

RESOLUTION NUMBER R- 313360

DATE OF FINAL PASSAGE NOV 17 2020

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO CERTIFYING ENVIRONMENTAL IMPACT REPORT NO. 581984/SCH NO. 2018041028, ADOPTING THE FINDINGS AND STATEMENT OF OVERRIDING CONSIDERATIONS, AND ADOPTING THE MITIGATION, MONITORING, AND REPORTING PROGRAM FOR THE RIVERWALK - PROJECT NO. 581984.

WHEREAS, on February 28, 2018, SD Riverwalk LLC, a Delaware Limited Liability Company submitted an application to Development Services Department for the rescission of the existing Levi-Cushman Specific Plan and adoption of the new specific plan (Riverwalk Specific Plan), amendments to the Mission Valley Community Plan and General Plan; amendments to Chapter 13, Article 2, Division 14 of the San Diego Municipal Code to the Mission Valley Community Plan Implementation Overlay Zone (CPIOZ) map; Rezone; Development Agreement; Site Development Permit and Conditional Use Permit; Vesting Tentative Map and Easement Vacation for the Riverwalk (Project); and

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

WHEREAS, the issue was heard by the Council on November 17, 2020; 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 considered the issues discussed in Environmental Impact Report No. 581984 / SCH No. 2018041028 (Report) prepared for this Project; NOW, THEREFORE,

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

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

BE IT FURTHER RESOLVED, that pursuant to State CEQA Guidelines Section 15093, the Council 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 City Council hereby adopts the Mitigation, Monitoring, and Reporting Program, or alterations to implement the changes to the Project as required by this Council 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 /s/ Corrine L. Neuffer
Corrine L. Neuffer
Deputy City Attorney

CLN:als
10/26/2020
Or.Dept:DSD
Doc. No.: 2507996

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

EXHIBIT A AND EXHIBIT B

**FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATIONS
REGARDING THE FINAL ENVIRONMENTAL IMPACT REPORT FOR THE
RIVERWALK PROJECT**

Project No. 581984
SCH No. 2018041028

September 2020

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1.0 INTRODUCTION

1.1 Findings of Fact and Statement of Overriding Considerations

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

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

- (e) The public agency shall specify the location and custodian of the documents or other materials which constitute the record of the proceedings upon which its decision is based.
- (f) A statement made pursuant to Section 15093 does not substitute for the findings required by this section.

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

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

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

- (a) CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits, including region-wide or state-wide environmental benefits, of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits, including region-wide or state-wide environmental benefits, of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered “acceptable.”
- (b) When the lead agency approves a project which will result in the occurrence of significant effects which are identified in the Final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the Final EIR and/or other information in the record.

The statement of overriding considerations shall be supported by substantial evidence in the record.

- (c) If an agency makes a statement of overriding considerations, the statement should be included in the record of the project approval and should be mentioned in the notice of determination. This statement does not substitute for, and shall be in addition to, findings required pursuant to Section 15091.

Having received, reviewed, and considered the Final Environmental Impact Report for the Riverwalk project (project), Project No. 581984/State Clearinghouse No. 2018041028 (Final EIR), as well as all other information in the record of proceedings on this matter, the following Findings of Fact (Findings) are made, and a Statement of Overriding Considerations (Statement) is adopted by the City of San Diego (City) in its capacity as the CEQA Lead Agency. These Findings and Statement set forth the environmental basis for current and subsequent discretionary actions to be undertaken by the City and responsible agencies for the implementation of the project.

1.2 Record of Proceedings

For purposes of CEQA and these Findings and Statement, 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;
- 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 the Draft EIR, the Final EIR, and any responses to comments in the Final EIR;
- The revised and/or updated reports and technical memoranda included or referenced 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).

1.3 Custodian and Location of Records

The documents and other materials which constitute the administrative record for the City's actions related to the project are located at the City, Development Services Department, 1222 First Avenue, San Diego, California 92101. The Development Services Department is the custodian of the administrative record for the project. Copies of these documents, which constitute the Record of Proceedings, are and at all relevant times have been and will be available upon request at the offices of the Development Services Department. This information is provided in compliance with Public Resources Code Section 21081.6(a)(2) and Guidelines Section 15091(e).

2.0 PROJECT SUMMARY

2.1 Project Location

The 195-acre project site is generally located at 1150 Fashion Valley Road, San Diego, California 92108. The site is bounded to the south by Hotel Circle North, to the east by Fashion Valley Road, and to the north by Friars Road. Interstate 8 (I-8) is located immediately to the south of Hotel Circle North. The site offers regional access from I-8 and State Route 163 (SR 163). Local vehicular access is provided from Fashion Valley Road, Hotel Circle North, and Friars Road. The project is located within the City's Multiple Species Conservation Program (MSCP) Subarea, and a portion of the Multi-Habitat Planning Area (MHPA) (the San Diego River) runs generally through the central portion of the site. The project site contains approximately 21 acres within the MHPA.

The site has been previously graded and is developed with the Riverwalk Golf Course, comprised of three nine-hole golf courses, driving range, clubhouse building, maintenance facilities, surface parking, access roadways, and golf cart paths/bridges. The three nine-hole courses include the Friars Course in the north, the Presidio Course in the middle-western area, and the Mission Course in the south. Two holes of the Presidio Course occur on Metropolitan Transit System (MTS)-owned land, outside of the premises. There are numerous sand traps, water features, irrigation pipes, and sprinklers throughout the course. Parking is accommodated within surface parking lots. Landscaping consists of turf, non-native ornamental vegetation, and trees. The MTS Green Line Trolley crosses the site parallel to the river, approximately 300 to 800 feet north of the river. The trolley line was constructed on a raised berm across the site. Two under-crossing tunnels occur under the tracks that are large enough for two golf carts (side-by-side). Additionally, two bridges cross the San Diego River that support golf carts and lightweight vehicles.

The site slopes gently towards the San Diego River, which curves through the central portion of the site. Elevations vary between 67 feet above mean sea level (AMSL) along the northern side of the project site to 16 feet AMSL near the western river edge. The average (non-flood) river

water level varies from 12 feet AMSL in the west to 15 feet AMSL in the east. Site drainage runs within pipes and over the land surface towards the San Diego River, which flows into the west and ultimately empties into the Pacific Ocean.

Under existing conditions, a large portion of the site is within the San Diego River floodplain and floodway, which is mapped on FEMA's May 16, 2012, Flood Insurance Rate Map No. 06073C1618G. (See Figure 2-5, FEMA 100-Year Floodway and Floodplain Map, of the Final EIR.) The floodplain and floodway flow in a westerly direction and are primarily south of the trolley. An off-site natural hillside area to the north conveys flows to the site via storm drain facilities along Friars Road. The on- and off-site runoff are ultimately conveyed to the San Diego River.

The site is surrounded by urban development. Multi-family residential developments exist to the west and northeast. To the north are multi-family residential and commercial developments. To the east, there is commercial retail development (Fashion Valley Mall) and hospitality use. The hospitality use (Town and Country Resort Hotel) is currently being redeveloped as a mixed-use project with residential uses. A mix of office, residential, and hotel uses, as well as I-8, are located south of the site. The San Diego River runs in an east-west manner through roughly the center of the project site; the MTS Green Line Trolley traverses the Specific Plan area in an east-west manner in the upper portion of the site, roughly parallel to Friars Road.

2.2 Project Background

In 1947, the first golf course to occupy the site – Mission Valley Golf Club – opened on land acquired by a lease from the Levi and Cushman families. The original course opened without a clubhouse, with only a shack to provide drinks and sandwiches. Multiple renovations to the course have occurred since construction. Nine more holes were added between 1955 and 1962; the course became Stardust Country Club in 1961. Approximately \$500,000 in renovations were completed around 1965 that included dredging the San Diego River and a partial redesign of the course. In 1976, six of the holes on the course were redesigned. Over the years, additional incremental changes were made. In September 1996, the 27-hole Stardust Country Club that occupied the site closed due to a terminated lease. The golf course formerly known as Stardust Country Club was completely redesigned in 1998 as the Riverwalk Golf Course, with three sets of nine holes incorporating the San Diego River into the course play.

The Levi-Cushman Specific Plan was approved by Resolution 269106 for an area that includes the project site by the City Council in 1987. The 200-acre Levi-Cushman Specific Plan houses the majority of the Riverwalk Golf Course, which operates under Conditional Use Permit (CUP) No. 94-0563, and is comprised of the 195 acres proposed for redevelopment and a five-acre parcel owned by MTS. This five-acre parcel is part of a larger 15-acre holding of MTS. The entire 15 acres owned by MTS is utilized by the Riverwalk Golf Course, but only five acres of

this holding are within the Levi-Cushman Specific Plan; the remaining 10 acres are not a part of the Levi-Cushman Specific Plan.

The Levi-Cushman Specific Plan identifies the project site for a mix of residential, retail, office, hotel, and recreational uses. Much of the housing and neighborhood commercial uses approved with the Levi-Cushman Specific Plan were planned to be located on the north side of the San Diego River, with office and hotel development sited on the south side of the river. Central to the Levi-Cushman Specific Plan was the creation of a 12-acre island along the southern edge of the San Diego River to accommodate small-scale specialty retail, office, and residential uses. In total, the Levi-Cushman Specific Plan allows for 1,329 residential dwelling units; 1,000 hotel rooms; 200,000 square feet of retail; 2,582,000 square feet of office; and a minimum of 75 acres of open areas, including the San Diego River, the river buffer, parks, setbacks, hiking/biking/walking trails, theme entries, plazas, and privately maintained open areas within each parcel.

Development allowed under the Levi-Cushman Specific Plan has not occurred. Accordingly, the site continues to operate as Riverwalk Golf Course under CUP No. 94-0563 until such time as redevelopment occurs.

2.3 Project Description

Statement of Objectives

Pursuant to CEQA Guidelines Section 15124(b) and as described in Section 3.1.2 of the Final EIR, the project has the following objectives:

Create a focused long-range plan intended to promote increased residential density and employment opportunities consistent with the General Plan, Mission Valley Community Plan, San Diego River Park Master Plan, and the Climate Action Plan.

- 1) Assist the City's housing supply needs by providing a range of housing, including both market rate and deed-restricted affordable units, proximate to transit, jobs, amenities, and services.
- 2) Implement the City of Villages goals and smart growth principles by creating a mixed-use neighborhood with housing, commercial, employment, and recreation opportunities along transit while restoring a stretch of the San Diego River.
- 3) Create a transit-accessible mixed-use development in a central, in-fill location.
- 4) Promote multi-modal travel (pedestrian and bicycle friendly corridors) through the project site through on-site trails, paths, and sidewalks that connect to internal and adjacent amenities and services throughout Mission Valley.

- 5) Construct a new Green Line Trolley stop easily accessible from within Riverwalk and to adjacent surrounding residential and employment areas.
- 6) Design a neighborhood that integrates the San Diego River through active and passive park uses, trails, resource-based and a connected open space.
- 7) Allow for the establishment and creation of a habitat Mitigation Bank that provides long-term habitat conservation and maintenance.
- 8) Improve the Fashion Valley Road crossing that:
 - Provides expanded storm water flow volume accommodating a 10- to 15-year storm event;
 - Improves emergency response times by facilitating north-south vehicular access in storm events;
 - Expands active transportation circulation by providing sidewalks and a buffered two-way cycle track; and
 - Modernizes flood control gate operations in the project vicinity.
- 9) Celebrate and interpret important cultural and historic resources within the Specific Plan area.

2.3.1 Summary of Riverwalk Specific Plan

The Specific Plan establishes goals and policies for a transit-oriented development (TOD) with a range of land uses in a mixed-use setting. The Specific Plan also establishes development standards and architectural guidelines for build-out of the plan area. The intent of the design guidelines and development standards is to provide a methodology to achieve the development of cohesive neighborhood of districts. Additionally, the Specific Plan includes individual district-specific guidelines, design considerations, and special treatment areas. The various Specific Plan components are comprised of: Land Use; Planning Districts; Parks, Open Space, Trails and the Pedestrian Realm; Transportation and Circulation; Public Services, Utilities, and Safety; Land Uses, Development Standards, and Design Guidelines; and Implementation.

The Specific Plan would provide approximately 97 acres of parks, open space, and trails; 4,300 residential units offered as a variety of “for sale” and/or “for rent”, including 10 percent deed-restricted affordable housing built on-site; 152,000 square feet of commercial retail space; and 1,000,000 square feet of office and non-retail commercial use. The Specific Plan area is divided into four districts: The North District, Central District, South District, and Park District. The following provides a brief description of Riverwalk’s districts.

2.3.1.1 North District

The North District encompasses approximately 68.2 acres between Friars Road and the MTS Green Line Trolley tracks. This district would provide the primary mixed-use core for the site and is the location of much of Specific Plan's residential development. To achieve the residential and mixed-use focus of the North District, land uses include residential, commercial retail, office and non-retail commercial, and parks and open space. Zoning in the North District would be RM-4-10 for the residentially-focused areas and CC-3-9 for the mixed-use core of the district and the area adjacent to the Fashion Valley Mall. Supportive retail services and employment amenities would establish this district's mixed-use core. The North District would also provide a focal node of the trolley stop and mobility hub, located in the approximate center of the district. Included at this location would be a central plaza within the mixed-use core that would provide retail, employment, and residential use within proximity to the trolley, Riverwalk River Park, and associated pedestrian walkway amenities. Development in the North District would be centered along an east-west internal spine street (Streets 'D1', 'D2, ' and 'E') (which would be anchored by parks on the east and west ends) that acts as a promenade for pedestrians, bicyclists, and vehicles with connections to Friars Road.

