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(R-2016-16)  
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Sub Item 'A'

RESOLUTION NUMBER R- 309902

DATE OF FINAL PASSAGE JUL 28 2015

A RESOLUTION CERTIFYING ADDENDUM NO. 340862 TO ENVIRONMENTAL IMPACT REPORT NO. 96-7902, AS AMENDED BY EIR ADDENDUM NO. 142244, FOR THE DEL SUR COURT PROJECT, PROJECT NO. 340862.

WHEREAS, on July 28, 1998, the City Council of the City of San Diego adopted Ordinance No. 0-26291, certifying Environmental Impact Report No. 96-7902, a copy of which is on file in the office of the City Clerk, in accordance with the California Environmental Quality Act of 1970 (CEQA) (Public Resources Code Section 21000 et seq.), as amended, and the State CEQA Guidelines thereto (California Code of Regulations, Title 14; Chapter 3, Section 15000 et seq.); and

WHEREAS, on May 19, 2009, the City Council of the City of San Diego adopted Resolution No. R-304917, certifying Addendum No. 142244 to Environmental Impact Report No. 96-7902, a copy of which is on file with the office of the City Clerk, in accordance with the California Environmental Quality Act of 1970 (CEQA) (Public Resources Code Section 21000 et seq.), as amended, and the State CEQA Guidelines thereto (California Code of Regulations, Title 14, Chapter 3, Section 15000 et seq.); and

WHEREAS, on November 22, 2013, SPIC DEL SUR, LLC, a Delaware Limited Liability Company, Owner/Permittee, submitted an application to the City of San Diego for an Easement Vacation, Planned Development Permit, Site Development Permit and an Amended Vesting Tentative Map for the Del Sur Court, for the purpose of developing 130 lots for single family residential units, 11 condominium lots with 6 residential units per lot, 1 condominium lot

with 7 units, 1 condominium lot with 3 units, and 12 homeowner association lots, on portions of an approximately 39.05 acre site (Project); and

WHEREAS, State CEQA Guidelines section 15164(a) allows a lead agency to prepare Addenda to a final Environmental Impact Report if the Addenda meet the requirements of CEQA; and

WHEREAS, the Project was heard by the City Council on JUL 28 2015; and

WHEREAS, the City Council considered the issues discussed in Addendum No. 340862 to Environmental Impact Report No. 96-7902, as amended by Addendum No. 142244, prepared for this Project; and

WHEREAS, under Charter section 280(a)(2), this resolution is not subject to veto by the Mayor because this matter requires the City Council to act as a quasi-judicial body, a public hearing is required by law implicating due process rights of individuals affected by the decision, and the Council is required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; NOW, THEREFORE,

BE IT RESOLVED, by the City Council of the City of San Diego, that it is certified that Addendum No. 340862 to Environmental Impact Report No. 96-7902, as amended by Addendum No. 142244, has been completed in compliance with the California Environmental Quality Act of 1970 (CEQA) (Public Resources Code Section 21000 et seq.), as amended, and the State CEQA Guidelines thereto (California Code of Regulations, Title 14, Chapter 3, Section 15000 et seq.), that the Report reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in said Report, together with any comments received during the public review process, has been reviewed and considered by the City Council in connection with the approval of the Project.

BE IT FURTHER RESOLVED, that pursuant to CEQA Guidelines Sections 15164(a) and 15162, some changes are necessary, but the following remain true:

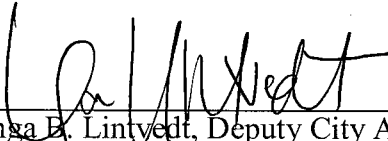
1. That there are no substantial changes proposed to the Project that would require major revisions to the EIR for this Project due to new significant environmental effects or a substantial increase in the severity of previously identified significant effects; and
2. That there are no substantial changes with respect to the circumstances under which the Project is to be undertaken that would require major revisions to the EIR for this Project due to new significant environmental effects or a substantial increase in the severity of previously identified significant effects; and
3. That no new information of substantial importance has become available showing that: the Project would have any significant effects not discussed previously in the EIR; that any significant effects previously examined will be substantially more severe than shown in the EIR; that mitigation measures or alternatives previously found not to be feasible are in fact feasible which would substantially reduce any significant effects, but that the Project proponents decline to adopt them; or that there are any mitigation measures or alternatives considerably different from those previously considered which would substantially reduce any significant effects, but that the Project proponents decline to adopt.

