

RESOLUTION NUMBER R-287244

ADOPTED ON APRIL 23, 1996

BE IT RESOLVED, by the Council of The City of San Diego, that it hereby approves the "COUNCIL-APPROVED MSCP POLICY POSITIONS (4/23/96)," a copy of which is attached hereto and incorporated herein by reference, for use in preparing the MSCP Plan, Subarea Plan, and accompanying documents.

BE IT FURTHER RESOLVED, that the City Manager is hereby directed to undertake an analysis of the impacts of the MSCP on landowners within the Multi Habitat Planning Area ("MHPA"), and report back to the City Council within 45 days with recommendations to address the inequities that might exist.

BE IT FURTHER RESOLVED, that the City Manager is hereby directed to issue a Manager's Report incorporating the "COUNCIL-APPROVED MSCP POLICY POSITIONS (4/23/96)" so that there is one document describing the MSCP policy directions.

APPROVED: JOHN W. WITT, City Attorney

By

  
Richard A. Duvernay  
Deputy City Attorney

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**COUNCIL-APPROVED MSCP POLICY POSITIONS (4/23/96)**

(Reflects Council Action of April 23, 1996. Language in italics is verbatim from April 22, 1996 Agreement between Mayor Golding, City of San Diego, Secretary Babbitt, Department of Interior and Undersecretary for Resources Mantell, State of California. *This document sets forth guiding policies and principles established by the abovementioned parties only, and does not purport to represent the positions of any other jurisdiction participating in the MSCP.* The wildlife agencies have not agreed to the policy positions that are not part of the April 22, 1996 Agreement.)

Assurances/Covered Species

1. Future listings of species

a. Covered Species. Future listings of species on the Covered Species List will result in automatic permits for the jurisdictions.

b. ASSURANCES / SPECIES COVERAGE

*Habitat-based Species Coverage. For uncovered species dependent upon vegetation communities (habitats) that have been identified as being "significantly" conserved within the MSCP preserve system, the wildlife agencies will contribute toward their conservation to the same extent as committed within the MSCP for covered species, should such species be listed under the state or federal Endangered Species Acts in the future. That is, the wildlife agencies will contribute in partnership with permittees toward the land acquisition, management, and monitoring required to achieve the level of conservation necessary for such species to be included in the permit.*

*For uncovered species dependent upon vegetation communities (habitats) that are not significantly conserved within the MSCP preserve system, the federal and state Endangered Species Acts in effect at the time of listing shall apply.*

*The proposed MSCP will significantly conserve the following vegetation communities:*

<i>Beach</i>	<i>Maritime Succulent Scrub</i>
<i>Oak Riparian Forest</i>	<i>Coastal Sage Scrub</i>
<i>Southern Maritime Chaparral</i>	<i>Freshwater Marsh</i>

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<i>Southern Coastal Bluff Scrub</i>	<i>Southern Foredunes</i>
<i>Riparian Scrub</i>	<i>Riparian Woodland</i>
<i>Disturbed Wetlands</i>	<i>Torrey Pine Forest</i>
<i>Riparian Forest</i>	<i>Natural Flood Channel</i>
<i>Saltpan</i>	<i>Open Water</i>
<i>Southern Coastal Saltmarsh</i>	<i>Tecate Cypress Forest</i>

*The wildlife agencies further agree that for uncovered species dependent upon vegetation communities (habitats) that have been identified as being "sufficiently" conserved within the preserve, the federal and state governments will use all of their legal authorities to provide for the conservation of those species in the event they are listed under the state and/or federal Endangered Species Acts in the future. This policy, however, will become effective once the cities of San Diego, Poway, and Chula Vista and the County of San Diego have all received subarea plan approvals from the wildlife agencies. The proposed MSCP will sufficiently conserve the following vegetation communities:*