2.3.1.2 Central District

The Central District encompasses approximately 22.3 acres south of the North District, between the trolley tracks and the San Diego River, and would include a mixture of open space and urban land uses. Land uses in this district would be residential, commercial retail, and parks and open space. Zoning in the Central District would be CC-3-9 and OP-1-1. Interspersed with public parks in the west and east portions of this district, a mix of residential and commercial uses would occur within the central portion of the Central District. The former golf course clubhouse would be re-purposed as a restaurant and amenity space, perhaps with a banquet hall and other private dining options or even a small brewing facility. The Central District interfaces with the North District at the two trolley crossings (one at-grade, one grade-separated), as well as at the pedestrian/bicycle tunnel that runs under the existing trolley tracks. The Central District also interfaces with the Park District at the southern boundary. Additional connectivity is provided between the Central District and the South District, to the south, via two existing pedestrian/bicycle bridges within the Park District.

2.3.1.3 South District

The southernmost district is the South District, which comprises the approximately 15.9-acre area south of the Riverwalk River Park. Land uses within the South District would be commercial retail and office and non-retail commercial; applicable zoning would be CC-3-9. Residential use may also occur here. The South District is envisioned to develop with an employment focus, which may occur as individual buildings or as a more integrated campus-like development. The location of the employment component of the project in this district provides

convenient access to transit both on-site and at Fashion Valley Transit Center, the regional transportation network via the I-8 freeway, and a variety of uses provided on-site and in surrounding developments, which include commercial retail, residential, and hospitality uses that have a synergistic relationship to the project and its employment uses.

2.3.1.4 Park District

The Park District would develop parks and open space land uses within the OP-1-1 and OC-1-1 zones. The approximately 88.0-acre Park District is comprised of the Riverwalk River Park (45.0 acres), an extension of the San Diego River Pathway traversing the project site on the north side of the San Diego River, habitat restoration area (34.6 acres), irrevocable offers of dedication (IODs) for future streets 'J' and 'U' (7.7 acres), and the easement for Fashion Valley Road (0.6 acre). Provision and implementation of the Riverwalk River Park is a major element of the Specific Plan that would serve the Specific Plan area and the surrounding communities as a passive and active recreational area. Passive areas are located closer to the river, while active use would be located away from the river to limit impacts such as noise, litter, and unauthorized access. The passive areas include a no-use wetland buffer and riparian restoration area with habitat, natural open space (with some portions located within the MHPA), and nature viewing areas.

Trails would be provided throughout the Riverwalk River Park, located in the central portion of the site, with connections through smaller park elements and tie-ins to the pedestrian network within the street system and other developed portions of the site. Additionally, a portion of the San Diego River Pathway would be developed through the project site on the north side of the river.

The project includes a habitat restoration effort within the Riverwalk River Park along the existing San Diego River channel and within the MHPA. The restoration would include the removal of invasive, non-native plant species and the planting of native seed and container stock. The restoration is intended to increase and enhance the native habitats along the San Diego River, within and adjacent to the MHPA. The restoration area includes 11.54 acres of wetland habitat enhancement and 13.32 acres of wetland habitat creation. While the mitigation bank use is disclosed in this EIR, the permitting and approvals for the mitigation bank are not included as part of the project. Additionally, the project provides for a 50-foot no use buffer adjacent to the MHPA. Boulders or deterrent vegetation, as well as peeler log fencing, would be installed to deter entrance into the 50-foot no use buffer around the MHPA. Two access points for emergency vehicles would be located immediately adjacent to the existing pedestrian/golf cart bridges. These access points would be available only to emergency personnel in the event of an emergency.

2.3.1.5 Landscape Treatments

Landscape design for the project would provide for a well-maintained and organized appearance in areas not covered by buildings or parking, enhance and preserve existing site character, minimize adverse visual and environmental affects, and promote water conservation.

Additionally, the provision of tree-lined streets, parks, and other public areas allows the Riverwalk landscape plan to contribute to the City's Climate Action Plan implementation and urban forestry goals, reduce urban heat island effect, and aid in carbon sequestration. The Specific Plan contains landscape discussion relative to streetscape, street yard landscaping, remaining yard landscaping, vehicular use area, open areas, bioswales, erosion control, and culturally significant species and interpretive signage.

2.3.2 Transportation Improvements

The project proposes both external and internal roadway improvements. Vehicular circulation access points within the project site are located along existing city streets. Proposed improvements to existing City streets fronting the project site are described below.

- **Friars Road:** Friars Road would be widened by 13-feet in the eastbound direction to include two 11-foot travel lanes, a 5-foot-wide Class II bike lane with 2-foot buffers on either side, an eight-foot-wide Class IV two-way cycle track, and a 17-foot-wide landscaped area that buffers a 6-foot-wide non-contiguous sidewalk). A 14-foot-wide raised median with turn lanes would separate the travel lanes and the ultimate right-of-way would be 123 feet. The cycle track would transition to a Class II bike lane approximately 900 feet west of Fashion Valley Road.
- **Fashion Valley Road:** Fashion Valley Road would be widened between Private Driveway 'T' and Hotel Circle North to include two 11-foot travel lanes in either direction, separated by a 24-foot-wide planted median with turn lanes. A 12-foot wide Class IV two-way cycle track would be constructed on the west side of the roadway, with a four-foot buffer between the cycle track and the travel way. To the west of the cycle track, a 9-foot landscaped area would buffer a 6-foot non-contiguous sidewalk. On the east side of the roadway, the existing 5-foot contiguous sidewalk would remain. The project would raise Fashion Valley Road to accommodate 10- to 15-year storm event and provide a soft-bottom condition for the San Diego River. Right-of-way width would be increased to 110 feet.

The project would not be responsible for improvements along Fashion Valley Road north of the property line between Private Drive 'T' and Friars Road. The project would construct the Class IV two-way cycle track along Fashion Valley Road from Hotel Circle North to Riverwalk Drive. The project has been designed to accommodate a future extension of the two-way cycle track north of Riverwalk Drive; this improvement would occur concurrently with future action to extend the widening of Fashion Valley Road north of the Riverwalk property line.

In conjunction with the improvements to Fashion Valley Road, the project would install automated gates adjacent to the road to restrict traffic when the river reaches the level at which it crosses over the roadway. The gates would be connected to sensors in the river, which would measure the water level and would trigger the gates to close Fashion Valley Road to traffic, across the culvert, in a north and south direction.

- **Hotel Circle North:** Hotel Circle North's classification was changed with the Mission Valley Community Plan to become a one-way street with two westbound travel lanes, a two-way cycle track, and a non-contiguous sidewalk (north side of the street). To implement these improvements, the project would widen the north side of the road by approximately 10 feet along the project frontage. However, prior to implementation of the one-way couplet system shown in the MVCP, the project will widen Hotel Circle North between Interstate 8 westbound hook ramps and the eastern edge of the of the property and Fashion Valley Road to four lanes, with a raised median and Class II bike lanes in each direction.

The project proposes a roadway network comprised of public streets and private driveways to facilitate multimodal access within and through the project site. Riverwalk Drive would be constructed through the project site, tying together the various planned land uses in the North and Central Districts. Riverwalk Drive would connect Fashion Valley Road on the east to project features in the west-central portion of the project. In addition to Riverwalk Drive, the project would construct an interconnected grid of public streets and private drives to provide for pedestrian, bicycle, vehicular, and transit access within the various districts of the Specific Plan. The proposed streets have been designed in accordance with City regulations and would accommodate fire and emergency vehicles.

2.3.3 Light Rail Transit

As part of the project, a new Green Line Trolley stop would be constructed in the central portion of the North and Central Districts, providing expanded transit access to Riverwalk residents, employees, and visitors, as well as members of the surrounding communities. A mobility hub with multi-modal transportation amenities, such as bicycle lockers/racks and rentals, and alternatives, such as drop-off/pick-up and rideshare, would be located at the transit stop.

2.3.4 Grading

The Specific Plan provides for development of Riverwalk in three phases that are anticipated to occur over a period of approximately 10 to 15 years. The three anticipated phases represent the best estimate for the order and duration of project buildout based on expert advice considering site constraints and the scale of development. It is not anticipated that phasing could occur substantially faster than planned; however, the anticipated phasing is not required under the City regulations or the project entitlements. The necessary on-site and off-site infrastructure must be

in place to service development as it is constructed, which is assured through conditions of the project and the Riverwalk Development Agreement.

Grading would occur throughout the project site and within the limits of the proposed park to accommodate park uses, as well as native vegetation along the river. Grading for the project would result in 176.5 acres of on-site area to be graded (or 90.4 percent of the total project site). Additionally, the project would require a total of 0.65 acre of off-site grading. The amount of remedial grading (alluvium removal and re-compaction) would be 1,506,700 cubic yards (cy). The total amount of geometric cut would be 426,400 cy, with a maximum cut depth of 24 feet. The total amount of geometric fill would be 1,454,000 cy, with a maximum fill depth of 32 feet. Grading for the project would require 1,028,000 cy of import.

2.3.5 Irrevocable Offers of Dedication

The project would include Irrevocable Offers of Dedications (IODs) for Community Plan Mobility Circulation Element Roads within the project site, which would provide development areas for the future construction of public Streets 'J' and 'U'. Funding and timing for these roadways is unknown at this time. Additionally, the applicant for the project is not responsible for construction of the roadways, nor are the roadways part of the project. Design-specific evaluation, including CEQA review, would need to be undertaken when public improvement plans are processed for these roadways. Permits from the City, as well as any permits from other agencies, as applicable, would also need to be obtained at that time.

2.4 Discretionary Actions

The project would require approval of the following discretionary actions:

- **Levi-Cushman Specific Plan Rescission** – With rescission, the MTS parcel would be regulated by the Mission Valley Community Plan land use designation and zoning. The Riverwalk Specific Plan would wholly replace the Levi-Cushman Specific Plan for the remaining 195 acres.
- **Mission Valley Community Plan Amendment** – To align the Mission Valley Community Plan with the Riverwalk Specific Plan, the Community Plan would be revised to adjust the overall site boundary and the boundaries of the existing land use designations to be consistent with the Specific Plan and to remove the "To be completed" reference on the Riverwalk Specific Plan area label. The project site would be removed from the CPIOZ map, consistent with the proposed Land Development Code amendment, and slight text changes would be made indicating that the specific plans identified in the Specific Plan Subdistrict were adopted prior to the adoption of the current Mission Valley Community Plan.
- **General Plan Amendment** – An amendment to the City's General Plan would be required due to the amendment to the Mission Valley Community Plan. The

General Plan Land Use and Street System Map would be amended to reflect the Riverwalk Specific Plan land uses.

- Land Development Code Amendment – An amendment to the Land Development Code (LDC) related to the Community Plan Implementation Overlay Zone (CPIOZ) is required to remove the area covered by the Levi-Cushman Specific Plan, which includes the proposed Riverwalk Specific Plan, as well as five acres owned by MTS. Specifically, LDC, Chapter 13, Article 2, Division 14, Diagram 132-14R would be modified to remove the property.
- Adoption of the Riverwalk Specific Plan.
- Rezones – The Specific Plan would require some areas to be rezoned (see Figure 3-12, Proposed Zoning, of the Final EIR). The areas to be rezoned include the park areas located between the San Diego River and the proposed San Diego River Pathway (CC-3-9 to OP-1-1; OP-1-1 to OC-1-1), the area east of Lot 40 and south of Riverwalk Drive (CC-3-9 to OP-1-1) and a portion of property on Lots 41 and MM (CC-3-9 to RM-4-10).
- Vesting Tentative Map (VTM) – The VTM provides details relative to grading, street design, utility layout necessary to implement the Specific Plan land use plan, as well as providing for the implementation of residential and commercial condominiums.
- Site Development Permit (SDP) – The project site contains areas that are regulated by the City’s Environmentally Sensitive Lands (ESL) regulations LDC Section 143.0110], that include sensitive biological resources and areas mapped as Special Flood Zones. Additionally, the project site has historic resources (archaeological sites) that would be affected by the project. Therefore, an SDP would be required for the project in accordance with Section 126.0502 of the LDC.
- Amendment to Conditional Use Permit (CUP) 94-0563 – CUP No. 94-0563 would be amended to allow for the golf course to remain in operation on the site as the project develops.
- Public Easement Vacations – Public easements that occur on the project site have been either previously abandoned by the City or are proposed to be relocated in conjunction with the VTM. These easements include public sewer, which runs east-west across the project site roughly between the trolley tracks and Friars Road. Additionally, easements for public sewer, public drainage, and access for these easements intrude into the site at various locations in the North District from Friars Road.
- Park General Development Permit (GDP) – A Park GDP is required for the Riverwalk River Park, consistent with City Council Policy 600-33. The Park GDP would be approved by the Park and Recreation Board.
- Financing District Formation. Future formation of various financing districts to fund the maintenance of certain public improvements (e.g. parkland) would be required in connection with the development of the Specific Plan, which would require a vote of property owners within the district and ultimate City Council approval.
- Public Improvement Agreements – Project implementation includes future construction of public improvements to City standards that require City Council

- approval.
- Development Agreement – The Development Agreement defines the rights and duties of the City and the Developer regarding buildout of Riverwalk project that is described in the Final EIR and identifies extraordinary benefits resulting from the project.

3.0 ENVIRONMENTAL REVIEW AND PUBLIC PARTICIPATION

The City conducted environmental review under CEQA (California Public Resources Code Sections 21000, et seq., and the Guidelines promulgated thereunder in California Code of Regulations, Title 14. Further, the City as lead agency shall be primarily responsible for carrying out the project. In compliance with Section 15082 of the State CEQA Guidelines, the City published a Notice of Preparation on April 6, 2018, which began a 30-day period for comments on the appropriate scope of the EIR. Consistent with CEQA Section 21083.9, the City held a public agency scoping meeting on April 24, 2018, at the Mission Valley Branch Library. The purpose of this meeting was to seek input from the public regarding the environmental effects that may potentially result from the project. Various agencies and other interested parties responded to the NOP. The NOP, comment letters, and transcript of comments made during the scoping meeting are included as Appendices A and B of the Final EIR.

