

CITY OF SAN DIEGO RIGHT OF ENTRY PERMIT

THIS CITY OF SAN DIEGO RIGHT OF ENTRY PERMIT ("Permit") is entered into by and between **THE CITY OF SAN DIEGO**, a California municipal corporation ("CITY"), and **SAN DIEGO RIVER CONSERVANCY**, a division of the California Resources Agency, a state agency ("PERMITTEE"), to be effective as of December 1, 2012 (the "Effective Date"), when signed by the parties and approved by the San Diego City Attorney, as follows:

RECITALS

- A. CITY is the owner of certain real property located in the San Diego River Watershed in the County of San Diego, California (APN: 383-080-03, the "Permit Area), as shown in **Exhibit A: Permit Area**, attached hereto.
- B. PERMITTEE has initiated a "Project to Control Invasive Non-native Plants and Restore the River" within the San Diego River Watershed (the "Project").
- C. PERMITTEE has asked to enter upon the Permit Area for the purpose of executing the Project, as summarized in **Exhibit B: Overview of Project**, attached hereto (the "Permit Use").

NOW, THEREFORE, FOR VALUABLE CONSIDERATION, the sufficiency of which is acknowledged, the parties agree as follows:

- 1. **Right to Enter.** Subject to the terms and conditions of this Permit, CITY hereby grants permission to PERMITTEE, its officers, employees, agents, and contractors to enter upon the Permit Area solely for the purpose of the Permit Use.
- 2. **Use of Permit Area.** PERMITTEE may use the Permit Area, on a non-exclusive basis, solely for the Permit Use and for no other purpose whatsoever without CITY'S prior written consent in each instance. PERMITTEE shall obtain all related permits and comply with all applicable environmental laws, rules, and regulations related to the Permit Use.
- 3. **Permit Fee.** PERMITTEE is performing a service on CITY Public Utilities Department watershed property that is a benefit to the CITY. Therefore, no permit fee shall be charged to PERMITTEE.
- 4. **Term.** The term of this Permit ("Term") shall commence on December 1, 2012, and shall expire on November 30, 2015.
- 5. **No Holdover.** If PERMITTEE continues to occupy the Permit Area after the expiration or earlier termination of this Permit, such occupancy shall neither constitute a renewal or extension of this Permit, nor give PERMITTEE any rights in or to the Permit Area.
- 6. **Revocable License.** This Permit is not a lease. It grants a non-exclusive license to enter

upon and use the Permit Area on CITY-owned property, and may be revoked at will by CITY, in its sole discretion. CITY shall not be obligated for any loss, financial or otherwise, which may be incurred by PERMITTEE as a result of such revocation. PERMITTEE expressly waives any claim for expense or loss which PERMITTEE might incur as a result of CITY'S revocation of the license granted by this Permit.

7. CITY'S Consent, Discretion. CITY'S consent or approval under this Permit shall mean the written consent or approval of the Mayor of San Diego, or his designee ("Mayor"), unless otherwise expressly provided. CITY'S acts hereunder shall be made in the Mayor's discretion, unless otherwise expressly provided.
8. Governmental Approvals. By entering into this Permit, neither CITY nor CITY'S City Council is obligating itself to any governmental agent, board, commission, or agency with regard to any other discretionary action relating to PERMITTEE'S occupancy, use, development, maintenance, or restoration of the Permit Area. "Discretionary action" includes without limitation re-zonings, variances, environmental clearances, and all other required governmental approvals.
9. Hazardous Substances. PERMITTEE shall not cause the illegal installation, storage, utilization, generation, sale or release of hazardous or otherwise regulated substances in, on, under, or from the Permit Area. PERMITTEE and PERMITTEE'S agents and contractors shall not install, store, utilize, generate, or sell any hazardous substance on the Permit Area without CITY'S prior written consent. PERMITTEE shall, prior to initiating any operations, obtain all required permits from applicable regulatory agencies, including without limitation the San Diego County Department of Environmental Health, local fire agencies, the San Diego County Department of Weights and Measures, the San Diego County Air Pollution Control District, and the San Diego Regional Water Quality Control Board. Installing, utilizing, storing, or any other presence of a hazardous substances includes boxes, bags, bottles, drums, cylinders, above or below ground tanks, equipment with tanks, or any other type of container, equipment, or device which holds or incorporates a hazardous substance or hazardous waste.
 - a. Release. For the purposes of this provision, a release shall include without limitation any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or otherwise disposing of hazardous substances that individually or in the aggregate, trigger a reporting obligation under applicable laws. "Hazardous substances" shall mean any hazardous liquid, solid, or gaseous material substances listed by the Environmental Protection Agency or the State of California as a hazardous substance, and any type of petroleum-related substances and their chemical constituents.
 - b. Remediation. If PERMITTEE'S occupancy, use, development, maintenance, or restoration of the Permit Area results in a release of a hazardous substance, or petroleum related substance or its chemical constituents, PERMITTEE shall pay all costs remediation and removal to the CITY's satisfaction for unrestricted reuse of the

Permit Area, and in accordance with all applicable laws, rules, and regulations of governmental authorities.

