ensure compliance.	Conservation easements usually include restrictions on use of chemicals that could affect air, soil and water quality.
Air rights	Future use of air rights could affect property.	Air rights could be retained by the City or donated or sold to SDRC.	Conservation easements usually grant the air rights required to protect the conservation values of the property.
Scenic values	Future use of property could impact scenic value of river.	Conservation ownership or a deed restriction to require consultation with SDRC over potential impacts to scenic values associated with any change of use.	Conservation easements sometimes restrict altering a property in any way that affects scenic values.
Access (legal)	TY has raised the issue that the site wouldn't have legal access unless sold to them.	City could provide legal access easement to SDRC from their retained property.	TY has provided SDRC legal access to perform invasives control on its property; the City has provided legal access to SDRC to City-owned land also. We don't anticipate difficulty securing access from the City.

CARLTON OAKS – DECISION MATRIX

2. CONSERVATION MECHANISMS SDRC MAY PURSUE FOR THE CARLTON OAKS PROPERTY						
PROTECTION APPROACH	MUST SDRC TRIGGER ITS RIGHT OF FIRST REFUSAL?	CONSERVATION MECHANISM	STRENGTHS	WEAKNESSES	UNKNOWN	COMMENTS
City of San Diego (City) doesn't sell to TY (Carlton Oaks golf course owner) and instead renews lease; conditions lease to add conservation protections	No	Lease between City and TY	No SDRC funds required; City could incorporate right to build trail in lease renewal which could reduce costs of TY lease and keeps public asset in public ownership.	City doesn't achieve its immediate revenue goals (\$3 million); TY prefers a lease rate more sensitive to the current economy.	Would City reduce its lease rate with TY to one more sensitive to the current economy?	City has indicated its current preference is to sell; TY now prefers to buy. City could also use this approach to condition lease with restrictions similar to a conservation easement.
City sells to TY; no action by SDRC	No	Current and/or future land use regulations	Requires no SDRC action or funds. Property is currently zoned RS-1-8 with flood overlay; zoning allows 1 house per 40,000 square feet (approx 71 units). Flood overlay makes development difficult but not impossible. Part of property is in MHPA and part is adjacent to MHPA; would require MHPA consistency and adjacency review. Only 25% of MHPA lands can be developed; mitigation is required.	Creates uncertainties as to what could be built or how the property could be used in the future; doesn't provide right to build the San Diego River trail; provides no permanent protection for natural or cultural resources; creates additional uncertainties if course is sold in the future. Could require additional land be added to the MHPA elsewhere near the River should CO MHPA lands be developed.	Unknown what future land use changes could occur and/or what future regulations could be and whether they would provide sufficient conservation protections to the Property.	SDRC partner Santee likely favors this regulatory approach; SDRC could seek a right of first refusal if course is sold by TY in the future.

CARLTON OAKS – DECISION MATRIX

2. CONSERVATION MECHANISMS SDRC MAY PURSUE FOR THE CARLTON OAKS PROPERTY						
PROTECTION APPROACH	MUST SDRC TRIGGER ITS RIGHT OF FIRST REFUSAL?	CONSERVATION MECHANISM	STRENGTHS	WEAKNESSES	UNKNOWN	COMMENTS
City sells to TY and adds a term to its sale contract for TY to donate a conservation easement (CE) to SDRC	Yes or No	City purchase and sale agreement with TY	No acquisition cost for SDRC; potential tax benefits to TY (however not likely to be realized in this economy).	TY doesn't support; SDRC would still need state PWB review which could take 3+ months and delay processing. Since this is a voluntary process, parties could agree to non-profit ownership instead.	City might refuse to attach CE as term in its sale to TY which would require SDRC to pursue a separate later transaction with TY which it could choose (or not) to entertain; SDRC could lose its RoFR rights unless it triggers; long term CE enforcement costs to SDRC are unknown but likely limited.	SDRC could work with a non-profit to purchase the property if state approval process slows; Separate agreement between TY and SDRC could provide a backup contractual protection if City refuses to allow SDRC to add a term to City/TY purchase and sale agreement (Note: incorporating CE term in the City/TY transaction provides best level of assurance).
City sells to TY and adds a term to its purchase and sale agreement to require TY to sell a conservation easement (CE) to SDRC	Yes or No	City purchase and sale agreement with TY	Cost to SDRC but SDRC has resources in bond funds that can be used. This is a stronger legal position for SDRC than the proposed private option (below) as an option agreement is recorded immediately after the recordation of the grant deed, so the option holder (SDRC) would take the same interests in the property the optionor (TY) has just gained. SDRC	Acquisition cost must be determined; terms of easement must be determined; City may decline to add term.	Long term CE enforcement / monitoring costs to SDRC are unknown but likely limited.	Similar comments as in scenario above (donation). Appraisal could be done within 60 days.

CARLTON OAKS – DECISION MATRIX

2. CONSERVATION MECHANISMS SDRC MAY PURSUE FOR THE CARLTON OAKS PROPERTY						
PROTECTION APPROACH	MUST SDRC TRIGGER ITS RIGHT OF FIRST REFUSAL?	CONSERVATION MECHANISM	STRENGTHS	WEAKNESSES	UNKNOWN	COMMENTS
			would complete a purchase agreement and a fully negotiated CE so that the terms of the deal are known to all and the appraisal can accurately assess the interests transferred.			
City sells to TY <i>but does not</i> add a term to its contract to require TY to sell a conservation easement (CE) to SDRC; SDRC pursues separate agreement with TY instead (Proposed Private Option)	No	Option agreement to SDRC for sale by TY of CE <i>after</i> sale between City and TY	Agreement has standing that gives SDRC right to purchase a CE under negotiated terms. TY has been a cooperative partner to date.	SDRC's legal position weaker than if CE is added as term in City transaction with TY (or if SDRC were to purchase in fee as per the recommended public option). In this alternative, SDRC must waive its right to obtain an interest in the property and retains only a contractual right to be exercised if a number of contingencies come to pass. This is a substantially weakened position.	PWB okay and timing are issues for TY; SDRC would have to move quickly and may hit delays.	If state approvals delay completion, SDRC could partner with a non-profit to acquire the property.

CARLTON OAKS – DECISION MATRIX

2. CONSERVATION MECHANISMS SDRC MAY PURSUE FOR THE CARLTON OAKS PROPERTY						
PROTECTION APPROACH	MUST SDRC TRIGGER ITS RIGHT OF FIRST REFUSAL?	CONSERVATION MECHANISM	STRENGTHS	WEAKNESSES	UNKNOWNNS	COMMENTS
City sells fee title to SDRC; SDRC leases back to TY (RECOMMENDED PUBLIC OPTION)	Yes	Purchase and sale agreement between City and SDRC; lease back for golf	SDRC can best design outcomes; gains ability to lease course and deposit revenues to support the river; guarantees leverage on future trail location; guarantees ability to restore site should golf course use cease. This is the most enhanced legal position for SDRC. TY has been a cooperative partner to date.	Cost to SDRC is an opportunity lost elsewhere; would require PWB okay which could be time consuming; site maintenance costs are unknown; future landlord issues.	PWB okay and timing are issues for TY; SDRC would have to move quickly and may hit delays.	If state approvals delay completion, SDRC could partner with a non-profit to acquire the property.