The City prepared and published a Draft EIR, which was circulated for a 45-day public review and comment period beginning on May 15, 2020, in compliance with CEQA. Pursuant to State 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 State CEQA Guidelines Section 15087. During the public comment period, the City received a request from the Mission Valley Community Planning Group for extension of public review to July 3, 2019, which was granted.

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 and the response to comments for the project was published on October 7, 2020. The Final EIR has been prepared in accordance with CEQA and the State CEQA Guidelines.

4.0 SUMMARY OF IMPACTS

Impacts associated with specific environmental issues resulting from approval of the project and future implementation are discussed below.

The Final EIR concludes that the project will have no impacts with respect to the following issues:

- Agricultural Resources and Forestry
- Mineral Resources
- Paleontological Resources
- Population and Housing

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

- Land Use
- Transportation and Circulation
- Visual Effects and Neighborhood Character
- Energy
- Greenhouse Gas Emissions
- Geologic Conditions
- Hydrology
- Public Utilities
- Water Quality
- Public Services and Facilities
- Health and Safety

The Final EIR concludes the project will potentially have a **significant impact but mitigated to below a level of significance** with respect to the following issue areas:

- Biological Resources
- Historical Resources (archaeology)
- Noise (operational-stationary sources)
- Tribal Cultural Resources

The Final EIR concludes the project will potentially have a **significant unmitigated impact** and no feasible mitigation measures are available to reduce impacts to below a level of significance for the following issue area:

- Air Quality (cumulative – operational)

5.0 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.

5.1 Findings Regarding Impacts that will be Mitigated to Below a Level of Significance (CEQA § 21081(a)(1) and CEQA Guidelines § 15091(a)(1))

The City, having independently reviewed and considered the information contained in the Final EIR and the Record of Proceedings pursuant to Public Resource Code § 21081(a)(1) and State CEQA Guidelines § 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 the significant effects on the environment as identified in the Final EIR (Project No. 581984/SCH No. 2018041028) as described below.

5.1.1 Biological Resources

5.1.1.1 Potentially Significant Effect

A. Direct Impacts

The project would result in significant direct impacts to sensitive biological resources, wetland/riparian vegetation communities, with project implementation.

B. Indirect Impacts

The project would result in significant indirect impacts to Clark's marsh wren, Coopers hawk, double-crested cormorant, yellow warbler, yellow breasted chat, western bluebird, Vaux's swift, osprey least Bell's vireo, willow fly-catcher, southwestern willow flycatcher, least bittern, and light-footed Ridgway's rail), with project implementation.

5.1.1.2 Facts in Support of Finding

A. Direct Impacts

The project would result in direct impacts to approximately 0.64 acre of wetland/riparian vegetation communities (0.57 acres of southern cottonwood-willow riparian forest, 0.01 acres of coastal and valley freshwater marsh, and 0.06 acres of open water) as a result of the Fashion

Valley Road improvements. The project proposes to widen Fashion Valley Road to a four-lane major arterial roadway, per its ultimate classification in the Mission Valley Community Plan. This improvement is identified as an essential roadway improvement in the Mobility Element of the Mission Valley Community Plan.

Mitigation Measures: Mitigation measures have been identified to address impacts on biological resources associated with Fashion Valley Road improvements. MM 5.4-1 requires that a qualified project biologist be retained to implement the project's biological monitoring program, preconstruction meetings, resource delineation. MM 5.4-2 requires that the impacts to wetland/riparian vegetation be mitigated by creation of 0.21-acre of freshwater marsh riparian and 0.57-acre of southern cottonwood-willow riparian forest and enhancement of 1.14-acres of southern cottonwood-willow riparian forest, as detailed in the *Riverwalk Project Wetland Mitigation Plan*. Additionally, evidence shall be provided that resource agency permits (404 permit from the United States Army Corps of Engineers, 401 Certification from the Regional Water Quality Control Board, and 1602 streambed alteration agreement from the California Department of Fish and Wildlife) have been obtained. Lastly, MM 5.4-3 requires that the revegetation mitigation measure requirements be shown verbatim on the grading and/or construction plans. Further the mitigation measure requires the implementation of the revegetation/restoration plan.

B. Indirect Impacts

Construction-related noise from sources as a result of clearing, grading, and construction associated with the project could result in a significant indirect impact to Clark's marsh wren, Coopers hawk, double-crested cormorant, yellow warbler, yellow breasted chat, western bluebird, Vaux's swift, osprey, least Bell's vireo, southwestern willow flycatcher, willow flycatcher, least bittern, and the light-footed Ridgway's rail.

Mitigation Measures: As conditions of project approval, MHPA Land Use Adjacency Guidelines shall be adhered to. Additionally, mitigation measures would be required to address indirect impacts on avian species identified above during construction. More specifically, mitigation measures MM 5.5-1, MM 5.4-4 and MM 5.4-5 require verification preconstruction surveys to determine absence or presence of the avian species list above. Should identified avian species be present then the applicant would be required to either avoid construction activities during the breeding season or implement sound attenuation measures to ensure that the construction noise activities not exceed 60 dB(A) or the ambient noise level if already exceeding the 60 dB(A) hourly average at the edge of occupied habitat.

5.1.1.3 Finding

A. Direct Impacts

Implementation of mitigation measures MM 5.4-1, MM 5.4-2, and MM 5.4-3 would reduce direct impact to sensitive biological resources to below a level of significance.

B. Indirect Impacts

Implementation of mitigation measures MM 5.4-1, MM 5.4-4 and MM 5.4-5 would reduce indirect impacts to sensitive avian to below a level of significance.

Reference: Final EIR § 5.4.

5.1.2 Historical Resources (Archaeology)

5.1.2.1 Potentially Significant Effect

5.1.2.2 Facts in Support of Finding

The project would impact three significant archaeological sites: SDI-11767, SDI-12220, and SDI-12126. These sites are beneath an indeterminate amount of fill that was previously deposited over the project site, but in an area that would require grading and could be impacted during the excavation for future development projects, as part of overall project implementation.

Additionally, there is the potential the project could result in impacts to unknown or previously unidentified archaeological resources during ground-disturbing activities. Consequently, impacts to historical resources would be potentially significant.

Mitigation Measures: Mitigation measures have been identified to address impacts to historical resources (archaeology). MM 5.6-1 requires implementation of an Archeological Research and Data Recover Program (ADRP) for archeological sites SDI-11767, SDI-12220 and SDI-12126 prior to the issuance of any construction permits or the start of any construction activities. MM 5.6-2 requires archaeological and Native American monitoring during all soil disturbing and grading/excavation/trenching activities that could result in impacts to archaeological resources.

5.1.2.3 Finding

With implementation of mitigation measures MM 5.6-1 and MM 5.6-2, potentially significant impacts to historical resources (archaeology) would be reduced to below a level of significance.

Reference: Final EIR § 5.6.

5.1.3 Noise (Stationary-Operational)

5.1.3.1 Potentially Significant Effect

Noise levels from project stationary operations from heating, ventilation, and air conditioning (HVAC) could exceed the City's Municipal Code noise standards.

5.1.3.2 Facts in Support of Finding

HVAC equipment would be a primary stationary operational noise source on-site. Exterior HVAC noise levels could range from 60 to 70 dBA at five feet and it is possible that ground-level HVAC units may be installed. Ground-level HVAC systems would be shrouded and ducted to minimize operational noise. However, because the location of these units is unknown, ground-level HVAC systems could increase ambient noise levels in the project area by more than three dBA. Long-term noise levels from project HVAC sources would potentially result in a substantial permanent increase in ambient noise levels a potentially significant impact.

Mitigation Measure: MM 5.8-1 would require the preparation of an acoustical study that would identify any noise-generating equipment, predict noise level property lines from all identified equipment, and recommend appropriate mitigation measures that would attenuate to comply with the City noise ordinance.

5.1.3.3 Finding

With implementation of mitigation measure MM 5.8-1, potentially significant stationary operational noise impacts would be reduced to below a level of significance.

Reference: Final EIR § 5.8.

5.1.4 Tribal Cultural Resources

5.1.4.1 Potentially Significant Effect

The area is considered sensitive for tribal cultural resources (TCR) as identified by Iipay Nation of Santa Isabel and Jamul Indian Village, affiliated traditionally and culturally with the project area. Therefore, there is the potential for TCR to be impacted by project implementation

5.1.4.2 Facts in Support of Finding

Grading for the project could result in significant impacts to TCR on-site. There is the potential for the project to disturb subsurface TCRs. Potential impacts subsurface TCRs that may be encountered would be significant.

Mitigation Measures: Mitigation measures have been identified to address the project's potential to impact TCR. MM 5.10-1 requires the inclusion of a native plant palette of species traditionally used by the Kumeyaay be incorporated into the restoration effort taking place within the San Diego River and as part of the landscape plan for the Riverwalk River Park. MM 5.10-2 requires interpretative signage that includes 20 plant identification signs along the San Diego River Pathway with plants traditionally utilized by Native American tribes, provides a storyboard sign that describes native plants identified along the San Diego River Pathway and their relationship to the Kumeyaay people, and that the signage plan is reviewed and accepted to the satisfaction of DSD, Iipay of Santa Isabel, and Jamul Indian Village. MM 5.10-3 requires that a street sign plan for the South District be reviewed and accepted to the satisfaction of DSD. Additionally, MM 5.10-4 requires that MM 5.6-1 (Archaeological Data Monitoring) and MM 5.6-2 (Archaeology and Native American Monitoring), summarized under Section 5.1.2.2 above, be implemented.

5.1.4.3 Finding

With implementation of mitigation measures MM 5.10-1 through MM 5.10-4, significant impacts would be reduced to below a level of significance.

Reference: Final EIR § 5.10.

5.3.1 Air Quality (Operational) Cumulative

5.3.1.1 Potentially Significant Effect

The project would result in cumulatively significant air quality impacts associated with project operations at buildout due to vehicular emissions, as well as energy, consumer products, and landscaping equipment emissions-associated with operation and maintenance of buildings.

5.3.1.2 Facts in Support of Finding

The project would exceed daily and annual ROG, CO, and PM₁₀ emissions standards. Therefore, the project would result in a cumulatively considerable net increase in CO, PM₁₀, and ROG emissions and this impact would be significant. The majority of the emissions are associated with operation of vehicles by residents, commercial tenants, and retail customers, as well as energy, consumer product, and landscaping equipment emissions associated with operation and maintenance of buildings. To the extent feasible and applicable, reductions to the project's operational emissions are accounted for in design features of the project consistent with the recommended measures identified by CAPCOA for reducing air emissions (such as increasing density from existing conditions (LUT-1), location efficiency (LUT-2), diversity of uses (LUT-3), destination accessibility (LUT-4), transit accessibility (LUT-5), etc.). The air quality analysis conducted for the project conservatively did not account for emissions reductions associated with

implementation of the TDM Program. Nonetheless, because of the size and scope of the proposed development, there are no feasible methods for reducing all cumulative emissions to meet annual and daily SDAPCD standards for ROG, CO, and PM₁₀.

5.3.1.3 Finding

Based on the size and scope of development, there are no feasible methods for reducing all cumulative emissions to meet annual and daily SDAPCD standards for ROG, CO, and PM₁₀ due to the operational emissions associated with project at buildout. Operational impacts remain cumulatively significant and unmitigated.

Reference: Final EIR §5.5.

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

The City, having reviewed and considered the information contained in the 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.

5.3 Findings Regarding Infeasible Mitigation Measures (CEQA § 21081(a)(3) and CEQA Guidelines § 15091(a)(3))

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 air quality impacts associated with operations:

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. 581984/SCH No. 2018041028) 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. This finding is appropriate with respect to the project because

there are no feasible mitigation measures available that would reduce the identified impacts to below a level of significance.

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

Because the project would cause one or more significant environmental effects, the City must make findings with respect to the alternatives to the project considered in the Final EIR, evaluating whether these alternatives could feasibly avoid or substantially lessen the project's significant environmental effects while achieving most of its objectives (listed in Section 2.3 above and Section 3.1.2 of the Final EIR).

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. 581984/SCH No. 2018041028):

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. 581984/SCH No. 2018041028) 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.

5.4.1 Alternative 1 – No Project/No Build

CEQA Guidelines Section 15126.6(e) requires that an EIR evaluate a “no project” alternative, along with its impacts. 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. Specifically, Section 15126.6(e)(3)(B) requires that an EIR for a development project on an identifiable property address the no project alternative as circumstances under which the project does not proceed. In other words, the no project assumes that the project site would not be developed with the project.

Under the No Project/No Build alternative, the project would not be implemented on the site. None of the improvements resulting from the project would occur: a mixed-use development

would not be established; no additional housing or employment uses would be created; Fashion Valley Road would not be improved; a new trolley stop would not be provided; and a new expansive Riverwalk River Park would not be created to serve the community. Instead, the site would be left as it exists today and the golf course would remain as it is today.

5.4.1.1 Potentially Significant Effects

The No Project/No Build alternative would result in no changes to the current site conditions. The project would not be implemented, and the property would remain as it is today. When compared to the project, the No Project/No Build alternative would avoid cumulatively significant unmitigated operational air quality impacts associated with the project and impacts to biological resources, including secondary noise impacts on sensitive biological resources. Because no redevelopment would occur under this alternative, impacts associated with noise (operational-stationary sources due to HVAC units) would not occur; and there would be no potential to encounter significant archaeological sites or unknown subsurface human remains, thereby avoiding impacts to historical and tribal cultural resource.

