

DUPLICATE COPY

AGREEMENT FOR IMPLEMENTATION OF A JOINT WETLAND MITIGATION PLAN AT CLOVERDALE CREEK

THIS Agreement for Implementation of a Joint Wetland Mitigation Plan at Cloverdale Creek ("Agreement") is made and entered into as of the 12TH day of MAY, 2010 *PCP* ("Effective Date"); by and between the San Dieguito River Valley Regional Open Space Park Joint Powers Authority ("JPA") and the City of San Diego ("CITY"), sometimes collectively referred to herein as the "Parties," based upon the following Recitals:

WHEREAS, the JPA is required by the California Department of Fish and Game, US Fish and Wildlife Service, and US Army Corps of Engineers ("Resource Agencies") to create/enhance 0.73-acres of wetland habitat to mitigate wetland impacts associated with JPA projects, specifically 0.6 acres for the Mule Hill Trail (SDP 40-0711) and 0.13 acres for the Lake Hodges Bicycle/Pedestrian Bridge (Site Development Permit 193075);

WHEREAS, CITY is required by the Resource Agencies to create wetland habitat (0.6 acres) to mitigate wetland impacts associated with CITY's Santa Ysabel Creek flood control project, to help prevent flooding of CITY property acquired for Public Utility Department purposes during the high rainy season (LDR No. 96-7734);

WHEREAS, in combination, JPA and CITY need to create 1.33 acres of wetland habitat to meet the requirements described above;

WHEREAS, JPA and CITY staff have met with the Resource Agencies, and the Resource Agencies have conditionally approved a 1.5-acre site on Cloverdale Creek in San Pasqual Valley ("Site"), depicted on Exhibit 1, Site Plan, attached hereto and incorporated herein by this reference, for use in satisfying the Parties' mitigation requirements described above, contingent upon the Resource Agencies' approval of a wetland mitigation plan for the Site ("Mitigation Plan");

WHEREAS, in accordance with the requirements of the Resources Agencies, the Mitigation Plan shall consist of the creation/enhancement of 1.33 acres of wetland habitat by "widening" the creek channel and creating and restoring willow riparian habitat as well as a five-year maintenance and monitoring program;

WHEREAS, CITY owns the Site, which was acquired for Public Utility Department purposes, and is willing to make the Site available in accordance with the terms of this Agreement for the purpose of implementing the Mitigation Plan; and

WHEREAS, CITY and JPA desire to combine their resources to jointly satisfy their mitigation requirements by implementing the Mitigation Plan;

NOW, THEREFORE, in consideration of the Recitals stated above, which are true and correct and incorporated herein by this reference, and of the mutual obligations of the Parties as expressed herein, CITY and JPA agree as follows:

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Office of the City Clerk
San Diego, California

1. CITY and JPA will split the total 1.33-acre wetland mitigation credits resulting from implementation of the Mitigation Plan as follows: 0.6-acre credits for CITY and 0.73-acre credits for JPA (pro rata credit is 45% for CITY and 55% for JPA).
2. The tasks, costs and responsibilities for implementing the Mitigation Plan shall be allocated as follows:

Task	Total Estimated Cost	Responsibility	Cost Share	
			JPA	CITY
Prepare Mitigation Plan to the satisfaction of the Resources Agencies. The Mitigation Plan shall not interfere with access to the sewer easement located on the west side of Cloverdale Creek.	\$7,000	JPA; shall be completed on or before the Effective Date.	\$3,850	\$3,150
Prepare construction documents for the Mitigation Plan, including a grading plan, irrigation plan and planting plan.	\$10,000	JPA; shall be completed on or before the Effective Date.	\$5,500	\$4,500
Permitting	\$6,000	CITY and JPA (JPA will take lead); appointment with Resource Agencies for final approval of all plans and any required permit applications will immediately follow the Effective Date.	\$3,300	\$2,700
Provide 1.5 acres of land for Mitigation Plan	\$48,744	CITY; Upon the Effective Date, CITY will issue any required Right of Entry permit for work to begin	0	\$48,744
Hire contractor and implement site preparation and grading plan. Cost to CITY shall not exceed amount shown for this item. If costs are less, CITY	\$32,000	JPA; after the effective date of the approval of the Mitigation Plan by the Resource	\$17,600	\$14,400

