

# SAN DIEGO RIVER CONSERVANCY

## RULEMAKING FILE

Selection Process for Private Architectural,  
Landscape Architectural, Engineering,  
Environmental, Land Surveying and Construction  
Project Management Firms

(Cal. Code of Regs., Tit. 14, Secs. 25202-25213)

OAL Notice File No. Z07-1011-02

### Index to Rulemaking File

1. Notice Publication (Form 400)
2. Economic and Fiscal Impact Statement (Form 399)
3. Notice of Intention of the San Diego River Conservancy to Adopt Selection Process for Private Architectural, Landscape Architectural, Engineering, Environmental, Land Surveying and Construction Project Management Firms
4. Excerpt from the California Regulatory Notice Register, Register 2007, No. 43-Z, October 26, 2007
5. Initial Statement of Reasons
6. Resolution of the San Diego River Conservancy Adopting a Draft Proposed Selection Process for Private Architectural, Landscape Architectural, Engineering, Environmental, Land Surveying and Construction Project Management Firms
7. Proposed regulations: Title 14, sections 25202-25213
8. Excerpt from the Minutes of the September 28, 2007 San Diego River Conservancy meeting
9. Final Statement of Reasons
10. Regulations Submission (Form 400)
11. Declaration of Closure

# EXHIBIT 1

**NOTICE PUBLICATION/REGULATIONS SUBMISSION***(See instructions on reverse)*

For use by Secretary of State only

STD. 400 (REV. 4-99)

OAL FILE NUMBERS	NOTICE FILE NUMBER <b>Z-</b>	REGULATORY ACTION NUMBER	EMERGENCY NUMBER
For use by Office of Administrative Law (OAL) only			
NOTICE		REGULATIONS	
AGENCY WITH RULEMAKING AUTHORITY <b>SAN DIEGO RIVER CONSERVANCY</b>			AGENCY FILE NUMBER (If any)

**A. PUBLICATION OF NOTICE** *(Complete for publication in Notice Register)*

1. SUBJECT OF NOTICE <b>Selection Process for Private Firms</b>		TITLE(S) <b>14</b>	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE <b>October 26, 2007</b>
3. NOTICE TYPE <input checked="" type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON <b>MICHAEL NELSON</b>		TELEPHONE NUMBER <b>(619) 645-3183</b>	FAX NUMBER (Optional) <b>(619) 238-7063</b>
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE

**B. SUBMISSION OF REGULATIONS** *(Complete when submitting regulations)*

1a. SUBJECT OF REGULATION(S)		1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)	
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) <i>(Including title 26, if toxics-related)</i>			
SECTION(S) AFFECTED <i>(List all section number(s) individually)</i>	ADOPT		
	AMEND		
	REPEAL		
3. TYPE OF FILING			
<input type="checkbox"/> Regular Rulemaking (Gov. Code, § 11346) <input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.2 - 11346.9 prior to, or within 120 days of, the effective date of the regulations listed above. <input type="checkbox"/> Print Only <input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100) <input type="checkbox"/> Other (specify) _____			
4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE <i>(Cal. Code Regs. title 1, §§ 44 and 45)</i>			
5. EFFECTIVE DATE OF REGULATORY CHANGES <i>(Gov. Code, §§ 11343.4, 11346.1(d))</i>			
<input type="checkbox"/> Effective 30th day after filing with Secretary of State <input type="checkbox"/> Effective on filing with Secretary of State <input type="checkbox"/> Effective other (Specify) _____			
6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY			
<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660) <input type="checkbox"/> Fair Political Practices Commission <input type="checkbox"/> State Fire Marshal <input type="checkbox"/> Other (Specify) _____			
7. CONTACT PERSON	TELEPHONE NUMBER ( )	FAX NUMBER (Optional) ( )	E-MAIL ADDRESS (Optional)

8.

*I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.*

SIGNATURE OF AGENCY HEAD OR DESIGNEE



TYPED NAME AND TITLE OF SIGNATORY

MICHAEL NELSON, EXECUTIVE OFFICER

DATE

October 10, 2007

## EXHIBIT 2

**ECONOMIC AND FISCAL IMPACT STATEMENT**  
(REGULATIONS AND ORDERS)

STD 399 (Rev. 2-98)

See SAM Sections 6600 - 6680 for Instructions and Code Citations

DEPARTMENT NAME <b>SAN DIEGO RIVER CONSERVANCY</b>	CONTACT PERSON <b>MICHAEL NELSON</b>	TELEPHONE NUMBER <b>619-645-3183</b>
DESCRIPTIVE TITLE FROM NOTICE REGISTER OR FORM 400 <b>Selection Process for Private Architectural, Engineering, Environmental, Etc. Firms</b>		NOTICE FILE NUMBER <b>Z</b>

**ECONOMIC IMPACT STATEMENT****A. ESTIMATED PRIVATE SECTOR COST IMPACTS** (Include calculations and assumptions in the rulemaking record.)

1. Check the appropriate box(es) below to indicate whether this regulation:

- ☐ a. Impacts businesses and/or employees
- ☐ b. Impacts small businesses
- ☐ c. Impacts jobs or occupations
- ☐ d. Impacts California competitiveness

- ☐ e. Imposes reporting requirements
- ☐ f. Imposes prescriptive instead of performance standards
- ☐ g. Impacts individuals
- ☒ h. None of the above (Explain below. Complete the Fiscal Impact Statement as appropriate.)

h. (cont.) SEE ATTACHED.

(If any box in Items 1 a through g is checked, complete this Economic Impact Statement.)

2. Enter the total number of businesses impacted: \_\_\_\_\_ Describe the types of businesses (Include nonprofits): \_\_\_\_\_

Enter the number or percentage of total businesses impacted that are small businesses: \_\_\_\_\_

3. Enter the number of businesses that will be created: \_\_\_\_\_ eliminated: \_\_\_\_\_  
Explain: \_\_\_\_\_4. Indicate the geographic extent of impacts: ☐ Statewide ☐ Local or regional (list areas): \_\_\_\_\_

5. Enter the number of jobs created: \_\_\_\_\_ or eliminated: \_\_\_\_\_ Describe the types of jobs or occupations impacted: \_\_\_\_\_

6. Will the regulation affect the ability of California businesses to compete with other states by making it more costly to produce goods or services here?

