

RESOLUTION NUMBER R- 311502

DATE OF FINAL PASSAGE JAN 31 2018

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO CERTIFYING THE ENVIRONMENTAL IMPACT STATEMENT/ENVIRONMENTAL IMPACT REPORT NO. 441044/SCH NO. 2011111075 AND ADOPTING THE FINDINGS AND MITIGATION, MONITORING, AND REPORTING PROGRAM FOR THE VERNAL POOL HABITAT CONSERVATION PLAN.

WHEREAS, on January 22, 2018, the City Council of the City of San Diego held a public hearing for the purpose of considering adoption of the Vernal Pool Habitat Conservation Plan and other actions associated with adoption of the 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 City Council considered the issues discussed in Environmental Impact Statement/Environmental Impact Report No. 441044/SCH No. 2011111075 (Report) prepared for this Project; NOW, THEREFORE,

BE IT RESOLVED, by the City Council of the City of San Diego, 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.

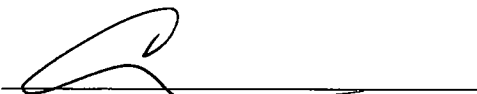
BE IT FURTHER RESOLVED, that pursuant to CEQA Section 21081 and State CEQA Guidelines Section 15091, the City Council hereby adopts the Findings made with respect to the Project, which are attached hereto as Exhibit A.

BE IT FURTHER RESOLVED, that pursuant to 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 City Clerk, 202 C Street, San Diego, CA 92101.

APPROVED: MARA W. ELLIOTT, City Attorney

By



Corrine L. Neuffer
Deputy City Attorney

CLN:als
01/11/2018
Or.Dept: Planning
Doc. No.: 1607991

ATTACHMENT(S): Exhibit A, Findings
Exhibit B, Mitigation, Monitoring, and Report Program

I certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of JAN 22 2018.

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk

Approved: 1/31/18
(date)


KEVIN L. FAULCONER, Mayor

Vetoed: _____
(date)

KEVIN L. FAULCONER, Mayor

EXHIBIT A

**Candidate Findings
Regarding the Final Environmental Impact Report
for the Vernal Pool Habitat Conservation Plan**

Project Number 441044

SCH# 201111075

October 22, 2017

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I. INTRODUCTION

The following Candidate Findings are made for the Vernal Pool Habitat Conservation Plan and associated discretionary actions (hereinafter referred to as the "VPHCP" or "Project"). The environmental effects of the Project are addressed in the Final Environmental Impact Report ("FEIR") dated October 2, 2017 (State Clearinghouse No. 2011111075), which is incorporated by reference herein.

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

- (a) No public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding. The possible findings are:
 - 1. Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR.
 - 2. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
 - 3. Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.
- (b) The findings required by subdivision (a) shall be supported by substantial evidence in the record.
- (c) The finding in subdivision (a)(2) shall not be made if the agency making the finding has concurrent jurisdiction with another agency to deal with identified feasible mitigation measures or alternatives. The finding in subdivision (a)(3) shall describe the specific reasons for rejecting identified mitigation measures and project alternatives.

- (d) When making the findings required in subdivision (a)(1), the agency shall also adopt a program for reporting on or monitoring the changes which it has either required in the project or made a condition of approval to avoid or substantially lessen significant environmental effects. These measures must be fully enforceable through permit conditions, agreements, or other measures.
- (e) The public agency shall specify the location and custodian of the documents or other materials which constitute the record of the proceedings upon which its decision is based.
- (f) A statement made pursuant to Section 15093 does not substitute for the findings required by this section.

These requirements also exist in Section 21081 of the CEQA statute. The “changes or alterations” referred to in Section 15091(a)(1) above, that are required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects of the project, may include a wide variety of measures or actions as set forth in Guidelines Section 15370, including:

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

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

- (a) CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits, including region- wide or statewide environmental benefits, of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits, including region- wide or statewide environmental benefits, of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered “acceptable.”

- (b) When the lead agency approves a project which will result in the occurrence of significant effects which are identified in the final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the final EIR and/or other information in the record. The statement of overriding considerations shall be supported by substantial evidence in the record.
- (c) If an agency makes a statement of overriding considerations, the statement should be included in the record of the project approval and should be mentioned in the notice of determination. This statement does not substitute for, and shall be in addition to, findings required pursuant to Section 15091.

Having received, reviewed and considered the FEIR for the VPHCP, as well as all other information in the record of proceedings on this matter, the following Findings of Fact (Findings) are made by the City of San Diego (City) in its capacity as the CEQA Lead Agency. These Findings set forth the environmental basis for current and subsequent discretionary actions to be undertaken by the City and responsible agencies for the implementation of the project.

II PROJECTSUMMARY

II.I Project Location

The VPHCP Plan Area (i.e., the area within the City's jurisdiction for which the VPHCP applies) encompasses 206,124 acres in the southwestern portion of San Diego County. The VPHCP Plan Area is the geographical extent of land that would be included in the VPHCP and for which the protections provided under the VPHCP are afforded to the seven covered species and for which the Section 10 permit applies. The VPHCP Plan Area includes lands subject to the City's jurisdiction within the jurisdictional boundary of the City, as well as three areas owned by the City's Public Utilities Department in the unincorporated portion of San Diego County. The VPHCP Plan Area also includes preserved lands within San Diego that are under the ownership of U.S. Fish and Wildlife Service (USFWS) or California Department of Fish and Wildlife (CDFW). The VPHCP Plan Area's extent is, by design, the same area covered by the City's Multiple Species Conservation Program (MSCP) Subarea Plan (SAP), and includes lands inside and outside the City's existing Multi-Habitat Planning Area (MHPA).

II.II Project Background

The development of the VPHCP is a result of decades of combined local, state, and federal discretionary actions and permits associated with vernal pool conservation in the city. In 1998, the City's SAP was subject to a lawsuit regarding the seven species included for coverage in the VPHCP. As a response to the lawsuit, in 2006, the Ninth Circuit Courts of Appeals prohibited the City from permitting projects that would impact the seven listed vernal pool species under the City's SAP. In October of 2009, the City and USFWS entered into a Planning Agreement for the development of the VPHCP. After almost 2 years of mediation, the City decided in 2010 to relinquish federal coverage of these seven species under the City's SAP, which rendered the

lawsuit moot and the Court vacated the injunction.

To obtain an incidental take permit (ITP) under Section 10(a)(1)(B) of FESA and to address the Court's concerns about conservation of the seven vernal pool species in San Diego, the City has developed the VPHCP. The VPHCP was been developed through a comprehensive planning approach to preserve the seven listed vernal pool species and the vernal pools they occupy within the City's jurisdiction. The VPHCP proposes to create an expanded preserve for the conservation of vernal pools and covered species as well as a management and monitoring plan, consistent with the City's SAP Framework Management Plan. Funding for the Project has been provided by USFWS and administered through CDFW. The City's state Natural Community Conservation Plan (NCCP) permit is still valid and covers take/impacts to and conservation of vernal pool habitat of the seven vernal pool species addressed in this VPHCP.

II.III Project Description and Purpose

The VPHCP is a conservation plan for vernal pools and seven threatened and endangered vernal pool species (referred to as the covered species herein) that do not currently have federal coverage under the City's MSCP SAP. The VPHCP would be compatible with, and would expand upon, the City's existing MSCP SAP to conserve additional lands with vernal pools that are occupied with threatened and endangered vernal pool species.