FEMA FLOOD PLAIN

Boundry take from
Map 1634 F

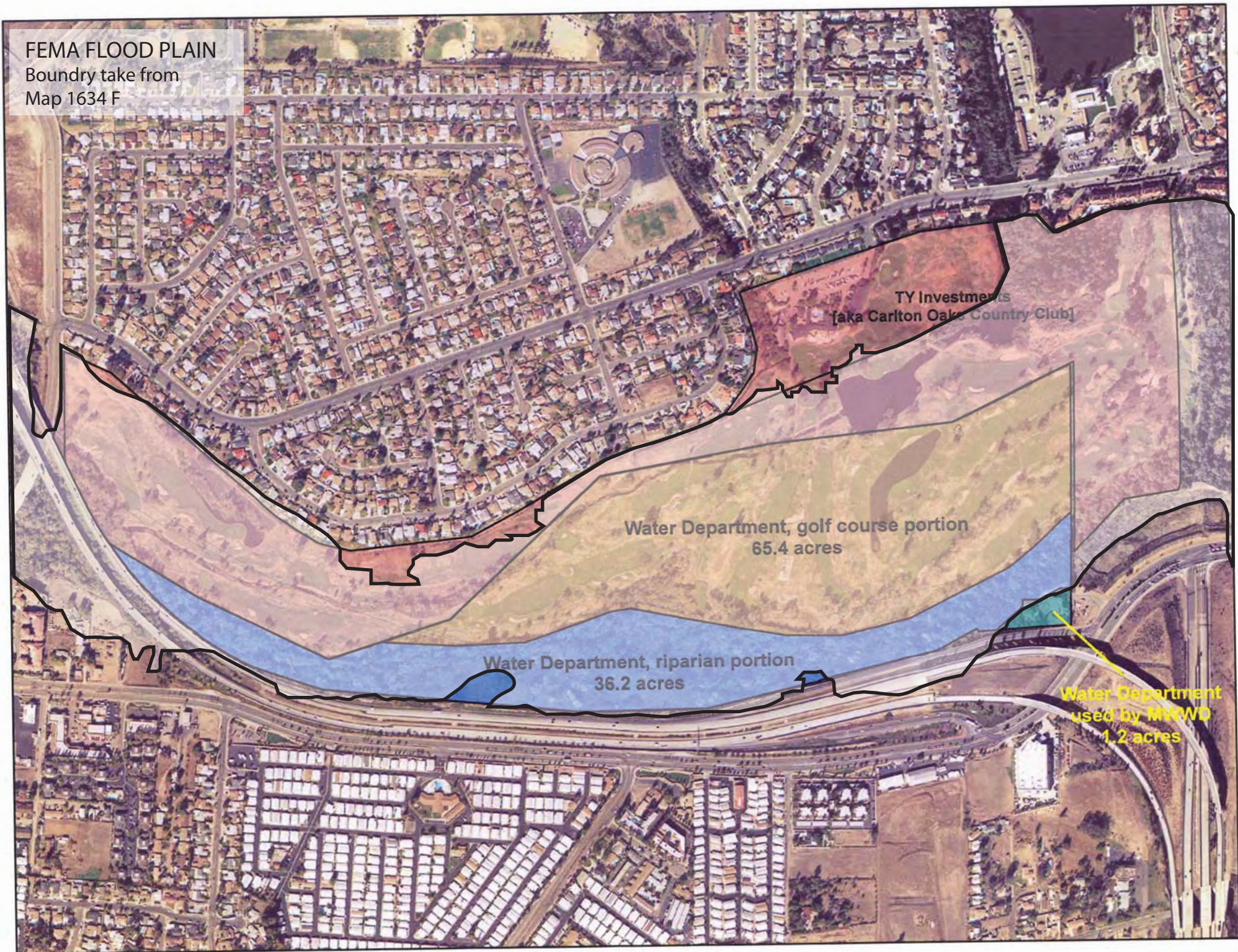


EXHIBIT 8C

SDRC Resolution 10-06A

Resolution No: 10-06A

RESOLUTION OF THE GOVERNING BOARD OF THE SAN DIEGO RIVER CONSERVANCY

AUTHORIZING THE EXECUTIVE OFFICER TO NOTIFY THE CITY OF SAN DIEGO OF THE CONSERVANCY'S INTENT TO ACQUIRE/LEASE APPROXIMATELY 65.4 ACRES OF PROPERTY AT THE CARLTON OAKS GOLF COURSE; EXERCISING ITS FIRST RIGHT OF FIRST REFUSAL TO ACQUIRE/LEASE THE LAND; AND AUTHORIZING THE USE OF FUNDS FROM THE SAFE DRINKING WATER, WATER QUALITY AND SUPPLY, FLOOD CONTROL, RIVER AND COASTAL PROTECTION BOND ACT OF 2006 (PROPOSITION 84)

WHEREAS, the City of San Diego ("City") currently leases an approximately 65.4-acre portion of APN 383-080-03 ("the Property") to TY Investments, Inc., dba Carlton Oaks Holdings, LLC, ("TY Investments") for use as part of the Carlton Oaks golf course; and

WHEREAS, the City submitted a letter of intent to TY Investments dated May 10, 2010 setting out the basic terms and conditions by which the City would be prepared to sell the Property to TY Investments, and

WHEREAS, the terms and conditions include a sales price of \$3,000,000; and

WHEREAS, the City's Real Estate Assets Department notified the San Diego River Conservancy (SDRC) subject to California Government Code Sections 54220-54232 on May 11, 2010 that it was considering the sale of the Property; and

WHEREAS, the City's Real Estate Assets Department notified SDRC on May 24, 2010 that it must submit a notice of its intent to exercise its first right of refusal by July 12, 2010 or the City would assume that SDRC has decided to waive its right ; and

WHEREAS, California Public Resources Code Section 32633 states that SDRC is created to acquire and manage public lands within the San Diego River area to provide recreational opportunities, open space, wildlife habitat and species restoration and protection, wetland protection and restoration, protection of historical and cultural resources, and protection, maintenance and improvements of the quality of the waters in the San Diego River and its watershed, its tributaries and historic flumes emanating from the river for all beneficial uses, lands for educational uses within the area, and natural floodwater conveyance; and

WHEREAS, California Public Resources Code Section 32632 defines the "San Diego River area" or "area" as those lands or other areas that are donated to, or otherwise acquired by, or operated by, SDRC, which are located within one-half mile on either side of the thread of the river and its tributaries including the historic flumes emanating from the river, from its headwaters near Julian to the Pacific Ocean at Dog Beach in San Diego, and other properties within the watershed of the San Diego River that meet the intent of this division as approved on a case-by-case basis by a two-thirds majority vote of the governing board; and

WHEREAS, the Property is located with one-half mile of the thread of the San Diego River, is critical to the implementation of the City's San Diego River Park Master Plan, the Multiple Species Conservation Plan, and lies wholly within the floodplain and floodway of the River; and

WHEREAS, California Public Resources Code Section 32646 provides that SDRC has the first right of refusal to acquire any public lands that are suitable for park and open space within SDRC's jurisdiction when those lands become available; and

WHEREAS, California Government Code Sections 54220-54232 require an entity or association desiring to purchase or lease the surplus land to notify in writing the disposing agency of its intent to purchase or lease the land within 60 days after receipt of the agency's notification of intent to sell the land; and

WHEREAS, the SDRC Governing Board finds the expenditure of funds to acquire/lease the Property is consistent with the San Diego River Conservancy Act and SDRC's Strategic Plan, Program 1: Land Conservation, and the SDRC Governing Board also seeks to implement the San Diego River Park Conceptual Plan and the City of San Diego's San Diego River Park Master Plan; and

WHEREAS, the Legislature and Governor of the State of California have provided funds for the program shown above to the California Coastal Conservancy for projects approved by SDRC.

NOW, THEREFORE, BE IT RESOLVED that the San Diego River Conservancy's Governing Board:

1. Authorizes the Executive Officer to notify the City of San Diego's Real Estate Assets Department by July 12, 2010 of SDRC's intent to purchase or lease the approximately 65.4 acres the City of San Diego has proposed to sell at the Carlton Oaks Golf Course.
2. Authorizes the Executive Officer to submit a notice the City of San Diego's Real Estate Assets Department of SDRC's intent to exercise its first right of refusal by July 12, 2010 to purchase the 65.4 acres City of San Diego has proposed to sell at the Carlton Oaks Golf Course.
3. Authorizes the Executive Officer to request up to \$3,000,000 or appraised value from the State Coastal Conservancy from Proposition 84 funds appropriated to the Coastal Conservancy for projects authorized by the San Diego River Conservancy to acquire/lease a fee simple interest for the 65.4 acres the City of San Diego has proposed to sell at the Carlton Oaks Golf Course.
4. Appoints the Executive Officer, or designee, as agent to conduct all negotiations, execute and submit all documents including, but not limited to applications, agreements, and payment requests and so on, which may be necessary for the completion of the aforementioned Project.

Approved and adopted the 8th day of July, 2010. I, the undersigned, hereby certify that the foregoing Resolution Number 10—06A was duly adopted by the San Diego River Conservancy's Governing Board.