BE IT FURTHER RESOLVED, that pursuant to State CEQA Guidelines Section 15164, only minor technical changes or additions are necessary, and therefore, the City Council adopts Addendum No. 340862 to Environmental Impact Report No. 96-7902, as amended by Addendum No. 142244 with respect to the Project, a copy of which is on file in the office of the City Clerk.

BE IT FURTHER RESOLVED, that pursuant to CEQA Section 21081.6, the City Council adopts the Mitigation Monitoring and Reporting Program, or alterations to implement the changes to the Project as required by this City Council in order to mitigate or avoid significant effects on the environment, which is attached hereto as Exhibit A.

BE IT FURTHER RESOLVED, that the City Clerk is directed to file a Notice of Determination with the Clerk of the Board of Supervisors for the County of San Diego regarding the Project.

APPROVED: JAN GOLDSMITH, CITY ATTORNEY

By:   
Inga B. Lintvedt, Deputy City Attorney

ATTACHMENT(S): Exhibit A, Mitigation Monitoring and Reporting Program

IBL: mm  
07/14/2015  
07/15/2015 COR. COPY 1  
07/16/2015 COR. COPY 2  
Or.Dept: DSD  
Doc. No.: 1063815

## EXHIBIT A

### MITIGATION MONITORING AND REPORTING PROGRAM

Vesting Tentative Map No. 1198583, Planned Development Permit No. 1198582, Site Development Permit No. 1198581 and Easement Vacation No. 1451202

PROJECT NO. 340862

This Mitigation Monitoring and Reporting Program is designed to ensure compliance with Public Resources Code Section 21081.6 during implementation of mitigation measures. This program identifies at a minimum: the department responsible for the monitoring, what is to be monitored, how the monitoring shall be accomplished, the monitoring and reporting schedule, and completion requirements. A record of the Mitigation Monitoring and Reporting Program will be maintained at the offices of the Entitlements Division, 1222 First Avenue, Fifth Floor, San Diego, CA, 92101. All mitigation measures contained in the Addendum to Environmental Impact Report No. 96-7902 shall be made conditions of Vesting Tentative Map No. 1198583, Planned Development Permit No. 1198582, Site Development Permit No. 1198581 and Easement Vacation No. 1451202 as may be further described below.

#### A. GENERAL REQUIREMENTS – PART I Plan Check Phase (prior to permit issuance)

1. Prior to the issuance of a Notice To Proceed (NTP) for a subdivision, or any construction permits, such as Demolition, Grading or Building, or beginning any construction related activity on-site, the Development Services Department (DSD) Director's Environmental Designee (ED) shall review and approve all Construction Documents (CD), (plans, specification, details, etc.) to ensure the MMRP requirements are incorporated into the design.
2. In addition, the ED shall verify that the MMRP Conditions/Notes that apply ONLY to the construction phases of this project are included VERBATIM, under the heading, "ENVIRONMENTAL/MITIGATION REQUIREMENTS."
3. These notes must be shown within the first three (3) sheets of the construction documents in the format specified for engineering construction document templates as shown on the City website:  
  
<http://www.sandiego.gov/development-services/industry/standtemp.shtml>
4. The **TITLE INDEX SHEET** must also show on which pages the "Environmental/Mitigation Requirements" notes are provided.
5. **SURETY AND COST RECOVERY** – The Development Services Director or City Manager may require appropriate surety instruments or bonds from private Permit Holders to ensure the long term performance or implementation of required mitigation

measures or programs. The City is authorized to recover its cost to offset the salary, overhead, and expenses for City personnel and programs to monitor qualifying projects.

**B. GENERAL REQUIREMENTS – PART II Post Plan Check (After permit issuance/Prior to start of construction)**

1. **PRE CONSTRUCTION MEETING IS REQUIRED TEN (10) WORKING DAYS PRIOR TO BEGINNING ANY WORK ON THIS PROJECT.** The PERMIT HOLDER/OWNER is responsible to arrange and perform this meeting by contacting the CITY RESIDENT ENGINEER (RE) of the Field Engineering Division and City staff from MITIGATION MONITORING COORDINATION (MMC). Attendees must also include the Permit holder's Representative(s), Job Site Superintendent and the following consultants:

*Qualified Biologist*

**Note: Failure of all responsible Permit Holder's representatives and consultants to attend shall require an additional meeting with all parties present.**

