

(R-95-372)

RESOLUTION NUMBER R- 284578


ADOPTED ON SEP 12 1994

BE IT RESOLVED, by the Council of The City of San Diego, that the City Manager is hereby authorized to execute a Mitigation Fund Agreement with the UNITED STATES FISH AND WILDLIFE SERVICE, as described in the attached Manager's Report, and the form of which agreement is on file in the office of the City Clerk as Document No. RR- 284578 .

BE IT FURTHER RESOLVED, that the City Auditor is hereby authorized and directed to establish an interest bearing fund to be known as the "Mitigation Fund" into which moneys shall be deposited and on which interest will accrue and the purpose of which shall be to acquire lands for wildlife habitat, as more particularly described in said agreement.

APPROVED: JOHN W. WITT, City Attorney

By

  
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Harold O. Valderhaug  
Chief Deputy City Attorney

HOV:ps  
08/30/94  
Or.Dept:REA  
R-95-372  
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DATE ISSUED:

REPORT NO.

ATTENTION: Honorable Mayor and City Council, Docket of September 12, 1994

SUBJECT: Mitigation Fund Agreement

SUMMARY

- Issue -
1. Should the City Council authorize the City Manager to execute a mitigation agreement with the U.S. Fish & Wildlife Service.
  2. Should the City Council authorize the City auditor to establish an interest bearing fund in conjunction with the mitigation agreement.


Manager's Recommendation - Authorize the execution of the agreement.

Other Recommendations - None.

Fiscal Impact There will be no impact with this action but as the projects affected by this agreement come forth for approval.

BACKGROUND

Under the California Environmental Quality Act (CEQA), a project with significant impacts can be approved if mitigation is provided to reduce its significant impacts. In the case of impacts to sensitive biological resources, this often entails the purchase of off-site lands that are equal to or greater in value than the lands being impacted. The City of San Diego has a number of capital improvement projects

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that are currently proposed by several different City Departments that have a need to mitigate biological impacts. These projects include:

Real Estate Assets Department (READ) - Airports Division:

Montgomery Field Runway Extension Project  
Lease for Champions Golf Driving Range

Metropolitan Wastewater Department (MWWD):

North City Tunnel Connector (C.I.P. 42910.8)  
Fiesta Island Replacement Project/Northern Sludge  
Processing Facilities (FIRP) - (C.I.P. 46055.0)  
FIRP Phase II Disested Sludge and Centrate Pipeline (C.I.P. 40910.0)  
Penasquitos Trunk Sewer, Relief - (C.I.P. 46117.0)

Environmental Services Department (ESD):

West Miramar Landfill Overburden Disposal (WMLOD)

The above projects would result in impacts to upland habitats occupied by federally listed species and are subject to the Section 7 Consultation or Section 4(d) Permit process with the United States Fish and Wildlife Service (USFWS). Each of these projects are on separate construction timelines and each have a different urgency for funding. These individual projects would require the acquisition of several small parcels of land and possibly many parcels depending on their size. Past experience has proven that smaller isolated parcels are not only more difficult to acquire due to their size but are also less biologically valuable in the long term. Therefore, in order to foster a more comprehensive approach to the City's mitigation needs, the Mitigation Fund Agreement proposes to combine the acquisition needs and acquire a larger parcel(s) within an area identified by the City for future multiple species preserve.

DISCUSSION:

The Mitigation Fund Agreement would consist of an account specifically established to accomplish the acquisition, protection and enhancement of mitigation lands for upland impacts associated with the projects specified above. The key points of the agreement are:

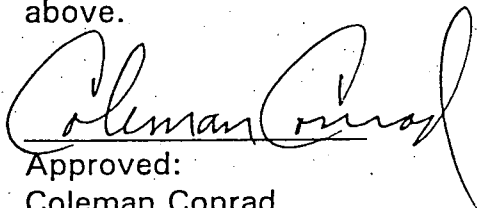
- Monies must be deposited before the authorities granted by the USFWS are legal. The contribution of monies into the Fund will constitute mitigation in full for the upland mitigation requirements for the above projects and will be irrevocable.

- Projects can proceed on schedule upon depositing the designated monies into the fund and receiving necessary approvals.
- A twelve month time limit is established to acquire the potential acquisition sites. If the City does not perform within those time limits, the USFWS has the ability to utilize the funds to purchase mitigation lands in any available location (for example, outside the City limits).
- The agreement allows that in the event that all of the proposed acquisition sites are not available, the City could pursue an alternative site(s) upon approval by the USFWS.
- The agreement provides for interim management of the habitat acquired, with long term management and maintenance provided by the MSCP.

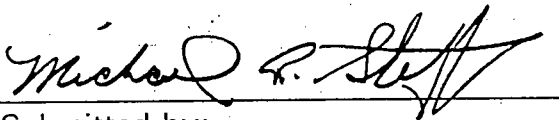
In summary, the proposed Mitigation Fund Agreement provides the City with a short-term program to address the immediate mitigation needs of seven individual projects while achieving the long term acquisition goals of a future multiple species preserve.

#### ALTERNATIVES

Pursue acquisition of individual mitigation requirements for the projects listed above.



Approved:  
Coleman Conrad  
Deputy City Manager



Submitted by:  
Michael R. Steffen  
Deputy Director  
(236-6725)

STEFFEN:LADIANA

MRS:dcj-c

Attachment: Draft Mitigation Fund Agreement