5.4.1.2 Finding and Supporting Facts

While the No Project/No Build alternative would reduce the significant environmental effects associated with project related to biological resources, air quality, historical resources, tribal cultural resources, and noise, it would not meet any of the project's primary objectives. The No Project/No Build alternative would not create a focused long-range plan intended to promote increased residential density and employment opportunities consistent with the General Plan, Mission Valley Community Plan, San Diego River Park Master Plan, and the Climate Action Plan (Project Objective 1). The alternative would not assist the City's housing supply needs or implement the City of Villages goals and smart growth principles by creating transit-accessible mixed-use neighborhood with housing, commercial, employment, and recreation opportunities along transit while restoring a stretch of the San Diego River (Project Objectives 2, 3, and 4). The No Project/No Build alternative would not promote multi-modal travel (pedestrian and bicycle friendly corridors) through the project site through on-site trails, paths, and sidewalks that connect to internal and adjacent amenities and services throughout Mission Valley (Project Objective 5) and would not construct a new Green Line Trolley stop (Project Objective 6). A new active and passive park along the San Diego River would not occur with this alternative (Project Objective 7). This alternative would not allow for the establishment and creation of a habitat Mitigation Bank that provides long-term habitat conservation and maintenance (Project Objective 8). Improvements to the community's circulation system would not occur under this alternative, including improvements to Fashion Valley Road that accommodate a 10- to 15-year storm event and improves emergency response times by facilitating north-south vehicular access in storm events (Project Objective 9). This alternative would not celebrate and interpret important cultural and historic resources within the Specific Plan area (Project Objective 10), as

the street sign and interpretative signage requirements of the project and Specific Plan would not be implemented.

Finding: The No Project/No Build alternative is rejected because specific economic, social, or other considerations, including matters of public policy, make this alternative infeasible.

Rationale: The No Project/No Build alternative is rejected because it would not feasibly accomplish the basic objectives of the project.

Reference: Final EIR § 10.5.1.

5.4.2 Alternative 2 – Reduced Development Intensity/Operational Air Quality Impact Avoidance

The Reduced Development Intensity/Operational Air Quality Impact Avoidance alternative would reduce development to 2,275 residential units, 106,000 square feet commercial retail space, and 700,000 square feet of commercial and office and non-commercial retail space. Thus, this alternative would result in 47 percent less residential units and 30 percent less commercial and office and non-commercial retail uses. Areas for park, open space, and trails would remain the same as the project. Approximately 29,800 ADT would be generated by this alternative. Grading, on-site public street infrastructure, and improvements to Fashion Valley Road, would also remain the same as the project.

5.4.2.1 Potentially Significant Effects

The Reduced Development Intensity/Operational Air Quality Impact Avoidance alternative would result in avoidance of cumulatively significant air quality impacts associated with operational emissions. Because grading required under this alternative would not change from that proposed for the project, impacts to biological resources, historical resources, and tribal cultural resources would not change from those associated with the project. Appropriate mitigation measures would be required as with the project. Noise impacts (operational-stationary source due to HVAC units) could occur under this alternative as they could with the project.

5.4.2.2 Finding and Supporting Facts

The Reduced Development Intensity/Operational Air Quality Impact Avoidance alternative would meet many of project objectives, such as creating a focused long-range plan intended to promote increased residential density and employment opportunities consistent with the General Plan, Mission Valley Community Plan, San Diego River Park Master Plan, and the Climate Action Plan (Project Objective 1); creating a transit-accessible mixed-use development in a central, in-fill location (Project Objective 4); promoting multi-modal travel (pedestrian and bicycle friendly corridors) through the project site including connectivity via open space areas

(Project Objective 5); constructing a new Green Line Trolley stop (Project Objective 6); designing a neighborhood that integrates the San Diego River through active and passive park uses (Project Objective 7); allowing for establishment and creation of a habitat mitigation bank (Project Objective 8); improving Fashion Valley Road (Project Objective 9); and celebrating and interpreting important cultural and historical resources within the Specific Plan area the same as would be required of the project (Project Objective 10). While this alternative would assist the City's housing supply needs (Project Objective 2), it would result in a 47 percent reduction in housing, substantially reducing the amount of much needed housing (market-rate and affordable) that could occur with the project. Similarly, while this alternative would implement the City of Villages goals and smart growth principles by creating a mixed-use neighborhood with housing, commercial, employment, and recreation opportunities along transit while restoring a key stretch of the San Diego River (Project Objective 3), this alternative would result in 30 percent less commercial retail and office and non-commercial retail uses and, thus, would not implement the City of Villages goals and smart growth principles to the extent that the project would. Therefore, because the Reduced Development Intensity/Operational Air Quality Impact Avoidance alternative fails to substantially fulfill the basic project objectives of creating transit-supportive density and employment within a high-density village setting, this alternative is rejected.

Finding: The Reduced Development Intensity/Operational Air Quality Impact Avoidance alternative is rejected because specific economic, social, or other considerations including matters of public policy make this alternative infeasible, and rejects the alternative on such grounds.

Rationale: This alternative would not provide housing and employment opportunities to the extent that the project would. The creation of housing, particularly as part of dense, mixed use development in a Transit Priority Area is an important public policy goal of the City. Due to the reduction in housing and employment, this alternative would not realize the potential of the site envisioned in the Mission Valley Community Plan as a key urban village area.

Reference: Final EIR § 10.5.2.

5.4.3 Alternative 3 – Reduced Intensity Development/Operational Air Quality Impact Avoidance and Minimized Historical/Tribal Cultural Resources Impacts

The Reduced Development Intensity/Operational Air Quality Impact Avoidance and Minimized Historical/Tribal Cultural Resources Impacts alternative would result in modifying development areas in order to avoid impacts to three significant archaeological sites. Development would not occur on Lots 16 through 25 and Lots 39 and 40 to avoid potential disturbance of Sites SDI-11767 and SDI-12220. Development would not occur on Lot 31 to avoid potential disturbance of Site SDI-12126. Development on Lots 32 through 37 would not occur, as these lots would not be afforded at least two methods of ingress and egress without Riverwalk Drive and Streets 'J1' and 'J2'. Additionally, extension of Riverwalk Drive beyond its current western terminus, as well as development of Streets 'J1' and 'J2' would not occur to avoid potential disturbance of Site SDI

11767; construction of the Street 'J2' vehicular tunnel under the MTS trolley tracks would not occur to avoid potential disturbance of Site SDI 11767. As such, no development would occur south of the trolley tracks and north of the San Diego River (i.e., all of the Central District of the Specific Plan). Approximately one-third of the developable area in the North District would be removed. Development density and intensity of this alternative would be accommodated in the remaining portion of the North District and the South District.

The Reduced Development Intensity/Operational Air Quality Impact Avoidance and Minimized Historical/Tribal Cultural Resources Impacts alternative would develop the project site with a reduced development intensity that would result in 2,200 residential units; 40,000 square feet commercial retail space; 900,000 square feet of commercial and office and non-commercial retail space, and 114 acres of park, open space, and trails. This alternative would result in 51 percent less residential units, 18 percent less commercial and office and non-commercial retail uses, and 17 percent more parks when compared to the project. This alternative would require new zones to allow reduced development intensity and to reflect the land use intensity associated with this alternative.

5.4.3.1 Potentially Significant Effects

When compared to the project, the Reduced Development Intensity/Operational Air Quality Impact Avoidance and Minimized Historical/Tribal Cultural Resources Impacts alternative would avoid significant direct impacts to three archaeological sites and cumulatively significant impacts to air quality. Additionally, this alternative would result in reduced impacts to historical resources and tribal cultural resources; however, mitigation measures like those for the project would be required to fully mitigate all impacts to historical and tribal cultural resources. Significant biological resources and noise impacts (operational – stationary source) would be the same as what would occur with the project and would require the same mitigation measures as the project to reduce impacts to below a level of significance.

5.4.3.2 Finding and Supporting Facts

The Reduced Development Intensity/Operational Air Quality Impact Avoidance and Minimized Historical/Tribal Cultural Resources Impacts alternative would meet some project objectives at a substantially reduced level. This alternative would assist the City's housing supply needs (Project Objective 2) and would create a transit-accessible mixed-use development in a central, in-fill location (Project Objective 4). However, this alternative would result in 51 percent fewer residential units, substantially reducing the amount of much needed housing (market-rate and affordable) and the amount of housing immediately proximate to transit that could occur with the project. Further, development on lots immediately adjacent to the trolley stop would not occur, eliminating the mixed-use density proposed around the transit station. This alternative would implement the City of Villages goals and smart growth principles by creating a mixed-use neighborhood with housing, commercial, non-commercial uses, employment, and recreation

opportunities along transit while restoring a key stretch of the San Diego River (Project Objective 3). However, employment opportunities would be reduced, resulting in 18 percent less commercial and office and non-commercial retail uses, and 17 percent more parks when compared to the project. Thus, this alternative would not meet Project Objective 1, calling for the creation of a focused long-range plan intended to promote increased residential density and employment opportunities consistent with the General Plan, Mission Valley Community Plan, San Diego River Park Master Plan, and the Climate Action Plan to the extent that the project would. Like the project, this alternative would promote multi-modal travel (pedestrian and bicycle friendly corridors) through the project site through on-site trails, paths, and sidewalks that connect to internal and adjacent amenities and services throughout Mission Valley and would construct a new MTS Green Line Trolley stop easily accessible from within Riverwalk and to adjacent surrounding residential and employment areas (Project Objectives 5 and 6). This alternative meet the objectives of designing a neighborhood that integrates the San Diego River through active and passive park uses (Project Objective 7); allowing for establishment and creation of a habitat mitigation bank (Project Objective 8); improving Fashion Valley Road (Project Objective 9); and celebrating and interpreting important cultural and historical resources within the Specific Plan area the same as would be required of the project (Project Objective 10).

Finding: The Reduced Development Intensity/Operational Air Quality Impact Avoidance and Minimized Historical/Tribal Cultural Resources Impacts alternative is rejected because specific economic, social, or other considerations including matters of public policy make this alternative infeasible, and rejects the alternative on such grounds.

Rationale: The Reduced Development Intensity/Operational Air Quality Impact Avoidance and Minimized Historical/Tribal Cultural Resources Impacts alternative fails to substantially fulfill the basic project objectives of creating transit-supportive density and employment within a high-density village setting that promotes multi-modal accessibility, this alternative is considered infeasible. While multi-modal travel could occur under this alternative, development intensity would be reduced, occurring in a disconnected and less efficient manner, and would not promote multi-modal accessibility to the extent of the project. Because of the reduced development intensity occurring under this alternative, particularly immediately adjacent to the trolley stop, the potential transit ridership and use of a new trolley stop would be reduced.

Reference: Final EIR § 10.5.3.

6.0 STATEMENT OF OVERRIDING CONSIDERATIONS

Pursuant to Section 21081(b) of CEQA and Sections 15093 and 15043(b) of the State CEQA Guidelines, the City is required to balance, as applicable, the economic, legal, social, technological, or other benefits, including region-wide or state-wide benefits, of a proposed project against its unavoidable significant environmental impacts 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 Section 21081.

Pursuant to Public Resources Code Section 21081(b) and the State CEQA Guidelines Section 15093, the City has balanced the benefits of the proposed project against potential unavoidable significant impacts to Air Quality (cumulative operational) associated with the project and has examined alternatives to the project that could avoid significant Air Quality impacts and has rejected them as infeasible, finding that none of them would fully meet the basic project objectives.

Each of the separate benefits of the proposed project, as stated herein, is determined to be, unto itself and independent of the other project benefits, a basis for overriding all potential unavoidable significant environmental impacts identified in these findings. Any one of the reasons set forth below is sufficient to justify approval of the project. Substantial evidence supports the various benefits and such evidence can be found whether in the preceding section, which are by reference in this section, the Final EIR, or in documents that comprise the Records of Proceedings in this matter.

Having considered the entire administrative record on the project, and (i) made a reasonable and good faith effort to eliminate or substantially mitigate the impacts resulting from the project, adopting all feasible mitigation measures; (ii) examined a reasonable range of alternatives to the project and, based on this examination, determined that all those alternatives are either environmentally inferior, fail to meet the basic project objectives, or are not feasible, and therefore should be rejected; (iii) recognized all significant, unavoidable impacts; and (iv) balanced the benefits of the project against the project's significant and unavoidable effects, the City hereby finds that the following economic, legal, social, technological, or other benefits, including region-wide benefits, of the project outweigh the potential unavoidable adverse environmental impacts and render those potential adverse environmental impacts acceptable based upon the following considerations, set forth below.

6.1 Provides Much Needed Housing for the City and Region in Accordance with the City of San Diego General Plan

The City General Plan is based on a City of Villages strategy that focuses growth into mixed-use activity centers that are pedestrian-friendly districts linked to an improved regional transit

system. A “village” is defined as the mixed-use heart of a community where residential, commercial, employment, and civic uses are all present and integrated. Each village will be unique to the community in which it is located. All villages will be pedestrian-friendly and characterized by inviting, accessible and attractive streets and public spaces. Public spaces will vary from village to village, consisting of well-designed public parks or plazas that bring people together. Individual villages will offer a variety of housing types affordable for people with different incomes and needs. Over time, villages will connect to each other via an expanded regional transit system.

The project site is identified on the City’s Village Propensity Map as having medium propensity for development as a Village. The project will develop a mixed-use neighborhood that is consistent with this identification.

Per the Regional Housing Needs Assessment 6th Housing Element Cycle 2021-2029, the draft allocation housing for the San Diego region is 171,685 dwelling units. Of those 171,685 dwelling units, the City’s housing burden is 107,901 dwelling units. The proposed project allows for Mission Valley to contribute positively to addressing the housing crisis in a manner that fits within established densities of the community, without proposing a density in excess of those identified in the Mission Valley Community Plan. Riverwalk supports City and regional housing needs in the following ways:

- Adds 4,300 new housing units to the City's housing stock, assisting the City in meeting its housing needs (an increase of approximately 2,200 dwelling units above the existing Levi-Cushman Specific Plan).
- Provides of 10 percent affordable housing on-site, within a Transit Priority Area and within active transportation distance of existing and proposed transit, as well as existing and proposed retail and employment opportunities.

6.2 Creates Infill Transit Oriented Development Neighborhood within a Transit Priority Area and Vehicle Miles Traveled Efficient Location

The project results in providing a transit-supportive development, an important element in reducing vehicle trips that generate air pollutants and greenhouse gas emissions.

