

RESOLUTION NUMBER R- **309985**

DATE OF FINAL PASSAGE **SEP 15 2015**

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO DENYING AN APPEAL, APPROVING ENVIRONMENTAL IMPACT REPORT NO. 277550, AND ADOPTING FINDINGS, STATEMENT OF OVERRIDING CONSIDERATIONS, AND A MITIGATION MONITORING AND REPORTING PROGRAM FOR THE UNION TRIBUNE MIXED USE PROJECT (PROJECT NO. 277550).

WHEREAS, on June 18, 2015, the Planning Commission considered an application to construct 200 multi-family units, a parking garage, 3,000 square feet of retail space, and outdoor amenities including a 0.81-acre public park and promenade (Project); and

WHEREAS, prior to approving the Project, the Planning Commission certified Environmental Impact Report No. 277550, and adopted findings and a statement of overriding considerations, and a mitigation, monitoring, and reporting program; and

WHEREAS, on June 17, 2015, the Coastal Environmental Rights Foundation filed an Environmental Determination Appeal Application (Appeal) with the City's Development Services Department stating that Environmental Impact Report No. 277550 did not adequately address the Project's greenhouse gas emissions under the California Environmental Quality Act (CEQA); and

WHEREAS, the matter was set for a public hearing to be conducted by the City Council; and

WHEREAS, the Appeal was heard before the City Council on September 15, 2015; and

WHEREAS, for the portion of the project site proposed to be developed, greenhouse gas emissions are currently zero; and

WHEREAS, the Project is estimated to result in approximately 1,983.47 MTCO₂e per year without any greenhouse gas emissions reductions (the business as usual scenario); and

WHEREAS, applying the significance threshold for greenhouse gas emissions of 28.3% below business as usual emissions, in order for the Project to fall below that significance threshold, it would need to show a reduction of approximately 561.32 MTCO₂e per year; and

WHEREAS, Environmental Impact Report No. 277550 and the record show that with reductions, the Project's greenhouse gas emissions would be reduced by approximately 722.02 MTCO₂e per year to approximately 1,261.45 MTCO₂e per year, which is below the threshold of significance; and

WHEREAS, even when considering the project site as a whole (to include already developed portions of the site that are not included for development as part of the Project), the Project would result in greenhouse gas emissions that fall below the threshold of significance; 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 and where a public hearing was required by law implicating due process rights of individuals affected by the decision and where the Council was 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 the Appeal is hereby denied.

BE IT FURTHER RESOLVED, that it is certified that Environmental Impact Report No. 277550 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 Environmental Impact Report No. 277550 reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in Environmental Impact Report No. 277550, 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 Section 21081 and State CEQA Guidelines Section 15091, the City Council hereby adopts the Findings made with respect to the Project, which are attached hereto as Exhibit A.

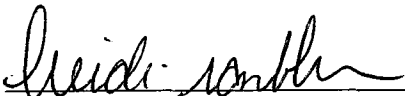
BE IT FURTHER RESOLVED, that pursuant to State CEQA Guidelines Section 15093, the City Council hereby adopts the Statement of Overriding Considerations with respect to the Project, which is attached hereto as Exhibit A.

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

BE IT FURTHER RESOLVED, that Environmental Impact Report No. 277550 and other documents constituting the record of proceedings upon which the approval is based are available to the public at the office of the City Clerk, 202 C Street, San Diego, California, 92101.

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 I. GOLDSMITH, City Attorney

By 
Heidi K. Vonblum
Deputy City Attorney

HKV:nja
09/16/15
Or.Dept: DSD
Doc. No. 1102631

Exhibit A

1.0 INTRODUCTION

1.1 Findings of Fact and Statement of Overriding Considerations

The California Environmental Quality Act (CEQA) (Pub. Res. Code §§ 21000, et seq.) and the State CEQA Guidelines (14 Cal. Code Regs §§ 15000, et seq.) promulgated hereunder, require that the environmental impacts of a project be examined before a project is approved. In addition, once significant impacts have been identified, CEQA and the CEQA Guidelines require that certain findings be made before project approval. It is the exclusive discretion of the decision maker certifying the Final Environmental Impact Report (EIR) to determine the adequacy of the proposed candidate findings. Specifically, regarding findings, CEQA Guidelines Section 15091 provides:

- (a) No public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding. The possible findings are:
 - 1. Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.
 - 2. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
 - 3. Specific economic, legal, social, technological, or other considerations make infeasible the mitigation measures or project alternatives identified in the Final EIR.
- (b) The findings required by subdivision (a) shall be supported by substantial evidence in the record.
- (c) The finding in subdivision (a)(2) shall not be made if the agency making the finding has concurrent jurisdiction with another agency to deal with identified feasible mitigation measures or alternatives. The finding in subdivision (a)(3) shall describe the specific reasons for rejecting identified mitigation measures and project alternatives.
- (d) When making the findings required in subdivision (a)(1), the agency shall also adopt a program for reporting on or monitoring the changes which it has either required in the project or made a condition of approval to avoid or substantially lessen significant environmental effects. These measures must be fully enforceable through permit conditions, agreements, or other measures.
- (e) The public agency shall specify the location and custodian of the documents or other materials which constitute the record of the proceedings upon which its decision is based.
- (f) A statement made pursuant to Section 15093 does not substitute for the findings required by this section.

The "changes or alterations" referred to in Section 15091(a)(1) above, that are required in, or incorporated into, the project which mitigate or avoid the significant environmental effects of the project, may include a wide variety of measures or actions as set forth in CEQA Guidelines Section 15370, including:

- (a) Avoiding the impact altogether by not taking a certain action or parts of an action.
- (b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation.
- (c) Rectifying the impact by repairing, rehabilitating, or restoring the impacted environment.
- (d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.
- (e) Compensating for the impact by replacing or providing substitute resources or environments.

Should significant and unavoidable impacts remain after changes or alterations are applied to the project, a Statement of Overriding Considerations must be prepared. The statement provides the lead agency's views on whether the benefits of a project outweigh its unavoidable adverse environmental effects. Regarding a Statement of Overriding Considerations, CEQA Guidelines Section 15093 provides the following:

- (a) CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered "acceptable."
- (b) When the lead agency approves a project which will result in the occurrence of significant effects which are identified in the final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the Final EIR and/or other information in the record. The statement of overriding considerations shall be supported by *substantial evidence in the record*.
- (c) If an agency makes a statement of overriding considerations, the statement should be included in the record of the project approval and should be mentioned in the notice of determination. This statement does not substitute for, and shall be in addition to, findings required pursuant to Section 15091.

Having received, reviewed, and considered the Final EIR for the Vesting Tentative Map (VTM), Planned Development Permit (PDP), and Site Development Permit (SDP) for the Union Tribune Mixed Use Project, Project No. 277550, State Clearinghouse No. 2013031032, as well as all other information in the record of proceedings on this matter, the following Findings of Fact (Findings) and Statement of Overriding Considerations are hereby adopted by the City of San Diego (City) in its capacity as the CEQA Lead Agency. These Findings and Statement of Overriding Considerations set forth the environmental basis for current and subsequent discretionary actions to be undertaken by the City and responsible agencies for the implementation of the proposed project.

The following Findings and Statement of Overriding Considerations have been submitted by the applicant as candidate findings to be made by the decision-making body. The Environmental Analysis Section does not recommend that the discretionary body either adopt or reject these findings. They are attached to allow readers of this report an opportunity to review the City's position on this matter.

1.2 Record of Proceedings

For purposes of CEQA and these Findings, the Record of Proceedings for the proposed project consists of the following documents and other evidence, at a minimum:

- The Notice of Preparation (NOP) of an EIR, dated March 13, 2013, and all other public notices issued by the City in conjunction with the proposed project;
- The Final EIR for the proposed project;
- The Draft EIR, circulated for public review between February 20, 2015 and April 7, 2015;
- All written comments submitted by agencies or members of the public during the public review comment period on the Draft EIR;
- All responses to written comments submitted by agencies or members of the public during the public review comment period on the Draft EIR and included in the Final EIR;
- The Mitigation Monitoring and Reporting Program (MMRP);
- The reports and technical memoranda included or referenced in Responses to Comments and/or in the Final EIR;
- All documents, studies, EIRs, or other materials incorporated by reference in the Draft EIR and the Final EIR;
- Matters of common knowledge to the City, including but not limited to federal, state and local laws and regulations;
- Any documents expressly cited in these Findings and Statement of Overriding Considerations; and
- Any other relevant materials required to be included in the record of proceedings pursuant to Public Resources Code Section 21167.6(e).

1.3 Custodian and Location of Records

The documents and other materials which constitute the administrative record for the City's actions related to the project are located at the City of San Diego, Development Services Center, 1222 First Avenue, Fifth Floor, San Diego, CA 92101. The City Development Services Center is the custodian of the administrative record for the project. Copies of these documents, which constitute the record of proceedings, are and at all relevant times have been and will be available upon request at the offices of the City Development Services Center. This information is provided in compliance with Public Resources Code Section 21081.6(a)(2) and Guidelines Section 15091(e).

2.0 PROJECT SUMMARY

2.1 Project Location

The project site is centrally located in the City of San Diego (City), within the Mission Valley Community Planning Area. The Mission Valley Community Planning Area is comprised of approximately 2,418 net acres and is bound on the west by Interstate 5 (I-5), on the north by Friars Road west of State Route 163 (SR-163) and by the northern

slopes of valley east of SR-163, on the east by the eastern back of the San Diego River, and on the south by the southern slopes of the valley. More specifically, the project site is located at the northwest corner of Interstate 8 (I-8) and SR-163, at 350 Camino De La Reina, San Diego, California, 92108. The project site comprises of Lot 2 of Map No. 6860 (APN 437-260-41). The project site fronts Camino De La Reina to the south and east, and is bounded by the San Diego River to the north, and the Town and Country Hotel to the west. The project site is approximately two miles northeast of San Diego International Airport and three miles southwest of Montgomery Field.

2.2 Project Background

The project site is currently occupied by 168,575 square feet of office space (Union Tribune offices) and 191,600 square feet of manufacturing land uses (Union Tribune printing facility). The existing Union Tribune office building and printing building was constructed in 1972. In addition, the site is also occupied by an existing 2,474 square foot, one-story automotive service center located adjacent to the existing printing facility, which previously included a fuel station for on-site truck operations. However, the automotive service center was terminated from operation several years ago. The site currently operates as the Union Tribune's headquarters from which the newspaper is written, edited, printed, and distributed.

2.3 Project Description

The applicant, Mission Valley Holdings LLC, proposes to develop a portion of the existing 12.86-acre San Diego Union Tribune site at 350 Camino De La Reina to add multiple uses including residential, retail, and public space uses to the project site. When combined with the existing office and manufacturing uses on the site, the proposed project will create a pedestrian-friendly, transit-oriented, mixed-use project. Specifically, the proposed project will include the construction of the following:

- New seven-story multi-unit residential buildings featuring 200 dwelling units for a total of 285,645 square feet of gross floor area;
- Four stories of parking featuring 671 parking spaces for a total of 212,069 square feet of gross floor area, to be located on a below-grade level and the first three levels of one the residential buildings (Northwest Building);
- Conversion of 3,000 square feet of ground floor area of the existing UT printing building to retail amenity space; and,
- Implementation of the San Diego River Park Master Plan along the northern boundary of the project, including an extension of the San Diego River Park trail from the Town and Country Resort property to the west, and the provision of a public pocket park adjacent to the River Park area, which would provide approximately 35,402 square feet of public space (River Park is 23,455 square feet and public pocket park is 11,947 square feet).

2.4 Discretionary Actions

The required discretionary approvals from the City of San Diego include a VTM, PDP, and SDP for Environmentally Sensitive Lands (ESL). Approval of the VTM would allow the applicant to subdivide the 12.86-acre site into 3 separate lots.

As the designated lead agency, the City has assumed responsibility for preparing the EIR for the proposed project. The decision to approve the project is within the purview of the City Planning Commission (Process 4). In the final review, environmental considerations and economic and social factors will be weighed to determine the most appropriate course of action. The City would use the Final EIR and supporting documentation in its decision to approve the required discretionary permits identified above.

2.5 Statement of Project Objectives

In accordance with CEQA Guidelines Section 15124, the following objectives describe the underlying purpose of the project, assist the Lead Agency in developing reasonable range of alternatives to be evaluated in the EIR, and ultimately aid decision-makers in preparing findings and overriding considerations, if necessary:

- To provide a portion of the housing needs within the community;
- To provide a new public park amenity for the community;
- To provide a San Diego River Pathway;
- To provide a mixed-use Transit-Oriented Development (TOD) to accommodate the increasing growth in the region;
- To provide multiple land uses as in-fill development of an underutilized site within an urban area in close proximity to existing public transit;
- To provide connections to existing public transit;
- To provide additional parking for current and future employees and residents;
- To provide a residential development that reasonably maximizes the number of residential units on the project site without exceeding the Mission Valley Planned District Ordinance Threshold 2 for Traffic District C of 417 ADT per acre and subsequently not requiring the need for a Community Plan Amendment;
- To reasonably maximize the efficiency in use of the developable land on the site;
- To provide a project that is consistent with the City of Villages and Smart Growth policies, maximize residential development at an infill site, where public facilities, transit, and services are within walking distance;
- To provide development that is compatible in density, scale, and character with the other development within the Mission Valley community; and,
- To provide a development that is consistent with the goals and policies of the City of San Diego General Plan, City of Villages Strategy and Mission Valley Community Plan, which promote the development of multiple use projects that encourage the use of alternative modes of transportation and reduces vehicle miles traveled per capita.

3.0 ENVIRONMENTAL REVIEW AND PUBLIC PARTICIPATION

The City determined that the proposed project may have a significant effect on the environment and that an EIR should be prepared to analyze the potential impacts associated with approval and implementation of the proposed

project. The scope of analysis for the EIR was determined by the City in a scoping letter dated March 13, 2013, as well as a result of public responses to the Scoping Letter and NOP. In accordance with Section 15082(a) of the CEQA Guidelines, the City Development Services Department circulated the NOP and Scoping Letter to the State Clearinghouse as well as interested agencies, groups, and individuals. The 30-day public review period for the NOP ended on April 12, 2013. In addition, a public scoping meeting was held on March 27, 2013 to gather additional public input. Comments received during the NOP scoping period and meeting were considered during the preparation of the EIR. The NOP, Scoping Letter, and comments received are included as Appendix A of the Final EIR.