☐ Yes☐ No

If yes, explain briefly: \_\_\_\_\_

**B. ESTIMATED COSTS** (Include calculations and assumptions in the rulemaking record.)

1. What are the total statewide dollar costs that businesses and individuals may incur to comply with this regulation over its lifetime? \$ \_\_\_\_\_

a. Initial costs for a small business: \$ \_\_\_\_\_

Annual ongoing costs: \$ \_\_\_\_\_

Years: \_\_\_\_\_

b. Initial costs for a typical business: \$ \_\_\_\_\_

Annual ongoing costs: \$ \_\_\_\_\_

Years: \_\_\_\_\_

c. Initial costs for an individual: \$ \_\_\_\_\_

Annual ongoing costs: \$ \_\_\_\_\_

Years: \_\_\_\_\_

d. Describe other economic costs that may occur: \_\_\_\_\_

**ECONOMIC AND FISCAL IMPACT STATEMENT *cont.* (STD. 399, Rev. 2-98)**

2. If multiple industries are impacted, enter the share of total costs for each industry: \_\_\_\_\_

3. If the regulation imposes reporting requirements, enter the annual costs a typical business may incur to comply with these requirements. *(Include the dollar costs to do programming, record keeping, reporting, and other paperwork, whether or not the paperwork must be submitted.)*: \$ \_\_\_\_\_

4. Will this regulation directly impact housing costs? ☐ Yes ☐ No If yes, enter the annual dollar cost per housing unit: \$ \_\_\_\_\_ and the number of units: \_\_\_\_\_

5. Are there comparable Federal regulations? ☐ Yes ☐ No Explain the need for State regulation given the existence or absence of Federal regulations: \_\_\_\_\_

Enter any additional costs to businesses and/or individuals that may be due to State - Federal differences: \$ \_\_\_\_\_

**C. ESTIMATED BENEFITS** *(Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.)*

1. Briefly summarize the benefits that may result from this regulation and who will benefit: \_\_\_\_\_  
\_\_\_\_\_

2. Are the benefits the result of: ☐ specific statutory requirements, or ☐ goals developed by the agency based on broad statutory authority?  
Explain: \_\_\_\_\_

3. What are the total statewide benefits from this regulation over its lifetime? \$ \_\_\_\_\_

**D. ALTERNATIVES TO THE REGULATION** *(Include calculations and assumptions in the rulemaking record. Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.)*

1. List alternatives considered and describe them below. If no alternatives were considered, explain why not: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. Summarize the total statewide costs and benefits from this regulation and each alternative considered:

Regulation:	Benefit: \$ _____	Cost: \$ _____
Alternative 1:	Benefit: \$ _____	Cost: \$ _____
Alternative 2:	Benefit: \$ _____	Cost: \$ _____

3. Briefly discuss any quantification issues that are relevant to a comparison of estimated costs and benefits for this regulation or alternatives: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. Rulemaking law requires agencies to consider performance standards as an alternative, if a regulation mandates the use of specific technologies or equipment, or prescribes specific actions or procedures. Were performance standards considered to lower compliance costs? ☐ Yes ☐ No  
Explain: \_\_\_\_\_

**E. MAJOR REGULATIONS** *(Include calculations and assumptions in the rulemaking record.)*  
*Cal/EPA boards, offices and departments are subject to the following additional requirements per Health and Safety Code section 57005.*

**ECONOMIC AND FISCAL IMPACT STATEMENT *cont. (STD. 399, Rev. 2-98)***

1. Will the estimated costs of this regulation to California business enterprises exceed \$10 million? ☐ Yes ☐ No *(If No, skip the rest of this section)*

2. Briefly describe each equally as effective alternative, or combination of alternatives, for which a cost-effectiveness analysis was performed:

Alternative 1: \_\_\_\_\_

Alternative 2: \_\_\_\_\_

3. For the regulation, and each alternative just described, enter the estimated total cost and overall cost-effectiveness ratio:

Regulation:	\$ _____	Cost-effectiveness ratio: _____
Alternative 1:	\$ _____	Cost-effectiveness ratio: _____
Alternative 2:	\$ _____	Cost-effectiveness ratio: _____

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**FISCAL IMPACT STATEMENT**

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A. FISCAL EFFECT ON LOCAL GOVERNMENT *(Indicate appropriate boxes 1 through 6 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years)*

☐ 1. Additional expenditures of approximately \$ \_\_\_\_\_ in the current State Fiscal Year which are reimbursable by the State pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code. Funding for this reimbursement:

- ☐ a. is provided in (Item \_\_\_\_\_, Budget Act of \_\_\_\_\_) or (Chapter \_\_\_\_\_, Statutes of \_\_\_\_\_)
- ☐ b. will be requested in the \_\_\_\_\_ (FISCAL YEAR) Governor's Budget for appropriation in Budget Act of \_\_\_\_\_

☐ 2. Additional expenditures of approximately \$ \_\_\_\_\_ in the current State Fiscal Year which are not reimbursable by the State pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code because this regulation:

- ☐ a. implements the Federal mandate contained in \_\_\_\_\_
- ☐ b. implements the court mandate set forth by the \_\_\_\_\_ court in the case of \_\_\_\_\_ vs. \_\_\_\_\_
- ☐ c. implements a mandate of the people of this State expressed in their approval of Proposition No. \_\_\_\_\_ at the \_\_\_\_\_ election; (DATE)
- ☐ d. is issued only in response to a specific request from the \_\_\_\_\_

\_\_\_\_\_, which is/are the only local entity(s) affected;

☐ e. will be fully financed from the \_\_\_\_\_ (FEES, REVENUE, ETC.) authorized by Section \_\_\_\_\_ of the \_\_\_\_\_ Code;

☐ f. provides for savings to each affected unit of local government which will, at a minimum, offset any additional costs to each such unit.

☐ 3. Savings of approximately \$ \_\_\_\_\_ annually.

☐ 4. No additional costs or savings because this regulation makes only technical, non-substantive or clarifying changes to current law and regulations.



**ECONOMIC AND FISCAL IMPACT STATEMENT *cont. (STD. 399, Rev. 2-98)***

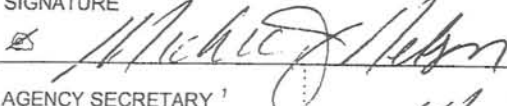


- ☐ 5. No fiscal impact exists because this regulation does not affect any local entity or program.
- ☐ 6. Other.

**B. FISCAL EFFECT ON STATE GOVERNMENT** *(Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.)*

- ☐ 1. Additional expenditures of approximately \$ \_\_\_\_\_ in the current State Fiscal Year. It is anticipated that State agencies will:
- ☐ a. be able to absorb these additional costs within their existing budgets and resources.
- ☐ b. request an increase in the currently authorized budget level for the \_\_\_\_\_ fiscal year.
- ☐ 2. Savings of approximately \$ \_\_\_\_\_ in the current State Fiscal Year.
- ☐ 3. No fiscal impact exists because this regulation does not affect any State agency or program.
- ☐ 4. Other.