and JPA shall share the cost reduction on a pro-rata basis.		Agencies and in accord with the conditions of required permits.		
Install temporary irrigation system. Cost to CITY shall not exceed amount shown for this item. If costs are less, CITY and JPA shall share the cost reduction on a pro-rata basis.	\$19,950	JPA; following implementation of the grading plan.	\$10,972	\$8,978
Implement the planting portion of the Mitigation Plan with JPA staff. This includes all labor and materials for seeds, plants, soil amendment, and jute netting.	\$40,146	JPA; following implementation of the grading plan.	\$40,146	0
Maintain and monitor the Site with JPA staff for a period of 5 years	\$12,000/yr = \$60,000	JPA; immediately following planting and in accordance with Mitigation Plan.	\$60,000	0
Provide biologist consultation services, including annual report preparation for 5 years	\$5,000/yr = \$25,000	CITY AND JPA (JPA will take lead by hiring consultant).	\$13,750	\$11,250
Total	\$248,840		\$155,118	\$93,722 (Land Value: \$48,744 Cash: \$44,978

3. CITY will take steps as needed to: (a) ensure that the cattle present on CITY leaseholds adjacent to the Site will be prohibited from entering Cloverdale Creek; and (b) implement and enforce the Fencing Plan as depicted on Exhibit 2, Fencing Plan, attached hereto and incorporated herein by this reference. Fencing is to be installed prior to the Resource Agencies' final approval of the Site.
4. CITY and JPA recognize that the costs identified in Section 2 above are estimates, and agree to share on a pro rata basis any cost overruns, including costs for other tasks that may be necessary to the completion or approval of the Mitigation Plan, if such costs are mutually agreed upon. Notwithstanding the above, CITY's costs for grading and irrigation shall not exceed the amounts shown in the table. CITY's cost overruns shall not exceed ten percent (10%) of CITY's estimated Total Costs identified in Section 2.

5. CITY recognizes that the value of the work and services provided by JPA to CITY at no cost for the benefit of CITY's Public Utility Department under the terms of this agreement exceeds JPA's pro-rata share of the fair market value of the Site.
6. CITY agrees to issue JPA a Right of Entry permit using CITY's standard terms and conditions to implement the Mitigation Plan.
7. The Mitigation Plan may be expanded to provide additional habitat and mitigation credits consistent with the terms and conditions of this Agreement provided that the Parties mutually agree.
8. CITY and JPA will comply with all applicable laws in carrying out their respective obligations in accordance with this Agreement. JPA shall require all appropriate insurance and endorsements to be carried by its consultants and contractors as agreed upon by CITY and JPA.
9. CITY and JPA shall cooperate and assist each other in all aspects of their performance under this Agreement. JPA shall provide CITY with invoices evidencing all costs incurred in accordance with this Agreement. CITY will pay its share of all undisputed invoices within thirty days of receipt.
10. Whenever written notices are required or desired under this Agreement, the Parties shall notify each other at the following addresses:

If to CITY:	If to JPA
City of San Diego Real Estate Assets Department Department Director 1200 Third Avenue, Suite 1700 San Diego, CA 92101-4101	San Dieguito River Park JPA Executive Director 18372 Sycamore Creek Road Escondido, CA 92025

The Parties may change these addresses by written notice to the other.

11. This Agreement shall terminate upon completion of the five-year maintenance and monitoring period or on the date that the Resource Agencies deem that implementation of the Mitigation Plan has fully satisfied the mitigation requirements of CITY and JPA as described in this Agreement, whichever occurs first. In no event shall CITY's financial obligation under this Agreement extend beyond five (5) years from execution of this Agreement by CITY.
12. Unless specifically provided otherwise, whenever an act or approval is required of CITY pursuant to this Agreement, that act or approval may be provided by the Mayor or designated representative.

IN WITNESS WHEREOF, this Agreement is executed by CITY, acting by and through its authorized representative, and by JPA, acting by and through its Deputy Director, pursuant to resolution of the JPA Board of Directors on November 19, 2004.

