

#202C
8/5/19

(R-2020-38)

RESOLUTION NUMBER R- 312613

DATE OF FINAL PASSAGE AUG 05 2019

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO CERTIFYING THE ENVIRONMENTAL IMPACT REPORT NO. 442880 AND ADOPTING THE MITIGATION, MONITORING, AND REPORTING PROGRAM FOR THE PRESERVE AT TORREY HIGHLANDS – PROJECT NO. 442880.

WHEREAS, on November 18, 2015, The Preserve at Torrey Highlands, LLC, a California Limited Liability Company submitted an application to Development Services Department for a Community Plan Amendment, Rezone, Planned Development Permit and Site Development Permit for The Preserve at Torrey Highlands (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 Council of the City of San Diego on August 5, 2019; 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 Council of the City of San Diego considered the issues discussed in Environmental Impact Report No. 442880 / SCH No. 2016031026 (Report) prepared for this Project; NOW, THEREFORE,

BE IT RESOLVED, by the 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 Council of the City of San Diego 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 Council of the City of San Diego hereby adopts the Findings made with respect to the Project, which are attached hereto as Exhibit A.

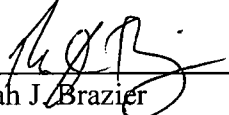
BE IT FURTHER RESOLVED, that pursuant to State CEQA Guidelines Section 15093, the Council of the City of San Diego hereby adopts the Statement of Overriding Considerations with respect to the Project, which is attached hereto as Exhibit B.

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

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.

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

APPROVED: MARA W. ELLIOTT, City Attorney

By 

Noah J. Brazier
Deputy City Attorney

NJB:als
07/16/2019
Or.Dept:DSD
Doc. No.: 2052634

Attachments: Exhibit A - Findings
Exhibit B - Statement of Overriding Considerations
Exhibit C - Mitigation, Monitoring, and Reporting Program

EXHIBIT A

DRAFT CANDIDATE FINDINGS OF FACT

I. INTRODUCTION

A. Candidate Findings of Fact and Statement of Overriding Considerations

The following Candidate Findings of Fact (Findings) and Statement of Overriding Considerations are made for The Preserve at Torrey Highlands (Project). The environmental effects of the Project are addressed in the Final Environmental Impact Report (FEIR) dated March 19, 2019 and the Additional Information Statement (AIS) to the Final EIR dated July 17, 2019, which is incorporated by reference herein.

The California Environmental Quality Act (CEQA) [Section 21081(a)] and the State CEQA Guidelines [Section 15091(a)] require that no public agency shall approve or carry out a project for which an environmental impact report has been completed which identifies one or more significant effects thereof, unless such public agency makes one or more of the following findings:

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; or
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 environmental impact report.

CEQA also requires that the Findings made pursuant to Section 15091 be supported by substantial evidence in the record (Section 15091(b) of the State CEQA Guidelines). Under CEQA, substantial evidence means enough relevant information has been provided (and reasonable inferences from this information may be made) that a fair argument can be made to support a conclusion, even though other conclusions might also be reached. Substantial evidence must include facts, reasonable assumptions predicted upon facts, and expert opinion supported by facts (Section 15384 of the State CEQA Guidelines).

CEQA further requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits of a proposed project against its unavoidable environmental effects when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered "acceptable" (Section 15093(a) of the State CEQA Guidelines). 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 actions based on the Final EIR or other information in the record.

The Findings and Statement of Overriding Considerations (SOCs) have been submitted by the City of San Diego (City) Development Services Department as Candidate Findings to be made by the decision-making body. They are attached to allow readers of this report an opportunity to review the applicant's position on this matter and to review potential reasons for approving the project despite the significant and unavoidable effects identified in the Final EIR. It is the exclusive discretion of the decision-maker certifying the EIR to determine the adequacy of the proposed Candidate Findings. It is the role of staff to independently evaluate the proposed the Candidate Findings, and to make a recommendation to the decision-maker regarding their legal adequacy.

B. Record of Proceedings

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

- The Notice of Preparation (NOP) and all other public notices issued by the City in conjunction with the project;
- All responses to the NOP received by the City;
- The Final EIR;
- The Draft EIR;
- The Additional Information Statement(s) (AIS) to the Final EIR
- All written comments submitted by agencies or members of the public during the public review comment period on the Draft EIR;
- All responses to the written comments included in the Final EIR;
- All written and oral public testimony presented during a noticed public hearing for the project at which such testimony was taken;
- The Mitigation Monitoring and Reporting Program;
- The reports and technical memoranda included or referenced in any responses to comments in the Final EIR;
- All documents, studies, EIRs, or other materials incorporated by reference in, or otherwise relied upon during the preparation of, the Draft EIR and the Final EIR;
- Matters of common knowledge to the City, including, but not limited to, federal, state, and local laws and regulations;
- Any documents expressly cited in these Findings and Statement; and
- Any other relevant materials required to be in the record of proceedings by Public Resources Code Section 21167.6(e).

C. Custodian and Location of Records

The documents and other materials which constitute the record of proceedings for the City's actions on the project are located in the Office of the City Clerk, 202 C Street, San Diego CA 92101 and at the City's Development Services Department (DSD, 1222 1st Avenue, 5th Floor, San

Diego, CA 92101. Both the City Clerk and DSD are the custodian of the project's administrative record. Copies of the document that constitute the record of on the City's website at proceedings are and at all relevant times have been available upon request at the offices of the City's DSD. The draft EIR was also placed on the City Clerk's web-site at <https://www.sandiego.gov/city-clerk/officialdocs/public-notice>; whereas the final EIR was placed on the DSD's website at <https://www.sandiego.gov/ceqa/final>. This information is provided in compliance with the Public Resources Code 21081.6(a)(2) and the CEQA Guidelines 15091(e).

II. PROJECT SUMMARY

A. Project Objectives

The objectives of the Preserve at Torrey Highlands Project include the following:

1. Adaptively use a vacant site by developing 450,000 square feet of business office campus that is consistent with the City of San Diego's General Plan and in proximity to nearby office and residential land uses.
2. Provide a cohesive design that is compatible in scale and character to other existing and planned office developments within the vicinity.
3. Develop a high-quality office campus and provide an employment base as a means to create a balance between the existing/proposed housing and the creation of places where those residents may work; create a jobs/housing balance.
4. Locate high-quality employment opportunities within the area to take advantage of the Camino del Sur and State Route 56 freeway interchange to help provide the critical mass that supports planned multimodal transportation linkages.

B. Project Description

The Preserve at Torrey Highlands Project proposes a Community Plan Amendment (CPA) to the Torrey Highlands Subarea Plan, Rezone from AR-1-1 to IP-3-1, a Planned Development Permit, and a Site Development Permit to construct a 420,000-square-foot business office development and a 3,850-square-foot amenity structure on an 11.1-acre (10.33-net-acre) site. Specifically, the project would construct three office buildings comprised of a 150,000-square-foot, five-story building (Building 1); 120,000-square-foot, four-story building (Building 2) that would include a 5,000-square-foot fitness center (including shower facilities); a 150,000-square-foot, five-story building (Building 3); an amenity building that would include a 3,850-square-foot café; and a 357,890-square-foot five-above ground story parking garage with a half subterranean level and surface parking (see Figure 3-1, Site Plan and Figure 3-2, Site Sections of the EIR, and the AIS for revised building elevations, Figures AIS-1 through AIS-3). Each office building would include subterranean parking spaces. The amenity building would include a private café that is linked to walking paths, outdoor seating, and various meeting/collaboration areas. Various site improvements would be constructed, including driveways, walkways, and landscaping. The

project also includes on-site storm water conveyance system improvements. The project would also incorporate two conservation easements.

In addition, eight individual retaining walls, with a combined linear length of 1,093 feet, would be constructed in various locations across the project site. The retaining walls would range in height from 1 to 12 feet with the tallest retaining wall (12 feet) being located on the far western portion of the project site (refer to Figure 3-13, Landscape Plan of the EIR for retaining wall locations).

Four retaining walls would be located interior to the project site, which would not be visible from public vantage points or to mobile viewers (one located directly north of Building 2; two located south of a proposed retaining wall at the northeastern periphery of the site; and one located near the southwestern edge of Building 3; see Figure 3-13 of the EIR). Four retaining walls would be located at the site's periphery; however, the retaining walls are situated below the street grade of Camino del Sur and landscape screening will be provided along any exposed portions of the walls. Moreover, the landscaping plan includes the installation of native vegetation and canopy trees in front of the retaining walls to partially screen views of the walls from Camino del Sur. Landscaping would also include large trees in the central portion of the site, and canopy trees would be planted along the project perimeter to provide shade as well as partially screen the parking structure, buildings and retaining walls from Camino del Sur.