The Draft EIR for the proposed project was then prepared and circulated for review and comment by the public, agencies, and organizations for a 45-day public review period that began on February 20, 2015 and concluded on April 7, 2015. A Notice of Completion (NOC) and copies of the EIR and technical appendices were provided to the State Clearinghouse, and the Draft EIR was circulated to state agencies for review through the State Clearinghouse, Office of Planning and Research (SCH No. 2013031032). A Notice of Availability (NOA) of the Draft EIR for review was mailed to organizations and parties expressing interest in the project. The Notice of Availability was also filed with the San Diego County Clerk, published in the San Diego Union Tribune and San Diego Daily Transcript, and posted on the City of San Diego's website.

As noted, the public comment period on the Draft EIR concluded on April 7, 2015. The City received seven (7) letters of comment on the Draft EIR for the proposed project. The City completed responses to those comments, which are incorporated into the Final EIR.

4.0 GENERAL FINDINGS

The City hereby finds as follows:

- The City is the "Lead Agency" for the proposed project evaluated in the Final EIR;
- The Draft EIR and Final EIR were prepared in compliance with CEQA and the CEQA Guidelines;
- The City has independently reviewed and analyzed the Draft EIR and the Final EIR, and these documents reflect the independent judgment of the Planning Commission and the City of San Diego;
- The City of San Diego's review of the Draft EIR and the Final EIR is based upon CEQA, the State CEQA Guidelines, and the City of San Diego CEQA Significance Determination Thresholds – Development Services Department (January 2011) (CEQA Significance Determination Thresholds);
- A MMRP has been prepared for the proposed project, which the City has adopted or made a condition of approval for the proposed project. That MMRP is included as Section 10.0 of the Final EIR, is incorporated herein by reference and is considered part of the record of proceedings for the proposed project;
- In determining whether the proposed project has a significant impact on the environment, and in adopting these Findings pursuant to Section 21081 of CEQA, the City has complied with CEQA Sections 21081.5 and 21082.2;
- The impacts of the proposed project have been analyzed to the extent feasible at the time of certification of the Final EIR;

- The City has reviewed the comments received on the Draft EIR and Final EIR and the responses thereto and has determined that, in accordance with CEQA Guidelines Section 15088.5, neither the comments received nor the responses to such comments add significant new information regarding environmental impacts to the Draft EIR or Final EIR and that recirculation of the EIR is not necessary. The City has based its actions on full appraisal of all viewpoints, including all comments received up to the date of adoption of these Findings and Statement of Overriding Considerations, concerning the environmental impacts identified and analyzed in the Final EIR. The City has included new information in the Final EIR, but the new information merely clarifies and amplifies the information in the Draft EIR. This new information does not alter the EIR in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect. No significant new information is provided by the inclusion of this information that would require recirculation of the EIR;
- The responses to the comments on the Draft EIR, which are contained in the Final EIR, clarify and amplify the analysis in the Draft EIR;
- The City has made no decisions that constitute an irretrievable commitment of resources toward the proposed project prior to certification of the Final EIR, nor has the City previously committed to a definite course of action with respect to the proposed project;
- Copies of all the documents incorporated by reference in the Final EIR are and have been available upon request at all times at the offices of the City, custodian of record for such documents or other materials; and,
- Having received, reviewed, and considered all information and documents in the record, the City hereby conditions the proposed project and finds as stated in these Findings.

5.0 SUMMARY OF IMPACTS

Section 5.0 of the Final EIR presents the *Environmental Analysis* of the proposed project. Based on the analysis contained in Section 5.0 of the Final EIR, the Final EIR concludes that the proposed Union Tribune Mixed Use Project will have **no significant impacts** and require no mitigation with respect to the following issue areas:

- Greenhouse Gas Emissions
- Hydrology
- Public Services and Facilities
- Public Utilities
- Visual Effects/Neighborhood Character
- Water Quality
- Air Quality

Section 7.0 of the Final EIR presents the *Effects Not Found To Be Significant* of the proposed project. Based on the discussion contained in Section 7.0 of the Final EIR, the Final EIR concludes that the proposed Union Tribune Mixed Use Project will not result in any potential environmental effects and require no mitigation with respect to the following issue areas and, therefore, no detailed analysis of such effects is included in the Final EIR:

- Agricultural Resources

- Health and Safety and Hazardous Materials
- Historical Resources (Built Environment)
- Mineral Resources
- Population and Housing

Based on the analysis contained in Section 5.0 of the Final EIR, potentially significant impacts of the proposed project will be mitigated to below a level of significance with respect to the following issue areas:

- Land Use
- Biological Resources
- Geologic Conditions
- Historical Resources (Archaeological Resources)
- Paleontological Resources
- Noise

No feasible mitigation measures are available to reduce impacts to below a level of significance for the following issue area:

- Transportation/Circulation/Parking (Traffic Related Impacts)

6.0 FINDINGS REGARDING SIGNIFICANT IMPACTS

In making each of the findings below, the City has considered the project design and plans, programs, and policies discussed in the Final EIR. The project components described in the Final EIR are part of the proposed project that the City has considered, and are explicitly made conditions of the proposed project's approval. The plans, programs, and policies discussed in the Final EIR are existing regulatory plans and programs the proposed project is subject to, and, likewise, are explicitly made conditions of the proposed project's approval.

6.1 Findings Regarding Impacts That Would be Mitigated to Below a Level of Significance (CEQA §21081(a)(1) and CEQA Guidelines §15091(a)(1))

The City, having reviewed and considered the information contained in the Final EIR and the Record of Proceedings pursuant to Public Resource Code §21081(a)(1) and State CEQA Guidelines §15091(a)(1), adopts the following findings regarding the significant effects of the proposed project, as follows:

A. Land Use

Environmental Impact: The project does not conflict with the stated goals, objectives, and recommendations of the City of San Diego General Plan, the Multiple Species Conservation Program (MSCP) Subarea Plan, the Mission Valley Community Plan, the San Diego River Park Master Plan, or the Mission Valley Planned District Ordinance. Although no significant land use impacts were identified, there is a potential for land use impacts to occur in regard to

the MSCP Multi-Habitat Planning Area (MHPA) Land Use Adjacency Guidelines. Implementation of Mitigation Measure LU-1 would ensure that no significant land use impacts would occur.

Finding: It is not anticipated that the proposed project will result in significant land use impacts; however, due to the proposed project's proximity to the MHPA, additional mitigation shall be implemented to ensure any potential impacts that may arise during construction are mitigable.

Facts in Support of Finding: Although the proposed project does not present any significant land use impacts, the proposed project is located adjacent to the MHPA. To ensure the project does not conflict with the MHPA during construction, Mitigation Measure LU-1 shall be implemented to ensure the project's design and construction are in conformance with the City's MSCP MHPA Land Use Adjacency Guidelines. Mitigation Measure LU-1 was provided in order to ensure there would be no significant land use impacts specifically with regards to project compliance with the MSCP. Therefore, with the implementation of Mitigation Measure LU-1, a less than significant land use impact would result with the implementation of the proposed project.

Reference: Final EIR § 5.1.

B. Biological Resources

Environmental Impact: The project site is located adjacent to City MHPA land. Invasive plant species, especially wind-dispersed species, could migrate to these areas and have an adverse indirect impact on native habitat if invasive plants are planted on-site. However, the proposed project would occur within previously-developed areas, would improve on-site water infiltration and purification, and would not introduce new invasive species to the area. Although the proposed project would result in impacts to 0.02 acres of non-native grassland, which is considered a Tier IIIB upland habitat type, these impacts would be below the 0.1-acre significance threshold in accordance with the City's CEQA Significance Determination Thresholds. Therefore, impacts to non-native grassland would be less than significant. In addition, no indirect wetland buffer impacts would occur with project implementation and the proposed project would result in no net loss of functions or values of adjacent wetlands. The proposed project would not conflict with the provisions of an adopted Habitat Conservation Plan, Natural Conservation Community Plan, or other approved local, regional, or state habitat conservation plan, it would not create adverse edge effects to the MHPA, and it would not result in a conflict with any local policies or ordinances protecting biological resources.

Several sensitive bird species were observed during the biological field work conducted for the proposed project. Cooper's Hawk and Double-Crested Cormorant were observed and are on the California Department of Fish and Wildlife (CDFW) Watch List. Yellow Warbler is a CDFW Species of Special Concern, and was also observed. However, these species were observed off-site and not within the proposed project impact area. Because the project site contains Eucalyptus trees, it has the potential to support nesting birds that would be protected under the Migratory Bird Treaty Act (MBTA) and/or the California Fish and Game Code (§3503), under which it is unlawful to "take, possess, or needlessly destroy" avian nests or eggs. Generally, the MBTA restricts clearing or grading between February 1 and September 15 to protect individual birds, nests and eggs. Thus, potential impacts could occur if vegetation clearing is undertaken during the breeding season.

Finding: The proposed project has the potential to result in indirect impacts to adjacent sensitive habitat communities as a result of potentially invasive landscaping and significant direct impacts to migratory avian species. The potential for these impacts to occur are mitigable.

Facts in Support of Finding: The proposed project has been designed in accordance with the MHPA Land Use Adjacency Guidelines. Although no significant biological resources impacts were identified, implementation of Mitigation Measure LU-1, identified above, would ensure that the proposed project is consistent with the MHPA Land Use Adjacency Guidelines, including the requirement to not introduce non-invasive plant species within or adjacent to the MHPA, and no significant biological resources impacts would occur. Additionally, the proposed project has the potential to impact avian nests or eggs if vegetation clearing is undertaken during the breeding season. However, implementation of Mitigation Measure BR-1 would reduce potential impacts to nesting birds to a less than significant level. Mitigation Measure BR-1 includes avoidance of any direct impacts to raptors and/or any native/migratory birds, and requires that the removal of habitat that potentially supports active nests in the proposed area of disturbance should occur outside of the breeding season for these species (February 1 to September 15). Therefore, with the implementation of Mitigation Measures LU-1 and BR-1, the proposed project would result in less than significant impacts to biological resources.

Reference: Final EIR § 5.4.

C. Geologic Conditions

Environmental Impact: A review of geologic literature and geologic conditions in the project vicinity indicated no known active, potentially active or inactive faults are located at the project site. However, the project site would likely be exposed to moderate to severe ground motion because the site is located in a seismically active area. The severity of ground shaking would be dependent on several factors, including distance to the epicenter and magnitude of the seismic event. The proposed project has the potential to expose people or property to geologic hazards, including strong seismic shaking, liquefaction, lateral spread, flow slide, seismically induced settlement, and shallow groundwater.

Finding: The proposed project would potentially result in significant impacts associated with geologic hazards. These impacts are considered significant but mitigable.

Facts in Support of Finding: Implementation of Mitigation Measure GC-1 includes geotechnical recommendations addressing potential issues associated with strong seismic shaking, liquefaction, lateral spread, flow slide, seismically induced settlement, and shallow groundwater. The implementation of Mitigation Measure GC-1 and any additional geotechnical recommendations identified by the comprehensive geotechnical investigation would not result in any new direct or indirect impacts because any additional geotechnical recommendations would be incorporated into the final building and grading plans for the project, which would be reviewed and approved by the City prior to construction. Implementation of these mitigation measures would reduce impacts associated with potential geologic hazards to an acceptable level of risk. Therefore, with the implementation of Mitigation Measure GC-1, the proposed project would result in less than significant impacts to geologic conditions.

Reference: Final EIR § 5.5.

D. Historical Resources

Environmental Impact: According to the City's Historical Resources Sensitivity Maps the project area is located within an area identified as having a high sensitivity level for archaeological resources. According to a records search of the California Historic Resources Information System (CHRIS) digital database, no recorded sites were identified within the project boundaries but several previously recorded historic and prehistoric sites have been identified in the project vicinity. Given the fact that many archaeological sites have been found throughout the river valley it could be that these resources have been buried through alluvial deposition.

Based on this information, there is a potential for buried cultural resources to be impacted through implementation of the project. The proposed project has the potential to result in significant impacts to sensitive archaeological resources potentially located on the project site.

Finding: The proposed project would potentially result in significant impacts to sensitive archaeological resources. These impacts are considered significant but mitigable.

Facts in Support of Finding: Implementation of Mitigation Measure HR-1 includes archaeological monitoring during construction, which would prevent potential impacts to any archaeological resources during the grading process. With implementation of Mitigation Measure HR-1 during construction, the proposed project would result in less than significant impacts to historical resources.

Reference: Final EIR § 5.6.

E. Paleontological Resources

Environmental Impact: The proposed project has the potential to result in significant impacts to sensitive paleontological resources potentially located on the project site. Because paleontological resources are largely a buried resource, there is no way to accurately predict what fossils are buried beneath a site or their individual significance to the scientific community before they are discovered. Paleontological resources are typically impacted when earthwork activities such as mass excavation or grading cut into geological deposits (formations) within which fossils are buried.

Finding: The proposed project would potentially result in significant impacts to paleontological resources. These impacts are considered significant but mitigable.

Facts in Support of Finding: Mitigation Measure PR-1 has been developed by the City of San Diego to reduce potential impacts to paleontological resources to a less than significant level. This measure encompasses a comprehensive program to protect paleontological resources should they be found at a construction site. The mitigation program is consistent with standard programs employed at other sites within the City of San Diego. Implementation of these measures would allow preservation and future scientific study of any important paleontological resources encountered, thereby reducing the potential impact to below a level of significance. Therefore, with implementation of Mitigation Measure PR-1 during construction, the proposed project would result in less than significant impacts to paleontological resources.

Reference: Final EIR § 5.12.

F. Noise

Environmental Impact: The proposed project has the potential to result in indirect noise impacts to adjacent sensitive habitat and biological resources during construction. The magnitude of the impact would depend on the type of construction activity and equipment, duration of the construction phase, and the distance between the noise source and receiver. Although Least Bell’s Vireo was not detected during protocol surveys conducted for the proposed project, potentially suitable habitat exists along the adjacent San Diego River.

Finding: The proposed project would potentially result in temporary noise impacts to adjacent sensitive receptors. These impacts are considered significant but mitigable.