<i>Southern Coastal Bluff Scrub</i>	<i>Southern Foredunes</i>
<i>Riparian Scrub</i>	<i>Riparian Woodland</i>
<i>Disturbed Wetland</i>	<i>Torrey Pine Forest</i>
<i>Riparian Forest</i>	<i>Natural Flood Channel</i>
<i>Saltpan</i>	<i>Tecate Forest</i>
<i>Southern Coastal Saltmarsh</i>	
<i>Coastal Sage Scrub (that portion of CSS that comprises the range of the California gnatcatcher)</i>	

*Regulation of Uncovered Species. The parties agree that the following process will be used to amend the MSCP to add species listed pursuant to the state and/or federal endangered species acts to the covered species list:*

- 1. In the event that an uncovered species occurring within the plan area is proposed for listing under the state and/or federal Endangered Species Acts, the wildlife agencies will determine whether conservation measures beyond those prescribed by the MSCP are necessary to adequately protect the species. If no such measures are necessary, the species will be added to the covered species list (following the permit amendment process).*

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2. *If the MSCP conservation measures are determined to be inadequate to achieve conservation goals, the wildlife agencies will work with the participating jurisdictions to identify and jointly implement the steps necessary for coverage. In developing an adequate set of conservation measures, the parties will look to the following, in order of preference:*

a. *management practices and enhancement opportunities within the preserve system, provided these measures do not adversely affect any covered species;*

b. *habitat acquisition through the reallocation of Federal, State and/or regional funds identified for MSCP implementation, provided such reallocation does not adversely affect any covered species.*

*If the foregoing options are not adequate to meet conservation requirements, the wildlife agencies will determine, consistent with the state and/or federal endangered species acts, the additional measures necessary to add the species to the covered species list, including measures beyond those required by the MSCP. Preference will be given by the wildlife agencies to conservation means that do not require additional mitigation or dedications of land. Although conservation measures necessary to add the species to the covered species list may be identified at or after the species is proposed for listing, the City will not be required to approve or implement these conservation measures until such time as the species is formally listed. The obligations of the parties to fund those measures for species whose habitats are conserved by the plan are set out in this document (see Habitat-based species coverage provision, section IIB).*

2. Standards - Covered Species List

10a/NCCP Standards. For purposes of maintaining federal and state take authorization permits, the protection of species on the Covered Species List shall not be required to exceed 10a and NCCP standards. The proposed preserve design and conservation targets in the MSCP Plan, and the biological preserve design checklist for subarea plans, shall meet those standards. The Biological Standards and Guidelines were used as a tool in this process and shall not be part of the final MSCP Plan.

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3. *Third Party Beneficiaries*

*Proponents of projects approved by the City in accordance with the MSCP will be given assurances that their mitigation obligations will not subsequently be altered by the wildlife agencies (consistent with the Secretary of the Interior's "No Surprises" policy) or the City. These assurances will accrue once development approvals have been obtained from the City and mitigation has been assured (e.g. mitigation bond), and will continue as set forth in the paragraph below.*

*In the event the City's take authorizations are revoked or suspended, the wildlife agencies will continue to recognize these assurances provided to the third party beneficiaries who fulfill applicable mitigation obligations as to the identified species covered in the MSCP. As to coverage afforded under the habitat-based assurances provisions, these assurances will continue to be recognized as long as the MSCP remains in effect and the City's take authorizations have not been suspended or revoked.*

*Approved Projects. For those projects within the City that received approval prior to the effective date of the City's subarea plan, and are considered vested under California law, or have been determined by the City and the wildlife agencies to have appropriately satisfied mitigation requirements, no additional mitigation will be sought except to the extent required by the Federal and State endangered species acts for currently listed species. The City will include a list in its subarea plan of all such projects.*

4. *Changed circumstances*

- a. *Permit Suspension/Revocation. In the event that the City materially breaches a condition of the MSCP, and the City cannot or refuses to cure the breach, the wildlife agencies may suspend or revoke the City's permits. In the event that the City's permits are revoked or suspended, the City will remain obligated to provide adequate mitigation for all activities undertaken or approved prior to the breach. In addition, the City is obligated to carry out certain responsibilities set out in the MSCP Plan, including enforcement and management, arising from development activities approved prior to the suspension and revocation of the permit.*

*In the event circumstances arise which are likely to constitute jeopardy to a listed species, the wildlife agencies may, as a last resort, and after*

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*meeting and conferring with the City, suspend or revoke a permit to the affected species.*

- b. The terms "unforeseen circumstances" and "extraordinary circumstances" in federal and state laws and policies should be more precisely defined by the federal and state agencies, and guarantees provided to the jurisdictions that changes to the MSCP as a result of these circumstances will only be made after funding is provided by the federal and/or state government. A deal is a deal.