Roll Call Vote:

Ayes: _____

Nos: _____

Absent _____

Michael J. Nelson, Executive Officer
San Diego River Conservancy

EXHIBIT 8D

SDRC Resolution 10-06B

Resolution No: 10-06B

RESOLUTION OF THE GOVERNING BOARD OF THE SAN DIEGO RIVER CONSERVANCY

AUTHORIZING EXECUTION OF AN OPTION AGREEMENT WITH TY INVESTMENT, INC., TO ACQUIRE A CONSERVATION EASEMENT ON APPROXIMATELY 64.5 ACRES OF PROPERTY AT THE CARLTONAOKS GOLF COURSE; WAIVING ITS FIRST RIGHT OF FIRST REFUSAL AND RIGHTS UNDER THE SURPLUS LAND STATUTES TO ACQUIRE THE PROPERTY; AND AUTHORIZING THE USE OF FUNDS FROM THE SAFE DRINKING WATER, WATER QUALITY AND SUPPLY, FLOOD CONTROL, RIVER AND COASTAL PROTECTION BOND ACT OF 2006 (PROPOSITION 84)

WHEREAS, the City of San Diego's Real Estate Assets Department notified the San Diego River Conservancy (SDRC) subject to California Government Code Section 54220-54232 on May 11, 2010 that it was considering the sale of 65.4 acres of property at the Carlton Oaks Golf Course; and,

WHEREAS, the City of San Diego's Real Estate Assets Department notified SDRC on May 24, 2010 that it must submit a notice of its intent to exercise its first right of refusal by July 12, 2010 or the City would assume that SDRC has decided to waive its right; and,

WHEREAS, California Public Resources Code, Division 22.9, Section 32633 states that SDRC is created to acquire and manage public lands within the San Diego River area to provide recreational opportunities, open space, wildlife habitat and species restoration and protection, wetland protection and restoration, protection of historical and cultural resources, and protection, maintenance and improvements of the quality of the waters in the San Diego River and its watershed, its tributaries and historic flumes emanating from the river for all beneficial uses, lands for educational uses within the area, and natural floodwater conveyance; and,

WHEREAS, California Public Resources Code, Division 22.9, Section 32632 defines the "San Diego River area" or "area" means those lands or other areas that are donated to, or otherwise acquired by, or operated by, the conservancy, which are located within one-half mile on either side of the thread of the river and its tributaries including the historic flumes emanating from the river, from its headwaters near Julian to the Pacific Ocean at Dog Beach in San Diego, and other properties within the watershed of the San Diego River that meet the intent of this division as approved on a case-by-case basis by a two-thirds majority vote of the Governing Board.; and,

WHEREAS, the property that is proposed for sale is located with one-half mile of the thread of the San Diego River, is a critical to the implementation of the City's San Diego River Park Master Plan, the Multiple Species Conservation Plan, and lies wholly within the floodplain and floodway of the River; and,

WHEREAS, California Public Resources Code, Division 22.9, Section 32646, provides that SDRC has the first right of refusal to acquire any public lands that are suitable for park and open space within the conservancy's jurisdiction when those lands become available; and,

WHEREAS, California Government Code Section 54220-54232, requires an entity or association desiring to purchase or lease the surplus land to notify in writing the disposing agency of its intent to purchase or lease the land within 60 days after receipt of the agency's notification of intent to sell the land; and,

WHEREAS, the Governing Board of the San Diego River Conservancy finds the expenditure of funds to acquire a conservation easement on 65.4 acres of property at the Carlton Oaks Golf Course is consistent with the San Diego River Conservancy Act, SDRC's Strategic Plan, Program 1: Land Conservation and, also seeks to implement the San Diego River Park Conceptual Plan and the City of San Diego's San Diego River Park Master Plan; and,

WHEREAS, the Legislature and Governor of the State of California have provided funds for the program shown above to the California Coastal Conservancy for projects approved by the San Diego River Conservancy; and,

NOW, THEREFORE, BE IT RESOLVED that the San Diego River Conservancy's Governing Board:

1. Authorizes the Executive Officer to notify the City of San Diego's Real Estate Assets Department by July 12, 2010 that SDRC does not intend to purchase or lease the 65.4 acres the City of San Diego has proposed to sell at the Carlton Oaks Golf Course.
2. Authorizes the Executive Officer to sign the Option Agreement attached hereto as Exhibit A on behalf of the San Diego River Conservancy.
3. Appoints the Executive Officer, or designee, as agent to conduct all negotiations, execute and submit all documents including, but not limited to applications, agreements, and payment requests and so on, which may be necessary to complete the Option Agreement and obtain a conservation easement.

Approved and adopted the 8th day of July, 2010. I, the undersigned, hereby certify that the foregoing Resolution Number 10—06B was duly adopted by the San Diego River Conservancy's Governing Board.

Roll Call Vote:

Ayes: _____

Nos: _____

Absent _____

Michael J. Nelson, Executive Officer
San Diego River Conservancy

EXHIBIT 8E

OPTION AGREEMENT & CONSERVATION EASEMENT DEED

**OPTION AGREEMENT
FOR THE PURCHASE OF AN INTEREST IN REAL PROPERTY**

This option agreement (the "Agreement") is made this 8th day of July 2010, by and between the State of California, acting by and through its San Diego River Conservancy, a subdivision of the Natural Resources Agency acting pursuant to its authority under Public Resources Code Section 32630 et. seq. (the "Conservancy"), and TY Investment, Inc., a California corporation ("TY"), with reference to the following:

RECITALS

WHEREAS, the City of San Diego (the "City") has offered to sell to TY, for the sum of THREE MILLION DOLLARS (\$3,000,000.00), approximately sixty-five and four tenths (65.4) acres of property currently leased by TY for use as a portion of a golf course within, and contiguous to TY's property comprising the majority of, the Carlton Oaks Country Club, as generally depicted in Exhibit "A" (the "Property");

WHEREAS, the Conservancy possesses a first right of refusal pursuant to Public Resources Code Section 32646 (the "First Right"), as well as a right to negotiate in good faith for the purchase of surplus land pursuant to Government Code Section 54222(b)(4) (the "Second Right"), relating to the Property;

WHEREAS, in lieu of exercising the First Right and/or the Second Right (collectively, the "Rights"), the Conservancy desires to limit the development of the Property, as described below, should TY purchase the Property;

WHEREAS, TY desires to ensure that the Conservancy does not exercise the Rights, so that TY may purchase the Property directly from the City without the interference of the Conservancy;

WHEREAS, TY and the Conservancy wish to determine the economic value of the development rights the Conservancy seeks to restrict on the Property; and

WHEREAS, the Conservancy shall make a determination in the future, as described further below, as to whether it wishes to purchase these development rights from TY;

NOW THEREFORE, the parties agree as follows:

1. Option for Property Interests. In consideration of an option price of ten dollars (\$10.00) (the "Option Price"), and other good and valuable consideration, TY grants to the Conservancy the option to purchase those real property interests representing regulatory control and physical development rights on the Property (the "Property Interests") as more particularly described in the conservation easement deed, substantially in the form attached as Exhibit "B" (the "Deed"), subject to the terms of this Agreement. It is further understood by the parties that the Property has not been surveyed and defined by a metes and bounds legal description, nor has the exact acreage been determined, at the time of the execution of the Agreement. The preparation of a metes and bounds legal description

of the Property by a California State licensed surveyor is a condition precedent to the determination of the fair market value of the Property Interests.

2. Option Commencement Date. Concurrent with the execution of this Agreement, the Conservancy shall pay the Option Price to TY and shall duly execute this Agreement, and shall record in the Official Records of San Diego County a Notice of Option in the form of Exhibit "C" attached hereto and incorporated herein. The date upon which the Notice of Option is so recorded ("the Option Commencement Date") shall be no later than July 12, 2010; if the events above have not occurred by that date, then this Agreement shall automatically terminate and be of no further force and effect. Within TEN (10) business days of (a) the termination of this Agreement, for any reason, or (b) the consummation of the Conservancy's purchase of the Property Interests, the Conservancy shall (i) record a release and termination of the Notice of Option on the Property and (ii) upon TY's request, execute and deliver TY a quitclaim deed for all of the Conservancy's interest in the Property resulting from this instrument, in a form appropriate for recording.
3. Covenants of the Conservancy. As partial consideration for the option granted above, the Conservancy acknowledges the desire and intention of TY to pursue the purchase of the Property from the City without the involvement of the Conservancy or any of its agents, employees, independent contractors, consultants, attorneys, or other persons under its control or sway. The Conservancy further agrees that it shall not exercise its Rights, or any other means at its disposal, to enter into any arrangements, discussions, dealings, or negotiations relating to any interest in the Property, either directly or indirectly, with the City, except as permitted, in writing, by TY, or as otherwise required in the Deed. The Conservancy acknowledges its need to determine the economic value of the Property Interests in order to exercise its option to purchase the Property Interests. Upon TY's request, the Conservancy agrees to cooperate, as reasonably necessary and in a timely fashion, with TY and all other entities, public and private agencies, including, but not limited to, federal, state, county and city bodies, and individuals involved in the determination of the economic value of the Property Interests and the purchase of the Property. The Conservancy further agrees to work in good faith with TY, and all other reasonably necessary third parties, in any procedures relating to the real and personal property tax implications of the purchase of the Property Interests, in the event the Conservancy exercises its option. The Conservancy agrees to indemnify, defend and hold TY harmless from any legal (civil or criminal) actions which may arise in connection with the Conservancy's actions relating to the purchase of the Property Rights. The Conservancy recognizes that TY's successful completion of the purchase of the Property from the City (which shall be signified by the filing of an executed grant deed from the City, as grantor, to TY, as grantee, for the fee simple title interest in the Property with the San Diego County Recorder's Office) is a condition precedent to the Conservancy's ability to exercise its option to purchase the Property Interests.
4. Covenants of TY. TY hereby covenants and agrees to diligently and in good faith proceed with the negotiations and proceedings required to purchase the Property from the City if the Conservancy does not exercise its Rights. Upon the Conservancy's request, TY agrees to cooperate, as reasonably necessary and in a timely fashion, with the Conservancy and all other entities, public and private agencies, including, but not limited

