




**EAST BAY REGIONAL PARK DISTRICT
BOARD OF DIRECTORS MEETING
AGENDA STAFF REPORT**

DATE	September 3, 2024
TITLE	Authorization to Enter into an Omnibus Memorandum of Agreement (MOA) with the City of Livermore and Transfer Park District-Held Funds (Doolan Canyon Regional Preserve Conservation Easement): Doolan Canyon Regional Preserve
DIVISION	Acquisition, Stewardship, and Development
FROM	Brian Holt, Chief of Planning, Trails & GIS Ken Wysocki, Assistant General Manager of Acquisition, Stewardship & Development
APPROVED	Sabrina Landreth, General Manager 

RECOMMENDATION

The General Manager recommends that the Board of Directors of the East Bay Regional Park District (Park District):

1. Authorize entering into an omnibus Memorandum of Agreement (MOA), to consolidate and update three existing MOAs with the City of Livermore regarding establishment of a conservation easement at Doolan Canyon Regional Preserve; and
2. Authorize the transfer of Park District-held funds and accumulated interest, originally received from the City of Livermore, into an escrow account to fund an endowment to be held by a land trust for perpetual management of the conservation easement area.

BACKGROUND

The Park District participated in the development of the East Alameda County Conservation Strategy (EACCS). The EACCS promises to develop a streamlined regulatory agency approval process for development permits. Consistent with this process and per Board Resolutions 2008-9-232 and 2012-04-084, the Park District entered into three MOAs (original MOAs) with the City of Livermore to acquire and preserve land to serve as mitigation for impacts to special-status species resulting from three projects in the City of Livermore, including: 1) Isabel Avenue / I-580 Interchange Transportation Improvements Project; 2) El Charro Specific Plan Development Project; and 3) Livermore Toyota Dealership Development Project. The U.S. Fish and Wildlife Service (Service) and California Department of Fish and Wildlife (CDFW) required the City of Livermore to mitigate for impacts to San Joaquin kit fox, California red-legged frog, and California tiger salamander resulting from these three projects. Mitigation for the three projects will be combined into one 211-acre conservation easement in the southeast region of the Doolan Canyon Regional Preserve.

Pursuant to Board Resolution 2008-9-232 and the original MOAs for the Isabel Avenue / I-580 Interchange Transportation Improvements Project and the El Charro Specific Plan Development Project, the City of Livermore paid the Park District \$2,000,000 to purchase 200 acres of mitigation land to be subject to a conservation easement and an additional \$500,000 to establish an endowment for perpetual management of the conservation easement area. The Park District has held the \$500,000 payment in an interest-bearing endowment account (Fund 671-0000-000-2800). As part of

the mitigation for the Isabel Avenue/I-580 Interchange Transportation Improvements Project, the City of Livermore also constructed a seasonal wetland at Doolan Canyon Regional Preserve. This mitigation project has since failed and been removed from the property, and mitigation for this impact will take place at another location. However, 2 acres of grassland habitat compensation for temporary impacts associated with construction of the wetland must also be preserved, bringing the total acreage for these two projects to 202 acres.

In 2012, the City of Livermore approached the Park District to include additional acreage in the conservation easement as mitigation for the Livermore Toyota Dealership Development Project. Initially 11 acres were to be added to the easement area, but this was reduced to 8.3 acres. Pursuant to Board Resolution 2012-04-084 and the original MOA for the Livermore Toyota Dealership Development Project, the City of Livermore paid the Park District \$138,082 to establish a conservation easement and to fund an endowment for the conservation easement area. This payment was less than the amount referenced in Board Resolution 2012-04-084 due to the reduction in the required mitigation area that occurred after initial negotiations. The funds deposited into the Park District's land acquisition project account and the endowment account should have been adjusted accordingly at the time. Instead, the amount originally intended for the land acquisition account (\$110,000) was deposited and only \$28,082 was deposited in the endowment account, meaning the endowment account was under-funded by \$25,869. Therefore, the Park District has held funds originally intended for the Livermore Toyota Dealership Development Project endowment in two accounts: \$28,082 in an interest-bearing endowment account (Fund 670-0000-000-2800) and an additional \$25,869 in a land acquisition project account (229900DLEA)).

