(R-2020-504) COR. COPY 6/9

RESOLUTION NUMBER R- 313079

DATE OF FINAL PASSAGE JUN 09 2020

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO APPROVING SITE DEVELOPMENT PERMIT NO. 2335940 FOR THE SOUTH MISSION BEACH STORM DRAIN AND GREEN INFRASTRUCTURE PROJECT NO. 646245.

WHEREAS, City of San Diego's Public Works Department, Owner/Permittee, filed an application with the City of San Diego for a Site Development Permit to construct a comprehensive drainage system upgrade for water quality and flood control management known as the South Mission Beach Storm Drain and Green Infrastructure project, located on Mission Boulevard between San Fernando Place to the north and San Diego Place to the south as well as numerous perpendicular streets running eastward to San Diego Bay, in the Mission Beach Precise Plan and Local Coastal Program Addendum (Community Plan) area, in the Mission Beach Planned District Residential South (MBPD-R-S), the MBPD-VC-S (Visitor Commercial), and MBPD-NC-S (Neighborhood Commercial) Zones. The site is within the Coastal Appealable and Coastal Deferred Certification Overlay Zone. The California Coastal Commission will assume jurisdiction for the project area including outfalls into the bay will consider a Coastal Development Permit as a separate action; and

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

WHEREAS, the matter was set for public hearing on June 9, 2020, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it adopts the following findings with respect to Site Development Permit No. 2335940:

<u>SITE DEVELOPMENT PERMIT - SAN DIEGO MUNICIPAL CODE (SDMC)</u> <u>SECTION 126.0505(a)</u>

1. Findings for all Site Development Permits:

a. The proposed development will not adversely affect the applicable land use plan. The 7,709 linear feet of storm drain improvements are located on and eastward of Mission Boulevard between San Fernando Place to the north and San Diego Place to the south as well as numerous perpendicular streets.

The Community Plan Public Utilities and Facilities recommendations include that adequate storm drains be provided where necessary to eliminate any drainage problems and that all pump stations be placed underground. This project intends to improve storm water conveyance in the South Mission Beach Community by replacing or rehabilitating pipelines, pump stations, and failing infrastructure and installing green infrastructure. Furthermore, storm drainage was identified as a problem in the Mission Beach Community in the 1982 Mission Beach Precise Plan. This project complies with the Precise Plan's recommendation to provide adequate storm drains where necessary to eliminate drainage problems.

No deviations or variances are proposed and the project is consistent with the recommended land use designation, goals, recommendations, design guidelines, and development standards in effect for this site. Therefore, the development will not adversely affect the applicable land use plan.

b. The proposed development will not be detrimental to the public health, safety, and welfare. The 7,709 linear feet of storm drain improvements are located on and eastward of Mission Boulevard between San Fernando Place to the north and San Diego Place to the south as well as numerous perpendicular streets.

Under existing conditions and based on the 2003 water year, 93.3 percent of water in the South Mission Beach project area directly discharged to the bay via direct storm drain flows, approximately 5.8 percent of water was discharged by mechanical pumping of non-draining basins where water would be conveyed and discharged to the bay, and less than one percent of remaining water loss was discharged through surface runoff and infiltration. In the current condition, the areas around existing weep sump pumps flood during wet weather conditions.

This project will improve storm water conveyance and water quality through the upgrade of the current storm drain system's storm drain laterals, eight water quality basins, low-flow diversion, and tide gate structures in South Mission Beach. Bioretention basins will be installed to provide storm water quality treatment, expand infiltration potential and retain a portion of storm water runoff. Work will be within the alley public rights-of-way, public parking areas, and public shoreline.

The resulting improvements to water quality would, in turn, improve public health, safety, and welfare. Furthermore, the removal of deteriorating infrastructure from the public beaches of Mission Bay Park from the beach surface will make the beach safer for the public, and will make beaches easier and safer to maintain.

The Environmental Analysis Section conducted an environmental review of the proposed project in accordance with State of California Environmental Quality Act (CEQA) guidelines. The proposed project could have a significant environmental effect on Biological Resources, Cultural Resources (Archaeology), as well as Tribal Cultural Resources. A Mitigated Negative Declaration has been prepared for the project in order to avoid or mitigate the potentially significant environmental effects.

The project is conditioned to comply with the Mitigated Negative Declaration and development regulations in effect for the subject property as described in Site Development Permit No. 2335940. Therefore, the proposed development will not be detrimental to the public health, safety, and welfare.

c. The proposed development will comply with the applicable regulations of the Land Development Code, including any allowable deviations pursuant to the Land Development Code. The 7,709 linear feet of storm drain improvements are located on and eastward of Mission Boulevard between San Fernando Place to the north and San Diego Place to the south as well as numerous perpendicular streets.