Severability / Phased Implementation

5. Phased implementation

- a. Revisions to land use plans and development regulations, which will implement the MSCP, and the raising of local funding sources, shall be allowed to be phased, provided that in the interim, existing regulations on grading and grubbing provide protection of habitat until the local jurisdictions issue development permits. (*Also see April 22, 1996 Agreement on Regional Funding Obligation, page 2.*)
- b. Plan Implementation Monitoring and Auditing. *The MSCP Plan will include objective criteria so that the wildlife agencies can evaluate whether adequate progress toward implementation of the plan is achieved. In particular, measurable standards will be incorporated in the plan to assure that development proceeds in rough step with habitat preservation. The parties will develop a process that will enable the wildlife agencies to monitor the overall progress of the program without the need for project-by-project approval. The wildlife agencies and the City will work together to ensure that project plans are consistent with the goals of the program.*

6. Process of MSCP Plan adoption

Sequential Adoption. Concurrent adoption of the MSCP Plan, or concurrent commitment to a preserve design by all local jurisdictions, should not be required for any one jurisdiction to obtain an Implementing Agreement and take authorizations based on an approved Subarea Plan.

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7. Severability after adoption of MSCP

Future Actions. Once an Implementing Agreement is signed, future actions or inactions of other jurisdictions should not affect the agreement, and should not qualify as unforeseen or extraordinary circumstances.

Financing

8. Local Funding

c - d. Regional Funding Obligation. *The City, participating with other jurisdictions in the MSCP, will be jointly responsible for acquiring half of the lands required for public acquisition, and for funding management, monitoring and administrative costs of those lands acquired by the jurisdictions respectively. The funding of the local share will be carried out on a regional basis. The City agrees to participate in pursuing regional sources of funding, but this requirement will not preclude the City from initially pursuing alternative funding sources. Lands acquired through mitigation for public and private projects or through land use regulation will not be credited against the acquisition obligations of the parties.*

*The MSCP Plan will reflect the commitment of the City to secure adequate funding to carry out the program, and identify the funding strategies the jurisdictions intend to pursue. The Plan will set out a timetable under which the City and the other participating jurisdictions will obtain funding. The jurisdictions will begin a process to procure funding within 18 months of federal and state approvals of the first subarea plan(s), and will have a funding source(s) in place within an additional 18 months. The wildlife agencies are willing to adjust this schedule if the jurisdictions demonstrate that their good faith efforts require additional time. Within this time frame, the participating jurisdictions will create a structure through which regionally generated funds will be allocated.*

*The parties recognize that achieving the goal of a regional funding program may be compromised if any of the current participants opt out of the MSCP or fail to complete a subarea plan. If such circumstances arise before a source(s) of funds is to be in place, the wildlife agencies and the remaining participants will jointly reassess the feasibility of a*

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*regional approach to funding. If the wildlife agencies and the jurisdictions conclude that a regional funding strategy is no longer feasible, the jurisdictions will decide on and implement alternative strategies for funding the local share of the MSCP.*

*In the event that adequate funding for the MSCP is not provided, the wildlife agencies will assess the impact of the funding deficiency on the scope and validity of the permits. The wildlife agencies and the jurisdictions will meet and confer to develop a strategy to address the funding shortfall, and will undertake all practicable efforts to maintain the level of coverage afforded by the permits issued under the program until the situation can be remedied.*

*Baseline Measurements. Lands which contribute to achieving the conservation goals of the MSCP which have been acquired by the City and the Federal and State governments since March 1, 1995, the date of the public release of the draft MSCP Plan, will count toward meeting their respective acquisition obligations under the program.*

- a. Voter Approval. Local funding sources should be voter approved, including the recommended source of funding and any back-up plan.
- b. Local Funding. Local funding sources, including a parcel tax/benefit assessment, community facilities district/"Mello-Roos", general obligation bonds - Ad Valorem tax and a sales tax, shall be analyzed in the Final MSCP Plan.
- e. Allocation. Each jurisdiction should contribute a "fair share" of the preserve lands through development regulation and mitigation.