Once fully implemented, the VPHCP would expand the City's existing MHPA by adding approximately 275 acres of lands with valuable vernal pools resources. This includes adding approximately 191 acres of lands to the MHPA that were not previously conserved, as well as incorporating 84 acres of previously conserved lands into the MHPA boundary. The VPHCP would conserve an additional eight vernal pool complexes within the Plan Area, and conserve an additional 226 pools (approximately 9% more), totaling 2.8 acres of basin area, over what is currently conserved under the existing conservation.

The City's planned MHPA totals 56,831 acres, with 52,727 acres (90%) targeted for preservation (approximately 30% of the planned regional preserve). Implementation of the VPHCP would add lands containing vernal pool resources to the MHPA. Once adopted, vernal pool lands within the MHPA would be subject to the provisions of the VPHCP, in addition to the City's MSCP SAP and other existing land use and biological resource plans, policies, and regulations, as applicable.

The lands within the VPHCP Plan Area contain valuable vernal pool resources. These vernal pool resources contain species, including the seven listed species proposed for coverage that are protected under California Endangered Species Act (CESA) and/or FESA. The purpose of the VPHCP is to preserve the network of vernal pool habitat within this matrix of open space; protect the biodiversity of these unique wetlands; and define a formal strategy for the long-term conservation, management, and monitoring of vernal pools and associated species. A Habitat Conservation Plan (HCP) is required under FESA to accompany an application for an ITP when associated with nonfederal activities. Under FESA, an ITP is required when activities may result

In take of threatened or endangered wildlife. The VPHCP also must ensure adequate minimization and mitigation for the effects of the authorized incidental take of state and federal protected vernal pool resources within the City. The VPHCP includes a Mitigation Framework that outlines required avoidance, minimization, and compensatory mitigation measures.

The Project includes approval and adoption of the Vernal Pool Habitat Conservation Plan and associated amendments to the City Land Development Code, the Land Development Manual Biology Guidelines, General Plan, Otay Mesa Community Plan, and Kearny Mesa Community Plan (the discretionary actions under CEQA). The adoption of the Vernal Pool Habitat Conservation Plan allows for the issuance of a City-wide ITP from USFWS under Section 10(a) of FESA (i.e., proposed action under NEPA) for impact to/incidental take of the following seven listed species (two crustaceans and five plants):

- San Diego fairy shrimp
- Riverside fairy shrimp
- San Diego button celery
- Spreading navarretia
- San Diego mesa mint
- California Orcutt grass
- Otay Mesa mint

The VPHCP would provide additional conservation (beyond existing conservation) for the following covered species:

- San Diego mesa mint – five additional occupied pools conserved (1% increase)
- San Diego button-celery – three additional occupied pools conserved (1% increase)
- Riverside fairy shrimp – three additional occupied pools conserved (2% increase)
- San Diego fairy shrimp – 30 additional occupied pools conserved (6% increase)

The purpose of the VPHCP is to preserve the network of vernal pool habitat within this matrix of open space, protect the biodiversity of these unique wetlands, and define a formal strategy for their long-term conservation, management, and monitoring.

The specific conservation goals of the VPHCP serve as the CEQA project objectives and are as follows:

1. Provide for the conservation and management of covered species addressed by the VPHCP;
2. Preserve vernal pool resources through conservation partnerships between federal, state, local agencies, and private development partnerships;
3. Allow for appropriate and compatible economic growth and development that is consistent with applicable laws;
4. Provide a basis for permits necessary for lawful incidental take of vernal pool covered species;

5. Provide a comprehensive means to coordinate and standardize mitigation and compensation requirements of FESA, CESA, CEQA, and NEPA within the VPHCP Plan Area;
6. Provide a more efficient project review process that results in greater conservation values than project-by-project, species-by-species review; and
7. Provide clear expectations and regulatory predictability for persons carrying out covered activities within the VPHCP Plan Area.

III SUMMARY OF IMPACTS

As described in Chapter 5.0 of the FEIR, the approval of the Project, which includes adoption of the Vernal Pool Habitat Conservation Plan document and associated amendments to the City's Land Development Code, land use planning policies and existing state MSCP permit (as necessary) to maintain state coverage for vernal pool habitat and species, as well as issuance of an ITP by USFWS, would not result in environmental impacts. However, implementation of projects and activities covered under the VPHCP have the potential for impacts to environmental resources and these future actions would be subject to the required measures of the VPHCP Mitigation Framework.

The FEIR concludes that the Project will have **no potentially significant impacts** and require no mitigation measures with respect to the following issues:

- Agricultural Resources
- Energy
- Geologic Conditions
- Health and Safety
- Historical Resources
 - *Religious or sacred uses*
- Mineral Resources
- Noise
- Paleontological Resources
- Population and Housing
- Public Services and Facilities
- Public Utilities
- Recreational Resources
- Transportation/Circulation/Parking
- Visual Effects and Neighborhood Character

No mitigation measures are necessary to for the following impacts that are **less than significant**:

- **Land Use**
 - *Community or General Plan consistency*
 - *Land use designation or intensity consistency*
 - *Farmland conversion*
 - *Adopted plan consistency*
 - *Airport Land Use Compatibility Plan (ALUCP) consistency*
 - *Environmental plans consistency (NCCP (MSCP) permit)*
 - *Floodplain regulations consistency*

- **Biological Resources**
 - *Candidate, sensitive, or special status species*
 - *Tier I Habitats, Tier II Habitats, Tier IIIA Habitats or Tier IIIB Habitats*
 - *Wetlands (including, but not limited to, marsh, vernal pool, riparian, etc.)*
 - *Wildlife movement/wildlife corridors/migratory wildlife*
 - *Habitat Conservation Plan, Natural Conservation Community Plan or other habitat conservation plan consistency*
 - *MHPA land use adjacency and edge effects*
 - *Local biological resources policies or ordinances consistency*
 - *Invasive species*
 - *A biological condition, policy, or natural resource management plan that cannot persist due to anticipated climate change*

- **Air Quality**
 - *Air quality plan consistency*
 - *Air quality standard violation or contribution*
 - *Criteria pollutants*
 - *Sensitive receptors*
 - *Exceed 100 pounds per day of PM₁₀ dust; or*
 - *Objectionable odors*

- **Greenhouse Gas (GHG) Emissions**
 - *Generation of greenhouse gas emissions*
 - *Consistency with applicable greenhouse gas plans, policies, or regulations*

- **Hydrology and Water Quality**
 - *Increased flooding on- or off-site*
 - *Aquifer recharge or extraction*
 - *Drainage into a sensitive water body or stream*
 - *Result in modifications to existing drainage patterns so there may be significant impacts on environmental resources.*

- *Result in substantial increase in pollutant discharge to receiving waters and increase discharge of identified pollutants to an already impaired water body; and/or*
- *Impact local and regional water quality, including groundwater.*
- **Environmental Justice**
 - *Disproportionate human health and environmental safety impact*
 - *Disproportionate land use impact*

Potentially **significant impacts of the proposed project will be mitigated** to below a level of significance with respect to the following issues:

- **Historical Resources**
 - *Prehistoric or historic building, structure, object, or sites*
 - *Human remains*

The FEIR did not identify any issues that could **not be feasibly mitigated to below a level of significance**.