to, federal, state, county and city bodies, and individuals involved in the determination of the economic value of the Property Interests and the purchase of the Property, at the Conservancy's sole expense, including, but not limited to, providing access to the Property for appraisal purposes. TY agrees to indemnify, defend and hold the Conservancy harmless from any legal (civil or criminal) actions which may arise in connection with TY's actions relating to the Conservancy's purchase of the Property Rights. TY agrees to cooperate with the Conservancy in modifying this Agreement and/or the Deed, if reasonably necessary, in order to accommodate legal, regulatory and technical requirements of the State of California, so long as the intent of the parties and the substantial terms of the Agreement and the Deed remain unchanged.

5. Term. The Conservancy shall have the right to exercise its option to purchase the Property Interests until the earlier of (a) ONE (1) year after the filing date of the recorded grant deed of a fee simple interest in the Property from the City to TY, as described in Section 3, or (b) July 9, 2012 (the "Option Expiration Date"), unless terminated earlier pursuant to Section 7 or extended pursuant to Section 6.
6. Appraisal of the Property Interests. The Conservancy shall, at its sole expense, hire and direct, as necessary, an MAI certified appraiser familiar with, and willing and capable of performing, the standards, practices and procedures necessary to meet the requirements of the State of California's Natural Resources Agency and all such other agencies as are necessary to receive approval for the purchase of the Property Interests for fair market value (the "Purchase Price"). Upon the final determination of the Conservancy's appraiser, the Conservancy shall transmit the complete appraisal to TY. TY shall have TEN (10) business days to review the appraisal and respond, in writing, to the Conservancy requesting commercially reasonable revisions and the re-appraisal of the Property Interests. In the event TY fails to timely respond, the Conservancy's appraisal value shall be deemed final and determinative of the Purchase Price. In the event TY timely responds and the Conservancy fails to agree to comply with TY's requests for re-appraisal within TEN (10) business days, TY may choose to hire and direct its own MAI certified appraiser, of similar skill to the Conservancy's appraiser, to determine the Purchase Price, at TY's sole expense. Upon the final determination of TY's appraiser of the Purchase Price, TY shall transmit the complete appraisal to the Conservancy. The Conservancy shall then have TEN (10) business days to review the appraisal and respond, in writing, to TY requesting commercially reasonable revisions, or to trigger a requirement that the Conservancy's appraiser and TY's appraiser attempt to find a compromise value for the Purchase Price. In the event the Conservancy fails to timely respond or trigger the requirement for a compromise, TY's appraisal shall be deemed final and determinative of the Purchase Price. In the event the appraisers fail to reach a compromise Purchase Price mutually agreeable to both TY and the Conservancy, within TEN (10) business days, both appraisers shall agree, within FIVE (5) business days thereafter, on a third similarly skilled MAI appraiser to review both of the original appraisals and perform all work necessary to determine the Purchase Price. This third appraiser's determination shall be accepted by both TY and the Conservancy as final and conclusive as to the Purchase Price and the expense of the third appraiser shall be split evenly by TY and the Conservancy. In the event a second and/or third appraiser is hired pursuant to this section, the parties agree to toll the Conservancy's option to purchase

Property Interests, as described in Section 5 above, by SIXTY (60) days for each such appraisal. A final and conclusive determination of the Purchase Price is a condition precedent to the Conservancy's ability to provide notice of intent to exercise its option to purchase the Property Interests.

7. Early Termination of Option. In the event: (a) TY does not purchase the Property, for any reason, or (b) the Conservancy determines that it will not purchase the Property Interests, for any reason, this Agreement shall immediately terminate, TY shall be required to return the Option Price to the Conservancy and neither party shall have any further obligation to the other under this Agreement.
8. Notice of Intent to Exercise Option. Pursuant to Section 15850 *et seq.* of the Government Code (the "Property Acquisition Law"), the Conservancy may not enter into a contract for the acquisition of real property without approval by the Director of General Services and authorization from the State Public Works Board. The Conservancy shall provide written notice to TY of its intent to exercise the option, and TY shall promptly execute and return all necessary documentation to the Conservancy. Said notice shall be a condition precedent to the Conservancy's purchase of the Property Interests. In the event the Conservancy exercises its option to purchase the Property Interests, the parties expressly acknowledge and agree that the Property Acquisition Law and all regulations flowing therefrom shall be binding on both TY and the Conservancy.
9. Exercise of Option; Purchase and Sale. The Conservancy may exercise its option to purchase the Property Interests, prior to the Option Expiration Date by providing notice as permitted by Section 11 along with proposed escrow instructions for the purchase and sale of the Property. Within FIVE (5) days of the Conservancy's exercising its option to purchase the Property Interests, escrow shall be opened with a title or escrow company ("Escrow Holder") acceptable to both parties. Upon opening escrow, the Conservancy shall deposit with Escrow Holder a state warrant or other negotiable funds or instruments in the amount of the 10% of the Purchase Price and TY shall deposit an executed copy of the Deed. Escrow shall close within SIXTY (60) days of opening escrow. The Conservancy shall pay for all escrow, recordation, and title insurance costs, if any arise. The parties agree to work together in good faith to agree upon title exceptions to which the Property shall be subject following sale to the Conservancy, to select Escrow Holder, and to develop mutually acceptable escrow instructions consistent with the terms of this Agreement so that the purchase and sale can be completed in accordance with those terms.
10. Warranty. TY warrants and agrees that during the term of the option, upon TY's purchase of the Property from the City of San Diego, TY will meet the terms of all liens, and pay all sums due against the Property and thereby prevent the default and foreclosure of any such liens. This warranty shall not apply to liens against the Property incurred by the Conservancy, or their agents or contractors. TY shall use reasonable commercial efforts, at the Conservancy's request, to subordinate all encumbrances upon the Property to the Deed.

11. Notices. All notices required under this Agreement may be delivered via certified first class mail, return receipt requested, personal delivery, or a nationally recognized courier service via overnight delivery service. All notices to TY or the Conservancy shall be delivered at the following addresses:

TO TY: TY Investment, Inc.
Carlton Oaks Country Club
9200 Inwood Dr.
Santee, CA 92071
Attn: Toru "Ben" Mise, President

With a copy to: Felix M. Tinkov, Esq.
Lounsbery Ferguson Altona & Peak, LLP
401 West A Street, Suite 1825
San Diego, CA 92101

To The Conservancy: San Diego River Conservancy
1350 Front Street, Suite 3024
San Diego, CA 92101
Attn: Michael J. Nelson, Executive Officer

With a copy to: California Resources Agency
Office of the General Counsel
1416 Ninth Street, 12th Floor
Sacramento, California 95814-2090
Attn: General Counsel

12. Assignments. Conservancy may assign its interest in the option to any agency of the State of California upon notice to TY. All of the terms, covenants and conditions herein contained shall inure to the benefit of and be binding upon the heirs, successors and assigns of the parties hereto. The terms of this Agreement shall be deemed covenants running with the land unless this Agreement is terminated.

13. Time. Time is of the essence with respect to this Agreement and all of its terms.

14. Possession. Right of possession shall remain with TY until close of escrow, subject to Conservancy's right of reasonable entry for its employees, contractors, agents, and/or designees to conduct surveys or investigations only for purposes related to this Option Agreement.

15. Confidentiality. TY has agreed to option the Property Interests to the Conservancy only on the condition that the contents of appraisals, the Purchase Price, the feasibility studies and other analyses relating to the potential purchase of the Property Interests, including but not limited to the Purchase Price and environmental data on the Property (collectively, "Confidential Matters") remain confidential, to the extent legally permissible.

