BOARD MEETING REMINDER

The **November 7, 2018,** Board meeting begins at **10:30 a.m.** at the Fresno Metropolitan Flood Control District Board Room.

Please note the later seasonal starting time November through February.

SAN JOAQUIN RIVER CONSERVANCY
STATE OF CALIFORNIA

250.20

STATE OF CALIFORNIA
Edmund G. Brown, Jr., Governor

5469 E. Olive Avenue
Fresno, California 93727
Telephone (559) 253-7324
Fax (559) 456-3194
www.sjrc.ca.gov

GOVERNING BOARD

Brett Frazier, Chairperson
Supervisor,
Madera County Board of Supervisors

William Oliver, Vice-Chairperson
Councilmember, City of Madera

Andreas Borgeas, *Supervisor*
Fresno County Board of Supervisors

Steve Brandau
Councilmember, City of Fresno

Kacey Auston, *Director, Fresno Metropolitan Flood Control District*

Carl Janzen, *Director*
Madera Irrigation District

Julie Vance, *Regional Manager*
Department of Fish and Wildlife

Kent Gresham, *Sector Superintendent*
Department of Parks & Recreation

John Donnelly, *Executive Director*
Wildlife Conservation Board

Julie Alvis, *Deputy Assistant Secretary*
Natural Resources Agency

Jennifer Lucchesi, *Executive Officer*
State Lands Commission

Karen Finn, *Program Budget Manager*
Department of Finance

Bryn Forhan
Paul Gibson
Vacant
Citizen Representatives

SAN JOAQUIN RIVER CONSERVANCY BOARD MEETING

The San Joaquin River Conservancy Board
will hold a regular meeting on
Wednesday, November 7, 2018
10:30 a.m.

Meeting Location:
Fresno Metropolitan Flood Control District
5469 E. Olive, Fresno CA 93727
and the following location is available to Board members and the public to participate via teleconference:
California Natural Resources Agency
1416 Ninth Street, Suite 1311, Sacramento CA 95814

MEETING AGENDA

CALL TO ORDER AND PLEDGE OF ALLEGIANCE

A. ROLL CALL

B. ADDITIONS TO THE AGENDA

Items identified after preparation of the agenda for which there is a need to take immediate action. Two-thirds vote required for consideration. (Gov. Code § 54954.2(b)(2))

C. POTENTIAL CONFLICTS OF INTEREST

Any Board member who has a potential conflict of interest may identify the item and recuse themselves from discussion and voting on the matter. (FPPC §97105)

D. EXECUTIVE SESSION

Public Comment: Before convening in **closed session**, members of the public will be provided the opportunity to comment on Executive Session agenda items.

D-1 Government Code Section 54957, Public Employee Appointment, Executive Officer

Consider recommendation of the Board Ad Hoc Committee to appoint a candidate to the position of Executive Officer of the San Joaquin River Conservancy

D-2 Conference with Legal Counsel—Anticipated Litigation

Initiation of litigation pursuant to subdivision (c) of Government Code Section 54956.9: 1 potential case. Lessee: Bluff Pointe Golf Center

Report out of Executive Session, including announcement of Executive Officer appointment and compensation.

E. PUBLIC COMMENT AND BUSINESS FROM THE FLOOR

Ten minutes of the meeting are reserved for members of the public who wish to address the Conservancy Board on items of interest that are not on the agenda and are within the subject matter jurisdiction of the Conservancy. Speakers shall be limited to three minutes. The Board is prohibited by law from taking any action on matters discussed that are not on the agenda; no adverse conclusions should be drawn if the Board does not respond to the public comment at this time.

F. CONSENT CALENDAR

F-1 Approve Minutes of September 5, 2018

F-2 Receive and File in the Record a Letter from Fresno for Parks dated September 24, 2018, Clarifying City of Fresno Measure P, Section 7-1410 (c) is Not Intended to Apply to the San Joaquin River and the Palm Avenue Corridor

G. DISCUSSION ITEMS

None.

H. ADMINISTRATIVE AND COMMITTEE REPORTS

H-1 Organizations
If time allows, the following oral reports will be provided for informational purposes only, and may be accompanied by written reports in the Board packet. No action of the Board is recommended.

H-1a San Joaquin River Parkway and Conservation Trust

H-1b RiverTree Volunteers

H-2 Deputy Attorney General Report

H-3 Executive Officer Report

H-3a River West Fresno and North Palm Access Implementation Work Group, October 24, 2018, Meeting Notes

H-4 Board Members' Reports

I. NOTICE OF ADVISORY AND BOARD COMMITTEE MEETINGS, OTHER PUBLIC MEETINGS

None.

J. NEXT BOARD MEETING DATE

The December 5, 2018, regularly scheduled Board meeting is hereby cancelled. The next Board meeting shall be held January 9, 2019, at a location to be determined.

K. ADJOURN

Board meeting notices, agendas, staff reports, and approved minutes are posted on the Conservancy's website, www.sjrc.ca.gov. For further information or if you need reasonable accommodation due to a disability, please contact Jasanjit Bains at (559) 253-7324 or Jasanjit.Bains@sjrc.ca.gov.

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Paul Gibson
Vacant
Citizen Representatives

Melinda S. Marks
Executive Officer

250.20

STATE OF CALIFORNIA
Edmund G. Brown, Jr., Governor

Item F-1

MINUTES
WEDNESDAY, SEPTEMBER 5, 2018
SAN JOAQUIN RIVER CONSERVANCY

Board Meeting Locations:
Fresno Metropolitan Flood Control District
5469 E. Olive, Fresno CA 93727
and the following location was available to Board members and the public for participation via teleconference:
California Natural Resources Agency
1416 Ninth Street, Suite 1311
Sacramento, CA 95814

MEETING AGENDA

CALL TO ORDER & PLEDGE OF ALLEGIANCE

Chairperson Frazier called the meeting to order at 10:02 a.m. and Mr. Brandau led the pledge of allegiance. He noted that this meeting would open and would close in commemoration and honor of the life of Ms. Mollie Tibbetts and led a moment of silence.

A. ROLL CALL

Name	Present	Telecon-ference	Absent	Late
Mr. Frazier	**X**			
Mr. Oliver	**X**			
Mr. Borgeas	**X**			
Mr. Brandau	**X**			
Ms. Auston	**X**			
Mr. Janzen	**X**			
Ms. Alvis	**X**			
Ms. Vance	**X**			
Mr. Gresham	**X**			
Mr. Donnelly	**X**			
Ms. Lucchesi	**X**			
Ms. Finn			**X**	
Ms. Forhan	**X**			
Mr. Gibson	**X**			

Ms. Bains confirmed a quorum was present.