Facts in Support of Finding: The proposed project would be subject to the SDMC Sections 59.5.0404 and 59.5.0101 et seq., policies of the General Plan, and other applicable noise regulations. In addition, implementation of Mitigation Measures LU-1 and BR-1, identified above, would address potential impacts to sensitive biological resources and ensure that any potential impacts remain below a level of significance. The proposed project would not result in any operational noise impacts. Therefore, with the implementation of Mitigation Measures LU-1 and BR-1, the proposed project’s construction and operational noise impacts would be less than significant.

Reference: Final EIR § 5.14.

G. Cumulative Transportation/Circulation/Parking (Traffic Impacts)

Environmental Impact: In the Horizon Year, project related traffic would cause significant cumulative impacts within the study area, as summarized below:

TABLE 1: Horizon Year Significant Impacts

Facility Type	Location
Intersections	<ul style="list-style-type: none"> Hotel Circle S./I-8 EB Ramps
Street Segments	<ul style="list-style-type: none"> Camino De La Reina: Hotel Circle to Project Driveway (LOS F) Camino De La Reina: Project Driveway to Avenida Del Rio (LOS F) Hotel Circle N.: I-8 WB Ramps to Fashion Valley Road (LOS F) Hotel Circle N.: Fashion Valley Road to Camino De La Reina (LOS F)
Freeway Segments	None

Source: LLG, 2015

Finding: Under the Horizon Year conditions, the proposed project would result in cumulatively significant impacts at one (1) intersection and four (4) street segments, which will be mitigated to a level less than significant.

Facts in Support of Finding: The proposed project has the potential to result in cumulatively significant impacts to one (1) intersection and four (4) roadway segments. However, implementation of Mitigation Measures CUM-1 through CUM-5, which requires the provision of an irrevocable offer of dedication (IOD) and deferred improvement agreement (DIA) for widening of Camino De La Reina along the project frontage and the payment of fair-share

contributions toward various roadway improvements, would reduce potential cumulative impacts to a level less than significant at the following intersection and street segments:

- Intersection of Hotel Circle South and I-8 EB Ramps
- Camino De La Reina: Hotel Circle to Project Driveway
- Camino De La Reina: Project Driveway to Avenida Del Rio
- Hotel Circle North: I-8 WB Ramps to Fashion Valley Road
- Hotel Circle North: Fashion Valley Road to Camino De La Reina

The proposed project would not result in any cumulative impacts to existing freeway segments or metered freeway on-ramps, and would not increase traffic hazards to motor vehicles, bicyclists, or pedestrians. The project is consistent with the City of San Diego General Plan and Mission Valley Community Plan. Lastly, the project would provide additional access to publicly owned land.

Reference: Final EIR § 6.2.

6.2 Findings Regarding Mitigation Measures Which Are the Responsibility of Another Agency (CEQA §21081(a)(2)) and CEQA Guidelines §15091(a)(2))

There are no mitigation measures that are within the responsibility and jurisdiction of another public agency and not the agency making the finding.

6.3 Findings Regarding Infeasible Mitigation Measures (CEQA §21081(a)(3) and CEQA Guidelines §15091(a)(3))

The City, having reviewed and considered the information contained in the Final EIR and the Record of Proceedings and pursuant to Public Resource Code §21081(a)(3) and State CEQA Guidelines §15091(a)(3), makes the following findings regarding transportation/circulation/parking (intersection and roadway segment operations):

Specific economic, legal, social, technological, or other considerations, including considerations of the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the Final EIR (Project No. 277550/SCH No. 2013031032) as described below.

A. Transportation/Circulation/Parking (Existing + Project, Opening Day (2017) and Horizon Year)

Environmental Impact:

Existing + Project Conditions

The proposed project has the potential to result in a significant and unavoidable direct impact to intersection operations at the Hotel Circle S./I-8 EB Ramps intersection (LOS F during the PM peak hour). The proposed project

has the potential to result in significant and unavoidable direct impacts to street segment operations at the following segments:

- Hotel Circle N.: I-8 WB Ramps to Fashion Valley Road (LOS F)
- Hotel Circle N.: Fashion Valley Road to Camino De La Reina (LOS E)
- Hotel Circle S.: I-8 EB Ramps to Bachman Place (LOS E)
- Hotel Circle S.: Bachman Place to Camino De La Reina (LOS E)

Near-Term (Opening Day 2017) Conditions

The proposed project has the potential to result in significant and unavoidable direct impacts to intersection operations at the Hotel Circle S./I-8 EB Ramps intersection (LOS F during the PM peak hour). The proposed project has the potential to result in significant and unavoidable direct impacts to street segment operations at the following segments:

- Hotel Circle N.: I-8 WB Ramps to Fashion Valley Road (LOS F)
- Hotel Circle N.: Fashion Valley Road to Camino De La Reina (LOS E)
- Hotel Circle S.: I-8 EB Ramps to Bachman Place (LOS E)
- Hotel Circle S.: Bachman Place to Camino De La Reina (LOS E)

Horizon Year (Year 2035) + Project Conditions

The proposed project has the potential to result in cumulatively significant and unmitigated impacts to street segment operations at the following segments:

- Hotel Circle S.: I-8 EB Ramps to Bachman Place (LOS F)
- Hotel Circle S.: Bachman Place to Camino De La Reina (LOS F)

The proposed project would result in significant and unavoidable impacts to one intersection and four street segments in the Existing + Project and Near-Term (Opening Day 2017) scenarios. In addition, the proposed project would result in cumulatively significant and unavoidable impacts to two street segments in the Year 2035 (Horizon Year) scenario. A mitigation feasibility analysis was conducted as part of the *Traffic Impact Analysis (TIA)* (LLG, 2015) based upon the proposed mitigation measures for each significantly impacted intersection and street segment which determined that mitigating these impacts would be infeasible for various reasons as further described in Sections 5.2 and 6.0 of the Final EIR.

Finding: The proposed project is anticipated to result in significant direct and cumulative impacts to intersection and roadway segment operations as a result of the additional traffic volumes generated by the proposed project. These impacts are considered unavoidable, because all proposed mitigation measures are infeasible with the exception of Mitigation Measure T-1, which requires implementation of a Transportation Demand Management (TDM) program. Mitigation Measure T-1 will reduce impacts to the extent feasible, but not to a level less than significant. Since there are no feasible mitigation measures that will mitigate the impacts to below a level of significance, and that consideration of specific project objectives make infeasible the alternatives identified in the Final EIR, the significant and unavoidable direct and cumulative traffic impacts would remain at the following intersection and street segments:

Intersection Mitigation Measures

Hotel Circle S. / I-8 EB Ramps (Existing + Project and Near-Term (Opening Day 2017))

To mitigate the project's direct impact, LLG analyzed three (3) intersection control alternatives, which include a traffic signal, roundabout and an enhanced all-way stop control per recent statewide directive (Caltrans Intersection Control Evaluation (ICE) and Design Guidance).

Signalizing the intersection would mitigate the project's direct impact. However, based on a preliminary feasibility analysis conducted as part of the TIA, signalization of this intersection is not likely to be approved by Caltrans due to the lack of adequate off-ramp queue storage, which may pose safety and operational issues if queues backup onto the freeway mainline. Therefore, the traffic signal alternative is deemed infeasible.

A preliminary roundabout evaluation was also conducted. Based on FHWA Guidelines, a 100 to 130 foot diameter roundabout is recommended based on the traffic volumes on Hotel Circle South. As shown in Table 5.2-18, the intersection would still operate at LOS F as a single lane roundabout. Additionally, given that the footprint of the roundabout encroaches on the commercial fronting properties on Hotel Circle South, the roundabout is deemed infeasible from a design and operations perspective.

LLG also analyzed an enhanced all-way stop alternative. The enhanced all-way stop control includes a second EB through lane and restriping the WB approach to include two through lanes with a shared right-turn lane. To accommodate the additional lanes at the intersection, widening of Hotel Circle South along the existing Mission Valley Resort is required.

The Legacy International Center (LIC) project proposes to widen Hotel Circle South along its project frontage to include two additional travel lanes to mitigate its impact at this intersection. The Hotel Circle South / I-8 EB ramps intersection would be widened as a part of this improvement to include an additional through lane in each direction. Furthermore, the Mission Valley Community Plan Update is currently in process and the circulation element ultimate street classifications may or may not remain the same. Therefore, this impact would remain significant and unavoidable.

Street Segment Mitigation Measures

Hotel Circle N.: I-8 WB Ramps to Fashion Valley Road (Existing + Project and Near-Term (Opening Day 2017))

Widening this segment to 4-lane Collector standards to accommodate a second WB through lane would mitigate the project's significant impact. The widening could occur on the north side of Hotel Circle North to include two westbound lanes and two eastbound lanes. To implement this mitigation, approximately 35' of widening would be required on the existing Riverwalk Golf Course. The Mission Valley Community Plan Update is currently in process and the circulation element ultimate street classifications may or may not remain the same. Therefore, the proposed project will not implement this improvement and impacts along this street segment would remain significant and unavoidable.

Hotel Circle N.: Fashion Valley Road to Camino De La Reina (Existing + Project and Near-Term (Opening Day 2017))

Widening this segment to 3-lane Collector standards to accommodate a second WB through lane would mitigate the project's significant impact. The widening could occur on the north side of Hotel Circle North that would include two westbound lanes and one eastbound lane plus a two-way left-turn lane. To implement this mitigation, approximately 12' of widening would be required on the existing Town & Country Resort property.

The Mission Valley Community Plan Update is currently in process and the circulation element ultimate street classifications may or may not remain the same. Therefore, the proposed project will not implement this improvement and impacts along this street segment would remain significant and unavoidable.

Hotel Circle S.: I-8 EB Ramps to Bachman Place (Existing + Project, Near-Term (Opening Day 2017), and Horizon Year (Year 2035) + Project Conditions)

Widening this segment to 3-lane Collector standards plus a two-way left-turn lane would mitigate the project's significant impact. The widening would include two eastbound lanes and one westbound lane. There is an existing 30' IOD on Hotel Circle South along this roadway segment. Based on a preliminary feasibility conducted as part of the TIA, this widening is deemed infeasible due to building structures fronting Hotel Circle South that would allow a 2' parkway, which is not sufficient to include a sidewalk per City standards. Therefore, this mitigation cannot be implemented and impacts along this street segment would remain significant and unavoidable.

Hotel Circle S.: Bachman Place to Camino De La Reina (Existing + Project, Near-Term (Opening Day 2017), and Horizon Year (Year 2035) + Project Conditions)

Widening this segment to 3-lane Collector standards plus a two-way left-turn lane would mitigate the project's significant impact. The widening would include two eastbound lanes and one westbound lane. Based on a preliminary feasibility analysis conducted as part of the TIA, this widening is deemed infeasible due to the location of the support columns for the I-8 undercrossing on Hotel Circle South. Therefore, this mitigation cannot be implemented and impacts along this street segment would remain significant and unavoidable.

As described in the Statement of Overriding Considerations, the City has determined that these impacts are acceptable because of specific overriding considerations, and the rationale for why mitigation is not feasible is discussed below.

In an effort to reduce the significant and unavoidable traffic impacts, the Applicant shall implement Mitigation Measure T-1, which requires the implementation of a TDM program, as identified in the Final EIR.

The TDM is expected to result in a trip reduction of 85 daily trips (7.5% of the total project trips). A TDM Monitoring and Reporting Program will be conducted to ensure that the proposed TDM strategies are adequately implemented.

Facts in Support of Finding:

As previously discussed, a preliminary mitigation feasibility analysis was conducted as part of the TIA based upon the proposed mitigation measures for each significantly impacted intersection and street segment. The feasibility analysis determined that the measures proposed would be infeasible for various reasons. Mitigating impacts on the following street segments was found to be technically infeasible for the Existing + Project Scenario, Near Term (Opening Day 2017), and Year 2035 (Horizon Year) scenarios:

- Hotel Circle S.: I-8 EB Ramps to Bachman Place - widening this segment is deemed infeasible due to building structures fronting Hotel Circle South that would allow a 2' parkway, which is not sufficient to include a sidewalk per City standards.
- Hotel Circle S.: Bachman Place to Camino De La Reina - widening is deemed infeasible due to the location of the support columns for the I-8 undercrossing on Hotel Circle South.

In an effort to reduce trip generation from the project site, the Applicant shall implement Mitigation Measure T-1, identified above, which requires implementation of a TDM program as further described in Section 5.2.3.3 of the Final EIR. Implementation of the TDM program may reduce some of the cumulative traffic generated by the project but would not reduce any of the cumulatively significant impacts to the two (2) roadway segments identified above to below a level of significance. As such, these impacts would be considered cumulatively significant and unavoidable impacts.

Therefore, significant and unavoidable impacts are identified for these two street segments, because no feasible mitigation measures have been identified to reduce the impact to a level less than significant in the near term.

In addition, mitigation measures are identified for the remaining intersection and street segments:

- Hotel Circle S./I-8 EB Ramps
- Hotel Circle N.: I-8 WB Ramps to Fashion Valley
- Hotel Circle N.: Fashion Valley Road to Camino De La Reina

As discussed in Section 6.0, Cumulative Impacts, of the Final EIR, with the implementation of Mitigation Measures CUM-1, CUM-4, and CUM-5, identified above, the Applicant shall provide a fair share contribution towards widening this intersection and street segments in the Year 2035 (Horizon Year) scenario. However, under the Existing + Project scenario and Near Term (Opening Day (2017) conditions, impacts at the intersection and street segments are identified as significant and unavoidable for the following reasons:

- **Intersection at Hotel Circle S./I-8 EB Ramps:** The Legacy International Center (LIC) project proposes to widen Hotel Circle South along its project frontage to include two additional travel lanes to mitigate its impact at this intersection. The Hotel Circle South / I-8 EB ramps intersection would be widened as a part of this improvement to include an additional through lane in each direction. Furthermore, the Mission Valley Community Plan Update is currently in process and the circulation element ultimate street classifications may or may not remain the same. Therefore, this impact would remain significant and unavoidable.
- **Street Segments:**
 - Hotel Circle N.: I-8 WB Ramps to Fashion Valley – To implement the mitigation at this street segment, approximately 35' of widening would be required on the existing Riverwalk Golf Course. The Mission Valley Community Plan Update is currently in process and the circulation element ultimate street classifications may or may not remain the same. Therefore, the proposed project will not implement this improvement and impacts along this street segment would remain significant and unavoidable.