According to the Federal Transit Administration (FTA), the term “transit-supportive development” broadens the definition of a concept that has existed for years—that the utilization of effective and predictable transit encourages surrounding development, which, in turn, supports transit. The basic principle is that convenient access to transit can be a key attraction that fosters mixed-use development, and the increased density in station areas not only supports transit but also may accomplish other goals, including reducing sprawl, reducing congestion, increasing

pedestrian activity, increasing economic development potential, realizing environmental benefits, and building sustainable communities.¹

Riverwalk will develop as an infill, transit-integral² transit-oriented development (TOD) within a Transit Priority Area (TPA) and will create a new transit/trolley stop to serve the existing MTS Green Line Trolley, providing accessibility not only for Riverwalk, but also western Mission Valley and southern Linda Vista. The project's proximity to the proposed trolley station and the existing transit center would provide future residents and employees connections to other trolley, bus, and train services, allowing convenient access to various destinations across San Diego. TOD development at Riverwalk implements smart growth planning by concentrating development where access to infrastructure, transit, recreational and open space amenities, and authentic live/work opportunities are able to be capitalized.

Senate Bill (SB) 743, signed in 2013, further underscores the importance of creating infill developments that are transit supportive and which can potentially reduce vehicle miles travelled (VMT). Today, measuring traffic impacts under CEQA focuses on *the reduction of greenhouse gas emissions, the development of multi-modal transportation networks, and a diversity of land uses*. State CEQA Guidelines Section 15064.3 was adopted in December 2018 to implement SB 743. To assist lead agencies in this endeavor, the State Office of Planning and Research (OPR) has also published a Technical Advisory on Evaluating Transportation Impacts in CEQA (December 2018), which provides guidance in the calculation and application of VMT analyses within CEQA documents. Consistent with the OPR Technical Advisory, the project's resident VMT per capita would be at least 15 percent below the San Diego regional average resident VMT per capita and the proposed project's employee VMT per employee would be at least 15 percent below the San Diego regional average VMT per employee.³

6.3 Creates 97 Acres of Parks and Open Space

The project contributes to a city-wide interconnected park system in a manner that results in greater recreational opportunities than typically associated with traditional parks. The project will create more than 97 acres of parks and open space, including an approximately 45-acre Riverwalk River Park, providing opportunities for active play and exercise, passive relaxation and enjoyment of nature, and social connections in a central location to serve a wide population base that extends beyond the Riverwalk neighborhood and Mission Valley community. Riverwalk's parks system will be transit accessible, and the Riverwalk River Park will be the

¹ Federal Transit Administration. (2014). *Planning for Transit-Supportive Development: A Practitioner's Guide, Section 1: Introduction*. FTA Report No. 0053.

² Defined by the FTA as "a mixed-use or single-use development that is implemented in concert with station and corridor implementation. These developments have significant connectivity with the proposed stations and have no access barriers to surrounding land uses. They have the advantage of early planning and are encouraged by zoning, code, and design controls that support their development."

³ *Transportation Impact Analysis*, Linscott, Law, and Greenspan Engineers (LLG) and Urban Systems Associates, Inc. (USAI), March 20, 2020

largest park accessible by trolley in the San Diego Region. The project will support and expand the City's park needs by:

- Providing for a series of parks that amount to approximately 55 acres of population-based parks, resulting in an excess of approximately 33 acres of park space provided beyond what is required by City standards.
- Developing a system of parks that vary in design and size to serve a variety of recreation opportunities.
- Implementing the vision of the San Diego River Park Master Plan by developing an expansive River Park, flanking the San Diego River, and extending a 14-foot wide San Diego River Pathway along the north side of the San Diego River.
- Providing for on-going maintenance and security within the Riverwalk River Park to ensure safe and inviting recreational experience.
- Identifying a location for a recreation center as center of activity and gatherings and as identified in the Mission Valley Community Plan.

6.4 Provides Employment and Economic Benefits

The project supports a broad range of employment opportunities by providing small-scale commercial uses that will serve residents in Riverwalk, as well as in the surrounding neighborhoods, and by creating additional office space and other non-retail use space to enhance employment opportunities in Mission Valley and the City. Specifically, the Riverwalk project supports employment and the local economy as follows:

- Provides 1,152,000 square-feet of employment area.
- Land use types and development patterns of the Specific Plan provide for a broad range of employment opportunities, from service sector and retail jobs to employment within business and professional offices; government office; and regional and corporate headquarters.

6.5 Encourages Walkable Design and Multimodal Transportation

The project creates a walkable neighborhood that offers multimodal transportation options. Specifically, Riverwalk supports active and multimodal transportation as follows:

- Creates a new MTS Green Line Trolley transit/trolley stop that would serve Riverwalk and the surrounding neighborhoods in western Mission Valley and southern Linda Vista. The transit stop is anticipated to be a well utilized stop on the Green Line Trolley with 2,734 daily riders.⁴
- Locates neighborhood-serving retail uses in the center of the project, providing new retail opportunities within walking distance for all Riverwalk residents and those in surrounding neighborhoods.

⁴ Page 75, Riverwalk Transportation Analysis (May 20, 2020).

- Establishes multi-modal trails for pedestrian and bicycle use and access to transit to and through the project site for residents, employees, visitors, and the surrounding neighborhoods.
- Provides over six miles of sidewalks and pedestrian trails; over six miles of multi-use paths, dedicated bike lanes, and two-way cycle tracks; and convert two existing golf cart bridges to pedestrian and bicycle-only bridges over the San Diego River, providing much needed north-south connectivity.
- Constructs a roughly 0.75-mile extension of the San Diego River Pathway, furthering the vision of this multimodal trail that will connect the beaches to the San Diego River headwaters.
- Provides six pedestrian and bicycle crossings of the MTS Green Line Trolley
- Implements improvements for vehicular circulation including:
 - Widening of project frontage portions of Fashion Valley Road and installation of an arch culvert under Fashion Valley Road to allow the road to be passible to vehicles during larger storm events, than existing conditions, improving this critical north-south river crossing in western Mission Valley;
 - Installing Intelligent Traffic Signal technology at intersections along Friars Road and Fashion Valley Road; and
 - Providing two new vehicular crossings of the Green Line Trolley; and Contributing to regional improvements, including a Project Study Report for the western Mission Valley circulation network that includes I-8 between SR 163 and I-5, Hotel Circle and the future extension of Street 'J'.

6.6 Implements the City's Climate Action Plan

The City's Climate Action Plan (CAP) is a proactive step toward addressing the City's GHG emissions. The CAP provides a road map for the City to collaborate with communities in assessing vulnerability to future climate change, developing overarching adaptation strategies and implementing measures to enhance resilience. Compliance with the CAP is determined via the CAP Consistency Checklist, which evaluates such factors as land use consistency, energy and water efficiency of buildings; clean and renewable energy; and bicycling, walking, transit, and land use.

The proposed project is consistent with the CAP and facilitates San Diego's goals of addressing climate change by providing for an interconnected (internally and regionally) mix of uses that allows residents, employees, and visitors to limit their impact on the environment. As such, the project successfully reduces its carbon footprint by:

- Locating intensified mixed-use development within walking and bicycling distance of two transit stops (a new stop in Riverwalk and the existing stop at Fashion Valley), as well as the existing Fashion Valley Transit Center, which offers trolley and bus connectivity to the City and the region.

- Resulting in a VMT efficient area with VMT reductions greater than a 15 percent reduction from regional baseline in both VMT/resident and VMT/employee.
- Providing housing and employment uses within the same development, facilitating direct linkage between housing and jobs.
- Linking residents living within the residential component of the project with employment sites via the established pedestrian and bicycle network.
- Promoting active transportation (such as bicycling and pedestrian transportation) as a core design element of the Specific Plan, making walking, bicycling, and other human-powered forms of transportation a first option for getting around Riverwalk and connecting to surrounding uses and amenities.

6.7 Implements the Mission Valley Community Plan Vision

The Mission Valley Community Plan calls for improvements to existing and future roadways within and adjacent to Riverwalk. The Community Plan also identifies a future public park along a portion of the San Diego River that flows through the project site to serve current and future residents, employees, and visitors of Mission Valley. The project fulfills applicable requirements of the Community Plan by:

- Fulfilling the Urban Village Area Vision outlined by the Mission Valley Community Plan by establishing a park and residential focus in the Western Mission Valley area, with complementing office and retail uses.
- Identifying an appropriate development mix and intensity that optimizes the use of the project site, ensuring a successful variety of uses that further supports the Mission Valley Community Plan.
- Constructing improvements to Fashion Valley Road. The Fashion Valley Road improvements include an arch, which will improve flood conveyance goals and widen its frontage on Fashion Valley Road in accordance with the Community Plan Mobility Element.
- Constructing portions of Street 'J' and Street 'U' and establishing IODs for future construction of Public Streets 'J' and 'U', which are critical components of the Community Plan Mobility Element.
- Creating 97 acres of parks and open space immediately north and south of the San Diego River corridor, including approximately 55 acres of population-based parks. A component of these parks will be an approximately 45-acre Riverwalk River Park that provides opportunities for passive and active recreation opportunities, including a location for a recreation center, centrally located to serve a wide population-base that extends throughout the Mission Valley community and beyond.
- Expanding physical and visual access to the San Diego River by constructing a 14-foot-wide San Diego River Pathway on the north side of the San Diego River that aligns with the eastern continuation of the San Diego River Pathway.
- Connectivity within and through project site affords easy public access to transit so that the greater San Diego population can enjoy the Riverwalk River Park and

experience the San Diego River by way of mobility options beyond traditional automobile travel.

6.8 Facilitates Conservation Goals

The Specific Plan allows for the redevelopment of an existing golf course. By locating project development on a previously disturbed site, impacts to the natural environment – including biological resources – are minimized. Additionally, the project will implement the following in support of conserving, preserving and creating environmental resources:

- Allows for management of the San Diego River within an urban open space corridor where the river's biology and hydrology can be managed in a natural environment.
- Restores 11.54 acres of wetland habitat enhancement and 13.32 acres of wetland habitat creation where only 1.92 acres of wetland mitigation is required.
- Provides a 50-foot no use buffer adjacent to the MHPA as further protection of the river's natural resources.
- Improves Fashion Valley Road in a manner that minimizes impacts to wetlands and provides a soft-bottom condition for the San Diego River.

7.0 CONCLUSION

For the foregoing reasons, the City Council finds in accordance with Public Resources Code 21081(b) and 21085.5 and CEQA Guidelines 15093 and 15043, that the project's adverse, unavoidable environmental impacts are outweighed by the noted benefits, any of which individually would be sufficient to reach the conclusion that overriding findings justify the significant, unmitigated effects that were found. Therefore, the City Council has adopted this Statement of Overriding Considerations.

EXHIBIT C

MITIGATION, MONITORING, AND REPORTING PROGRAM

RESCISSION OF THE LEVI-CUSHMAN SPECIFIC PLAN AND ADOPTION THE RIVERWALK SPECIFIC PLAN AND THE AMENDMENTS TO THE MISSION VALLEY COMMUNITY PLAN AND GENERAL PLAN NO. 2046678; ADOPTION AMENDMENTS TO CHAPTER 13, ARTICLE 2, DIVISION 14 OF THE SAN DIEGO MUNICIPAL CODE TO REPLACE THE MISSION VALLEY COMMUNITY PLAN IMPLEMENTATION OVERLAY ZONE (CPIOZ) MAP, WHICH REMOVES THE CPIOZ DESIGNATION ON THE PROPERTY; ADOPTION THE REZONE NO. 2046679; ADOPTION DEVELOPMENT AGREEMENT NO. 2459958; APPROVAL SITE DEVELOPMENT PERMIT NO. 2046682 AND CONDITIONAL USE PERMIT NO. 2046683; APPROVAL VESTING TENTATIVE MAP NO. 2213361 AND EASEMENT VACATION NO. 2046685; PROJECT NO. 581984

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. 581984 / SCH No. 2018041028 shall be made conditions of the rescission of the existing Levi-Cushman Specific Plan and adoption of the new specific plan (Riverwalk Specific Plan), amendments to the Mission Valley Community Plan and General Plan; amendments to Chapter 13, Article 2, Division 14 of the San Diego Municipal Code to the Mission Valley Community Plan Implementation Overlay Zone (CPIOZ) map; Rezone; Development Agreement; Site Development Permit and Conditional Use Permit; Vesting Tentative Map and Easement Vacation as may be further described below.

- A. GENERAL REQUIREMENTS – PART I Plan Check Phase (prior to permit issuance)**
1. Prior to the issuance of a Notice To Proceed (NTP) 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 (DSD) Director's Environmental Designee (ED) shall review and approve all Construction Documents (CD), (plans, specification, details, etc.) to ensure the MMRP requirements are incorporated into the design.
 2. In addition, the ED shall verify that the MMRP Conditions/Notes that apply ONLY to the construction phases of this project are included VERBATIM, under the heading, "ENVIRONMENTAL/MITIGATION REQUIREMENTS."

3. These notes must be shown within the first three (3) sheets of the construction documents in the format specified for engineering construction document templates as shown on the City website:

<http://www.sandiego.gov/development-services/industry/standtemp.shtml>

4. The **TITLE INDEX SHEET** must also show on which pages the “Environmental/Mitigation Requirements” notes are provided.
5. **SURETY AND COST RECOVERY** – The Development Services Director or City Manager may require appropriate surety instruments or bonds from private Permit Holders to ensure the long-term performance or implementation of required mitigation measures or programs. The City is authorized to recover its cost to offset the salary, overhead, and expenses for City personnel and programs to monitor qualifying projects.