Legal Counsel Present:	Michael Crow, Deputy Attorney General
Staff present:	Melinda Marks, Executive Officer Rebecca Raus, Associate Governmental Program Analyst Jasanjit Bains, Staff Services Analyst Heidi West, Program Manager, San Joaquin River Conservancy Projects, Wildlife Conservation Board

B. PUBLIC COMMENT & BUSINESS FROM THE FLOOR

The first ten minutes of the meeting are reserved for members of the public who wish to address the Conservancy Board on items of interest that are not on the agenda and are within the subject matter jurisdiction of the Conservancy. Speakers shall be limited to three minutes. The Board is prohibited by law from taking any action on matters discussed that are not on the agenda; no adverse conclusions should be drawn if the Board does not respond to the public comment at this time.

There were no comments from the public.

Board member Borgeas cited the ballot initiative, Measure P Fresno for Parks and mentioned there is a provision that caused concern; should Measure P pass, no funds from the source would be allocated for facility development on land above or adjacent to landfills. His understanding was that the provision was not intended to pertain to the Palm /Nees corridor for River West, but had been added due to concern about parks in Southwest Fresno. He asked Ms. Weaver and Mr. Gibson if they could confirm the information.

Ms. Weaver stated the reason the provision is in the ballot language pertains to a park that is on a landfill in Southwest Fresno. There are concerns about children and other vulnerable populations being affected by landfill gas. This issue has been discussed regularly before the City Council and Board of Supervisors. The sponsors wanted to make sure the funding would not be used to create parks with the same issues in the future.

Mr. Borgeas mentioned a letter will be drafted and submitted to the makers of the ballot initiative to understand the intent of the legislation, and to make sure the intension of the measure is not to include the Palm/Nees corridor.

Mr. Gibson stated that he has been actively involved with Measure P since its inception, and believes Mr. Borgeas and Ms. Weaver are correct in their interpretations. He added if people want more information on Measure P, they should visit the Fresno for Parks website. The measure will be on the ballot and is a 3/8 cent increase in sales tax. It has a specific earmark for operations and maintenance funds for the San Joaquin River Parkway.

Ms. Forhan introduced Ms. Anna Melendez from Assemblymember Arambula's office and requested an update on Assembly Bill 3218.

Ms. Melendez reported the bill has passed through the Legislature and is headed to the Governor's office for signature. She stated it is good to have local support via letters and representation asking for the Governor's support and signature.

On inquiry by Mr. Frazier, Ms. Melendez stated there are no funds identified to pay for Parkway management; funding was not written into the statute. In the long term, Assemblymember Arambula has a strong interest in finding funding.

On inquiry by Mr. Brandau, Ms. Melendez stated the bill's language states the Conservancy can enter into a management agreement with State Parks to operate the Parkway. The Conservancy would negotiate a management agreement with State Parks. In the long term, it would depend on what can be done during statewide budget negotiations.

C. ADDITIONS TO THE AGENDA

Items identified after preparation of the agenda for which there is a need to take immediate action. Two-thirds vote required for consideration. (Gov. Code § 54954.2(b)(2))

There were no additions to the agenda.

D. POTENTIAL CONFLICTS OF INTEREST

Any Board member who has a potential conflict of interest may identify the item and recuse themselves from discussion and voting on the matter. (FPPC §97105)

Ms. Vance, the California Department of Fish and Wildlife representative, confirmed she would recuse herself from participating in confidential Agenda Item H-1.

E. CONSENT CALENDAR

E-1 Approve Minutes of June 6, 2018

E-2 Report on Contribution of Conservancy Habitat Restoration Investments toward North American Wetlands Conservation Act Grant Proposal Match

RECOMMENDATION:
This report is for informational purposes. No Board action is recommended.

E-3 Authorize Cooperation with the County of Madera in a River Parkways Grant Application Concept Proposal, Madera County River Access Development Project

RECOMMENDATION:
It is recommended the Board authorize the Conservancy to cooperate in submitting a concept proposal for a River Parkways Grant for the planning, public participation, and design for the development of future public access on the Madera County river access site.

E-4 Authorize Temporary, Interim Delegation of Authority for Executive and Administrative Actions

RECOMMENDATION:
It is recommended during the vacancy of the Executive Officer position the Board authorize: 1) the Board Chairperson and the former Executive Officer serving as a Special Consultant to execute any and all of the duties and authorities delegated to the Executive Officer in Resolution 09-04 (attached); and 2) the Associate Government Programs Analyst to secure service agreements in amounts less than $5,000, approve vendor and contractor invoices, authorize payments, and submit standard budget, bond fund cash

flow projections, and fiscal reports as necessary to maintain essential day-to-day operations, provide for security and public safety at Conservancy properties, and perform essential business and governmental functions.

E-5 Report for Informational Purposes Regarding the Potential to Proceed with Engineered Designs and Construction Plans to Create "Shovel Ready" Projects

RECOMMENDATION:
This report is for informational purposes. No Board action is recommended.

It was moved by Mr. Janzen to approve the items on the Consent Calendar, as recommended by staff, seconded by Mr. Oliver, and unanimously passed.

F. DISCUSSION ITEMS

F-1 Review and Make Determinations Regarding a Revised Easement Associated with the San Joaquin Access Corporation's Option Agreement, River West Fresno, Eaton Trail Extension and North Palm Access Benchmark

Staff Recommendation: It is recommended the Board determine that, unlike the previous version of the easement presented to the Board December 13, 2017, the revised easement provides advance approval of the improvements, uses, and operations consistent with the Conservancy's approved North Palm Access project and Environmental Impact Report, and of the foreseeable future trail connections within the Parkway Master Plan. Based on this determination, the Board should direct staff to continue to implement tasks to meet benchmarks, including—after the San Joaquin River Access Corporation (SJRAC) has taken ownership of the parcel—negotiating a permanent public access easement as necessary to invest public funds in project development on the parcel. The Board may further determine at this point that possible future State acquisition of the property would not likely be approved by State control agencies due in part to the restrictions on the property rights imposed by the easement. In that case, the Board should direct that further investigations and negotiations to acquire the property in fee title from the SJRAC be discontinued; the SJRAC would bear responsibility for all obligations under the easement.

Ms. Marks reported that the Board approved the North Palm Access subject to specific benchmarks to be accomplished by the Conservancy and others by December 31, 2018. These benchmarks were intended to indicate if the North Palm Access was going to prove to be reasonable, feasible, and able to be implemented. The benchmarks pertinent to the recommended action are:

- Approximately 11 acres of privately owned property (the Spano property), shall be acquired by the SJRAC.
- The issues associated with the proposed Spano easement attached to the SJRAC's land purchase option agreement must be resolved to the Conservancy Board's satisfaction; and
- An access easement for public use shall be secured in favor of a willing public agency and recorded for the Spano property; alternatively, the Conservancy will investigate acquiring fee title ownership of the Spano Property.

Ms. Marks stated that staff is focused on achieving the benchmarks in order to carry out the project the Board approved. The SJRAC has renegotiated the access easement to provide that Mr. Spano has provided advanced written approval of the approved project features, uses and operations consistent with the Environmental Impact Report (EIR) and Parkway Master Plan. It approves future trails connecting westward to existing public access easements per the Parkway Master Plan. The Conservancy and City staffs' requested changes were incorporated and references to the City's municipal codes are consistent with the EIR and the project obligations.