IV FINDINGS REGARDING SIGNIFICANT IMPACTS

IV.I Findings Regarding Impacts that are Less Than Significant with Mitigation Incorporated (CEQA §21081(a)(1) and CEQA Guidelines §15091(a)(1))

The City, having independently reviewed and considered the information contained in the FEIR and the public record for the project, finds, pursuant to Public Resource Code §21081(a)(1) and State CEQA Guidelines §15091(a)(1), that changes or alterations have been required in, or incorporated into, the Project which would mitigate or avoid the significant effects on the environment related to:

- **Historical Resources (Issues 1 and 3)**
 - *Prehistoric or historic building, structure, object, or sites*
 - *Human remains*

IV.I.I Historical and Tribal Cultural Resources

Significant Effect

Historical and Tribal Cultural Resources and unknown human remains would potentially be affected by ground-disturbing activities related to restoration undertaken as part of the VPHCP (i.e., topographical recontouring).

Facts in Support of Finding

Mitigation requires that prior to the issuance of any permit for future development implementation in accordance with the VPHCP for vernal pool complexes with moderate cultural sensitivity levels, the City take defined steps to determine (1) the presence of archaeological resources and (2) the appropriate mitigation for any significant resources that may be impacted by a development activity. Steps to complete the mitigation requirements are fully detailed in Mitigation Measure HIST-1 as provided in Section 5.5.5 of the FEIR and the MMRP for the Project. Mitigation includes: Initial Determination to determine the likely hood for a project site to contain historical resources; Step 1 to prepare an historic evaluation if there is evidence the site contains historical resources; Step 2 to initiate consultation with identified California Indian tribes pursuant to the provisions in Public Resources Code Section 21080.3.1 and 21080.3.2., in accordance with Assembly Bill 52 where a recorded archaeological site or Tribal Cultural Resource (as defined in the Public Resources Code) is identified and possible implementation an archaeological testing program; Step 3 to determine if resource avoidance is feasible through redesign, if other feasible measures are possible, or if a Research Design and Data Recovery Program is required; Step 4 to complete all required Archaeological Resource Management reports; and Step 5 to properly and permanently curate all cultural materials and preparation of a Collections Management Plan for all prehistoric/historic deposits encountered during monitoring as well as disposition of human remains and burial-related artifacts that cannot be avoided or are inadvertently discovered as governed by state and federal law.

Rationale and Conclusion

Mitigation Measure HIST-1 would require that ground-disturbing activities related to restoration undertaken as part of the VPHCP at vernal pool complexes with moderate cultural sensitivity levels be evaluated for the potential to affect sensitive historical resources and the appropriate steps be taken to avoid, minimize, and/or properly recover, record, and curate such resources in accordance with CEQA and the City's Historical Resources Regulations, including required Native American consultation and involvement. Also, the mitigation requires proper disposition of human remains, including adherence to local, state, and federal regulations addressing the handling and consultation related to the discovery of unknown human remains. With implementation of Mitigation Measure HIST-1, the overall critical information regarding regional history, archaeological resources, and tribal historical resources would be preserved and/or documented for future study and use. This mitigation would reduce potentially significant impacts to historical resources, including human remains, to below a level of significance.

Implementation of this mitigation would be assured through incorporation into the VPHCP's MMRP.

IV.II Findings Regarding Mitigation Measures Which are the Responsibility of Another Agency (CEQA §21081(a)(2)) and CEQA Guidelines §15091(a)(2))

The City, having reviewed and considered the information contained in the FEIR and the Record of Proceedings, finds pursuant to CEQA §21081(a)(2) and CEQA Guidelines §15091(a)(2) that there are no additional changes or alterations which could reduce significant impacts that are within the responsibility and jurisdiction of another public agency.

IV.III Findings Regarding Infeasible Mitigation Measures and Alternatives (CEQA §21081(a)(3) and CEQA Guidelines §15091(a)(3))

As detailed in Section IV.I.I, the significant impact identified in the FEIR regarding the disturbance historical resources and unknown human remains by activities related to restoration undertaken as part of the VPHCP would be fully mitigated through the required Mitigation Measures HIST-1. There are no additional feasible mitigation measures that could further reduce or minimize the potential impact.

IV.IV Findings Regarding Alternatives (CEQA § 21081(a)(3) and CEQA Guidelines §15091(a)(3))

The City, having reviewed and considered the information contained in the FEIR and the Record of Proceedings, findings have been made above that all potential significant effects of the Project on the environment will be mitigated to below a level of significance. Therefore, pursuant to Public Resource Code §21081 and State CEQA Guidelines §15091, findings with respect to the alternatives identified in the FEIR are not required.

EXHIBIT B
MITIGATION, MONITORING, AND REPORTING PROGRAM (MMRP)
VERNAL POOL HABITAT CONSERVATION PLAN (VPHCP)
ENVIRONMENTAL IMPACT REPORT / ENVIRONMENTAL IMPACT STATEMENT
PROJECT No. 441044 / SCH No. 2011111075

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 Planning Department, 1010 Second Avenue, Suite 1200, East Tower, San Diego, CA, 92101. All mitigation measures contained in the Final Program Environmental Impact Report / Environmental Impact Statement Project No. 441044, SCH No. 2011111075 are further described below. A record of the MMRP will be maintained at the City.

In addition to the mitigation measures required specifically by the EIR/EIS, the VPHCP contains a Mitigation Framework that requires measures to avoid or minimize adverse effects to vernal pool resources resulting from covered projects and covered activities. The Mitigation Framework also identifies compensatory mitigation for impacts to vernal pools and covered species resulting from covered projects and covered activities. The Mitigation Framework is considered part of the Project and the full text as written in the VPHCP is included in this MMRP to ensure implementation and enforceability of the required measures.

The MMRP table below summarizes the potentially significant Project impacts and lists the associated mitigation measures and monitoring efforts, timing, and responsible party necessary to ensure that the measures are properly implemented. All Project-specific mitigation measures identified in the EIR/EIS are stated herein.

Table 11-1

Mitigation Monitoring and Reporting Program

Mitigation Measure Number	Mitigation Measure	Timeframe of Mitigation	Monitoring, Enforcement, and Reporting Responsibility
Historical and Tribal Cultural Resources			
HIST-1	<p>Mitigation Measure HIST-1: Prior to issuance of any permit for a future development project implemented in accordance with the VPHCP Plan area that could directly affect an archaeological or Tribal Cultural Resource, the City shall require the following steps be taken to determine (1) the presence of archaeological resources and (2) the appropriate mitigation for any significant resources that may be impacted by a development activity. Sites may include residential and commercial properties, privies, trash pits, building foundations, and industrial features representing the contributions of people from diverse socioeconomic and ethnic backgrounds. Sites may also include resources associated with prehistoric Native American activities.</p> <p>INITIAL DETERMINATION The environmental analyst will determine the likelihood for a project site to contain historical resources by reviewing site photographs and existing historic information (e.g., Archaeological Sensitivity Maps; the Archaeological Map Book; and the City’s “Historical Inventory of Important Architects, Structures, and People in San Diego”), and may conduct a site visit. If there is any evidence that the site contains archaeological or Tribal Cultural Resources, then an archaeological evaluation consistent with the City Guidelines would be required. All individuals conducting any phase of the archaeological evaluation program must meet professional qualifications in accordance with the City Guidelines.</p> <p>STEP 1: Based on the results of the Initial Determination, if there is evidence that the site contains historical resources, preparation of a historic evaluation is</p>	Prior to and/or During Construction	City Mitigation Monitoring Coordination Section; Principal Investigator