16. Captions and Exhibits. The captions heading each Paragraph of this Agreement are for convenience only and shall be of no force and effect in construing its terms. All Exhibits attached to this Agreement are hereby incorporated in the Agreement by reference.

IN WITNESS WHEREOF, the parties have entered into this Agreement as of the date and year first above written.

OPTIONOR: TY Investment, Inc., a California corporation By: _____ Toru "Ben" Mise Its: President	OPTIONEE: STATE OF CALIFORNIA SAN DIEGO RIVER CONSERVANCY By: _____ Michael J. Nelson Its: Executive Officer
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LIST OF EXHIBITS

- A. Property Description and Map
- B. Form Conservation Easement Deed
- C. Notice of Option Form

EXHIBIT "A"

LEGAL DESCRIPTION: Portion of FANITA RHO TRACT T LT 7

LOCATION: Property is located in the City of San Diego and is adjacent to 9200 Inwood Dr Santee, CA 92071

THOMAS BROS MAP: 1230 - J6

ACREAGE: Approximately 65.4 acres, exact size to be determined.

ASSESSOR'S PARCEL NO.: Portion of 383-080-03

EXISTING ZONING: R-1-40

IMPROVEMENTS: A portion of the Carlton Oaks Golf Course

COMMUNITY PLAN DESIGNATION: East Elliott

MAP SHOWING APPROXIMATE PROPERTY BOUNDARIES (Not To Scale)

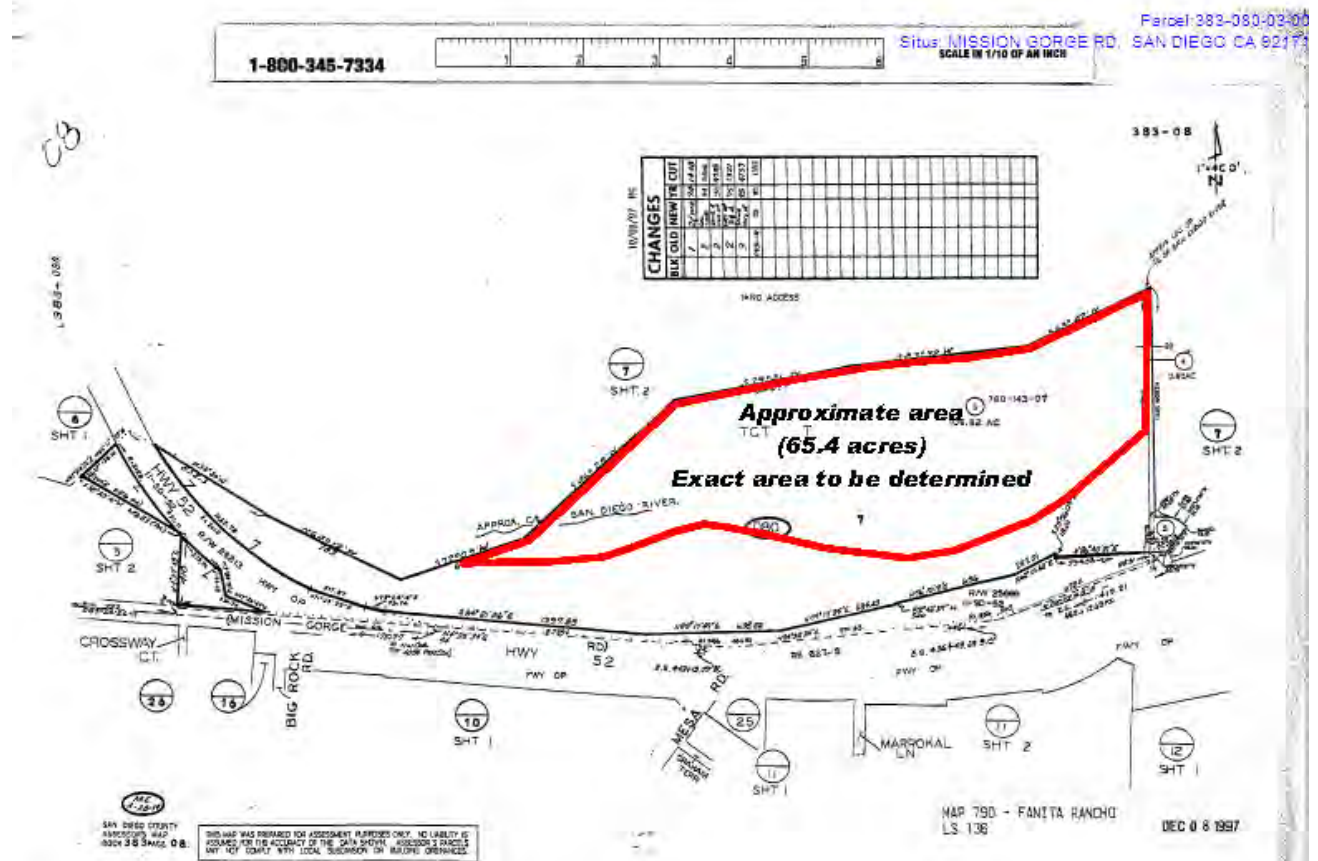


EXHIBIT "B"

Conservation Easement Deed Form

RECORDING REQUESTED BY AND)
WHEN RECORDED MAIL TO:)
)
State of California)
San Diego River Conservancy)
Attention: Michael Nelson)
1350 Front Street, Suite 3024)
San Diego, CA 92101-3604)

Space Above Line for Recorder's Use Only

PROJECT:

CONSERVATION EASEMENT DEED

THIS CONSERVATION EASEMENT DEED is made this _____ day of _____, 20____, by TY Investment, Inc., a California corporation, ("Grantor"), in favor of THE STATE OF CALIFORNIA ("Grantee"), acting by and through its San Diego River Conservancy, a subdivision of the Natural Resources Agency, with reference to the following facts:

RECITALS

- A. Grantor is the sole owner in fee simple of certain real property in the County of _____, State of California, as more particularly described in **Exhibit "A"** attached hereto and incorporated herein by this reference (the "Property"), currently operated as a golf course, which is a portion of the Carlton Oaks Country Club;
- B. The San Diego River Conservancy has jurisdiction, pursuant to the Public Resources Code (commencing with Section 32630) over the San Diego River to acquire and manage lands within the San Diego River Area and provide recreational opportunities, open space, wildlife habitat and species restoration and protection as well as protection and maintenance of the waters and the San Diego River Conservancy is authorized to hold easements for these purposes pursuant to Public Resources Code Section 32645, and other provisions of California law; and
- C. Grantee wishes to reserve certain development rights on the Property in order to enhance the neighboring San Diego River riparian area pursuant to the enabling statute of the San Diego River Conservancy found as Public Resources Code Section 32630.

NOW THEREFORE, the parties agree as follows:

COVENANTS, TERMS, CONDITIONS AND RESTRICTIONS

Pursuant to the common and statutory law of the State of California including the provisions of Civil Code sections 815 to 816, inclusive, Grantor hereby grants to Grantee for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and Grantee accepts a conservation easement in the Property in perpetuity ("the Easement"). Grantor hereby irrevocably assigns to Grantee all development rights associated with the Property, except those rights which are specifically reserved by Grantor through this Easement and described herein.

1. Purpose. It is the purpose of this Easement to preserve and protect the current and potential future conservation values of the Property including the scenic, aesthetic, natural, historic, recreational, archaeological, hydrologic, open space, habitat and ecological values of the Property for the benefit of the public generally and to prevent any uses of the Property that will significantly impair or interfere with those values through extinguishment of the development rights on the Property and other means. The existing use of the Property as a golf course is consistent with those values and it is the purpose of this Agreement to continue such use until the Grantor, or its successors in interest, determine otherwise, as permitted by the terms of this Easement.
2. Grantee's Rights. To accomplish the purposes of this Easement, Grantor hereby grants and conveys the following rights to Grantee:
 - a) To enter upon the Property at reasonable times in order to monitor Grantor's compliance with and to otherwise enforce the terms of this Easement;
 - b) To prevent any activity on or use of the Property that is inconsistent with the terms of this Conservation Easement and to require the restoration of such areas or features of the Property that may be damaged by any act, failure to act, or any use that is inconsistent with the terms of this Easement;
 - c) All mineral, air and water rights, excepted as otherwise specified in this Easement;
 - d) All development rights associated with the Property, except those rights which are specifically reserved by Grantor through this Easement and described herein; and
 - e) To construct a walking trail, no greater than fourteen feet (14') in width, on the Property. Said trail shall be planned by Grantee, at its sole expense, and located in such a manner as not interfere with the utilization and enjoyment of the then-current use of the Property. No such trail plan shall be implemented without the prior written approval of Grantor, which approval shall not be unreasonably withheld, denied or delayed. It is agreed by the parties that in the event said trail cannot be located in such a manner as to not interfere with the utilization and enjoyment of the then-current use of the Property, such interference shall be minimized to the greatest extent possible and Grantee shall be required to pay Grantor for all costs,

expenses, fees, and other expenditures relating to the reconfiguration, redesign, redevelopment and revision of the then-current use on the Property, and Grantee shall be solely liable for all lawsuits, claims, and damages arising from the construction and use of the trail including, but not limited to, trespass onto the balance of the Property, injury to users of the trail, and loss of value to Grantor's then-current use on the Property. Any such trail constructed shall be built in accordance with all applicable local, state and federal regulations and laws and shall be maintained in an attractive, neat and orderly fashion, at the sole expense of the Grantee, for so long as the trail exists on the Property. Further, once said trail is constructed, Grantee's right to construct a walking trail shall be deemed to have been executed and extinguished such that no additional trails may be constructed, nor can the existing trail be enlarged or modified without the prior written approval of the Grantor.