Ms. Marks added the easement encumbers the property and restricts landowners' rights. It would be difficult to secure State approval to acquire this parcel with this easement in place. So staff recommends that the Conservancy discontinue exploring State acquisition, and instead focus on securing a permanent public access easement on the property as would be necessary to invest public funds in the project. SJRAC understands that they may retain ownership for the foreseeable future. They have agreed to negotiate a public access easement as soon as they acquire ownership. Ms. Marks summarized the recommended action.

Mr. Janzen noted that the easement restricts the number of parking spaces, yet more—even just a few more—might be needed.

Ms. Marks responded that there may be some wiggle room for some additional parking while remaining in compliance with the California Environmental Quality Act (CEQA), but 40 parking spaces—as in the easement--is what is identified in the EIR and what was approved by the Board. She noted the design plans must be consistent with the EIR.

Ms. Vance shared the concern about parking spaces, and noted the easement precludes locating a restroom on the property.

Ms. Marks responded that the restroom would need to be sited elsewhere in any case, in order to be sure it is outside and elevated above the 100-year floodplain.

Ms. Vance voiced a concern that since the easement runs with the property, in the future we might have to deal with future landowners who would have the same control as Mr. Spano.

On inquiry from Mr. Gibson, Mr. Brandau mentioned that there is parking at Spano Park, and through agreements with Mr. Spano, there are two adjacent properties available for additional parking, including parking at the base of the Palm Nees access road, currently behind the yellow gate.

Mr. Donnelly expressed concern about the ambiguity of Section 2d of the easement agreement. Who would have the ability to interpret or determine what improvements would interfere with the views? More clarification is needed.

Mr. John Kinsey, representing the SJRAC, was invited to speak about the easement. He stated that Mr. Spano would have the right to enforce the easement; however, no improvements that are being proposed for the project would interfere with the viewshed—they don't anticipate this being an issue. In addition, there has been a recent development. Mr. Spano insisted upon 40 spaces for the proposed North Palm Access parking area. The SJRAC has entered into a new option agreement to pick up other properties adjacent to the site at the base of the Palm Nees access road that would not be subject to an easement or restrictions. If the time comes for expansion of Parkway parking, there will be nothing preventing additional spaces or a restroom facility on the

immediately adjacent properties. The SJRAC optioned these properties to add flexibility and to meet the Board's concerns and needs.

Ms. Vance asked whether the Spano easement could run with Mr. Spano and not with the land. She remained concerned about future owners and how they may interpret the easement.

Mr. Kinsey stated the easement by its nature runs with the land and will go to Mr. Spano and his successors in interest. SJRAC has changed the dominant tenement to solely a property owned by Mr. Spano—there is only one person holding the easement at this time. The way the easement stands, Mr. Spano can't raise any issues about the project, since the site plan will be approved within the easement. He would be happy to defend against any challenge by Mr. Spano or his successors.

On inquiry by Mr. Gibson, Mr. Kinsey stated there is configuration due to a lot line adjustment, the dominant tenement will be moved over to the larger property. The development horizon is nearly nonexistent. Mr. Gibson stated that, given the location of the parcels in relation to the steep bluff, there should not be interference with the views from the bluff.

On inquiry from Mr. Borgeas, Mr. Kinsey stated that any successors in interest are bound by the conditions approving the project in the easement. They would have obligations under the document and would not have the ability to challenge the development of the parking lot consistent with what is in the EIR. He noted that Mr. Spano's heirs are comfortable with the development of the project as defined.

Ms. Vance stated the viewshed concern expressed by Mr. Donnelly needs to be resolved in section 3 of the easement. She also expressed that the provision requiring the SJRAC to support a future development proposal by Mr. Spano on the adjacent property was unnecessary.

Mr. Frazier mentioned the project is low profile in nature, sits in the 100-year floodplain, and the Conservancy is already limited in what it would develop based on the project description in the EIR, therefore, he does not think the easement limits the Conservancy.

Mr. Kinsey indicated that the SJRAC concurred with Mr. Frazier's assessment. With regard to the provision whereby the SJRAC would support Mr. Spano's future development plans, it would not apply to any agency that acquired the property, and the SJRAC's future support would seem to be of very little consequence to the City Planning Commission. They were able to go back to Mr. Spano and renegotiate the easement to address the City's and Conservancy Board's concerns—this seemed like a minor concession in return. He thinks the easement is better and provides the flexibility the agencies need for the project.

On inquiry from Mr. Borgeas, Mr. Kinsey stated the SJRAC is waiting on the completion of a lot line adjustment which the City is in the process of finalizing, before they can close escrow.

Mr. Brandau added he spoke with the City of Fresno attorney for an update on the lot line adjustment. The documentation passed at City Council and the planning department is working on the paperwork.

On inquiry by Ms. Lucchesi about a scenario where an agency would not acquire the property from the SJRAC and the SJRAC would retain ownership, Mr. Kinsey stated that in the event of a dissolution of the SJRAC, the SJRAC would do its best work with public agencies to make the

project happen. It is not a property with development potential, it cannot be used for anything other than a parking lot. He does not anticipate dissolution of the SJRAC.

Ms. Lucchesi stated she was not sure any formal assurance could guard against dissolution, which creates uncertainty about the future. She believes the restrictions in the easement are too great for a public agency to accept if it were to acquire fee title ownership, which would be the best way to secure the property in perpetuity for the project.

Mr. Kinsey stated the access easement may make it difficult for a public entity to take fee title ownership, but it does not prohibit a public agency from entering into and recording an access easement and/or entering into a lease. There are many other ways for the SJRAC to make sure the property is used for public access.

Ms. Lucchesi stated her agreement that an easement or other instrument might work; she stated her belief that a public agency could not accept ownership given the restriction in the easement.

Ms. Vance requested an educational kiosk or signage be specifically incorporated into the access easement. Mr. Kinsey responded that he would be happy to propose that revision to Mr. Spano and he is confident Mr. Spano would agree.

On inquiry by Ms. Vance regarding transfer of ownership in the event of possible dissolution of the SJRAC, Mr. Kinsey stated the ownership may transfer to the individual members if the entity dissolves. The members of the corporation would determine the dispensation of its property. In the event the corporation dissolves and the ownership goes to other parties, the easement will still apply.

Ms. Vance stated the State cannot take ownership and hold the easement given the terms presented.

Mr. Donnelly agreed, stating it would be difficult for the State to take ownership due to the limitations on the property.

Mr. Kinsey noted that is the SJRAC's understanding as well. Their goal was to be sure the easement allows development of the project, with the SJRAC willing to hold fee title.

Ms. Marks added the other challenge the State would face would be the post closure land use plan. Although the post closure plan is not particularly burdensome, it would be difficult to get State approval to acquire a property with these issues. If the SJRAC acquires the property, they would be the ones that would be burdened with the obligations.

Ms. Lucchesi inquired if nonprofit would hold ownership, how would the Conservancy establish a relationship with the nonprofit to implement the project? What kinds of terms can be expected, for example would the nonprofit be required to indemnify the State?