The site is within the Mission Beach Planned District Residential South (MBPD-R-S), the MBPD-VC-S (Visitor Commercial), and MBPD-NC-S (Neighborhood Commercial) Zones, however the work will be within the alley public rights-of-way, public parking areas, and public shoreline areas. Additionally, the site is within the Coastal Appealable and Coastal Deferred Certification Overlay Zone. The California Coastal Commission will assume jurisdiction for the project area including outfalls into the bay will consider a Coastal Development Permit as a separate action. This project complies with the applicable regulations of the SDMC and the City Street Design Manual. Therefore, the development will comply with the applicable regulations of the Land Development Code.

2. <u>Supplemental Findings--Environmentally Sensitive Lands SDMC Section</u> 126.0505(b):

a. The site is physically suitable for the design and siting of the proposed development and the development will result in minimum disturbance to environmentally sensitive lands. The 7,709 linear feet of storm drain improvements are located on and eastward

of Mission Boulevard between San Fernando Place to the north and San Diego Place to the south as well as numerous perpendicular streets.

This project complies with the applicable regulations of the SDMC, which are intended to assure that development occurs in a manner that protects the overall quality of the resources and the natural character of the area, encourages development that is sensitive to the environment and to public safety, and welfare. This project will improve storm water conveyance and water quality through the upgrade of the current storm drain system's storm drain laterals, eight water quality basins, low-flow diversion, and tide gate structures in South Mission Beach. Bioretention basins will be installed to provide storm water quality treatment, expand infiltration potential and retain a portion of storm water runoff. Work will be within the alley public rights-of-way, public parking areas, and public shoreline.

A Biological Technical Report was prepared to determine the potential impacts project construction would have on sensitive resources. The relocation of the drains to subtidal locations, may temporary impact 0.31-acres of eelgrass. The areas around the new storm drains will be restored to sandy intertidal and subtidal slopes suitable to support eelgrass. Subsequently, eelgrass would be restored within the impact area. Impacts to eelgrass are considered significant and required mitigation would increase eelgrass bed areas, well in excess of areas impacted by pipeline construction.

To reduce long-term impact to environmentally sensitive lands, this project will to extend storm drain outfalls to subtidal locations. The project would use coffer dams during construction to extend the pipes in intertidal and subtidal areas. Areas around the new storm drains will be recontoured into shallow sand beds to match surrounding topography and to promote growth of eelgrass.

The City of San Diego conducted an Initial Study in conformance with the California Environmental Quality Act which determined that the proposed project could have a significant environmental effect on Biological Resources, Cultural Resources (Archaeology), and Tribal Cultural Resources. Subsequent revisions in the project proposal create specific mitigation and the project now avoids or mitigates the potentially significant environmental effects.

Therefore, the site is physically suitable for the design and siting of the proposed development and the development will result in minimum disturbance to environmentally sensitive lands.

b. The proposed development will minimize the alteration of natural land forms and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards. The 7,709 linear feet of storm drain improvements are located on and eastward of Mission Boulevard between San Fernando Place to the north and San Diego Place to the south as well as numerous perpendicular streets.

Beach erosion and the transport of sand to the federal navigation basin occurs in the South Mission Beach area due to exposed storm drains on the beach. The proposed project is designed to reduce beach erosion and the movement of sand into the bay by removing dilapidated storm drain infrastructure, replacing storm drains, and pump stations from the upper

and mid beach, and extending infrastructure to deeper subtidal discharge points. Therefore, The proposed development will minimize the alteration of natural land forms and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards.

c. The proposed development will be sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands. The 7,709 linear feet of storm drain improvements are located on and eastward of Mission Boulevard between San Fernando Place to the north and San Diego Place to the south as well as numerous perpendicular streets.

The proposed project is designed to relocate and extend the drains to subtidal locations. The project will cause 0.31-acres of temporary eelgrass impacts. The areas around the relocated and extended storm drains will be conditioned to be restored to sandy intertidal and subtidal slopes suitable to support increased acreages of eelgrass. Therefore, The proposed development will be sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands.

d. The proposed development will be consistent with the City of San Diego's Multiple Species Conservation Program (MSCP) Subarea Plan and Vernal Pool Habitat Conservation Plan (VPHCP). The 7,709 linear feet of storm drain improvements are located on and eastward of Mission Boulevard between San Fernando Place to the north and San Diego Place to the south as well as numerous perpendicular streets.

The project is not located within or adjacent to the City's Multiple Species Conservation Program or the Vernal Pool Habitat Conservation Plan, and will therefore not impact protected resources.

e. The proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply. The 7,709 linear feet of storm drain improvements are located on and eastward of Mission Boulevard between San Fernando Place to the north and San Diego Place to the south as well as numerous s perpendicular streets.

Beach erosion and the transport of sand to the federal navigation basin occurs in the South Mission Beach area due to exposed storm drains on the beach. The proposed project is designed to reduce beach erosion and the movement of sand into the bay by removing dilapidated storm drain infrastructure, replacing storm drains, and pump stations from the upper and mid beach, and extending infrastructure to deeper subtidal discharge points. The project would use coffer dams during construction to extend the pipes in intertidal and subtidal areas. Areas around the new storm drains will be recontoured into shallow sand beds to match surrounding topography and to promote growth of eelgrass. Therefore, The proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply.

f. The nature and extent of mitigation required as a condition of the permit is reasonably related to, and calculated to alleviate, negative impacts created by the proposed development. The 7,709 linear feet of storm drain improvements are located on and eastward of Mission Boulevard between San Fernando Place to the north and San Diego Place to the south as well as numerous perpendicular streets.

Mitigation measures proposed for this project include Biological Resources, Cultural Resources (Archaeology), and Tribal Cultural Resources. The project proposes the biological restoration of 0.31-acres of Eelgrass consistent with the California Eelgrass Policy. Potential impacts to Cultural Resources (Archaeology) and Tribal Cultural Resources will be mitigated through onsite monitoring of excavation activities for potential subsurface resources. Therefore, the nature and extent of mitigation required as a condition of the permit is reasonably related to, and calculated to alleviate, negative impacts created by the proposed development.

3. <u>Supplemental Findings-Environmentally Sensitive Lands Deviations, SDMC Section 126.0505(c)</u>

a. There are no feasible measures that can further minimize the potential adverse effects on environmentally sensitive lands. The 7,709 linear feet of storm drain improvements are located on and eastward of Mission Boulevard between San Fernando Place to the north and San Diego Place to the south as well as numerous perpendicular streets.

The Project intends to lower the drains from their present intertidal discharge points to a deeper subtidal discharge condition. The subtidal discharge relocation of the storm drains is a highly desirable as it relocations the drains off of the public beach and it reduces the beach erosion associated with low-tide period discharges from the drains that push sand outward into the deep federal anchorage basin. The design allows for improvements of the health, safety, aesthetics, public usability, and the maintenance of the public beaches within Mission Bay Park through the removal of existing deteriorating infrastructure from the beach surface. Existing infiltration methods onsite are not performing as expected, and only a small percentage of storm water is being treated prior to it being discharged to the bay. The proposed project will create biofiltration basins and infiltration that will treat storm water prior to it being discharged into waterways.

A Biological Investigations report was conducted for the project site by M&A (2019). The study determined that 0.31-acre of impacts will occur to eelgrass. The project will mitigate the impacts through recontouring the area surrounding the new storm drains into shallow sand beds to match existing topography and revegetation with new eelgrass habitat. Mitigation measures, along with the storm water treatment benefits will create more than satisfactory long-term benefits on environmentally sensitive lands. Therefore, there are no feasible measures that can further minimize the potential adverse effects on environmentally sensitive lands.

b. The proposed deviation is the minimum necessary to afford relief from special circumstances or conditions of the land, not of the applicant's making. The 7,709 linear feet of storm drain improvements are located on and eastward of Mission Boulevard between San Fernando Place to the north and San Diego Place to the south as well as numerous perpendicular streets.

Currently, the drainage system in South Mission Beach is failing to convey storm water efficiently, leading to flooding in the neighborhood during storms. This is largely in part due to the design characteristics of the initial infrastructure installs during the construction of the South Mission Beach neighborhood. Failing existing infrastructure includes weep sumps within closed drainage basins. The weeps sumps were constructed to take advantage of percolating accumulated water through hydraulic fills and Pleistocene aged paralic deposits. Various factors including the high underlying marine influenced groundwater table, the interfingered estuarine fine deposits in the strand, and the fouling of the weep sumps over time by other roadway sediment, the weep sumps do not work as intended.

The project is design to alleviate flooding caused by the failing storm drain infrastructure, through the rehabilitation or replacement of the aging storm drain infrastructure. The project design would not divert any new water into the project area and does not otherwise increase the volume of storm water managed in South Mission Beach. The project does not alter the overall distribution of water managed between the different disposal methods.

The project is deviating from the Environmentally Sensitives Lands regulations in SDMC 143.0141 by encroaching within and impacting up to 0.31-acres of eelgrass habitat. The project is conditioned to re-contour the disturbed outfall area to be conducive to the regrowth of native coastal species and will revegetate Eelgrass consistent with the California Eelgrass Policy. Therefore, the proposed deviation is the minimum necessary to afford relief from special circumstances or conditions of the land, not of the applicant's making.

The above findings are supported by the minutes, maps and exhibits, all of which are incorporated herein by this reference.

BE IT FURTHER RESOLVED, that Site Development Permit No. 2335940 is granted to City of San Diego's Public Works Department, Owner/Permittee, under the terms and conditions set forth in the attached permit which is made a part of this resolution.

APPROVED: MARA W. ELLIOTT, City Attorney

By /s/ Noah J. Brazier
Noah J. Brazier
Deputy City Attorney

NJB:als 04/30/2020 06/10/2020 Cor. Copy Or.Dept:DSD

Doc. No.: 2374463_2

Attachment: Site Development Permit No. 2335940

RECORDING REQUESTED

CITY OF SAN DIEGO DEVELOPMENT SERVICES PERMIT INTAKE, MAIL STATION 501

WHEN RECORDED MAIL TO CITY CLERK MAIL STATION 2A

I.O. NO.'S: B-18117-02.06 and B-18118.02.06

SPACE ABOVE FOR RECORDER'S USE

SITE DEVELOPMENT PERMIT PROJECT NO. 2335940 SOUTH MISSION BEACH STORM DRAIN AND GREEN INFRASTRUCTURE PROJECT NO. 646245: MMRP CITY COUNCIL

This Site Development Permit No. 2335940 is granted by the City of San Diego, to the City of San Diego's Public Works Department, Owner and Permittee, pursuant to San Diego Municipal Code (SDMC) section 143.0110(a)(1). The project location is on Mission Boulevard between San Fernando Place to the north and San Diego Place to the south as well as numerous perpendicular streets. The area is within the Mission Beach Planned District Residential South (MBPD-R-S), the MBPD-VC-S (Visitor Commercial), and MBPD-NC-S (Neighborhood Commercial) Zones and Coastal (State & Appealable) Overlay Zone within the Mission Beach Precise Plan and Local Coastal Program Addendum area.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to construct a comprehensive drainage system upgrade for water quality and flood control management described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated June 2, 2020, on file in the Development Services Department.

The project shall include:

- a. 7,709 linear feet of storm drain improvements, low flow diversion improvements, and installation of green infrastructure;
- b. Additionally, realignment of storm drains, installation of cleanouts, replacement of damaged curb, gutter, and sidewalks, and the modification of catch basins with sump pumps; and
- c. Public and private accessory improvements determined by the Development Services Department to be consistent with the land use and development standards for this site in accordance with the adopted community plan, the California Environmental Quality Act (CEQA) and the CEQA Guidelines, the City Engineer's requirements, zoning regulations, conditions of this Permit, and any other applicable regulations of the SDMC.

STANDARD REQUIREMENTS:

- 1. This permit must be utilized within six years (72) months after the date on which all rights of appeal have expired. If this permit is not utilized in accordance with Chapter 12, Article 6, Division 1 of the SDMC within the 72-month period, this permit shall be void unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker. This permit must be utilized by June 2, 2026.
- 2. No permit for the construction, occupancy, or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:
 - a. The Owner/Permittee signs and returns the Permit to the Development Services Department; and
 - b. The Permit is recorded in the Office of the San Diego County Recorder.
- 3. While this Permit is in effect, the subject property shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the appropriate City decision maker.
- 4. This Permit is a covenant running with the subject property and all of the requirements and conditions of this Permit and related documents shall be binding upon the Owner/Permittee and any successor(s) in interest.
- 5. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
- 6. Issuance of this Permit by the City of San Diego does not authorize the Owner/Permittee for this Permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 (ESA) and any amendments thereto (16 U.S.C. § 1531 et seq.).
- 7. The Owner/Permittee shall secure all necessary building permits. The Owner/Permittee is informed that to secure these permits, substantial building modifications and site improvements may be required to comply with applicable building, fire, mechanical, and plumbing codes, and State and Federal disability access laws.
- 8. Construction plans shall be in substantial conformity to Exhibit "A." Changes, modifications, or alterations to the construction plans are prohibited unless appropriate application(s) or amendment(s) to this Permit have been granted.
- 9. All of the conditions contained in this Permit have been considered and were determined necessary to make the findings required for approval of this Permit. The Permit holder is required to comply with each and every condition in order to maintain the entitlements that are granted by this Permit.

10. This Permit may be developed in phases. Each phase shall be constructed prior to sale or lease to individual owners or tenants to ensure that all development is consistent with the conditions and exhibits approved for each respective phase per the approved Exhibit "A."

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

- 11. Mitigation requirements in the Mitigation, Monitoring, and Reporting Program (MMRP) shall apply to this Permit. These MMRP conditions are hereby incorporated into this Permit by reference.
- 12. The mitigation measures specified in the MMRP and outlined in Mitigated Negative Declaration, No. 646245, shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL MITIGATION REQUIREMENTS.
- 13. The Owner/Permittee shall comply with the MMRP as specified in Mitigated Negative Declaration, No. 646245, to the satisfaction of the Development Services Department and the City Engineer. Prior to the issuance of the "Notice to Proceed" with construction, all conditions of the MMRP shall be adhered to, to the satisfaction of the City Engineer. All mitigation measures described in the MMRP shall be implemented for the following issue areas:

Biological Resources, Cultural Resources (Archaeology), Tribal Cultural Resources

CLIMATE ACTION PLAN REQUIREMENTS:

14. Owner/Permittee shall comply with the Climate Action Plan (CAP) Consistency Checklist stamped as Exhibit "A." Prior to issuance of any construction permit, all CAP strategies shall be noted within the first three (3) sheets of the construction plans under the heading "Climate Action Plan Requirements" and shall be enforced and implemented to the satisfaction of the Development Services Department.

ENGINEERING REQUIREMENTS:

- 15. All excavated material listed to be exported, shall be exported to a legal disposal site in accordance with the Standard Specifications for Public Works Construction (the "Green Book"), 2015 edition and Regional Supplement Amendments adopted by Regional Standards Committee.
- 16. The drainage system proposed for this development, as shown on the site plan, is public and subject to approval by the City Engineer.
- 17. All Public Improvements shall be constructed per approved Exhibit "A" and satisfactory to the City Engineer.

- 18. The project shall incorporate any construction Best Management Practices necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the SDMC, into the construction plans or specifications.
- 19. The Project shall prepare a Technical Report that will be subject to final review and approval by the City Engineer, based on the Storm Water Standards in effect at the time of the construction permit issuance.
- 20. Development of this project shall comply with all storm water construction requirements of the State Construction General Permit, Order No. 2009-0009DWQ, or subsequent order, and the Municipal Storm Water Permit, Order No. R9-2013-0001, or subsequent order. In accordance with Order No. 2009-0009DWQ, or subsequent order, a Risk Level Determination shall be calculated for the site and a Storm Water Pollution Prevention Plan (SWPPP) shall be implemented concurrently with the commencement of grading activities.

INFORMATION ONLY:

- The issuance of this discretionary permit alone does not allow the immediate commencement or continued operation of the proposed use on site. Any operation allowed by this discretionary permit may only begin or recommence after all conditions listed on this permit are fully completed and all required ministerial permits have been issued and received final inspection.
- Any party on whom fees, dedications, reservations, or other exactions have been imposed
 as conditions of approval of this Permit, may protest the imposition within ninety days of
 the approval of this development permit by filing a written protest with the City Clerk
 pursuant to California Government Code-section 66020.
- This development may be subject to impact fees at the time of construction permit issuance.

APPRO	OVED by the City Co	ouncil of the C	ity of San Die	ego on June 2, :	2020 and by	Resolution
No.	OVED by the City Co 313079				•	

- Permit Type/PTS Approval No.: Site Development Permit No. 2335940

Date of Approval: June 2, 2020

AUTHENTICATED	BY THE CITY	OF SAN DIEGO	DEVELOPMENT	SERVICES
DEPARTMENT				

Karen Bucey
Development Project Manager

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

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

CITY OF SAN DIEGO PUBLIC WORKS Owner/Permittee

Ronald Famorcan
Associate Civil Engineer

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

assed by the Council of The Cit	y of San Dieg	go onJl	JN 09 2020	_, by the following vote	
Councilmembers	Yeas /	Nays —	Not Present	Recused 	
Barbara Bry	Z _e				
Jennifer Campbell					
Chris Ward	Z				
Monica Montgomery	Z				
Mark Kersey	Z_{\perp}				
Chris Cate	Z_{j}				
Scott Sherman	Z,				
Vivian Moreno	Z,				
Georgette Gómez	Z				
lease note: When a resoluti ite the approved resolution		-	•	-	
		KEVIN L. FAULCONER			
THENTICATED BY:		Mayo	·	an Diego, California.	
(Seal)·		ELIZABETH S. MALAND City Clerk of The City of San Diego, California.			
		Ву	Hy Musch	, Deputy	
		Office of the City Clerk, San Diego, California			
	Resc	olution Numbe	er R- 313	3079	