

RESOLUTION NUMBER R- 310541

DATE OF FINAL PASSAGE JUN 14 2016

Item 335  
Subitem B  
Tues. 6/14/16

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO GRANTING SITE DEVELOPMENT PERMIT NO. 1673959; TECOLOTE CANYON 8-INCH SEWER MAIN – PROJECT NO. 354238.

WHEREAS, the City of San Diego Public Works Department, Owner/Permittee, filed an application with the City of San Diego for a Site Development Permit for the removal and replacement of an existing deteriorating cast iron sewer pipe in Tecolote Canyon that spans Tecolote Creek on support pillars. The project includes installation of a 140-foot long by 12-foot wide prefabricated steel truss non-pedestrian pipeline bridge that would span Tecolote Creek to support the new 8-inch ductile iron sewer main. The existing support pillars to the sewer main bridge would be cut in place to remove the above ground portions and make way for the new bridge, while the below ground portion of the pillars would be left in place to avoid impacts to the creek bed. The support pillars will be removed by hand carried equipment. The new pipeline bridge will have two abutment supports above each side of the creek. Three manholes would be replaced by digging out the existing manholes within three, 10 square-foot areas. A temporary laydown area for assembly of the pipe bridge, measuring 48 by 177 feet, would be located south of Tecolote Creek. The existing 3-foot wide pedestrian path on the north side of the creek will be permanently widened to 8-feet for vehicular access, for future access and maintenance. Construction of this project would affect portions of the City owned property within Tecolote Canyon Natural Park; and

WHEREAS, the project known as the Tecolote Canyon 8 inch Sewer Main project, located on City owned property (APN No. 436-160-10) and zoned OP-1-1 (Open Space-Park) within Tecolote Canyon Natural Park in the Linda Vista Community Plan Area; 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; and,

WHEREAS, the matter was set for public hearing on June 14, 2016, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it adopts the following findings with respect to Site Development Permit No. 1673959:

**A. Findings for all Site Development Permit**

**1. The proposed development will not adversely affect the applicable land use plan.** The site is located within the OP-2-1 (Open Space-Park) Zone within the Linda Vista Community Plan. The community plan designates the project site as Open Space-Tecolote Canyon Resources Based Park. Sewer systems located in Tecolote Canyon are an essential public services facility that provide a benefit to the adjacent community and is a permitted use within the General Plan, Linda Vista Community Plan, and the City's Land Development Code (LDC). The project is consistent with the policies of the General Plan by providing reliable public sewer facilities that will adequately serve the needs of the community. Because of the age of the infrastructure in the community, sewer main maintenance and replacement is required to maintain the integrity of the system and to protect the environmentally sensitive lands in the canyon from any potential accidental spills or leaks. In addition, the Capital Improvement Program project (CIP project or project) will not adversely impact the Open Space land use designation because pedestrian access into the canyon would be maintained throughout construction. The proposed project will not adversely affect the applicable land use plan and will not be detrimental to the public health, safety, and welfare.

**2. The proposed development will not be detrimental to the public health, safety, and welfare.** The proposed CIP project will improve and replace portions of the sewer mains within the canyon and inside of City of San Diego's right-of-way in order to provide reliable sewer services that benefit the community and will not be detrimental to the public health, safety, and welfare. Because of the age of the infrastructure in the community, sewer maintenance and replacement is required to maintain the integrity of the system. In this case, by installing new ductile iron pipe, the added performance and durability would protect the creek from any accidental spills or leaks that may occur if

the deteriorating pipes remained. The ductile iron's increased pipe strength allows for better flow and decreases the risk of back-ups or breaks. The project would also replace existing manholes that are designed to improve flow. Appropriate best management practices (BMP's) will be utilized to further protect areas and minimize any impacts to the adjacent to the work area.

MND No. 354238 has been prepared for the project in accordance with CEQA Guidelines, which addresses potential impacts to biological, archaeological, MHPA Land Use Adjacency, and wetland resources. A MMRP would be implemented with this project, which will reduce the potential impacts to below a level of significance. Therefore, this project will not have a detrimental impact to the public health, safety, and welfare.

**3. The proposed development will comply with the applicable regulations of the Land Development Code, including any allowable deviations pursuant to the Land Development Code.** This CIP project is for the removal and replacement of an existing deteriorating cast iron sewer main in Tecolote Canyon that spans across Tecolote Creek on support pillars. The project includes replacement of the sewer main bridge and the removal of the existing support pillars that is located within Tecolote Creek. The support pillars will be removed by hand carried equipment and the footings of the support pillars would remain in the creek in order to limit unnecessary impacts to the bed of the waterway. Due to the removal of the existing pillars within the creek and its location within Tecolote Canyon, wetland impacts are unavoidable and require a deviation from the ESL regulations. The proposed project qualifies as an essential public project, which allows for projects to deviate from the applicable wetlands regulations for the replacement of public infrastructure (sewer pipelines).

With the exception of deviation for wetland impacts, the proposed project will fully comply with all applicable regulations of the Land Development Code. The Tecolote Sewer Main Project will comply with all mitigations in MND No. 354238 which was prepared for this project. The proposed sewer project would impact 0.005 acre of southern willow scrub wetland habitat and would require in-kind mitigation at a 2:1 ratio. The City would mitigate the wetland impacts within one of the approved City of San Diego Public Utilities Department wetland bank. In regards to project's impact to sensitive biological resources, the City will mitigate the upland impact through payment into the City's Habitat Acquisition Fund. In addition to complying with CEQA and the MND, the LDC allows for the replacement and maintenance of the existing sewer facility and associated improvements. The project as proposed complies with the Landscape Manual, Historical Resources Guidelines, MHPA Adjacency Guidelines, and meets the criteria of an essential public project set forth in Section 143.0150 of the LDC. Therefore, the proposed project would comply with all applicable regulations of the Land Development Code, including allowable deviations within wetland.

**B. Supplement Findings—Environmentally Sensitive Lands**

**1. The site is physically suitable for the design and siting of the proposed development and the development will result in minimum disturbance to**

**environmentally sensitive lands.** The current design meets the sewer system conveyance requirements and was designed to minimize impacts to environmentally sensitive lands (ESL). The existing bridge structure would be removed, and the exposed section of the cement pylons above the water would be removed by hand carried equipment. The footings of the pylons would remain in the creek in order to limit unnecessary impacts to the bed of the waterway. Minor trenching would occur to install the two support abutments, which is outside of the wetlands. All temporary project impacts to sensitive biological resources would be restored to their natural state through revegetation for the impacted areas. The project impacts to wetland (0.005 acre) and sensitive biological resources will be mitigated and will not have a significant impact to the environment. This project is in conformance with Council Policy 400-13, which governs sewer facilities within canyons and other environmentally sensitive lands, in that minimum impact are proposed in order to complete the project. In conclusion, the issuance of the Site Development Permit and the associated MMRP, would result in minimum disturbance to ESL while providing while providing the necessary improvements for essential public infrastructure to the community it serves.

**2. The proposed development will minimize the alteration of natural land forms and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards.** The CIP project as conditioned, in the Site Development Permit and associated Mitigation Monitoring Reporting Program will minimize the alteration of the existing natural land form within Tecolote Canyon. The project will improve the water flow and natural form of the creek by removing the existing above grade pillar within the creek and leaving the footing buried in the creek bed. The existing 3-foot wide access on the north side of the creek from Gardena Avenue would be permanently widened to 8-feet for vehicle access to be used by Public Utilities for future access and maintenance. The areas where this expansion would occur are mainly non-sensitive biological resources comprised largely of ornamental or non-native vegetation. The project would utilize proper engineering design and best management practices (BMPs) for erosion control and result in minimum disturbance to the environment. Subsequently, the disturbed areas will be revegetated with native vegetation. Given that the new sewer main and the steel truss non-pedestrian bridge are designed to seismic standards, the project will not create an increase risk to any a geologic, flood and/or fire hazards.

**3. The proposed development will be sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands.** The project serves to balance the public service needs of reliable and adequate sewer facilities with the surrounding natural environment. The existing sewer main is deteriorating and is in need of replacement. The design and construction of the new steel truss non-pedestrian bridge system with two abutments supports will be sited above Tecolote Creek to minimize impacts to the wetlands below. The removal of the existing non-pedestrian bridge and the exposed portions of pylons in the creek by hand carried equipment method rather than large machinery would also minimize adverse impacts during construction. The project includes the installation of a more durable pipe technology that is necessary to increase durability and reliability as well as protect the environment from sewage spills in

proximity to the creek. The project as designed and sited away from the creek will prevent any adverse impacts to the adjacent environmentally sensitive lands.

**4. The proposed development will be consistent with the City of San Diego's Multiple Species Conservation Program (MSCP) Subarea Plan.** This CIP project is for the removal and replacement of an existing deteriorating cast sewer main and non-pedestrian bridge located within Tecolote Canyon and MHPA lands. As specified in section 1.4.1 of the MSCP Subarea Plan, existing utility lines (e.g. sewer pipe lines), are considered a compatible use within the MHPA. The City requires that utilities within the MHPA comply with the Subarea Plan MHPA Design Guidelines for Roads and Utilities. The following is a list of the guidelines in italics, with each followed by the explanation of how the project complies with that guideline.

*a) All proposed utility lines (e.g., sewer, water, etc.) should be designed to avoid or minimize intrusion into the MHPA. These facilities should be routed through developed or developing areas rather than the MHPA, where possible. If no other routing is feasible, then the lines should follow previously existing roads, easements, rights-of-way and disturbed areas, minimizing habitat fragmentation.*

The project proposes to replace the deteriorating sewer main and remove the support pillars currently located within Tecolote Creek. The project was designed to minimize intrusion into the MHPA by limiting the alignment within the existing easement and public right-of-way. The project includes the permanent widening of the existing access path from 3 foot to 8 foot and will not impact sensitive biological resources as the area contains non-native vegetation and ornamental plants.

*b) All new development for utilities and facilities within or crossing the MHPA shall be planned, designed, located and constructed to minimize environmental impacts. All such activities must avoid disturbing the habitat of MSCP covered species, and wetlands. If avoidance is infeasible, mitigation will be required.*

The project was designed to minimize environmental impacts in the MHPA. While the project will include 0.005 acres of impact to sensitive habitat inside the MHPA, this impact was unavoidable because it would be unfeasible to avoid this location and wetland. The above grade pillars within the wetland will be removed and the footings will remain in place to avoid impacts to the creek bed. The impacts to sensitive biological resources and wetlands will require mitigation and is a condition of approval within the MND and MMRP.

*c) Temporary construction areas and roads, staging areas, or permanent access roads must not disturb existing habitat unless determined to be unavoidable. All such activities must occur on existing agricultural lands or in other disturbed areas rather than in habitat. If temporary habitat disturbance is unavoidable, then restoration of, and/or mitigation for, the disturbed area after project completion will be required.*

The project includes a temporary construction area located adjacent to the creek, but outside of the wetland habitat, that encompass approximately 8,700 square feet area.

The use of the temporary construction area will allow the contractor to assemble and place the bridge in its destination with minimal impact to the wetland habitat. Given that wetland impacts are unavoidable for this project, the project will require mitigation as identified in the MND and MMRP. Once the work is completed, the temporary construction area will be revegetated and will be closed off from further construction activities.

*d) Construction and maintenance activities in wildlife corridors must avoid significant disruption of corridor usage. Environmental documents and mitigation monitoring and reporting programs covering such development must clearly specify how this will be achieved, and construction plans must contain all the pertinent information and be readily available to crews in the field. Training of construction crews and field workers must be conducted to ensure that all conditions are met. A responsible party must be specified.*

Pursuant to the biological report, due to the relatively small scale, location and timing (i.e. daylight hours) of the proposed project impacts, the project is not expected to significantly impact a wildlife corridor or alter the local movement of wildlife, and thus would not be considered significant under CEQA.

Additionally, the project biologist will oversee training of construction crews and field workers so that they are aware of the importance of keeping the project within the construction boundaries. Therefore, construction and maintenance will avoid significant disruption to wildlife corridor usage.

*e) Roads in the MHPA will be limited to those identified in Community Plan Circulation Elements, collector streets essential for area circulation, and necessary maintenance/emergency access roads. Local streets should not cross the MHPA except where needed to access isolated development areas.*

The project is to replace a deteriorating sewer main and non-pedestrian bridge. The project includes the permanent widening of the existing access path from 3 foot to 8 foot for vehicular access, which is located on the north side of Tecolote Creek. The northern access path will have minimal impacts to sensitive biological resources since the impacted area is landscaped with ornamental vegetation and non-native vegetation. The widening of the existing access road is necessary for Public Utilities to perform routine future maintenance of the sewer pipe.

*f) Development of roads in canyon bottoms should be avoided whenever feasible. If an alternative location outside the MHPA is not feasible, then the road must be designed to cross the shortest length possible of the MHPA in order to minimize impacts and fragmentation of sensitive species and habitat. If roads cross the MHPA, they should provide for fully-functional wildlife movement capability. Bridges are the preferred method of providing for movement, although culverts in selected locations may be acceptable. Fencing, grading and plant cover should be provided where needed to protect and shield animals, and guide them away from roads to appropriate crossings.*

The project is to replace a deteriorating sewer main and will not create any new roads. However, the project includes the permanent widening of the existing access path from 3 foot to 8 foot for vehicular access. The access path will have minimal impacts to sensitive biological resources since the impacted area is landscaped with ornamental vegetation and non-native vegetation. The widening of the existing access road is necessary for Public Utilities to perform routine future maintenance of the sewer pipe.

*g) Where possible, roads within the MHPA should be narrowed from existing design standards to minimize habitat fragmentation and disruption of wildlife movement and breeding areas. Roads must be located in lower quality habitat or disturbed areas to the extent possible.*

The project is to replace a deteriorating sewer main and will not create any roads. However, an existing 3-foot wide pedestrian access path will be widened to 8-feet for vehicular access and used for future access and maintenance.

*h) For the most part, existing roads and utility lines are considered a compatible use within the MHPA and therefore will be maintained. Exceptions may occur where underutilized or duplicative road systems are determined not to be necessary as identified in the Framework Management Section 1.5.*

The project is to replace a deteriorating sewer main and will not create any roads. The project includes the permanent widening of the existing access path from 3 foot to 8 foot for vehicular access, which is located on the north side of Tecolote Creek. The northern access path will have minimal impacts to sensitive biological resources since the impacted area is landscaped with ornamental vegetation and non-native vegetation. The widening of the existing access road is necessary for Public Utilities to perform routine future maintenance of the sewer pipe. Since this project is consistent with City MSCP Subarea Plan including the Design Guidelines for Road and Utilities, it is consistent with the City of San Diego's MSCP Subarea Plan.

**5. The proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply.** The project site is located approximately one and a half miles from Mission Bay and over two miles from the Pacific Ocean. Therefore, the project is not located in close proximity to the beach or shoreline and will not adversely impact local shoreline sand supply. Improvements for the proposed project are minimal and the land would be returned back to its pre-construction stage. In addition, erosion control shall be implemented in order to prevent inappropriate runoff, and the project will have no adverse impacts to such resources.

**6. The nature and extent of mitigation required as a condition of the permit is reasonably related to, and calculated to alleviate, negative impacts created by the proposed development.** The proposed project would result in direct impacts to southern willow scrub wetland habitats, Diegan coastal sage scrub (Tier II upland habitat), and non-native vegetation (Tier IV upland habitat). The proposed project would impact 0.005-acre of wetland habitat. Based on the City's Significance Determination

Guidelines under CEQA, the impact is considered significance and would require mitigations. The mitigation developed for this project is for sensitive biological and wetland resources, and the extent of such mitigation is appropriate and typical for a project of this nature. As a result, the mitigation and revegetation is directly related to the project and the related impacts.

If construction cannot avoid the general avian and raptor breeding season (February 1 to September 15), a preconstruction survey for active raptor and migratory bird nests protected under the federal Migratory Bird Treaty Act (MBTA) and/or California Department of Fish and Wildlife (CDFW) Code will be conducted within approximately 48 hours prior to the start of construction. If an active bird nest is found, then all construction activities undertaken for the project will comply with the regulatory requirements of the federal MBTA and CDFW Codes Sections 3503 and 3513.

All foreseeable impacts have been addressed, therefore, the nature and extent of mitigation required as a condition of the permit is reasonably related to, and calculated to alleviate, negative impacts created by the proposed development.

### **C. Supplemental Findings—Environmentally Sensitive Lands Deviations**

**1. There are no feasible measures that can further minimize the potential adverse effects on environmentally sensitive lands.** The proposed sewer replacement project would result in 0.005 acre impact to southern willow scrub, a wetland habitat that is subject to only the City and California Department of Fish and Wildlife (CDFW) jurisdictions. However, the proposed project meets all of the criteria for a wetland deviation outlined by the LDC because it is an essential public linear infrastructure project where the existing sewer pipeline is in need of replacement and no feasible alternative exists that would avoid impacts to wetland habitat. It is also the most economically viable option in that it replaces a small section of pipe that is part of a much larger Tecolote Trunk Sewer system located in this canyon in order to continue providing essential sewer service for the surrounding community. The removal of the existing bridge and portions of the pylons would improve the flow of water and value of the creek. Additionally, temporary project impact areas would be revegetated in order to return the area to its natural state post construction.

Based on the location and nature of the proposed project, no feasible alternative exists that would avoid impacts to wetland habitat altogether or substantially reduce impacts than that which is currently proposed. The existing sewer main pipeline may fail in its current condition and result in an accidental spill or may leak into the creek and wetland areas. There is no feasible “wetlands avoidance” alternative since any realignment of the gravity sewer pipeline would still require the pipeline to occur along the natural downward flow line of the canyon that occurs along the creek and associated wetlands. Similar to the reasons given above, there are no other alternatives that would result in a more substantive “wetland impact minimization.” The current project was designed to avoid impacts to the maximum extent practicable. As such, all mitigations associated with the SDP and MMRP will minimize impacts to ESL in order to construct this essential public project.



**2. The proposed deviation is the minimum necessary to afford relief from special circumstances or conditions of the land, not of the applicant's making.** The project would have direct impacts to 0.005 acres of southern willow scrub which is a wetland habitat. The impacts would be fully mitigated and restoration of impacts to the wetland habitat, as well upland areas would be done through revegetation using appropriate native species in order to return the areas to their natural state and also to address erosion control. All required mitigation credits for the project impacts would be provided off-site at an appropriate established City wetland mitigation bank and/or by payment into the Habitat Acquisition Fund (HAF) for upland impacts. As proposed the project is consistent with the MSCP Subarea plan.

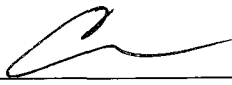
The existing pipeline is deteriorating and is in need of replacement. The project proposes the minimum work necessary to provide an improved pipeline and supporting truss structure that is located above the creek. The existing portions of the pylons inside the creek would be removed from the creek which will promote and enhance the flow of water downstream.

The new truss replacing the existing bridge would be built in a lay down area, where the vegetation would not be removed and is less sensitive than the wetland area. At which time, the completed truss would be crane lifted or rolled into position on new abutments located outside of the waterway.

The deviations being requested are necessary to conduct the work, which have been considered in the design where work would occur in a sensitive manner during construction. As such, the deviation from wetland impacts to the wetland habitat is unavoidable and the minimum necessary to complete this essential public project.

BE IT FURTHER RESOLVED, that Site Development Permit No. 1673959 is granted to the City of City of San Diego Public Works Department, Owner/Permittee, under the terms and conditions set forth in the attached permit which is made part of this resolution.

APPROVED: JAN I. GOLDSMITH, City Attorney

By   
\_\_\_\_\_  
Corrine L. Neuffer  
Deputy City Attorney

CLN:dkr  
May 11, 2016  
Or.Dept:DSD  
Doc. No.: 1283931

**RECORDING REQUESTED BY**  
CITY OF SAN DIEGO  
DEVELOPMENT SERVICES  
PERMIT INTAKE, MAIL STATION 302

**WHEN RECORDED MAIL TO**  
**PROJECT MANAGEMENT**  
**PERMIT CLERK**  
**MAIL STATION 302**

WBS NUMBER: B-11111.02.06

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**SITE DEVELOPMENT PERMIT NO. 1673959**  
**TECOLOTE CANYON, PROJECT NO. 354238, MMRP, DEVELOPMENT SERVICES DEPARTMENT**

This Site Development Permit No. 1673959 is granted by the Development Services Department of the City of San Diego to the Public Works Department, Owner/Permittee, pursuant to San Diego Municipal Code (SDMC) section 126.0504(b). The site is located within portions of the Tecolote Canyon in the OP-2-1 (Open Space-Park) Zone within the Linda Vista Community Plan.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee for the removal and replacement of an existing deteriorating cast iron sewer pipe in Tecolote Canyon. The project includes installation of a 140-foot long by 12-foot wide prefabricated steel truss non-pedestrian bridge that would span Tecolote Creek to support the 8-inch Ductile Iron (DI) sewer main. The existing support pillars to the sewer main bridge would be cut in place to remove the above ground portions and make way for the new bridge, while the below ground portion of the pillars would be left in place to avoid impacts to the creek bed. The steel truss sewer pipeline will have two abutment supports above each side of the creek. Construction of this project would affect portions of the City owned property within Tecolote Canyon Natural Park and is subject to the City's land use regulations described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated June 14, 2016, on file in the Development Services Department.