III. ENVIRONMENTAL REVIEW PROCESS AND PUBLIC PARTICIPATION

In compliance with Section 15082 of the CEQA Guidelines, the City published a Notice of Preparation on March 8, 2016, which began a 30-day period for comments on the appropriate scope of the EIR. Consistent with Public Resources Code Section 21083.9, the City held a public agency scoping meeting on March 30, 2016 at the Rancho Peñasquitos Library. The purpose of these meetings was to seek input and concerns from the public regarding the environmental issues that may potentially result from the project.

The City published a draft EIR on June 21, 2018 in compliance with CEQA. Pursuant to CEQA Guidelines Section 15085, upon publication of the draft EIR, the City filed a Notice of Completion with the Governor's Office of Planning and Research, State Clearinghouse, indicating that the draft EIR had been completed and was available for review and comment by the public. The City also posted a Notice of Availability of the draft EIR at this time pursuant to CEQA Guidelines Section 15087. Subsequent to circulation of the draft environmental document, it was identified that a portion of the interested parties' distribution list was inadvertently omitted. To ensure that all interested parties had an opportunity to comment on the draft EIR, the public review was extended for an additional 12 days. During the public review period, the City received comments on the environmental document. After the close of public review period, the City provided responses in writing to all comments received on the draft EIR.

The Final EIR for the project was published on March 19, 2019. The Final EIR has been prepared in accordance with CEQA and the State CEQA Guidelines.

IV. SUMMARY OF IMPACTS

Impacts associated with specific issues areas (e.g., land use, transportation, air quality, etc.) resulting from approval of the project and future implementation are discussed below.

The Final EIR concludes that the project will have **no significant impacts** and require no mitigation measures with respect to the following issues:

- Agriculture and Forestry Resources
- Geologic Conditions
- Health and Safety
- Hydrology
- Mineral Resources
- Public Services and Facilities
- Public Utilities
- Water Quality

The Final EIR concludes that the project will have **less than significant impacts** and require no mitigation measures with respect to the following issues:

- Land Use
- Noise
- Energy

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

- Air Quality and Odor
- Biological Resources
- Historical Resources
- Paleontological Resources
- Tribal Cultural Resources

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

- Transportation/Circulation)
- Visual Effects and Neighborhood Character
- Greenhouse Gas Emissions
- Air Quality and Odor

V. FINDINGS REGARDING SIGNIFICANT IMPACTS

In making each of the findings below, the City has considered the Plans, Programs, and Policies discussed in the Final EIR. The Plans, Programs, and Policies discussed in the Final EIR are existing regulatory plans and programs the project is subject to, and, likewise, are explicitly made conditions of the project's approval.

A. Findings Regarding Impacts that Can Be Mitigated to Below a Level of Significance

The City, having independently reviewed and considered the information contained in the Final EIR and the record of proceedings, finds pursuant to CEQA Section 21081(a)(1) and State CEQA Guidelines Section 15091(a)(1), adopts the following findings regarding the significant effects of the project, as follows:

Changes or alterations have been required in, or incorporated into, the project that mitigate, or avoid, or substantially lessen the significant effects on the environment as identified in the Final EIR. The basis for this conclusion follows.

I. Air Quality and Odor

Impact: The project would result in daily construction emissions that would exceed the significance threshold for NO_x [oxides of nitrogen]. As shown in Table 5.5-6 of Section 5.5, Air Quality and Odor, NO_x emissions would exceed the maximum daily emission threshold and would potentially result in a violation of an air quality standard. All other criteria air pollutant emissions (VOC, CO, SO_x, PM₁₀, or PM_{2.5}) would be below the maximum daily emission thresholds.

Facts in Support of Finding: MM-AQ-2 requires the project owner/permittee, or its designee, to ensure that construction equipment meets the appropriate engine tier as certified by the California Air Resources Board (CARB) and that engine tier requirements are incorporated on all construction plans. Further, MM-AQ-1 requires the project owner/permittee to include engine tier requirements in construction contracts, in accordance with MM-AQ-2. As shown in Table 5.5-8 of Section 5.5, Air Quality and Odor, with implementation of mitigation (MM-AQ-1 and MM-AQ-2), resulting daily construction emissions of NO_x would be reduced to below a level of significance.

II. Air Quality and Odor

Impact: The project would expose sensitive receptors, including residential units at the presumed to be existing Merge 56 project, to substantial pollutant concentrations from construction activities.

Facts in Support of Finding: The results of the Health Risk Assessment (HRA) demonstrate that the diesel exhaust emissions from construction of the project exhibit cancer risks that exceed the 10 in 1 million threshold, but below the chronic hazard index less than 1. Therefore, impacts to residential units at the presumed to be existing Merge 56 project would be potentially significant. However, with implementation of MM-AQ-1 and MM-AQ-2, cancer risk and chronic hazard index were estimated at 8.50 in 1 million and 0.005, respectively (See Table 5.5-14 in Section 5.5, Air Quality and Odor). The results of the HRA demonstrate that the diesel exhaust emissions from

construction of the project exhibit cancer risks cancer risks below a level of significance following mitigation. Therefore, toxic air contaminant emissions from construction of the project would not expose sensitive receptors to substantial pollutant concentrations with mitigation, and impacts would be less than significant.

III. Biological Resources

Impact: The project would result in direct impacts to special-status plant and wildlife species as well as to Tier I and Tier IIIA vegetation.

Facts in Support of Finding: MM-BIO-1 would establish various measures to be implemented prior to, during, and after construction. Measures to be implemented prior to construction include: biologist verification, preconstruction meetings, review of biological documents, preparation of a Biological Construction Mitigation/Monitoring Exhibit (BCME), review and disclosure of avian protection requirements, resource delineation, and construction crew education. Measures to be implemented during and/or after construction include: biological monitoring, subsequent resource identification, and post construction measures, if necessary.

Further, MM-BIO-2 would mitigate impacts to scrub oak and chamise through a combination of on-site preservation and off-site purchase of Tier I and Tier IIIA habitat as illustrated in Table 5.6-3 of Section 5.6, Biological Resources.

Finally, MM-BIO-3 would require the project owner/permittee to convey a Covenant of Easement (COE), to be recorded against the title. The on-site preservation within the COE shall preserve 0.43 acres of chamise chaparral (Tier IIIA) at a 1:1 ratio. The COE also provides protection for the off-site vernal pool features and the watershed.

Implementation of MM-BIO-1 would reduce direct impacts to nesting Bell's sparrow during construction. Implementation of MM-BIO-2 and MM-BIO-3 would reduce direct impacts to 9.75 acres of sensitive vegetation and special-status plants that occur on site to below a level of significance.

IV. Biological Resources

Impact: Impacts to non-wetland waters would be potentially significant. The resource agencies would require the project to obtain necessary permits for the impacts to this ephemeral channel feature. The project would not result in direct impacts to City-defined wetlands.

Facts in Support of Finding: Although the project would not result in direct impacts to City-defined wetlands, the project would directly impact 0.02 acre of non-wetland waters of the United States, mapped as an unvegetated ephemeral channel in the central portion of the project site (See Figure 5.6-3). This channel is subject to the jurisdiction of all three wetland resource agencies (U.S. Army Corps of Engineers, Regional Water Quality Control Board, and California Department of Fish and Wildlife) but is not considered a wetland by the City.

MM-BIO-4 requires the project owner/permittee to provide evidence of the following permits: a404 permit from the U.S. Army Corps of Engineers, 401 Certification from Regional Water Quality Control Board, and a 1602 Streambed Alteration Agreement from the California Department of Fish and Wildlife. Evidence of these permits would be required prior to a Notice to Proceed or the first grading permit. With implementation of MM-BIO-4, direct impacts to non-wetland waters would be less than significant.

V. Historical Resources

Impact: Implementation of the project could result in impacts to unanticipated surface or subsurface cultural resources during ground-disturbing activities. Therefore, impacts to historical resources would be potentially significant.

Facts in Support of Finding: MM-CUL-1 would require the project to implement measures prior to permit issuance; and prior to, during and after construction. Measures to be implemented prior to permit issuance include entitlements plan check and submit letters of qualification to the Assistant Deputy Director. Measures to be implemented prior to construction include: verification of records search, principal investigator to attend preconstruction meetings, identify areas to be monitored, and determine when monitoring will occur. Measures to be implemented during construction include: monitoring during grading/excavation/trenching, implementing the discovery notification process, and determining the significance of discovered resources. Additionally, as specified in MM-CUL-1, section IV, an identification, treatment and recovery program would be implemented in the event human remains are discovered during construction.

VI. Paleontological Resources

Impact: Based on the presence of formational units exhibiting high potential for the occurrence of sensitive paleontological resources within the project site, impacts from grading activities associated with the project would be potentially significant.

Facts in Support of Finding: Prior to construction within a formation with a moderate to high resource potential, monitoring would be required.

Incorporation of mitigation measure MM-PALEO-1 would reduce the potential for significant impacts to below a level of significance.

VII. Tribal Cultural Resources

Impact: The project area is located within an area identified as sensitive on the City of San Diego Historical Resources Sensitivity Maps. In addition, the Iipay Nation of Santa Isabel and the Jamul Indian Village tribes are affiliated traditionally and culturally with the project area. The area is considered sensitive for potential TCRs (buried cultural resources and/or subsurface deposits). Therefore, there is the potential for inadvertent discovery of a resource that could be impacted by project implementation. Impacts would be considered significant.

Facts in Support of Finding: MM-TCR-1 would require the project to implement measures prior to permit issuance; and prior to, during and after construction. Measures to be implemented prior to permit issuance include: entitlements plan check and submit letters of qualification to the Assistant Deputy Director. Measures to be implemented prior to construction include: verification of records search, principal investigator to attend preconstruction meetings, identify areas to be monitored, and determine when monitoring will occur. Measures to be implemented during construction include: monitoring during grading/excavation/trenching, implementing the discovery notification process, and determining the significance of discovered resources. Additionally, as specified in MM-TCR-1, section IV, an identification, treatment and recovery program would be implemented in the event human remains are discovered during construction.

B. Findings Regarding Impacts that Are Unavoidable

The City, having reviewed and considered the information contained in the Final EIR and the Record of Proceedings and pursuant to Public Resource Code §21081(a)(3) and State CEQA Guidelines §15091(a)(3), makes the following findings regarding Transportation/Circulation, Visual Impacts and Neighborhood Character, Greenhouse Gas Emissions, and Air Quality and Odor.

Specific economic, legal, social, technological, or other considerations, including considerations of the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the Final EIR (Project No. 442880 / SCH No. 2016031026) as described below.

“FEASIBLE” IS DEFINED IN SECTION 15364 OF THE CEQA GUIDELINES TO MEAN “CAPABLE OF BEING ACCOMPLISHED IN A SUCCESSFUL MANNER WITHIN A REASONABLE PERIOD OF TIME, TAKING INTO ACCOUNT ECONOMIC, ENVIRONMENTAL, LEGAL, SOCIAL, AND TECHNOLOGICAL FACTORS.” THE CEQA STATUTE (SECTION 21081) AND GUIDELINES (SECTION 15019(A)(3)) ALSO PROVIDE THAT “OTHER” CONSIDERATIONS MAY FORM THE BASIS FOR A FINDING OF INFEASIBILITY. CASE LAW MAKES CLEAR THAT A MITIGATION MEASURE OR ALTERNATIVE CAN BE DEEMED INFEASIBLE ON THE BASIS OF ITS FAILURE TO MEET PROJECT OBJECTIVES OR ON RELATED PUBLIC POLICY GROUNDS.

Case law makes clear that a mitigation measure or alternative can be deemed infeasible on the basis of its failure to meet project objectives or on related public policy grounds. This finding is appropriate because there are no feasible mitigation measures available that would reduce the identified impacts to below a level of significance.

VIII. Transportation/Circulation

Impact: The project would generate significant cumulative impacts to five intersections, one street segment and three freeway mainline segments resulting in significant impacts associated with an increase in traffic relative to existing capacity and an addition of substantial traffic to congested roadway.

Facts in Support of Finding: The project does not propose construction of Camino Del Sur; however, access to the project site would be provided via two signalized driveways off Camino del Sur. Prior to the issuance of any building permits, the owner/permittee shall submit documentation that the extensions of Camino del Sur and Carmel Mountain Road as described below have been assured by permit and bond, satisfactory to the City Engineer. Additionally, the connection of Camino Del Sur between Torrey Santa Fe Road and Dormouse Road and the connection of Carmel Mountain Road between Via Las Lenas and Camino Del Sur shall be completed and open to traffic to the satisfaction of the City Engineer prior to the issuance of any occupancy permit. The project would align properly and would not conflict with this planned transportation system. However, as discussed in Section 5.2.4.2 of Chapter 5.2, Transportation/ Circulation, the project would generate significant cumulative impacts to five intersections, one street segment and three freeway mainline segments in the Year 2035. If MM-TRA-1 through MM-TRA-9 are fully implemented, impacts to Street Segment No. 19 (Black Mountain Road from SR-56 EB Ramps to Park Village Road), Freeway Mainlines No. 1 (SR-56 from Carmel Valley Road to Camino del Sur) and 2 (SR-56 from Camino del Sur to Black Mountain Road), and Intersection Numbers 6 (Camino del Sur/SR-56 WB Ramps), 7 (Camino del Sur/SR-56 EB Ramps), 17 (Black Mountain Road/SR-56 WB Ramps), 18 (Black Mountain Road/SR-56 EB Ramps), and 19 (Black Mountain Road/Park Village Road) would be reduced to below a level of significance.

Certain factors contribute to the uncertainty of the required intersection improvements cited in the above mitigation measures. Specifically, the timing in the SANDAG RTP does not contemplate completion of the SR-56 widening, including the ramp improvements and related intersection improvements, until Year 2040 (after the cumulative impact would occur in Year 2035). Because neither the City nor the owner/permittee can assure the timely completion of these improvements, the improvements outlined in TRA-1 and TRA-2 are not certain. Thus, payment of fair share contributions would not fully mitigate the project's cumulative impact to the SR-56 interchanges and the project's cumulative impacts would remain significant and unmitigated.

The certainty of Mitigation Measures (MM) TRA-3, TRA-4, and TRA-5, which recommend improvements to intersections along Black Mountain Road, the Black Mountain Ranch applicant initiated a CPA to the Rancho Peñasquitos Community Plan to downgrade the roadway classification of Black Mountain Road from six lanes to four lanes. The reclassification is currently under review by the City. If the proposed CPA is approved, the planned road widening would not be implemented and the Project's cumulative impacts to the ramps at the Black Mountain Road/SR-56 interchange, as well as the Black Mountain Road/Park Village intersection, would remain significant and unmitigated. If the CPA is not approved, the Project's cumulative impacts to the SR-56 interchange with Black Mountain Road would be partially mitigated by the fair share contribution in MM-TRA-3 and MM-TRA-4 (as discussed in the preceding paragraph regarding Caltrans facilities) and partially mitigated by the fair share contribution at the Black Mountain Road/Park Village Road intersection by MM-TRA-5. Neither the City or the applicant can assure the completion of these improvements in a timely manner, therefore impacts would remain significant and not fully mitigated.

Regarding the implementation of MM-TRA-7, MM-TRA-8, and MM-TRA-9, the timing in the SANDAG RTP does not contemplate completion of the SR-56 widening until Year 2040 (after the cumulative impact occurs in Year 2035). Because neither the City nor the applicant can assure the

completion of these improvements in a timely manner, the impacts would remain significant and not fully mitigated.

IX. Visual Effects and Neighborhood Character

Impact: The project would alter more than 2,000 cubic yards of earth per graded acre and create manufactured slopes in excess of 10 feet. Therefore, the project would result in a substantial change in the existing landform and impacts would be significant. No mitigation is available to reduce anticipated landform alteration effects to a less-than-significant level. Impacts related to alteration of an existing landform would remain significant and unavoidable.

Facts in Support of Finding: The project as proposed would require a substantial amount of cut and fill during grading and excavation activities and would exceed the City's threshold of 2,000 cubic yards of grading per acre for excavation and fill. As shown in Figure 5.3-10, the gently rolling and gradually sloping site would be graded and manufactured slopes would be constructed along the northern and western site boundary and in the southeastern corner of the site. Additionally, the project would create manufactured slopes in excess of 10 feet. Although the project would incorporate variation in building pad elevation and grading to simulate the natural landforms, the project would result in a substantial change in the existing landform consistent with MM-VIS-1.

Because the project site is currently undeveloped land, no project alternative which proposes construction would result in less than significant impacts with regard to landform alterations and impacts would remain significant and unavoidable.

X. Greenhouse Gas Emissions

Impact: Emissions from the project buildout would be greater than buildout of the land use inventoried in the Climate Action Plan (CAP). All feasible mitigation measures have been applied through compliance with Step 2 of the City's CAP Consistency Checklist (MM-GHG-3 through MM-GHG-13) as well as additional mitigation measures beyond those required as part of the CAP Consistency Checklist (MM-GHG-1, MM-GHG-2, and MM-GHG-14, and MM-GHG-15). However, even with implementation of MM-GHG-1 through MM-GHG-15, impacts would remain significant and unavoidable.

Facts in Support of Finding: The project proposes both a Community Plan amendment and a rezone that would result in a more GHG-intensive project located outside of a Transit Priority Area (TPA) when compared to existing land use and zone designations; the project would be inconsistent with the growth projections utilized in the CAP. The estimated project-generated GHG impacts would be reduced following implementation of MM-GHG-1 through MM-GHG-13; however, the majority of measures listed in Step 2 of the City's CAP Consistency Checklist (MM-GHG-3 through MM-GHG-13) cannot be correlated with a quantifiable reduction. Thus, GHG emissions would still exceed emissions associated with the Our Lady of Mount Carmel project as allowed under existing land uses, as analyzed in Section 5.4 of the EIR, impacts would be significant and not fully mitigated.

However, MM-GHG-14 and MM-GHG-15 would require the Applicant to purchase and retire carbon credits, in a quantity sufficient to offset 100 percent of the Project's construction GHG emissions and a

quantity sufficient to offset for a 30-year period, to reduce the project's net operational GHG emissions to equal the emissions associated with the Our Lady of Mount Carmel project allowed under existing land use and zone designations. Impacts following implementation of MM-GHG-1 through MM-GHG-15 would result in no net increase in GHG impact emissions when compared to the Our Lady of Mount Carmel project.

The CAP identifies several local strategies to reduce GHG emissions to achieve the 2020 and 2035 targets as defined by the California Air Resources Board Climate Change Scoping Plan. These local strategies include energy and water efficient buildings; clean and renewable energy; bicycling, walking, transit and land use; zero waste; and climate resiliency measures that are applied on a project specific basis. They are implemented through a combination of ordinances, City Council policies, resolutions, programs, and incentives. The CAP also relies upon proper staffing, financing, and resource allocation to ensure the success of each mechanism included in the CAP (City of San Diego 2015). Successful CAP implementation is dependent on assessing and monitoring each of the various mechanisms used to discharge the policies and strategies set forth in the CAP. Although the CAP may be amended from time to time to incorporate new GHG reduction techniques, such new measures would require feasibility studies, coordination with other agencies, or funding sources to be secured before they can be implemented. Currently, the City's CAP does not identify a mechanism for assessing and monitoring the successful implementation of a carbon offset program that includes the purchase of carbon credits, nor does the City's CAP Consistency Checklist include such a carbon offset program that can be implemented on a project-by-project basis to ensure that the specified emission targets identified in the CAP are achieved.

The CAP does not require that a project rely only upon the listed reduction strategies, and it does allow for flexibility in meeting the stated GHG reduction targets, however, it also requires that the City reduce its GHG emissions 50 percent by 2035 within the City's jurisdictional boundary, and as previously stated there are currently no City-recognized offset programs available for purchase. The City is unable to assure that the purchase of offsets through a carbon registry would result in GHG emission reductions within the City or region. GHG impacts associated with the project, therefore, would not be reduced to below a level of significance, and would remain significant and unavoidable.

XI. Air Quality and Odor

Impact: The project would be considered inconsistent with the County of San Diego's Regional Air Quality Strategy (RAQS); therefore, impacts would be significant. As this impact would occur as a result of a change in land use, there is no mitigation available to reduce the impact. When the RAQS and SIP are updated, projects that are approved through General Plan/Community Plan amendments would be included in the SANDAG growth projections, and therefore updated in the RAQS and SIP.

Facts in Support of Finding: The project proposes an amendment to the Community Plan (CPA) and a rezone to allow for the development. The CPA would redesignate the site from Commercial Limited (CL) to Employment Center (EC) and a rezone from AR-1-1 to IP-3-1 (industrial park, which allows for research and development, office, and residential uses). The proposed CPA and rezone would allow a greater amount of development than the adopted community plan, and

therefore, the project would not be consistent with the SANDAG projections for emissions in the area. No mitigation is available; therefore, impacts would remain significant and unavoidable.

VI. FINDINGS REGARDING MITIGATION MEASURES WHICH ARE THE RESPONSIBILITIES OF ANOTHER AGENCY (CEQA 21081(a)(2) AND CEQA GUIDELINES 15091 (a)(s))

Certain factors contribute to the uncertainty of the required intersection improvements cited in the above mitigation measures. Specifically, the timing in the SANDAG RTP does not contemplate completion of the SR-56 widening, including the ramp improvements and related intersection improvements, until Year 2040 (after the cumulative impact would occur in Year 2035). Because neither the City nor the applicant can assure the timely completion of these improvements as they are the responsibility of another agency, Caltrans; therefore, the improvements outlined in TRA-1 and TRA-2 are not certain. Thus, payment of fair share contributions would not fully mitigate the project's cumulative impact to the SR-56 interchanges and the project's cumulative impacts would remain significant and unmitigated.

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

VII. FINDINGS REGARDING ALTERNATIVES (CEQA 21081(a)(3) and CEQA Guidelines 15091 (a)(3))

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

As required in Section 15126.6(a), in developing the alternatives to be addressed in this section, consideration was given to an alternative's ability to meet most of the basic objectives of the project. Because the Preserve at Torrey Highlands project will cause potentially significant environmental effects unless mitigated, the City must consider the feasibility of any environmentally superior

alternatives to the project, evaluating whether these alternatives could avoid or substantially lessen the potentially significant environmental effects while achieving most of the objectives of the project.

The City, having reviewed and considered the information contained in the Final EIR and the Record of Proceedings, and pursuant to Public Resource Code §21081(a)(3) and State CEQA Guidelines §15091(a)(3), makes the following findings with respect to the alternatives identified in the Final EIR (Project No. 442880 / SCH No. 2016031026):

Specific economic, legal, social, technological, or other considerations, including considerations of the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the Final EIR (Project No. 442880 / SCH No. 2016031026) as described below.

“FEASIBLE” IS DEFINED IN SECTION 15364 OF THE CEQA GUIDELINES TO MEAN “CAPABLE OF BEING ACCOMPLISHED IN A SUCCESSFUL MANNER WITHIN A REASONABLE PERIOD OF TIME, TAKING INTO ACCOUNT ECONOMIC, ENVIRONMENTAL, LEGAL, SOCIAL, AND TECHNOLOGICAL FACTORS.” THE CEQA STATUTE (SECTION 21081) AND GUIDELINES (SECTION 15019(A)(3)) ALSO PROVIDE THAT “OTHER” CONSIDERATIONS MAY FORM THE BASIS FOR A FINDING OF INFEASIBILITY. CASE LAW MAKES CLEAR THAT A MITIGATION MEASURE OR ALTERNATIVE CAN BE DEEMED INFEASIBLE ON THE BASIS OF ITS FAILURE TO MEET PROJECT OBJECTIVES OR ON RELATED PUBLIC POLICY GROUNDS.

A. Alternatives under Consideration

The project alternatives are summarized below along with the findings relevant to each alternative.

1. No Project/No Development Alternative

CEQA Guidelines, Section 15126.6(e), requires that an EIR evaluate a “no project” alternative along with its impact. The purpose of describing and analyzing a no project alternative is to allow a lead agency to compare the impacts of approving the project to the impacts of not approving it. Under the No Project/No Development Alternative, the project would not be implemented and the site would remain in its current condition.

Potentially Significant Effects:

The No Project/No Development Alternative would avoid all of the significant and potentially significant impacts associated with the project, including: significant and unmitigated Transportation/Circulation, Visual Effects/Neighborhood Character, Greenhouse Gas Emissions, and Air Quality impacts; and significant but mitigable impacts related to Air Quality, Biological Resources, Historical Resources,

Paleontological Resources, and Tribal Cultural Resources, of which would be avoided or reduce to below a level of significance through identified mitigation measures or design features.

Findings and Supporting Facts:

The City finds that although this alternative would avoid impacts associated with the project, specific economic, legal, social, technological, or other considerations make the No Project/No Development Alternative infeasible and is therefore rejected on such grounds.

The No Project/No Development Alternative would not meet any of the project objectives as set forth in Section 3.2 of the Final EIR and in Section II above.

2. No Project/Development Under Existing Plans Alternative

The project site is currently designated as Commercial Employment, Retail, and Services in the City of San Diego's General Plan (City of San Diego 2008) and Commercial Limited within the Torrey Highlands Subarea Plan (community plan) (City of San Diego 1996). Under these designations, an alternative could be developed that is consistent with these plans and would develop Commercial Limited use, which is stated in the Subarea Plan as uses that are somewhat dependent on automobiles but are appropriate for the more isolated location of this site. This category of land use includes religious facilities, trade schools, storage facilities, nurseries, garden centers, and veterinary clinics (City of San Diego 1996).

For purposes of this CEQA analysis, a religious facility use was assumed for the site. In fact, a religious use project was previously contemplated for the site in 2004 for the Our Lady of Mount Carmel Catholic Church and school (K-8th grade), which provides the best comparative analysis to the project's impacts. The religious facility campus would likely include an on-site school (K-8th grade), large sanctuary/worship center containing 1,000 to 3,500 seats, administration buildings, playground, and other structures. The parking structure would be the same as the project, and surface parking on site would be expanded. See Figure 9-1 for a conceptual site plan for this alternative. The development footprint would occupy the entire site, as with the project. This alternative would not require a Community Plan Amendment; however, a rezone from AR-1-1 would be required to allow for religious and educational uses on site, and site development permit would be required, similar to the project.

Potentially Significant Effects:

The No Project/Development Under Existing Plans Alternative would result in reduced impacts to land use, greenhouse gas emissions, transportation/circulation, visual effects and neighborhood character, air quality and odor, and energy. Similar impacts would result to biological, historical, paleontological, and tribal cultural resources. Greater impacts would result from operational noise.

Findings to Support Facts:

The City finds that although this alternative would reduce impacts associated with land use, greenhouse gas emissions, transportation/circulation, visual effects and neighborhood character, air quality and odor, and energy, specific economic, legal, social, technological, or other considerations make the No Project/Development Under Existing Plans Alternative infeasible, and is therefore rejected on such grounds.

3. Subterranean Parking Alternative

The Subterranean Parking Alternative would construct a 450,000-square-foot business park campus within three buildings and would eliminate the project's proposed seven-story parking structure. Additional levels of subterranean parking would be added to each building to accommodate parking as well as an expanded surface parking lot on the eastern portion of the site; however, the same number of overall parking spaces (1,781) would be developed as the project. All other project components, such as the private café (3,850-square-foot, one-story amenity building) and achieving LEED Silver Certification, would be employed similar to the project. Additionally, the same discretionary actions as would be required for the project would be required for this alternative, including a Community Plan Amendment to redesignate the site from Commercial Limited (CL) to Employment Center (EC), a rezone from AR-1-1 to IP-3-1 (industrial park), and a site development permit. The intent of this alternative is to reduce visual impacts by placing parking underground and reduce the amount of surficial ground disturbance compared to the project, leaving the area where the proposed parking structure would be located undeveloped in its natural state (see Figure 9-2 of the FEIR).

All three buildings would include eight levels of subterranean parking. Building 1 would be four stories, 120,000 square feet, and accommodate 515 parking spaces; Building 2 would be five stories, 150,000 square feet, and accommodate 602 parking spaces; and Building 3 would be six stories, 180,000 square feet, and accommodate 602 parking spaces. See Figure 9-2 of the FEIR for a conceptual site plan for this alternative.

The Subterranean Parking Alternative would require approximately 257,000 additional cubic yards of soil export (approximately 86,000 cubic yards for each of the three buildings) when compared to the project.

Potentially Significant Effects:

The Subterranean Parking Alternative would result in reduced impacts to visual effects and neighborhood character, and biological resources. Similar impacts would result to land use, historical and tribal cultural resources, and noise. Greater impacts would result to transportation/circulation, landform alteration, greenhouse gas emissions, air quality and odor, and paleontological resources associated with construction activities; and slightly greater impacts associated with energy during operation would result.

Findings to Support Facts:

The City finds that although this alternative would reduce impacts associated with visual effects and neighborhood character, and biological resources, specific economic, legal, social, technological, or other considerations make the Subterranean Parking Alternative infeasible, and is therefore rejected on such grounds.

4. Reduced Footprint Alternative

The Reduced Footprint Alternative would result in the elimination of one office building and moving its office square footage into two office towers of six and nine stories. This alternative would develop 450,000 square feet of business office space and associated components, same as the project. This alternative would also maintain the same parking program as the project, including the same number of overall parking spaces (1,781); however, 69 parking spaces would be relocated in the parking structure with the elimination of one office building, thereby increasing the height of the parking structure by approximately 10 feet, 6 inches. The subterranean parking underneath the two office towers and the surface parking would be the same as the project. See Figure 9-3 for a conceptual site plan for this alternative.

Additionally, the same discretionary actions as would be required for the project would be required for this alternative, including a Community Plan Amendment to re-designate the site from Commercial Limited (CL) to Employment Center (EC), a rezone from AR-1-1 to IP-3-1 (industrial park), and a site development permit. The intent of this alternative is to reduce the amount of land disturbance than what would be required under the project. Less land contouring would be required to construct the building pads, driveways, retaining walls, and on-site drainage facilities, and thus, this alternative would reduce potential significant impacts to historic resources, paleontological resources, tribal cultural resources, and biological resources.

Potentially Significant Effects:

The Reduced Footprint Alternative would result in reduced impacts to biological, historical, paleontological, and tribal cultural resources. Similar impacts would result to land use, greenhouse gas emissions, transportation/circulation, air quality and odor, noise, and energy. Greater impacts would result to visual effects and neighborhood character.

Findings to Support Facts:

The City finds that although this alternative would reduce impacts associated with biological, historical, paleontological, and tribal cultural resources, specific economic, legal, social, technological, or other considerations make the Reduced Footprint Alternative infeasible, and is therefore rejected on such grounds.

5. Reduced Development Alternative

This alternative would result in development of a 204,000-square-foot project in a three-building configuration: two buildings of two stories and 60,000 square feet each, and one building with 84,000 square feet. The parking program for this alternative would involve the reduction of one subterranean level in each of the three office buildings and the reduction of four levels of parking within the parking structure. The surface parking would be the same as the project. Additionally, the same discretionary actions as would be required for the project would be required for this alternative, including a Community Plan Amendment to redesignate the site from Commercial Limited (CL) to Employment

Center (EC), a rezone from AR-1-1 to IP-3-1 (industrial park), and a site development permit. The intent of this alternative is to reduce significant transportation/circulation impacts of the project. See Figure 9-4 of the FEIR for a conceptual site plan for this alternative.

Potentially Significant Effects:

The Reduced Development Alternative would result in reduced impacts to greenhouse gas emissions, transportation/circulation, visual effects and neighborhood character, air quality and odor, noise, and energy. Similar impacts would result to land use, biological, historical, paleontological, and tribal cultural resources. None of the impacts associated with this alternative would be greater than those of the project. This alternative is also considered the environmentally superior alternative.

Findings Supporting Facts:

The City finds that although this alternative would reduce impacts associated with greenhouse gas emissions, transportation/circulation, visual effects and neighborhood character, air quality and odor, noise, and energy, specific economic, legal, social, technological, or other considerations make the Reduced Footprint Alternative infeasible, and is therefore rejected on such grounds.

EXHIBIT B

STATEMENT OF OVERRIDING CONSIDERATIONS (PUBLIC RESOURCES CODE SECTION 21081(b))

Pursuant to Section 21081(b) of CEQA and CEQA Guidelines §15093 and 15043, CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits of a proposed project against its unavoidable environmental risks when determining whether to approve the project.

If the specific economic, legal, social, technological, or other benefits outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered acceptable pursuant to Public Resources Code §21081. CEQA further requires that when the lead agency approves a project which will result in the occurrence of significant effects which are identified in the Environmental Impact Report (EIR) but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the EIR and/or other information in the record.

Pursuant to the Public Resources Code §21081(b) and Guidelines § 15093, the City Council, having considered all of the foregoing, finds that the following specific overriding economic, legal, social, technological, or other benefits associated with the project outweigh unavoidable adverse direct impacts related to transportation/circulation, visual effects (landform alteration), greenhouse gas emissions, and air quality.

The City Council declares that it has adopted all feasible mitigation measures to reduce the proposed environmental impacts to an insignificant level; considered the entire administrative record, including the EIR; and weighed the proposed benefits against its environmental impacts. This determination is based on the following specific benefits, each of which is determined to be, by itself and independent of the other project benefits, a basis for overriding and outweighing all unavoidable adverse environmental impacts identified in the Final EIR.

1. Development of a Sustainably Designed Research & Development Campus

The project will develop an employment center within a campus setting targeted for research and development activities and related office uses. The project is configured to be consistent with the Torrey Highlands Subarea Plan's Community Design Guidelines for land designated Employment Center (EC), which is located adjacent to Deer Canyon/Del Mar Mesa Preserve.

The project will further the goals of the City of San Diego's General Plan "City of Villages" smart growth strategy and Climate Action Plan (CAP) by creating the potential for bringing high-quality, well-paying employment opportunities closer to residential communities where employees of businesses located in the project area may reside, thus potentially reducing vehicle miles travelled by persons in the community who would otherwise be required to commute to more distant employment opportunities and locations.

2. Employment and Fiscal Benefits

The development and construction of the Project will deliver numerous employment and fiscal benefits to the City of San Diego that would otherwise not be provided by a development of one of the types specifically mentioned in the Commercial Limited land use designation in the Torrey Highlands Subarea Plan, including:

- Approximately 1,397 full-time equivalent jobs during the construction period.
- Approximately 1,939 full-time equivalent jobs after completion of project development and full occupancy.
- Generation of recurring revenues to the City of San Diego of approximately \$610,720 annually and a fiscal surplus to the City of San Diego of approximately \$214,573 annually.

3. Quality Employment Opportunities

The development of approximately 11.1 acres of employment related uses is consistent with General Plan policies that promote a diversified economy with a focus on providing quality employment opportunities and self-sufficient wages for all San Diegans. The proposal would be consistent with Economic Prosperity Element policies that encourage a broader geographic distribution of high technology businesses throughout the City. The site also takes advantage of one of the two freeway interchange locations (Camino Del Sur and SR-56) within the North City Future Urbanizing Area by siting employment uses in the southern portion of Torrey Highlands where there is an absence of comparable uses in the adjacent community of Rancho Peñasquitos.

The City Council finds in accordance with Public Resources Code §21081(b) and 21081.5, and CEQA Guidelines §§15093 and 15043, that any, or any combination of, the Statement of Overriding Consideration benefits noted above would be sufficient to reach the conclusion that overriding findings justify the significant, unmitigable impacts that were found.

EXHIBIT C

MITIGATION, MONITORING, AND REPORTING PROGRAM

COMMUNITY PLAN AMENDMENT, REZONE, PLANNED DEVELOPMENT PERMIT AND SITE DEVELOPMENT PERMIT

THE PRESERVE AT TORREY HIGHLANDS PROJECT NO. 442880

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. 442880/SCH No. 2016031026 shall be made conditions of Community Plan Amendment, Rezone, Planned Development Permit and Site Development Permit as may be further described below.

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 Services Department Director's Environmental Designee shall review and approve all Construction Documents (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 of San Diego's (City's) website: <http://www.sandiego.gov/development-services/industrystandtemp.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.

Part II – Post-Plan Check (after permit issuance/prior to start of construction)

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

- a. Qualified Paleontological Monitor
- b. Qualified Biologist
- c. Qualified Acoustician
- d. Qualified Archaeological Monitor
- e. Qualified Native American Monitor

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 No. 442880 and/or Environmental Document No. 442880/SCH No. shall conform to the mitigation requirements contained in the associated Environmental Document and implemented to the satisfaction of the Development Services Department'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:

- A. 404 Permit from Army Corps of Engineers
- B. 401 Certification Regional Water Quality Control Board
- C. 1602 Streambed Alteration Agreement from California Department of Fish and Wildlife

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

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

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

Document Submittal/Inspection Checklist

| Issue Area | Document Submittal | Associated Inspection/Approvals/Notes |
|------------------|---|--|
| 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 CVSRs | Land Use Adjacency Issue Site Observations |
| Biology | Biologist Limit of Work Verification | Limit of Work Inspection |
| Biology | Biology Reports | Biology/Habitat Restoration Inspection |
| Noise | Acoustical Reports | Noise Mitigation |
| Noise | Acoustical Reports | Features Inspection |
| Visual Quality | Contour Grading Verification Letter | Contour Grading/Staking Inspection |
| Visual Quality | Retaining Wall Verification Letter | Retaining Wall Inspection |
| Paleontology | Paleontology Reports | Paleontology Site Observation |
| Archaeology | Archaeology Reports | Archaeology/Historic Site Observation |
| Traffic | Traffic Reports | Traffic Features Site Observation |
| Waste Management | Waste Management Reports | Waste Management Inspections |

Document Submittal/Inspection Checklist

| Issue Area | Document Submittal | Associated Inspection/Approvals/Notes |
|---------------------------|---------------------------------|--|
| Greenhouse Gas Emissions | Photovoltaic Verification | Prior to Final Inspection of associated building permits |
| Greenhouse Gas Emissions | CAP Consistency Checklist | Prior to Issuance of associated construction permits |
| Greenhouse Gas Emissions | 10 Percent Reduction | Prior to issuance of associated building permits |
| Air Quality | Engine Tier Verification | Prior to First Grading Permit |
| Tribal Cultural Resources | Archaeology Reports | Archaeology/Historic Site Observation |
| Bond Release | Request for Bond Release Letter | Final MMRP Inspections Prior to Bond Release Letter |

SPECIFIC MMRP ISSUE AREA CONDITIONS/REQUIREMENTS

Air Quality and Odor (Construction)

MM-AQ-1 The owner/permittee shall include verbatim in construction contracts the engine tier requirements in accordance with MM-AQ-2.

MM-AQ-2 Prior to the start of construction activities, the owner/permittee, or its designee, shall ensure that all diesel-powered aerial lifts, forklifts, tractors, loaders, backhoes, and welders be powered with California Air Resources Board–certified Tier 4 Final engines, except where Tier 4 Final equipment is not available. All other diesel-powered construction equipment will be classified as Tier 3 or higher, at a minimum, except where Tier 3 equipment is not available. Engine Tier requirements in accordance with this measure shall be incorporated on all construction plans. An exemption from these requirements may be granted by the City of San Diego in the event that the owner/permittee documents that equipment with the required tier is not reasonably available and corresponding reductions in criteria air pollutant emissions are achieved from other construction equipment.¹ Before an exemption may be considered by the City of San Diego, the owner/permittee shall be required to demonstrate that at least two construction fleet owners/operators in the San Diego region were contacted and that those owners/operators confirmed the requested equipment could not be located within the San Diego region.

¹ For example, if a Tier 4 Interim piece of equipment is not reasonably available at the time of construction and a lower tier equipment is used instead (e.g., Tier 3), another piece of equipment could be upgraded from a Tier 4 Interim to a higher tier (i.e., Tier 4 Final) or replaced with an alternative-fueled (not diesel-fueled) equipment to offset the emissions associated with using a piece of equipment that does not meet Tier 4 Interim standards.

Biological Resources

MM-BIO-1 Mitigation measures to provide protection of biological resources during construction are outlined as follows:

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 Biology 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 (see Appendix F, Biological Technical Report). In addition, include: avian or other wildlife surveys/survey schedules (including nesting surveys for Bell's sparrow), 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 Bell's sparrow, 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 Bell's sparrow 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 Bell's sparrow 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 Bell's sparrow) 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 (CSV). The CSV 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.
- B. **Subsequent Resource Identification:** The Qualified Biologist shall note/act to prevent any new disturbances to habitat, flora, and/or fauna on site (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.

MM-BIO-2 Sensitive Habitat Impacts

Mitigation for impacts to scrub oak and chamise shall be accomplished by on-site preservation and off-site purchase of Tier I and Tier IIIA habitat.

The 0.43-acre on-site covenant of easement provides protection for the off-site vernal pool features and the watershed and also provides mitigation for impacts to chamise chaparral at a 1:1 ratio.

Mitigation for impacts to 0.47 acres of Tier I scrub oak chaparral shall be provided at a 1:1 ratio through the off-site conservation of 0.47 acre of Tier I habitat at the Deer Canyon Mitigation Bank. Mitigation for impacts to 8.85 acres of Tier III habitat, including 1.97 acres of southern mixed chaparral and 6.88 acres of chamise chaparral (6.88 acres is the result of 7.31 acres of impact minus 0.43 acres mitigated on site) shall be accomplished at a 0.5:1 ratio through the conservation of 4.42 acres also within the Deer Canyon Mitigation Bank. While the Deer Canyon Mitigation Bank credits include only 4.39 acres of Tier III habitat credits, the excess 0.03 acres of Tier I habitat credits (0.5 acres available minus 0.47 acres used for mitigation for impacts to scrub oak chaparral) shall be applied to the less sensitive Tier III impacts to satisfy those mitigation requirements consistent with the City's Biology Guidelines.

- MM-BIO-3 Covenant of Easement:** Prior to a Notice to Proceed or the first grading permit, the owner/permittee shall mitigate upland impacts in accordance with the City of San Diego Biology Guidelines. The owner/permittee shall convey a Covenant of Easement (COE) as shown on Exhibit A, to be recorded against the title. The on-site preservation within the COE shall preserve 0.43 acres of chamise chaparral (Tier IIIA) at a 1:1 ratio. This COE also provides protection for the off-site vernal pool features and the watershed.

- MM-BIO-4** Prior to a Notice to Proceed or the first grading permit, owner/permittee shall provide evidence of the following permits: a 404 permit from U.S. Army Corps of Engineers, 401 Certification from Regional Water Quality Control Board, and a 1602 streambed alteration agreement from the California Department of Fish and Wildlife. Evidence shall include copies of permit(s) issued, letter of resolution(s) by the responsible agency documenting compliance, or other evidence documenting compliance deemed acceptable by the Environmental Designee of the City of San Diego's Development Services Department.

Historical Resources

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

II. Prior to Start of Construction

- A. Verification of Records Search
 - 1. The PI shall provide verification to MMC that a site-specific records search (1/4 mile radius) has been completed. Verification includes, but is not limited to a copy of a confirmation letter from South Coast Information Center, or, if the search was in-house, a letter of verification from the PI stating that the search was completed.
 - 2. The letter shall introduce any pertinent information concerning expectations and probabilities of discovery during trenching and/or grading activities.
 - 3. The PI may submit a detailed letter to MMC requesting a reduction to the 1/4-mile radius.
- B. PI Shall Attend Preconstruction Meetings
 - 1. Prior to beginning any work that requires monitoring; the Applicant shall arrange a Precon Meeting that shall include the PI, Construction Manager (CM) and/or Grading Contractor, Resident Engineer (RE), Building Inspector (BI), if appropriate, and MMC. The qualified Archaeologist and Native American Monitor shall attend any grading/excavation related

Precon Meetings to make comments and/or suggestions concerning the Archaeological Monitoring program with the Construction Manager and/or Grading Contractor.

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

III. During Construction

- A. Monitor(s) Shall be Present During Grading/Excavation/Trenching
 1. The Archaeological Monitor shall be present full-time during grading/excavation/trenching activities which could result in impacts to archaeological resources as identified on the AME. The Native American monitor shall determine the extent of their presence during construction related activities based on the AME and provide that information to the PI and MMC. The Construction Manager is responsible for notifying the RE, PI, and MMC of changes to any construction activities 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 modern disturbance post-dating the previous grading/trenching activities, presence of fossil formations, or when native

soils are encountered may reduce or increase the potential for resources to be present.

3. The monitor shall document field activity via the Consultant Site Visit Record (CSVV). The CSVV'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 trenching activities in the area of discovery and immediately notify the RE or BI, as appropriate.
2. The Monitor shall immediately notify the PI (unless Monitor is the PI) of the discovery.
3. The PI shall immediately notify MMC by phone of the discovery, and shall also submit written documentation to MMC within 24 hours by fax or email with photos of the resource in context, if possible.

C. Determination of Significance

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

IV. Discovery of Human Remains

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

A. Notification

1. Archaeological Monitor shall notify the RE or BI as appropriate, MMC, and the PI, if the Monitor is not qualified as a PI. MMC will notify the appropriate Senior Planner in the Environmental Analysis Section (EAS).
2. The PI shall notify the Medical Examiner after consultation with the RE, either in person or via telephone.

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

- D. If Human Remains are NOT Native American
 - 1. The PI shall contact the Medical Examiner and notify them of the historic era context of the burial.
 - 2. The Medical Examiner will determine the appropriate course of action with the PI and City staff (PRC 5097.98).
 - 3. If the remains are of historic origin, they shall be appropriately removed and conveyed to the Museum of Man for analysis. The decision for internment of the human remains shall be made in consultation with MMC, EAS, the applicant/landowner and the Museum of Man.

Paleontological Resources

MM-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 Preconstruction 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 (CSV). The CSV'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

CSV 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.

Transportation/Circulation

- MM-TRA-1 Intersection No. 6. Camino del Sur/SR-56 Westbound Ramps:** Prior to issuance of the first building permit, the owner/permittee shall pay Facilities Benefit Assessment (FBA) fees toward the construction of Torrey Highlands Public Facilities Financing Plan (PFFP) Project No. T-1.3 (corresponding Black Mountain Ranch PFFP Project No. T-15.1) to complete the northbound to westbound loop on-ramp, to the satisfaction of the City Engineer.
- MM-TRA-2 Intersection No. 7. Camino del Sur/SR-56 Eastbound Ramps:** Prior to issuance of the first building permit, the owner/permittee shall pay Facilities Benefit Assessment (FBA) fees toward the construction of Torrey Highlands Public Facilities Financing Plan (PFFP) Project No. T-1.3 (corresponding Black Mountain Ranch PFFP Project No. T-15.1) southbound to eastbound loop on-ramp, to the satisfaction of the City Engineer.
- MM-TRA-3 Intersection No. 17. Black Mountain Road/SR-56 Westbound Ramps:** Prior to the issuance of the first building permit, the owner/permittee shall provide a fair share contribution (12.0%, to the satisfaction of the City Engineer) toward the unfunded portion of Rancho Peñasquitos Public Facilities Financing Plan (PFFP) Project No. T-2D (corresponding Black Mountain Ranch PFFP Project No. T-57, Pacific Highlands Ranch PFFP Project No. T-11.1) to widen Black Mountain Road from Twin Trails Drive to the Community Plan boundary to its ultimate classification as a six-lane primary arterial to the satisfaction of the City Engineer. This would include the restriping of the Black Mountain Road overpass at SR-56 to provide three thru lanes in the northbound direction and associated widening north of the interchange, to the satisfaction of the City Engineer.

- MM-TRA-4 Intersection No. 18. Black Mountain Road/SR-56 Eastbound Ramps:** Prior to the issuance of the first building permit, the owner/permittee shall provide a fair share contribution (15.6%, to the satisfaction of the City Engineer) toward the unfunded portion of Rancho Peñasquitos Public Facilities Financing Plan (PFFP) Project No. T-2D (corresponding Black Mountain Ranch PFFP Project No. T-57, Pacific Highlands Ranch PFFP Project No. T-11.1) to widen Black Mountain Road from Twin Trails Drive to the Community Plan boundary to its ultimate classification as a six-lane primary arterial to the satisfaction of the City Engineer. This would include the restriping of the Black Mountain Road overpass at SR-56 to provide three thru lanes in the northbound direction and associated widening north of the interchange, to the satisfaction of the City Engineer.
- MM-TRA-5 Intersection No. 19. Black Mountain Road/Park Village Road:** Prior to the issuance of the first building permit, the owner/permittee shall provide a fair share contribution (14.7%, to the satisfaction of the City Engineer) toward the unfunded portion of Rancho Peñasquitos Public Facilities Financing Plan (PFFP) Project No. T-2D (corresponding Black Mountain Ranch PFFP Project No. T-57, Pacific Highlands Ranch PFFP Project No. T-11.1) to widen Black Mountain Road from Twin Trails Drive to the Community Plan boundary to its ultimate classification as a six-lane primary arterial, to the satisfaction of the City Engineer.
- MM-TRA-6 Segment No. 19. Black Mountain Rd from SR-56 Eastbound Ramps to Park Village Road:** Prior to issuance of the first building permit, the owner/permittee shall provide a fair share contribution (8.7%, to the satisfaction of the City Engineer) toward the unfunded portion of Rancho Peñasquitos Public Facilities Financing Plan (PFFP) Project No. T-2D (corresponding Black Mountain Ranch PFFP Project No. T-57, Pacific Highlands Ranch PFFP Project No. T-11.1) to widen Black Mountain Road from Twin Trails Drive to the Community Plan boundary to its ultimate classification as a six-lane primary arterial to the satisfaction of the City Engineer.
- MM-TRA-7 Mainlines No. 1. SR-56 from Carmel Valley Road to Camino del Sur (Eastbound):** Prior to issuance of the first building permit, the owner/permittee shall pay the project's Facilities Benefit Assessment (FBA) fees toward the construction of the Torrey Highlands FBA for the construction of the Torrey Highlands Public Facilities Financing Plan Project No. T-1.2B to expand SR-56 from I-5 to I-15 from a four-lane freeway to a six-lane freeway, to the satisfaction of the City Engineer.
- MM-TRA-8 Mainline No. 2. SR-56 from Camino del Sur to Black Mountain Road (Eastbound):** Prior to issuance of the first building permit, the owner/permittee shall pay the project's Facilities Benefit Assessment (FBA) fees toward the construction of the Torrey Highlands Public Facilities Financing Plan Project No. T-1.2B to expand SR-56 from I-5 to I-15 from a four-lane freeway to a six-lane freeway, to the satisfaction of the City Engineer.

MM-TRA-9 Mainline No. 2. SR-56 from Camino del Sur to Black Mountain Road (Westbound): Prior to issuance of the first building permit, the owner/permittee shall pay the project's Facilities Benefit Assessment (FBA) fees toward the construction of the Torrey Highlands Public Facilities Financing Plan Project No. T-1.2B to expand SR-56 from I-5 to I-15 from a four-lane freeway to a six-lane freeway, to the satisfaction of the City Engineer.

Greenhouse Gas Emissions

MM-GHG-1 The owner/permittee shall install a solar photovoltaic system to be incorporated as part of the parking garage rooftop trellis structures. The photovoltaic system shall occupy the maximum surface area provided by the trellis structures, and would be no less than 25,000 square feet, consistent with Figure 3-15 of this EIR. The photovoltaic system shall be incorporated on all construction plans and verified by the Environmental Designee of the City of San Diego's Development Services Department.

MM-GHG-2 The project shall achieve a 5% increase in energy efficiency over the 2016 Title 24 Standards through structural design elements including variable refrigerant flow systems for the heating, ventilation and air conditioning (HVAC) system; high performance glazing; and heat reflecting roofing material.

These design elements including the variable refrigerant flow systems for the HVAC system, high performance glazing, and heat reflecting roofing material shall be incorporated on all construction plans and verified by the Environmental Designee of the City of San Diego's Development Services Department.

MM-GHG-3 The owner/permittee shall install a cool roof (thermoplastic polyolefin) above the 3-year-old solar reflection and a thermal remittance or solar reflection index in exceedance of the code minimums pursuant to the "Cool/Green Roofs" requirement of the City's CAP Consistency Checklist. The cool roof specifics shall be incorporated on all construction plans and verified by the Environmental Designee of the City of San Diego's Development Services Department.

MM-GHG-4 The owner/permittee shall implement the required flow rates and appliances that meet the voluntary measures portion of the California Green Building Standards Code for non-residential buildings pursuant to the "Plumbing Fixtures and Fittings" requirement of the City's CAP Consistency Checklist.

MM-GHG-5 The owner/permittee shall provide 107 electric vehicle-capable (pre-wired) parking spaces consistent with the California Green Building Code Standards Code. Additionally, 50% (54) of the 107 pre-wired parking spaces would include electric vehicle charging infrastructure as determined by Table 5.106.5.3.3 of the California Green Building Standards Code. This measure would be pursuant to the "Electric Vehicle Charging" requirements of the City's CAP Consistency Checklist. These parking spaces shall be incorporated on all construction plans and verified by the

Environmental Designee of the City of San Diego's Development Services Department.

- MM-GHG-6** The owner/permittee shall provide 90 short-term bicycle parking spaces and 90 long-term bicycle parking spaces pursuant to the "Bicycle Parking Spaces" requirement of the City's CAP Consistency Checklist. Bicycle parking specifics shall be incorporated on all construction plans and verified by the Environmental Designee of the City of San Diego's Development Services Department.
- MM-GHG-7** The owner/permittee shall provide 12 shower stalls and 48 two-tier lockers pursuant to the "Shower Facilities" requirement of the City's CAP Consistency Checklist. Shower stalls and lockers shall be incorporated on all project plans and verified by the Environmental Designee of the City of San Diego's Development Services Department.
- MM-GHG-8** The owner/permittee shall include 179 carpool/vanpool spaces (10% of total spaces) pursuant to the "Designated Parking Spaces" requirement of the City's CAP Consistency Checklist. These parking spaces shall be incorporated on all construction plans and verified by the Environmental Designee of the City of San Diego's Development Services Department.
- MM-GHG-9** Pursuant to the "Transportation Demand Management Program" requirement of the City's CAP Consistency Checklist, the owner/permittee shall require office tenants to:
- a. Implement a parking cash-out program, and/or
 - b. Provide unbundled parking option for employees, and/or
 - c. Charge employees market-rate for single-occupancy vehicle parking and providing reserved, discounted, or free spaces for registered carpools or vanpools.
 - d. Carpool/vanpool parking spaces shall be provided in preferentially located areas (closest to building entrances) for use by qualified employees. These spaces shall be signed and striped "Car/Vanpool Parking Only." Information about the availability of and the means of accessing the car/vanpool parking spaces shall be posted on Transportation Information Displays located in common areas or on intranets, as appropriate.
 - e. The owner/permittee shall conduct an employee commute travel survey within 6 months of occupancy to evaluate the efficacy of the Transportation Demand Management plan, and to inform/validate any changes that may be proposed or needed. A copy of the results of this survey will be provided to the City Development Services Department. The owner/permittee shall continue monitoring the effectiveness of the project's Transportation Demand Management plan, including the provision of items a. through d. as listed above, and provide the results in an annual report to the Development Services Department for a period of 5 years. The first report submittal shall occur 1 year after project occupancy.

MM-GHG-10 Pursuant to the “Transportation Demand Management Program” requirement of the City’s CAP Consistency Checklist, the owner/permittee shall require office tenants to maintain an employer network in the SANDAG iCommute program and promoting its RideMatcher service to tenants/employees. Participation in the iCommute program and use of the RideMatcher service shall be disclosed in the TDM annual report as required under **MM-GHG-9 (e)**.

MM-GHG-11 The owner/permittee shall require office tenants to offer partially subsidized monthly transit passes for employees, should service routes be implemented in the future. If transit passes are offered, issuance of transit passes shall be disclosed in the TDM annual report as required under **MM-GHG-9 (e)**.

MM-GHG-12 The owner/permittee shall require office tenants to offer partially subsidized vanpool/rideshare services to all employees. Employee utilization of vanpool/rideshare services shall be disclosed in the TDM annual report as required under **MM-GHG-9 (e)**.

MM-GHG-13 Pursuant to the “Transportation Demand Management Program” requirement of the City’s CAP Consistency Checklist, the owner/permittee shall require office tenants to offer a telework program to all employees. Employee utilization of the telework program shall be disclosed in the TDM annual report as required under **MM-GHG-9 (e)**.

MM-GHG-14 Prior to issuance of the first grading permit, the owner/permittee shall provide evidence to the Environmental Designee and the City’s Office of Sustainability that the owner/permittee has purchased and retired carbon credits, in a quantity sufficient to offset 100% of the project’s construction emissions, which total 8,392 metric tons of carbon dioxide equivalent (MT CO₂E) (note: this number reflects all the construction-related GHG emissions after applying all project design features and reductions), pursuant to the performance standards and requirements described below.

1. The carbon offsets that are purchased to reduce GHG emissions shall achieve real, permanent, quantifiable, verifiable, and enforceable reductions as set forth in California Health and Safety Code Section 38562(d)(1).
2. One carbon offset credit shall mean the past reduction or sequestration of 1 MT CO₂E that is “not otherwise required” (CEQA Guidelines Section 15126.4[c][3]).
3. The purchase of carbon offsets shall be documented by an instrument issued by any of the following: (i) the Climate Action Reserve, the American Carbon Registry, or the Verra; (ii) any registry approved by the California Air Resources Board (CARB) to act as a registry under the state’s Cap-and-Trade Program; or (iii) if no registry is in existence as identified in options (i) and

(ii), above, then any other reputable registry or entity that issues carbon offsets that is acceptable to the City of San Diego.

MM-GHG-15 As to operational GHG emissions, prior to the issuance of the first building permit, the owner/permittee shall purchase and retire carbon offsets in a quantity sufficient to offset for a 30-year period, the project's operational GHG emissions to equal the emissions associated with the comparative project allowed under existing land uses, which total 122,400 MT CO₂E (4,080 MT CO₂E per year × 30 years), consistent with the performance standards and requirements set forth below.

1. The carbon offsets that are purchased to reduce GHG emissions shall achieve real, permanent, quantifiable, verifiable, and enforceable reductions as set forth in California Health and Safety Code Section 38562(d)(1).
2. One carbon offset credit shall mean the past reduction or sequestration of 1 MT CO₂E that is "not otherwise required" (CEQA Guidelines section 15126.4[c][3]).
3. The purchase of carbon offsets shall be documented by an instrument issued by any of the following: (i) the Climate Action Reserve, the American Carbon Registry, or the Verra; (ii) any registry approved by CARB to act as a registry under the state's Cap-and-Trade Program; or (iii) if no registry is in existence as identified in options (i) and (ii), above, then any other reputable registry or entity that issues carbon offsets under the state's Cap-and-Trade Program. If no CARB-approved registry is in existence, then the owner/permittee shall purchase off-site carbon offset credits from any other reputable registry or entity that is acceptable to the City of San Diego.

The "project life" is 30 years. This methodology is consistent with the 30-year project life time frame used by the South Coast Air Quality Management District's GHG guidance (SCAQMD 2008).

Tribal Cultural Resources

MM-TCR-1 See MM-CUL-1.

Visual Effects and Neighborhood Character

MM-VIS-1 During grading activities, spot elevations and contour grading techniques shall be employed to imitate the existing on-site landforms to the maximum extent feasible. Implementation of grading techniques (spot elevation and contour grading) shall be consistent with Exhibit A.

Passed by the Council of The City of San Diego on AUG 05 2019, by the following vote:

| Councilmembers: | Yeas | Nays | Not Present | Recused |
|-------------------|-------------------------------------|-------------------------------------|--------------------------|--------------------------|
| Barbara Bry | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Jennifer Campbell | <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"/> |
| Monica Montgomery | <input type="checkbox"/> | <input checked="" 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"/> |
| Vivian Moreno | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Georgette Gómez | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Date of final passage AUG 05 2019.

(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.

(Seal)

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

By Ginda Bruin, Deputy

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| Office of the City Clerk, San Diego, California |
| Resolution Number R- 312613 |