Mitigation Measure Number	Mitigation Measure	Timeframe of Mitigation	Monitoring, Enforcement, and Reporting Responsibility
	<p>required. The evaluation report would generally include background research, field survey, archaeological testing, and analysis. Before actual field reconnaissance would occur, background research is required, which includes a records search at the SCIC at San Diego State University and the San Diego Museum of Man. A review of the Sacred Lands File maintained by the Native American Heritage Commission must also be conducted at this time. Information about existing archaeological collections should also be obtained from the San Diego Archaeological Center and any tribal repositories or museums.</p> <p>In addition to the records searches mentioned above, background information may include examining primary sources of historical information (e.g., deeds and wills), secondary sources (e.g., local histories and genealogies), Sanborn Fire Maps, and historic cartographic and aerial photograph sources; reviewing previous archaeological research in similar areas, models that predict site distribution, and archaeological, architectural, and historical site inventory files; and conducting informant interviews. The results of the background information would be included in the evaluation report.</p> <p>Once the background research is complete, a field reconnaissance must be conducted by individuals whose qualifications meet the standards outlined in the City Guidelines. Consultants are encouraged to employ innovative survey techniques when conducting enhanced reconnaissance, including remote sensing, ground-penetrating radar, and other soil resistivity techniques as determined on a case-by-case basis. Native American participation is required for field surveys when there is likelihood that the project site contains prehistoric archaeological resources or traditional cultural properties. If, through background research and field surveys, historical resources are identified, then an evaluation of significance, based on the City's</p>		

Mitigation Measure Number	Mitigation Measure	Timeframe of Mitigation	Monitoring, Enforcement, and Reporting Responsibility
	<p>Guidelines must be performed by a qualified archaeologist.</p> <p>STEP 2: Where a recorded archaeological site or Tribal Cultural Resource (as defined in the Public Resources Code) is identified, the City would be required to initiate consultation with identified California Indian tribes pursuant to the provisions in Public Resources Code Section 21080.3.1 and 21080.3.2., in accordance with Assembly Bill 52. It should be noted that during the consultation process, tribal representative(s) will be involved in making recommendations regarding the significance of a Tribal Cultural Resource which also could be a prehistoric archaeological site. A testing program may be recommended which requires reevaluation of the proposed project in consultation with the Native American representative, which could result in a combination of project redesign to avoid and/or preserve significant resources and mitigation in the form of data recovery and monitoring (as recommended by the qualified archaeologist and Native American representative). The archaeological testing program, if required shall include evaluating the horizontal and vertical dimensions of a site; the chronological placement, site function, artifact/ecofact density and variability, and presence/absence of subsurface features; and research potential. A thorough discussion of testing methodologies, including surface and subsurface investigations, can be found in the City Guidelines. Results of the consultation process will determine the nature and extent of any additional archeological evaluation of changes to the proposed project.</p> <p>The results from the testing program will be evaluated against the Significance Thresholds found in the City Guidelines. If significant historical resources are identified within the APE, the site may be eligible for local designation.</p> <p>However, this process would not proceed until such time that the tribal consultation has been concluded</p>		

Mitigation Measure Number	Mitigation Measure	Timeframe of Mitigation	Monitoring, Enforcement, and Reporting Responsibility
	<p>and an agreement is reached (or not reached) regarding significance of the resource and appropriate mitigation measures are identified. When appropriate, the final testing report must be submitted to Historical Resources Board staff for eligibility determination and possible designation. An agreement on the appropriate form of mitigation is required prior to distribution of a draft environmental document. If no significant resources are found, and site conditions are such that there is no potential for further discoveries, then no further action is required. Resources found to be nonsignificant as a result of a survey and/or assessment will require no further work beyond documentation of the resources on the appropriate Department of Parks and Recreation (DPR) site forms, and inclusion of results in the survey and/or assessment report. If no significant resources are found, but results of the initial evaluation and testing phase indicates there is still a potential for resources to be present in portions of the property that could not be tested, then mitigation monitoring is required.</p> <p>STEP 3: Preferred mitigation for historical resources is to avoid the resource through project redesign. If the resource cannot be entirely avoided, all prudent and feasible measures to minimize harm shall be taken. For archaeological resources where preservation is not an option, a Research Design and Data Recovery Program is required, which includes a Collections Management Plan for review and approval. When Tribal Cultural Resources are present and cannot be avoided, appropriate and feasible mitigation will be determined through the tribal consultation process and incorporated into the overall data recovery program where applicable, or project specific mitigation measures shall be developed and incorporated into the project. The data recovery program will also incorporate any agreements regarding curation or repatriation of Tribal Cultural Resources as defined during the consultation process. The data recovery program shall be based</p>		

Mitigation Measure Number	Mitigation Measure	Timeframe of Mitigation	Monitoring, Enforcement, and Reporting Responsibility
	<p>on a written research design and is subject to the provisions as outlined in CEQA Section 21083.2. The data recovery program must be reviewed and approved by the City's Environmental Analyst prior to distribution of a draft CEQA document and shall include the results of the tribal consultation process. Archaeological monitoring may be required during building demolition and/or construction grading when significant resources are known or suspected to be present on a site, but cannot be recovered prior to grading due to obstructions such as existing development or dense vegetation.</p> <p>A Native American observer must be retained for all subsurface investigations, including geotechnical testing and other ground-disturbing activities, whenever a Native American Traditional Cultural Property, Tribal Cultural Resource, or archaeological site located on City property or within the APE of a City project would be impacted. In the event that human remains are encountered during data recovery and/or a monitoring program, the provisions of PRC Section 5097 must be followed. These provisions will be outlined in the Mitigation Monitoring and Reporting Program (MMRP) included in a subsequent project-specific environmental document. The Native American monitor shall be consulted during the preparation of the written report, at which time he/she may express concerns about the treatment of sensitive resources. If the Native American community requests participation of an observer for subsurface investigations on private property, the request shall be honored.</p> <p>STEP 4: Archaeological Resource Management reports shall be prepared by qualified professionals as determined by the criteria set forth in Appendix A of the City Guidelines. The discipline shall be tailored to the resource under evaluation. In cases involving complex resources, such as Traditional Cultural Properties, Tribal Cultural Resources, rural</p>		

Mitigation Measure Number	Mitigation Measure	Timeframe of Mitigation	Monitoring, Enforcement, and Reporting Responsibility
	<p>landscape districts, sites involving a combination of prehistoric and historic archaeology, or historic districts, a team of experts will be necessary for a complete evaluation.</p> <p>Specific types of historical resource reports are required to document the methods (see Section III of the City Guidelines) used to determine the presence or absence of historical resources; to identify the potential impacts from proposed development and evaluate the significance of any identified historical resources; to document the appropriate curation of archaeological collections (e.g., collected materials and the associated records); in the case of potentially significant impacts to historical resources, to recommend appropriate mitigation measures that would reduce the impacts to below a level of significance; and to document the results of mitigation and monitoring programs, if required.</p> <p>Archaeological Resource Management reports shall be prepared in conformance with the California Office of Historic Preservation's Archaeological Resource Management Reports: Recommended Contents and Format (see Appendix C of the City Guidelines), which will be used by Environmental staff in the review of archaeological resource reports. Consultants must ensure that archaeological resource reports are prepared consistent with this checklist. This requirement will standardize the content and format of all archaeological technical reports submitted to the City. A confidential appendix must be submitted (under separate cover) with historical resources reports for archaeological sites, Traditional Cultural Properties or Tribal Cultural Resources containing the confidential resource maps and records search information gathered during the background study. In addition, a Collections Management Plan shall be prepared for projects that result in a substantial collection of artifacts, and must address the management and research goals of the project and the types of materials to be collected and curated based on a</p>		