B. GENERAL REQUIREMENTS – PART II Post Plan Check (After permit issuance/Prior to start of construction)

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

Qualified Acoustician, Archaeologist(s), Native American Monitor(s), and Biologist(s)

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, applicant t is also required to call **RE and MMC at 858-627-3360.**
2. **MMRP COMPLIANCE:** This Project, Project Tracking System (PTS) Number 581984 and/or Environmental Document Number 581984, shall conform to the mitigation requirements contained in the associated Environmental Document and implemented to the satisfaction of the DSD’s Environmental Designee (MMC) and the City Engineer (RE). The requirements may not be reduced or changed but may be annotated (i.e., to explain when and how compliance is being met and location of verifying proof, etc.). Additional clarifying information may also be added to other relevant plan sheets and/or specifications as appropriate (i.e., specific locations, times of monitoring, methodology, etc.).

Note: Permit Holder's Representatives must alert RE and MMC if there are any discrepancies in the plans or notes, or any changes due to field conditions. All conflicts must be approved by RE and MMC BEFORE the work is performed.

3. **OTHER AGENCY REQUIREMENTS:** Evidence of compliance with all other agency requirements or permits shall be submitted to the RE and MMC for review and acceptance prior to the beginning of work or within one week of the Permit Holder obtaining documentation of those permits or requirements. Evidence shall include copies of permits, letters of resolution or other documentation issued by the responsible agency:

- *California Department of Fish and Wildlife: California Fish and Game Code Section 1602 Streambed Alteration Agreement*
- *Federal Emergency Management Agency: Conditional Letter of Map Revision*
- *Regional Water Quality Control Board: National Pollutant Discharge Elimination System General Construction Permit, Clean Water Act Section 401 Waiver/ Certification*
- *U.S. Army Corps of Engineers: Clean Water Act Section 404 Authorization*
- *PUC Approval of the Formal Application*

4. **MONITORING EXHIBITS:** All consultants are required to submit, to RE and MMC, a monitoring exhibit on a 11"x17" 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

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 (MSCP)	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
Paleontology	Paleontology Reports	Paleontology Site Observation
Archaeology	ADRP Reports and Archaeology Reports	ADRP/Archaeology/Historic Site Observation
Noise	Acoustical Reports	Noise Mitigation Features Inspection
Traffic	Traffic Reports	Traffic Features Site Observation
Tribal Cultural Resources	Native Plant Palette, Interpretative Signage Plan, Street Sign Plan, ADRP Reports, and Archaeology Reports	Native Plant Palette, Interpretative Signage Plan, Street Sign Plan, ADRP Reports, and Archaeology Reports
Waste Management	Waste Management Reports	Waste Management Inspections
Bond Release	Request for Bond Release Letter	Final MMRP Inspections Prior to Bond Release Letter

C. SPECIFIC MMRP ISSUE AREA CONDITIONS/REQUIREMENTS

Biological Resources

MM 5.4-1: Biological Resources (Protection During Construction)

Prior to issuance of any construction permits, including but not limited to, the first Grading Permit, Demolition Plans/Permits and Building Plans/Permits, or beginning any construction-related activity on-site, but prior to the first preconstruction, for lots south of the MTS Trolley Tracks (Lots 32-40, 43-52, TT, UU, VV, WW, XX, YY, ZZ, AAA, BBB, CCC, DDD, or EEE as shown on VTM 2213361) the Development Services Department (DSD) Environmental Designee (ED) shall review and approve all construction documents (plans, specifications, details, etc.) to ensure the MMRP requirements are incorporated.

I. Prior to Construction

- A. **Biologist Verification:** The owner/permittee shall provide a letter to the City's Mitigation Monitoring Coordination (MMC) section stating that a Project Biologist (Qualified Biologist) as defined in the City of San Diego's Biological Guidelines (2018), has been retained to implement the project's biological

monitoring program. The letter shall include the names and contact information of all persons involved in the biological monitoring of the project.

- B. **Preconstruction Meeting:** The Qualified Biologist shall attend the preconstruction meeting, discuss the project's biological monitoring program, and arrange to perform any follow up mitigation measures and reporting including site-specific monitoring, restoration or revegetation, and additional fauna/flora surveys/salvage.
- C. **Biological Documents:** The Qualified Biologist shall submit all required documentation to MMC verifying that any special mitigation reports including but not limited to, maps, plans, surveys, survey timelines, or buffers are completed or scheduled per City Biology Guidelines, Multiple Species Conservation Program (MSCP), Environmentally Sensitive Lands Ordinance (ESL), project permit conditions; California Environmental Quality Act (CEQA); endangered species acts (ESAs); and/or other local, state or federal requirements.
- D. **BCME:** The Qualified Biologist shall present a Biological Construction Mitigation/Monitoring Exhibit (BCME) which includes the biological documents in C above. In addition, include: restoration/revegetation plans, plant salvage/relocation requirements (e.g., coastal cactus wren plant salvage, burrowing owl exclusions, etc.), avian or other wildlife surveys/survey schedules (including general avian nesting and USFWS protocol), timing of surveys, wetland buffers, avian construction avoidance areas/noise buffers/ barriers, other impact avoidance areas, and any subsequent requirements determined by the Qualified Biologist and the City ADD/MMC. The BCME shall include a site plan, written and graphic depiction of the project's biological mitigation/monitoring program, and a schedule. The BCME shall be approved by MMC and referenced in the construction documents.
- E. **Avian Protection Requirements:** To avoid any direct impacts to the Clark's marsh wren, Cooper's hawk, double-crested cormorant, yellow warbler, yellow breasted chat, western bluebird, least Bell's vireo, southwestern willow flycatcher, and the light-footed Ridgway's rail, removal of habitat that supports active nests in the proposed area of disturbance should occur outside of the breeding season for these species (February 1 to September 15). If removal of habitat in the proposed area of disturbance must occur during the breeding season, the Qualified Biologist shall conduct a pre-construction survey to determine the presence or absence of nesting birds on the proposed area of disturbance. The pre-construction survey shall be conducted within 10 calendar days prior to the start of construction activities (including removal of vegetation). The survey area shall cover the limits of disturbance and 300 feet (500 for raptors) from the area of disturbance. 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 Clark's marsh wren, Cooper's hawk, double-crested cormorant, yellow warbler, yellow breasted chat, western bluebird, least Bell's vireo, southwestern

willow flycatcher, and the light-footed Ridgway's rail are detected, a letter report or mitigation plan in conformance with the City's Biology Guidelines and applicable State and Federal Law (i.e. appropriate follow up surveys, monitoring schedules, construction and noise barriers/buffers, etc.) shall be prepared and include proposed measures to be implemented to ensure that take of birds or eggs or disturbance of breeding activities is avoided. The report or mitigation plan shall be submitted to the City for review and approval and implemented to the satisfaction of the City. The City's MMC Section and Biologist shall verify and approve that all measures identified in the report or mitigation plan are in place prior to and/or during construction.

- F. **Resource Delineation:** Prior to construction activities, the Qualified Biologist shall supervise the placement of orange construction fencing or equivalent along the limits of disturbance adjacent to sensitive biological habitats and verify compliance with any other project conditions as shown on the BCME. This phase shall include flagging plant specimens and delimiting buffers to protect sensitive biological resources (e.g., habitats/flora & fauna species, including nesting birds) during construction. Appropriate steps/care should be taken to minimize attraction of nest predators to the site.
- G. **Education:** Prior to commencement of construction activities, the Qualified Biologist shall meet with the owner/permittee or designee and the construction crew and conduct an on-site educational session regarding the need to avoid impacts outside of the approved construction area and to protect sensitive flora and fauna (e.g., explain the avian and wetland buffers, flag system for removal of invasive species or retention of sensitive plants, and clarify acceptable access routes/methods and staging areas, etc.).

II. During Construction

- A. **Monitoring:** All construction (including access/staging areas) shall be restricted to areas previously identified, proposed for development/staging, or previously disturbed as shown on "Exhibit A" and/or the BCME. The Qualified Biologist shall monitor construction activities as needed to ensure that construction activities do not encroach into biologically sensitive areas, or cause other similar damage, and that the work plan has been amended to accommodate any sensitive species located during the pre-construction surveys. In addition, the Qualified Biologist shall document field activity via the Consultant Site Visit Record (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 onsite (e.g., flag plant specimens for avoidance during access, etc). If active nests of the Clark's marsh wren, Cooper's hawk, double-crested cormorant, yellow warbler, yellow breasted

chat, western bluebird, least Bell's vireo, southwestern willow flycatcher, and the light-footed Ridgway's rail or other previously unknown sensitive resources are detected, all project activities that directly impact the resource shall be delayed until species specific local, state or federal regulations have been determined and applied by the Qualified Biologist.

III. Post Construction Measures

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

MM 5.4-2: Biological Resources Wetlands

Prior to issuance of any construction permits, including but not limited to, the first Grading Permit, Demolition Plans/Permits and Building Plans/Permits, but prior to the first preconstruction meeting for public improvements or impacts associated with the construction of Fashion Valley Road between Riverwalk Drive and Hotel Circle North., the Owner/Permittee shall mitigate for City wetland/riparian vegetation impacts to 0.64-acre (0.01 acre of coastal and valley freshwater marsh, 0.57 acre of southern cottonwood-willow riparian forest) and 0.06-acre of open water. Mitigation for impacts to City jurisdictional wetlands shall occur at a 3:1 mitigation-to-impact ratio in accordance with Table 2a of the City's Biology Guidelines. Accordingly, mitigation for City wetland/riparian impacts shall include a 1:1 creation component to ensure no net loss of wetlands and a 2:1 restoration/enhancement component. The Owner/Permittee shall provide 1.92 acres of habitat and shall be achieved on-site via the following, as detailed in the *Riverwalk Project Wetland Mitigation Plan* (Alden Environmental, Inc. February 19, 2020):

- Creation of 0.21-acre of freshwater marsh riparian and 0.57-acre of southern cottonwood-willow riparian forest
- Enhancement of 1.14-acres of southern cottonwood-willow riparian forest

Biological Resources Other Resources Agency Permits

Prior to issuance of any construction permits, including but not limited to, the first Grading Permit, Demolition Plans/Permits and Building Plans/Permits, but prior to the first preconstruction meeting for public improvements or impacts associated with the construction of Fashion Valley Road between Riverwalk Drive and Hotel Circle North, the 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 MSCP, DSD, and MMC.

MM 5.4-3: Biological Resources (Revegetation Plan)

Prior to issuance of any construction permits, including but not limited to, the first Grading Permit, Demolition Plans/Permits and Building Plans/Permits, but prior to the first preconstruction meeting for public improvements or impacts associated with the construction of Fashion Valley Road between Riverwalk Drive and Hotel Circle North, the Assistant Deputy Director (ADD) environmental designee of the City's Land Development Review Division (LDR) shall verify that the following statements are shown verbatim on the grading and/or construction plans as a note under the heading *Environmental Requirements*: "Riverwalk Specific Plan" is subject to Mitigation, Monitoring and Reporting Program and shall conform to the mitigation conditions as contained in the "Environmental Impact Report PTS. No. 581984 / SCH No. 2018041028."

Prior to Permit Issuance

- A. Land Development Review (LDR) Plan Check
 1. Prior to issuance for any construction permits, including but not limited to, the first Grading Permit, Demolition Plans/Permits and Building Plans/Permits, whichever is applicable, the ADD environmental designee shall verify that the requirements for the revegetation/restoration plans and specifications, including mitigation of direct impacts to City wetland/riparian vegetation impacts to 0.64-acre (0.01 acre of coastal and valley freshwater marsh, 0.57 acre of southern cottonwood-willow riparian forest) and 0.06-acre of open water, and the remaining restoration revegetation onsite subjected to MSCP B15 requirements shall be shown and noted on the appropriate landscape construction documents. The landscape construction documents and specifications must be found to be in conformance with the *Habitat Restoration Plan*, prepared by Alden Environmental, Inc., February 19, 2020, the requirements of which are summarized below:

- B. Revegetation/Restoration Plan(s) and Specifications
 1. Landscape Construction Documents (LCD) shall be prepared on D-sheets and submitted to the City of San Diego Development Services Department, Landscape Architecture Section (LAS) for review and approval. LAS shall consult with Mitigation Monitoring Coordination (MMC) and obtain concurrence prior to approval of LCD. The LCD shall consist of revegetation/restoration, planting, irrigation and erosion control plans; including all required graphics, notes, details, specifications, letters, and reports as outlined below.
 2. Landscape Revegetation/Restoration Planting and Irrigation Plans shall be prepared in accordance with the San Diego Land Development Code (LDC) Chapter 14, Article 2, Division 4, the LDC Landscape Standards submittal requirements, and Attachment "B" (General Outline for Revegetation/Restoration Plans) of the City of San Diego's LDC Biology Guidelines (2018). The Principal Qualified Biologist (PQB) shall identify and adequately document all pertinent information concerning the

revegetation/restoration goals and requirements, such as but not limited to, plant/seed palettes, timing of installation, plant installation specifications, method of watering, protection of adjacent habitat, erosion and sediment control, performance/success criteria, inspection schedule by City staff, document submittals, reporting schedule, etc. The LCD shall also include comprehensive graphics and notes addressing the ongoing maintenance requirements (after final acceptance by the City).

3. The Revegetation Installation Contractor (RIC), Revegetation Maintenance Contractor (RMC), Construction Manager (CM) and Grading Contractor (GC), where applicable shall be responsible to insure that for all grading and contouring, clearing and grubbing, installation of plant materials, and any necessary maintenance activities or remedial actions required during installation and the 120-day plant establishment period are done per approved LCD. The following procedures at a minimum, but not limited to, shall be performed:
 - a. The RMC shall be responsible for the maintenance of the wetland/riparian mitigation area for a minimum period of 120-days. Maintenance visits shall be conducted on a weekly basis throughout the plant establishment period.
 - b. At the end of the 120-day period the PQB shall review the mitigation area to assess the completion of the short-term plant establishment period and submit a report for approval by MMC.
 - c. MMC will provide approval in writing to begin the five-year long-term establishment/maintenance and monitoring program.
 - d. Existing indigenous/native species shall not be pruned, thinned or cleared in the revegetation/mitigation area.
 - e. The revegetation site shall not be fertilized.
 - f. The RIC is responsible for reseeding (if applicable) if weeds are not removed, within one week of written recommendation by the PQB.
 - g. Weed control measures shall include the following: (1) hand removal, (2) cutting, with power equipment, and (3) chemical control. Hand removal of weeds is the most desirable method of control and will be used wherever possible.
 - h. Damaged areas shall be repaired immediately by the RIC/RMC. Insect infestations, plant diseases, herbivory, and other pest problems will be closely monitored throughout the five-year maintenance period. Protective mechanisms such as metal wire netting shall be used as necessary. Diseased and infected plants shall be immediately disposed of off-site in a legally acceptable manner at the discretion of the PQB or Qualified Biological Monitor (QBM) (City approved). Where possible, biological controls will be used instead of pesticides and herbicides.
4. If a Brush Management Program is required the revegetation/restoration plan shall show the dimensions of each brush management zone and notes shall be provided describing the restrictions on planting and maintenance

and identify that the area is impact neutral and shall not be used for habitat mitigation/credit purposes.

- C. Letters of Qualification Have Been Submitted to ADD
1. The applicant shall submit, for approval, a letter verifying the qualifications of the biological professional to MMC. This letter shall identify the PQB, Principal Restoration Specialist (PRS), and QBM, where applicable, and the names of all other persons involved in the implementation of the revegetation/restoration plan and biological monitoring program, as they are defined in the City of San Diego Biological Review References. Resumes and the biology worksheet should be updated annually.
 2. MMC will provide a letter to the applicant confirming the qualifications of the PQB/PRS/QBM and all City Approved persons involved in the revegetation/restoration plan and biological 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 revegetation/restoration plan and biological monitoring of the project.
 4. PBQ must also submit evidence to MMC that the PQB/QBM has completed Storm Water Pollution Prevention Program (SWPPP) training.

Prior to Start of Construction

- A. PQB/PRS Shall Attend Preconstruction (Precon) Meetings
1. Prior to beginning any work that requires monitoring:
 - a. The owner/permittee or their authorized representative shall arrange and perform a Precon Meeting that shall include the PQB or PRS, Construction Manager (CM) and/or Grading Contractor (GC), Landscape Architect (LA); Revegetation Installation Contractor (RIC), Revegetation Maintenance Contractor (RMC), Resident Engineer (RE), Building Inspector (BI), if appropriate, and MMC.
 - b. The PQB shall also attend any other grading/excavation related Precon Meetings to make comments and/or suggestions concerning the revegetation/restoration plan(s) and specifications with the RIC, CM and/or GC.
 - c. If the PQB is unable to attend the Precon Meeting, the owner shall schedule a focused Precon Meeting with MMC, PQB/PRS, CM, BI, LA, RIC, RMC, RE and/or BI, if appropriate, prior to the start of any work associated with the revegetation/ restoration phase of the project, including site grading preparation.
 2. Where Revegetation/Restoration Work Will Occur
 - a. Prior to the start of any work, the PQB/PRS shall also submit a revegetation/restoration monitoring exhibit (RRME) based on the

- appropriate reduced LCD (reduced to 11"x 17" format) to MMC, and the RE, identifying the areas to be revegetated/restored including the delineation of the limits of any disturbance/grading and any excavation.
- b. PQB shall coordinate with the construction superintendent to identify appropriate Best Management Practices (BMP) on the RRME.
3. **When Biological Monitoring Will Occur**
 - a. Prior to the start of any work, the PQB/PRS shall also submit a monitoring procedures schedule to MMC and the RE indicating when and where biological monitoring and related activities will occur.
 4. **PQB Shall Contact MMC to Request Modification**
 - a. The PQB may submit a detailed letter to MMC prior to the start of work or during construction requesting a modification to the revegetation/restoration plans and specifications. This request shall be based on relevant information (such as other sensitive species not listed by federal and/or state agencies and/or not covered by the MSCP and to which any impacts may be considered significant under CEQA) which may reduce or increase the potential for biological resources to be present.

During Construction

- A. **PQB or QBM Present During Construction/Grading/Planting**
 1. The PQB or QBM shall be present full-time during construction activities including but not limited to, site preparation, cleaning, grading, excavation, landscape establishment in association with demolition and construction of Fashion Valley Road improvements which would result in impacts to sensitive biological resources as identified in the LCD and on the RRME. **The RIC and/or QBM are responsible for notifying the PQB/PRS of changes to any approved construction plans, procedures, and/or activities. The PQB/PRS is responsible to notify the CM, LA, RE, BI and MMC of the changes.**
 2. The PQB or QBM shall document field activity via the Consultant Site Visit Record Forms (CSVSR). The CSVSR's shall be faxed by the CM the first day of monitoring, the last day of monitoring, monthly, and in the event that there is a deviation from conditions identified within the LCD and/or biological monitoring program. The RE shall forward copies to MMC.
 3. The PQB or QBM shall be responsible for maintaining and submitting the CSVSR at the time that CM responsibilities end (i.e., upon the completion of construction activity other than that of associated with biology).

4. All construction activities (including staging areas) shall be restricted to the development areas as shown on the LCD. The PQB/PRS or QBM staff shall monitor construction activities as needed, with MMC concurrence on method and schedule. This is to ensure that construction activities do not encroach into biologically sensitive areas beyond the limits of disturbance as shown on the approved LCD.
5. The PQB or QBM shall supervise the placement of orange construction fencing or City approved equivalent, along the limits of potential disturbance adjacent to (or at the edge of) all sensitive habitats including southern cottonwood-willow riparian forest, southern willow scrub, coastal and valley freshwater marsh, emergent wetland, and open water: Clark's marsh wren, Cooper's hawk, double-crested cormorant, yellow warbler, yellow breasted chat, western bluebird, least Bell's vireo, southwestern willow flycatcher, and the light-footed Ridgway's, as shown on the approved LCD.
6. The PBQ shall provide a letter to MMC that limits of potential disturbance has been surveyed, staked and that the construction fencing is installed properly.
7. The PQB or QBM shall oversee implementation of BMP, such as gravel bags, straw logs, silt fences or equivalent erosion control measures, as needed to ensure prevention of any significant sediment transport. In addition, the PQB/QBM shall be responsible to verify the removal of all temporary construction BMP upon completion of construction activities. Removal of temporary construction BMP shall be verified in writing on the final construction phase CSVR.
8. PQB shall verify in writing on the CSVR's that no trash stockpiling or oil dumping, fueling of equipment, storage of hazardous wastes or construction equipment/material, parking or other construction related activities shall occur adjacent to sensitive habitat. These activities shall occur only within the designated staging area located outside the area defined as biological sensitive area.
9. The long-term establishment inspection and reporting schedule per LCD must all be approved by MMC prior to the issuance of the Notice of Completion (NOC) or any bond release.

B. Disturbance/Discovery Notification Process

1. If unauthorized disturbances occur or sensitive biological resources are discovered that were not previously identified on the LCD and/or RRME, the PQB or QBM shall direct the contractor to temporarily divert construction in the area of disturbance or discovery and immediately notify the RE or BI, as appropriate.
2. The PQB shall also immediately notify MMC by telephone of the disturbance and report the nature and extent of the disturbance and recommend the method of additional protection, such as fencing and appropriate Best Management Practices (BMP). After obtaining

- concurrency with MMC and the RE, PQB and CM shall install the approved protection and agreement on BMP.
3. The PQB shall also submit written documentation of the disturbance to MMC within 24 hours by fax or email with photos of the resource in context (e.g., show adjacent vegetation).
- C. Determination of Significance
1. The PQB shall evaluate the significance of disturbance and/or discovered biological resource and provide a detailed analysis and recommendation in a letter report with the appropriate photo documentation to MMC to obtain concurrence and formulate a plan of action which can include fines, fees, and supplemental mitigation costs.
 2. MMC shall review this letter report and provide the RE with MMC's recommendations and procedures.

Post Construction

- A. Mitigation Monitoring and Reporting Period
1. Five-Year Mitigation Establishment/Maintenance Period
 - a. The RMC shall be retained to complete maintenance monitoring activities throughout the five-year mitigation monitoring period.
 - b. Maintenance visits will be conducted twice per month for the first six months, once per month for the remainder of the first year, and quarterly thereafter.
 - c. Maintenance activities will include all items described in the LCD.
 - d. Plant replacement will be conducted as recommended by the PQB (note: plants shall be increased in container size relative to the time of initial installation or establishment or maintenance period may be extended to the satisfaction of MMC).
 2. Five-Year Biological Monitoring
 - a. All biological monitoring and reporting shall be conducted by a PQB or QBM, as appropriate, consistent with the LCD.
 - b. Monitoring shall involve both qualitative horticultural monitoring and quantitative monitoring (i.e., performance/success criteria). Horticultural monitoring shall focus on soil conditions (e.g., moisture and fertility), container plant health, seed germination rates, presence of native and non-native (e.g., invasive exotic) species, any significant disease or pest problems, irrigation repair and scheduling, trash removal, illegal trespass, and any erosion problems.
 - c. After plant installation is complete, qualitative monitoring surveys will occur monthly during year one and quarterly during years two through five.

- d. Upon the completion of the 120-days short-term plant establishment period, quantitative monitoring surveys shall be conducted at 0, 6, 12, 24, 36, 48 and 60 months by the PQB or QBM. The revegetation/restoration effort shall be quantitatively evaluated once per year (in spring) during years three through five, to determine compliance with the performance standards identified on the LCD. All plant material must have survived without supplemental irrigation for the last two years.
- e. Quantitative monitoring shall include the use of fixed transects and photo points to determine the vegetative cover within the revegetated habitat. Collection of fixed transect data within the revegetation/restoration site shall result in the calculation of percent cover for each plant species present, percent cover of target vegetation, tree height and diameter at breast height (if applicable) and percent cover of non-native/non-invasive vegetation. Container plants will also be counted to determine percent survivorship. The data will be used determine attainment of performance/success criteria identified within the LCD.
- f. Biological monitoring requirements may be reduced if, before the end of the fifth year, the revegetation meets the fifth-year criteria and the irrigation has been terminated for a period of the last two years.
- g. The PQB or QBM shall oversee implementation of post-construction BMP, such as gravel bags, straw logs, silt fences or equivalent erosion control measure, as needed to ensure prevention of any significant sediment transport. In addition, the PBQ/QBM shall be responsible to verify the removal of all temporary post-construction BMP upon completion of construction activities. Removal of temporary post-construction BMP shall be verified in writing on the final post-construction phase CSVR.

B. Submittal of Draft Monitoring Report

- 1. A draft monitoring letter report shall be prepared to document the completion of the 120-day plant establishment period. The report shall include discussion on weed control, horticultural treatments (pruning, mulching, and disease control), erosion control, trash/debris removal, replacement planting/reseeding, site protection/signage, pest management, vandalism, and irrigation maintenance. The revegetation/restoration effort shall be visually assessed at the end of 120-day period to determine mortality of individuals.
- 2. The PQB shall submit two copies of the Draft Monitoring Report which describes the results, analysis, and conclusions of all phases of the Biological Monitoring and Reporting Program (with appropriate graphics) to MMC for review and approval within 30 days following the completion of monitoring. Monitoring reports shall be prepared on an annual basis for

a period of five years. Site progress reports shall be prepared by the PQB following each site visit and provided to the owner, RMC and RIC. Site progress reports shall review maintenance activities, qualitative and quantitative (when appropriate) monitoring results including progress of the revegetation relative to the performance/success criteria, and the need for any remedial measures.

3. Draft annual reports (three copies) summarizing the results of each progress report including quantitative monitoring results and photographs taken from permanent viewpoints shall be submitted to MMC for review and approval within 30 days following the completion of monitoring.
4. MMC shall return the Draft Monitoring Report to the PQB for revision or, for preparation of each report.
5. The PQB shall submit revised Monitoring Report to MMC (with a copy to RE) for approval within 30 days.
6. MMC will provide written acceptance of the PQB and RE of the approved report.

C. Final Monitoring Reports(s)

1. PQB shall prepare a Final Monitoring upon achievement of the fifth-year performance/success criteria and completion of the five-year maintenance period.
 - a. This report may occur before the end of the fifth year if the revegetation meets the fifth-year performance /success criteria and the irrigation has been terminated for a period of the last two years.
 - b. The Final Monitoring report shall be submitted to MMC for evaluation of the success of the mitigation effort and final acceptance. A request for a pre-final inspection shall be submitted at this time, MMC will schedule after review of report.
 - c. If at the end of the five years any of the revegetated area fails to meet the project's final success standards, the applicant must consult with MMC. This consultation shall take place to determine whether the revegetation effort is acceptable. The applicant understands that failure of any significant portion of the revegetation/restoration area may result in a requirement to replace or renegotiate that portion of the site and/or extend the monitoring and establishment/maintenance period until all success standards are met.