- Hotel Circle N.: Fashion Valley Road to Camino De La Reina - Widening this segment to 3-lane Collector standards to accommodate a second WB through lane would mitigate the project's significant impact. The widening could occur on the north side of Hotel Circle North that would include two westbound lanes and one eastbound lane plus a two-way left-turn lane. To implement this mitigation, approximately 12' of widening would be required on the existing Town & Country Resort property. The Mission Valley Community Plan Update is currently in process and the circulation element ultimate street classifications may or may not remain the same. Therefore, the proposed project will not implement this improvement and impacts along this street segment would remain significant and unavoidable.

As discussed in detailed in Section 5.1, *Land Use*, of the *Final EIR*, the *Strategic Framework* section of the *General Plan* provides the overarching strategy for how the City will grow while maintaining the qualities that best define San Diego. Since there is little remaining developable vacant land in the City, *General Plan* policies represent a shift in focus from how to develop vacant land to how to reinvest in existing communities through infill development. Therefore, *General Plan* policies support changes in development patterns to emphasize combining housing, shopping, employment uses, schools, and civic uses, at different scales, in village centers. The *General Plan* incorporates the *City of Villages* strategy to focus growth into mixed-use activity centers that are pedestrian-friendly districts linked to an improved regional transit system.

A primary strategy of the *General Plan* is to reduce dependence on the automobile in order to achieve multiple and inter-related goals including: increasing mobility, preserving and enhancing neighborhood character, improving air quality, reducing storm water runoff, reducing paved surfaces, and fostering compact development and a more walkable city (City of San Diego, 2008). Reducing dependence on automobiles can reduce vehicle miles traveled (VMT), which, in turn, lowers greenhouse gas emissions. Additionally, it improves water quality by decreasing automobile-related oil and gas leaks that pollute water bodies throughout the City. The otherwise technically feasible traffic improvements at the two street segments are considered infeasible because they would not reduce dependence on the automobile and would not encourage a reduction in vehicle miles traveled per capita, lower greenhouse gas emissions, or increase water quality.

As discussed in detail in Table 5.1-1 of Section 5.1, *Land Use*, of the *Final EIR*, the proposed project will create a mixed use development, adding residential, retail, and open space uses to an existing office/compatible industrial use within 1,200 feet (walking distance) of the Fashion Valley Transit Center, which provides light rail and bus service connections to all regions of the County. The proposed project provides an opportunity for residents to live, work, play, and shop without the use of an automobile. The project has been designed to encourage pedestrian/bicycle use by providing direct connectivity along the San Diego River Path to the Fashion Valley Transit Center. As identified in Table 5.1-1 of the *Final EIR*, the proposed project is consistent with several of the *General Plan* goals and policies related the *City Villages Strategy* and *TOD Guidelines*.

In addition, LLG conducted a VMT Assessment Memorandum for the proposed project dated January 22, 2015, which is included as Attachment A to this document. Based on the VMT Assessment, the project site is calculated to generate 22,906 total VMT and 23.42 VMT per person under the existing conditions. With the addition of the proposed project's proposed land uses and the TDM program, the project site will generate 30,809 total VMT and

22.13 VMT per person under the Existing + Project conditions. While the project site's total VMT is calculated to increase, with the addition of the proposed project, which is a mixed use/TOD project, the VMT per person is calculated to decrease by 1.29 miles. Therefore, the proposed project is expected to reduce the dependence on the automobile, consistent with the General Plan strategy.

Although the project would result in significant and unavoidable transportation impacts, the project is in conformance with many of the transit oriented goals and policies of the General Plan. Furthermore, the City is in the process of reviewing the Mission Valley Community Plan in light of the General Plan and the City Villages strategies. It is anticipated that changes may be made to the Mission Valley Community Plan Circulation Element as part of the Community Plan update.

In an effort to reduce trip generation from the project site, the Applicant shall implement Mitigation Measure T-1, which requires implementation of a TDM program using Strategies 1 and 2 (Basic and Transit). As a mixed-use, TOD, the project provides the appropriate setting for implementing TDM strategies, carpool/vanpool parking, a pedestrian path that connects to the Fashion Valley Transit Center, charging stations for electric vehicles, coordination with local transit operators, transportation information displayed in common areas, participation in MTS's three-month pilot Eco Pass program, annual events to promote alternative transportation, bicycle racks, and flexible employee work schedules. However, the TDM program would only partially mitigate the proposed project's significant impacts to intersections and street segments; therefore the proposed project would result in significant and unavoidable impacts to all intersections and street segments previously identified. As such, implementation of the TDM program would mitigate impacts to the extent feasible but would not mitigate the impacts to below a level of significance.

In addition, as discussed below in Section 9.0 – Statement of Overriding Considerations, there are several benefits of the proposed project which will help to reduce VMT per capita and other related environmental issues of concern such as air quality, storm water, and GHG emissions.

Reference: Final EIR §§ 5.1, 5.2, and 6.2.

7.0 FINDINGS REGARDING CHANGES OR ALTERATIONS THAT ARE WITHIN THE RESPONSIBILITY AND JURISDICTION OF ANOTHER PUBLIC AGENCY

There are no changes or alterations that are within the responsibility and jurisdiction of another public agency and not the agency making the finding.

8.0 FINDINGS REGARDING ALTERNATIVES (CEQA § 21081(A)(3) AND CEQA GUIDELINES §15091(A)(3))

In accordance with Section 15126.6(a) of the CEQA Guidelines, an EIR must contain a discussion of "a range of reasonable alternatives to a project, or the location of a project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives." Section 15126.6(f) further states that "the range of alternatives in an EIR is governed by the 'rule of reason' that requires the EIR to set forth only those alternatives necessary to permit a reasoned choice." Thus, the following discussion focuses on project alternatives that are capable of eliminating significant environmental impacts or substantially reducing them as compared to the proposed project, even if the alternative would impede the attainment of some project objectives, or would be more costly. In accordance with Section 15126.6(f)(1) of the State CEQA Guidelines, among the factors that may be taken into account when addressing the feasibility of alternatives are: (1) site suitability; (2) economic viability; (3) availability of infrastructure; (4) general plan consistency; (5) other plans or regulatory limitations; (6) jurisdictional boundaries; and (7) whether the proponent can reasonably acquire, control or otherwise have access to the alternative site.

As required in CEQA Guidelines Section 15126.6(a), in developing the alternatives to be addressed in this section, consideration was given regarding an alternative's ability to meet most of the basic objectives of the proposed project. Because the proposed project will cause unavoidable significant environmental effects related to Transportation/Traffic/Parking, the City must consider the feasibility of any environmentally superior alternatives to the proposed project, evaluating whether these alternatives could avoid or substantially lessen the unavoidable significant environmental effects while achieving most of the objectives of the proposed project.

The alternatives presented and considered in the Final EIR constitute a reasonable range of alternatives necessary to permit a reasoned choice among the options available to the City and/or the project proponent. Based upon the administrative record for the project, the City makes the following findings concerning the alternatives to the proposed project.

A. Alternatives Considered and Rejected

The following design alternatives were considered for the proposed project. These alternatives were rejected from further consideration because they fail to meet most of the project objectives and are considered infeasible.

Alternative Site Location

In accordance with State CEQA Guidelines Section 15126.6(f)(2), an alternative project site location should be considered if development of another site is feasible and if development of another site would avoid or substantially lessen significant impacts of the proposed project. When considering an alternative site location, the project objectives may be used to determine the necessary size of the site, its location, and availability of infrastructure. CEQA Guidelines Section 15126.6(f)(2)(A) states that a key question in looking at an off-site alternative is "...whether any of the significant effects of the project would be avoided or substantially lessened by putting the project in another location."

Due to the relatively built-out nature of the surrounding neighborhood and Mission Valley Community, no feasible alternative sites were identified. The last remaining undeveloped property (Quarry Falls/Civita) is currently being constructed as a large, master planned neighborhood with a mix of residential, commercial, retail, office, and park uses. There are a number of smaller sites in the Mission Valley community where redevelopment could occur in a manner similar to the proposed project. Like the proposed project site, some other sites in Mission Valley are within close proximity to existing transit. Several of these sites are already considered for redevelopment/development by other owners/applicants, as presented in Section 6.0, Cumulative Effects, of the Final EIR. However, there are no other sites under the applicant's control to allow for development of a mixed-use project that would meet the project objectives and provide in-fill development that would reasonably maximize the efficiency in use of the underutilized and developable land of the project site. Additionally, other sites within Mission Valley may not have the correct zoning and land use designation to allow development as a mixed-use project and would, therefore, may require a rezone and/or an amendment to the Mission Valley Community Plan and City of San Diego General Plan.

The relocation of the proposed project to an alternative site within the Mission Valley Community would not likely reduce the significant and unavoidable traffic impacts identified in Section 5.2 of the Final EIR. If the project were developed on an alternative site in the community or other areas of the City or County, significant environmental impacts could occur for other issue areas. There are no native habitats or known resources located on the project site. The site has easy access to public streets and freeways and is already served by existing public facilities, services, and utilities. A development constructed on another site with a similar level of intensity as the proposed project could potentially have increased levels of impacts relative to air quality, traffic, and GHG emissions, as another site may not have the same or similar developed characteristics, walkability, proximity to light rail transit, and multi-modal transportation opportunities. Other sites may contain significant sensitive resources, and development on another site could result in significant impacts, which would not occur at the proposed project site.

The project site consists of office and industrial uses that will continue to operate as such uses. The proposed project will develop the underutilized on-site parking lot to construct a new residential use on the site, which makes this project a multiple use project. Therefore, it would be illogical to relocate to a different site because the project site will continue to be utilized by the existing uses and the project provides an opportunity to construct a multiple use project in close proximity to existing transit, which is consistent with the goals and policies of the City of San Diego General Plan and the Mission Valley Community Plan.

Furthermore, the project proponent is the current owner of the proposed project site. The project proponent does not currently own another site for the project. As such, it would not be economically reasonable for the project proponent to acquire an alternative project site location. Therefore, an alternative providing the components of the proposed project on an alternative site location is rejected.

Previously Proposed Union Tribune Mixed Use Alternative

The Previously Proposed Union Tribune Mixed-Use Project Alternative as it was initially described in the Notice of Preparation (NOP) for the proposed project dated March 13, 2013, was a pedestrian friendly, TOD offering residential housing, office, and retail space. The project consisted of a new nine-story Class "A" Commercial Office building, new 23-story residential tower with approximately 200 residential units, new two-story parking structure, retrofit of the

existing printing facility to a three-story parking structure, and amenity space. The river path area included a private park for residents and tenants. Subsequent submittals identified more specific amenities such as retail uses, a café, and a green roof terrace above the new parking structure. A trail connection at the Town & Country property line at the northwest corner of the UT property was also added to provide a link to the existing Fashion Valley Transit Center and allow the proposed UT site to function as a TOD.

During the environmental review process, two screenchecks of the Draft EIR and technical reports for the previously proposed mixed-use project were submitted and reviewed by the City at the end of 2013 and in April 2014. Based on the traffic analysis that was completed for the project, the project as proposed would result in significant direct and cumulative traffic impacts that would require a substantial fair share payment for traffic improvements. However, during the preparation of the EIR there was a shift in market demands and it was determined that there was a lack of a need for the Class "A" Commercial Office space within the project area. Therefore, the project was determined by the applicant not to be an economically viable alternative. As such, the applicant decided to eliminate the previously proposed 9-story Class "A" Commercial Office building of approximately 246,000 gross square feet from the project.

The Previously Proposed Union Tribune Mixed-Use Project Alternative would result in greater direct and cumulative traffic impacts than the proposed project. In addition, this alternative would not reduce any of the potentially significant impacts identified for the proposed project for Land Use, Biological Resources, Geologic Conditions, Historical Resources, Paleontological Resources, and Noise.

Due to the shift in market demands away from Class "A" Commercial Office space, the Previously Proposed Union Tribune Mixed-Use Project Alternative was rejected and is no longer considered a feasible alternative in the Final EIR.

Office Only Alternative

The Office Only Alternative would limit the land use of the site to a non-mixed use development consisting only of office space. Under this alternative, no residential units or retail space would be constructed that could promote the economic viability of the region. One of the primary objectives of the proposed project is to develop a mixed-use, transit-oriented development. As such, this alternative would not meet the basic objectives of the proposed project. In addition, this alternative would not be in conformance with some of the objectives of the Mission Valley Community Plan, which promotes development intensities related to the planned transportation network, designated activity centers and river-related open spaces and encourages mixed-use complexes that offer environments for living, working, shopping and related activities (City of San Diego, 2013). Furthermore, there is currently not a demand for office space in the project area and this alternative would not help the City meet regional housing needs. Therefore, an alternative consisting of an office only development is rejected.

B. Alternatives Analyzed in Depth in the Final EIR

The impacts of each alternative are analyzed in detail in Section 9.0 of the Final EIR. The review of alternatives includes an evaluation to determine if any specific environmental characteristic would have an effect that is "*substantially less*" than the proposed project. A significant effect is defined in Section 15382 of the CEQA Guidelines as "*a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project.*" The potential significant impacts that may result from implementation of the proposed project are: land

use, transportation/circulation/parking, biological resources, historical resources, paleontological resources, and noise.

Alternatives considered for the Union Tribune Mixed Use Project, including a discussion of the "No Project" alternative, are addressed in detail in Section 9.0, *Alternatives*. Relative to the requirement to address a "No Project" alternative, CEQA Guidelines Section 15126.6(e) states that:

- (A) *When the project is the revision of an existing land use or regulatory plan, policy or ongoing operation, the "no project" alternative will be the continuation of the existing plan, policy or operation into the future.*
- (B) *If the project is other than a land use or regulatory plan, for example a development project on identifiable property, the "no project" alternative is the circumstance under which the project does not proceed.*

Alternatives to the Union Tribune Mixed Use Project considered and discussed in the Final EIR include the "No Project (No Development) Alternative" that is mandated by CEQA and "Reduced Density Alternatives" that were developed in the course of project planning and environmental review for the proposed project.