Mitigation Measure Number	Mitigation Measure	Timeframe of Mitigation	Monitoring, Enforcement, and Reporting Responsibility
	<p>sampling strategy that is acceptable to the City. Appendix D of the City Guidelines (Historical Resources Report Form) may be used when no archaeological resources were identified within the project boundaries.</p> <p>STEP 5: For Archaeological Resources: All cultural materials, including original maps, field notes, non-burial-related artifacts, catalog information, and final reports recovered during public and/or private development projects, must be permanently curated with an appropriate institution, one that has the proper facilities and staffing for ensuring research access to the collections consistent with state and federal standards, unless otherwise determined during the tribal consultation process. In the event that a prehistoric and/or historic deposit is encountered during construction monitoring, a Collections Management Plan would be required in accordance with the project MMRP. The disposition of human remains and burial-related artifacts that cannot be avoided or are inadvertently discovered is governed by state (i.e., AB 2641 and California Native American Graves Protection and Repatriation Act of 2001) and federal (i.e., Native American Graves Protection and Repatriation Act) law, and must be treated in a dignified and culturally appropriate manner with respect for the deceased individual(s) and their descendants. Any human bones and associated grave goods of Native American origin shall be turned over to the appropriate Native American group for repatriation.</p> <p>Arrangements for long-term curation for all recovered artifacts must be established between the applicant/property owner and the consultant prior to the initiation of the field reconnaissance. When Tribal Cultural Resources are present, or non-burial-related artifacts associated with Tribal Cultural Resources are suspected to be recovered, the treatment and disposition of such resources will be determined during the tribal consultation process.</p>		

Mitigation Measure Number	Mitigation Measure	Timeframe of Mitigation	Monitoring, Enforcement, and Reporting Responsibility
	This information must then be included in the archaeological survey, testing, and/or data recovery report submitted to the City for review and approval. Curation must be accomplished in accordance with the California State Historic Resources Commission's Guidelines for the Curation of Archaeological Collection (dated May 7, 1993) and, if federal funding is involved, 36 CFR 79 of the Federal Register. Additional information regarding curation is provided in Section II of the City Guidelines.		

MITIGATION FRAMEWORK

The VPHCP Mitigation Framework included below, which would be adopted as part of the VPHCP under the Project, would be implemented on a project-by-project basis for covered projects and covered activities, as well as future development that is consistent with the provisions of the VPHCP.

General Avoidance and Minimization Measures

As required by FESA, the VPHCP includes measures to avoid or minimize adverse effects to vernal pools and the taking of covered species.

In accordance with the City's ESL regulations, projects within the MHPA would require a wetland deviation. For those projects that would use the Essential Public Project and Economic Viability Options, avoidance must be considered first. If avoidance is not feasible, then impacts must be minimized to the maximum extent practicable. Under the Biologically Superior Option, impacts to vernal pools may be considered if the resources are of a low quality, and through project design and/or mitigation a biologically superior project would result. An example of this situation would be the loss of an isolated pool with fairy shrimp outside of the MPHA with mitigation occurring within the MPHA. This would increase the viability and conservation within an area that has been determined to contain significant vernal pool resources (i.e., MHPA).

Indirect impacts to conserved vernal pools will be minimized through the City's existing discretionary permit review process, which requires development projects adjacent to the Preserve or MHPA to comply with existing Land Use Adjacency Guidelines (see Section 1.4.3 of the MSCP SAP and Section 10.4 of the MSCP Implementing Agreement) and as described below. Areas designated for conservation and described in this chapter include substantial amounts of high-quality habitat for covered species and vernal pool habitat. Covered activities that result in permanent impacts are anticipated to occur primarily in areas with low-quality

habitat. The majority of vernal pool preservation would be concentrated within the MHPA away from covered activities.

General avoidance and minimization measures for covered projects and covered activities required in the VPHCP are as follows:

1. Any development adjacent to the MHPA shall be constructed to slope away from the extant pools to be avoided, to ensure that runoff from the project does not flow into the pools.
2. Covered projects shall require temporary fencing (with silt barriers) of the limits of project impacts (including construction staging areas and access routes) to prevent additional vernal pool impacts and prevent the spread of silt from the construction zone into adjacent vernal pools. Fencing shall be installed in a manner that does not impact habitats to be avoided. Final construction plans shall include photographs that show the fenced limits of impact and all areas of vernal pools to be impacted or avoided. If work inadvertently occurs beyond the fenced or demarcated limits of impact, all work shall cease until the problem has been remedied to the satisfaction of the City. Temporary construction fencing shall be removed upon project completion.
3. Impacts from fugitive dust that may occur during construction grading shall be avoided and minimized through watering and other appropriate measures.
4. A qualified monitoring biologist that has been approved by the City shall be on-site during project construction activities to ensure compliance with all mitigation measures identified in the CEQA environmental document. The biologist shall be knowledgeable of vernal pool species biology and ecology. The biologist shall perform the following duties:
 - a. Oversee installation of and inspect the fencing and erosion control measures within or upslope of vernal pool restoration and/or preservation areas a minimum of once per week and daily during all rain events to ensure that any breaks in the fence or erosion control measures are repaired immediately.
 - b. Periodically monitor the work area to ensure that work activities do not generate excessive amounts of dust.
 - c. Train all contractors and construction personnel on the biological resources associated with this project and ensure that training is implemented by construction personnel. At a minimum, training shall include (1) the purpose for resource protection; (2) a description of the vernal pool species and their habitat(s); (3) the conservation measures that must be implemented during project construction to conserve the vernal pool species, including strictly limiting activities, vehicles, equipment, and construction materials to the fenced project footprint to avoid sensitive resource areas in the field (i.e., avoided areas delineated on maps or on the project site by fencing); (4) environmentally

responsible construction practices as outlined in measures 5, 6, and 7; (5) the protocol to resolve conflicts that may arise at any time during the construction process; and (6) the general provisions of the project's mitigation monitoring and reporting program (MMRP), the need to adhere to the provisions of FESA, and the penalties associated with violating FESA.