3. Grantor's Prohibited Uses. Any activity on or use of the Property inconsistent with the terms of this Easement is prohibited. Without limiting the generality of the foregoing, the following uses by Grantor, Grantor's agents, and third parties, are expressly prohibited on the Property:
- a) Unseasonal watering practices;
 - b) The use of chemicals products applied in a manner inconsistent with best management practices;
 - c) Grazing or other agricultural activity of any kind;
 - d) Construction, reconstruction or placement of any building, billboard or sign, or any other structure or improvement of any kind except for those structures and improvements normally found or used on or in a recreational use and so long as no single structure or improvement is greater than THREE THOUSAND SQUARE FEET (3,000 sq.ft.), subject to the prior written approval of Grantee, which approval shall not be unreasonably withheld, denied or delayed, and in any case in which Grantee fails to respond to Grantor's request for approval within SIXTY (60) days approval shall be deemed to have been granted;
 - e) Development for commercial, industrial, agricultural or residential uses, except that recreational uses, such as a golf course, may be developed or redeveloped;
 - f) Any legal or de facto division, subdivision or partitioning of the Property;
 - g) Depositing or accumulation of trash, ashes, refuse, waste, or bio-solids;
 - h) Excavating, removing, destroying or selling archaeological artifacts;

- i) Further planting, new introduction or active propagation of invasive non-native plant species as defined by the California Invasive Plant Control Council, or its successor, or invasive non-native animal species as defined by the California Department of Fish and Game or the U.S. Fish and Wildlife Service;
 - j) Extraction, excavation, dredging, drilling, mining, removing or exploration for/of minerals, sand, gravel, rock or other materials on or below the surface for offsite use or sale. Any such activities proposed by Grantor for onsite use are subject to the written approval of the Grantee, which approval shall not be unreasonably withheld, denied or delayed, and in any case in which Grantee fails to respond to Grantor's request for approval within SIXTY (60) days approval shall be deemed to have been granted; and
 - k) Permanent outdoor storage of more than six months of any materials.
4. Grantor's Duties. Grantor shall undertake all reasonable actions to prevent the unlawful entry and trespass by persons whose activities may degrade or harm the conservation value of the Property. In addition, Grantor shall undertake all necessary actions to perfect Grantee's rights under Section 2 of this Easement. Grantor agrees to bear all costs and liabilities of any kind related to the operation, upkeep, and maintenance of the Property and does hereby indemnify and hold Grantee harmless therefrom. Without limiting the foregoing, Grantor agrees to pay any and all real property taxes, fees, exactions and assessments levied or imposed by local, state or federal authorities on the Property. Grantor shall be solely responsible for any costs related to the maintenance of general liability insurance covering acts on the Property. Grantee shall have no responsibility whatever for the operation of the Property or the monitoring of hazardous conditions thereon. Without limiting the foregoing, Grantee shall not be liable to Grantor or any other person or entity in connection with approvals given or withheld hereunder, or in connection with any entry upon the Property occurring pursuant to this Easement, or on account of any claim, liability, damage, or expense suffered or incurred by or threatened against Grantor or any other person or entity, except to the extent that such claim, liability, damage, or expense is the result of Grantee's negligence, gross negligence, or intentional misconduct. For so long as the Property remains in use as a golf course and upon Grantee's written demand, Grantor shall, within sixty (60) days, enroll the Property into, and use commercially reasonable efforts to acquire certification in the Audubon Cooperative Sanctuary Program For Golf Courses, or such other similar program for the environmentally sensitive management of golf course properties mutually acceptable to both the Grantor and Grantee, at Grantee's sole expense for all such efforts involved in the certification and enrollment, including, but not limited to membership, certification and registration costs, site assessment, environmental planning, redesign and construction/development costs, increased maintenance costs, education and classes for a minimum period of FIVE (5) years, which period shall commence upon receipt of Grantee's written demand.
5. Grantor's Reserved Rights. Grantor reserves to itself, and to its personal representatives, heirs, successors, and assigns, all rights accruing from its ownership of the Property, including the right to engage in or to permit or invite others to engage in all uses of the

Property that are consistent with the purposes of this Easement. The following uses by Grantor, Grantor's agents, and third parties, are allowed as follows:

- a) Golf (and the maintenance, upkeep, renovation, installation, construction, development, replacement, design and redesign of the golf course and/or features, paths, roads, areas, fixtures, structures, utilities, amenities and improvements on the Property, as deemed appropriate by the Grantor) or other such recreational uses similar in nature and intensity, so long as such use is undertaken in a manner consistent with the terms, conditions and purpose of this Easement.
 - b) Mitigation Banking: Development of the Property as a mitigation bank (or for other similar environmental or conservation purposes), where a mitigation bank is an operation in which wetlands, uplands and/or other natural habitat resources are restored, created, enhanced, or preserved by a mitigation bank operator, for the purpose of providing compensatory mitigation for disturbances to natural habitat including wetlands elsewhere. To create such banks, Grantor reserves the right to undertake conservation and restoration of biotic and natural resources, including, but not limited to, bank and soil stabilization, practices to reduce erosion, enhancement of plant and wildlife habitat; and activities which promote biodiversity in accordance with sound, generally accepted practices and all applicable laws, ordinances and regulations.
 - c) Use of soils, sand, and gravel found on or under the Property for fill or similar purposes for onsite development or revision of the topography of the golf course or other commercial recreational use in place at that time.
 - d) Development of structures, signs, poles, buildings or other improvements on the Property, no greater than THIRTY FEET (30') in height, subject to the prior written approval of the Grantor, which approval shall not be unreasonably withheld, denied or delayed and in any case in which Grantee fails to respond to Grantor's request for approval within SIXTY (60) days approval shall be deemed to have been granted;.
6. Grantee's Remedies. If Grantee determines that Grantor is in violation of the terms of this Easement or that a violation is threatened, Grantee shall give written notice to Grantor of such violation and demand in writing the cure of such violation. If Grantor fails to cure the violation within SIXTY (60) days after receipt of written notice and demand from Grantee, or if the cure reasonably requires more than SIXTY (60) days to complete and Grantor fails to begin the cure within the SIXTY (60)-day period or fails to continue diligently to complete the cure, Grantee may bring an action at law or in equity in a court of competent jurisdiction to enforce compliance by Grantor with the terms of this Easement, to recover any damages to which Grantee may be entitled for violation by Grantor of the terms of this Easement or for any injury to the conservation values of the Property, to enjoin the violation, ex parte as necessary, by temporary or permanent injunction without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies, or for other equitable relief, including, but not limited to, the restoration of the Property to the condition in which it existed prior to any such

violation or injury. Without limiting Grantor's liability therefore, Grantee shall apply any damages recovered to the cost of undertaking any corrective action on the Property. Grantor agrees that Grantee's remedies at law for any violation of the terms of this Easement are inadequate and that Grantee shall be entitled to the injunctive relief described in this section, both prohibitive and mandatory, in addition to such other relief to which Grantee may be entitled, including specific performance of the terms of this Easement. Grantee's remedies shall be limited to injunctive relief solely. The failure of Grantee to discover a violation or to take immediate legal action shall not bar Grantee from taking such action at a later time.