**C. FISCAL EFFECT ON FEDERAL FUNDING OF STATE PROGRAMS** *(Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.)*

- ☐ 1. Additional expenditures of approximately \$ \_\_\_\_\_ in the current State Fiscal Year.
- ☐ 2. Savings of approximately \$ \_\_\_\_\_ in the current State Fiscal Year.
- ☐ 3. No fiscal impact exists because this regulation does not affect any federally funded State agency or program.
- ☐ 4. Other.

SIGNATURE		TITLE	
		EXECUTIVE OFFICER	
AGENCY SECRETARY <sup>1</sup>			DATE
APPROVAL/CONCURRENCE		10.10.07	
DEPARTMENT OF FINANCE <sup>2</sup>	PROGRAM BUDGET MANAGER	DATE	
APPROVAL/CONCURRENCE			

1. The signature attests that the agency has completed the STD. 399 according to the instructions in SAM sections 6600-6680, and understands the impacts of the proposed rulemaking. State boards, offices, or departments not under an Agency Secretary must have the form signed by the highest ranking official in the organization.
2. Finance approval and signature is required when SAM sections 6600-6670 require completion of the Fiscal Impact Statement in the STD. 399.

ATTACHMENT TO STD FORM 399

- h. (cont.): The Coastal Conservancy currently contracts for private architectural, landscape architectural, engineering, environmental, land surveying and construction project management firms on behalf of the San Diego River Conservancy (SDRC). Under the proposed regulations, SDRC will contract for such services directly. Both the Coastal Conservancy's selection process and the SDRC's proposed selection process comply with California Constitution, article 22, sections 1 and 2, and Government Code, section 4255 et seq. The selection process assures maximum participation of small business firms.

# EXHIBIT 3

**NOTICE OF INTENTION OF THE SAN DIEGO RIVER CONSERVANCY  
TO ADOPT SELECTION PROCESS FOR PRIVATE ARCHITECTURAL,  
LANDSCAPE ARCHITECTURAL, ENGINEERING, ENVIRONMENTAL, LAND  
SURVEYING AND CONSTRUCTION PROJECT MANAGEMENT FIRMS**

**NOTICE IS HEREBY GIVEN** that the San Diego River Conservancy proposes to adopt a Selection Process for Private Architectural, Landscape Architectural, Engineering, Environmental, Land Surveying and Construction Project Management Firms.

A 45-day written comment period has been established commencing on October 26, 2007 and terminating on December 10, 2007. Any interested party may present written comments concerning the proposed regulations no later than December 10, 2007, at 5:00 p.m., to the San Diego River Conservancy, care of the Contact Person listed below. No public hearing will be held on this matter unless any interested person or his or her representative, by contacting the Contact Person listed below, requests a public hearing no later than fifteen (15) days prior to the close of the written comment period.

Following the close of the public comment period, the Conservancy may adopt the proposed regulations substantially as described below or may modify the original proposal with sufficiently related changes. With the exception of technical or grammatical changes, the full text of a modified proposal will be available from the Contact Person identified below for fifteen days prior to its adoption. The Conservancy will also mail the full text to persons who submit written comments related to the proposal or who have requested notification of any changes to the proposal.

**Authority and Reference:**

Public Resources Code, section 32638 authorizes the Conservancy to adopt rules and procedures governing its activities. Article XXII, California Constitution, sections 1 and 2, authorize the State and other governmental entities to contract with qualified private entities for architectural and engineering services for all public works of improvement. The purpose of the proposed regulations is to implement Government Code, sections 4525 through 4529.5.

**Informative Digest/Policy Statement Overview**

California Constitution, Article XXII, sections 1 and 2 authorize the State and other governmental entities to contract with qualified private entities for architectural and engineering services for all public works of improvement. The choice and authority to contract extends to all phases of project development including permitting and environmental studies, rights-of-way services, design phase services and construction phase services. (Cal. Const., art. XXII, § 1.) Government Code, section 4526 requires that selection of professional services be based on demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services required. In order to implement this method of selection, state agency heads contracting for private architectural, landscape architectural, professional engineering, environmental, land surveying, and construction project management services shall adopt by regulation procedures that assure that these services are engaged on the basis of demonstrated

competence and qualifications for the types of services to be performed and at fair and reasonable prices to the public agency and to assure maximum participation of small business firms as defined by the Director of General Services pursuant to Government Code section 14837.

The California Coastal Conservancy currently contracts for such services on behalf of the Conservancy. The purpose of the regulations is to establish a selection process for the Conservancy to contract for such services directly that complies with section 4255 et seq. of the Government Code.

### **Costs or Savings to State or Local Agencies or School Districts**

The San Diego River Conservancy has determined that its proposal:

- (1) Imposes no mandate on local agencies or school districts.
- (2) Imposes no costs or savings to any state agency.
- (3) Imposes no costs to any local agency or school district in which reimbursement is required under Part 7 (commencing with Section 17500) of Division 4 of the Government Code.
- (4) Will not result in any nondiscretionary cost or savings imposed on local agencies.
- (5) Will not result in any costs or savings in federal funding to the state.

### **Effect on Business**

Pursuant to Government Code section 11346.5, subdivision (a)(7), the San Diego River Conservancy makes an initial determination that the proposed Regulations will not have a significant statewide adverse economic impact directly affecting business. The regulations proposed will not be detrimental to California businesses in competing with businesses in other states. The adoption of the proposed Regulations will neither create nor eliminate jobs in the State of California, nor result in the elimination of existing businesses, nor create or expand business in the State of California.

The proposed regulations will not affect small businesses. The proposed regulations adopt a selection process for private architectural, landscape architectural, engineering, environmental, land surveying and construction project management firms. Status as a small business is one of the criteria to consider in the selection process. However, the Conservancy determines the regulations will not have a positive or negative effect on small businesses because the California Coastal Conservancy contracts for such services on behalf of the San Diego River Conservancy pursuant to its regulations which provide for a substantially similar selection process.

### **Cost Impact on Private Person or Business**

The San Diego River Conservancy is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the imposed

action.

### **Significant Effect on Housing Costs**

The proposed Regulations will not have a significant effect on housing costs.

### **Alternatives**

In making this proposal, the San Diego River Conservancy must determine that no alternative considered by the agency would be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposed action.

### **Availability of Initial Statement of Reasons and Text of Proposal**

The San Diego River Conservancy has prepared an initial statement of reasons. The initial statement of reasons and the proposed regulations and all of the information upon which they are based may be obtained from the San Diego River Conservancy by contacting the Contact Person listed below.

### **Availability and Location of the Rulemaking File and the Final Statement of Reasons**

All the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public inspection by contacting the person named below. Any person may obtain a copy of the final statement of reasons once it has been prepared by making a written request to the contact person named below. The rulemaking file is also available on the Conservancy's website at [www.sdrc.ca.gov](http://www.sdrc.ca.gov).