**CONTACT INFORMATION:**

- a) The PRIMARY POINT OF CONTACT is the RE at the **Field Engineering Division – 858-627-3200**
  - b) For Clarification of ENVIRONMENTAL REQUIREMENTS, applicant t is also required to call RE and MMC at **858-627-3360**
2. **MMRP COMPLIANCE:** This project, Project Tracking System (PTS) Number 344042 and /or Environmental Document Number 344042, shall conform to the mitigation requirements contained in the associated Environmental Document and implemented to the satisfaction of the DSD's Environmental Designee (MMC) and the City Engineer (RE). The requirements may not be reduced or changed but may be annotated (i.e. to explain when and how compliance is being met and location of verifying proof, etc.). Additional clarifying information may also be added to other relevant plan sheets and/or specifications as appropriate (i.e., specific locations, times of monitoring, methodology, etc.

**Note: Permit Holder's Representatives must alert RE and MMC if there are any discrepancies in the plans or notes, or any changes due to field conditions. All conflicts must be approved by RE and MMC BEFORE the work is performed.**

3. **OTHER AGENCY REQUIREMENTS:** Evidence of compliance with all other agency requirements or permits shall be submitted to the RE and MMC for review and acceptance prior to the beginning of work or within one week of the Permit Holder obtaining documentation of those permits or requirements. Evidence shall include

copies of permits, letters of resolution or other documentation issued by the responsible agency.

**NOT APPLICABLE**

**4. MONITORING EXHIBITS**

All consultants are required to submit , to RE and MMC, a monitoring exhibit on a 11x17 reduction of the appropriate construction plan, such as site plan, grading, landscape, etc., marked to clearly show the specific areas including the **LIMIT OF WORK**, scope of that discipline's work, and notes indicating when in the construction schedule that work will be performed. When necessary for clarification, a detailed methodology of how the work will be performed shall be included.

**NOTE: Surety and Cost Recovery – When deemed necessary by the Development Services Director or City Manager, additional surety instruments or bonds from the private Permit Holder may be required to ensure the long term performance or implementation of required mitigation measures or programs. The City is authorized to recover its cost to offset the salary, overhead, and expenses for City personnel and programs to monitor qualifying projects.**

**5. OTHER SUBMITTALS AND INSPECTIONS:**

The Permit Holder/Owner's representative shall submit all required documentation, verification letters, and requests for all associated inspections to the RE and MMC for approval per the following schedule:

**Document Submittal/Inspection Checklist**

| <i>Issue Area</i>    | <i>Document submittal</i>              | <i>Assoc Inspection/Approvals/Notes</i>             |
|----------------------|--|---|
| General              | Consultant Qualification Letters       | Prior to Pre-construction Meeting                   |
| General              | Consultant Const. Monitoring Exhibits  | Prior to or at the Pre-Construction meeting         |
| Bond Release         | Request for Bond Release letter        | Final MMRP inspections prior to Bond Release Letter |
| Biological Resources | Consultant Qualification Letters       | Prior to Pre-construction Meeting                   |
| Air Quality          | Notes on plans citing control measures | Prior to Pre-construction Meeting                   |

## C. SPECIFIC MMRP ISSUE AREA CONDITIONS/REQUIREMENTS

### LAND USE

#### MSCP SUBAREA PLAN -LAND USE ADJACENCY GUIDELINES – AUGUST 2013

- I. Prior to issuance of any construction permit or notice to proceed, DSD/ LDR, and/or MSCP staff shall verify the Applicant has accurately represented the project's design in or on the Construction Documents (CD's/CD's consist of Construction Plan Sets for Private Projects and Contract Specifications for Public Projects) are in conformance with the associated discretionary permit conditions and Exhibit "A," and also the City's Multi-Species Conservation Program (MSCP) Multi-Habitat Planning Area (MHPA) Land Use Adjacency Guidelines. The applicant shall provide an implementing plan and include references on/in CD's of the following:
  - A. **Grading/Land Development/MHPA Boundaries** - MHPA boundaries on-site and adjacent properties shall be delineated on the CDs. DSD Planning and/or MSCP staff shall ensure that all grading is included within the development footprint, specifically manufactured slopes, disturbance, and development within or adjacent to the MHPA. For projects within or adjacent to the MHPA, all manufactured slopes associated with site development shall be included within the development footprint.
  - B. **Drainage** - All new and proposed parking lots and developed areas in and adjacent to the MHPA shall be designed so they do not drain directly into the MHPA. All developed and paved areas must prevent the release of toxins, chemicals, petroleum products, exotic plant materials prior to release by incorporating the use of filtration devices, planted swales and/or planted detention/desiltation basins, or other approved permanent methods that are designed to minimize negative impacts, such as excessive water and toxins into the ecosystems of the MHPA.
  - C. **Toxics/Project Staging Areas/Equipment Storage** - Projects that use chemicals or generate by-products such as pesticides, herbicides, and animal waste, and other substances that are potentially toxic or impactive to native habitats/flora/fauna (including water) shall incorporate measures to reduce impacts caused by the application and/or drainage of such materials into the MHPA. No trash, oil, parking, or other construction/development-related material/activities shall be allowed outside any approved construction limits. Where applicable, this requirement shall be incorporated into leases on publicly-owned property when applications for renewal occur. Provide a note in/on the CD's that states: "*All construction related activity that may have potential for leakage or intrusion shall be monitored by the Qualified Biologist/Owners Representative or Resident Engineer to ensure there is no impact to the MHPA.*"