- d. Halt work, if necessary, and confer with the City to ensure the proper implementation of species and habitat protection measures. The biologist shall report any violation to the City within 24 hours of its occurrence.
 - e. Submit regular (e.g., weekly) letter reports to the City during project construction and a final report following completion of construction. The final report shall include as-built construction drawings with an overlay of habitat that was impacted and avoided, photographs of habitat areas that were avoided, and other relevant summary information documenting that authorized impacts were not exceeded and that general compliance with all conservation measures was achieved.
5. The following conditions shall be implemented during project construction:
- a. Employees shall strictly limit their activities, vehicles, equipment, and construction materials to the fenced project footprint.
 - b. The project site shall be kept as clean of debris as possible. All food-related trash items shall be enclosed in sealed containers and regularly removed from the site.
 - c. Disposal or temporary placement of excess fill, brush, or other debris shall be limited to areas within the fenced project footprint.
6. All equipment maintenance, staging, parking, and dispensing of fuel, oil, coolant, or any other such activities shall occur in designated areas within the fenced project impact limits. These designated areas shall be located in previously compacted and disturbed areas to the maximum extent practicable in such a manner as to prevent any runoff from entering the vernal pools or their watersheds, and shall be shown on the construction plans. Fueling of equipment shall take place within existing paved areas greater than 100 feet from the vernal pools or their watersheds. Contractor equipment shall be checked for leaks prior to operation and repaired as necessary. A spill kit for each piece of construction equipment shall be on-site and must be used in the event of a spill. "No-fueling zones" shall be designated on construction plans.
7. Grading activities immediately adjacent to vernal pools shall be timed to avoid wet weather to minimize potential impacts (e.g., siltation) to the vernal pools unless the area to be graded is at an elevation below the pools. To achieve this goal, grading adjacent to avoided pools shall comply with the following:

- a. Grading shall occur only when the soil is dry to the touch both at the surface and 1 inch below. A visual check for color differences (i.e., darker soil indicating moisture) in the soil between the surface and 1 inch below indicates the soil is dry.
 - b. After a rain of greater than 0.2 inch, grading shall occur only after the soil surface has dried sufficiently as described above, and no sooner than 2 days (48 hours) after the rain event ends.
 - c. To prevent erosion and siltation from storm water runoff due to unexpected rains, best management practices (BMPs) (e.g., silt fences) shall be implemented as needed during grading.
 - d. If rain occurs during grading, work shall stop and resume only after soils are dry, as described above.
 - e. Grading shall be done in a manner to prevent runoff from entering preserved vernal pools.
 - f. If necessary, water spraying will be conducted at a level sufficient to control fugitive dust but not to cause runoff into vernal pools.
 - g. If mechanized grading is necessary, grading will be performed in a manner to minimize soil compaction (i.e., use the smallest type of equipment needed to feasibly accomplish the work).
8. Prior to project construction, topsoil shall be salvaged from the impacted vernal pools or road ruts with fairy shrimp on-site consistent with the requirements of the approved restoration plan (e.g., free of versatile fairy shrimp [*Branchinecta lindahli*]). Vernal pool soil (inoculum) shall be collected when dry to avoid damaging or destroying fairy shrimp cysts and plant seeds. Hand tools (e.g., shovels and trowels) shall be used to remove the first 2 inches of soil from the pools. Whenever possible, the trowel shall be used to pry up intact chunks of soil, rather than loosening the soil by raking and shoveling, which can damage the cysts. The soil from each pool shall be stored individually in labeled boxes that are adequately ventilated and kept out of direct sunlight in order to prevent the occurrence of fungus or excessive heating of the soil, and stored off-site at an appropriate facility for vernal pool inoculum. Inoculum from different source pools shall not be mixed for seeding any restored pools, unless otherwise approved by the City and Wildlife Agencies. The collected soils shall be spread out and raked into the bottoms of the restored pools. Topsoil and plant materials salvaged from the upland habitat areas to be impacted shall be transplanted to, and/or used as a seed/cutting source for, the upland habitat restoration/creation areas to the maximum extent practicable as approved by the City.
 9. Permanent protective fencing shall be used along any interface with developed areas and/or other measures approved by the City to deter human and pet entrance into on- or off-site habitat shall be installed. Fencing shall be shown on the development plans and

should have no gates (accept to allow access for maintenance and monitoring of the biological conservation easement areas) and be designed to prevent intrusion by pets. Signage for the biological conservation easement area shall be posted and maintained at conspicuous locations. The requirement for fencing and/or other preventative measures shall be included in the project's mitigation program.

Compensatory Mitigation

Impacts to vernal pool resources outside and within the MHPA shall be limited to covered projects, future projects, and covered activities, which are summarized in Chapter 3 (and described in further detail in Chapter 4 of the VPHCP). As part of the VPHCP, the Mitigation Framework has been developed to be consistent with requirements established in the City's

LDM Biology Guidelines of the Land Development Manual and the ESL Regulations for wetland impacts. Mitigation shall prevent any net loss of vernal pool functions and values of impacted vernal pools (Appendix D of the VPHCP). Because the measures specified in the Mitigation Framework shall be required as part of the VPHCP implementation and development of covered projects, future projects, and covered activities, the Mitigation Framework is considered part of the project for the purposes of analysis in the EIR/EIS.

Consistent with the ESL Regulations, the Mitigation Framework includes compensatory measures that would result in a biologically superior net gain in overall function and values of (a) the type of wetland resource being impacted and/or (b) the biological resources to be conserved. As required by the Mitigation Framework, the biologically superior mitigation shall include either:

- (1) Standard mitigation including wetland vernal pool restoration and enhancement (of the same type of wetland resource that is being impacted) that results in high-quality wetlands; AND a biologically superior project design whose avoided area(s) (i) is in a configuration or alignment that optimizes the potential long-term biological viability of the on-site sensitive biological resources, and/or (ii) conserves the rarest and highest quality on-site biological resources; or
- (2) For a project not consistent with (1) above, extraordinary mitigation is required.

Examples of increased function and value include, but are not limited to, an increase in the availability of habitat for native fauna, an increase in native flora diversity, a decrease in invasive species, an increase in ground water recharge, water quality improvements, and sedimentation deposition rates. Success criteria using the best currently available information for the particular mitigation habitat shall be required as part of the restoration or enhancement plan.

Mitigation for projects impacting vernal pools shall include salvage of sensitive species, when appropriate (i.e., high quality and no presence of versatile fairy shrimp), from vernal pools to be impacted, introduction of salvaged material into restored vernal pool habitat where appropriate (e.g., same vernal pool series), and maintenance of salvaged material pending successful

restoration of the vernal pools. Use of salvaged materials will be determined on a project-specific basis during the project-level review phase. Salvaged material shall not be introduced to existing vernal pools containing the same species outside the vernal pool series unless approved by USFWS. The mitigation sites shall include preservation of the appropriate area of watershed and a buffer based on functions and values and a hydraulic analysis that evaluates surface and/or subsurface flow; however, if such an analysis is not conducted, there shall be a default of a minimum 100-foot buffer from the watershed.

Impacts to vernal pool habitat within the MHPA require a deviation from the City's ESL Regulations (Appendix E of the VPHCP). Any impacts to vernal pools inside and outside the MHPA shall be mitigated "in-kind" and achieve a "no-net loss" of wetland function and values (except as provided for in the City's ESL Wetland Deviation Section 143.0510 (d)(2) Economic Viability Option). Standard mitigation ratios for vernal pools shall range from 2:1 when no listed species are present, and up to 4:1 for when listed species with very limited distributions are present (e.g., *Pogogyne abramsii*). Consistent with the City's LDM Biology Guidelines for the biologically superior alternative, extraordinary mitigation ratios for vernal pools can range from 4:1 when no listed species are present, and up to 8:1 when listed species with very limited distributions are present (e.g., *Pogogyne abramsii*).

As part of the project-specific environmental review for future projects, all biological impacts would be analyzed and mitigated in accordance with the ESL Regulations, VPHCP, and the City's LDM Biology Guidelines. This shall include mitigation for vernal pools impacted within and outside the Preserve as outlined in the sections below.