9. Federal and State Funding

*Federal/State Obligation. The Federal government and the State of California have agreed to meet a portion of the acquisition, management and monitoring requirements of the MSCP Plan. Specifically, the Federal and State governments will commit to contribute jointly, over thirty years, half of the lands to be acquired by public means up to 13,500 acres (subject to no more than 10% adjustment, upward or downward, based on the evaluation of new*



information), and will be responsible for managing the lands they contribute to the preserve for monitoring activities.

*In selecting the lands for acquisition, the wildlife agencies will take into account a number of factors, including biological value, cost, vulnerability to development, and relationship to BLM study areas, proposed wildlife refuge boundaries, and existing public lands. Emphasis will further be given to those lands that can be obtained through non-cash transactions (i.e. land exchanges). The wildlife agencies will also seek lands for acquisition so as to equitably distribute resources among the participating jurisdictions.*

*The MSCP Plan will reflect the commitment of the Federal and State governments to contribute to the acquisition, management and monitoring needs of the program, and to take the steps necessary to satisfy those commitments in a timely fashion. The plan will also identify the range of funding and acquisition strategies that they intend to pursue.*

*If following the exercise of all available authority and utilization of all available resources the federal and/or state contribution committed to the MSCP cannot be provided, the MSCP will be reevaluated, with possible adjustments made to permit coverage and assurances, in light of the extent of the Federal/State contribution.*

9.1 Assumptions for the Financing Analysis

a - d. See Policy 11.

e. Do not complete a new economic impact analysis for the Final MSCP Plan.

10. Relation to developer contributions

If public funding sources do not become available, the MSCP plan should be redesigned or reconsidered so that private development contributions are not increased beyond what is committed to in the MSCP Plan or individual Implementing Agreements.

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Private Development

11. Amount of development contributions

*Conservation Goals.* The City will revise existing development regulations for biological resources to include an encroachment allowance of 25% on the least sensitive portion of parcels located within the preserve areas. No mitigation will be required for the 25% encroachment. The City may permit, on a case-by-case basis, additional encroachment to accommodate public facilities within community plans, provided that the overall level of preservation for the MSCP preserve does not fall below 90% and that the biological objectives of the preserve are not compromised. The additional encroachment will require mitigation within the preserve areas consistent with the aforementioned ratios [See Policy 11 below]. Biological resources outside of the preserve may be encroached upon without limit provided impacts are appropriately mitigated.

*Wildlife corridors and linkages, as depicted in the City's subarea plan, will be preserved through the City's land use planning processes.*

*For vernal pools and certain species identified as "narrow endemic species" that are located within the preserve areas, the jurisdictions will adopt measures to ensure that impacts to these resources are avoided to the maximum extent practicable. The proposed MSCP will require avoidance of the following endemic species:*

*San Diego thorn-mint  
San Diego ambrosia  
Nevin's barberry  
Dunn's mariposa lily  
short-leaved dudleya  
Palmer's ericameria  
felt-leaved monardella  
snake cholla*

*Shaw's agave  
Encinitas baccharis  
thread-leaved brodiaea  
Lakeside ceanothus  
variegated dudleya  
Otay tarplant  
Gander's pitcher sage  
Dehesa bear-grass*

*The City's intention is to design a process to ensure equitable consideration of individual participating landowners' needs.*

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Mitigation Ratios and Guidelines. The parties agree that the classifications of habitat types and mitigation ratios, by tier (sensitive habitats have been divided into four tiers, the first includes the most sensitive, the fourth the least), based on rarity and ecological importance, that have been proposed in the MSCP Working Group chart, are to be adopted with plan approval, with the modifications (see attached) :

All Tier I impacts will require mitigation with Tier I habitat types ("out of kind"). The City will assure that a 90% level of protection is achieved within the preserve for each habitat within Tier I.