- D. **Lighting** - Lighting within or adjacent to the MHPA shall be directed away/shielded from the MHPA and be subject to City Outdoor Lighting Regulations per LDC Section 142.0740.
- E. **Barriers** - New development within or adjacent to the MHPA shall be required to provide barriers (e.g., non-invasive vegetation; rocks/boulders; 6-foot high, vinyl-coated chain link or equivalent fences/walls; and/or signage) along the MHPA boundaries to direct public access to appropriate locations, reduce domestic animal predation, protect wildlife in the preserve, and provide adequate noise reduction where needed.
- F. **Invasives**- No invasive non-native plant species shall be introduced into areas within or adjacent to the MHPA.
- G. **Brush Management** – New development adjacent to the MHPA shall be set back from the MHPA to provide required Brush Management Zone 1 area on the building pad outside of the MHPA. Zone 2 may be located within the MHPA provided the Zone 2 management will be the responsibility of an HOA or other private entity except where narrow wildlife corridors require it to be located outside of the MHPA. Brush management zones will not be greater in size than currently required by the City's regulations, the amount of woody vegetation clearing shall not exceed 50 percent of the vegetation existing when the initial clearing is done and vegetation clearing shall be prohibited within native coastal sage scrub and chaparral habitats from March 1-August 15 except where the City ADD/MMC has documented the thinning would be consistent with the City's MSCP Subarea Plan. Existing and approved projects are subject to current requirements of Municipal Code Section 142.0412.
- H. **Noise** - Due to the site's location adjacent to or within the MHPA where the Qualified Biologist has identified potential nesting habitat for listed avian species, construction noise that exceeds the maximum levels allowed shall be avoided during the breeding seasons for the following: California Gnatcatcher (3/1-8/15) and Least Bell's vireo (3/15-9/15). If construction is proposed during the breeding season for the species, U.S. Fish and Wildlife Service protocol surveys shall be required in order to determine species presence/absence. If protocol surveys are not conducted in suitable habitat during the breeding season for the aforementioned listed species, presence shall be assumed with implementation of noise attenuation and biological monitoring.

## BIOLOGICAL RESOURCES

I. **Least Bell's Vireo:** Due to the proximity of the project site to the riparian habitat within Lusardi Creek, protocol surveys are recommended to determine if least Bell's vireo is present. This species is known to occur within the designated Riparian Corridor to the south of the project site. If least Bell's vireo is detected within the riparian habitat, the following guidelines discussing the mitigation protocol for this species applies.

- No clearing, grubbing, grading, or other construction activities shall occur between March 15 and September 15, the least Bell's vireo breeding season, until the following requirements have been met. Coordination with the USFWS and the CDFW will be required if least Bell's vireo are present.
- Surveys for least Bell's vireo should be conducted pursuant to the recommended protocol survey guidelines as established by the USFWS.
  1. If the least Bell's vireo is detected during the initial survey or may be present, the following conditions must be met:
    - A. Between March 15 and September 15, no clearing, grubbing, grading, or other construction activities shall occur within any portion of the site where construction activities would result in noise levels exceeding 60 dB hourly average at the edge of occupied least Bell's vireo habitat. An analysis showing that noise generated by construction activities would not exceed 60 dB hourly average at the edge of occupied habitat must be completed by a qualified acoustician (possessing a current professional license or registration with monitoring noise level experience with listed animal species) and approved by the City Manager at least two weeks prior to commencement of construction activities.
    - B. At least two weeks prior to commencement of construction activities, under the direction of a qualified acoustician, noise attenuation measures (e.g., berms, walls) shall be implemented to ensure that noise levels resulting from clearing, grubbing, grading, or other construction activities will not exceed 60 dB hourly average at the edge of habitat occupied by least Bell's vireo. Concurrent with the commencement of construction activities and the construction of necessary noise attenuation facilities, noise monitoring\* shall be conducted at the edge of the occupied habitat area to ensure that noise levels do not exceed 60 dB hourly average. If the noise attenuation techniques implemented are determined to be inadequate by the qualified acoustician or biologist, the above activities shall cease until such time that adequate noise attenuation is achieved or until the end of the breeding season (September 15).