Alternative 1 – No Project (No Development) Alternative

Description: The No Project (No Development) Alternative would retain the site in its current condition, including the existing one-story automotive service center, five-story commercial office building, three-story printing facility, and surface parking lot. No new development, including the proposed 3.5 story parking structure, new residential buildings with 200-units on top of four-stories of parking, 3,000 square feet of retail space, or 13 new townhomes, would occur.

Finding: The City finds that the No Project (No Development) Alternative would not meet any of the project objectives as listed above and in Chapter 3.0 of the Final EIR, and is therefore infeasible.

Facts in Support of Finding: The No Project (No Development) Alternative would result in greater environmental effects associated with water quality and hydrology, because this alternative would not implement Best Management Practices (BMPs) and would have a greater area of impervious surfaces as compared to the proposed project. As discussed in Section 5.7 of the Final EIR, the proposed drainage conditions would result in a reduction in overall impervious surfaces by approximately 3.26 acres from the existing conditions. This is primarily a result of the installation of new porous access areas and other pervious surfaces where impervious surfaces currently exist. When compared to the proposed project, the No Project (No Development) Alternative would avoid the unavoidable traffic/circulation/parking and other issue area impacts. However, the No Project (No Development) Alternative would not meet any of the objectives of the project as identified above and in Chapter 3.0 of the Final EIR, and is, therefore, not recommended for selection and implementation.

Reference: Final EIR § 9.3.1

Alternative 2 – Reduced Density Alternatives

In order to fully evaluate the range of possible alternatives that would avoid or reduce the impacts associated with the proposed project, a traffic sensitivity analysis was performed by Linscott Law and Greenspan (LLG) dated January 2015 and provided as Appendix K of the Final EIR. It addressed the critical street segments surrounding the project site to determine the land use intensity/level of development at which traffic/circulation related impacts would be reduced to a less than significant level per the City's traffic thresholds. The traffic sensitivity analysis was conducted for street segments only given that they are the "constrained" facility within the study area. If the alternative were to avoid significant street segment impacts, intersection impacts would also be avoided given the low trip generation. Based on the results of the analysis, it was determined that a new development consisting of 55 residential units could be built (in addition to the existing UT complex) which would reduce all of the traffic/circulation/parking impacts that were identified in the Final EIR with the implementation of the proposed project to a less than significant level.

Any project proposed on the project site consisting of a development greater than 55 residential units would generate a number of daily trips which would exceed the City's thresholds and trigger significant roadway segment impacts both in the Near-Term (Opening Day 2017) and Year 2035 (Horizon Year). Any project alternative proposing between 56 and 200 residential units would still result in significant and unavoidable impacts to traffic per the City's CEQA thresholds. As such two density alternatives were identified and analyzed in the Final EIR, the 55 residential units alternative that would avoid the traffic impacts and another alternative consisting of 135 residential units, which is a density between 55 units and 200 units proposed under the proposed project. The following provides the analysis for these two alternatives.

Reduced Residential Density to Avoid Traffic Impacts Alternative (55 DU)

Description: The Reduced Residential Density to Avoid Traffic Impacts Alternative will include the construction of the following:

- New two-story multi-unit residential buildings featuring 55 dwelling units for a total of approximately 66,211 square feet of general floor area;
- Parking lot featuring approximately 173 parking spaces located at grade of the residential buildings (Northwest Building);
- Conversion of 3,000 square feet of ground floor area of the existing UT printing building to retail commercial use; and,
- Implementation of the San Diego River Park Master Plan along the north boundary of the project, including an extension of the San Diego River Park trail from the Town and Country Resort property to the west, and the provision of a public pocket park adjacent to the River Park area, which would include approximately 35,402 square feet (River Park is 23,455 square feet and public pocket park is 11,947 square feet).

Finding: The City finds that this alternative would meet most of the project objectives, but would not meet the following objectives at the same level as the proposed project because of the reduction in residential units proposed under this alternative:

- To provide a residential development that reasonably maximizes the number of residential units on the project site without exceeding the Mission Valley Planned District Ordinance Threshold 2 for Traffic District C of 417 ADT per acre and subsequently not requiring the need for a Community Plan Amendment;
- To reasonably maximize the efficiency in use of the developable land on this TOD suited site; and,
- To provide a project that is consistent with the City of Villages and Smart Growth policies, maximize residential development at an infill site, where public facilities, transit, and services are within walking distance.

Therefore, this alternative is infeasible.

Facts in Support of Finding: When compared to the proposed project, the Reduced Residential Density to Avoid Traffic Impacts Alternative (55 DU) would avoid the unavoidable traffic/circulation/parking impacts. The Reduced Residential Density to Avoid Traffic Impacts Alternative (55 DU) would result in similar impacts for all other issue areas; however, as some issue areas will be slightly reduced due to the reduction in residential units (i.e., air quality, noise, public utilities, and public services and facilities).

One of the primary objectives of the proposed project is to develop a mixed-use, TOD. As discussed above, the Reduced Density to Avoid Traffic Impacts Alternative would allow for a new development consisting of only 55 residential units on a project site that is suited for TOD, which when combined with the existing uses would create a site with multiple land uses on a site within close proximity to public transit. While at a greatly reduced development intensity, this alternative would still provide a mixed-use TOD that could accommodate the increasing growth in the region by providing a portion of the housing needs within the community. In addition, this alternative would still provide connections to existing public transit located adjacent to the project site. As such, this alternative would still meet some of the objectives of the proposed project.

This alternative to the proposed project is expected to generate 238 ADT/acre, which is below Threshold 2 for Traffic District C and, similar to the proposed project, this alternative would not require an amendment to the Community Plan. However, the proposed project would generate 296 ADT/acre; therefore, in comparison to the proposed project, this alternative would not reasonably maximize the number of residential units on the project site without exceeding the Mission Valley Planned District Ordinance Threshold 2 for Traffic District C of 417 ADT per acre and subsequently not requiring the need for a Community Plan Amendment.

The Reduced Density to Avoid Traffic Impacts Alternative would be in conformance with some of the objectives of the Mission Valley Community Plan, which promotes development intensities related to the planned transportation network, designated activity centers and river-related open spaces and encourages mixed-use complexes which offer environments for living, working, shopping and related activities (City of San Diego, 2013). Although this alternative provides minimal retail, the site's proximity to Fashion Valley Mall would still offer future residents an environment for living, working and shopping. In addition, this alternative would generally be in conformance with the City of Villages Strategy outlined in the City of San Diego General Plan, which promotes mixed-use villages throughout the City connected by high-quality transit (City of San Diego, 2008). This alternative would still be a mixed-use development in close proximity to Fashion Valley Mall and adjacent to public transit. This alternative would meet most of the project

objectives; however, this alternative would not meet the some of the project objectives at the same level as the proposed project because of the reduction in residential units proposed under this alternative. Therefore, the Reduced Residential Density to Avoid Traffic Impacts Alternative (55 DU) is infeasible.

Reduced Residential Density Alternative (135 DU)

Description: The Reduced Residential Density Alternative (135 DU) will include the construction of the following:

- New four-story multi-unit residential buildings featuring 135 DU for a total of approximately 175,547 square feet of general floor area;
- Two-story parking structure featuring approximately 383 parking spaces located at grade and above grade of the residential buildings (Northwest Building);
- Conversion of 3,000 square feet of ground floor area of the existing UT printing building to retail commercial use; and,
- Implementation of the San Diego River Park Master Plan along the north boundary of the project, including an extension of the San Diego River Park trail from the Town and Country Resort property to the west, and the provision of a public pocket park adjacent to the River Park area, which would include approximately 35,402 square feet (River Park is 23,455 square feet and public pocket park is 11,947 square feet).

Finding: The City finds that this alternative would meet most of the project objectives. However, this alternative would not meet the following objectives at the same level as the proposed project because of the reduction in residential units proposed under this alternative:

- To provide a residential development that reasonably maximizes the number of residential units on the project site without exceeding the Mission Valley Planned District Ordinance Threshold 2 for Traffic District C of 417 ADT per acre and subsequently not requiring the need for a Community Plan Amendment;
- To reasonably maximize the efficiency in use of the developable land on this TOD suited site; and,
- To provide a project that is consistent with the City of Villages and Smart Growth policies, maximize residential development at an infill site, where public facilities, transit, and services are within walking distance.

Therefore, this alternative is infeasible.

Facts in Support of Finding: When compared to the proposed project, the Reduced Residential Density Alternative (135 DU) would result in similar unavoidable traffic impacts as compared to the proposed project with the exception of the avoidance of a direct impact at the street segment of Hotel Circle N. from Fashion Valley Road to Camino De La Reina. The Reduced Residential Density Alternative (135 DU) would result in similar impacts for all other issue areas; however, as some issue areas will be slightly reduced due to the reduction in residential units (i.e., air quality, noise, public utilities, and public services and facilities).

One of the primary objectives of the proposed project is to develop a mixed-use, TOD. As discussed above, the Reduced Residential Density Alternative (135 DU) would allow for a new development consisting of 135 residential units on a project site that is suited for TOD, which when combined with the existing uses would create a site with

multiple land uses on a site within close proximity to public transit. While at a reduced development intensity, this alternative would still provide a mixed-use TOD that could accommodate the increasing growth in the region by providing a portion of the housing needs within the community. In addition, this alternative would still provide connections to existing public transit located adjacent to the project site. As such, this alternative would still meet some of the objectives of the proposed project.

This alternative to the proposed project is expected to generate 266 ADT/acre, which is below Threshold 2 for Traffic District C and, similar to the proposed project, this alternative would not require an amendment to the Community Plan. However, the proposed project would generate 296 ADT/acre; therefore, in comparison to the proposed project, this alternative would not reasonably maximize the number of residential units on the project site without exceeding the Mission Valley Planned District Ordinance Threshold 2 for Traffic District C of 417 ADT per acre and subsequently not requiring the need for a Community Plan Amendment.

The Reduced Residential Density Alternative (135 DU) would be in conformance with some of the objectives of the Mission Valley Community Plan, which promotes development intensities related to the planned transportation network, designated activity centers and river-related open spaces and encourages mixed-use complexes which offer environments for living, working, shopping and related activities (City of San Diego, 2013). Although this alternative provides minimal retail, the sites proximity to Fashion Valley Mall would still offer future residents an environment for living, working and shopping. In addition, this alternative would generally be in conformance with the City of Villages Strategy outlined in the City of San Diego General Plan, which promotes mixed-use villages throughout the City connected by high-quality transit (City of San Diego, 2008). This alternative would still be a mixed-use development in close proximity to Fashion Valley Mall and adjacent to public transit. This alternative would meet most of the project objectives; however, this alternative would not meet some of the project objectives at the same level as the proposed project because of the reduction in residential units proposed under this alternative. Therefore, the Reduced Residential Density Alternative (135 DU) is infeasible.

Reference: Final EIR § 9.3.2

9.0 ENVIRONMENTAL ISSUES DETERMINED NOT TO BE POTENTIALLY AFFECTED BY THE PROJECT

The City determined that the environmental analysis contained in the Final EIR for greenhouse gas emissions, hydrology, public services and facilities, public utilities, visual effects/neighborhood character, water quality, air quality, agricultural resources, health and safety and hazardous materials, historical resources (built environment), mineral resources, and population and housing had "no impact" or had a "less than significant impact," and, therefore, will not warrant further consideration in the Final EIR. No substantial evidence has been presented to or identified by the City that will modify or otherwise alter the City's "no impact" or "less than significant" determination for these environmental issue areas.

10.0 FINDINGS REGARDING SIGNIFICANT IRREVERSIBLE ENVIRONMENTAL CHANGES

As required by Section 15126.2(c) of the CEQA Guidelines, the significant irreversible environmental changes of a project must be identified. Uses of nonrenewable resources during the initial and continued phases of the project may be irreversible since a large commitment of such resources makes removal or nonuse thereafter unlikely. Irreversible commitments of resources are evaluated to assure that their use is justified. Irreversible environmental changes typically fall into three categories: primary impacts, such as the use of nonrenewable resources; secondary impacts, such as highway improvements which provide access to previously inaccessible areas; and environmental accidents associated with a project.

Future development that could occur on the project site as a result of the proposed project would entail the commitment of energy and natural resources. The primary energy source would be fossil fuels, representing an irreversible commitment of this resource. Construction of the project would also require the use of construction materials, including water, cement, concrete, lumber, steel, etc., and labor. These resources would also be irreversibly committed.

Once constructed, occupation of the residential units and would entail a further commitment of energy resources in the form of water, fossil fuels and electricity. This commitment would be a long-term obligation since the proposed structures are likely to have a useful life of 20 to 30 years or more. However, as discussed in Section 5.9, Public Utilities, of the Final EIR the impacts of increased energy usage are not considered significant adverse environmental impacts. In addition, the proposed project does not meet or exceed the Water Code §10912(a)(7) threshold requirements and would not trigger the need for a water supply assessment under the parameters of SB 610. Therefore, the proposed project would not use excessive amounts of water nor would it result in a need for new water systems, or require substantial alterations to existing water utilities and impacts to the water supply would be less than significant.

Specific significant irreversible environmental changes associated with implementation of the proposed project may include the following:

- Grading and excavation required for the project could irreversibly affect unknown cultural or paleontological resources. Any cultural or paleontological resources would be salvaged, as necessary, and data would be recovered, recorded and curated if necessary. Mitigation identified in Section 5.6, Historical Resources and Section 5.12, Paleontological Resources, of the Final EIR, would reduce any impacts to below a level of significance. However, cultural resources or paleontological resources, if encountered, would be irreversibly committed.
- Commitment of energy, water, and other natural resources for the construction and ongoing use of the proposed facilities is expected. This resource utilization is not expected to represent significant amounts of available resources in the region.

- Pollutant emissions from construction activities would occur but would be short-term and would not be significant. The additional vehicle trips on the surrounding roads would also cause an incremental increase in air pollutants associated with vehicle exhaust, which would add to area- and basin-wide air pollutant levels; however such impacts would be reduced compared to a similar Non-TOD because of the overall reduction in vehicle miles traveled associated with a TOD for similar size projects.