### **Contact Person**

Please direct all inquiries concerning this proposal, written comments and any communications required by this notice to:

Michael Nelson, Executive Officer  
San Diego River Conservancy  
1350 Front Street, Suite 3024  
San Diego, CA 92101  
Telephone: (619) 645-3183  
Fax: (619) 238-7063  
Email: [mnelson@sdrc.ca.gov](mailto:mnelson@sdrc.ca.gov)

# EXHIBIT 4



# California Regulatory Notice Register

REGISTER 2007, NO. 43-Z

PUBLISHED WEEKLY BY THE OFFICE OF ADMINISTRATIVE LAW

OCTOBER 26, 2007

## PROPOSED ACTION ON REGULATIONS

### TITLE 8. OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

*Construction Safety Orders — Control of Employee Dust Exposure From Concrete and Masonry Operations and Mine Safety Orders — Brakes on Haulage Vehicles — Maintenance —*

*Notice File No. Z07-1016-05* ..... 1795

### TITLE 9. DEPARTMENT OF REHABILITATION

*Business Enterprises Program for the Blind — Notice File No. Z07-1009-09* ..... 1801

### TITLE 10. DEPARTMENT OF CORPORATIONS

*Compliance with the Federal Trade Commission's New Disclosure Format for Franchises —*

*Notice File No. Z07-1004-01* ..... 1805

### TITLE 10. DEPARTMENT OF INSURANCE

*Sales to Military Personnel — Notice File No. Z07-1016-04* ..... 1807

### TITLE 13. CALIFORNIA HIGHWAY PATROL

*Lamp Spacing for Fog Lamps, Passing Lamps and Turn Signal Lamps — Notice File No. Z07-1016-03* ..... 1812

### TITLE 13. CALIFORNIA HIGHWAY PATROL

*Liquefied Natural Gas Fuel Systems — Notice File No. Z07-1016-02* ..... 1813

### TITLE 13. DEPARTMENT OF MOTOR VEHICLES

*Clean Air Vehicle Sticker Replacements — Notice File No. Z07-1012-02* ..... 1815

### TITLE 14. SAN DIEGO RIVER CONSERVANCY

*Selection Process for Private Firms — Notice File No. Z07-1011-02* ..... 1817

### TITLE 14. STATE MINING AND GEOLOGY BOARD

*Vested Rights Determination — Notice File No. Z07-1016-01* ..... 1818

### TITLE 16. BOARD OF BARBERING AND COSMETOLOGY

*Cosmetology Curriculum — Notice File No. Z07-1015-02* ..... 1822

(Continued on next page)

*Time-  
Dated  
Material*



tact person identified in this notice shall make available to the public upon request the express terms of the proposed action using underline or italics to indicate additions to, and strikeouts to indicate deletions from the California Code of Regulations. The contact person identified in this notice shall also make available to the public, upon request, the final statement of reasons once it has been prepared and submitted to the Office of Administrative Law, and the location of public records, including reports, documentation and other materials related to the proposed action. In addition, the above-cited materials (Initial Statement of Reasons and Express Terms) may be accessed at [www.dmv.ca.gov](http://www.dmv.ca.gov). Other Services, Legal Affairs Division, Regulatory Actions Web Page.

#### AVAILABILITY OF MODIFIED TEXT

Following the written comment period and the hearing, if one is held, the department may adopt the proposed regulations substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the full, modified text with changes clearly indicated would be made available to the public for at least 15 days prior to the date on which the department adopts the resulting regulations. Requests for copies of any modified regulations should be addressed to the department contact person identified in this notice. The department will accept written comments on the modified regulations for 15 days after the date on which they are first made available to the public.

### TITLE 14. SAN DIEGO RIVER CONSERVANCY

#### NOTICE OF INTENTION OF THE SAN DIEGO RIVER CONSERVANCY TO ADOPT SELECTION PROCESS FOR PRIVATE ARCHITECTURAL, LANDSCAPE ARCHITECTURAL, ENGINEERING, ENVIRONMENTAL, LAND SURVEYING AND CONSTRUCTION PROJECT MANAGEMENT FIRMS

**NOTICE IS HEREBY GIVEN** that the San Diego River Conservancy proposes to adopt a Selection Process for Private Architectural, Landscape Architectural, Engineering, Environmental, Land Surveying and Construction Project Management Firms.

A 45-day written comment period has been established commencing on October 26, 2007 and terminating on December 10, 2007. Any interested party may present written comments concerning the proposed reg-

ulations no later than December 10, 2007, at 5:00 p.m., to the San Diego River Conservancy, care of the Contact Person listed below. No public hearing will be held on this matter unless any interested person or his or her representative, by contacting the Contact Person listed below, requests a public hearing no later than fifteen (15) days prior to the close of the written comment period.

Following the close of the public comment period, the Conservancy may adopt the proposed regulations substantially as described below or may modify the original proposal with sufficiently related changes. With the exception of technical or grammatical changes, the full text of a modified proposal will be available from the Contact Person identified below for fifteen days prior to its adoption. The Conservancy will also mail the full text to persons who submit written comments related to the proposal or who have requested notification of any changes to the proposal.

#### Authority and Reference:

Public Resources Code, section 32638 authorizes the Conservancy to adopt rules and procedures governing its activities. Article XXII, California Constitution, sections 1 and 2, authorize the State and other governmental entities to contract with qualified private entities for architectural and engineering services for all public works of improvement. The purpose of the proposed regulations is to implement Government Code, sections 4525 through 4529.5.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

California Constitution, Article XXII, sections 1 and 2 authorize the State and other governmental entities to contract with qualified private entities for architectural and engineering services for all public works of improvement. The choice and authority to contract extends to all phases of project development including permitting and environmental studies, rights-of-way services, design phase services and construction phase services. (Cal. Const., art. XXII, § 1.) Government Code, section 4526 requires that selection of professional services be based on demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services required. In order to implement this method of selection, state agency heads contracting for private architectural, landscape architectural, professional engineering, environmental, land surveying, and construction project management services shall adopt by regulation procedures that assure that these services are engaged on the basis of demonstrated competence and qualifications for the types of services to be performed and at fair and reasonable prices to the public agency and to assure maximum par-

tipication of small business firms as defined by the Director of General Services pursuant to Government Code section 14837.

The California Coastal Conservancy currently contracts for such services on behalf of the Conservancy. The purpose of the regulations is to establish a selection process for the Conservancy to contract for such services directly that complies with section 4255 et seq. of the Government Code.

#### **Costs or Savings to State or Local Agencies or School Districts**

The San Diego River Conservancy has determined that its proposal:

- (1) Imposes no mandate on local agencies or school districts.
- (2) Imposes no costs or savings to any state agency.
- (3) Imposes no costs to any local agency or school district in which reimbursement is required under Part 7 (commencing with Section 17500) of Division 4 of the Government Code.
- (4) Will not result in any nondiscretionary cost or savings imposed on local agencies.
- (5) Will not result in any costs or savings in federal funding to the state.

#### **Effect on Business**

Pursuant to Government Code section 11346.5, subdivision (a)(7), the San Diego River Conservancy makes an initial determination that the proposed Regulations will not have a significant statewide adverse economic impact directly affecting business. The regulations proposed will not be detrimental to California businesses in competing with businesses in other states. The adoption of the proposed Regulations will neither create nor eliminate jobs in the State of California, nor result in the elimination of existing businesses, nor create or expand business in the State of California.

The proposed regulations will not affect small businesses. The proposed regulations adopt a selection process for private architectural, landscape architectural, engineering, environmental, land surveying and construction project management firms. Status as a small business is one of the criteria to consider in the selection process. However, the Conservancy determines the regulations will not have a positive or negative effect on small businesses because the California Coastal Conservancy contracts for such services on behalf of the San Diego River Conservancy pursuant to its regulations which provide for a substantially similar selection process.

#### **Cost Impact on Private Person or Business**

The San Diego River Conservancy is not aware of any cost impacts that a representative private person or

business would necessarily incur in reasonable compliance with the proposed action.

#### **Significant Effect on Housing Costs**

The proposed Regulations will not have a significant effect on housing costs.

#### **Alternatives**

In making this proposal, the San Diego River Conservancy must determine that no alternative considered by the agency would be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposed action.

#### **Availability of Initial Statement of Reasons and Text of Proposal**

The San Diego River Conservancy has prepared an initial statement of reasons. The initial statement of reasons and the proposed regulations and all of the information upon which they are based may be obtained from the San Diego River Conservancy by contacting the Contact Person listed below.

#### **Availability and Location of the Rulemaking File and the Final Statement of Reasons**

All the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public inspection by contacting the person named below. Any person may obtain a copy of the final statement of reasons once it has been prepared by making a written request to the contact person named below. The rulemaking file is also available on the Conservancy's website at [www.sdrc.ca.gov](http://www.sdrc.ca.gov).

#### **Contact Person**

Please direct all inquiries concerning this proposal, written comments and any communications required by this notice to:

Michael Nelson, Executive Officer  
San Diego River Conservancy  
1350 Front Street, Suite 3024  
San Diego, CA 92101  
Telephone: (619) 645-3183  
Fax: (619) 238-7063  
Email: [mnelson@sdrc.ca.gov](mailto:mnelson@sdrc.ca.gov)

## **TITLE 14. STATE MINING AND GEOLOGY BOARD**

### **NOTICE OF PROPOSED RULEMAKING**

#### **BOARD VESTED RIGHTS DETERMINATION**

NOTICE IS HEREBY GIVEN that the State Mining and Geology Board (Board) proposes to adopt the regulation described below after considering all comments and recommendations regarding the proposed action.

# EXHIBIT 5

INITIAL STATEMENT OF REASONS FOR THE PROPOSED ADOPTION BY THE  
SAN DIEGO RIVER CONSERVANCY OF A SELECTION PROCESS FOR PRIVATE  
ARCHITECTURAL, LANDSCAPE ARCHITECTURAL, ENGINEERING,  
ENVIRONMENTAL, LAND SURVEYING AND CONSTRUCTION PROJECT  
MANAGEMENT FIRMS

The San Diego River Conservancy Act (Public Resources Code, § 32630 et seq.) provides for the creation of the San Diego River Conservancy (Public Resources Code, § 32633 et seq.) with duties related to acquiring and managing public lands; providing recreational opportunities, open space, wildlife habitat and species restoration and protection, and wetland protection and restoration in the San Diego River Area (which area is defined in Public Resources Code, § 32632, subd. (f)); and protecting and maintaining the quality of the waters in the San Diego River. (Public Resources Code, § 32633, subd. (a).) The Conservancy is authorized to adopt rules and procedures governing its activities. (Public Resources Code, § 32638.)

California Constitution, Article XXII, sections 1 and 2 authorize the State and other governmental entities to contract with qualified private entities for architectural and engineering services for all public works of improvement. The choice and authority to contract extends to all phases of project development including permitting and environmental studies, rights-of-way services, design phase services and construction phase services. (Cal. Const., art. XXII, § 1.) Government Code, section 4255 et seq. requires that the selection of professional services be based on demonstrated competence of the services required. In order to implement this method of selection, state agency heads contracting for private architectural, landscape architectural, professional engineering, environmental, land surveying, and construction project management services shall adopt by regulation procedures that assure that these services are engaged

on the basis of demonstrated competence and qualifications for the types of services to be performed and at fair and reasonable prices to the public agency and to assure maximum participation of small business firms as defined by the Director of General Services pursuant to Government Code section 14837.

The California Coastal Conservancy currently contracts for such services on behalf of the San Diego River Conservancy. The purpose of the proposed regulations is to establish a selection process for the River Conservancy to contract on its own behalf that complies with section 4255 et seq. of the Government Code.

# EXHIBIT 6

## RESOLUTION 07-08

### RESOLUTION OF THE SAN DIEGO RIVER CONSERVANCY ADOPTING A DRAFT PROPOSED SELECTION PROCESS FOR PRIVATE ARCHITECTURAL, LANDSCAPE ARCHITECTURAL, ENGINEERING, ENVIRONMENTAL, LAND SURVEYING AND CONSTRUCTION PROJECT MANAGEMENT FIRMS

WHEREAS, the San Diego River Conservancy (Conservancy) is authorized to adopt rules and procedures governing its activities (Public Resources Code, section 32638);

WHEREAS, the California State Coastal Conservancy currently contracts with private architectural, landscape architectural, engineering, environmental, land surveying and construction project management firms on behalf of the Conservancy;

WHEREAS, the Conservancy desires to increase its flexibility and ability to obtain necessary contracting services and desires to decrease the burdens on the Coastal Conservancy by adopting its own selection process for private architectural, landscape architectural, engineering, environmental, land surveying and construction project management firms;

WHEREAS, state agencies contracting for private architectural, landscape architectural, engineering, environmental, land surveying and construction project management services must adopt regulations that assure such services are engaged on the basis of demonstrated competence and qualifications for the types of services to be performed and at fair and reasonable prices to the public agencies (Government Code, section 4526);

WHEREAS, because adoption of a selection process for these services is subject to the Administrative Procedures Act (Government Code, section 11340 et seq.), the Conservancy must first submit a draft Selection Process to the Office Administrative Law

RESOLUTION 07-08

and comply with that Office's procedures for adoption of regulations before adopting a final Selection Process; and

WHEREAS, Conservancy staff has prepared a draft Selection Process which is attached to this Resolution.