- c. Removal. If PERMITTEE or PERMITTEE'S contractor or agent has received approval and permits to store, utilize, generate, or install, or otherwise bring hazardous materials or hazardous wastes to the Permit Area, PERMITTEE and/or PERMITTEE'S contractor or agent shall remove all hazardous substances and hazardous wastes in any type of container, equipment, or device from the Permit Area immediately upon or prior to the expiration or earlier termination of this Permit. CITY reserves the right to conduct inspections of the Permit Area and/or request documentation demonstrating the legal removal and/or disposal of the hazardous materials, wastes or other containers, equipment, or devices from the Permit Area. PERMITTEE shall be responsible for any and all costs incurred by CITY to remove any container, equipment, or device requiring disposal or removal as required by this provision.
- d. Indemnity. PERMITTEE shall protect, defend, indemnify, and hold CITY harmless from any and all claims, costs, and expenses related to environmental liabilities resulting from PERMITTEE'S occupancy, use, development, maintenance, or restoration of the Permit Area, including without limitation: (i) costs of environmental assessments; (ii) costs of regulatory remediation oversight; (iii) costs of remediation and removal; (iv) any necessary CITY response costs; (v) all fines, penalties, or fees assessed by any regulatory agency; (vi) damages for injury to natural resources, PERMITTEE'S officers, employees, invitees, guests, agents, or contractors, or the public; and (vii) all costs of any health assessments or health effect studies.
- e. Notice of Release. If PERMITTEE knows or has reasonable cause to believe that a hazardous substance or petroleum related substance or its chemical constituents has been released on, from, or beneath the Permit Area, PERMITTEE shall immediately notify CITY and any appropriate regulatory or reporting agency per California Administrative Code Title 19 and any other applicable laws or regulations. PERMITTEE shall deliver a written report thereof to CITY within three (3) business days after receipt of the knowledge or cause for belief and submit any required written reports to regulatory or reporting agencies as required by regulation or law. If PERMITTEE knows or has reasonable cause to believe that such substance is an imminent release or is an imminent substantial danger to public health and safety, PERMITTEE shall take all actions necessary to alleviate the danger. PERMITTEE shall immediately notify CITY in writing of any violation, notice to comply, or notice of violation received or the initiation of environmental actions or private suits related to the Permit Area.
- f. Environmental Assessment. Upon reasonable cause to believe that PERMITTEE'S occupancy, use, development, maintenance, or restoration of the Permit Area ("PERMITTEE'S Operations"), resulted in any hazardous substance being released on, from or beneath the Permit Area, CITY may cause an environmental assessment under regulatory oversight of the suspect area to be performed by a professional environmental consultant registered with the State of California as a Professional

Engineer, Certified Engineering Geologist, or Registered Civil Engineer. The environmental assessment shall be obtained at PERMITTEE'S sole cost and expense, and shall establish what, if any, hazardous substances have more likely than not been caused by PERMITTEE'S Operations on, in, from or under the Permit Area, and in what quantities. If any such hazardous substances exist in quantities greater than allowed by city, county, state, or federal laws, statutes, ordinances, or regulations, or require future restricted re-use of the Permit Area, then the environmental assessment shall include a discussion of such substances with recommendations for remediation and removal necessary to effect the unrestricted re-use and in compliance with those laws or statutes, and estimates of the cost of such remediation or removal.

PERMITTEE shall cause, or if PERMITTEE fails to do so within a reasonable period of time, as determined by CITY in its sole discretion, CITY may cause the remediation and/or removal recommended in the environmental assessment such that unrestricted re-use of the Permit Area and compliance with environmental law and regulations are achieved, and PERMITTEE shall pay all costs and expenses therefore. PERMITTEE will only be required to remediate the Permit area to the same condition as existed when PERMITTEE originally occupied the property.