11.0 STATEMENT OF OVERRIDING CONSIDERATIONS

Pursuant to Section 21081(b) of CEQA, Section 15093 and 15043(b) of the CEQA Guidelines, the City is required to balance, as applicable, the economic, legal, social, technological, or other benefits of a proposed project against its unavoidable adverse environmental impacts when determining whether to approve the proposed project.

If the specific economic, legal, social, technological, or other benefits, including considerations for the provision of employment opportunities for highly trained workers outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered acceptable pursuant to Public Resources Code Section 21081.

Pursuant to Public Resources Code Section 21081(b) and CEQA Guidelines Section 15093, the City has balanced the benefits of the proposed project against unavoidable adverse impacts to Transportation/Circulation/Parking associated with the proposed project and has considered all feasible mitigation measures with respect to significant and unavoidable impacts associated with this environmental issue area. The City also has examined alternatives to the proposed project and has rejected them as infeasible, finding that none of them would meet the project objectives and result in substantial reduction or avoidance of the project's significant and unavoidable environmental impacts.

Each of the separate benefits of the proposed project, as stated herein, is determined to be, unto itself and independent of the other project benefits, a basis for overriding all unavoidable adverse environmental impacts identified in these findings, so that if a court were to set aside the determination that any particular benefit would occur, the City would stand by its determination that the remaining benefits are sufficient to warrant the project's approval.

Having considered the entire administrative record on the proposed project, and (i) made a reasonable and good faith effort to eliminate or substantially mitigate the impacts resulting from the project, and adopting all feasible mitigation measures; (ii) examined a reasonable range of alternatives to the project and, based on this examination, determined that all those alternatives are either environmentally inferior, fail to meet the project objectives, or are not economically or otherwise viable, and therefore should be rejected; (iii) recognized all significant, unavoidable impacts; and (iv) balanced the benefits of the project against the project's significant and unavoidable effects, the City hereby finds that the following economic, legal, social, technological, aesthetic, environmental, and other benefits of the project outweigh the potential unavoidable adverse impacts and render those potential adverse environmental impacts acceptable based upon the following considerations, set forth below.

1. The project is a mixed-use transit-oriented development (TOD) that will provide a portion of the housing needs within the Mission Valley community and will help to accommodate the increasing growth in the

region. Based on SANDAG's 2030 Regional Growth Forecast, there is a projected shortfall of nearly 100,000 residential units in San Diego by the year 2030 (SANDAG, Draft Regional Plan, April 2015).

2. Based on the existing zoning and General Plan land use designation of "Industrial" for the site, the Applicant could have proposed an industrial or commercial development. However, the Applicant made the choice to propose a residential development to take advantage of the project site's proximity to existing transit. By proposing to develop residential uses on the site, the Applicant would be providing a mixed-use, TOD that is consistent with three key goals of the Regional Comprehensive Plan (RCP) and 2050 Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS). These goals include focusing development in smart growth opportunity areas in an effort to preserve open space, providing residents with transportation and housing options, and reducing greenhouse gas (GHG) emissions. The 2050 RTP/SCS was prepared by SANDAG in accordance with SB 375, which directs each of the state's 18 major Metropolitan Planning Organizations to prepare an SCS that contains a growth strategy to meet the emission targets of AB 32 for inclusion in the RTP. By being consistent with the 2050 RTP/SCS, the proposed project is helping SANDAG demonstrate the San Diego region's commitment to achieving the GHG emission reduction targets set forth by AB 32.
3. The project will implement the City of Villages concept for mixed-use, TOD as a way to minimize the need to drive by increasing opportunities for individual to live near where they work, offering a convenient mix of local goods and services, and providing access to high quality transit services. In addition, the project embraces the concept of TOD with linking the San Diego River Path to the existing trolley and buses to create a TOD/Corporate Headquarters/Work-Live/Mixed-Use development. Consequently, this will help to reduce single-occupant vehicle traffic on congested local streets and freeways and will improve the efficiency of the street and freeway systems by means other than roadway widening or construction.
4. The project is ideally located along the scenic San Diego River Park and incorporates the headquarters for the Union Tribune Newspaper. This site in Mission Valley will now include 200 terracing residential units that will be linked to shopping, office buildings, dining, recreation, entertainment and transportation through a series of walking and biking paths that in turn will connect to the trolley and busses within easy walking distance. This project will enjoy having immediate vehicular access to major freeway arterials that run east, west, north and south and the design will further enhance this by incorporating an UBER/Taxi stop, proposed to be located within the rotary entry of the Master Plan and covered parking that will service all uses on site.
5. The project includes the installation of bicycle parking, pedestrian and bicycle connections and linkages to the existing nearby transit center. These project features will improve the overall walkability and bikeability of the area by connecting the proposed project to the work/live amenities in Mission Valley with the San Diego River Path.
6. The San Diego River Park has tremendous potential that this project will enhance, not only for its residents but also for the San Diego community at large. This will be the first project in Mission Valley to incorporate the San Diego River Master Plan Development Guidelines and PDO. The design embraces the San Diego River as its front door, and proposes extensive upgrades along its 735 feet of frontage in the form of a Riverfront Promenade, which will feature enhanced paving, landscape features, special environmentally sensitive lighting and seating, River Interpretive Exhibits, and the first Riverfront Public Park by anyone in

the Private Sector. This will be complemented by allowing gourmet food trucks to be conveniently located immediately adjacent to the park.

7. The project will construct new buildings that will replace an existing sea of asphalt parking with terracing and articulated architecture that will feature a rich pallet of detail and materials designed to complement the existing Union Tribune headquarters consisting of brick, stone, colored concrete, glass and metal. The structure will step back from the river park starting with two story townhomes that will present a human scale and a sense of security to the area with "eyes" on the River Park and Promenade. As the buildings terrace up from the park a combination of open space features will emerge providing amenities such as a pool, spa, gymnasium, meeting rooms, club room and BBQ areas for residents and their guests. The project will incorporate a vast array of sustainable design features that will meet a level of LEED Silver or above. The project's design is created to fit its setting and stand the test of time.
8. The project will preserve the tranquil and mature landscaping along Camino de La Reina including the existing mature specimen trees and will add architectural quality adjacent to and along the San Diego River. The project will further enhance the entrance to the site with lush landscape, rich paving materials trellises and porte-cochere accented with a new iconic tower that is meant to symbolize the role that the Union Tribune has played through the years in the life of San Diego as a beacon of information and intellectual light.
9. The project will create approximately 200 construction jobs for a duration of approximately two years per Turner Construction Company.
10. The development of residential uses on the site for the project will increase property tax revenue for the State, County, and other local governmental agencies by approximately \$766,356.00 (project costs estimated at \$65,000,000) multiplied by the current 2015 tax rate of 1.17901 percent for City of San Diego (County of San Diego, Tax Assessor, 2015).
11. The project will provide an opportunity to enhance the attractiveness and safety of the San Diego River area adjacent to the project site, which is presently a common locale for vagrants. This area will be made safer with the presence of town homes along the River Park and Promenade and 24-hour security. Upon completion, the San Diego River Park will provide a safe and attractive place for families and residents to spend an afternoon.
12. The project will provide 10 additional parking spaces for current and future employees and residents than what is required.
13. The setting for the project is absolutely ideal to enhance the lives of those who will work, live and play here and will provide public amenities that all San Diegans will be able to enjoy in the form of its first of its kind Riverfront Park. This specific site is ideally located where everything comes together to support an enjoyable quality of life.
14. The project will provide a development that is consistent with the goals and policies of the City of San Diego General Plan, City of Villages Strategy, Smart Growth policies and Mission Valley Community Plan, which promote the development of multiple use projects that encourage the use of alternative modes of transportation and reduce vehicle miles traveled per capita. The project reasonably maximizes the

efficiency in use of the developable land on the underutilized site by providing a residential infill development within an urban area, where public facilities, transit, and services are within walking distance.

15. The project provides a residential development that reasonably maximizes the number of residential units on the project site without exceeding the Mission Valley Planned District Ordinance Threshold 2 for Traffic District C of 417 ADT per acre and subsequently does not require the need for a Community Plan Amendment.
16. The project will transform the industrial look and feel of the existing underutilized on-site parking lot to a high quality architectural design residential river front development.
17. Project will provide several community benefits through the payment of City fees such as development impact fees (e.g., school fees, housing trust fund, inclusionary housing, etc.) and traffic mitigation fees that amount to over \$10,000,000 as detailed below in the following table:

City Standard Development Fees (Based on City's Current Fee Structure)	
Fee Type	Amount (\$)
Developer Impact Fees	2,516,068
School Fees	916,730
RCTIP Fees	420,000
Housing Trust Fund	1,920
Inclusionary Housing	2,462,460
Water Capacity Charge	304,655
Sewer Capacity Charge	371,160
County Water Authority	78,572
Grading and Right-of-Way Permits	100,000
Mapping Recordation	256,649
Traffic Mitigation Fees to City (Estimate Conducted by Latitude 33 and Approved by the City)	3,238,540
TOTAL FEES TO CITY	\$10,666,754

Exhibit B

MITIGATION MONITORING AND REPORTING PROGRAM

Vesting Tentative Map (VTM), Planned Development Permit (PDP) and Site Development Permit (SDP)

PROJECT NO. 277550

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 Land Development Review Division, 1222 First Avenue, Fifth Floor, San Diego, CA, 92101. All mitigation measures contained in the Environmental Impact Report No. 277550 shall be made conditions of the VTM, PDP and SDP as may be further described below.

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 Entitlement Division, 1222 First Avenue, Fifth Floor, San Diego, CA, 92101. All mitigation measures contained in the Environmental Impact Report (PTS No. 277550) shall be made conditions of the project as may be further described below.

A. Land Use

Impact: Although no significant land use impacts were identified; implementation of Mitigation Measure LU-1 would ensure that no significant land use impacts would occur, specifically with regard to project compliance with the MSCP's Land Use Adjacency Guidelines.

Mitigation Measure LU-1:

Prior to issuance of any construction permit or notice to proceed, ADD of 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 Multiple 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. **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.

- B. **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 impactful 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. 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.”*
- C. **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.D. Overhead lighting shall be shielded and either have a fixed downward-aiming position or have a locking feature to fix the light in the downward position. Additionally, overhead lighting adjacent to the MHPA shall be placed on a timer to turn off from 11 pm to sunrise unless determined by the City of San Diego that overhead lighting is necessary for public safety.
- D. **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.
- E. **Invasives** – No invasive non-native plant species shall be introduced into areas within or adjacent to the MHPA.
- F. **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.
- G. **Noise** - Several sensitive bird species were observed during the biological field work conducted by Rocks Biological Consulting, Inc. However, these species were observed offsite and not within the proposed project impact area. Generally, the Migratory Bird Treaty Act (MBTA) restricts clearing or grading between February 1 and September 15 to protect individual birds, nests, and eggs. Thus, potential impacts could occur if vegetation clearing is undertaken during the breeding season. With implementation of Mitigation Measure BR-1 as identified below and

in Section 5.4 Biological Resources of this EIR, impacts would be reduced to below a level of significance. Additionally, 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 season for the Least Bell's vireo (March 15 – September 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.

B. Transportation/Circulation/Parking

Impacts:

Existing + Project Conditions

The proposed project has the potential to result in a significant direct impact to intersection operations at the Hotel Circle S./I-8 EB Ramps intersection (LOS F during the PM peak hour). The proposed project has the potential to result in significant direct impacts to street segment operations at the following segments:

- Hotel Circle N.: I-8 WB Ramps to Fashion Valley Road (LOS F)
- Hotel Circle N.: Fashion Valley Road to Camino De La Reina (LOS E)
- Hotel Circle S.: I-8 EB Ramps to Bachman Place (LOS E)
- Hotel Circle S.: Bachman Place to Camino De La Reina (LOS E)

Near-Term (Opening Day 2017) Conditions

The proposed project has the potential to result in significant direct impacts to intersection operations at the Hotel Circle S./I-8 EB Ramps intersection (LOS F during the PM peak hour). The proposed project has the potential to result in significant direct impacts to street segment operations at the following segments:

- Hotel Circle N.: I-8 WB Ramps to Fashion Valley Road (LOS F)
- Hotel Circle N.: Fashion Valley Road to Camino De La Reina (LOS E)
- Hotel Circle S.: I-8 EB Ramps to Bachman Place (LOS E)
- Hotel Circle S.: Bachman Place to Camino De La Reina (LOS E)

Mitigation Measure T-1:

The Applicant shall implement a TDM program using Strategies 1 and 2 (Basic + Transit) as described in Section 5.2 of the EIR and the Traffic Impact Analysis prepared by Linscott, Law and Greenspan, that includes the following:

- Provide a mixed-use, transit oriented development (TOD) that provides the appropriate setting for implementing TDM strategies. This includes a corporate office / residential live / work development supported by on-site retail.

- The provision of carpool / vanpool parking spaces in preferentially located areas (closest to building entrances). These spaces would be signed and striped “Carpool / Vanpool Parking Only”. Information about the availability of and the means of accessing the carpool / vanpool parking spaces could be posted on Transportation Information Displays located in retail back-offices, common area or on intranets, as appropriate.
- A pedestrian path (approximately 1,200 feet long) will be provided on the northwest corner of the site that runs along the San Diego River and connects to the existing pedestrian bridge serving the Fashion Valley Transit Center. To promote internal pedestrian circulation, sidewalks are also proposed throughout the site connecting the various uses.
- The provision of a charging station(s) for electric vehicles.
- The project will coordinate with local transit operators to provide input on how and when routes should be implemented to serve the area.
- Transportation information will be displayed in common areas to include, at a minimum, the following materials:
 - Ridesharing promotional materials, including the iCommute program.
 - Promotional materials for “Guaranteed Ride Home” programs like those provided by iCommute to ensure that residents / employees that carpool, vanpool, take transit, walk, or bike to work are provided with a ride to their home or location near their residence in the event that an emergency occurs during their work day.
 - Bicycle route and parking including maps and bicycle safety information.
 - Materials publicizing internet and telephone numbers for referrals on transportation information.
 - Promotional materials provided by MTS and other publically supported transportation organizations.
 - A listing of facilities at the site for carpoolers / vanpoolers, transit riders, bicyclists, and pedestrians, including information on the availability of preferential carpool / vanpool parking spaces and the methods for obtaining these spaces.
- Participation in the MTS’s three-month pilot Eco Pass program, which provides reduced cost monthly passes according to a tiered-discount structure based on the annual volume of passes used.
- Annual events will be held to promote the use of alternative transportation.
- Bicycle racks will be provided for resident and / or retail employee use.