The conservation easement will also contain 0.7 acres of stock ponds, which is required as part of the upland habitat mitigation requirements for all three projects. Table I below describes each project's mitigation requirements and financial contributions to the Park District.

Table I

	Mitigation Requirements	Financial Contributions	
		Land Acquisition	Endowment
Isabel Avenue / I-580 Interchange Transportation Improvements Project and El Charro Specific Plan Development Project	<ul style="list-style-type: none"> • 202 Total Acres <ul style="list-style-type: none"> ○ 200 acres grassland for project impacts ○ 2 acres of grassland for seasonal wetland construction • Seasonal wetland which has now failed and been removed from the property 	• \$2,000,000	• \$500,000
Livermore Toyota Dealership Development Project	8.3 acres grassland habitat for project impacts.	• \$84,131	<ul style="list-style-type: none"> • \$28,082 in endowment account • \$25,869 in land acquisition project account
Stock Ponds	0.7 acres, a requirement of the upland habitat mitigation requirements for all three projects.	• Included in above funding	• Included in above funding
	Total	\$2,084,131	\$553,951

In total, the Park District received \$2,638,082 from the City of Livermore for land acquisition, establishment of a 211-acre conservation easement, and endowment funding at Doolan Canyon Regional Preserve. A total of \$528,082 is held in interest-bearing endowment accounts (Funds 671-0000-000-2800 and 670-0000-000-2800). An additional \$25,869 intended for the endowment has been held in a land acquisition project account (229900DLEA). It was agreed that additional funding from the City of Livermore may be necessary to fully fund the endowment, and the original MOAs had a set not to exceed funding amount above the already deposited funds.

Staff presented this item at the July 9, 2024 Board Executive Committee, and received the Committees' recommendation to bring the item to the Board of Directors for adoption.

ANALYSIS

While most of the stipulations in the three original MOAs will be carried over into the omnibus MOA, some updates are needed, including: 1) increase the not to exceed mitigation funding amounts; and 2) change which entity will hold the conservation easement and the endowment.

Not To Exceed Funding Increases

The original MOAs had a maximum not to exceed funding amount that the City of Livermore would provide to the Park District to fulfill management obligations. As the Park District and City of Livermore staff have worked to finalize the conservation easement, it has been agreed that additional funding beyond the original estimated maximum contribution is necessary to fully fund the endowment. The omnibus MOA will increase this maximum contribution amount, allowing the City of Livermore to deposit additional funds into the endowment.

Conservation Easement and Endowment Holder Update

In the original MOAs, it was agreed that the City of Livermore would be the conservation easement holder and the Park District would serve as landowner, preserve manager, and hold the endowment. These roles have since changed. Per direction from CDFW, the City of Livermore has chosen a land trust, the Tri-Valley Conservancy (TVC), to hold the conservation easement and endowment pending final approval from CDFW. As land manager, the Park District will invoice TVC for the cost of land management activities conducted according to a management plan for the conservation easement area. Park District staff will return to the Board for approval of an endowment funding agreement between the Park District and TVC. The omnibus MOA will reflect these updated roles.

To fulfill the stipulations of the omnibus MOA, the Park District must transfer the funds intended for the endowment and accumulated interest into an escrow account to be ultimately transferred to TVC as endowment holder. Board action is required to unencumber the endowment funds (\$528,082 plus interest) and transfer them to the escrow account. In addition, the \$25,869 that was intended for the endowment but has been held in a land acquisition project account would also be transferred.

FISCAL IMPACT

This action proposes that the Board authorize the transfer of endowment funds from two Park District-held permanent endowment funds, and their accumulated interest, and funds from a land acquisition project account to an escrow account to ultimately be transferred to TVC as endowment holder. As stated above, the Park District will invoice TVC for the cost of land management activities within the conservation easement area. The funds were originally provided by the City of Livermore, so no direct funding from the Park District will be transferred.