- a) Costs of Enforcement. The prevailing party in any action to enforce the terms of this Easement, shall be entitled to the costs of suit and attorneys' and experts' fees, and any costs of restoration.
- b) Grantee's Discretion. Enforcement of the terms of this Easement by Grantee shall be at the discretion of Grantee, and any forbearance by Grantee to exercise its rights under this Easement in the event of any breach of any term of this Easement by Grantor shall not be deemed or construed to be a waiver by Grantee of such term or of any subsequent breach of the same or any other term of this Easement or of any of Grantee's rights under this Easement. No delay or omission by Grantee in the exercise of any right or remedy upon any breach by Grantor shall impair such right or remedy or be construed as a waiver.
- c) Acts Beyond Grantor's Control. Nothing contained in this Easement shall be construed to entitle Grantee to bring any action against Grantor for any injury to or change in the Property resulting from (i) any natural cause beyond Grantor's control, including, without limitation, fire not caused by Grantor, flood, storm, and earth movement, or any prudent action taken by Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Property resulting from such causes; or (ii) acts by Grantee or its employees.
- d) San Diego River Conservancy Enforcement. All rights and remedies conveyed to Grantee under this Easement shall extend to and are enforceable by the San Diego River Conservancy.

7. Access. This Easement does not convey a general right of access to the public.

8. Assignment. This Conservation Easement may not be amended, transferred or used as security for any debt, without the approval of the executive officer of the State Coastal Conservancy, an agency of the State of California acting pursuant to its authority under Public Resources Code Section 31255.1 ("Coastal Conservancy"), or its successor, provided that the executive officer shall approve any such amendment, transfer or use only if the acquisition purposes and conservation values would not be impaired as a result.

9. Notices. Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other shall be in writing and be served personally or sent by recognized overnight courier that guarantees next-day delivery or by first class mail, postage fully prepaid, addressed as follows:

To Grantor:	TY Investment, Inc. Carlton Oaks Country Club 9200 Inwood Dr. Santee, CA 92071 Attn: Toru "Ben" Mise, President
With a copy to:	Felix M. Tinkov, Esq. Lounsbery Ferguson Altona & Peak, LLP 401 West A Street, Suite 1825 San Diego, CA 92101
To Grantee:	San Diego River Conservancy 1350 Front Street, Suite 3024 San Diego, CA 92101 Attn: Michael J. Nelson, Executive Officer
With a copy to:	California Resources Agency Office of the General Counsel 1416 Ninth Street, 12th Floor Sacramento, California 95814-2090 Attn: General Counsel

or to such other address as either party shall designate by written notice to the other. Notice shall be deemed effective upon delivery in the case of personal delivery or delivery by overnight courier or, in the case of delivery by first class mail, five (5) days after deposit into the United States mail.

10. General Provisions.

- a) Controlling Law. The interpretation and performance of this Easement shall be governed by the laws of the State of California, disregarding the conflicts of law principles of such state.
- b) Severability. If a court of competent jurisdiction voids or invalidates on its face any provision of this Easement, such action shall not affect the remainder of this Easement.
- c) Entire Agreement. This instrument sets forth the entire agreement of the parties with respect to the Easement and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Easement.

- d) No Forfeiture. Nothing contained herein will result in a forfeiture or reversion of Grantor's title in any respect.
- e) Successors. The covenants, terms, conditions, and restrictions of this Easement shall be binding upon, and inure to the benefit of, the parties hereto and their respective personal representatives, heirs, successors, and assigns and shall constitute a servitude running in perpetuity with the Property.
- f) Termination of Rights and Obligations. A party's rights and obligations under this Easement terminate upon transfer of the party's interest in the Easement or Property, except that liability for acts or omissions occurring prior to transfer shall survive transfer.
- g) Condemnation. If all or any part of the Property is taken by exercise of the power of eminent domain, or acquired by purchase in lieu of condemnation, so as to terminate this Conservation Easement in whole or in part, Grantor and Grantee shall act jointly to recover the full value of their respective interests so taken or purchased, and all direct or incidental damages resulting therefrom. In any such event wherein the Grantee is entitled to receive any proceeds, whether by agreement or court order, Grantee shall provide to the Coastal Conservancy, or its successor, a share of the proceeds proportionate to the Coastal Conservancy's contribution towards the purchase price of the Easement. If only a portion of the Property is subject to such exercise of eminent domain, this Easement shall remain in effect as to all other portions of the Property.
- h) Valuation. This Easement constitutes a real property interest immediately vested in Grantee. The Parties stipulate that this Easement has a fair market value to be determined by a qualified appraiser, in accordance with local, state and federal regulations and guidelines, which value shall be considered the purchase price for the Easement. This purchase price shall be the value used to calculate any permissible deductions for federal income tax purposes allowable by reason of this Easement pursuant to Section 170(h) of the Internal Revenue Code of 1986, as amended, for property assessment and other tax purposes, as may be applicable, and for determination of sums required pursuant to Section 10(g) above.
- i) Abandonment. If the Grantee should abandon the Easement without first transferring its interest to another entity pursuant to Section 8, or if any of the essential terms of this Easement are violated, except as permitted to be cured by the terms of this Easement, then Grantee's right, title and interest in the Easement shall automatically vest in the State of California for the benefit of the Coastal Conservancy or its successor, upon recordation of a certificate of acceptance of the Easement following approval by the Coastal Conservancy and the State Department of General Services and/or the State Public Works Board, if required by law, unless the executive officer of the Coastal Conservancy, or its successor, designates another public agency or a nonprofit organization to accept the right, title and interest, in which case vesting shall be in that agency or organization.

- j) Captions. The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon its construction or interpretation.
- k) Despite any contrary provision of this Easement, the parties do not intend this Easement to be, and shall not be, construed such that it creates in or gives to Grantee any of the following:
- i. The obligations or liabilities of an "owner" or "operator," as those terms are defined and used in Environmental Laws (defined below), including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Section 9601 *et seq.*; hereinafter, "CERCLA"); or
 - ii. The obligations or liabilities of a person described in 42 U.S.C. Section 9607(a)(3) or (4); or
 - iii. The obligations of a responsible person under any applicable Environmental Laws; or
 - iv. The right to investigate and remediate any Hazardous Materials associated with the Property; or
 - v. Any control over Grantor's ability to investigate, remove, remediate or otherwise clean up any Hazardous Materials associated with the Property.
 - vi. The term "Hazardous Materials" includes, without limitation, (a) material that is flammable, explosive or radioactive; (b) petroleum products, including by-products and fractions thereof; and (c) hazardous materials, hazardous wastes, hazardous or toxic substances, or related materials defined in CERCLA, the Hazardous Materials Transportation Act (49 U.S.C. Section 6901 *et seq.*); the Hazardous Waste Control Law (California Health & Safety Code Section 25100 *et seq.*); the Hazardous Substance Account Act (California Health & Safety Code Section 25300 *et seq.*), and in the regulations adopted and publications promulgated pursuant to them, or any other applicable federal, state or local laws, ordinances, rules, regulations or orders now in effect or enacted after the date of this Easement.
 - vii. The term "Environmental Laws" includes, without limitation, any federal, state, local or administrative agency statute, ordinance, rule, regulation, order or requirement relating to pollution, protection of human health or safety, the environment or Hazardous Materials. Grantor represents, warrants and covenants to Grantee that Grantor's activities upon and use of the Property will comply with all Environmental Laws.

- 1) Counterparts. The parties may execute this instrument in two or more counterparts, which shall, in the aggregate, be signed by both parties; each counterpart shall be deemed an original instrument as against any party who has signed it. In the event of any disparity between the counterparts produced, the recorded counterpart shall be controlling.

IN WITNESS WHEREOF Grantor has executed this Easement the day and year first above written.

TY INVESTMENT, INC.:

BY: _____
Toru "Ben" Mise

ITS: President

EXHIBIT "C"
Notice of Option Form

RECORDING REQUESTED BY AND)
WHEN RECORDED MAIL TO:)
)
State of California)
San Diego River Conservancy)
Attention: Michael Nelson)
1350 Front Street, Suite 3024)
San Diego, CA 92101-3604)

Space Above Line for Recorder's Use Only

PROJECT:

NOTICE OF OPTION TO PURCHASE REAL PROPERTY

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

TY Investment, Inc., a California corporation, as Optionor,

has granted to

THE STATE OF CALIFORNIA, acting by and through the San Diego River Conservancy, as Optionee

an option to purchase certain real property interests in the County of San Diego, State of California, more particularly described in Exhibit 1, attached hereto and incorporated by reference. Said option is effective for a term starting on [the date of recordation of this [or original] Notice], and it will expire on _____, unless said Optionee exercises the option before said time and date. If the option is exercised by the Optionee, the purchase of the real property interests must be consummated through close of escrow on or before _____. Unless a memorandum extending the option and/or close of escrow date is executed by the parties thereto or their successors in interest, and recorded on the public record on or before the date on which escrow shall close, this Notice of Option shall be considered invalid and shall not constitute a lien in any manner whatsoever on or against said real property.