Tiers II and III impacts may be mitigated with habitat types of either tier, provided that the mitigation occurs within the preserve. Mitigation that occurs outside the preserve must be of a habitat type from the same tier as the impacted habitat.

The parties further agree that the lands used to mitigate impacts will be located within the City boundaries, except in the event of extraordinary circumstances and where the preserve function is significantly enhanced.

Mitigation "Overage." Lands acquired for mitigation in excess of each jurisdiction's adopted MSCP mitigation standards may be used for mitigation credits or banking.

e. The areas remaining in agriculture shall retain agricultural zoning.

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11.1 City of San Diego Wetlands Definition

Mitigation for projects impacting wetlands will be determined through the permitting process set out in section 404 of the Clean Water Act and section 7 of the Federal Endangered Species Act. Preservation of riparian areas not subject to the requirements of section 404 is addressed by the MSCP.

It is recognized that some applicants will be required to obtain federal and state wetland permits. Applicants are encouraged to determine the requirements for such permits at the earliest possible time and incorporate such requirements into their project design. The City of San Diego will not issue a grading permit until the necessary wetlands permits have been acquired from the appropriate federal

and/or state agencies, and an authorizing letter or other official mode of communication from the wildlife agencies is transmitted to the City of San Diego.

The City's Wetlands Definition shall be modified as follows:

Land which is transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or where the land is covered by shallow water, and waters of the United States, are accorded the same protection as wetlands. Areas classifiable as wetlands include all waters subject to the ebb and flow of the tide, lagoons, marshes, estuaries, vernal pools, rivers, streams (including naturally formed streams with intermittent flow), mudflats, natural ponds and lakes, rivers and associated riparian habitat areas, and man-made impoundments and drainages with biological value.

Wetlands delineations shall be conducted by the applicant or the applicant's consultant consistent with the methods described in the United States Army Corps of Engineers Wetlands Delineation Manual, January 1987. Wetlands delineations will be reviewed and approved by the Army Corps of Engineers during the normal review process. To be considered a wetland within this definition, the area must have all of the following characteristic, except in the case of vernal pools or naturally formed streams with intermittent flow which may be considered a wetland if the area contains one or more of the following:

- a. At least periodically, the land supports predominantly hydrophytes, as defined in the Corps of Engineers Wetland Delineation Manual, January 1987, on file in the City Clerk's Office as Document No. \_\_\_\_\_.
- b. The substrate meets the criteria for hydric soils, including aquatic soils, as described in the Corps of Engineers Delineation Manual.
- c. The substrate is saturated with water or covered by shallow water at some time during the growing season of each year, as described in the Corps of Engineers Wetland Delineation Manual.

For the purposes of delineating wetland boundaries, the presence of wetland hydrology can be assumed without further studies in areas that contain both hydrophytic vegetation and hydric soils at the option of the applicant.

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12. Process and review procedures

- a. Federal and State Role. The wildlife agencies shall not have discretionary authority over individual development projects.
- b. Project Mitigation. Potential impacts to covered species will be addressed to the extent possible in the environmental document prepared for the Zoning Code Update, thereby reducing or eliminating the biological resource analysis required during environmental review for future projects.

Local development permits granted for projects with mitigation, in conformance with MSCP Subarea Plan and adopted City/CEQA mitigation standards, shall be deemed equivalent to obtaining take authorizations from the federal and state government for Covered Species pursuant to Policy 3. Refer to Policy 1.b for process related to treatment of uncovered species, if they become listed.

- c. Adjusting Lines. Adjustments to MHPA boundaries can be made without the need to amend the MSCP Plan, or applicable Subarea Plans, when the new preserve boundary results in a preserve area of equivalent or higher biological value. The determination of the biological value of the proposed boundary change shall be made by the local jurisdiction and must have the concurrence of the wildlife agencies. If the determination is that the adjustment will result in the same or higher biological value of the preserve area, no further action by the jurisdictions or wildlife agencies shall be required.