SOURCE OF FUNDS	
Doolan Canyon El Charro/Livermore Permanent Endowment Fund (671-0000-000-2800)	\$ 500,000
Doolan Canyon El Charro/Livermore Interest as of 12/31/2023 (671-0000-000-3711)	105,821*
Doolan Canyon Toyota Permanent Endowment Fund (670-0000-000-2800)	28,082
Doolan Canyon Toyota Interest as of 12/31/2023 (670-0000-000-3711)	7,972*
Land Acquisition Project Account (229900DLEA)	25,869
Total Funds to Transfer	\$ 667,744*

**The actual amount to be transferred will increase due to continually accumulating interest from endowment accounts.*

ATTACHMENTS

A. Project Area Map



**EAST BAY REGIONAL PARK DISTRICT
RESOLUTION NO. 2024 – 09 -
SEPTEMBER 3, 2024**

**AUTHORIZATION TO ENTER INTO AN OMNIBUS MEMORANDUM OF
AGREEMENT (MOA) WITH THE CITY OF LIVERMORE AND TRANSFER PARK
DISTRICT-HELD FUNDS (DOOLAN CANYON REGIONAL PRESERVE
CONSERVATION EASEMENT): DOOLAN CANYON REGIONAL PRESERVE**

WHEREAS, the East Bay Regional Park District (Park District) and the City of Livermore is seeking to mitigate impacts to San Joaquin kit fox, California red-legged frog and California tiger salamander resulting from development of the El Charro Business Park, the Isabel Avenue Interchange project, and development of a Toyota dealership in Livermore; and

WHEREAS, the California Department of Fish and Game and US Fish and Wildlife Service have approved Park District's participation in mitigation projects with the City of Livermore; and

WHEREAS, by Resolution No. 2008-09-232 adopted on September 16, 2008, the Board authorized the Park District to accept from the City of Livermore \$2,000,000 in funds towards the acquisition of Doolan Canyon Regional Preserve and \$500,000 in endowment funds to establish a conservation easement for mitigation of impacts from development of the El Charro Business Park and the Isabel Avenue Interchange project; and

WHEREAS, by Resolution No. 2012-04-084 adopted on April 3, 2012, the Board authorized the Park District to accept from the City of Livermore \$183,000 to establish a conversation easement for mitigation of impacts from development of a Toyota dealership; and

WHEREAS, after Board approval of Resolution No. 2012-04-084, adopted on April 3, 2012, the mitigation acreage required for the Toyota dealership was reduced, and therefore payment was reduced to \$138,082 with \$53,950 to be used as endowment funds; and

WHEREAS, certain terms agreed to between the Park District and the City of Livermore in three memorandums of understanding (MOU), one for each mitigation project, need to be updated to reflect, among additional details, a new conservation easement holder and endowment holder; and

WHEREAS, per the updated Omnibus MOA, the City of Livermore will transfer the endowment funds to a CDFW approved conservation easement and endowment holder, identified as Tri Valley Conservancy, and the Park District has agreed to return endowment funds originally provided by the City of Livermore to an escrow account to ultimately be transferred to the land trust;

NOW, THEREFORE BE IT RESOLVED, that the Board of Directors of the East Bay Regional Park District hereby authorize entering into an omnibus Memorandum of Agreement (MOA), to consolidate and update three existing MOAs with the City of Livermore regarding establishment of a conservation easement at Doolan Canyon Regional Preserve; and

BE IT FURTHER RESOLVED, that the Board of Directors authorize the transfer of Park District-held funds and accumulated interest, originally received from the City of Livermore, into an escrow account to fund an endowment to be held by a land trust for perpetual management of the conservation easement area; and

BE IT FURTHER RESOLVED, that the General Manager is hereby authorized and directed, on behalf of the Park District and in its name, to execute and deliver such documents and to do such acts as may be deemed necessary or appropriate to accomplish the intentions of this resolution.

Moved by Director _____, and seconded by Director _____, and adopted September 3, 2024, by the following vote:

FOR:

AGAINST:

ABSTAIN:

ABSENT: