

RESOLUTION NUMBER R- 311295

ADOPTED ON SEP 11 2017

A RESOLUTION CERTIFYING SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT NO. 336364/SCH NO. 2014091073 TO ENVIRONMENTAL IMPACT REPORT NO. 91-0360/SCH NO. 92121002, ADOPTING THE FINDINGS, STATEMENT OF OVERRIDING CONSIDERATIONS, AND ADOPTING THE MITIGATION, MONITORING, AND REPORTING PROGRAM FOR CAMPUS POINT – PROJECT NO. 336364.

ITEM # 600A  
9/11/17

WHEREAS, on September 17, 2013, ARE-SD REGION 28, LLC, a Delaware Limited Liability Company, submitted an application to the Development Services Department for an Amendment to the University Community Plan, a Site Development Permit, and a Neighborhood Development Permit for the Campus Point Master Plan (Project); and

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

WHEREAS, the issue was heard by the City Council on September 11, 2017; and

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

WHEREAS, the City Council considered the issues discussed in in Supplemental Environmental Impact Report No. 336364/SCH No. 2014091073 (Report) to Environmental Impact Report No. 91-0360/SDCH No. 92121002, prepared for this Project; NOW, THEREFORE,

BE IT RESOLVED, by the City Council that it is certified that the Report has been completed in compliance with the California Environmental Quality Act of 1970 (CEQA) (Public Resources Code Section 21000 et seq.), as amended, and the State CEQA Guidelines thereto (California Code of Regulations, Title 14, Chapter 3, Section 15000 et seq.), that the Report reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in said Report, together with any comments received during the public review process, has been reviewed and considered by the City Council in connection with the approval of the Project.

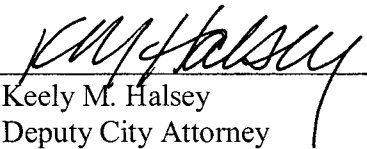
BE IT FURTHER RESOLVED, that pursuant to CEQA Section 21081 and State CEQA Guidelines Sections 15091, the City Council hereby adopts the Findings made with respect to the Project, and that pursuant to State CEQA Guidelines Section 15093, the City Council hereby adopts the Statement of Overriding Considerations 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 this 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 the Report and other documents constituting the record of proceedings upon which the approval is based are available to the public at the office of the office of the City Clerk, 202 C Street, San Diego, CA 92101.

BE IT FURTHER RESOLVED, that 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: MARA W. ELLIOTT, CITY ATTORNEY

By   
Keely M. Halsey  
Deputy City Attorney

KMH:als  
08/24/2017  
Or. Dept:DSD  
Doc. No. 1542840

ATTACHMENT(S): Exhibit A, Findings and Statement of Overriding Considerations  
Exhibit B, Mitigation, Monitoring, and Reporting Program

Passed by the Council of The City of San Diego on SEP 11 2017, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Barbara Bry	<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"/>
Chris Ward	<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"/>
Georgette Gomez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage SEP 11 2017

**(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- 311295

## EXHIBIT A

### FINDINGS AND STATEMENT OF OVERRIDING CONSIDERATIONS REGARDING THE SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT CAMPUS POINT MASTER PROJECT PROJECT NO. 336364

#### I. INTRODUCTION

The following Findings and Statement of Overriding Considerations are made for the Campus Point development (hereinafter referred to as the "PROJECT"). The environmental effects of the PROJECT are addressed in a supplemental environmental impact report ("SEIR") (Project No. 336364/SCH No. 2014091073), dated April 5, 2017, which provided analysis to supplement an earlier final environmental impact report (DEP No. 91-0360, dated February 24, 1993, with an addendum approved in 1997) (together, the "1993 FEIR"), both of which are incorporated by reference herein. The California Environmental Quality Act ("CEQA") (California Public Resources Code §§21000 et seq.) and the State CEQA "Guidelines" (Title 14, California Code of Regulations, §§15000 et seq.) require that no public agency shall approve or carry out a project which identifies one or more significant environmental effects of a 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 mitigate or avoid the significant environmental effects on the environment.
- (2) Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been or can or should be adopted by that other agency.
- (3) Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the EIR. (CEQA, §21081(a).)

CEQA and the Guidelines further require that, where the decision of the public agency allows the occurrence of significant effects which are identified in the EIR, but are not at least substantially mitigated, the agency shall state in writing the specific reasons to support its action based on the EIR and/or other information in the record. (Guidelines, §15093(b).)

The following Findings and Statement of Overriding Considerations have been submitted by the PROJECT's applicant as candidate findings to be made by the decision-making body. The Development Services Department, 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 potential reasons for approving the PROJECT despite the significant unmitigated effects identified in the EIR.

#### II. PROJECT DESCRIPTION AND PURPOSE

The PROJECT entails intensifying an existing 731,725-square-foot scientific research and development facility by 328,383 square feet; thereby creating a 1,060,108-square-foot science and business park, characterized by a campus-like environment with comprehensive site design and substantial landscaping. The PROJECT would add two new buildings and an

## EXHIBIT A

associated parking structure within previously disturbed land that is currently occupied by surface parking. The site contains 58.19 acres. The PROJECT would entail the construction of:

- CP3: A 12- and 6-story split-level multi-tenant building, at a maximum height of 195 feet (including mechanical screening), located at the southwestern end of the site. CP3 will contain a total of 318,383 sq. ft. of scientific research and development space, including 44,000 sq. ft. of below-grade basement level and a top floor penthouse;
- CP4: A 2-story, 10,000 sq. ft. building housing a micro-brewery with accessory dining space and shared tenant amenity spaces;
- A 9-level parking structure (6 levels above ground and 3 below), at a maximum height of 51'11" above grade. The parking structure will contain 1,440 parking stalls, located just east of the proposed CP3 building, in the southwestern portion of the site; and
- Other infrastructure: The PROJECT would include a new loading dock/utility area and trash/recycle area located south of new building CP3. In addition, the PROJECT would also include minor improvements to the trash enclosure area in the northern portion of the site, north of the existing building CP1.

The buildings have been designed and will be constructed so as to achieve Leadership in Energy and Environmental Design (LEED) Silver, which requires several energy- and insulation-efficiency measures to be included in the design of the structures. Exterior treatments of CP3 and CP4 would include a combination of aluminum and glass precast concrete and terracotta.

There are currently 2,574 surface parking spaces on the site. The PROJECT would provide a total of 2,909 parking spaces, based upon a parking ratio of 2.74 spaces per 1,000 square feet. This includes 1,462 existing stalls that would remain, 7 new surface stalls, and 1,440 stalls that would be provided in the new parking structure.

All improvements would be located within existing developed areas, within the existing parking lot boundary. No development is proposed on any of the steep slopes surrounding the developed portion of the site. No development is proposed for the northern portion of the site, with the exception of improvements to the trash/recycle area north of building CP1. The PROJECT would not change the existing 731,725 square footage for buildings CP1 and CP2.

The PROJECT would include a comprehensive brush management program to reduce fire hazards around structures by providing an effective fire break between all structures and contiguous areas of native or naturalized vegetation. Proposed building CP3 is the only habitable structure proposed adjacent to native vegetation. This structure would incorporate two distinct brush management zones (BMZs):

- BMZ-1 is the area adjacent to the structure and shall be the least flammable, and will typically consist of pavement and permanently irrigated ornamental planting. BMZ-1 is considered a permanent impact and, therefore, is included in the development footprint for the project. BMZ-1 is located west and south of proposed building CP3 and ranges from 35 feet to 90 feet wide.

## EXHIBIT A

- BMZ-2 is the area between BMZ-1 and any area of native or naturalized vegetation, and will typically consist of thinned, native or naturalized non-irrigated vegetation. A triangular shaped BMZ-2 is proposed just southwest of proposed building CP3 and would be 65 feet wide at its widest point. BMZ-2 is considered impact neutral.

Transportation Demand Management (TDM) is a strategy designed to reduce single occupant vehicle trips during the AM and PM peak weekday hours. Since most commuting and congestion occurs during weekday peak periods, TDM seeks to shift commuters to transportation modes other than cars as well as reduce peak hour trips by encouraging commuting in non-peak periods and other strategies. The PROJECT would incorporate the following TDM measures:

- Bulletin boards in central locations which encourage alternative transportation programs.
- Requests that tenants implement telecommute and prior staggered work hours to avoid peak hour traffic.
- A TDM association/coordinator for the tenants of Campus Point to facilitate publication and distribution of information as well as ensure it remains current.
- Informational quarterly newsletters to tenants discussing Ride-Link and other tools for carpooling, bicycling, and alternative modes of transportation.
- Bike lockers on-site.
- Showers on-site.
- Carpooling priority parking.
- Carpool Association.
- A shuttle system or rideshare service upon project occupancy of CP3. The shuttle would connect the Campus Point property with the University Towne Center Transit Center and the Sorrento Valley Transit Center. The planned system would consist of one 10-passenger van with 30-minute headways during the AM and PM peak hours. It would be in operation between peak hours 7:00 a.m. to 9:00 a.m. and 4:00 p.m. to 6:00 p.m. During off-peak hours of 9:00 a.m. to 4:00 p.m., the shuttle would operate with 1-hour headways. Alternatively, a rideshare service such as Uber or Lyft will be provided at no cost to the employee when accessed and utilized within a 2-mile radius of the Campus Point Master Plan project. This type of service will provide demand-responsive and scalable service convenient to employees within the Campus Point Master Plan area. This service would also provide wheelchair-accessible vehicles. Since the service is scalable, it can handle any amount of demand and would not be limited to the 10-passenger vehicle provided by the shuttle option. In addition, the rideshare option would provide a much higher frequency of service as requested.
- An incentive program for carpool and off-peak travelers, which may consist of a credit voucher to eat at the on-site restaurant or other incentives.

## EXHIBIT A

- Requests that tenants of the new buildings offer transit passes for their employees at a 25 percent discount.

- A bike-share program offered to employees of tenants in the new buildings.

The PROJECT will require:

- Community Plan Amendment; required for modifications to the University Community Plan (UCP);

- Site Development Permit (SDP), required for development in the Community Plan Implementation Overlay Zone (CPIOZ) Type A and B of the UCP, and for environmentally sensitive lands (ESL) because the PROJECT does not meet the exemption criteria in the Land Development Code, Section 143.0110; and

- Neighborhood Development Permit (NDP), required for an alternative calculation for the maximum intensity allowed within the Accident Potential Zone (APZ) zone 2 for Marine Corps Air Station (MCAS) Miramar.

The primary goals of the PROJECT include:

- Provide the region with additional job opportunities in the life science and biotech industries.

- Intensify existing industrial/research uses in a manner that provides a campus-like environment with comprehensive site design and substantial landscaping.

- Enhance the access, orientation, and walkability of the existing site.

- Use the site in a way that would contribute to regional goals to reduce vehicle use and promote alternative transportation use by providing a facility within a convenient distance of present and future alternative transportation facilities.

- Create a coherent and cohesive building and site design that is compatible in scale and character and enhances the existing community character in the UCP.

The City finds, based on the substantial evidence described below and pursuant to *Friends of the College of San Mateo Gardens v. San Mateo County Community College District* (2016) \_\_ Cal. 4th \_\_ [S214061, filed September 19, 2016], that the 1993 FEIR remains relevant to the PROJECT.

### III. ISSUES WHICH THE SEIR CONCLUDED WOULD REQUIRE NO FURTHER MITIGATION, INCLUDING ISSUES STUDIED IN THE 1993 FEIR:

The 1993 FEIR (defined above to include the 1997 addendum) studied geologic conditions, health and safety/hazardous materials, hydrology, water quality, air quality, noise, public services and utilities, agricultural resources, mineral resources, energy conservation, and



## EXHIBIT A

population and housing. The SEIR concluded that the following issues that had been studied in the 1993 FEIR required no further analysis:

Geologic conditions: The 1993 FEIR concluded that there were no significant soil or geologic conditions present that would preclude development of the site. This remains true. Grading and development of the PROJECT would be controlled by the California Building Code and the City's Municipal Code, which require conformance with recommendations provided in the geotechnical investigation for the PROJECT. Potential impacts of geologic conditions, earthquake shaking, and erosion would be reduced to an acceptable level by design and construction in accordance with prevailing codes and the geotechnical investigation for the PROJECT.

Health & safety/hazardous materials:

Hazardous materials: The previous project was not anticipated to have any significant impacts due to the use, storage, or manufacture of hazardous materials, provided each on-site use obtained and implemented a Hazardous Materials Business Plan. The PROJECT site is not on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5. Therefore, the PROJECT would not create a significant hazard to the public or environment and impacts would be less than significant. Although the project site is located in proximity to the University of California, San Diego (UCSD), the proposed project would not result in hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within a quarter mile of UCSD facilities. No impacts would occur.

Wildfire risks: The 1993 FEIR concluded that implementation of the brush management plan would preclude significant fire hazards. The site is subject to risk of wildfire due to its location adjacent to natural open space and presence of steep slopes and vegetation fuel on-site. The PROJECT includes two brush management zones: BMZ-1 and BMZ-2, described above. A brush management plan has been prepared for the PROJECT in compliance with the requirements of the City's Land Development Code (LDC) and San Diego Fire Prevention Bureau Policy B-08-1. Thus, the level of risk associated with potential wildfires would be less than significant.

Airport Hazards: An Airport Land Use Compatibility Plan (ALUCP) was adopted for Marine Corps Air Station (MCAS) Miramar in 2008. The PROJECT site is within the Airport Influence Area (AIA) and Accident Potential Zone (APZ) II. The MCAS Miramar ALUCP identifies the usage intensity as the primary indicator for risk exposure, and the PROJECT has a calculated usage intensity of less than the indicated 50 persons per acre for non-residential uses within the APZ II. Thus, the level of impacts associated with the safety hazard of the MCAS Miramar AIA would be less than significant. The site is also within the FAA Part 77 Noticing Area for MCAS Miramar, but the PROJECT would not penetrate the Part 77 100:1 notification surface area, as the difference between the lowest Part 77 notification surface and the highest elevation of grade equals 300 feet, and no structures are proposed more than 197 feet above grade. The only nearby private air facility is the Qualcomm Helipad, approximately two miles from the PROJECT site, and the PROJECT would not create a safety hazard relating to that facility.

## EXHIBIT A

Hydrology: Runoff from the undeveloped portion of the site initially drains down the slopes to the west or into the improved storm drain system to the south and eventually into Los Peñasquitos Lagoon. The 1993 FEIR concluded that the existing and proposed drainage facilities would be adequate to accommodate the anticipated runoff and that no significant hydrologic impacts would occur. A new drainage study and stormwater quality management plan, both included as appendices to the SEIR, were prepared in compliance with regulations governing runoff control and drainage. According to the drainage study, the existing peak rate of runoff rate would be reduced under the proposed PROJECT conditions as a result of hydromodification best management practices (BMPs) within the PROJECT's two drainage basins. These BMPs include an underground storm drain, catch basins, curb inlets, biofiltration basins, and two pump stations. The pervious area would not be increased from the pre-PROJECT condition and flows would be reduced by as much as 99 percent through the use of pervious areas, an infiltration basin, and a biofiltration basin; thus, no downstream impacts would occur. The potential for erosion would also be reduced by following the Erosion Control Plan (part of the rough grading plans). Thus, the project would not result in a substantial impact to drainage.

Water quality: According to the 1993 FEIR, development of the site could result in an increase in the amount of urban pollutants reaching Los Peñasquitos Lagoon. The 1993 FEIR concluded that potential impacts could be significant and required mitigation in the form of a program to manage and control nonpoint source pollution. Because the regulatory environment as it pertains to water quality has changed since the 1993 FEIR was certified, a new water quality report was prepared; it is Appendix H to the SEIR.

Construction: The SEIR requires preparation of a Storm Water Pollution Prevention Plan (SWPPP) prior to construction in conformance with SWRCB Construction General Permit Order 2009-0009. The SWPPP would include BMPs to control site runoff volumes and reduce the potential for contaminated runoff. BMPs may include solid waste management, spill prevention and control, concrete waste management, water conservation practices, paving and grinding operations, and the designation of material storage and stockpile areas. Probable runoff controls would include silt fences, fiber rolls, gravel bag berms, sandbag barriers, storm drain inlet protection, stabilized construction entrances, frequent street sweeping, and/or protection of disturbed areas. Compliance with federal, state, and local regulations at the time of construction would ensure runoff impacts during construction are less than significant.

Operations: To meet the City's water quality requirements, the PROJECT's design incorporates a combination of water quality measures to reduce pollutant discharge into the Los Peñasquitos Creek and Los Peñasquitos Lagoon. The PROJECT includes site design and source control BMPs to reduce the generation of potential pollutants and to reduce exposure of storm water to pollutants. In addition, the PROJECT includes low impact development strategies and treatment control BMPs to treat polluted storm water runoff to the maximum extent practicable before it exits the site. Specifically, the proposed drainage system directs runoff from building roofs and the pavement to bioretention areas, where it would be allowed to pond and filter through the soil. As a result, the PROJECT would improve the quality of runoff leaving the site.