General Conditions for Compensatory Mitigation/Enhancement Projects

Project-specific vernal pool restoration and enhancement plans that are required as part of compensatory mitigation under the VPHCP Mitigation Framework shall be consistent with the general requirements outlined in the City's LDM Biology Guidelines. The restoration/enhancement/preservation plan and perpetual management and monitoring plan will be mailed to the Wildlife Agencies for technical review, as generally defined below, and approval. Upon receipt of the plans, the Wildlife Agencies shall have 30 working days in which to review and provide written comments to the City. Subsequent reviews and comments shall be completed within 15 working days. Failure to respond within the specified timelines shall result in approval of the draft plans unless an extension is agreed to by all parties. General conditions specific to vernal pool enhancement and restoration/ enhancement/ and restoration preservation and perpetual management and monitoring plans are as follows:

1. The project proponent will submit a vernal pool restoration/enhancement/preservation plan to the City (Development Services Environmental Analysis Section and Planning Department MSCP Staff) and Wildlife Agencies for approval as part of the development review process and the plan shall be included as an attachment to the Project's CEQA document. The restoration plan shall be consistent (as applicable) with the restoration plan outline included in Attachment B of the City's LDM Biology Guidelines. The plan must be approved and implemented prior to or concurrent with project impacts. In

addition, the restoration plan shall include the following information and conditions:

- a. Implementation of the enhancement/restoration shall be conducted under the direction of a qualified biologist (vernal pool restoration specialist) with at least 3 years of vernal pool restoration experience, to be approved by the City and Wildlife Agencies.
- b. To avoid impacts to any extant vernal pools, all conservation measures required at the project construction site to avoid and minimize impacts to adjacent vernal pools and their watersheds will also be implemented at the restoration site and thus specified in the restoration plan.
- c. All vernal pools to be avoided and their watersheds shall be enhanced as deemed appropriate by the Wildlife Agencies to achieve the same success criteria, or better, as the restored pools and surrounding uplands. Enhancement activities shall include addition of vernal pool plant species and addition of appropriate upland habitat (e.g., coastal sage scrub, native grassland, and/or chaparral) compared to the surrounding uplands. All plant material used for enhancement shall be collected from local sources (i.e., as close to the site as reasonably feasible). This establishment can be accomplished by redistributing topsoil containing seeds, spores, bulbs, eggs, and other propagules from affected pools and adjacent vernal pool and upland habitats; by the translocation of propagules of individual species from off-site habitats; and by the use of commercially available native plant species and/or any vernal pool inoculum or plant material from an off-site source approved by the Wildlife Agencies. Topsoil and plant materials from the native habitats to be affected on-site shall be applied to the watersheds of the enhanced and restored pools to the maximum extent practicable. Nonnative invasive weed control shall be implemented within the restoration areas to protect and enhance habitat remaining on-site.
- d. All restoration/enhancement activities shall commence the first summer-fall season prior to or concurrently with the initiation of project impacts.
- e. Discussion and a table on the exact activities will occur at each restored or enhanced vernal pools. The discussion and table shall also include the initial and planned conditions of the pools (i.e., basin size, average depth, ponding duration), existing native and nonnative cover, and presence of listed species.
- f. All final specifications and topographic-based grading, planting, and watering plans shall have 0.5-foot contours for the vernal pools, watersheds, and surrounding uplands (including adjacent mima mounds) at the restoration sites. The basis for this fine-scale resolution is the micro-depth (i.e., several inches) of the vernal pools that shall be restored. The grading plans shall also show the watersheds of extant vernal pools, and overflow pathways that hydrologically

connect the restored pools in a way that mimics natural vernal pool complex topography/hydrology.

- g. A hydraulic analysis (i.e., surface and/or subsurface flow, where applicable) that shows each vernal pool proposed for restoration and its watershed, and hydrologic connection between the pools is required. The restored pools and their watersheds shall not impact the watersheds of any extant pools except where needed to establish hydrologic connections.
- h. As a last resort and after approval by the Wildlife Agencies, additional inoculum from donor vernal pools as close to the project site as possible may be used to supplement the inoculum collected at the project impact site. If inoculum is to be used for restoration and enhancement, the plan shall identify any proposed donor pools and include documentation that they are free of versatile fairy shrimp (*Branchinecta lindahli*). No more than 10% of the basin area of any donor pool shall be used for collection of inoculum. Collection of inoculum from donor pools shall be coordinated with the Wildlife Agencies.
- i. Inoculum and planting shall not be installed until the City and Wildlife Agencies have approved habitat restoration site grading. All planting shall be installed in a way that mimics natural plant distribution, and not in rows. Inoculum shall not be introduced into the restored or enhanced pools until after they have been demonstrated to retain water for the appropriate amount of time to support the targeted vernal pool species (i.e., at least 21 to 28 days for San Diego fairy shrimp or 30 to 60 days for Riverside fairy shrimp) and have been surveyed for versatile fairy shrimp to the satisfaction of the City and Wildlife Agencies. If versatile fairy shrimp are detected in the restored or enhanced pools, inoculum shall not be introduced until appropriate measures to address versatile fairy shrimp are approved by the City and Wildlife Agencies. Inoculum shall be spread evenly over the surface, no more than 0.25 inch deep. If any ponding water is present at the time of soil inoculation, the soil shall only be placed on the wet soil adjacent to the ponded areas. Inoculum shall be placed into the bottoms of the restored/enhanced pools in a manner that preserves, to the maximum extent possible, the orientation of the fairy shrimp cysts and plant seeds within the surface layer of soil (e.g., collected inoculum shall be shallowly distributed within the pond so that cysts have the potential to be brought into solution upon inundation).
- j. Plant palettes (species, size, and number/acre) and seed mix (species and pounds/acre) shall be included in the restoration/enhancement plan. The plant palette shall include native species specifically associated with the on-site habitat type(s) and should be from a local source. The source and proof of local origin of all plant material and seed shall be provided.
- k. Native plants and animals shall be established within the restored/enhanced pools, their watersheds, and surrounding uplands. This can be accomplished by

redistributing topsoil containing seeds, spores, bulbs, eggs, and other propagules from affected pools and adjacent vernal pool and upland habitats; by the translocation of propagules of individual species; and by the use of commercially available native plant species. Any vernal pool inoculum or plant material from an off-site source shall be approved by the City and Wildlife Agencies. Topsoil and plant materials from the native habitats to be affected on-site shall be applied to the watersheds of the enhanced and restored pools to the maximum extent practicable. Exotic weed control shall be implemented within the restoration/enhancement areas to protect and enhance habitat remaining on-site.

- l. In the event that natural rain is inadequate to support plant establishment, artificial watering of the restored/enhanced pools and their watersheds may be done upon approval by the City and Wildlife Agencies to establish plants but not hydrate shrimp. Any artificial watering shall be done in a manner that prevents ponding in the pools. Any water to be used shall be identified and documented to be free of contaminants that could harm the pools.
- m. All weeding within and immediately adjacent to the enhanced/restored pools shall be performed by hand. All workers conducting weed removal activities shall be educated to distinguish between native and nonnative species so that local native plants are not inadvertently killed by weed removal activities.
- n. All herbicide and pesticide use shall be under the direction of a licensed pest control advisor and shall be applied by a licensed applicator, under the supervision of a vernal pool restoration specialist. Glyphosate-based herbicides, such as RoundUp or Aquamaster, shall be applied on all areas that have been dethatched. Herbicide shall only be applied when wind speed is less than 5 miles per hour, and spray nozzles shall be of a design to maximize the size of droplets, to reduce the potential for drift of herbicide to non-target plants. A 10-foot buffer shall be maintained between concentrations of any sensitive plant species. Application of herbicide shall not occur if rain is projected within 24 hours of the scheduled application. When vernal pools are ponding or close to saturation, only and herbicide application (i.e., saturated glove technique) shall be used in and around the edges of pools by specially trained herbicide applicators under the direct supervision of the vernal pool restoration specialist. When vernal pools are not ponding or close to saturation, herbicide may be sprayed, but applicators must stay at least 3 feet from the edge of the pools.
- o. A final implementation schedule shall be included that indicates when all vernal pool impacts, as well as vernal pool restoration/enhancement grading and planting, shall begin and end. A temporal loss of vernal pools will be avoided by initiating the restoration work prior to or concurrent with impacts. This will minimize the length of time inoculum is kept in storage and ensure that there is appropriate habitat to translocate it to.