10. Noninterference. PERMITTEE shall not materially interfere with CITY'S use, operations, and activities on the Permit Area, and PERMITTEE shall use such routes and follow such procedures on the Permit Area as shall result in the least damage and inconvenience to CITY and other users of the Permit Area.
11. Property Damage. PERMITTEE shall pay for all damage to the Permit Area, CITY'S personal property on the Permit Area, and the personal property of third parties on the Permit Area resulting from PERMITTEE'S exercise of the rights granted under this Permit, including without limitation, soil erosion, subsidence, and/or damage resulting thereby. PERMITTEE shall promptly repair and restore to its original condition all such property.
12. Indemnification and Hold Harmless. PERMITTEE shall protect, defend, indemnify, and hold CITY and its elected officials, officers, employees, representatives and agents harmless from and against any and all claims asserted or liability established for damages or injuries to any person or property, including injury to PERMITTEES'S officers, employees invitees, guests, agents, or contractors, which directly or indirectly arise out of PERMITTEE'S occupancy, use maintenance or restoration of the Permit Area, and all expenses of investigating and defending against same, including without limitation attorneys' fees and costs; provided, however, that PERMITTEE'S duty to indemnify and hold harmless shall not include any claims or liability arising from the sole gross negligence or intentional misconduct of CITY and its elected officials, officers, employees, representatives, and agents.
13. Taxes. PERMITTEE shall pay, before delinquency, all taxes, assessments, and fees assessed or levied upon PERMITTEE by reason of PERMITTEE'S occupancy, use maintenance or restoration of the Permit Area, including without limitation licensing and permitting costs and fees. PERMITTEE acknowledges that this Permit may create a possessory interest subject to property taxation, and that PERMITTEE may be subject to the payment of taxes levied on that interest. PERMITTEE shall pay all such possessory

interest taxes.

14. Encumbrances. PERMITTEE shall keep the Permit Area and any CITY-owned property of which the Permit Area is a part free from all encumbrances and liens of any nature which directly or indirectly arise out of this Permit or PERMITTEE'S occupancy, use, maintenance or restoration of the Permit Area. PERMITTEE shall protect, defend, indemnify, and hold CITY harmless from and against any and all such encumbrances and/or liens, and from and against any claim, liability, cost or expense, including without limitation all attorney fees and costs, relating to or charged against the Permit Area, including without limitation PERMITTEE'S failure or the failure of any contractor or subcontractor hired by PERMITTEE to pay any person or persons referred to in Section 3181 of the California Civil Code (or other applicable sections thereof).
15. Compliance with Laws. PERMITTEE shall at all times in the construction, maintenance, occupancy, and operation of the Permit Area comply with all applicable laws, rules, and regulations, and direction by competent authority at PERMITTEE'S sole cost and expense.
16. California Public Records Act. CITY shall determine, in its sole discretion, whether information provided by PERMITTEE pursuant to this Permit is or is not a public record subject to disclosure under the California Public Records Act. PERMITTEE shall hold CITY, its elected officials, officers and employees harmless for CITY'S disclosure of any such information in response to a request for information under the CPRA.
17. No Discrimination. PERMITTEE shall not discriminate in any manner against any person on account of race, color, religion, gender, sexual orientation, medical status, national origin, age, marital status, or physical disability in PERMITTEE'S use of the Permit Area, including without limitation the provision of goods, services, facilities, privileges, advantages, and accommodations, and the hiring and retention of employees and contractors.
18. Disabled Access Compliance. PERMITTEE shall comply with Title 24 of the California Code of Regulations (i.e., the "Building Code", as defined in Title 24 of the California Health and Safety Code), the Americans with Disabilities Act of 1990 ("ADA"); and any other applicable state and federal laws and regulations enacted protecting the rights of people with disabilities PERMITTEE'S compliance shall include without limitation the following:
 - a) PERMITTEE shall not discriminate against qualified persons with disabilities in any aspects of employment, including recruitment, hiring, promotions, conditions and privileges of employment, training, compensation, benefits, discipline, layoffs, and termination of employment;
 - b) No qualified individual with a disability may be excluded on the basis of disability from participation in, or be denied the benefits of, services, programs, or activities of PERMITTEE;

- c) PERMITTEE shall post a statement addressing the requirements of the ADA in a prominent place at the work site;
- d) Where required by law, PERMITTEE shall, at PERMITTEE'S sole cost and in conformance with all applicable building codes, comply with applicable disabled – access requirements by making accessible any areas of the Permit Area which deny access to disabled persons; and
- e) PERMITTEE shall include language in each sublicense agreement, if any, indicating the sublicensee's agreement to abide by the foregoing provisions.

PERMITTEE and each of its sublicensees shall be individually responsible for their own ADA compliance program. PERMITTEE'S failure to comply with the above requirements and/or submitting false information in response to those requirements shall be a default under this Permit.