Dated: _____

TY Investment, Inc.:

BY: _____
Toru "Ben" Mise

ITS: President

State of California
San Diego River Conservancy

EXECUTIVE OFFICER'S SUMMARY REPORT
Meeting of July 8, 2010

ITEM: 9

SUBJECT: **EXECUTIVE OFFICER'S REPORT**

The following topics may be included in the Executive Officers Report. The Board may take action regarding any of them:

- **2010 Work Plan**
- **Proposition 40 & 84 Project Status**

Schwarzenegger wants \$11-billion water bond off the November ballot

California's governor says he needs to focus on the budget crisis. Polls show voters may not have the appetite for such borrowing when the state is in such dire financial straits.

June 30, 2010 | By Patrick McGreevy, Los Angeles Times

Reporting from Sacramento — After an exhausting political fight to put an \$11.1-billion plan for shoring up the state's water supply before voters, Gov. Arnold Schwarzenegger now wants to yank the measure from the November ballot.

The governor is working with legislative leaders to postpone the water bond proposal as its prospects appear increasingly dim. Polls suggest voters may not have the appetite for such borrowing at a time when the state budget is in continuing crisis.

And the governor's vow to aggressively fight another measure on the November ballot, one that would roll back the landmark global warming bill he signed in 2006, threatens to distract from the effort to get the water bond passed.

Schwarzenegger said Tuesday in a statement that he would try to get the two-thirds vote of the Legislature needed to pull the bond measure, Proposition 18, from the ballot and take it to voters in 2012 instead.

"After reviewing the agenda for this year, I believe our focus should be on the budget — solving the deficit, reforming out-of-control pension costs and fixing our broken budget system," the statement said. "It's critical that the water bond pass.... I will work with the Legislature to postpone the bond to 2012 and avoid jeopardizing its passage."

The measure would pay for infrastructure to provide more clean and reliable water for the state. It was passed by the Legislature in November 2009, after months of difficult wrangling among farmers, environmentalists, water agencies and lawmakers.

The challenge of getting voters to support the package, which opponents said was filled with pork projects inserted by lawmakers, seems to grow with the state's financial problems.

On Tuesday, the powerful California Teachers Assn., whose members could be hit hard by further budget cuts, announced that it was opposing the bond measure. The well-funded union could pour large amounts of cash into a campaign against the proposal.

"With an already outrageous budget deficit, California can't afford" the cost of the borrowing, "taking even more money away from our students, our schools and other essential services," said David Sanchez, president of the teachers union.

The last major poll of voters' opinions on the bond package found it slipping. The Public Policy Institute of California survey, released May 18, showed that 42% of those surveyed considered it "very important" that the package pass, down from 47% in December.

A river runs through them

Federal wilderness designation sought for hiking sites

BY ANNE KRUEGER, UNION-TRIBUNE STAFF WRITER
SUNDAY, MAY 9, 2010 AT 12:04 A.M.

JOHN GASTALDO / UNION-TRIBUNE

Chas Kennedy, a [Boston](#) transplant now living in [San Diego](#), puts on his socks and shoes after fording the San Diego River in the gorge near Julian during Saturday's hike, part of San Diego River Days.



NORTH COUNTY — Descending a trail near Julian into the San Diego River gorge, a group of hikers marveled at the multicolored show of flowers along their path and the expanse of green everywhere below. They splashed through the San Diego River — no deeper than a creek — and relaxed for lunch under cottonwood trees as quails flew from the brush and a wild turkey trotted by.

The hike, one of the events held Saturday for San Diego River Days, was conducted as part of a campaign to show the public some of the San Diego County sites that supporters want designated as federal wilderness areas. The designation is being sought for almost 64,000 acres of wilderness and 22½ miles of river that they would like to see named wild and scenic.

Jim Daly of San Diego, one of the 16 hikers, said he was sold.

"That was so incredibly beautiful," said Daly, an architect at the University of [California](#) San Diego. "I'm really pleased that people are taking the time to save the wilderness before it becomes developed."

Hike leader Geoffrey Smith of Mira Mesa said he has been working for more than 25 years to obtain federal protection for wilderness areas, which prevents development and keeps the lands in their natural state. Smith is regional organizer for the California Wild Heritage Campaign, an effort to get federal protection for more than 2.4 million acres of wilderness and 22 rivers.

"We believe very passionately in what we do," he said.

Smith is leading a series of hikes in North County within the congressional district of Rep. [Darrell Issa](#), R-Vista. Issa has proposed a bill that would set aside 21,000 acres as federally protected wilderness — expanding the Agua Tibia wilderness area by more than 7,000 acres and increasing the Beauty Mountain wilderness zone by nearly 14,000 acres.

Smith said he's pleased with Issa's effort, but a coalition of wilderness organizations is hoping that even more areas can be set aside. That includes almost 25,000 acres at Eagle Peak, where Saturday's hike was held; nine miles of the upper San Diego River in the [Cleveland](#) National Forest; and six miles of Cedar Creek.

"We want to show (that) these lands are worth protecting," Smith said.

Rob Hutsel, executive director of the San Diego River Park Foundation, said that stretch of the river is already protected because it's within U.S. [Forest Service](#) lands, but the Wild and Scenic River designation would focus more attention on the significance of the waterway.

"It lends credibility to the efforts to protect and conserve it," he said.

Hutsel said San Diego River Days, which continues today and next weekend, is an opportunity for all of the 70 organizations that support the river to hold events at the same time. Forty-two were scheduled, ranging from hikes to cleanups to fun runs celebrating the 52-mile river, which begins north of Julian and flows to the [Pacific Ocean](#) between Ocean Beach and Mission Beach.

"It's connecting people with the river and what many groups are doing to create a better future for the river," Hutsel said.

The hike, on a warm, sunny day, showed off the remote area at the end of Eagle Peak Road at its best. Heading down, the 16 hikers stopped to admire the yellow monkey flowers and the delicate white morning glories that brighten the trail. They encountered a short-horned lizard, a threatened species, that waited to be photographed before scurrying away.

"I used to chase them all the time when I was a kid," said Bruce Julson of Oceanside as he admired the creature. "Now I don't see them anymore."



Most Californians Live Near Severely Polluted Waterway

By [Ed Joyce](#)

June 15, 2010

SAN DIEGO — Several bodies of water in San Diego County are on a new [state list](#) of severely polluted waterways in California.

A new list from the state Water Resources Control Board shows several bodies of water in San Diego County are severely polluted, including parts of San Diego Bay.

The state Water Resources Control Board is required to create a list of severely polluted waterways every two years.

The list is based on water quality monitoring data that show which waters are too polluted for swimming and other activities.

Several parts of San Diego Bay and many creeks and rivers feeding into the bay and the Pacific Ocean are on the list. Other areas include Lower San Diego River, several locations around Mission Bay and the Oceanside Harbor.

Bruce Reznik, executive director of San Diego Coastkeeper, said the number of polluted waterways in California increases with each new list.

"And yet the pace of adoption of these restoration plans is really at a snails pace," said Reznik. "We've adopted very few in San Diego and not that many statewide. And even when we do adopt them, they often have 15, 20 or even more years to comply and get the water body back to health."

Reznik said it will likely take "generations" to clean up the waterways in San Diego County and elsewhere in California.

"In the meantime, the polluted waterways pose a significant environmental threat but also a public health threat," said Reznik.

Reznik said the pollutants in the San Diego waterways range from fecal bacteria to pesticides.

More than 1,700 California beaches, rivers, lakes, and coastal waters are listed as severely polluted, or "impaired" this year.

Reznik said the 2008 listing was missed and the California Water Resources Board is now compiling the list for 2010 and 2012 simultaneously.

"If someone wants to find out which polluted waterways they may live near, they should check out the interactive map on the State Water Resources Board website," said Reznik.

Reznik said one reason the number of severely polluted waterways on the list has increased is because of more frequent water monitoring.

"But that said, reduced state and local funding for testing is a concern," said Reznik, who pointed out that San Diego Coastkeeper and other groups maintain volunteer monitoring programs.

State of California
San Diego River Conservancy

EXECUTIVE OFFICER'S SUMMARY REPORT
Meeting of July 8, 2010

ITEM: 10

SUBJECT: ADJOURNMENT