- p. A minimum of 5 years of monitoring will be conducted to ensure that success criteria are achieved. Success criteria for vernal pool and upland habitat restoration/enhancement areas shall include quantitative hydrological, vegetation transects, fairy shrimp protocol surveys, or other measurements as approved by the City and Wildlife Agencies (e.g., viable cyst, hatched fairy shrimp, and gravid female measurements), floral and faunal inventories; and photographic documentation. To minimize impacts to the vernal pool's soil surface during restoration, enhancement, and monitoring, cobbles will be oriented within the vernal pools to serve as stepping stones. Reference data will be established from a vernal pool reference or control site located within each of the three of the VPHCP subareas (North, Central, South). The vernal pool control sites shall be approved by the City and Wildlife Agencies.
- q. Restoration success for fairy shrimp shall be determined by measuring the ponding of water, and density of viable cysts, hatched fairy shrimp, and gravid females within the restored pools. Water measurements shall be taken in the restored pools to determine the depth, duration, and quality (e.g., pH, temperature, total dissolved solids, and salinity) of ponding. Dry samples shall be taken in the restored and reference pools to determine the density of viable cysts in the soils. Dry sampling shall occur in the first year of the restoration monitoring program to establish a baseline, and the last year to identify changes to viable cyst density. Wet samples shall also be taken in the restored and reference pools to determine the density of hatched fairy shrimp and gravid females. The pools shall pond for a period of time similarly to reference vernal pools during an average rainfall year and at an appropriate depth and quality to support fairy shrimp. The hatched fairy shrimp and gravid female density of the restored pools shall not differ significantly ($p < 0.05$) from reference pools for at least three wet seasons before a determination of success can be made. The average viable cyst density of the restored pools shall not differ significantly ($p < 0.05$) from reference pools at the end of the monitoring period before a determination of success can be made. Vernal pools selected as reference or control pools for evaluating restoration success shall be identified and described in the restoration plan. Alternate methods of determining success may be used upon approval by the City and Wildlife Agencies.
- r. To ensure that the construction and operation of the project do not adversely affect the vernal pools on-site, post-construction monitoring will be conducted throughout the rainy season of an adequate rainfall year (i.e., 55% of average rainfall) to verify that avoidance measures were successful and determine whether the project is changing the hydrology of, or causing erosion and sediment delivery to, these vernal pools (based on pre-construction conditions). Monitoring will occur for 3 years following project construction. In the event that sufficient rainfall to demonstrate adequate ponding does not occur during the 3 years following project construction, monitoring will continue in 1-year increments, to a maximum of 5 years. A monitoring report will be submitted to the City and Wildlife Agencies by September 1 following each monitoring season. The

monitoring program will be described in the final vernal pool restoration/enhancement plan. If monitoring detects impacts to the adjacent vernal pools from construction and/or operation of the proposed project (e.g., from changes in hydrology) within the monitoring period, remediation will be required.

- s. Monitoring and success criteria for vernal pool and upland restoration/enhancement areas shall include coastal sage scrub, native grassland, and chaparral species richness and cover criteria for all 5 years of monitoring. Success criteria for weed cover shall be as follows: 0% cover for weed species categorized as High or Moderate in the Cal-IPC Invasive Plant Inventory, and relative cover of all other weed species is no more than 5% and 10% coverage in the pools basins and watersheds, respectively, for other exotic/weed species for all 5 years of the monitoring period. Container plant survival success criteria shall be 80% of the initial plantings for the first 5 years. At the first and second anniversaries of plant installation, all dead plants shall be replaced unless their function has been replaced by natural recruitment. The method used for monitoring shall be described and a map of proposed sampling locations shall be included. Photo points shall be used for qualitative monitoring and stratified-random sampling shall be used for all quantitative monitoring.
 - t. Verification that restoration/enhancement of vernal pools is complete shall require written sign-off by the City and Wildlife Agencies. If a performance criterion is not met for any of the restored/enhanced vernal pools or upland habitat in any year, or if the final success criteria are not met, the project proponent shall prepare an analysis of the cause(s) of failure and, if deemed necessary by the City or Wildlife Agencies, propose remedial actions for approval. If any of the restored/enhanced vernal pools or upland habitat has not met a performance criterion during the initial 5-year period, the project proponent's maintenance and monitoring obligations shall continue until the City and Wildlife Agencies deem the restoration/enhancement successful. Contingency measures may be required by the City or Wildlife Agencies. Restoration/enhancement shall not be deemed successful until success criteria are achieved. If contingency measures are required, restoration/enhancement will not be deemed successful until at least 2 years after any significant contingency measures are implemented, as determined by the City and Wildlife Agencies.
 - u. Annual reports shall be submitted to the City and Wildlife Agencies by December 1 of each year that assess both the attainment of yearly success criteria and progress toward the final success criteria. The reports shall also summarize the project's compliance with all applicable mitigation measures and permit conditions.
2. The project proponent shall ensure the long-term management of the on-site areas shall occur in perpetuity. Each project proponent will implement a perpetual management, maintenance, and monitoring plan (e.g., Habitat Management Plan) for their respective biological conservation easement areas. The Plan, which will be approved by the City

and Wildlife Agencies and funding source must be established prior to or concurrent with impacts. The plan should include, but not be limited to, the following: method of protecting the resources in perpetuity (i.e., covenant of easement dedication to the City, or a deed restriction or other conservation mechanism consistent with California Civil Code Section 815, et seq. and acceptable to the Wildlife Agencies); monitoring schedule; measures to prevent human and exotic species encroachment; funding mechanism; and contingency measures should problems occur. In addition, the plan will include the proposed land manager's name, qualifications, business address, and contact information. The project proponent will also establish a nonwasting endowment or similar secure funding method in an amount approved by the City and the Wildlife Agencies based on a Property Analysis Record (PAR; Center for Natural Lands Management ©1998), or similar cost estimation method, to secure the ongoing funding for the perpetual long-term management, maintenance, and monitoring of the biological conservation easement area by an agency, nonprofit organization, or other entity approved by the City and the Wildlife Agencies.

3. In the event that a new occurrence of a covered species is identified (i.e., previously undocumented) within an area to be impacted by a covered project or covered activity, mitigation shall be required in the form of salvage and restoration for the impact to the new occurrence. Mitigation shall occur consistent with Conditions 1 and 2 above, as well as the City's LDM Biology Guidelines.

Passed by the Council of The City of San Diego on JAN 22 2018, 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 type="checkbox"/>	<input checked="" 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 type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage JAN 31 2018

(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:

(Seal)

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

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

By Linda Irwin, Deputy

Office of the City Clerk, San Diego, California
Resolution Number R- <u>311502</u>