NOW, THEREFORE, BE IT RESOLVED that the Conservancy adopts the attached draft Selection Process and directs staff to submit the draft Selection Process to the Office of Administrative Law and to comply with that Office's procedures for adoption of the Selection Process as a regulation.

Passed and Adopted by the Board of the  
SAN DIEGO RIVER CONSERVANCY  
On September 28, 2007

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Donna Frye, Chairperson  
San Diego River Conservancy



# EXHIBIT 7

**DIVISION 13:        SAN DIEGO RIVER CONSERVANCY**

CHAPTER 2:        Selection Process for Private Architectural, Landscape Architectural, Engineering, Environmental, Land Surveying and Construction Project Management Firms.

§ 25202. Definitions.

- (a) "Firm" means any individual, firm, partnership, corporation, association, or other legal entity permitted by law to practice the professions of architecture, landscape architecture, engineering, environmental services, land surveying or construction project management.
- (b) "Small Business" means a firm that complies with the provisions of Government Code Section 14837.
- (c) "Executive Officer" means the Executive Officer of the San Diego River Conservancy.
- (d) "Conservancy" means the San Diego River Conservancy, established pursuant to the provisions of the Public Resources Code, commencing with Section 32630.
- (e) "Architectural, landscape architectural, engineering, environmental, land surveying services" and "construction project management" means those services, as defined in Section 4525 of the Government Code.
- (f) The term "Disabled Veteran Business Enterprise" shall have the meaning set forth in Section 999 of the Military and Veterans Code.

Note: Authority cited: Section 32643, Public Resources Code; Article XXII, sections 1, 2, California Constitution; Section 4526, Government Code. Reference: Section 32643, Public Resources Code; Sections 4525-4529.5, Government Code.

§ 25203. Selection Criteria.

With respect to architecture, landscape architecture, engineering, environmental services, land surveying or construction project management contracts, the Executive Officer shall utilize selection criteria for each proposed project which will comprise the basis for the selection of eligible firms to perform the required services. The criteria shall include such factors as:

- (a) Professional experience of the firm in performing services of similar nature.
  - (b) Quality and relevance of recently completed or ongoing work.
  - (c) Reliability, continuity, and location of firm to the project site.
  - (d) Staffing capability.
  - (e) Education and experience of key personnel to be assigned.
  - (f) Knowledge of applicable regulations and technology associated with the services required.
  - (g) Specialized experience of the firm in the services to be performed.
  - (h) Status as a certified small business firm.
  - (i) Status as a disabled veteran business enterprise (DVBE) and good faith effort of the contractor to contract with DVBEs to assist the Conservancy in its efforts to meet statewide participation goals for DVBEs as set forth in Public Contract Code section 10115.
  - (j) Other factors the Executive Officer deems relevant to the specific task to be performed.
- These factors shall be weighted by the Executive Officer according to the nature of the proposed

project, the complexity and special requirements of the specific services or project, and the needs of the Conservancy.

Note: Authority cited: Section 32643, Public Resources Code; Article XXII, sections 1, 2, California Constitution; Section 4526, Government Code. Reference: Section 32643, Public Resources Code; Sections 4525-4529.5, Government Code.

§ 25204. Announcement of Project.

(a) An annual statewide announcement of expected needs for architecture, landscape architecture, engineering, environmental services, land surveying or construction project management services shall be published in the California State Contracts Register, in accordance with the Government Code (commencing with Section 14825), and through the publications of the respective professional societies. Failure of any professional society to publish the announcement shall not invalidate any contract.

(b) The announcement for each proposed project shall include, as a minimum, a brief description of the services required, location, duration, eligibility and preferences, submittal requirements, contact person for the Conservancy, and the final response date for receipt of statements from firms of their demonstrated competence and professional qualifications.

(c) The Executive Officer shall identify potentially qualified small business firms interested in contracting with the Conservancy, and provide copies of project announcements to those small business firms that have indicated an interest in receiving the announcements. Failure of the Executive Officer to send a copy of an announcement to any firm shall not invalidate any contract.

Note: Authority cited: Section 32643, Public Resources Code; Article XXII, sections 1, 2, California Constitution; Section 4526, Government Code. Reference: Section 32643, Public Resources Code; Sections 4525-4529.5, Government Code.

§ 25206. Selection of Qualified Firms.

(a) After the expiration of the final response date in the published project announcement, the Executive Officer shall review and evaluate the written statements of demonstrated competence and professional qualifications using the selection criteria contained in section 25203 of these regulations, and rank, in order of preference, the firms determined to be eligible to perform the required services.

(b) The Executive Officer shall conduct discussions with at least the three most eligible firms, about anticipated concepts and the benefit of alternative methods for furnishing the required services. From the firms with which discussions are held, the Executive Officer shall select, in order of preference, not less than three firms deemed to be the most highly qualified to perform the required services.

Note: Authority cited: Section 32643, Public Resources Code; Article XXII, sections 1, 2, California Constitution; Section 4526, Government Code. Reference: Section 32643, Public Resources Code; Sections 4525-4529.5, Government Code.

§ 25207. Statewide Participation Goals.

Contracts awarded under this chapter shall have statewide participation goals of not less than three percent for DVBES as specified in Public Contract Code section 10115.

Note: Authority cited: Section 32643, Public Resources Code; Article XXII, sections 1, 2, California Constitution; Section 4526, Government Code; Section 10115 Public Contract Code; and Section 999, Military and Veterans Code. Reference: Section 32643, Public Resources Code; Section 4528, Government Code; Sections 10115, 10115.1 and 10115.2, Public Contract Code; Sections 999, 999.1, 999.2 and 999.3, Military and Veterans Code; and *Monterey Mechanical Co. v. Wilson* (1997) 125 F.3d 702, 706 fn. 5.

§ 25208. Negotiation.

(a) From among the firms selected through the procedure described in section 25206 of these regulations, as those most highly qualified to perform the services required, the Executive Officer shall attempt to negotiate a satisfactory contract with the best qualified firm at a compensation which the Conservancy determines is fair and reasonable.

(b) If the Executive Officer is unable to negotiate a satisfactory contract with the best qualified firm at a compensation which the Conservancy determines is fair and reasonable, negotiations with that firm shall be terminated and negotiations undertaken with the second best qualified firm. If the Executive Officer is unable to negotiate a satisfactory contract with the second best qualified firm at a compensation which the Conservancy determines is fair and reasonable, then negotiations with that firm shall be terminated and negotiations undertaken with the third best qualified firm. If the Executive Officer is unable to negotiate a satisfactory contract with the third best qualified firm at a compensation which the Conservancy determines is fair and reasonable, negotiations with that firm shall be terminated.