The project shall include:

- a. Removal and replacement of the existing sewer main bridge and pipeline with the installation of a 140-foot long by 12-foot wide prefabricated steel truss non-pedestrian bridge that will support the new 8-inch Ductile Iron sewer main. In total, the project will replace approximately 330 linear feet of existing sewer main within a small area of Tecolote Canyon Natural Park.

- b. The existing support pillars to the sewer main bridge would be cut in place to remove the above ground portions and make way for the new bridge, while the below ground portion of the pillars would be left in place to avoid impacts to the creek bed.
- c. Three manholes would be replaced by digging out the existing manholes within three, 10 square-foot areas.
- d. Rerevegetation of all disturbed areas.
- e. Permanently widening the existing 3 foot wide pedestrian access path to 8 foot for vehicular access used for future infrastructure maintenance work.

**STANDARD REQUIREMENTS:**

1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. If this permit is not utilized in accordance with Chapter 12, Article 6, Division 1 of the SDMC within the 36 month period, this permit shall be void unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker.
2. No permit for the construction, occupancy, or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:
  - a. The Owner/Permittee signs and returns the Permit to the Development Services Department; and
  - b. The Permit is recorded in the Office of the San Diego County Recorder.
3. While this Permit is in effect, the subject property shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the appropriate City decision maker.
4. This Permit is a covenant running with the subject property and all of the requirements and conditions of this Permit and related documents shall be binding upon the Owner/Permittee and any successor(s) in interest.
5. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
6. Issuance of this Permit by the City of San Diego does not authorize the Owner/Permittee for this Permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).
7. The Owner/Permittee shall secure all necessary building permits. The Owner/Permittee is informed that to secure these permits, substantial building modifications and site improvements

may be required to comply with applicable building, fire, mechanical, and plumbing codes, and State and Federal disability access laws.

8. Construction plans shall be in substantial conformity to Exhibit "A." Changes, modifications, or alterations to the construction plans are prohibited unless appropriate application(s) or amendment(s) to this Permit have been granted.

9. All of the conditions contained in this Permit have been considered and were determined-necessary to make the findings required for approval of this Permit. The Permit holder is required to comply with each and every condition in order to maintain the entitlements that are granted by this Permit.

If any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable, or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" condition(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo, and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.

#### **ENVIRONMENTAL/MITIGATION REQUIREMENTS:**

10. Mitigation requirements in the Mitigation, Monitoring, and Reporting Program [MMRP] shall apply to this Permit. These MMRP conditions are hereby incorporated into this Permit by reference.

11. The mitigation measures specified in the MMRP and outlined in, **Mitigated Negative Declaration, NO. 354238**, shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL MITIGATION REQUIREMENTS.

12. The Owner/Permittee shall comply with the MMRP as specified in **Mitigated Negative Declaration, NO. 354238**, to the satisfaction of the Development Services Department and the City Engineer. Prior to the issuance of the "Notice to Proceed" with construction, all conditions of the MMRP shall be adhered to, to the satisfaction of the City Engineer. All mitigation measures described in the MMRP shall be implemented for the following issue areas:

#### **Biological Resources, Archaeological Resources, and MHPA Land Use Adjacency**

##### **INFORMATION ONLY:**

- The issuance of this discretionary use permit alone does not allow the immediate commencement or continued operation of the proposed use on site. The operation allowed by this discretionary use permit may only begin or recommence after all conditions listed on this permit are fully completed and all required ministerial permits have been issued and received final inspection.

- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this Permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code-section 66020.
- This development may be subject to impact fees at the time of construction permit issuance.

APPROVED by the Development Services Department of the City of San Diego on June 14, 2016 and R-2016-650.

Site Development Permit/PTS No. 354238 Approval No.1673959  
Date of Approval: June 14, 2016

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES DEPARTMENT

---

Angela Nazareno  
Development Project Manager

**NOTE: Notary acknowledgment  
must be attached per Civil Code  
section 1189 et seq.**

---

**The undersigned Owner/Permittee**, by execution hereof, agrees to each and every condition of this Permit and promises to perform each and every obligation of Owner/Permittee hereunder.

**City of San Diego**  
Owner/Permittee

By \_\_\_\_\_  
Sheila Bose  
Project Engineer, Public Works

**NOTE: Notary acknowledgments  
must be attached per Civil Code  
section 1189 et seq.**

Passed by the Council of The City of San Diego on JUN 14 2016, 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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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 JUN 14 2016

(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 *Mary Steward*, Deputy

Office of the City Clerk, San Diego, California  
Resolution Number R- 310541