\*Construction noise monitoring shall continue to be monitored at least

twice weekly, or more frequently depending on the construction activity, to verify that noise levels at the edge of occupied habitat are maintained below 60 dB hourly average or at the ambient noise level if it already exceeds 60 dB hourly average. If not, other measures shall be implemented in consultation with the biologist and the City Manager, as necessary, to reduce noise levels to below 60 dB hourly average or to the ambient noise level if it already exceeds 60 dB hourly average. Such measures include, but are not limited to, limitations on the placement of construction equipment and the simultaneous use of equipment.

2. If least Bell's vireo are not detected during the initial survey, the qualified biologist shall submit substantial evidence to the City Manager and applicable resource agencies which demonstrates whether or not mitigation measures such as noise walls are necessary between March 15 and September 15, as follows:
  - A. If this evidence indicates the potential is high for least Bell's vireo to be present based on historical records or site conditions, Condition I.B shall be adhered to as specified above.
  - B. If this evidence concludes that no impacts to this species are anticipated, no mitigation measures would be necessary.

#### AIR QUALITY (CONSTRUCTION)

In order to avoid potential construction-related air quality impacts, the following mitigation measures shall be implemented by the project applicant:

1. The area being graded at any one time would be minimized. Also, if possible, low pollutant-emitting construction equipment would be used and the equipment would be equipped with prechamber diesel engines or their equivalent. Electrical construction equipment would be used, if feasible.
2. In addition, dust control during construction and grading operations would be regulated in accordance with the rules of the San Diego APCD. The following measures would reduce fugitive dust impacts:
  - a. All unpaved construction areas would be sprinkled with water or other acceptable San Diego APCD dust control agents during dust-generating activities to reduce dust emissions. Additional watering or acceptable APCD dust control agents would be applied during dry weather or windy days until dust emissions are not visible.
  - b. Trucks hauling dirt and debris would be covered to reduce windblown dust and spills
  - c. On dry days, dirt and debris spilled onto paved surfaces would be swept up immediately to reduce resuspension of particulate matter caused by vehicle

movement. Approach routes to construction sites would be cleaned daily of construction-related dirt in dry weather.

- d. On-site stockpiles of excavated material would be covered or watered.
3. To reduce construction-related vehicle emissions, ride share opportunities would be encouraged and construction vehicle access would be limited to roads determined in a temporary traffic congestion management plan. In addition, construction staging areas would be as far away from existing or completed residences as possible. Construction activities would also be limited to the hours of 7AM to 7PM Monday through Saturday under San Diego's Noise Ordinance Section 36.410 for operating construction equipment.

The above Mitigation Monitoring and Reporting program will require additional fees and/or deposits to be collected prior to the issuance of building permits, certificates or occupancy and/or final maps to ensure the successful completion of the monitoring program.

Passed by the Council of The City of San Diego on JUL 28 2015, by the following vote:

| Councilmembers | Yeas                                | Nays                     | Not Present                         | Recused                  |
|----------------|-------------------------------------|--------------------------|-------------------------------------|--------------------------|
| Sherr Lightner | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |
| Lorie Zapf     | <input type="checkbox"/>            | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Todd Gloria    | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |
| Myrtle Cole    | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |
| Mark Kersey    | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |
| Chris Cate     | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |
| Scott Sherman  | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |
| David Alvarez  | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |
| Marti Emerald  | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |

Date of final passage JUL 28 2015.

(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

KEVIN L. FAULCONER  
Mayor of The City of San Diego, California.

ELIZABETH S. MALAND  
City Clerk of The City of San Diego, California.

(Seal)

By  Deputy

Office of the City Clerk, San Diego, California

Resolution Number R- 309902