- The UT project will provide flexible work schedules to stagger arrivals and departures of employees.

In addition, post-occupancy, the Applicant shall ensure the proposed TDM strategies are adequately implemented by conducting a TDM Monitoring and Reporting Program. The TDM Monitoring and Reporting Program would quantify the net reduction in project trips. The Monitoring efforts will include conducting ADT counts and peak hour counts at the project site. Data relating to transit usage, carpool/vanpool usage, transit and other subsidies will also be collected and will be supplemented by on-site surveys. The Applicant shall conduct the monitoring program every year for a period of five years. A TDM Monitoring Report shall be prepared every year and submitted to the satisfaction of the City Engineer.

The TDM is expected to result in a trip reduction of 85 daily trips (7.5% of the total project trips). A TDM Monitoring and Reporting Program will be conducted to ensure that the proposed TDM strategies are adequately implemented.

Implementation of Mitigation Measure T-1 will result in some trip reduction but will not mitigate the traffic intersection and street segment impacts in the Existing + Project and Near-Term (Opening Day 2017) Scenarios described in Tables 5.2-12 and 5.2-13 to a level of less than significant. With implementation of the proposed project and Mitigation Measure T-1, the significant and unavoidable impacts to the intersection and roadway segments described above will remain.

Cumulative Impacts:

Horizon Year (Year 2035) + Project Conditions

The proposed project has the potential to result in significant cumulative impacts to intersection operations at the Hotel Circle S./I-8 EB Ramps intersection (LOS F during the AM and PM peak hour). The proposed project has the potential to result in significant cumulative impacts to street segment operations at the following segments:

- Camino De La Reina: Hotel Circle to Project Driveway (LOS F)
- Camino De La Reina: Project Driveway to Avenida Del Rio (LOS F)
- Hotel Circle N.: I-8 WB Ramps to Fashion Valley Road (LOS F)
- Hotel Circle N.: Fashion Valley Road to Camino De La Reina (LOS F)
- Hotel Circle S.: I-8 EB Ramps to Bachman Place (LOS F)
- Hotel Circle S.: Bachman Place to Camino De La Reina (LOS F)

Mitigation Measure CUM-1:

Prior to issuance of the first building permit, the Owner/Permittee shall contribute a fair-share (4.3%) towards implementing the widening of the Hotel Circle South/I-8 EB Ramps intersection to include a second EB through lane and restriping the WB approach to include two through lanes with a shared right-turn lane, satisfactory to the City Engineer.

Mitigation Measure CUM-2:

The Applicant shall provide an irrevocable offer of dedication (IOD) and deferred improvement agreement (DIA) for the widening of Camino De La Reina along the project frontage. If this section of Camino De La Reina remains a 4-lane Major classification after approval of the Mission Valley Community Plan Update, the applicant's widening of the roadway to half width of a 4-lane Major would mitigate the project's cumulative impact once the widening is completed. In addition, the project also proposes to contribute a fair-share (16.1%) towards restriping with potential widening (to account for appropriate transitions) of Camino De La Reina to 3-lane Collector standards between the southerly UT property line and Hotel Circle. Provision of the IOD, DIA and payment of the fair-share will mitigate the cumulative impact along this segment.

Mitigation Measure CUM-3:

The Applicant shall provide an IOD and DIA for the widening of Camino De La Reina along the project frontage. If this section of Camino De La Reina remains a 4-lane Major classification after approval of the Mission Valley Community Plan Update, the applicant's widening of the roadway to half width of a 4-lane Major would mitigate the project's cumulative impact once the widening is completed. In addition, the project also proposes to contribute a fair-share (5.4%) towards widening Camino De La Reina between UT northerly property line and Avenida Del Rio to 3-lane Collector (half width of a 4-lane Major) standards. Provision of the IOD, DIA and payment of the fair-share will mitigate the cumulative impact along this segment.

Mitigation Measure CUM-4:

Prior to issuance of the first building permit, the Owner/Permittee shall contribute a fair-share (2.4%) towards widening to accommodate a second WB through lane on Hotel Circle North between I-8 WB Ramps and Fashion Valley Road, satisfactory to the City Engineer.

Mitigation Measure CUM-5:

Prior to issuance of the first building permit, the Owner/Permittee shall contribute a fair-share (4.2%) towards widening to accommodate a second WB through lane on Hotel Circle North between Fashion Valley Road and Camino De La Reina, satisfactory to the City Engineer.

Implementation of Mitigation Measures CUM-1 through CUM-5 would reduce potential significant cumulative impacts to a level less than significant at the one intersection and four roadway segments identified above. In addition, implementation of Mitigation Measure T-1 described above may reduce some of the cumulative traffic generated by the proposed project but would not reduce the cumulatively significant impacts to the following two roadway segments to below a level of significance:

- Hotel Circle S.: I-8 EB Ramps to Bachman Place (LOS F)
- Hotel Circle S.: Bachman Place to Camino De La Reina (LOS F)

With implementation of the proposed project and Mitigation Measure T-1, the cumulatively significant and unavoidable impacts to these two roadway segments will remain.

C. Biological Resources

Impact: The proposed project has the potential to impact avian nests or eggs if vegetation clearing is undertaken during the breeding season.

Mitigation Measure BR-1:

To avoid any direct impacts to raptors and/or any native/migratory birds, removal of habitat that supports active nests in the proposed area of disturbance should occur outside of the breeding season for these species (February 1 to September 15). If removal of habitat in the proposed area of disturbance must occur during the breeding season, the Qualified Biologist shall conduct a pre-construction survey to determine the presence or absence of nesting birds on the proposed area of disturbance. The pre-construction (precon) survey shall be conducted within 10 calendar days prior to the start of construction activities (including removal of vegetation). The applicant shall submit the results of the precon survey to City DSD for review and approval prior to initiating any construction activities. If nesting birds are detected, a letter report or mitigation plan in conformance with the City's Biology Guidelines and applicable State and Federal Law (i.e. appropriate follow up surveys, monitoring schedules, construction and noise barriers/buffers, etc.) shall be prepared and include proposed measures to be implemented to ensure that take of birds or eggs or disturbance of breeding activities is avoided. The report or mitigation plan shall be submitted to the City DSD for review and approval and implemented to the satisfaction of the City. The City's MMC Section or RE, and Biologist shall verify and approve that all measures identified in the report or mitigation plan are in place prior to and/or during construction. If nesting birds are not detected during the precon survey, no further mitigation is required.

D. Geologic Conditions

Impact: The proposed project has the potential to expose people or property to geologic hazards, including strong seismic shaking, liquefaction, lateral spread, flow slide, seismically induced settlement, and shallow groundwater.

Mitigation Measure GC-1:

The proposed project shall incorporate the geotechnical recommendations identified in the comprehensive geotechnical investigation report required by the SDMC into the final design of the proposed project. The mitigation of liquefiable soils will likely be necessary for settlement-sensitive structures. The type and extent of mitigation is dependent upon the type and location of structures on the final design plan. Several alternatives are available for mitigation including deep foundations, ground improvements, and structural mitigations. Deep foundations will most likely be recommended to provide structural mitigation of soil liquefaction for the planned residential buildings. Ground improvement (stone columns) and/or a mat slab foundation is/are recommended for the proposed parking structure. Ground improvement should extend at least 15-feet laterally outside to the edge of the planned building structure, where practical. Ground improvement (stone columns) will most likely be recommended to mitigate lateral spread potential along the northern property line. The selection of the type of mitigation and performance standards will depend on the final building plans and building loads.

E. Historical Resources

Impact: The proposed project has the potential to result in significant impacts to sensitive archaeological resources potentially located on the project site.

Mitigation Measure HR-1:

I. Prior to Permit Issuance

A. Entitlements Plan Check

1. Prior to Notice to Proceed (NTP) for any construction permits, including but not limited to, the first Grading Permit, Demolition Plans/Permits and Building Plans/Permits, but prior to the first preconstruction meeting, whichever is applicable, the Assistant Deputy Director (ADD) Environmental designee shall verify that the requirements for Archaeological Monitoring and Native American monitoring have been noted on the appropriate construction documents.

B. Letters of Qualification have been submitted to ADD

1. The applicant shall submit a letter of verification to Mitigation Monitoring Coordination (MMC) identifying the Principal Investigator (PI) for the project and the names of all persons involved in the archaeological monitoring program, as defined in the City of San Diego Historical Resources Guidelines (HRG). If applicable, individuals involved in the archaeological monitoring program must have completed the 40-hour HAZWOPER training with certification documentation.
2. MMC will provide a letter to the applicant confirming the qualifications of the PI and all persons involved in the archaeological monitoring of the project.
3. Prior to the start of work, the applicant must obtain approval from MMC for any personnel changes associated with the monitoring program.

II. Prior to Start of Construction

A. Verification of Records Search

1. The PI shall provide verification to MMC that a site-specific records search (1/4 mile radius) has been completed. Verification includes, but is not limited to a copy of a confirmation letter from South Coast Information Center, or, if the search was in-house, a letter of verification from the PI stating that the search was completed.
2. The letter shall introduce any pertinent information concerning expectations and probabilities of discovery during trenching and/or grading activities.
3. The PI may submit a detailed letter to MMC requesting a reduction to the 1/4 mile radius.

B. PI Shall Attend Precon Meetings

1. Prior to beginning any work that requires monitoring; the Applicant shall arrange a Precon Meeting that shall include the PI, Construction Manager (CM) and/or Grading Contractor, Resident Engineer (RE), Building Inspector (BI), if appropriate, and MMC. The qualified Archaeologist and Native American Monitor shall attend any grading/excavation related Precon Meetings to make comments and/or suggestions concerning the Archaeological Monitoring program with the Construction Manager and/or Grading Contractor.
 - a. If the PI is unable to attend the Precon Meeting, the Applicant shall schedule a focused Precon Meeting with MMC, the PI, RE, CM or BI, if appropriate, prior to the start of any work that requires monitoring.
2. Identify Areas to be Monitored
 - a. Prior to the start of any work that requires monitoring, the PI shall submit an Archaeological Monitoring Exhibit (AME) based on the appropriate construction documents (reduced to 11x17) to MMC identifying the areas to be monitored including the delineation of grading/excavation limits.
 - b. The AME shall be based on the results of a site-specific records search as well as information regarding existing known soil conditions (native or formation).
3. When Monitoring Will Occur
 - a. Prior to the start of any work, the PI shall also submit a construction schedule to MMC through the RE indicating when and where monitoring will occur.
 - b. The PI may submit a detailed letter to MMC prior to the start of work or during construction requesting a modification to the monitoring program. This request shall be based on relevant information such as review of final construction documents, which indicate site conditions such as depth of excavation and/or site graded to bedrock, etc., which may reduce or increase the potential for resources to be present.

III. During Construction

A. Monitor(s) Shall be Present During Grading/Excavation/Trenching

1. The Archaeological Monitor shall be present fulltime during grading/excavation/trenching activities, which could result in impacts to archaeological resources as identified on the AME. The Native American monitor shall determine the extent of their presence during construction related activities based on the AME and provide that information to the PI and MMC. **The Construction Manager is responsible for notifying the RE, PI, and MMC of changes to any construction activities.**
2. The monitor shall document field activity via the Consultant Site Visit Record (CSVr). The CSVr's shall be faxed by the CM to the RE the first day of monitoring, the last day of monitoring, monthly (**Notification of Monitoring**

Completion), and in the case of ANY discoveries. The RE shall forward copies to MMC.

3. The PI may submit a detailed letter to MMC during construction requesting a modification to the monitoring program when a field condition such as modern disturbance post-dating the previous grading/trenching activities, presence of fossil formations, or when native soils are encountered may reduce or increase the potential for resources to be present.

B. Discovery Notification Process

1. In the event of a discovery, the Archaeological Monitor shall direct the contractor to temporarily divert trenching activities in the area of discovery and immediately notify the RE or BI, as appropriate.
2. The Monitor shall immediately notify the PI (unless Monitor is the PI) of the discovery.
3. The PI shall immediately notify MMC by phone of the discovery, and shall also submit written documentation to MMC within 24 hours by fax or email with photos of the resource in context, if possible.

C. Determination of Significance

1. The PI and Native American monitor shall evaluate the significance of the resource. If Human Remains are involved, follow protocol in Section IV below.
 - a. The PI shall immediately notify MMC by phone to discuss significance determination and shall also submit a letter to MMC indicating whether additional mitigation is required.
 - b. If the resource is significant, the PI shall submit an Archaeological Data Recovery Program (ADRP) and obtain written approval from MMC. Impacts to significant resources must be mitigated before ground-disturbing activities in the area of discovery will be allowed to resume.
 - c. If resource is not significant, the PI shall submit a letter to MMC indicating that artifacts will be collected, curated, and documented in the Final Monitoring Report. The letter shall also indicate that that no further work is required.

IV. Discovery of Human Remains

If human remains are discovered, work shall halt in that area and the following procedures as set forth in the California Public Resources Code (Sec. 5097.98) and State Health and Safety Code (Sec. 7050.5) shall be undertaken:

A. Notification

1. Archaeological Monitor shall notify the RE or BI as appropriate, MMC, and the PI, if the Monitor is not qualified as a PI. MMC will notify the appropriate Senior Planner in the Environmental Analysis Section (EAS).