THE CITY OF SAN DIEGO, a municipal corporation

Date: 5/3/11

By: 
W. Downs Prior
Principal Contract Specialist
Purchasing & Contracting

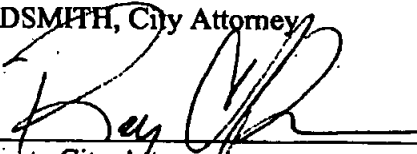
SAN DIEGUITO RIVER VALLEY REGIONAL OPEN
SPACE PARK JOINT POWERS AUTHORITY

Date: 12/2/10

By: 
Susan A. Carter, Deputy Director

APPROVED AS TO FORM AND LEGALITY:
JAN GOLDSMITH, City Attorney

Date: 5/12/2011

By: 
Deputy City Attorney

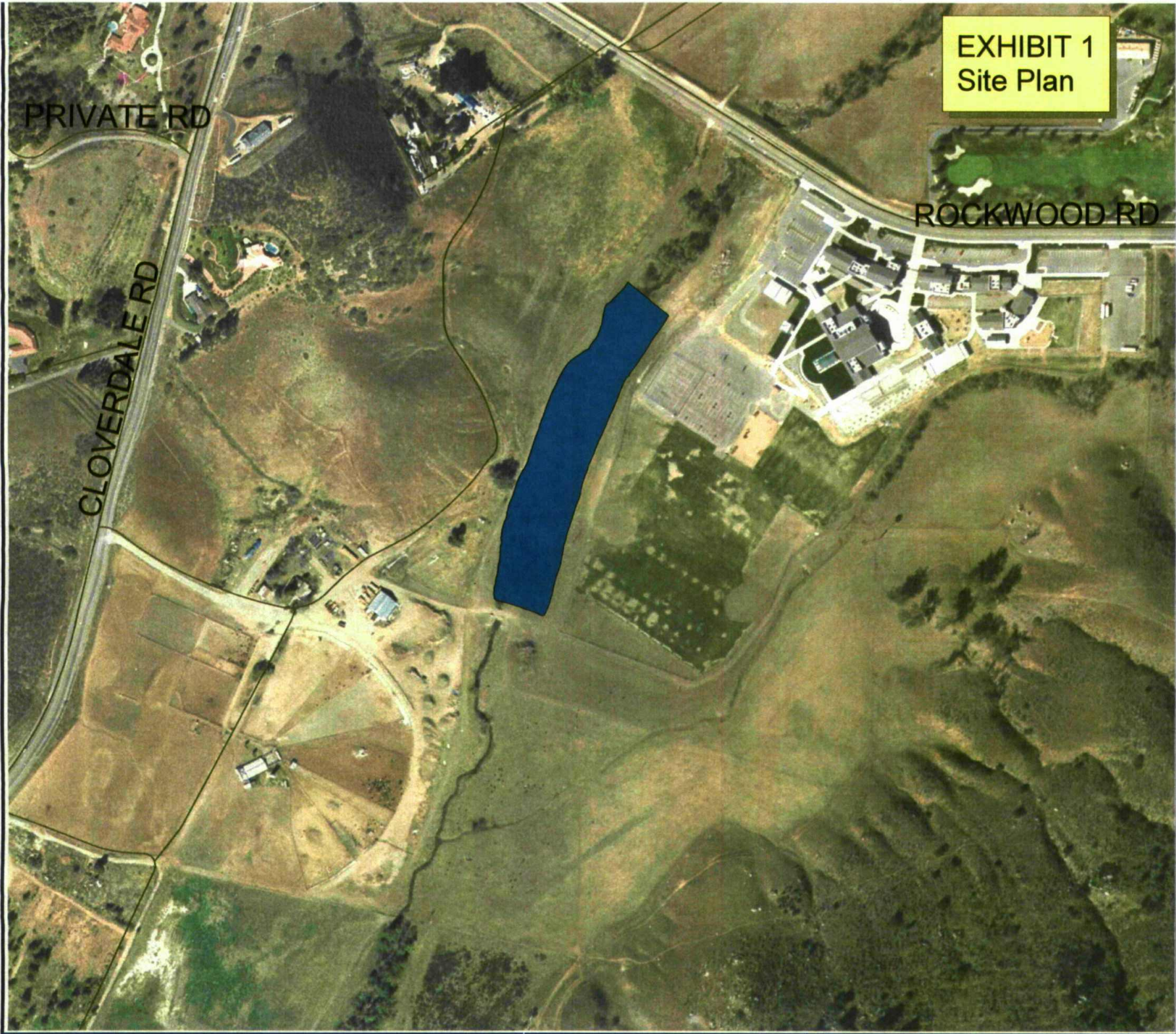


EXHIBIT 1
Site Plan

Legend

 Mitigation



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Vicinity Map



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EXHIBIT 2
Fencing Plan

Legend

 Fence line

PRIVATE RD

ROCKWOOD RD

CLOVERDALE RD



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Vicinity Map



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