Ms. Marks stated indemnifications and permanent easements (held by the City or Conservancy) would be developed; in lieu of acquiring the property, we would make sure that if there is a public investment in the project at the site, there would be a permanent right for those public access facilities and uses on the site.

Ms. Lucchesi added the restrictions of the Spano easement would still remain in place.

Ms. Marks responded that is true; however, also the Conservancy would not take on obligations of ownership. If the Conservancy were to acquire the property, we would need to get Department of General Services (DGS) approval, as well as Wildlife Conservation Board (WCB) approval. Since the Spano easement allows and approves in advance the project that was approved by the Board, it allows us to move forward with implementing the project, provided staff is directed to successfully negotiate a permanent public access easement on the site. Staff recommends setting aside any further evaluations for the State to acquire the property.

Ms. Lucchesi wanted clarification whether the Spano easement restricts access to the property through any route other than the Palm Avenue access. She noted the easement restricts public vehicle access to the property to that provided by the North Palm Access.

Ms. Marks mentioned that the Conservancy's plans provide for a trail, but not public vehicle access, on the gravel road leading from the Palm Nees private access road. The road connection could be used for management purposes, but it is not planned that it become a public vehicle access road. It is consistent with the Board's approved project that public vehicles would only come in to this parking area through the North Palm Access.

Ms. Lucchesi asked if the Riverview access was ever opened, would there be a way to connect the two? Ms. Marks replied that vehicle access from Riverview to this parking area was not an alternative that was considered by the Board. There would need to be a new environmental review, and there is a provision that would allow the SJRAC to apply to the easement holder to approve changes in the future.

Ms. Vance noted that when her department is a third party beneficiary of an easement, there are provisions that cover what happens in the case of dissolution of the entity; usually the assets would go to the third party beneficiary.

Mr. Kinsey stated that would not be the case with the Spano easement, which is similar to a restrictive covenant; that provision should be covered in the public access easement to be developed with the Conservancy (or some other public entity). He expects the Conservancy will include this in its easement, and it is not precluded by anything in the Spano easement. The SJRAC focused on addressing the concerns raised previously about the Spano easement, and he maintains those issues have been successfully addressed. The proposed public access easement has not been provided by the Conservancy to the SJRAC to date, but he expects it would include such provisions.

Mr. Frazier noted that the public access easement would create the formal relationship between the Conservancy and the SJRAC (as the fee title owner) that Ms. Lucchesi inquired about.

Ms. Marks stated the next step is to start working with those with expertise to outline the terms and conditions of the proposed public access agreement to make sure it meets the State's requirements to fund, develop, operate, and maintain the facilities.

Ms. Lucchesi requested to receive the option agreement that is fully executed and the fee title grant deed from Ms. Spano to the nonprofit. That additional information would help the Board evaluate the what the SJRAC is able to convey to the State.

Mr. Kinsey stated the documents can be provided after the lot line adjustment is completed and the fee title has been acquired. It is a simple deed that will convey full fee title, subject to the Spano easement and any existing encumbrances. He agreed to send the option agreement to

Ms. Lucchesi and WCB; the documents were not ready earlier, since they were optioning the two additional properties.

Mr. Borgeas thanked the SJRAC and Conservancy staff for making progress. The Board was clear about its benchmarks in December, and from what he is seeing they are making substantial progress to achieve them.

On inquiry by Ms. Vance, Mr. Donnelly confirmed that the public access easement would need to be approved by DGS. They would need to review the Spano easement, to be sure the SJRAC has the rights to grant the public access easement. There remain issues in the current version of the Spano easement, but Mr. Kinsey may be able to secure revisions to make it more acceptable. Whether there is value paid for the public access agreement and the amount paid, will affect whether just WCB can approve it, or if it must be approved by DGS. There is an exemption that allows the WCB to do projects under a value threshold but there would have to be approval from both agencies.

Ms. Vance voiced her concern for moving forward with accepting the Spano easement without knowing what would be in the proposed public access easement, because the two are interlinked.

Mr. Kinsey reported that the concerns he heard today should be able to be addressed with revisions to the Spano easement to make sure the best project can move forward.

Mr. Borgeas asked staff to restate the expected outcome for the meeting today. Ms. Marks noted that the benchmark established by the Board requested that issues associated with the Spano easement be resolved to the Board's satisfaction. Staff is trying its best to resolve problems to implement the approved project. Staff recommended that the easement as revised is acceptable for implementing the approved project and it does not restrict development and operation of the approved project, provided we can successfully enter into a permanent public access easement that allows facilities and improvements, public use, and operations the Board has approved, in perpetuity. Staff can get direction today to start working on that easement, given the Spano easement plus changes today, to build the project the Board has approved. The Spano easement does leave in question some future changes the Board might want, but those possibilities are not foreseen, evaluated, or contemplated to date. Staff is also recommending discontinuing any further consideration of acquiring the property in fee title from the SJRAC; the SJRAC would be the long term owner.

Mr. Borgeas summarized that the Spano easement as revised does not restrict and allows the Conservancy to implement the project, and the benchmarks continue to be reached, although there are more processes ahead. The questions of the Board members have merit, which Mr. Kinsey has heard and intends to do his best to address. He is prepared to make a motion, but questioned whether a motion and vote is necessary.

Ms. Marks noted that a motion and vote would indicate that staff can move forward on other benchmarks, but if this is considered a work in progress the Board can give direction to staff.

Ms. Vance noted that it would be good to have a vote to determine if the Board is in agreement not to pursue fee title acquisition.

Mr. Crow noted that a motion and vote would provide greater specificity and create a better record as to the Board's direction and opinions as to the easement.

Mr. Frazier opened the floor to public comment.

PUBLIC COMMENTS:

Mr. Tom Bohigian, a resident of Fresno, referred to a map that was presented to the Board at the meeting, and noted inconsistencies with the approved project. He noted that planned restrooms should be built at the same time as the parking area is built. He is concerned that what will be built is at the whim of Mr. Spano.

Ms. Marks mentioned the map that was utilized this morning for reference purposes and is taken from the Draft EIR and shows the parcelization. The project was subsequently changed in the Revised Draft EIR, and that shows the approved alignment for the access road. The restroom, access road and parking lot would all be built at the same time. We will need to find a location for the restroom that is elevated and located away from the parking lot due the proximity of the 100-year floodplain.

Ms. Clare Statham, a resident of Fresno, expressed uncertainty with moving forward with a project, pursuing an easement while discontinuing actions to acquire the land. She stated the property owner's successors will have little interest in maintaining their responsibilities; we need to look at possible problems because no one seems to be interested in owning this land.

Ms. Sharon Weaver from the San Joaquin River Parkway Conservation Trust stated she has similar concerns about the issues related to the longevity and health of the newly formed nonprofit corporation. She stated as a nonprofit that does land acquisitions, it is a normal part of business to show capacity and ability to manage public projects. As discussions continue, we need to look at the assets and abilities of the corporation.