(c) If the Executive Officer is unable to negotiate a satisfactory contract in accordance with subsections (a) and (b) immediately above, the Executive Officer shall continue the negotiations process with the remaining qualified firms, if any, in order of preference, until a satisfactory contract is reached. If unable to negotiate a satisfactory contract with any of the qualified firms, the Executive Officer shall abandon the negotiation process for the requested services.

Note: Authority cited: Section 4526, Government Code. Reference: Sections 4527, 4528, Government Code.

§ 25209. Amendments.

If the Executive Officer determines that a change in the contract is necessary during the performance of the services being provided, then the contracting parties may, by mutual consent, in writing, agree to modifications, additions or deletions in the contract terms, conditions and specifications for the services involved, with a reasonable adjustment also in the compensation provided for the services.

Note: Authority cited: Section 4526, Government Code. Reference: Section 4528, Government

Code.

§ 25210. Contracting in Phases.

If the Executive Officer determines it is necessary or desirable for the project to be performed in separate phases, the Executive Officer may negotiate a partial compensation for the initial phase of the services required; provided, however, that the Executive Officer first determines that the firm selected is best qualified to perform the entire project. The contract shall include a provision that the Conservancy may, at its option, utilize the firm to perform other phases of the services at a compensation which the Conservancy determines is fair and reasonable, to be later negotiated and included in a mutually acceptable written agreement. In the event that the Conservancy exercises its option under the contract to utilize the firm to perform other phases of the project, the procedures of this Chapter with regard to estimates of value of services and negotiation shall similarly be followed.

Note: Authority cited: Section 4526, Government Code. Reference: Sections 4526 and 4528, Government Code.

§ 25211. Executive Officer's Power to Require Bids.

If the Executive Officer determines that the services are technical in nature and involve little professional judgement and that requiring bids would be in the public interest, a contract shall be awarded on the basis of competitive bids and not the procedures of this Chapter.

Note: Authority cited: Section 4526, Government Code. Reference: Section 4529, Government Code.

§ 25212. Unlawful Consideration.

Each contract shall include a provision by which the contracting firm warrants to the state that the contract was not obtained or secured through rebates, kickbacks or other unlawful consideration either promised or paid to any Conservancy officer or employee. Failure to adhere to this warranty may be cause for contract termination and recovery of damages under the rights and remedies due the Conservancy under the default provisions of the contract.

Note: Authority cited: Section 4526, Government Code. Reference: Section 4526, Government Code.

§ 25213. Prohibited Relationships.

No Conservancy employee, officer or Board member who participates in the evaluation or selection process leading to award of a contract shall have a relationship with any of the firms seeking that contract, if that relationship is subject to the prohibition of Government Code Section 87100.

Note: Authority cited: Section 4526, Government Code. Reference: Sections 4526, 87100 and 87102, Government Code.

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# EXHIBIT 8

**SAN DIEGO RIVER CONSERVANCY (SDRC)  
Minutes of September 28, 2007 Public Meeting**

(Draft Minutes for Approval November 9, 2007)

Chairperson Donna Frye called the September 28, 2007 meeting of the San Diego River Conservancy to order at approximately 9:34 a.m.

**1. Roll Call**

**Members Present:**

Donna Frye, Chair	Council Member, City of San Diego
Karen Scarborough	Resources Agency
Anne Sheehan	Department of Finance
Toni Atkins	Council Member, Public at Large—(Arrived at 10:15 a.m.)
John Donnelly	Wildlife Conservation Board
Jim Peugh	Public at Large
Anne Haddad	Public at Large
David King	San Diego Regional Water Quality Board
Andrew Poat	Public at Large—(via phone at 10:25)

**Staff Members Present:**

Michael Nelson,	Executive Officer
Hayley Peterson,	Deputy Attorney General
Ann Van Leer,	Consultant, San Diego River Conservancy
Flenell Owens,	Administrative Services Manager

**Absent:**

Jerry Sanders	Mayor, City of San Diego
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**2. Approval of Minutes**

Anne Sheehan made a motion to approve the minutes of the July 6, 2007 public meeting. The motion was seconded by Jim Peugh and adopted unanimously, with John Donnelly abstaining.

**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.

There were no Public comments.

**4. Chairperson's and Governing Board Members' Report**

There were no comments.



Anne Sheehan stated that some national nonprofit organization, like Trust for Public Land, might have collaborated with urban jurisdictions on done similar projects.

Karen Scarborough stated that preparing a may be valid if it helps to find funding, but otherwise it may be unnecessary.

Anne Sheehan recommended that the Executive Officer look into using interns from local universities that can receive college credits for doing this type of work. She suggested using either students in environmentalist programs or law students.

David King recommended that the Executive Officer speak with Corky Wharton from the University of San Diego about the need for student assistance.

Chairperson Frye stated that the Resolutions should be reworded to state that the Executive Officer is authorized to enlist the assistance of students to assembly information regarding river restoration and signature park projects in other urban jurisdictions.

Karen Scarborough moved for the approval of Resolution 07-07 authorizing the Executive Officer to enlisted the aid of student assistants to assembly information that explore river restoration projects and signature parks in other urban jurisdictions. Ann Sheehan seconded the motion. The Board voted 5-0-3 to approve the motion.

## **11. Contracting Regulations**

The Board may consider adoption of Resolution 07-08 directing the Conservancy to submit Draft regulations to the Office of Administrative Law for a SDRC selection process for Private Architectural, Landscape architectural, Engineering, Environmental and Land Survey and Construction Project Management Firms.

Mike Nelson stated that San Diego River Conservancy presently relies on the Coastal Conservancy for its procurement and contracting needs. In the event that the legitimate priorities and time constraints of the Coastal Conservancy might conflict with SDRC's, the San Diego River Conservancy should have the ability to select contracts for private architectural, landscape architectural, engineering, environmental, land surveying and construction projects management firms.

Jim Peugh stated that biologist and geologist should also be added to the list for potential contractors

Karen Scarborough moved for the approval of Resolution 07-08 authorizing the Conservancy to adopt attached draft Selection Process and directs staff to submit the draft Selection Process to the Office of Administrative Law and to comply with that Office's procedures for adoption of the Selection Process as a regulation. Ann Sheehan seconded the motion. The Board voted 7-0-1 to approve the motion.