13. Methods of preservation

Private habitat lands preserved through avoidance in compliance with regulations will be transferred in fee title to a government or non-profit agency only if the landowner voluntarily dedicates the land. The exact level of protection cannot be determined until the time of development approval. Active habitat management may not occur if the landowner retains fee title, though grading and clearing can be prohibited.

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14. Buffers / "A line is a line"

Location relative to the preserve

a & c. Brush Management Zones. For existing projects and approved projects in the City, the brush management zones, standards and locations, and clearing techniques will not change from those required under existing regulation. For new projects in the City, brush management zones 2 and 3 may be located within the preserve under the following conditions (assuming concurrence of the City Fire Marshall):

1. the amount of woody vegetation clearing shall not exceed 50% of the vegetation existing when the initial clearing is done.
  2. the City, in consultation with the wildlife agencies, will develop a vegetation clearing manual that describes how vegetation clearing will be done to protect the biological attributes of the preserve to the maximum extent practicable and minimize the impacts of clearing on covered species.
  3. the City will require that vegetation clearing for all new projects is carried out in a manner consistent with the manual.
  4. impacts of the clearing on biological resources will be considered impact-neutral, i.e. lands within the brush management zones will not be considered impacted or eligible for mitigation credits.
  5. brush management zones will not be greater in size than is currently required by the City's regulations.
  6. the project proponent (including homeowners associations, special districts, etc.) will be responsible for conducting brush management activities.
- (1) Brush Management Zone 1 should be located out of the preserve and retained in private ownership (No change to current practice).

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(2) Eliminate brush management Zone 2 (the average width of Zone 2 is currently 35 feet). Locate brush management Zone 3 in the preserve upon granting of an easement to the City (or other responsible agency). Increase Zone 3 by 30 feet, except in areas with a low fire hazard severity rating where no Zone 3 would be required.

- b. Negotiated Agreements. Maintain negotiated agreements regarding the location of "buffers" relative to the proposed preserve boundaries.

Permitted Uses Adjacent to the Preserve

- a. Existing, Adjacent Development: No limitation on uses (trails and brush management should occur within the Preserve).
- b. New Development Plans: Trails and brush management Zone 3 may occur within the preserve. Use of properties within or adjacent to the preserve will be limited per City brush management requirements. This would mean no combustible structures could be constructed in Zone 1 and only brush management activities could occur in Zone 3. Public access to Zone 3, if Zone 3 is in private ownership, would only be allowed when negotiated as part of an easement on a case by case basis. Guidelines for signage for public access, possible fencing, control of invasive non-native plants, and methods of redirecting human and domestic animal access to the preserve will be adopted through a habitat management plan.

Preserve Management, Maintenance and Monitoring

15. Management and Maintenance Responsibilities and Monitoring

- a-d. Coordination of Preserve Management. *A regional technical committee will be formed to coordinate management and maintenance of the preserve. The role of the technical committee will be to provide preserve managers with guidance and expertise on issues concerning preserve management. The wildlife agencies will work with the technical committee to furnish information and advice on habitat management, monitoring and maintenance.*

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Responsibility for Preserve Management, Maintenance and Monitoring. The City will be responsible for and will undertake the management and maintenance of its public lands (including those with conservation easements), lands obtained as mitigation where those lands have been dedicated to the City in fee title or easement, and lands acquired with regional funds within the City's boundaries. Biological monitoring will be the joint responsibility of the City and the wildlife agencies for all lands within the City's boundaries. The City will prepare a habitat management plan for those lands as part of its subarea plan and implementing agreement. Likewise, the Federal and State agencies will manage, maintain and monitor their present land holdings, as well as those they acquire on behalf of the MSCP, consistent with the MSCP. Private owners of land within the preserve, who are not third party beneficiaries, will have no additional obligations for the management or maintenance of their land.

Proper management of the preserve system will require ongoing and detailed analysis of the data collected through monitoring activities. To ensure uniformity in the gathering and treatment of this data, the wildlife agencies will assume primary responsibility for coordinating the monitoring programs, analyzing data, and providing information and technical assistance to the jurisdictions.