Mr. Richard Sloan from RiverTree Volunteers stated this is a worthwhile project as it is the only possibility that gets people close to the river with hand-carried watercraft. He thinks the coalition is sound and those involved are substantial, upstanding folks.

There were no additional public comments.

BOARD COMMENTS:

Mr. Borgeas motioned that the Board should make a determination to discontinue investigations to acquire the property, and direct staff to move forward with public access easement negotiations.

Ms. Vance suggested a motion that the State discontinue investigations to acquire the Spano (pending SJRAC) parcel.

Mr. Frazier noted that a motion made by Mr. Borgeas was on the table.

Mr. Gibson asked Mr. Borgeas to clarify his motion, referencing staff's recommendations.

Mr. Borgeas stated that his recommendation is to accept staff's recommendation, direct staff to implement the remaining benchmarks, and discontinue negotiations for the State to acquire the property.

Ms. Vance suggested the parts of the motion should be separated.

Mr. Frazier asked Mr. Borgeas whether he would like to change his motion or accept friendly amendments.

Ms. Vance explained that she would not accept the Spano easement as presented as satisfactory, but that the easement could still be subsequently remedied; therefore, she was not ready to approve the first part of staff's recommendation.

Mr. Borgeas suggested amending the first part of his motion: the Board would accept staff's recommendation that the easement does not restrict the development of the approved project, subject to addressing the concerns raised by the Board at today's meeting. We should not send a message that the Conservancy or others should stop what they are doing to achieve the benchmarks—we should meet our commitment in December for good faith negotiations to move this project forward by satisfying the benchmarks.

Mr. Frazier suggested the concerns raised at the meeting could be summarized. Mr. Borgeas listed them, with some additional discussion of the Board, staff, and Mr. Kinsey:

1. Identify plans or protected measures for the future viability of the project in the event of potential dissolution of the San Joaquin River Access Corporation;

2. Access Easement Section 1-a: Request Mr. Spano to agree to an educational kiosk and signage to be incorporated into the easement;

3. Ask Mr. Spano to agree to a provision that articulates that with the additional two optioned parcels, expanded parking may be added as necessary (recognize that the two additional parcels would be contemplated for use for additional parking); and

4. Access Easement Section 2d: tie section 2a, so that it is clear the approved features do not interfere with the view.

Mr. Borgeas restated the first part of his motion as amended: the Board is accepting staff's recommendation that the revised easement does not unreasonably restrict the development operation of the approved project, subject to the identified four items (see above) being resolved.

Mr. Oliver noted that some members were concerned about accepting the Spano easement as satisfactory, given its possible effect on the Conservancy's public access easement, which has not yet been drafted.

Mr. Donnelly and Ms. Alvis indicated a vote on acceptability of the Spano easement was premature.

Mr. Frazier expressed that the motion would indicate the concerns about the easement that need to be addressed before the Board agrees to the reasonableness of moving forward with the project.

Mr. Borgeas emphasized that the Conservancy is working through a process—which the Board provided a year to accomplish, working on several benchmarks, which in good faith are being

pursued and accomplished. If the process is dismantled, we will again be delayed in delivering a project to the public. We need results.

Ms. Vance suggested a revision of the motion could provide a path forward. Staff should continue on this path.

Ms. Lucchesi suggested it was difficult to make a determination of reasonableness at this point and with the documentation that is not available. Ms. Lucchesi proposed an amended motion and path forward which would direct staff to continue to move forward, without making a determination that the Spano easement does not unreasonably restrict the use of the property.

Mr. Borgeas proposed an amended motion (referencing staff's recommendation as presented on slides): accept staff's recommendation and determine the revised Spano easement should move forward, subject to resolving the four additional concerns raised by Board members at today's meeting; direct staff to continue to implement tasks to meet the remaining benchmarks; and discontinue investigations and negotiations aimed at the State acquiring the parcel, and instead negotiate and secure a permanent public access easement.

Ms. Lucchesi suggested a friendly amendment of the first item: direct staff to continue to work with the SJRAC on the revised Spano easement, to address the concerns raised by Board members at the meeting, and in parallel, start working on negotiating terms of the public access easement.

Mr. Borgeas accepted Ms. Lucchesi's amendment, and Ms. Lucchesi seconded the motion as amended. The motion unanimously passed.

F-2 Adopt Resolution 18-02, Intent to Cooperate in Public Access Application for Ball Ranch and Ledger Island Trails to the State Lands Commission; Applicant: The River Conservancy at Tesoro Viejo

Staff Recommendation: It is recommended the Board approve Resolution 18-02, which expresses the Conservancy's intent to cooperate in a lease and planning application to the State Lands Commission from the River Conservancy at Tesoro Viejo (RCTV) to evaluate pursuant to the California Environmental Quality Act (CEQA) the potential impacts of providing public access to Parkway Master Plan trails at Ball Ranch and Ledger Island, along with other public access proposed by RCTV. The recommended action approving the Conservancy's participation in this planning effort does not constitute any pre-determination that the Board will approve the proposed trails, proposed operations agreement, funding for any improvements, or any other action under the Conservancy's jurisdiction.

Ms. Marks reported the Tesoro Viejo development corporation is working on developing a trail for its residents on its property providing access to state sovereign lands and public trust lands along the riverbank adjacent to Ledger Island. To make this river access available to the general public, the RCTV plans to apply to the State Lands Commission (SLC) for a lease to construct, operate and maintain public access improvements on lands under the agency's jurisdiction. The SLC will evaluate the proposed project pursuant to CEQA, the impacts of the proposed project trails and river access on state sovereign lands (Madera and Fresno counties), staging and parking on private lands in Fresno County on land owned by the development corporation and on state sovereign lands adjacent to the Conservancy's Ball Ranch. RCTV would provide funding for operations and maintenance of the trails through property transfer fees generated at Tesoro Viejo.

Subject to Board approval, the application would also propose public access to trails planned in the Parkway Master Plan at Ledger Island and Ball Ranch, supported by an operations and maintenance agreement with the Conservancy. Ms. Marks pointed out some changes from the original proposal; fewer structures are proposed. The proposed trails and public access project is a revised, scaled-down proposal by RCTV, compared to the many proposed project elements presented to the Board in September 2016.

On inquiry by Mr. Gibson, Ms. Marks confirmed the RCTV is non-profit organization.

Ms. Lucchesi briefly described the SLC application process and added the application from RCTV has not been received yet; the SLC would be the lead agency under CEQA. She added the make up of the applicant organization is looked at to determine whether they are an appropriate entity to lease state property. This process would relieve resource and staff pressures to conduct the CEQA process from the Conservancy to the SLC where the resources are available.

Mr. Frazier stated he was in support of the project the first time it was proposed to the Board, and has actively worked with the Board ad hoc committee created to bring the proposal back for consideration. This is a place within the Parkway where Fresno and Madera county residents can have access to both sides of the river. Operations and maintenance would be provided. This opportunity is too important to let it slip away. It makes sense to work through the SLC to get this done.

Mr. Gresham asked if the Ledger Island bridge could be addressed in the planning.

Mr. Frazier introduced Mr. Brent McCaffrey and suggested they could answer Mr. Gresham's question.

Mr. McCaffrey from the RCTV stated this would be a great opportunity to bring the two counties together to create a linkage within the Parkway. Their ultimate vision is to embrace the Board's adopted Parkway plan and make it a reality. He mentioned the bridge would be addressed through the CEQA process with the State Lands Commission.

On inquiry by Mr. Janzen regarding the CEQA process and public opportunities for comments, Ms. Lucchesi clarified there would be multiple opportunities for public participation and hearings, held locally, to make sure public concerns and desires about the project are addressed. There would be additional opportunities before the Conservancy Board.

Mr. Frazier noted that over several meetings among the agencies, it had been contemplated Fresno County, Madera County, the Conservancy or the SLC could be the lead agency, co-applicants, etc. Through Ms. Lucchesi's expertise, it was clear the SLC could best serve as the lead, and still provide for public involvement.

Mr. Borgeas inquired whether the SLC's role has changed since the original proposal.

Ms. Vance stated the previous resolution was very specific and too detailed in the operation agreement. The proposal today is a more appropriate first step.

Ms. Marks added the role of the SLC is better articulated in the renewed proposal. As Ms. Vance noted, there were so many elements in the previous proposal, that is clouded the issues.

Mr. Borgeas stated this project would create an opportunity through SLC and has a lot of promise. He asked who serves on the RCTV board.

Mr. McCaffrey stated the RCTV has established a 501(c)(3). It is looking to use lands owned by Tesoro Viejo in concert with adjacent public land to bring the Parkway to reality. The members on the RCTV board are: Brent McCaffrey, Bob McCaffrey, Randy Jackson of Placeworks, Chairman Max Rodriguez of Madera County, former Supervisor Henry Perea, and former Sheriff Steve Margarian.

On inquiry from Mr. Borgeas, Ms. Lucchesi explained the lands the SLC has jurisdiction over. The nonprofit would need to secure a lease from the State Lands Commission to construct and operate improvements on state sovereign lands. Once the project is approved by the SLC, the Conservancy could rely on those environmental documents to consider approval of parts of the project that are located on Conservancy land.

Mr. Borgeas asked what agency would grant approval or oversight of trail alignment and maintenance expectations. Ms. Lucchesi stated it would be the SLC for land within their jurisdiction, and it would be the SJRC for its lands.

PUBLIC COMMENTS:

Ms. Sharon Weaver stated she appreciates Tesoro Viejo development's interest in taking this on—it is a good idea for the developer to take this step. She does have process-related concerns. The project has not gone through detailed design. There have been no discussions about the operations mechanism. The state is limited in the ways it can do operations on public lands with a private entity.

Ms. Lucchesi stated those valid concerns. From the SLC's perspective there are over 4,000 leases managed by the SLC. The SLC has a lot of experience in terms of developing lease terms. What is being proposed is subject to public review. In the event an application is submitted from RCTV, the SLC is committed to engage with the public to address concerns to move forward.

Mr. Radley Reep stated he recalls the project plans from 2016. He read the agenda and stated he did not see the plans in the staff report. He requested plans and maps from the SJRC and they were not provided. He feels that as a member of the public, he has been shut out. He requested the project not be approved today.

Ms. Barbara Bailey from the board of the Fresno Audubon Society, stated they use the property for low impact bird walks. The Board should make certain that whatever is granted to RCTV is nonexclusive so there is continued access to the property. She requested the process to be transparent and that meetings will be local and fully noticed.

Ms. Lucchesi stated she appreciates the comments; the lease would be non-exclusive.

Ms. Marks added the purpose of moving forward is that RCTV would help maintain and operate the properties to open them to the general public during operating hours for access to the river and to trails, so this would increase access not reduce it.

Ms. Clary Creager stated she would like to see more specificity and stated the members of the public are major stakeholders of these public properties. She requested the resolution be brought

back after being provided more detail. She suggested the Conservancy publish a monthly informative newsletter.

Ms. Vance stated that in conjunction with the environmental review, there would be a detailed notice that would outline the proposed project

Mr. Frazier stated what is presented today provides an intent to cooperate. It allows Conservancy staff to engage in the planning process with the SLC. This is not an approval of the project, but approval for staff to cooperate in an application to the SLC.

Ms. Lucchesi added, to address the concerns of public transparency, she can provide an update, once an application is complete, on the status of the progress of the RCTV application at future Conservancy board meetings

Mr. Borgeas asked if it would be possible to move forward today, but have the opportunity to review the plan details prior to submitting the application to the SLC.

Ms. Marks added she would propose a meeting of the Interagency Project Development Committee to secure input about the project description.

There were no further public comments.

BOARD COMMENTS:

Mr. Borgeas stated he is prepared to move forward and requested the RCTV to provide the plan details in advance of submitting the application go to the SLC.

Mr. McCaffrey stated he believes in the importance of transparency with the public. The project description would be submitted to the Conservancy as well as the SLC, and the RCTV would work cooperatively with the Board.

Mr. Gibson stated that he applauded the process and proposal presented by the RCTV. He asked if the SLC would be working on a CEQA plan that would incorporate both Ledger Island and Ball Ranch.

Ms. Lucchesi stated the project encompasses those areas and multiple jurisdictions. The added benefit is the SLC's familiarity with these types of projects. What the Conservancy will ultimately get is a certified environmental document that can be used by the agencies to be able to make decisions on permits and other types of approvals.

Mr. Gibson stated, from a private business perspective, now is the time to move forward and not delay the planning process.

Mr. Frazier added, just like in Fresno, people will visit the sites, but if there is no planning and no management, there will be trespassing and safety concerns. When there is a vested interest, it goes beyond operations and maintenance to protect the resources.

Ms. Forhan added that public access is paramount. It is incumbent upon the Board to move forward with the resolution and proposal, and not lose the opportunity for operations and maintenance. Along with Assembly Bill 3218, this proposal is another vehicle to move forward.

Mr. Brandau gave his kudos to the RCTV and McCaffrey development for planning public access to trails, as a part of building new homes.

A motion was made by Mr. Brandau and seconded by Mr. Frazier to Adopt Resolution 18-02, Intent to Cooperate in Public Access Application for Ball Ranch and Ledger Island Trails to the State Lands Commission; Applicant: The River Conservancy at Tesoro Viejo, as recommended. The motion passed unanimously.

G. ADMINISTRATIVE AND COMMITTEE REPORTS

G-1 Organizations

If time allows, the following oral reports will be provided for informational purposes only, and may be accompanied by written reports in the Board packet. No action of the Board is recommended.

G-1a San Joaquin River Parkway and Conservation Trust

Ms. Weaver mentioned two events: The Great Sierra River Cleanup will use canoes and kayaks on September 15th primarily at Sycamore Island; and the Trust's 30th Anniversary Dinner on the Trail event on a section of the Eaton Trail at the River Center on Old Friant Road on Friday, September 21st beginning at 5:30 p.m.

G-1b RiverTree Volunteers

There was no report.

G-2 Deputy Attorney General Report

Mr. Crow reported last week the 3rd District Court of Appeals in Sacramento issued an Opinion document involving a question about the Public Trust Doctrine and its applicability to ground water issues that involved the Scout River in Northern California. The court unanimously upheld the trial court decision that Public Trust considerations had to be taken into effect when pumping groundwater as has happened in other locations in rivers and streams in California. Public trust values of a river can be adversely affected by over-pumping ground water. In the Scout River case, portions of the river were going dry in some particular years affecting salmon and steelhead populations, which upset the commercial salmon fishing industry and Native Americans who have fishing rights in the river. It is a published decision.

G-3 Executive Officer Report

G-3a Status Report for Informational Purposes on Board-Accepted Priorities for Land Acquisitions, Habitat Enhancement, Public Access, and Recreation Projects

Staff Recommendation: This report is provided for informational purposes. No formal Board action is recommended. The Board may direct the new Executive Officer to review project priorities with member agencies, partners, and stakeholders over the next few months and present updated recommendations.

Ms. Marks reported the board periodically establishes priorities based on recommendations. She hopes the new Executive Officer (EO) has the opportunity to continue the process and make it better. It is time to look at priorities and some are related to recommendations in today's closed session.

Continuing her report, Ms. Marks noted the EO recruitment has been open since August 9th, she will be retiring on September 10th. The proposal for Ms. Marks to continue on as a retired annuitant needs to be approved by CalHR.

Mr. Gresham noted that a retired annuitant may only work up to 1800 hours in a year.

Ms. Marks asked the Board to assist in the recruitment process by encouraging those in middle management with related experience to apply.

She continued her report—there was recently an issue with trespassers at the Vinnard property and staff is trying to figure out how to secure the property. Staff worked with the Sheriff's Department, the CHP, and neighboring property owners to remove the trespassers. Ms. Raus spent a majority of a day resolving the issue onsite. In order to rent the property, there would be repairs needed first, which would require funding through the SJRC and the WCB. The repairs would have to be identified and costs determined. It will be a lengthy process. Alternatively, the Board could approve demolition of the residences.

G-4 Board Members' Reports

There were no reports.

H. EXECUTIVE SESSION

Public Comment: Before convening in closed session, members of the public will be provided the opportunity to comment on Executive Session agenda items.

Board members Vance, Borgeas and Brandau left the meeting prior to Executive Session, Board members Forhan and Auston left during the session. There remained a quorum present for the discussion of the items and votes.

Mr. Crow reported out of Executive Session, stating the Board considered four items in closed session and gave direction to staff in all four items to go forward with lease negotiations and possible appraisals or offers regarding the properties.

Mr. Crow announced his final retirement, after serving in a retired annuitant capacity for the Attorney General's Office for several years.

I. NOTICE OF BOARD, ADVISORY, AND PUBLIC MEETINGS

None.

J. NEXT BOARD MEETING DATE

The October 3, 2018, regularly scheduled Board meeting was cancelled, due to the vacancy in the Executive Officer position. The next regularly scheduled meeting would be November 7, 2018, 10:30 a.m., at a location to be determined.

K. ADJOURN

Upon request from Mr. Frazier, this being the last meeting for Ms. Marks before her retirement, Ms. Marks adjourned the meeting at approximately 1:15 p.m.

Board meeting notices, agendas, and approved minutes are posted on the Conservancy's website, www.sjrc.ca.gov. For further information or if you need reasonable accommodation due to a disability, please contact Jasanjit Bains at (559) 253-7324 or Jasanjit.Bains@sjrc.ca.gov.

Respectfully submitted,

Melinda S. Marks
Special Consultant

SAN JOAQUIN RIVER CONSERVANCY

Agenda Item

Item F-2

November 7, 2018

TO: San Joaquin River Conservancy
Governing Board

FROM: Melinda S. Marks, Special Consultant (Retired Annuitant)

SUBJECT: **Receive and File in the Record a Letter from Fresno for Parks dated September 24, 2018, Clarifying City of Fresno Measure P, Section 7-1410 (c) is Not Intended to Apply to the San Joaquin River and the Palm Avenue Corridor**

RECOMMENDATION:
This report is for informational purposes. No board action is recommended.

SUMMARY:
The Fresno County Board of Supervisors' office has received a letter from Fresno for Parks dated September 24, 2018, clarifying that the intent of Measure P, Section 7-1410 Miscellaneous Provisions, Section 7-1410, subsection (c) was not intended to be applied to the San Joaquin River and the Palm Avenue corridor.

DISCUSSION:
Measure P was developed by Fresno for Parks, a diverse, non-partisan group of Fresno residents who believe that safer, cleaner parks for all Fresnans is important to the health, safety and overall quality of life of our community. The measure was placed on the November 2018 ballot after the organization gathered more than 35,000 signatures from local supporters. The citizen-led measure will, if approved, provide a guaranteed, local funding source for City parks through a 3/8-cent sales tax in Fresno. It would raise an estimated $38 million per year and cost the average Fresno household $39 per year, or $3.25 per month.

Measure P contains provisions restricting the use of the revenues on parks that could be developed on waste disposal sites. The attached letter from Fresno for Parks Yes on Measure P states that Section 7-1410 Miscellaneous Provisions, Section 7-1410 (c) is not intended to be applied to the San Joaquin River and the Palm Avenue corridor. It was included to address environmental concerns about new parks developed on waste sites in Southwest Fresno.

Attachment

Via Electronic Mail

September 24, 2018

Honorable Andreas Borgeas
Supervisor, District 2
County of Fresno
2281 Tulare Street, Room 301
Fresno, California 93704

Re: Revised Clarification on Intent of Measure P, Section 7-1410 – Miscellaneous Provisions, Subsection (c)

Dear Supervisor Borgeas:

In our September 6, 2018 letter to you, we inadvertently referenced the wrong section of Measure P. Please accept the following revision to our letter.

The purpose of Provision 7-1410, subsection (c) was not intended to be applied to the San Joaquin River and the Palm Avenue corridor. Rather, it was included to address environmental concerns about new parks developed on waste sites in Southwest Fresno. Subsection (c) achieves that goal by preventing Measure funds from being used to "develop facilities," or new parks, on landfills or waste sites. It is our intent that the term "develop facilities" only refers to the development of new parks, and does not include the development of ancillary facilities or improvements to existing parks. Subsection (c) is likewise not to prohibit or restrict the use of Measure P funds to develop ancillary facilities or improvements to existing parks which happen to be located on landfills or waste sites in any other part of Fresno.

Please let us know if you have any questions.

Sincerely,

Larry Powell
Co-Chair
Fresno for Clean, Safe Neighborhood Parks

Juan Arambula
Co-Chair

Ashley Swearengin
Co-Chair

Paid for by Yes on P, Fresno for Clean, Safe Neighborhood Parks: A Coalition of Parents, Seniors, and Community Leaders, Sponsored by the Central Valley Community Foundation; committee major funding from: Central Valley Community Foundation and Lyles Foundation.