# EXHIBIT 9

FINAL STATEMENT OF REASONS FOR THE PROPOSED ADOPTION BY THE  
SAN DIEGO RIVER CONSERVANCY OF A SELECTION PROCESS FOR PRIVATE  
ARCHITECTURAL, LANDSCAPE ARCHITECTURAL, ENGINEERING,  
ENVIRONMENTAL, LAND SURVEYING AND CONSTRUCTION PROJECT  
MANAGEMENT FIRMS

**Informative Digest/Policy Statement Overview:**

The San Diego River Conservancy Act (“Act”; Public Resources Code, § 32630 et seq.) provides for the creation of the San Diego River Conservancy (Public Resources Code, § 32633 et seq.) with duties related to acquiring and managing public lands; providing recreational opportunities, open space, wildlife habitat and species restoration and protection, and wetland protection and restoration in the San Diego River Area (which area is defined in Public Resources Code, § 32632, subd. (f)); and protecting and maintaining the quality of the waters in the San Diego River. (Public Resources Code, § 32633, subd. (a).) The Conservancy is authorized to adopt rules and procedures governing its activities. (Public Resources Code, § 32638.)

California Constitution, Article XXII, sections 1 and 2 authorize the State and other governmental entities to contract with qualified private entities for architectural and engineering services for all public works of improvement. The Act also provides that the Conservancy may select and hire private consultants or contractors to provide necessary services. (Public Resources Code, § 32643, subd. (a).) The choice and authority to contract extends to all phases of project development including permitting and environmental studies, rights-of-way services, design phase services and construction phase services. (Cal. Const., art. XXII, § 1.) Government Code, section 4255 et seq. requires that the selection of professional services be based on demonstrated competence of the services required. In order to implement this method of selection, state agency

heads contracting for private architectural, landscape architectural, professional engineering, environmental, land surveying, and construction project management services shall adopt by regulation procedures that assure that these services are engaged on the basis of demonstrated competence and qualifications for the types of services to be performed and at fair and reasonable prices to the public agency and to assure maximum participation of small business firms as defined by the Director of General Services pursuant to Government Code section 14837.

The California Coastal Conservancy currently contracts for such services on behalf of the San Diego River Conservancy. The purpose of the proposed regulations is to establish a selection process for the River Conservancy to contract on its own behalf that complies with section 4255 et seq. of the Government Code.

**Mandate on Local Agencies or School Districts:**

The San Diego River Conservancy has determined that its proposal imposes no mandate on local agencies or school districts.

**Public Comment:**

The public comment period commenced on October 26, 2007 and terminated on December 10, 2007. No comments, objections or recommendations were received during the public comment period.

**Alternatives:**

As an alternative to the proposed regulations, the Conservancy could continue to rely on the Coastal Conservancy to contract on its behalf. The Coastal Conservancy follows a similar selection process to that of the proposed regulations. Therefore this alternative would not be less burdensome to affected private persons.

**Effect on Small Businesses:**

The proposed regulations will not adversely affect small business. The proposed regulations adopt a selection process for private architectural, landscape architectural, engineering, environmental, land surveying and construction project management firms. Status as a small business is one of the criteria to consider in the selection process. However, the Conservancy determines the regulations will not have a positive or negative effect on small businesses because the California Coastal Conservancy contracts for such services on behalf of the San Diego River Conservancy pursuant to its regulations which provide for a substantially similar selection process.

# EXHIBIT 10

## NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. '4-99)

OAL FILE NUMBERS	NOTICE FILE NUMBER <b>Z-07-1011-02</b>	REGULATORY ACTION NUMBER	EMERGENCY NUMBER
For use by Office of Administrative Law (OAL) only			
NOTICE		REGULATIONS	
AGENCY WITH RULEMAKING AUTHORITY SAN DIEGO RIVER CONSERVANCY			AGENCY FILE NUMBER (If any)

## A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER ( )	FAX NUMBER (Optional) ( )
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE

## B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Selection process for private firms	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
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## 2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)

SECTION(S) AFFECTED (List all section number(s) individually)	ADOPT	25202, 25203, 25204, 25205, 25206, 25207, 25208, 25209, 25210, 25211, 25212, 25213
	AMEND	
	REPEAL	
TITLE(S) 14		

## 3. TYPE OF FILING

<input checked="" type="checkbox"/> Regular Rulemaking (Gov. Code, § 11346)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code, §§ 11349.3, 11349.4)	<input type="checkbox"/> Emergency (Gov. Code, § 11346.1(b))	<input type="checkbox"/> Emergency Readopt (Gov. Code, § 11346.1(h))	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, § 11346.1)
<input checked="" type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.2 - 11346.9 prior to, or within 120 days of, the effective date of the regulations listed above.				
<input type="checkbox"/> Print Only	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100)	<input type="checkbox"/> Other (specify)		

## 4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)

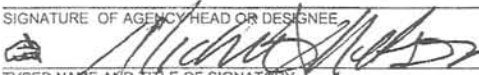
5. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code, §§ 11343.4, 11346.1(d))		
<input checked="" type="checkbox"/> Effective 30th day after filing with Secretary of State	<input type="checkbox"/> Effective on filing with Secretary of State	<input type="checkbox"/> Effective other (Specify)

## 6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

<input checked="" type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal
<input type="checkbox"/> Other (Specify)		

7. CONTACT PERSON Michael Nelson	TELEPHONE NUMBER (616) 645-3183	FAX NUMBER (Optional) (616) 238-7063	E-MAIL ADDRESS (Optional) mnelson@sdr.ca.gov
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE 	DATE 12.12.08
TYPED NAME AND TITLE OF SIGNATORY MICHAEL NELSON, EXECUTIVE OFFICER	

# EXHIBIT 11



Declaration of Closure of Rulemaking File

1. I am Executive Officer of the San Diego River Conservancy. The matters stated in this declaration are personally known to me and, if called as a witness, I could and would testify competently to them.

2. On September 28, 2007, the San Diego River Conservancy Board adopted Resolution 07-08. A true and correct copy of the resolution is included as Tab 6 to the Rulemaking File. The Board adopted the draft Selection Process Selection for Private Architectural, Landscape Architectural, Engineering, Environmental, Land Surveying and Construction Project Management Firms and directed staff to submit the Selection Process to the Office of Administrative Law and to comply with OAL's procedures for adoption of the Selection Process as a regulation.

3. On October 26, 2007, Notice of the proposed selection process was published in the California Regulatory Notice, Register 2007, No. 43-Z.

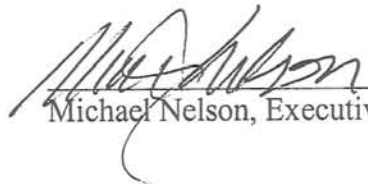
4. The public comment period on the proposed regulations commenced October 26, 2007 and terminated on December 10, 2007.

5. No comments were received during the public comment period. Therefore, no changes were made to the proposed regulations.

6. The rulemaking file for the selection process regulations is complete and was closed on December 11, 2007.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 12 day of December 2007 at San Diego, California.

  
Michael Nelson, Executive Officer