2. The PI shall notify the Medical Examiner after consultation with the RE, either in person or via telephone.
- B. Isolate discovery site
1. Work shall be directed away from the location of the discovery and any nearby area reasonably suspected to overlay adjacent human remains until a determination can be made by the Medical Examiner in consultation with the PI concerning the provenience of the remains.
 2. The Medical Examiner, in consultation with the PI, will determine the need for a field examination to determine the provenience.
 3. If a field examination is not warranted, the Medical Examiner will determine with input from the PI, if the remains are or are most likely to be of Native American origin.
- C. If Human Remains **ARE** determined to be Native American
1. The Medical Examiner will notify the Native American Heritage Commission (NAHC) within 24 hours. By law, **ONLY** the Medical Examiner can make this call.
 2. NAHC will immediately identify the person or persons determined to be the Most Likely Descendent (MLD) and provide contact information.
 3. The MLD will contact the PI within 24 hours or sooner after the Medical Examiner has completed coordination, to begin the consultation process in accordance with the California Public Resource and Health & Safety Codes.
 4. The MLD will have 48 hours to make recommendations to the property owner or representative, for the treatment or disposition with proper dignity, of the human remains and associated grave goods.
 5. Disposition of Native American Human Remains shall be determined between the MLD and the PI, if:
 - a. The NAHC is unable to identify the MLD, OR the MLD failed to make a recommendation within 48 hours after being notified by the Commission; OR;
 - b. The landowner or authorized representative rejects the recommendation of the MLD and mediation in accordance with PRC 5097.94 (k) by the NAHC fails to provide measures acceptable to the landowner.
 - c. In order to protect these sites, the Landowner shall do one or more of the following:
 - (1) Record the site with the NAHC;
 - (2) Record an open space or conservation easement on the site;
 - (3) Record a document with the County.
 - d. Upon the discovery of multiple Native American human remains during a ground disturbing land development activity, the landowner may agree that additional

conferral with descendants is necessary to consider culturally appropriate treatment of multiple Native American human remains. Culturally appropriate treatment of such a discovery may be ascertained from review of the site utilizing cultural and archaeological standards. Where the parties are unable to agree on the appropriate treatment measures the human remains and buried with Native American human remains shall be reinterred with appropriate dignity, pursuant to Section 5.c., above.

D. If Human Remains are NOT Native American

1. The PI shall contact the Medical Examiner and notify them of the historic era context of the burial.
2. The Medical Examiner will determine the appropriate course of action with the PI and City staff (PRC 5097.98).
3. If the remains are of historic origin, they shall be appropriately removed and conveyed to the Museum of Man for analysis. The decision for internment of the human remains shall be made in consultation with MMC, EAS, the applicant/landowner and the Museum of Man.

V. Night and/or Weekend Work

A. If night and/or weekend work is included in the contract

1. When night and/or weekend work is included in the contract package, the extent and timing shall be presented and discussed at the precon meeting.
2. The following procedures shall be followed.

a. No Discoveries

In the event that no discoveries were encountered during night and/or weekend work, the PI shall record the information on the CSV and submit to MMC via fax by 8AM of the next business day.

b. Discoveries

All discoveries shall be processed and documented using the existing procedures detailed in Sections III - During Construction, and IV – Discovery of Human Remains.

c. Potentially Significant Discoveries

If the PI determines that a potentially significant discovery has been made, the procedures detailed under Section III - During Construction shall be followed.

- d. The PI shall immediately contact MMC, or by 8AM of the next business day to report and discuss the findings as indicated in Section III-B, unless other specific arrangements have been made.

B. If night and/or weekend work becomes necessary during the course of construction

1. The Construction Manager shall notify the RE, or BI, as appropriate, a minimum of 24 hours before the work is to begin.
 2. The RE, or BI, as appropriate, shall notify MMC immediately.
- C. All other procedures described above shall apply, as appropriate.

VI. Post Construction

A. Preparation and Submittal of Draft Monitoring Report

1. The PI shall submit two copies of the Draft Monitoring Report (even if negative), prepared in accordance with the Historical Resources Guidelines (Appendix C/D) which describes the results, analysis, and conclusions of all phases of the Archaeological Monitoring Program (with appropriate graphics) to MMC for review and approval within 90 days following the completion of monitoring.
 - a. For significant archaeological resources encountered during monitoring, the Archaeological Data Recovery Program shall be included in the Draft Monitoring Report.
 - b. Recording Sites with State of California Department of Parks and Recreation
The PI shall be responsible for recording (on the appropriate State of California Department of Park and Recreation forms-DPR 523 A/B) any significant or potentially significant resources encountered during the Archaeological Monitoring Program in accordance with the City's Historical Resources Guidelines, and submittal of such forms to the South Coastal Information Center with the Final Monitoring Report.
2. MMC shall return the Draft Monitoring Report to the PI for revision or, for preparation of the Final Report.
3. The PI shall submit revised Draft Monitoring Report to MMC for approval.
4. MMC shall provide written verification to the PI of the approved report.
5. MMC shall notify the RE or BI, as appropriate, of receipt of all Draft Monitoring Report submittals and approvals.

B. Handling of Artifacts

1. The PI shall be responsible for ensuring that all cultural remains collected are cleaned and catalogued
2. The PI shall be responsible for ensuring that all artifacts are analyzed to identify function and chronology as they relate to the history of the area; that faunal material is identified as to species; and that specialty studies are completed, as appropriate.
3. The cost for curation is the responsibility of the property owner.

C. Curation of artifacts: Accession Agreement and Acceptance Verification

1. The PI shall be responsible for ensuring that all artifacts associated with the survey, testing and/or data recovery for this project are permanently curated with an

appropriate institution. This shall be completed in consultation with MMC and the Native American representative, as applicable.

2. The PI shall include the Acceptance Verification from the curation institution in the Final Monitoring Report submitted to the RE or BI and MMC.

D. Final Monitoring Report(s)

1. The PI shall submit one copy of the approved Final Monitoring Report to the RE or BI as appropriate, and one copy to MMC (even if negative), within 90 days after notification from MMC that the draft report has been approved.
2. The RE shall, in no case, issue the Notice of Completion and/or release of the Performance Bond for grading until receiving a copy of the approved Final Monitoring Report from MMC, which includes the Acceptance Verification from the curation institution.

F. Paleontological Resources

Impact: The proposed project has the potential to result in significant impacts to paleontological resources potentially present within the Stadium Conglomerate.

Mitigation Measure PR-1:

I. Prior to Permit Issuance

A. Entitlements Plan Check

1. Prior to the issuance of a Notice to Proceed (NTP) or any construction permits, including but not limited to, the first Grading Permit, Demolition Plans/Permits and Building Plans/Permits, but prior to the first preconstruction meeting, whichever is applicable, the Assistant Deputy Director (ADD) Environmental Designee shall verify that the requirements for Paleontological Monitoring have been noted on the appropriate construction documents.

B. Letters of Qualifications have been submitted to ADD

1. Prior to the NTP, and/or issuance of a Grading Permit, Demolition Permit or Building Permit, the applicant shall provide a letter of verification to Mitigation Monitoring Coordination (MMC) identifying the Principal Investigator (PI) for the project and the names of all persons involved in the paleontological monitoring program, as defined in the City of San Diego Paleontology Guidelines.
2. The MMC will provide a letter to the applicant confirming the qualifications of the PI and all persons involved in the paleontological monitoring of the project.
3. Prior to the start of work, the applicant shall obtain approval from MMC for any personnel changes associated with the monitoring program.

II. Prior to the Start of Construction

A. Verification of Records Search

1. The PI shall provide verification to MMC that a site-specific records search has been completed. Verification includes, but is not limited to a copy of a confirmation letter from San Diego Natural History Museum, other institution or, if the search was in-house, a letter of verification from the PI stating that the search was completed.
2. The letter shall introduce any pertinent information concerning expectations and probabilities of discovery during trenching and/or grading activities.

B. PI Shall Attend Precon Meetings

1. Prior to beginning of any work that requires monitoring, the Applicant shall arrange a Pre-Construction (Precon) Meeting that shall include the PI, Construction Manager (CM) and/or Grading Contractor, Resident Engineer (RE), Building inspector (BI), if appropriate, and MMC. The qualified paleontologist shall attend any grading-related Precon Meetings to make comments and/or suggestions concerning the Paleontological Monitoring Program with the Construction Manager and/or Grading Contractor.
 - a. If the Monitor is unable to attend the Precon Meeting, the Applicant shall schedule a focused Precon Meeting with MMC, the RE, CM, or BI as appropriate, to meet and review the job on-site prior to start of any work that requires monitoring.

2. Identify Areas to be Monitored

Prior to the start of any work that requires monitoring, the PI shall submit a Paleontological Monitoring Exhibit (PME) based on the appropriate construction documents (reduced to 11x17) to MMC identifying the areas to be monitored including the delineation of grading/excavation limits. The PME shall be based on the results of a site-specific records search as well as information regarding existing known soil conditions (native or formation).

3. When Monitoring Will Occur

- a. Prior to the start of any work, the PI shall also submit a construction schedule to MMC through the RE indicating when and where monitoring will occur.
- b. The PI may submit a detailed letter to MMC prior to the start of work or during construction requesting a modification to the monitoring program. This request shall be based on relevant information such as review of final construction documents, which indicate conditions such as depth of excavation and/or site graded to bedrock, presence or absence of fossil resources, etc., which may reduce or increase the potential for resources to be present.

III. During Construction

A. Monitor Shall be Present During Grading/Excavation/Trenching

1. The monitor shall be present full time during grading/excavation/trenching activities as identified on the PME that could result in impacts to formations with high and moderate resource sensitivity. The Construction Manager is responsible for notifying the RE, PI, and MMC of changes to any construction activities.
2. The monitor shall document field activity via the Consultant Site Visit Record (CSVR). The CSVRs shall be faxed by the CM to the RE the first day of monitoring, the last day of monitoring, monthly (Notification of Monitoring Completion), and in the case of ANY discoveries. The RE shall forward copies to MMC.
3. The PI may submit a detailed letter to MMC during construction requesting a modification to the monitoring program when a field condition such as trenching activities that do not encounter formational soils as previously assumed, and/or when unique/unusual fossils are encountered, which may reduce or increase the potential for resources to be present.

B. Discovery Notification Process

1. In the event of a discovery, the Paleontological Monitor shall direct the contractor to temporarily divert trenching activities in the area of discover and immediately notify the RE or BI, as appropriate.
2. The Monitor shall immediately notify the PI (unless Monitor is the PI) of the discovery.
3. The PI shall immediately notify MMC by phone of the discovery, and shall also submit written documentation to MMC within 24 hours by fax or email with photos of the resource in context, if possible.

C. Determination of Significance

1. The PI shall evaluate the significance of the resource.
 - a. The PI shall immediately notify MMC by phone to discuss significance determination and shall also submit a letter to MMC indicating whether additional mitigation is required. The determination of significance for fossil discoveries shall be at the discretion of the PI.
 - b. If the resource is significant, the PI shall submit a Paleontological Recovery Program (PRP) and obtain written approval from MMC. Impacts to significant resources must be mitigated before ground-disturbing activities in the area of discovery will be allowed to resume.
 - c. If resource is not significant (e.g., small pieces of broken common shell fragments or other scattered common fossils) the PI shall notify the RE, or BI as appropriate, that a non-significant discovery has been made. The Paleontologist

shall continue to monitor the area without notification to MMC unless a significant resource is encountered.

- d. The PI shall submit a letter to MMC indicating that fossil resources will be collected, curated, and documented in the Final Monitoring Report. The letter shall also indicate that no further work is required.

IV. Night Work

A. If night work is included in the contract

1. When night work is included in the contract package, the extent and timing shall be presented and discussed at the Precon Meeting.

2. The following procedures shall be followed:

- a. No Discoveries

In the event that no discoveries were encountered during night work, The PI shall record the information on the CSVr and submit to MMC via fax by 9:00 a.m. the following morning, if possible.

- b. Discoveries

All discoveries shall be processed and documented using the existing procedures detailed in Sections III – During Construction.

- c. Potentially Significant Discoveries

If the PI determines that potentially significant discovery has been made, the procedures detailed under Section III – During Construction shall be followed.

- d. The PI shall immediately contact MMC, or by 8:00 a.m. the following morning to report and discuss the findings as indicated in Section III-B, unless other specific arrangements have been made.

B. If night work becomes necessary during the course of construction

1. The Construction Manager shall notify the RE, or BI, as appropriate, a minimum of 24 hours before the work is to begin.
2. The RE or BI, as appropriate, shall notify MMC immediately.

C. All other procedures described above shall apply, as appropriate.

V. Post Construction

A. Submittal of Draft Monitoring Report

1. The PI shall submit two copies of the Draft Monitoring Report (even if negative), which describes the results, analysis, and conclusions of all phases of the Paleontological Monitoring Program (with appropriate graphics) to MMC for review and approval within 90 days following the completion of monitoring.

- a. For significant paleontological resources encountered during monitoring, the Paleontological Recovery Program shall be included in the Draft Monitoring Report.

- b. Recording Sites with the San Diego Natural History Museum

The PI shall be responsible for recording (on the appropriate forms) any significant or potentially significant fossil resources encountered during the Paleontological Monitoring Program in accordance with the City's Paleontological Guidelines, and submittal of such forms to the San Diego Natural History Museum with the Final Monitoring Report.

2. MMC shall return the Draft Monitoring Report to the PI for revisions or for preparation of the Final Report.
3. The PI shall submit revised Draft Monitoring Report to MMC for approval.
4. MMC shall provide written verification to the PI of the approved report.
5. MMC shall notify the RE or BI, as appropriate, of receipt of all Draft Monitoring Report submittals and approvals.

B. Handling of Fossil Remains

1. The PI shall be responsible for ensuring that all fossil remains collected are cleaned and catalogued.
2. The PI shall be responsible for ensuring that all fossil remains are analyzed to identify function and chronology as they relate to the geologic history of the area; that faunal material is identified as to species; and that specialty studies are completed, as appropriate.

C. Curation of Fossil Remains: Deed of Gift and Acceptance Verification

1. The PI shall be responsible for ensuring that all fossil remains associated with the monitoring for this project are permanently curated with an appropriate institution.
2. The PI shall include the Acceptance Verification from the curation institution in the Final Monitoring Report submitted to the RE or BI and MMC.

D. Final Monitoring Report(s)

1. The PI shall submit two copies of the Final Monitoring Report to MMC (even if negative), within 90 days after notification from MMC that the draft report has been approved.
2. The RE shall, in no case, issue the Notice of Completion until receiving a copy of the approved Final Monitoring Report from MMC, which includes the Acceptance Verification from the curation institution.

G. Noise

Impact: The proposed project has the potential to result in indirect noise impacts to adjacent sensitive habitat and biological resources during construction.

Mitigation Measure: Refer to Mitigation Measures **LU-1** and **BR-1** above.

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 of 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 SEP 15 2015, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Sherri Lightner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input 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 SEP 15 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- 309985