SAN JOAQUIN RIVER CONSERVANCY

Agenda Item

Item: H-3a

November 7, 2018

TO: San Joaquin River Conservancy Board

FROM: Melinda S. Marks, Special Consultant (Retired Annuitant)

SUBJECT: **River West Fresno and North Palm Access Implementation Work Group, October 24, 2018, Meeting Notes**

RECOMMENDATION:
This report is for informational purposes. No Board action is recommended.

AGENDA AND MEETING SUMMARY
Meeting: October 24, 2018, 10:30 a.m.
Fresno Metropolitan Flood Control District

1. INTRODUCTIONS

ATTENDEES:
Sharon Weaver, San Joaquin River Parkway and Conservation Trust
Steven Rhodes, County of Fresno, Department of Public Health, Environmental Health Division
Kevin Tsuda, County of Fresno, Department of Public Health, Environmental Health Division
Heidi West, Wildlife Conservation Board (WCB)
Daniel Vasquez, WCB (by phone)
Scott Mozier, City of Fresno Department of Public Works
Andrew Benelli, City of Fresno Department of Public Works
John Kinsey, Counsel for San Joaquin River Access Corporation (SJRAC)
Tom Beggs, SJRAC
Scott Hatton, Central Valley Regional Water Quality Control Board (RWQCB)

STAFF:
Melinda Marks, Consultant; Rebecca Raus, Associate Government Programs Analyst; Jasanjit Bains, Staff Services Analyst

2. STATUS REPORT ON BENCHMARKS

Ms. Marks reported that the Board received a report on the progress toward meeting the Board's feasibility benchmarks in June, and on September 5 received a report focused on the Board's concerns about the Spano easement associated with the SJRAC's purchase option agreement. A revised easement negotiated between the SJRAC and Mr. Spano was provided

to the Board. The Board passed a motion that the staff continue to work with the parties toward achieving the benchmarks, and that SJRAC should address and resolve the following issues associated with its revised easement:

1) develop provisions to ensure the future viability of the project and ensure that obligations are met should the SJRAC dissolve in the future;
2) the easement should explicitly approve installation of an educational/informational kiosk and signs;
3) the easement should state that the approved features are not in conflict with the language in the easement protecting the views from Mr. Spano's parcel; and
4) the easement should acknowledge that it does not preclude or provide Mr. Spano control over the development of Parkway parking off-site on other SJRAC-optioned parcels.

3. SPANO OPTION/EASEMENT—BOARD-REQUESTED AMENDMENTS

Mr. Kinsey reported that they had made significant progress on the issues. On October 10, Mr. Spano signed an amended agreement that addressed and resolved three of the four concerns: the easement solely encumbers the subject property and shall not be construed to encumber the other properties optioned by the SJRAC; the educational kiosk and signage were added to the approved features; and none of the improvements identified and approved in the easement shall be construed to interfere with the view. Mr. Kinsey advised that it would be more appropriate to address the possible dissolution of the SJRAC in the SJRAC's public access easement or some other appropriate document, rather than in the option agreement.

4. POST-CLOSURE LAND USE PLAN REVIEW

Mr. Rhodes and Mr. Hatton reported that, after initial review and comment last June, neither agency had received a revised Post-Closure Plan from the SJRAC. Mr. Beggs and Mr. Kinsey noted that the plan had been completed in late July by Kleinfelder, incorporating the agencies', Conservancy staff's, and City staff's comments. Mr. Beggs would immediately forward the revised report to County Health and the RWQCB for their review and approval. The final construction plans would be subject to County and RWQCB approval at such time as they are developed. [Mr. Beggs routed the completed plan to the agencies immediately following the meeting on October 24. He noted that the consulting engineer left Kleinfelder, and failed to be sure the report was submitted to the agencies.]

5. OTHER ACTIVITIES NECESSARY FOR THE SJRAC TO CLOSE ESCROW

Mr. Kinsey reported that the only other activity needed to close escrow, is a lot line adjustment that is being processed by the City of Fresno and executed by Mr. Spano and the SJRAC. Mr. Mozier reported that as a result of the SJRAC acquisition, another adjacent parcel on the bluff slope (zoned open space) owned by Mr. Spano would be land-locked; this will be resolved by a cross-easement, providing the right for Mr. Spano to access his parcel across the optioned parcel, but not dictating an alignment or access improvements—it would be at the property-owner's (SJRAC's) discretion how it would provide access. This would ensure the rights of access would not conflict with the project design. Mr. Kinsey stated he would provide the City suggested language to include in the cross-easement, such as, "nothing herein shall be construed to conflict with the use of the parcel as a parking lot." The City will provide a copy of the proposed lot line adjustment to the WCB.

6. STATE/SJRAC PERMANENT PUBLIC ACCESS EASEMENT

Mr. Vasquez reported that WCB legal counsel is developing a draft easement which should be provided to the SJRAC for review and negotiation within a short time. Once the easement is finalized between the parties, it is anticipated State review and approval could take 4 to 6 months. A donation of an easement usually takes a bit longer to secure approval than an acquired easement; the State Department of General Services must approve real property transactions, and the Department of Finance must approve all donations of real property assets.

7. APPLICATION FOR PLANNING COMMISSION APPROVAL OF ORDINANCE EXEMPTIONS

Mr. Benelli reported that City staff is preparing the application for approval of an exemption from the Bluff Protection Overlay District for the North Palm Access, to be considered at the Planning Commission meeting scheduled for November 21 (carried over to November 28, if there is not a quorum for the meeting on the 21st). In advance of the meeting, property owners within 1,000 feet must be notified about the proposal and hearing; the City will also inform by email those who commented on the River West EIR. The Planning Commission's decision will be final unless appealed; if appealed, it will be presented to the City Council in December if possible. City staff met with Fresno Metropolitan Flood Control District and Conservancy staff to be sure there were no outstanding issues. The City will be acting as a responsible agency, utilizing the River West Fresno EIR for California Environmental Quality Act compliance for the application.

8. OTHER BUSINESS—PROCEEDING TOWARD CONSTRUCTION

There was discussion regarding the need for operations and maintenance resources, which normally must be secured before engineered construction plans and specifications are developed for a project. Mr. Mozier noted that plans and permits prepared too far in advance would grow stale before the project could be bid for construction.

The Work Group noted that if Fresno City Measure P passes, which includes an allocation of new sales tax revenue for Parkway operations and maintenance within the City boundaries, it would provide the means to move forward with the City to design and construct the River West Trail Extension Project. The project could be phased, or the entire project, including the North Palm Access, could be designed and built. If the measure passes, City, Conservancy, and WCB staff should meet to initiate a possible grant proposal as soon as possible.

9. NEXT STEPS, NEXT MEETING
The Work Group will next meet: Wednesday, December 12, 2018, 10:00 a.m.

The Conservancy Board will receive a report on the extent of achievement of the benchmarks to demonstrate the feasibility of the North Palm Access at its meeting in January 2019.

10. ADJOURN