Air quality: The 1993 FEIR identified significant direct and cumulative air quality impacts due to localized traffic generation. Relative to direct (operational) air quality impacts, the 1993 FEIR concluded that development could significantly impact local air quality by causing three intersections to drop below Level of Service (LOS) C and that no mitigation

## EXHIBIT A

measures were available (at that time) to maintain LOS C or better at those intersections.

Emissions: A new air quality report was prepared for the SEIR. The PROJECT would support the goal of smart growth principles related to providing infill compact development with provisions for increased energy efficiency, low water use in the indoor and outdoor environments, and the goal to achieve LEED silver certification. Similarly, the PROJECT would entail research and development uses which would not result in significant stationary sources of emissions and therefore would not violate air quality regulations. Potential construction emissions were calculated using the California Emissions Estimator Model (CalEEMod); PROJECT construction would not exceed the applicable regional emissions thresholds. Operational emissions, for example from mobile sources (traffic) and area sources (e.g., natural gas, consumer products, landscaping maintenance), also calculated using CalEEMod, would not exceed the applicable regional emissions thresholds. Finally, as compared to the conditions that existed at the time that the 1993 FEIR was certified, traffic impacts have been reduced. The three intersections found to be significantly impacted in the 1993 FEIR (Genesee Avenue at Regents Road, Eastgate Mall, and Campus Point Drive) were all found to be less than significant in the current traffic study. A carbon monoxide (CO) hot spot analysis was performed at two signalized intersections where, with the addition of the PROJECT, the delay at these intersections would increase – Genesee Avenue at the Interstate 5 southbound ramp and at La Jolla Village Drive. The analysis calculated that hour concentrations would not exceed federal and state standards.

Odors and air toxics: The PROJECT is primarily a research facility and would not generate air toxics. Thus, its impacts would be less than significant. There are no known significant odor generators within or near the PROJECT site. The PROJECT consists of research facilities and would not generate objectionable odors or to be located adjacent to a known odor generator.

Noise: The 1993 FEIR concluded that cumulative traffic noise could be a significant impact to future tenants of the site. The recent court decision in *California Building Industry Association v. Bay Area Air Quality Management District* (2016) 62 Cal. 4th 369, calls into question whether the impact on future occupants of the PROJECT is an environmental impact under CEQA. In any event, a new noise study prepared for the SEIR (Appendix J) concluded that noise impacts to future tenants would be less than significant. This results primarily from a reduction in traffic impacts and changes to the circumstances of the noise setting. Furthermore, the new noise study concluded that neither construction nor operation of the PROJECT would have significant impacts off-site, due principally to the distance to sensitive uses.

Public services and utilities: The 1993 FEIR concluded that there were no impacts to public services or utilities. The SEIR did not change this conclusion. The PROJECT is non-residential, would not generate additional demand for services through population increases, and is not expected to result in a need for new or expanded police, fire, school, park, library, or other public facilities. In addition, the PROJECT would include all necessary improvements to provide utility services. Landfill capacity is available, and the PROJECT includes a Waste Management Plan (WMP) which would achieve the City's minimum construction waste diversion goal of 75 percent and avoid significant solid waste impacts. Water service is already provided to the site by the City. Applicable water management plans will ensure an adequate, reliable water supply will be available over the next 25 years, even in multiple year drought conditions and in potential water supply disruption situations. The PROJECT would employ fewer than 1,000 people so it is

## EXHIBIT A

not considered a large-scale project requiring a water supply assessment. The PROJECT is seeking LEED Silver certification and, as a part of that, would include water conservation measures such as drought-tolerant and native vegetation.

Agricultural resources: The 1993 FEIR concluded that the project would not cause a significant impact to agricultural resources. This conclusion remains valid. The PROJECT site does not contain Prime Farmland, Farmland of Statewide Importance, or Unique Farmland as designated by the California Department of Conservation, nor is the site subject to, or near, a Williamson Act contract parcel. Therefore, the PROJECT would have no effect on agricultural resources.

Mineral resources: The 1993 FEIR concluded that the project would not cause a significant impact to mineral resources. This conclusion remains valid. While portions of the site lie within both the MRZ-1 and MRZ-3 zones (as identified in the General Plan's Generalized Mineral Land Classification map, Figure CE-6), the MRZ-2 zone (indicating a high likelihood for significant mineral deposits) is not present. Further, due to the fact that the PROJECT site and surrounding area are already developed or within the Multi-Habitat Planning Area (MHPA), extraction of any potential mineral resources is not feasible. The PROJECT would not result in the loss of availability of valuable known mineral resources of a locally important mineral recovery site as identified in the City General Plan. Thus, the project would have no impact on mineral resources.

Energy conservation: The 1993 FEIR concluded that the project would not cause a significant impact to energy conservation. This conclusion remains valid. The PROJECT has been designed to achieve LEED Silver certification, which requires several energy- and insulation-efficiency measures to be included in the design of the structures. The PROJECT would also be conditioned to meet 2013 Title 24, Part 6 Energy Code and Part 11 California Green Building Standards Code (CALGreen) requirements. The PROJECT's design guidelines call for the installation of roof-mounted photovoltaic solar panels, which would offset some of the Project's energy demand. Overall, the PROJECT would not result in the excessive use of electric power, fuel, or other forms of energy, so its impact to energy conservation would be less than significant.

Population and housing: The 1993 FEIR concluded that the project would not cause a significant impact to population and housing. This conclusion remains valid. The PROJECT involves the development of a master plan for additional buildings and accessory uses in order to provide for a scientific and research facility. However, the PROJECT is not large enough to induce growth through an increase in employment population. Further, the PROJECT would not displace any existing housing or people. Therefore, the PROJECT's impact to population and housing would be less than significant.

#### **IV. FINDINGS REGARDING IMPACTS THAT CAN BE MITIGATED TO BELOW A LEVEL OF SIGNIFICANCE (PUBLIC RESOURCES CODE §21081(a)(1))**

The City, having reviewed and considered the information contained in the SEIR finds pursuant to Public Resources Code §21081(a)(1) and Guidelines §15091(a)(1) that changes or alterations have been required in, or incorporated into, the PROJECT which would mitigate, avoid, or substantially lessen to below a level of significance the following potential significant

## EXHIBIT A

environmental effects identified in the SEIR: traffic (direct and cumulative), paleontological resources (direct), historic resources (direct), biological resources (direct and indirect), and land use (direct). The SEIR also concluded that the PROJECT would not have a significant impact on visual/neighborhood issues because the PROJECT will expand existing types of uses within an existing industrial/research site.

### A. Traffic (direct and cumulative):

**Potential Impacts:** The PROJECT could have significant impacts at the following locations:

- A cumulative impact on Campus Point Drive between Genesee Avenue and Campus Point Court; and
- A direct and cumulative impact at the intersection of Campus Point Drive and Campus Point Court.

**Finding and Facts in Support of Finding:** The PROJECT's potentially significant direct and cumulative impacts at these locations would be mitigated to below a level of significance with implementation of Mitigation Measures **TR-2** and **TR-5** described in the SEIR. Implementation of these mitigation measures would require the provision of the following: (1) widening and restriping Campus Point Drive from Genesee Avenue to Campus Point Court to a four-lane Collector with Class II bike lanes, prior to occupancy of CP3 (revised mitigation measure **TR-2**); and (2) installation of a traffic signal and associated improvements at the intersection of Campus Point Drive and Campus Point Court, assured by permit and bond before issuance of the first building permit and completed and accepted by the City Engineer prior to issuance of the first occupancy permit (mitigation measure **TR-5**). Each of these mitigation measures would eliminate the respective impact by ensuring that traffic at these locations met City standards.

### B. Paleontological Resources (direct):

**Potential Impacts:** Implementation of the PROJECT would have the potential for significant direct impacts to paleontological resources due to grading within formations with the potential to contain significant paleontological resources.

**Finding and Facts in Support of Finding:** The PROJECT's potentially significant direct impacts to paleontological resources would be mitigated to below a level of significance by implementation of Mitigation Measure **PALEO-1**. Mitigation would require that a qualified paleontologist and/or paleontological monitor implement a paleontological monitoring program. The monitor would be present full-time onsite during grading/excavation/trenching activities, diverting or halting construction activity in the area of discovery if fossil remains are found to allow recovery and curation of fossils, recordation of fossils at the San Diego Natural History Museum, and documenting findings in a Monitoring Report.

## EXHIBIT A

### C. Historic Resources (direct):

**Potential Impacts:** Implementation of the PROJECT has the potential for significant subsurface cultural deposits to be uncovered and destroyed during grading, which could constitute a significant impact.

**Finding and Facts in Support of Finding:** The PROJECT's potentially significant impact to cultural resources would be mitigated to below a level of significance by implementation of Mitigation Measure HIST-1. Mitigation for impacts to historical resources would include archaeological monitoring during construction as detailed in the procedures outlined in HIST-1.

### D. Biological Resources (direct and indirect):

**Potential Impacts:** There is potential for nesting coastal California gnatcatchers, raptors, and other nesting birds within the PROJECT site. Direct impacts to coastal California gnatcatchers, raptors and other nesting birds could result from the removal of Diegan coastal sage scrub, non-native grassland, and eucalyptus woodland on site. Direct impacts to the coastal California gnatcatchers and Cooper's hawks, which are species covered by the Multiple Species Conservation Program (MSCP), through the removal of habitat outside of the MHPA are permitted through the MSCP and would not be considered significant. However, potential direct impacts to migratory or nesting birds could be considered significant. Additionally, grading and construction has potential for indirect impacts to raptors, and other migratory or nesting birds from construction noise, intrusion, water quality, and lighting. Indirect impacts to migratory or nesting birds, including raptors would be significant.

**Finding and Facts in Support of Finding:** The PROJECT's potentially significant direct and indirect impact to biological resources would be mitigated to below a level of significance by implementation of Mitigation Measure BIO-1. Biology mitigation measure **BIO-1** requires that removal of habitat supporting active nests in the proposed area of disturbance occur outside of the breeding season for those species (February 1 to September 15). If removal of habitat in the proposed area of disturbance must occur during the breeding season, a 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 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 preconstruction survey to the City's Development Services Department (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 taking of birds or eggs or disturbance of breeding activities is avoided. The City will review and verify the report or mitigation plan. If nesting birds are not detected during the preconstruction survey, no further mitigation is required. These requirements shall be shown on construction plans. Together, these will reduce the potential impacts to a level below significant by preventing the potential impact from occurring.

## EXHIBIT A

Biology mitigation measure **BIO-2** requires the retention of Qualified Biologist to implement the project's biological monitoring program. The biological monitoring program includes pre-construction meeting attended by the Qualified Biologist to discuss the project's biological monitoring program, and arrange to perform any follow up mitigation measures and reporting including site-specific monitoring, restoration or revegetation, and additional fauna/flora surveys/salvage. The Qualified Biologist shall submit all required documentation to the City's Mitigation Monitoring Coordinator (MMC) verifying that any special mitigation reports including but not limited to, maps, plans, surveys, survey timelines, or buffers are completed or scheduled per City Biology Guidelines, MSCP, Environmentally Sensitive Lands Ordinance (ESL), project permit conditions; CEQA; endangered species acts (ESAs); and/or other local, state or federal requirements. The Qualified Biologist shall present a Biological Construction Mitigation/Monitoring Exhibit (BCME) which includes the biological documents discussed above. In addition, include: restoration/revegetation plans, plant salvage/relocation requirements (e.g., coastal cactus wren plant salvage, burrowing owl exclusions, etc.), avian or other wildlife surveys/survey schedules (including general avian nesting and USFWS protocol), timing of surveys, wetland buffers, avian construction avoidance areas/noise buffers/ barriers, other impact avoidance areas, and any subsequent requirements determined by the Qualified Biologist and the City Assistant Deputy Director (ADD)/MMC. The BCME shall include a site plan, written and graphic depiction of the project's biological mitigation/monitoring program, and a schedule. The BCME shall be approved by MMC and referenced in the construction documents. 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 and implement the measures and reporting requirements discussed above. Prior to construction activities, the Qualified Biologist shall supervise the placement of orange construction fencing or equivalent along the limits of disturbance adjacent to sensitive biological habitats and verify compliance with any other project conditions as shown on the BCME. This phase shall include flagging plant specimens and delimiting buffers to protect sensitive biological resources (e.g., habitats/flora & fauna species, including nesting birds) during construction. Appropriate steps/care should be taken to minimize attraction of nest predators to the site. Prior to commencement of construction activities, the Qualified Biologist shall meet with the owner/permittee or designee and the construction crew and conduct an on-site educational session regarding the need to avoid impacts outside of the approved construction area and to protect sensitive flora and fauna (e.g., explain the avian and wetland buffers, flag system for removal of invasive species or retention of sensitive plants, and clarify acceptable access routes/methods and staging areas, etc.). All construction (including access/staging areas) shall be restricted to areas previously identified, proposed for development/staging, or previously disturbed as shown on "Exhibit A" and/or the BCME. The Qualified Biologist shall monitor construction activities as needed to ensure that construction activities do not encroach into biologically sensitive areas, or cause other similar damage, and that the work plan has been amended to accommodate any sensitive species located during the pre-construction surveys. In addition, the Qualified Biologist shall document field activity via the Consultant Site Visit Record (CSVR). The CSVR shall be e-mailed to MMC on the 1st day of monitoring, the 1st week of each month, the last day of monitoring, and immediately in the case of any undocumented condition or discovery. The Qualified Biologist shall note/act to prevent any new disturbances to habitat, flora, and/or fauna onsite (e.g., flag plant specimens for avoidance during access, etc.). If active nests or other previously unknown sensitive resources are detected, all

## EXHIBIT A

project activities that directly impact the resource shall be delayed until species specific local, state or federal regulations have been determined and applied by the Qualified Biologist. In the event that impacts exceed previously allowed amounts, additional impacts shall be mitigated in accordance with City Biology Guidelines, ESL and MSCP, CEQA, and other applicable local, state and federal law. The Qualified Biologist shall submit a final BCME/report to the satisfaction of the City ADD/MMC within 30 days of construction completion.

### E. Land Use (direct):

**Potential Impacts:** A total of 10.08 acres of MHPA occurs within the PROJECT site. The PROJECT would include a boundary line correction (BLC) to remove the previously developed portions of the project area site that were mapped as part of the MHPA at the regional scale. No MHPA occurs within the impact area where the BLC is applied. In addition, the project has potential for indirect impacts to the adjacent MHPA along the northern and eastern boundaries of the project site. As stated in the City of San Diego MSCP Subarea Plans Section 1.4.3 Land Use Adjacency Guidelines (MHPA Land Use Adjacency Guidelines; 1997), land uses adjacent to the MHPA are to be managed to ensure minimal impacts to the MHPA. The MSCP establishes land use adjacency guidelines to be addressed on a project-by-project basis when land is developed adjacent to the MHPA to minimize impacts resulting from construction or operational activities that may degrade that habitat value or disrupt animals within the preserve area and maintain the function of the MHPA.

**Finding and Facts in Support of Finding:** Potential land use impacts would be mitigated to below a level of significance by implementation of Mitigation Measure LU-1. Compliance with Mitigation Measure LU-1, which would condition the PROJECT to show compliance with the MHPA Land Use Adjacency Guidelines, would ensure that the PROJECT avoids the potential impacts.

## V. FINDINGS REGARDING INFEASIBLE MITIGATION MEASURES AND ALTERNATIVES (PUBLIC RESOURCES CODE §21081(a)(3))

The City, having reviewed and considered the information contained in the SEIR, finds pursuant to Public Resources Code §21081(a)(3) and Guidelines §15091(a)(3) that (i) the SEIR considers a reasonable range of Project alternatives, and (ii) specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the project alternatives identified in the SEIR as well as other alternatives or mitigation measures which would reduce the following impacts to below a level of significance.

### A. Infeasibility of Mitigation for Significant Unmitigated Impacts

#### 1. Traffic (Direct and Cumulative):

**Potential Impacts:** The PROJECT could result in significant, unmitigable impacts to the following:



## EXHIBIT A

- **TR-1:** Genesee Avenue between the I-5 SB ramps and I-5 NB ramps. The bridge segment currently operates as a four-lane Major and is operating at unacceptable LOS E today. The PROJECT would result in the segment operating at LOS F;
- **TR-3:** A significant direct project impact would occur at project buildout at the intersection of Genesee Avenue/Interstate 5 (I-5) SB ramp; and
- **TR-4:** A significant short-term direct impact at the Genesee Avenue/La Jolla Village Drive intersection.

**Finding and Facts in Support of Finding:** The PROJECT's significant direct and cumulative impacts to these intersections and segments are mitigated by implementation of Mitigation Measures TR-1, TR-3 and TR-4 but not to below a level of significance in the short-term. As to **TR-1** and **TR-3**, the City and Caltrans are currently widening the bridge segment of Genesee Avenue between the I-5 SB and NB ramps to six lanes, which would have a LOS E capacity of 60,000 ADT. The bridge-widening project would eliminate the impacts to both the Genesee Avenue segment and its intersection with the SB ramp. The bridge-widening project is fully funded and construction is anticipated to be complete by fall of 2017. However, the potential impacts would remain temporarily significant and unmitigated until the Caltrans improvements are completed. As to **TR-4**, mitigation measure **TR-4** would require that the applicant assure, by permit and bond, the widening of the northbound approach to the Genesee Avenue/La Jolla Village Drive intersection to construct a dedicated right-turn lane, satisfactory to the City Engineer, to be completed and accepted by the City Engineer prior to issuance of the first occupancy permit. However, other parties are also responsible for constructing this improvement, resulting in this improvement already being fully funded and construction is underway. The impact will thus remain only for a short period.

### **B. Infeasibility of Project Alternatives to Reduce or Avoid Significant Impacts**

The SEIR for the PROJECT examined two alternatives to the PROJECT. This constitutes a reasonable range of alternatives because it provides information covering the possible range of development intensity, given the already-built nature of the site.

#### **1. Alternatives Considered but Rejected:**

The 1993 FEIR discussed four alternatives, including a no project alternative, two reduced intensity alternatives, and an alternate site alternative. The following is a discussion of why all four of these alternatives are either inapplicable or infeasible under current conditions.

##### **a. (Original) No Project Alternative**

The total acreage analyzed in the 1993 FEIR is the same as it is now: 58.19 acres gross and 40.28 net acres. The baseline condition studied in the 1993 FEIR included the IVAC building (now "CP1"), but before the subsequent expansions. In addition, the Qualcomm building (CP2) had not been constructed at that time. Thus, the No Project Alternative involved retaining the (then) 379,000-square-foot IVAC facility. The 1993 FEIR stated that this alternative would eliminate the direct impacts to traffic and air quality, as well as the cumulative impacts to traffic, land use, noise, air quality, and water quality. However, it would not meet the goals of that project or of

## EXHIBIT A

the current UCP of encouraging the development of scientific research use.

**Facts in Support of Finding:** This alternative is no longer economically or legally feasible because the Qualcomm building (CP2) has been constructed since the 1993 FEIR was certified. Thus, the existing condition for this SEIR is 731,725 square feet while the existing condition (baseline) in 1993 was 379,000 square feet. Achieving this alternative would require economically and legally infeasible demolition. However, the SEIR includes a No Project Alternative utilizing the current baseline. In addition, this alternative would remove employment opportunities and thus conflict with multiple City goals and policies.

### b. Reduced Intensity #1: 18,000 Square Feet per Acre

The 1993 FEIR assumed that this alternative would be built out to an actual intensity of 18,000 square feet per net acre (sf/ac) rather than having to rely upon a TDM program to get down to an equivalent of 18,000 sf/ac. The 1993 FEIR concluded that this alternative would not have any substantial environmental benefits and this alternative was not considered to be the environmentally superior alternative.

**Facts in Support of Finding:** This alternative is no longer practically or legally feasible because the two existing buildings that form the existing condition for this SEIR total 731,725 square feet, which equates (with 40.28 net acres) to existing conditions (baseline) of 18,166 square feet per acre. Thus, the existing condition already exceeds 18,000 sf/ac, making this alternative economically and legally infeasible. Achieving this alternative would require economically and legally infeasible demolition. In addition, this alternative would remove employment opportunities and thus conflict with multiple City goals and policies.

### c. Reduced Intensity #2: 12,000 Square Feet per Acre

The 1993 FEIR assumed that this alternative would be built out to an intensity of 12,000 sf/ac. The 1993 FEIR stated that this alternative was intended to help reduce traffic impacts to intersections on Genesee Avenue. The 1993 FEIR concluded that (as with the 18,000 sf/ac alternative) this alternative would not fully avoid direct and cumulative impacts relative to traffic, noise, land use, air quality, and water quality. This alternative was not considered to be the environmentally superior alternative.

**Facts in Support of Finding:** As with the Reduced Intensity #2 alternative, this alternative allows an intensity which is less than existing conditions, making this alternative economically and legally infeasible.

### d. Off-site Alternative

The 1993 FEIR identified the "Meanley" property in Scripps Miramar Ranch as a potential off-site location for the project. The site was approximately 100 acres and had been subdivided for industrial uses. The site was selected because the 1993 FEIR determined that no significant traffic, noise, air quality, or water quality impacts would occur. Thus, the off-site alternative was determined by the 1993 FEIR to be the environmentally superior alternative because it would avoid the direct and cumulative impacts on the local community associated with traffic, noise, land use, air quality, and water quality. However, it would not achieve the objective to promote

## EXHIBIT A

scientific research uses in the vicinity of the University of California, San Diego.

**Facts in Support of Finding:** As with the other three alternatives discussed in the 1993 FEIR, this alternative is not applicable and will not be discussed in greater detail in this SEIR for the reason that in the years since the 1993 FEIR was certified, the Meanley property has been substantially built out.

### 2. **No Project (No New Development) Alternative:**

The No Project (No New Development) Alternative would maintain the site in its current condition and would be equivalent to the existing environmental setting. The site presently contains a 2-story, 463,791-square-foot, multi-tenant building ("CP1") used for scientific research and related development on Parcel 1, and a 267,934-square-foot building ("CP2") on Parcel 2, along with parking and accessory structures.

**Potential Impacts:** Should the No Project (No New Development) Alternative be implemented, all the PROJECT's significant impacts would be avoided. More specifically, this alternative would avoid the PROJECT's significant mitigated transportation/circulation, biological resource, historical resource, and paleontological resource impacts. Importantly, the significant unmitigated traffic impacts would also be avoided by the No Project (No New Development) Alternative. While adoption of the No Project (No Development) Alternative would maintain the existing underdeveloped condition of the site and avoid impacts associated with the PROJECT, none of the PROJECT's objectives would be attained.

**Facts in Support of Finding:** The No Project (No New Development) Alternative is rejected as infeasible because it would meet none of the PROJECT's objectives. In particular, it would not provide any employment that is needed to help meet regional demand. In addition, it would fail to satisfy several related goals and policies of the City's general plan. Most of the site is designated for industrial employment in the general plan and for scientific research in the community plan. The No Project (No New Development) alternative would prevent rather than discourage the use of scarce industrial land for employment for the City's residents.

### 3. **Reduced Development Alternative:**

The Reduced Development Alternative was designed to reduce the traffic trips generated in order to avoid significant and unmitigated traffic generation impacts. It would also obviate the need for the Community Plan Amendment to eliminate the limitation of 30,000 ADTs from this site. The Reduced Development Alternative would involve construction of up to an additional 140,000 square feet plus an associated parking structure. The 140,000-square-foot building would be constructed at the location of CP3 and would be a 5-story building with 28,000 square feet per floor. The parking structure would be within the same footprint as the proposed PROJECT's parking structure, but would be approximately one-third the size. Thus, the primary difference between this alternative and the PROJECT would be that this alternative would not develop CP4, and both CP3 and the parking structure would be constructed to approximately one-third the size of what the PROJECT proposes.

The parking structure would be of a size necessary to maintain a parking ratio of 2.5 spaces per 1,000 square feet, or approximately 350 spaces ( $[140,000 \text{ square feet} \div 1,000 \text{ square}$

## EXHIBIT A

feet] x 2.5). As with the proposed PROJECT, the Reduced Development Alternative would stay within the existing disturbed portion of the PROJECT site.

**Potential Impacts:** The Reduced Development Alternative would avoid the two significant and unmitigated traffic impacts and one of the significant but mitigated traffic impacts of the PROJECT. This alternative would also avoid the PROJECT's significant impacts related to traffic generation in excess of the UCP and would not require a Community Plan Amendment. All other impacts under the Reduced Development Alternative would be similar to the PROJECT but incrementally reduced, as the total square footage of proposed buildings would be smaller. Thus, this alternative would have significant but mitigated impacts related to land use, biological resources, historical resources, and paleontological resources, similar to the PROJECT.

**Facts in Support of Finding:** This alternative would meet the basic PROJECT objectives, but to a lesser degree than the PROJECT because it would provide less infill development. As with the No Project (No New Development) alternative, the Reduced Development alternative would fail to satisfy, or satisfy to a substantially lesser degree, several related goals and policies of the City's general plan. Most of the site is designated for industrial employment in the general plan and for scientific research in the community plan. This alternative would prevent rather than discourage the use of scarce industrial land for employment for the City's residents.

#### 4. **Environmentally Superior Alternative:**

CEQA Guidelines §15126.6(e)(2) requires that an environmentally superior alternative be identified among the alternatives considered. The environmentally superior alternative is generally defined as the alternative which would result in the least adverse environmental impacts to the project site and surrounding area. If the No Project Alternative is the environmentally superior alternative, then the EIR shall also identify an environmentally superior alternative from the other alternatives.

The Reduced Development Alternative would be considered the environmentally superior alternative because it would avoid several project impacts associated with traffic, including significant, temporarily unmitigated direct capacity impacts. Other impacts would be incrementally reduced or the same as the PROJECT. The Reduced Development Alternative would meet the PROJECT's objectives, but to a lesser degree than the PROJECT.

## VI. **STATEMENT OF OVERRIDING CONSIDERATIONS (PUBLIC RESOURCES CODE §21081(b))**

Public Resources Code §21081(b) prohibits approval of a project with significant, unmitigable adverse impacts resulting from infeasible mitigation measures or alternatives unless the agency finds that specific overriding economic, legal, social, technological, or other benefits of the project outweigh the significant effects on the environment. The PROJECT could have significant, unmitigable, adverse impacts on traffic, as described above. However, the City Council finds that those impacts are outweighed by the following specific overriding economic, legal, social, technological, or other benefits of the PROJECT.

## EXHIBIT A

The City Council, having considered all of the foregoing, finds that the each and all of the following specific overriding economic, legal, social, technological, or other benefits of the PROJECT outweigh the aforesaid significant, unmitigable effects on the environment. The City Council expressly finds that any, or any combination of, the following benefits would be sufficient to reach this conclusion:

1. The PROJECT would lead to the creation of hundreds of high-paying jobs in scientific fields. By providing jobs in scientific fields, the PROJECT would reinforce San Diego's valuable identity as a leader in the fields of biotechnical research.
2. Approval of this PROJECT would represent another significant step toward achieving the City's goal of encouraging scientific research and, in particular, the biotechnology industry, to locate in San Diego. The PROJECT will be located in the Campus Point area, which already supports a number of companies involved in biotechnology research and manufacturing. The site is ideally situated near the University of California, San Diego, Scripps Clinic, and Salk Institute in an area which already supports a number of biotechnology facilities.
3. Approval of the PROJECT would help the City achieve several key goals and objectives of the UCP. These include, among others, I.C2 ("proximity of employment and residence"), II.C1 ("Promote job opportunities within the University community"), II.C2 ("Encourage the development of life sciences-research facilities which maximize the resources of the University"), and II.I ("Emphasize the citywide importance of and encourage the location of scientific research uses in the North University City area because of its proximity to UCSD").
4. The PROJECT would help ensure the proper functioning of the MSCP and MHPA by correctly aligning the MHPA area. The MSCP was adopted in 1997, after the 1993 FEIR was certified, with the goal of conserving sensitive biological resources while allowing for reasonable economic growth. The MHPA BLC would result in the net gain of 0.77 acres of sensitive biological habitat to the MHPA.
5. The PROJECT would complete the remainder of the Campus Point site in a logical manner with improved access and a well-designed, campus-like environment that emphasizes landscaping. This will help make Campus Point an attractive location for not only employers, but the community as a whole.
6. The PROJECT will provide a LEED-certified structure, which will help save energy and help the City meet its goals to reduce greenhouse gas emissions. The PROJECT will ensure use of a site that is important for the economic goals, as noted above, in a way that contributes to regional goals of reduced vehicle use, sustainability and greenhouse gas reduction, including through voluntary compliance with the City's Climate Action Plan (CAP) Checklist As identified in the CAP Checklist, the PROJECT will provide 46 EVSE-ready parking spaces equipped with electric vehicle charging stations and 157 short-term and 184 long-term bike storage spaces, which exceed the City's requirements. The PROJECT will also provide for a parking cash-out program in the form of cash incentives for employees not utilizing parking due to commuting via other modes of transportation.

## **EXHIBIT A**

The City Council reiterates that any, or any combination of, the above benefits would be sufficient to reach the conclusion that overriding findings justify the significant impacts that were found.

## EXHIBIT B

### MITIGATION, MONITORING, AND REPORTING PROGRAM

SITE DEVELOPMENT PERMIT NO. 1176281  
NEIGHBORHOOD DEVELOPMENT PERMIT NO. 1388122

CAMPUS POINT MASTER PLAN - PROJECT NO. 336364

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. 336364/SCH No. 2014091073 shall be made conditions of Site Development Permit No. 1176281 and Neighborhood Development Permit No. 1388122 as may be further described below.

#### General Requirements

The following general requirements would be a part of the proposed project MMRP:

#### A. GENERAL REQUIREMENTS – PART I

##### Plan Check Phase (prior to permit issuance)

1. Prior to the issuance of a Notice to Proceed for a subdivision, or any construction permits, such as Demolition, Grading or Building, or beginning any construction related activity on-site, the Development Service Department (DSD) Director's Environmental Designee shall review and approve all construction drawings (CDs) (plans, specification, details, etc.) to ensure the MMRP requirements are incorporated into the design.
2. In addition, the Environmental Designee shall verify that the MMRP Conditions/Notes that apply ONLY to the construction phases of this project are included VERBATIM, under the heading, "**ENVIRONMENTAL/ MITIGATION REQUIREMENTS.**"
3. These notes must be shown within the first three (3) sheets of the construction documents in the format specified for engineering construction document templates as shown on the City website: <http://www.sandiego.gov/development-services/industry/standtemp.shtml>
4. The **TITLE INDEX SHEET** must also show on which pages the "Environmental/Mitigation Requirements" notes are provided.

5. **SURETY AND COST RECOVERY** – The Development Services Director or City Manager may require appropriate surety instruments or bonds from private Permit Holders to ensure the long term performance or implementation of required mitigation measures or programs. The City is authorized to recover its cost to offset the salary, overhead, and expenses for City personnel and programs to monitor qualifying projects.

**B. GENERAL REQUIREMENTS – PART II**

**Post Plan Check (After permit issuance/Prior to start of construction)**

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

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

**CONTACT INFORMATION:**

- a) The PRIMARY POINT OF CONTACT is the **RE** at the **Field Engineering Division – 858-627-3200**
  - b) For Clarification of ENVIRONMENTAL REQUIREMENTS, it is also required to call **RE and MMC at 858-627-3360**
2. **MMRP COMPLIANCE:** This Project, Project Tracking System (PTS) #336364, shall conform to the mitigation requirements contained in the associated Environmental Document and implemented to the satisfaction of the DSD's Environmental Designee (MMC) and the City Engineer (RE). The requirements may not be reduced or changed but may be annotated (i.e., to explain when and how compliance is being met and location of verifying proof, etc.). Additional clarifying information may also be added to other relevant plan sheets and/or specifications as appropriate (i.e., specific locations, times of monitoring, methodology, etc).
- Note: Permit Holder's Representatives must alert RE and MMC if there are any discrepancies in the plans or notes, or any changes due to field conditions. All conflicts must be approved by RE and MMC BEFORE the work is performed.**
3. **OTHER AGENCY REQUIREMENTS:** Evidence of compliance with all other agency requirements or permits shall be submitted to the RE and MMC for review



and acceptance prior to the beginning of work or within one week of the Permit Holder obtaining documentation of those permits or requirements. Evidence shall include copies of permits, letters of resolution, or other documentation issued by the responsible agency.

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

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

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

<b>DOCUMENT SUBMITTAL/INSPECTION CHECKLIST</b>		
<b>Issue Area</b>	<b>Document Submittal</b>	<b>Associated Inspection/Approvals/Notes</b>
General	Consultant Qualification Letters	Prior to Preconstruction Meeting
General	Consultant Construction Monitoring Exhibits	Prior to or at Preconstruction Meeting
Land Use	Land Use Adjacency Issues	Land Use Adjacency Issue Site Observations
Traffic	Verification of Traffic Mitigation	Prior to Issuance of Grading or Building Permits for Each Phase
Biology	Biologist Limit of Work Verification	Limit of Work Inspection
Biology	Biology Monitoring Reports	Biology/Habitat Inspection
Archaeology	Archaeology Reports	Archaeology/Historic Site Observation
Paleontology	Paleontology Reports	Paleontology Site Observation
Waste Management	Waste Management Reports	Waste Management Inspections
Bond Release	Request for Bond Release Letter	Final MMRP Inspections Prior to Bond Release Letter

## Specific MMRP Issue Area Conditions/Requirements

### LAND USE

**LU-1:** Prior to issuance of any construction permit or notice to proceed, DSD/ LDR, and/or MSCP staff shall verify the Applicant has accurately represented the project's design in or on the Construction Documents (CDs/CDs consist of Construction Plan Sets for Private Projects and Contract Specifications for Public Projects) are in conformance with the associated discretionary permit conditions and Exhibit "A," and also the City's Multi-Species Conservation Program (MSCP) Multi-Habitat Planning Area (MHPA) Land Use Adjacency Guidelines. The applicant shall provide an implementing plan and include references on/in CDs of the following:

- A. **Grading/Land Development/MHPA Boundaries** - MHPA boundaries on-site and adjacent properties shall be delineated on the CDs. DSD Planning and/or MSCP staff shall ensure that all grading is included within the development footprint, specifically manufactured slopes, disturbance, and development within or adjacent to the MHPA. For projects within or adjacent to the MHPA, all manufactured slopes associated with site development shall be included within the development footprint.
- B. **Drainage** - All new and proposed parking lots and developed areas in and adjacent to the MHPA shall be designed so they do not drain directly into the MHPA. All developed and paved areas must prevent the release of toxins, chemicals, petroleum products, exotic plant materials prior to release by incorporating the use of filtration devices, planted swales and/or planted detention/desiltation basins, or other approved permanent methods that are designed to minimize negative impacts, such as excessive water and toxins into the ecosystems of the MHPA.
- C. **Toxics/Project Staging Areas/Equipment Storage** - Projects that use chemicals or generate by-products such as pesticides, herbicides, and animal waste, and other substances that are potentially toxic or 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. Where applicable, this requirement shall be incorporated into leases on publicly-owned property when applications for renewal occur. Provide a note in/on the CDs that states: "*All construction related activity that may have potential for leakage or intrusion shall be monitored by the Qualified Biologist/Owners Representative or Resident Engineer to ensure there is no impact to the MHPA.*"
- D. **Lighting** - Lighting within or adjacent to the MHPA shall be directed away/shielded from the MHPA and be subject to City Outdoor Lighting Regulations per LDC Section 142.0740.
- E. **Barriers** - New development within or adjacent to the MHPA shall be required to provide barriers (e.g., non-invasive vegetation; rocks/boulders; 6-foot *high*, vinyl-coated chain link or equivalent fences/walls; and/or signage) along the MHPA boundaries to

direct public access to appropriate locations, reduce domestic animal predation, protect wildlife in the preserve, and provide adequate noise reduction where needed.

- F. **Invasives** - No invasive non-native plant species shall be introduced into areas within or *adjacent* to the MHPA.
- G. **Brush Management** –New development adjacent to the MHPA shall be set back from the MHPA to provide required Brush Management Zone 1 area on the building pad outside of the MHPA. Zone 2 may be located within the MHPA provided the Zone 2 management will be the responsibility of an HOA or other private entity except where narrow wildlife corridors require it to be located outside of the MHPA. Brush management zones will not be greater in size than currently required by the City’s regulations, the amount of woody vegetation clearing shall not exceed 50 percent of the vegetation existing when the initial clearing is done and vegetation clearing shall be prohibited within native coastal sage scrub and chaparral habitats from March 1-August 15 except where the City ADD/MMC has documented the thinning would be consistent with the City’s MSCP Subarea Plan. Existing and approved projects are subject to current requirements of Municipal Code Section 142.0412.
- H. **Noise** - Due to the site’s location adjacent to or within the MHPA where the Qualified Biologist has identified potential nesting habitat for listed avian species, construction noise that exceeds the maximum levels allowed shall be avoided during the breeding seasons for the following: California Gnatcatcher (3/1-8/15). 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.

When applicable (i.e., habitat is occupied or if presence of the covered species is assumed), adequate noise reduction measures shall be incorporated as follows:

#### COASTAL CALIFORNIA GNATCATCHER (Federally Threatened)

Prior to the issuance of any grading permit, the City Manager (or appointed designee) shall verify that the MHPA boundaries and the following project requirements regarding the coastal California gnatcatcher are shown on the construction plans:

No clearing, grubbing, grading, or other construction activities shall occur between March 1 and August 15, the breeding season of the coastal California gnatcatcher, until the following requirements have been met to the satisfaction of the City Manager:

- A. A qualified biologist (possessing a valid Endangered Species Act Section 10(a)(1)(a) Recovery Permit) shall survey those habitat areas within the MHPA that would be subject to construction noise levels exceeding 60 decibels [dB(A)] hourly average for the presence of the coastal California gnatcatcher. Surveys for the coastal California gnatcatcher shall be conducted pursuant to the protocol survey guidelines established by

the U.S. Fish and Wildlife Service within the breeding season prior to the commencement of any construction. If gnatcatchers are present, then the following conditions must be met:

- i. Between March 1 and August 15, no clearing, grubbing, or grading of occupied gnatcatcher habitat shall be permitted. Areas restricted from such activities shall be staked or fenced under the supervision of a qualified biologist; and
- ii. Between March 1 and August 15, no construction activities shall occur within any portion of the site where construction activities would result in noise levels exceeding 60 dB(A) hourly average at the edge of occupied gnatcatcher habitat. An analysis showing that noise generated by construction activities would not exceed 60 dB(A) hourly average at the edge of occupied habitat must be completed by a qualified acoustician (possessing current noise engineer license or registration with monitoring noise level experience with listed animal species) and approved by the City Manager at least two weeks prior to the commencement of construction activities. Prior to the commencement of construction activities during the breeding season, areas restricted from such activities shall be staked or fenced under the supervision of a qualified biologist; or
- iii. At least two weeks prior to the commencement of construction activities, under the direction of a qualified acoustician, noise attenuation measures (e.g., berms, walls) shall be implemented to ensure that noise levels resulting from construction activities will not exceed 60 dB(A) hourly average at the edge of habitat-occupied by the coastal California gnatcatcher. Concurrent with the commencement of construction activities and the construction of necessary noise attenuation facilities, noise monitoring\* shall be conducted at the edge of the occupied habitat area to ensure that noise levels do not exceed 60 dB(A) hourly average. If the noise attenuation techniques implemented are determined to be inadequate by the qualified acoustician or biologist, then the associated construction activities shall cease until such time that adequate noise attenuation is achieved or until the end of the breeding season (August 16).

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

- B. If coastal California gnatcatchers are not detected during the protocol survey, the qualified biologist shall submit substantial evidence to the City Manager and applicable resource agencies which demonstrates whether or not mitigation measures such as noise

walls are necessary between March 1 and August 15 as follows:

- i. If this evidence indicates the potential is high for coastal California gnatcatcher to be present based on historical records or site conditions, then condition A.iii shall be adhered to as specified above.
- ii. If this evidence concludes that no impacts to this species are anticipated, no mitigation measures would be necessary.

## **TRANSPORTATION/CIRCULATION**

**TR-2:** The applicant shall widen and restripe Campus Point Drive from Genesee Avenue to Campus Point Court to a four-lane collector with Class II bike lanes to the satisfaction of the City Engineer prior to occupancy of CP3.

**TR-5:** Prior to the issuance of the first building permit for the applicant shall assure by permit and bond the signalization of the Campus Point Drive/Campus Point Court intersection, to the satisfaction of the City Engineer. Installation of the signal and associated improvements shall be completed and accepted by the City Engineer prior to issuance of the first occupancy permit.

## **BIOLOGICAL RESOURCES**

Nesting Birds/Raptors

**BIO-1:** Due to the moderate to high potential of Cooper's hawk occurrences, in the event construction occurs in or near the MHPA within the breeding season (February 1 to September 15), an avoidance area of 300 feet from any Cooper's hawk nest that occurs within the MHPA shall be required. Additionally, BIO-2 shall be implemented.

Biological Resource Protection During Construction

### **BIO-2:**

#### **I. Prior to Construction**

- A. Biologist Verification** -The owner/permittee shall provide a letter to the City's Mitigation Monitoring Coordination (MMC) section stating that a Project Biologist (Qualified Biologist) as defined in the City of San Diego's Biological Guidelines (2012), has been retained to implement the project's biological monitoring program. The letter shall include the names and contact information of all persons involved in the biological monitoring of the project.
- B. Preconstruction Meeting** - The Qualified Biologist shall attend the preconstruction meeting, discuss the project's biological monitoring program, and arrange to perform any follow up mitigation measures and reporting including site-specific monitoring, restoration or revegetation, and additional fauna/flora surveys/salvage.

- C. Biological Documents** - The Qualified Biologist shall submit all required documentation to MMC verifying that any special mitigation reports including but not limited to, maps, plans, surveys, survey timelines, or buffers are completed or scheduled per City Biology Guidelines, Multiple Species Conservation Program (MSCP), Environmentally Sensitive Lands Ordinance (ESL), project permit conditions; California Environmental Quality Act (CEQA); endangered species acts (ESAs); and/or other local, state or federal requirements.
- D. BCME** - The Qualified Biologist shall present a Biological Construction Mitigation/Monitoring Exhibit (BCME) which includes the biological documents in C above. In addition, include: restoration/revegetation plans, plant salvage/relocation requirements (e.g., coastal cactus wren plant salvage, burrowing owl exclusions, etc.), avian or other wildlife surveys/survey schedules (including general avian nesting and USFWS protocol), timing of surveys, wetland buffers, avian construction avoidance areas/noise buffers/ barriers, other impact avoidance areas, and any subsequent requirements determined by the Qualified Biologist and the City ADD/MMC. The BCME shall include a site plan, written and graphic depiction of the project's biological mitigation/monitoring program, and a schedule. The BCME shall be approved by MMC and referenced in the construction documents.
- E. Avian Protection Requirements** - To avoid any direct impacts to raptors and/or candidate, sensitive, or special status species in the MSCP, 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 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 pre-construction 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 for review and approval and implemented to the satisfaction of the City. The City's MMC Section 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.
- F. Resource Delineation** - Prior to construction activities, the Qualified Biologist shall supervise the placement of orange construction fencing or equivalent along the limits of disturbance adjacent to sensitive biological habitats and verify compliance with any other project conditions as shown on the BCME. This phase

shall include flagging plant specimens and delimiting buffers to protect sensitive biological resources (e.g., habitats/flora & fauna species, including nesting birds) during construction. Appropriate steps/care should be taken to minimize attraction of nest predators to the site.

- G. Education** - Prior to commencement of construction activities, the Qualified Biologist shall meet with the owner/permittee or designee and the construction crew and conduct an on-site educational session regarding the need to avoid impacts outside of the approved construction area and to protect sensitive flora and fauna (e.g., explain the avian and wetland buffers, flag system for removal of invasive species or retention of sensitive plants, and clarify acceptable access routes/methods and staging areas, etc.).

## **II. During Construction**

- A. Monitoring** - All construction (including access/staging areas) shall be restricted to areas previously identified, proposed for development/staging, or previously disturbed as shown on "Exhibit A" and/or the BCME. The Qualified Biologist shall monitor construction activities as needed to ensure that construction activities do not encroach into biologically sensitive areas, or cause other similar damage, and that the work plan has been amended to accommodate any sensitive species located during the pre-construction surveys. In addition, the Qualified Biologist shall document field activity via the Consultant Site Visit Record (CSVR). The CSVR shall be e-mailed to MMC on the 1<sup>st</sup> day of monitoring, the 1<sup>st</sup> week of each month, the last day of monitoring, and immediately in the case of any undocumented condition or discovery.
- B. Subsequent Resource Identification** - The Qualified Biologist shall note/act to prevent any new disturbances to habitat, flora, and/or fauna onsite (e.g., flag plant specimens for avoidance during access, etc.). If active nests or other previously unknown sensitive resources are detected, all project activities that directly impact the resource shall be delayed until species specific local, state or federal regulations have been determined and applied by the Qualified Biologist.

## **III. Post Construction Measures**

- A.** In the event that impacts exceed previously allowed amounts, additional impacts shall be mitigated in accordance with City Biology Guidelines, ESL and MSCP, State CEQA, and other applicable local, state and federal law. The Qualified Biologist shall submit a final BCME/report to the satisfaction of the City ADD/MMC within 30 days of construction completion.

## HISTORICAL RESOURCES (ARCHAEOLOGY)

### HIST-1:

#### I. Prior to Permit Issuance

- A. Entitlements Plan Check
  - 1. Prior to issuance of any construction permits, including but not limited to, the first Grading Permit, Demolition Plans/Permits and Building Plans/Permits or a Notice to Proceed for Subdivisions; 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 applicable construction documents through the plan check process.
- 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 meet the qualifications established in the HRG.
  - 3. Prior to the start of work, the applicant must obtain written 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 Coastal 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, Native American



consultant/monitor (where Native American resources may be impacted), 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  
Prior to the start of any work that requires monitoring, the PI shall submit an Archaeological Monitoring Exhibit (AME) (with verification that the AME has been reviewed and approved by the Native American consultant/monitor when Native American resources may be impacted) 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 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 full-time during all soil disturbing and grading/excavation/trenching activities which could result in impacts to archaeological resources as identified on the AME. **The Construction Manager is responsible for notifying the RE, PI, and MMC of changes to any construction activities such as in the case of a potential safety concern within the area being monitored. In certain circumstances OSHA safety requirements may necessitate modification of the AME.**

2. The Native American consultant/monitor shall determine the extent of their presence during soil disturbing and grading/excavation/trenching activities based on the AME and provide that information to the PI and MMC. If prehistoric resources are encountered during the Native American consultant/monitor's absence, work shall stop and the Discovery Notification Process detailed in Section III.B-C and IV.A-D shall commence.
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 that may reduce or increase the potential for resources to be present.
4. The archaeological and Native American consultant/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.

B. Discovery Notification Process

1. In the event of a discovery, the Archaeological Monitor shall direct the contractor to temporarily divert all soil disturbing activities, including but not limited to digging, trenching, excavating or grading activities in the area of discovery and in the area reasonably suspected to overlay adjacent resources 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.
4. No soil shall be exported off-site until a determination can be made regarding the significance of the resource specifically if Native American resources are encountered.

C. Determination of Significance

1. The PI and Native American consultant/monitor, where Native American resources are discovered 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) which has been reviewed by the Native American consultant/monitor, 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. **Note: If a unique archaeological site is also an historical resource as defined in CEQA, then the limits on the amount(s) that a project applicant may be required to pay to cover mitigation costs as indicated in CEQA Section 21083.2 shall not apply.**

- c. If the 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 no soil shall be exported off-site until a determination can be made regarding the provenance of the human remains; and the following procedures as set forth in CEQA Section 15064.5(e), 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) of the Development Services Department to assist with the discovery notification process.
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 provenance of the remains.
2. The Medical Examiner, in consultation with the PI, will determine the need for a field examination to determine the provenance.
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 CEQA Section 15064.5(e), the California Public Resources 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 will be determined between the MLD and the PI, and, 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, THEN,
  - 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 items associated 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 San Diego Museum of Man for analysis. The decision for internment of the human remains shall be made in consultation with MMC, EAS, the applicant/landowner, any known descendant group, and the San Diego 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 CSVR 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. Discovery of human remains shall always be treated as a significant discovery.
    - c. Potentially Significant Discoveries  
If the PI determines that a potentially significant discovery has been made, the procedures detailed under Section III - During Construction and IV-Discovery of Human Remains 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. **It should be noted that if the PI is unable to submit the Draft Monitoring Report within the allotted 90-day timeframe resulting from delays with analysis, special study results or other complex issues, a schedule shall be submitted to MMC establishing agreed due dates and the provision for submittal of**

**monthly status reports until this measure can be met.**

- 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.
3. When applicable to the situation, the PI shall include written verification from the Native American consultant/monitor indicating that Native American resources were treated in accordance with state law and/or applicable agreements. If the resources were reinterred, verification shall be provided to show what protective measures were taken to ensure no further disturbance occurs in accordance with Section IV – Discovery of Human Remains, Subsection 5.

- 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.

## **PALEONTOLOGICAL RESOURCES**

### **PALEO-1**

#### **I. Prior to Permit Issuance**

- A. Entitlements Plan Check
  - 1. Prior to issuance of any construction permits, including but not limited to, the first Grading Permit, Demolition Plans/Permits and Building Plans/Permits or a Notice to Proceed for Subdivisions, 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 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 paleontological monitoring program, as defined in the City of San Diego Paleontology Guidelines.
  - 2. 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 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 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 paleontologist shall attend any grading/excavation 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 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  
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 such as in the case of a potential safety concern within the area being monitored. In certain**



**circumstances OSHA safety requirements may necessitate modification of the PME.**

2. 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.
3. 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.

**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 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 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 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 CSVR and submit to MMC via fax by 8AM on the next business day.
    - 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 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 on 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 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. 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 Paleontological Guidelines 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 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 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.

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.