- 19. Local Business and Employment. PERMITTEE acknowledges that CITY seeks to promote employment business opportunities for local residents and firms in all CITY contracts. For work associated with this Permit and to the extent legally possible, PERMITTEE shall use its best efforts to solicit applications for employment and bids and proposals for contracts from local residents and firms whenever practicable.
- 20. PERMITTEE'S Risk. PERMITTEE shall bear all risks and liability directly or indirectly arising out of PERMITTEE'S occupancy, use, development, maintenance, and restoration of the Permit Area and any damages to the improvements on, under, or in the vicinity of the Permit Area resulting directly or indirectly thereby.
- 21. No Nuisance. PERMITTEE shall not use the Permit Area in any manner which creates a nuisance or unreasonably disturbs the quiet enjoyment of persons in and to the surrounding area.
- 22. Assignment and Sublicense. PERMITTEE shall not assign or sublicense any rights granted by this Permit or any interest in this Permit without CITY'S prior written consent. Any assignment by operation of law shall automatically terminate this Permit.
- 23. Signs. PERMITTEE shall not erect or display any banners, pennants, flags, posters, signs, decorations, marquees, awnings or similar devices or advertising without CITY'S prior written consent. If any such unauthorized item is found on the Permit Area, PERMITTEE shall remove the item at its expense within twenty-four (24) hours after notice by CITY, or CITY may thereafter remove the item at PERMITTEE'S cost.
- 24. Insurance. PERMITTEE shall deliver to CITY'S Real Estate Assets Department a current certificate of insurance for:

- (1) Commercial General Liability Insurance, providing coverage on the Permit Area for

bodily injury, including death, personal injury, and property damage with limits of at least Two Million Dollars (\$2,000,000) per occurrence, subject to an annual aggregate of at least Four Million Dollars (\$4,000,000);

- (2) Automobile Liability Insurance, providing coverage on the Permit Area for all bodily injury and property damage, with a limit of at least One Million Dollars (\$1,000,000) per occurrence. Such insurance shall cover liability arising out of any vehicle (including owned, hired, and non-owned vehicles) operated in performing any and all work pursuant to this Permit. Coverage shall be written on *ISO form CA 00 01 12 90*, or a substitute form providing equivalent liability coverage; and
 - (3) Workers' Compensation Insurance, as required by the laws of the State of California for all of PERMITTEE'S employees who are subject to this Permit, with Employers' Liability coverage with a limit of at least One Million Dollars (\$1,000,000).
- 24.1 Additional Insureds. Pursuant to a separate endorsement [CG2010 (11/85) or equivalent form], "The City of San Diego, its elected officials, officers, employees, representatives, and agents" shall be named as additional insureds in all policies.
 - 24.2 Primary & Non-Contributory. Insurance policies shall be endorsed such that the coverage is primary and non-contributory to any coverage carried or maintained by CITY.
 - 24.3 Qualified Insurer(s). All insurance required by the terms of this Permit must be provided by insurers licensed to do business in the State of California which are rated at least "A-, VI" by the current AM Best Ratings Guide and which are acceptable to CITY. Non-admitted surplus lines insurers may be accepted provided they are included on the most recent list of California eligible surplus lines insurers (LESLI list) and otherwise meet CITY requirements.
 - 24.4 Deductibles/Retentions. All deductibles and self-insured retentions on any insurance policy are the sole responsibility of PERMITTEE and must be disclosed and acceptable to CITY at the time evidence of insurance is provided.
 - 24.5 Continuity of Coverage. All policies shall be in effect on or before the first day of the Term, except "course of construction fire insurance" shall be in force on commencement of all authorized construction, and full applicable fire insurance coverage shall be effective upon completion of each insurable improvement. The policies shall be kept in force for the duration of the Term. At least thirty (30) days prior to the expiration of each insurance policy, PERMITTEE shall furnish a certificate(s) showing that a new or extended policy has been obtained which meets the requirements of this Permit. PERMITTEE shall provide proof of continuing insurance at least annually during the Term. If insurance lapses or is discontinued for any reason, PERMITTEE shall immediately notify CITY and obtain replacement insurance as soon as possible.