No additional fees will be charged to landowners for biological monitoring.

- e. Habitat Management Plan. Each jurisdiction should prepare a Habitat Management Plan to be approved as part of, or as a condition of, the Implementing Agreement.

15.1 Predator Trapping

Trapping of nonnative predators such as feral cats should be undertaken on a case-by-case basis and only where needed to maintain the balance of wildlife in the preserve. Proper noticing, education and a domestic animal release component must be provided.

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16. Monitoring of Acres and Species

- a. Accounting of Habitat Acres. The local jurisdictions should each annually account for the addition of habitat to the MSCP preserve and loss of acres of each habitat type and their locations, and a regional report should be prepared each year for the MSCP study area. A self certification process for compliance with the MSCP and the Implementing Agreement should be incorporated.
- b. Biological Monitoring. See Policy 15.
- c. Public Report. A Public Report shall be issued every three years and public hearings held every three years on the status of the MSCP; said report to incorporate information on the amount of land currently within the preserve; the amount of land added within the previous three years to the preserve; and the total expenditures made toward acquisition to date and over the preceding three year reporting period.

Institutional Structure

17. Type of structure and functions

- a. Management. A new institutional structure is not recommended for habitat management and maintenance beyond the staff-level technical committee recommended above.
- b. Funding. If a regional local funding source is established, the jurisdictions should determine the form and function of the agency assigned to collect and distribute those funds, if an existing agency is not appropriate.

Termination

18. Termination of Agreement

Incorporate into the Implementing Agreement the City's ability to terminate the MSCP upon the City Council making a finding that continued participation in the MSCP is no longer feasible or in the event there is a material change in state or federal law.

*For the purposes of this document, the "MSCP Plan" refers to the final framework plan, individual subarea plans, and implementing agreements. The parties intend that the City's portion of the MSCP Plan will be developed in accordance with these principles and policies subject to appropriate environmental and public review. The MSCP Plan will contain provisions which implement and add specificity to the principles and policies set forth in this document.*

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**COUNCIL APPROVED MITIGATION RATIOS**

TIER (Rarity)	HABITAT TYPE	MITIGATION RATIOS		
TIER I: (rare uplands)	Southern Foredunes Torrey Pines Forest Coastal Bluff Scrub Maritime Succulent Scrub Maritime Chaparral Native Grassland Oak Woodlands	Location of Impact	Location of Preservation	
			Inside	Outside
		Inside*	2:1	3:1
		Outside	1:1	2:1
TIER II: (uncommon uplands)	Coastal Sage Scrub (CSS) CSS/Chaparral	Location of Impact	Location of Preservation	
			Inside	Outside
		Inside*	1.5:1	2:1
		Outside	1:1	1.5:1
TIER III A: (common uplands)	Mixed Chaparral Chamise Chaparral	Location of Impact	Location of Preservation	
			Inside	Outside
		Inside*	1:1	1.5:1
		Outside	0.5:1	1:1
TIER III B: (common uplands)	Non-native Grasslands	Location of Impact	Location of Preservation	
			Inside	Outside
		Inside*	1:1	1.5:1
		Outside	0.5:1	1:1
TIER IV: (other uplands)	Disturbed Agriculture Eucalyptus	Location of Impact	Location of Preservation	
			Inside	Outside
		Inside*	0:1	0:1
		Outside	0:1	0:1

- Notes: 1. For all Tier I impacts, mitigation must be in-tier, but may be out-of-kind.  
 2. For impacts to Tier II, III A and III B habitats, the mitigation could (1) occur within the MHPA portion of Tiers I - III (out-of-kind) or (2) occur outside of the MHPA within the affected habitat type (in-kind).

\* Per the proposed Environmental Sensitive Lands Ordinance, no mitigation would be required for impacts within the base development area (25%) occurring inside the MHPA. Mitigation for any impacts from development in excess of the 25% base development area for community plan public facilities or projects processed through the deviation process would be required at the indicated ratios.

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