- 24.6 Modification. To assure protection from and against the kind and extent of risk existing with the Permit Use or the Property, CITY, at its discretion, may require the revision of amounts and coverage at any time during the Term by giving PERMITTEE thirty (30) days prior written notice. PERMITTEE shall also obtain any additional insurance required by CITY for new improvements, changed circumstances, or CITY's reasonable re-evaluation of risk levels related to the Permit Use or the Permit Area.
- 24.7 Accident Reports. PERMITTEE shall immediately report to CITY any accident causing property damage or injury to persons and related to the Permit Use or the Permit Area. Such report shall contain the names and addresses of the involved parties, a statement of the circumstances, the date and hour of the accident, the names and addresses of any witnesses, and other pertinent information.
- 24.8 Causes of Loss – Special Form Property Insurance. PERMITTEE shall obtain and maintain, at its sole cost, Causes of Loss – Special Form Property Insurance on all of PERMITTEE'S insurable property related to the Permit Use or Permit Area in an amount to cover 100 percent (100%) of the replacement cost. PERMITTEE shall deliver to CITY a certificate of such insurance.
- 24.9 Self-Insurance. In lieu of the insurance policies required above, PERMITTEE may, by notice delivered to CITY, elect to self-insure all or any portion of the risks that would otherwise be covered by such insurance, in which case PERMITTEE shall assume and pay from its assets all claims arising from such self-insured risks to the same extent as if covered by a third-party insurance company in the usual course of business, and as required by this Permit, and all insurance conditions and requirements of this Permit shall be satisfied by such self-insurance as evidenced by a letter of self-insurance attested to by an officer of PERMITTEE. Upon CITY'S request, PERMITTEE shall deliver to CITY evidence of its ability to self-insure.
25. Maintenance of the Permit Area. PERMITTEE shall, at PERMITTEE'S sole cost and expense and to CITY'S satisfaction, maintain the Permit Area in good order and repair and in a safe, healthy, and sanitary condition at all times during the Term. CITY shall not be required to make any improvements or repairs to the Permit Area. PERMITTEE shall keep the Permit Area free and clear of rubbish, debris, and litter at all times.
26. Inspection. CITY may at all times enter and inspect the Permit Area.
27. Grading. PERMITTEE represents and warrants that any grading and compaction operations in the Permit Area shall be done in such a manner that will not disrupt the existing surface drainage pattern in the Permit Area and surrounding properties, and that the final grades will not interfere with the existing flow pattern in the Permit Area and surrounding properties.
28. Water Quality Assurances. The CITY and PERMITTEE are committed to the implementation of controls (best management practices, or BMPs) to manage activities on

the premises in a manner which aids in the protection of the City of San Diego's precious water resources. It is the PERMITTEE'S responsibility to identify and implement an effective combination of BMPs so as not to cause pollutant discharges to the storm drain system in violation of Section 43.03, Stormwater Ordinance.

Therefore, PERMITTEE shall, at a minimum, implement and comply, as applicable, with the BMPs for industrial and commercial facilities adopted under the San Diego Municipal Code Section 43.0307(a).

It is ultimately the PERMITTEE'S responsibility to prevent pollutant discharges to the storm drain system. Therefore, the PERMITTEE will identify and implement any additional BMPs that may be required to avoid the discharge of pollutants to the storm drain system.

29. Waiver. The property constituting the Permit Area is publicly owned and held in trust for the benefit of CITY'S citizens. CITY'S failure to insist upon the strict performance of any of PERMITTEE'S obligations under this Permit, in one or more instance, shall not be construed as a waiver of any such obligation, and the same shall remain in full force and effect. CITY'S waiver of a default shall not be a waiver of any other default. Any waiver of a default must be in a writing executed by CITY to constitute a valid and binding waiver. CITY'S delay or failure to exercise a right or seek a remedy shall not be deemed a waiver of that or any other right or remedy under this Permit, at law, or in equity. The exercise of any particular right or the use of any particular remedy for any default shall not waive the use of any other right or remedy for the same default or for another or later default. CITY'S acceptance of any rents shall not be a waiver of any default preceding the rent payment. CITY'S failure to discover a default or take prompt action to require the cure of any default shall not result in equitable estoppels, but CITY may at any and all times require the cure of the default.
30. Cumulative Remedies. CITY'S rights and remedies under this Permit are cumulative and shall not limit otherwise waive or deny any of CITY'S rights or remedies at law or in equity.
31. Survival. Any obligation which accrues under this Permit prior to its expiration or termination shall survive such expiration or termination according to applicable law.
32. Joint and Several Liability. If PERMITTEE is comprised of more than one person or legal entity, such persons and entities, and each of them, shall be jointly and severally liable for the performance of each and every obligation of PERMITTEE under this Permit.
33. No Affiliation. Nothing contained in this Permit shall be deemed or construed to create a partnership, joint venture, or other affiliation between CITY and PERMITTEE or between CITY and any other entity or party, or cause CITY to be responsible in any way for the debts or obligations of PERMITTEE or any other party or entity.

34. Entire Agreement. This Permit constitutes the entire agreement between the parties and supersedes any and all prior understandings, representations, warranties, and agreements between them pertaining to this Permit and PERMITTEE'S occupancy, use, development, maintenance, and restoration of the Permit Area. Any modification, alteration, or amendment of this Permit shall be in writing and signed by all the parties hereto.
35. Legal Proceedings. If, as a result of an action brought by or against PERMITTEE in connection with this Permit, CITY intervenes therein, becomes a party, or is made a party thereto, PERMITTEE shall pay all of CITY'S costs and expenses thereof, including without limitation reasonable attorney fees and costs.
36. Notices. Any notice required or permitted to be given under this Permit shall be in writing and may be served personally or delivered by United States mail, postage prepaid, and addressed to PERMITTEE at PERMITTEE'S Address for Notices, and to CITY as follows:

THE CITY OF SAN DIEGO
Attention: Director, Real Estate Assets Department
1200 Third Avenue, Suite 1700 (MS 51A)
San Diego, California 92101
(619) 236-6020

SAN DIEGO RIVER CONSERVANCY
1350 Front Street, Suite 3024
San Diego, CA 92101

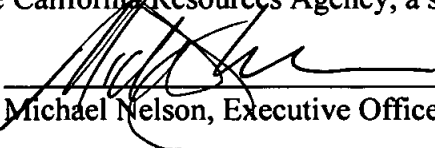
37. Authority to Contract. Each individual executing this Permit on behalf of another person or legal entity represents and warrants that they are authorized to execute and deliver this Permit on behalf of such person or entity in accordance with duly adopted resolutions or other authorizing actions which are necessary and proper and under such legal entity's articles, charter, bylaws, or other written rules of conduct or governing agreement, and that this Permit is binding upon such person or entity in accordance with its terms. Each person executing this Permit on behalf of another person or legal entity represents and warrants such entity is a valid, qualified corporation, limited liability company, partnership, or other unincorporated association in good standing in its home state and that such entity is qualified to do business in California.
38. Acceptance of Permit Area. By signing this Permit, PERMITTEE represents and warrants that it has independently inspected the Permit Area and made all tests, investigations, and observations necessary to satisfy itself as to the condition of the Permit Area and its suitability for the Permit Use. PERMITTEE further represents and warrants that it is not relying on any representation by CITY as to the condition of the Permit Area or its suitability for the Permit Use, and that PERMITTEE is relying solely on its own and independent inspections, tests, investigations and observations of the Permit Area in entering into this Permit. PERMITTEE accepts the Permit Area in its current condition, and acknowledges and agrees that CITY has fulfilled all obligations it may have had to improve, modify, repair, replace, alter, or otherwise develop the Permit Area prior to the

Effective Date. PERMITTEE shall not hold CITY responsible for any defects in the Permit Area. PERMITTEE accepts and assumes all risk of harm to persons and property, including without limitation PERMITTEE'S employees, from any defects in the Permit Area, and shall be solely responsible therefore.

IN WITNESS WHEREOF, this Permit is executed to be effective as of the Effective Date.

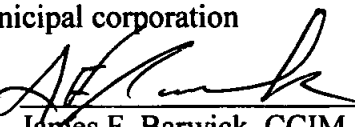
Date: 11.26.12

SAN DIEGO RIVER CONSERVANCY, a division
of the California Resources Agency, a state agency

BY: 
Michael Nelson, Executive Officer

Date: 11/27/12

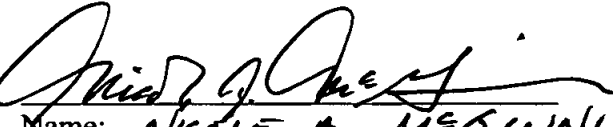
THE CITY OF SAN DIEGO, a California
municipal corporation

BY: 
James F. Barwick, CCIM
Director Real Estate Assets

Environmental Analysis Section Environmental Clearance:

The City of San Diego as Responsible Agency under CEQA has reviewed and considered a Mitigated Negative Declaration (MND), dated July 9, 2009 covering this activity; prepared by the San Diego River Conservancy as Lead Agency and adopted September 3, 2009 by Resolution No. 09-02.

Date: 11/27/12

BY: 
Name: NICOLE A. MCGINNIS
Title: SENIOR PLANNER

Approved as to form and legality:

JAN I. GOLDSMITH, City Attorney

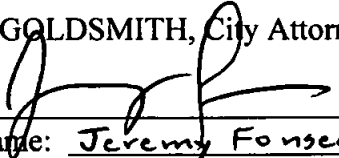
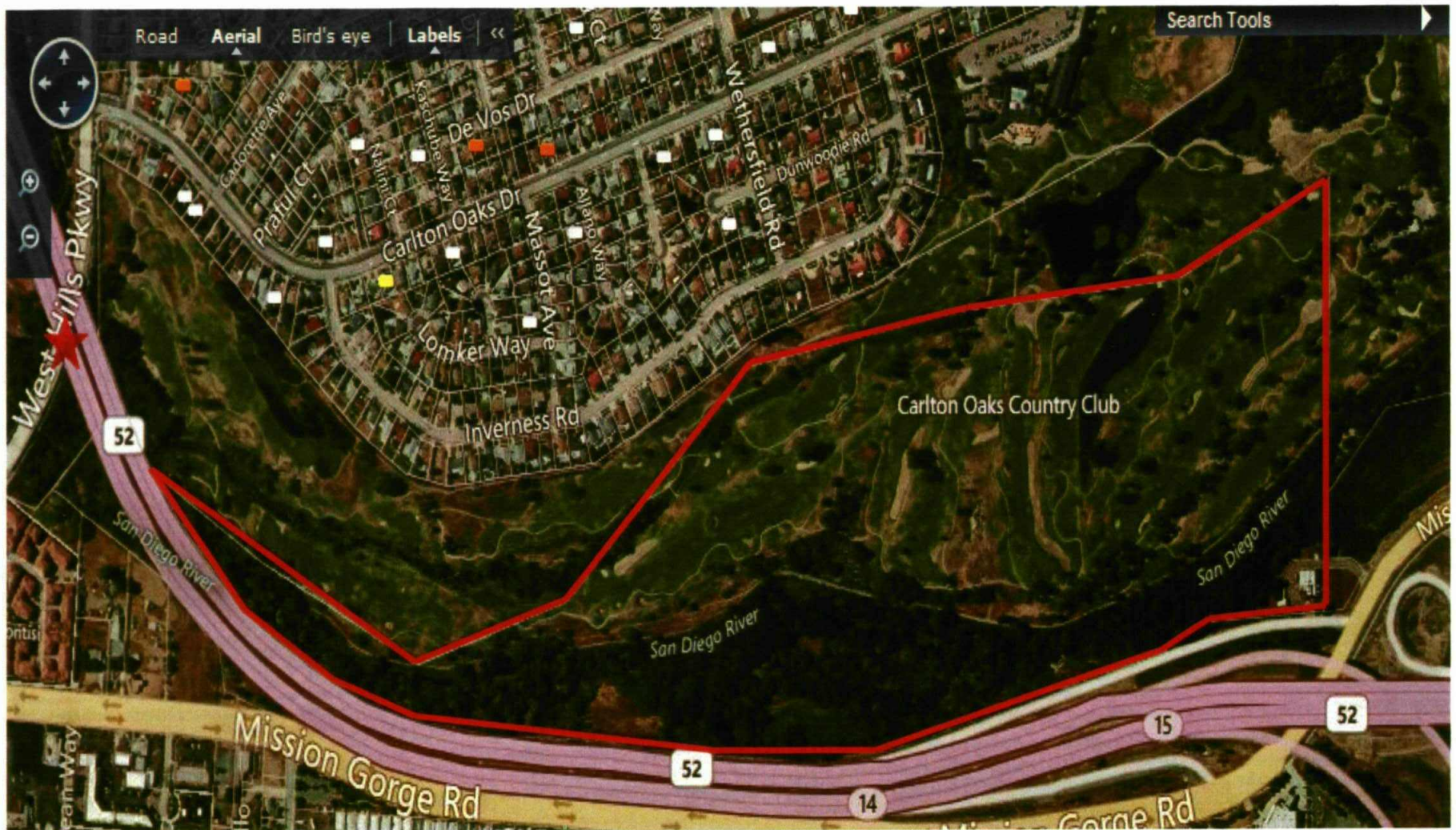
BY: 
Name: Jeremy Fonseca
Title: Deputy City Attorney
12/5/12

Exhibit A: Permit Area



Permit Area outlined in **RED**

Exhibit B: Overview of Project

The San Diego River Conservancy's Project to Control Invasive Non-native Plants and Restore the River

Background:

In 2006, the SDRC approved a five year Strategic and Infrastructure Plan to restore the health of the San Diego River. The plan included an important component memorialized in Program 3, concerning natural resources preservation and restoration. Here, beginning on page 30, the Strategic Plan describes Project 1, a recommendation to remove invasive non-native plants and restore the land in the river to reduce risk of flooding and fire as well as enhance the natural resources of the river. This project implements that strategic plan recommendation.

What are Invasive Non-Native Plants and why are they of concern for the San Diego River?

Invasive non-native plants are a concern because they are destroying the ability of the San Diego River and watershed to properly function. For example, many invasive non-native plants contribute to flood damage, are a fire risk, and degrade native habitats.

A biological invasion of non-native plants is spreading into our nations' fields, pastures, forests, wetlands and waterways, natural areas, and right-of-ways. Unfortunately, the San Diego River is also infected by these pests. Non-native invasive plants are sometimes called "introduced;" these terms refer to plants that have been brought to an area by humans and becomes established but are native to other regions. Also referred to as exotic, nonnative, alien, noxious, or non-indigenous weeds, invasive plants impact native plant and animal communities by displacing native vegetation and disrupting habitats as they become established and spread over time.

Arundo, also known as Giant Cane, in particular does extensive damage to private property and our natural resources. Arundo spreads aggressively, potentially onto neighboring properties. Unfortunately much of the San Diego River, especially within the City of San Diego and up to the El Capitan Reservoir, has been infested with invasive non-native plants. If we are to restore the river as a natural asset for the region, we must permanently control these plants.

Arundo and Pampas Grass, another invasive non-native plant, were introduced to California for use as horticultural, building or erosion control solutions. They are now found primarily in stream areas where their vigorous growth and ability to propagate in a wide range of conditions, makes them very difficult to eliminate. They are additionally destructive because the plants build-up of dense growth increases fire and flood risk, harms wildlife, decreases water quality and displaces natural habitats. Castor Bean is another invasive plant in the river that we are targeting.

What is the San Diego River Conservancy's Project to Control Invasive Non-native Plants and Restore the River?

The San Diego River Conservancy, working with its private, non-profit and governmental partners along the river, has begun a project to implement the recommendation laid out in its strategic plan (project 1, page 32) to remove invasive non-natives in the river and restore the land. This project includes mapping all invasive non-native cover in the river with a specific focus on target areas where infestations are the worst. The project also includes securing all the necessary permits to allow for the removal and undertaking control and replanting projects throughout the San Diego River watershed.

Funding to complete this work will come from a variety of sources including voter approved bond measures and private donations.

The first control project will be undertaken near the Stadium in Mission Valley east of Ward Road and North of Highway 8. Beginning in 2009, the focus of that project will include the control of Arundo and other invasive non-native plants in the target area. SDRC is working with the Department of Fish and Game, which owns the largest property in this area and is funding this project, to secure the necessary permits to complete the bulk of this work over two years with maintenance to follow for at least ten years. Nearby private property owners are also participating in this important work.

On a parallel track, SDRC is working with the owners of other larger properties in the river to secure their approval to control invasive non-native plants on an additional 329 acres of land scattered throughout the river. It is critically important that property owners with affected parcels participate in this program as invasive plants, by their very nature, spread aggressively from one property to the next- thus success and property owner participation are closely linked. In addition to invasive non-native plant control, the project restores native vegetation in these areas as an essential step in reestablishing the hydrologic and ecological functions of the river's riparian and coastal wetland habitats.

This project is expected to significantly improve the conditions, functions and values of the riparian/wetland habitats by reducing the detrimental processes and increasing the ability of these habitats to promote better water quality. This translates to fewer pollutants in the river and the ocean.

Another expected outcome is reduction of backwater flooding, the potential for debris jams on bridges and trestles, and the substantial accumulated fire fuel load in the river. Plant biomass buildup is typical of Arundo and Pampas grass infestations and is a known cause to backwater flooding, river diversion, and the accumulation of fire fuel load. Removal of Arundo stands also discourages the use of riparian areas by humans as shelter. These areas are not safe for inhabitation as they flood and are prone to fire, putting everyone at risk- including rescue and fire crews. Most fires that start in riparian areas are started by humans within stands of Arundo.

What Activities could take Place on your Property?

Biomass reduction of target plants uses tractors with fixed tooth and flail mowing attachments, with hand crews cutting areas left by the mowers. Biomass reduction creates a mulch layer that is left in place that reduces weedy plant cover (for example mustards and hemlock) and it benefits native plantings by conserving water and reducing competition. All areas that are mowed are re-vegetated with native plants including most of the riparian plant pallet: trees (cottonwood, sycamore, oaks, and three willow tree species), shrubs (toyon, sandbar willow, mulefat, and elderberry), and ground covers (blackberry, grape, mugwort, rose, and nettle). Plants are grown in a range of sizes from 1 gallon to rose pots (dependent on species) from cuttings and seed collected from the watershed or adjacent watersheds. Plantings are in densities of 250 to 350 plants per acre depending on cover of preexisting natives. SDRC contractors and staff will oversee work crews and provide onsite monitoring of activities as specified under permits.