MM 5.4-4: Biological Resources – Least Bell's Vireo (State Endangered/Federally Protected)

1. Prior to issuance of any construction permits, including but not limited to, the first Grading Permit, Demolition Plans/Permits and Building Plans/Permits the City Manager (or appointed environmental designee) shall verify that the following project requirements regarding the least Bell's vireo are shown on the

construction plans:

No clearing, grubbing, grading, or other construction activities shall occur between March 15 and September 15, the breeding season of the least Bell's vireo, until the following requirements have been met to the satisfaction of the City Manager:

- A. A qualified biologist (possessing a valid endangered species act section 10(a)(1)(a) recovery permit) shall survey those wetland areas that would be subject to construction noise levels exceeding 60 decibels [dBA] or to the ambient noise level if it already exceeds 60 dBA hourly average for the presence of the least bell's vireo. Surveys for this species shall be conducted pursuant to the protocol survey guidelines established by the U.S. Fish and Wildlife Service within the breeding season prior to the commencement of construction. If the least Bell's vireo is present, then the following conditions must be met:
 - I. Between March 15 and September 15, no clearing, grubbing, or grading of occupied least Bell's vireo habitat shall be permitted. Areas restricted from such activities shall be staked or fenced under the supervision of a qualified biologist; and
 - II. Between March 15 and September 15, no construction activities shall occur within any portion of the site where construction activities would result in noise levels exceeding 60 dBA or to the ambient noise level if it already exceeds 60 dBA hourly average at the edge of occupied least bell's vireo or habitat. An analysis showing that noise generated by construction activities would not exceed 60 dBA hourly average at the edge of occupied habitat must be completed by a qualified acoustician (possessing current noise engineer license or registration with monitoring noise level experience with listed animal species) and approved by the city manager at least two weeks prior to the commencement of construction activities. Prior to the commencement of any of construction activities during the breeding season, areas restricted from such activities shall be staked or fenced under the supervision of a qualified biologist; or
 - III. At least two weeks prior to the commencement of construction activities, under the direction of a qualified acoustician, noise attenuation measures (e.g., berms, walls) shall be implemented to ensure that noise levels resulting from construction activities will not exceed 60 dBA or to the ambient noise level if it already exceeds 60 dBA hourly average hourly average at the edge of habitat occupied by the least Bell's vireo. Concurrent with the commencement of construction activities and the construction of necessary noise attenuation facilities, noise monitoring* shall be conducted at the edge of the occupied habitat area to ensure that noise levels do not exceed 60 dBA hourly average or to the ambient noise level if it already exceeds 60 dBA hourly average. If the noise attenuation

techniques implemented are determined to be inadequate by the qualified acoustician or biologist, then the associated construction activities shall cease until such time that adequate noise attenuation is achieved or until the end of the breeding season (September 16).

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

- B. If least Bell's vireo are not detected during the protocol survey, the qualified biologist shall submit substantial evidence to the City Manager and applicable resource agencies which demonstrates whether or not mitigation measures such as noise walls are necessary between March 15 and September 15 as follows:
 - I. If this evidence indicates the potential is high for least Bell's vireo to be present based on historical records or site conditions, then condition A.III shall be adhered to as specified above.
 - II. If this evidence concludes that no impacts to this species are anticipated, no mitigation measures would be necessary.

MM 5.4-5: Biological Resources – Southwestern Willow Flycatcher (Federally Endangered)

- 1. Prior to issuance of any construction permits, including but not limited to, the first Grading Permit, Demolition Plans/Permits and Building Plans/Permits the City Manager (or appointed environmental designee) shall verify that the following project requirements regarding the southwestern willow flycatcher are shown on the construction plans: No clearing, grubbing, grading, or other construction activities shall occur between May 1 and September 1, the breeding season of the southwestern willow Flycatcher, until the following requirements have been met to the satisfaction of the City Manager:
 - A. A qualified biologist (possessing a valid endangered species act section 10(a)(1)(a) recovery permit) shall survey those wetland areas that would be subject to construction noise levels exceeding 60 decibels [dBA] hourly average or to the ambient noise level if it already exceeds 60 dBA hourly average for the presence of the southwestern willow flycatcher. Surveys for this species shall be conducted pursuant to the protocol survey guidelines established by the U.S. Fish

and Wildlife Service within the breeding season prior to the commencement of any construction. If the southwestern willow flycatcher is present, then the following conditions must be met:

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

* Construction noise monitoring shall continue to be monitored at least twice weekly on varying days, or more frequently depending on the construction activity, to verify that noise levels at the edge of occupied habitat are maintained below 60 dBA hourly average or to the ambient noise level if it already exceeds 60 dB (A) hourly average. If not, other

measures shall be implemented in consultation with the biologist and the City Manager, as necessary, to reduce noise levels to below 60 dBA hourly average or to the ambient noise level if it already exceeds 60 dBA hourly average. Such measures may include, but are not limited to, limitations on the placement of construction equipment and the simultaneous use of equipment.

- B. If southwestern willow flycatcher are not detected during the protocol survey, the qualified biologist shall submit substantial evidence to the City Manager and applicable resource agencies which demonstrates whether or not mitigation measures such as noise walls are necessary between May 1 and September 1 as follows:
 - I. If this evidence indicates the potential is high for southwestern willow flycatcher to be present based on historical records or site conditions, then condition A.III shall be adhered to as specified above.
 - II. If this evidence concludes that no impacts to this species are anticipated, no mitigation measures would be necessary.

Historical Resources

MM 5.6-1: Historical Resources Archaeological Data Recovery Program

1. Prior to issuance of any construction permits, including but not limited to, the first Grading Permit, Demolition Plans/Permits and Building Plans/Permits, but prior to the first preconstruction meeting, whichever is applicable, the Owner/Permittee shall ensure that the following mitigation measures are outline verbatim on appropriate construction plans.
2. The project requires implementation of an Archaeological Data Recovery Program (ADRP) to mitigate impacts to archaeological site (SDI-11767, SDI-12220, and SDI-12126) prior to the issuance of ANY construction permits or the start of ANY construction if no permits are required. The ADRP with Native American participation consists of a Statistical Sample and shall be implemented as described below after consultation with DSD ED in accordance with the Cultural Resources Report prepared by (*Riverwalk Redevelopment Project Archaeological Research and Data Recovery Program* (ASM Affiliates Inc., February 2020)).
 - a. A sampling strategy shall be conducted in accordance with the Methods Section of the *Riverwalk Redevelopment Project Archaeological Research and Data Recovery Program* (ASM Affiliates Inc., February 2020). Additional test units can be added in consultation with DSD EAS, project archaeologist, and Native American Monitor

- b. Laboratory Analysis in the form of specialized studies shall be conducted in accordance with the ADRP;
- c. Curation of all materials recovered during the ADRP with the exception of human remains and any associated burial goods, shall be prepared in compliance local, state and federal standards and be permanently curated at an approved facility that meets City standards;
- d. ADRP provision for the discovery of human remains shall be invoked in accordance with the California Public Resources Code, the Health and Safety Code. In the event human remains are encountered during the ADRP, soil shall only be exported from the project site after it has been cleared by the Most Likely Descendant (MLD) and the Project Archaeologist;
- e. Archaeological and Native American Monitoring shall be conducted during the remaining grading activities after completion of the ADRP and acceptance of a draft progress report for the program. The detailed Mitigation Monitoring and Reporting Program is identified in below.
- f. Upon completion of the ADRP and prior to issuance of grading permits, the qualified archaeologist and Native American Monitor shall attend a second preconstruction meeting to make comments and/or suggestions concerning the proposed grading process.

Discovery of Human Remains During Data Recovery

- i. The Archaeological Data Recovery Plan (ADRP) provisions for the discovery of human remains shall be invoked in accordance with the California Public Resources Code and the Health and Safety Code. In the event that human remains are encountered during the ADRP, soil shall only be exported from the project site after it has been cleared by the MLD and the project archaeologist. Any potential human remains recovered during the ADRP shall be directly repatriated to the MLD or MLD Representative at the location of the discovery.
- ii. If the MLD does not make a recommendation within 48 hours of notification, or if the recommendations are not acceptable to the landowner following extended discussions and mediation between the City of San Diego and the MLD, the landowner shall reinter the remains and burial items with appropriate dignity on the property in a location not subject to further subsurface disturbance. The location of reinternment shall be protected by recording the location with the NAHC and the South Coastal Information Center.
 - 1. There shall be no further excavation or disturbance in that portion of the site or any nearby area reasonably suspected to overlie adjacent human remains until the San Diego County Medical Examiner is contacted and the discovery location shall be mapped by the monitoring archaeologist

- and protected and secured from further disturbance whenever possible.
2. The monitoring archaeologist shall notify the Principal Investigator, the City Mitigation Monitoring Coordinator, and will contact the San Diego County Medical Examiner. The Medical Examiner shall make a determination as to the origins of the human remains.
 3. If the remains are recognized as or suspected to be Native American by the Medical Examiner or an authorized representative, the Medical Examiner shall contact the California Native American Heritage Commission (NAHC) within 24 hours of the discovery.
 4. The NAHC designates and contacts the Most Likely Descendant (MLD).
 5. The MLD shall make a recommendation for treatment of the remains and associated burial items within 48 hours of notification. Possible options for treatment may include:
 - a. Preservation in place and avoidance.
 - b. Reburial of the remains on the property in an area to remain undisturbed by the landowner.
 - c. Transport of the remains off-site.
 6. The landowner shall discuss with the Most Likely Descendant all reasonable options regarding the descendant's preferences for the treatment of human remains and any associated grave goods, as provided in PRC Section 5097.98.
 7. ADRP provisions for the discovery of human remains shall be invoked in accordance with the California PRC and the Health and Safety Code. In the event that human remains are encountered during the ADRP, soil shall only be exported from the project site after it has been cleared by the MLD and the project archaeologist. Any potential human remains recovered during the ADRP shall be directly repatriated to the MLD or MLD Representative at the location of the discovery.

MM 5.6-2: Historical Resources (Archaeological and Native American Monitoring)

I. Prior to Permit Issuance

A. Entitlements Plan Check

1. Prior to issuance of any construction permits, including but not limited to, the first Grading Permit, Demolition Plans/Permits and Building Plans/Permits or a Notice to Proceed for Subdivisions, but prior to the first preconstruction meeting, whichever is applicable, the Assistant Deputy Director (ADD) Environmental designee shall verify that the requirements

for Archaeological Monitoring and Native American monitoring have been noted on the applicable construction documents through the plan check process.

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

II. Prior to Start of Construction

- A. Verification of Records Search**
1. The PI shall provide verification to MMC that a site-specific records search (1/4 mile radius) has been completed. Verification includes, but is not limited to a copy of a confirmation letter from South Coastal Information Center, or, if the search was in-house, a letter of verification from the PI stating that the search was completed.
 2. The letter shall introduce any pertinent information concerning expectations and probabilities of discovery during trenching and/or grading activities.
 3. The PI may submit a detailed letter to MMC requesting a reduction to the ¼ mile radius.
- B. PI Shall Attend Precon Meetings**
1. Prior to beginning any work that requires monitoring; the Applicant shall arrange a Precon Meeting that shall include the PI, Native American consultant/monitor (where Native American resources may be impacted), Construction Manager (CM) and/or Grading Contractor, Resident Engineer (RE), Building Inspector (BI), if appropriate, and MMC. The qualified Archaeologist and Native American Monitor shall attend any grading/excavation related Precon Meetings to make comments and/or suggestions concerning the Archaeological Monitoring program with the Construction Manager and/or Grading Contractor.
 - a. If the PI is unable to attend the Precon Meeting, the Applicant shall schedule a focused Precon Meeting with MMC, the PI, RE, CM or BI, if appropriate, prior to the start of any work that requires monitoring.

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

III. During Construction

- A. **Monitor(s) Shall be Present During Grading/Excavation/Trenching**
 1. The Archaeological Monitor shall be present full-time during all soil disturbing and grading/excavation/trenching activities which could result in impacts to archaeological resources as identified on the AME. The Construction Manager is responsible for notifying the RE, PI, and MMC of changes to any construction activities such as in the case of a potential safety concern within the area being monitored. In certain circumstances OSHA safety requirements may necessitate modification of the AME.
 2. The Native American consultant/monitor shall determine the extent of their presence during soil disturbing and grading/excavation/trenching activities based on the AME and provide that information to the PI and MMC. If prehistoric resources are encountered during the Native American consultant/monitor's absence, work shall stop and the Discovery Notification Process detailed in Section III.B-C and IV.A-D shall commence.
 3. The PI may submit a detailed letter to MMC during construction requesting a modification to the monitoring program when a field condition such as modern disturbance post-dating the previous grading/trenching activities, presence of fossil formations, or when native soils are encountered that may reduce or increase the potential for resources to be present.

4. The archaeological and Native American consultant/monitor shall document field activity via the Consultant Site Visit Record (CSVSR). The CSVSR's shall be faxed by the CM to the RE the first day of monitoring, the last day of monitoring, monthly (Notification of Monitoring Completion), and in the case of ANY discoveries. The RE shall forward copies to MMC.

B. Discovery Notification Process

1. In the event of a discovery, the Archaeological Monitor shall direct the contractor to temporarily divert all soil disturbing activities, including but not limited to digging, trenching, excavating or grading activities in the area of discovery and in the area reasonably suspected to overlay adjacent resources and immediately notify the RE or BI, as appropriate.
2. The Monitor shall immediately notify the PI (unless Monitor is the PI) of the discovery.
3. The PI shall immediately notify MMC by phone of the discovery, and shall also submit written documentation to MMC within 24 hours by fax or email with photos of the resource in context, if possible.
4. No soil shall be exported off-site until a determination can be made regarding the significance of the resource specifically if Native American resources are encountered.

C. Determination of Significance

1. The PI and Native American consultant/monitor, where Native American resources are discovered shall evaluate the significance of the resource. If Human Remains are involved, follow protocol in Section IV below.
 - a. The PI shall immediately notify MMC by phone to discuss significance determination and shall also submit a letter to MMC indicating whether additional mitigation is required.
 - b. If the resource is significant, the PI shall submit an Archaeological Data Recovery Program (ADRP) which has been reviewed by the Native American consultant/monitor, and obtain written approval from MMC. Impacts to significant resources must be mitigated before ground disturbing activities in the area of discovery will be allowed to resume. Note: If a unique archaeological site is also an historical resource as defined in CEQA, then the limits on the amount(s) that a project applicant may be required to pay to cover mitigation costs as indicated in CEQA Section 21083.2 shall not apply.
 - c. If the resource is not significant, the PI shall submit a letter to MMC indicating that artifacts will be collected, curated, and documented in the Final Monitoring Report. The letter shall also indicate that that no further work is required.

IV. Discovery of Human Remains

If human remains are discovered, work shall halt in that area and no soil shall be exported off-site until a determination can be made regarding the provenance of the human remains; and the following procedures as set forth in CEQA Section 15064.5(e), the California Public Resources Code (Sec. 5097.98) and State Health and Safety Code (Sec. 7050.5) shall be undertaken:

A. Notification

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

B. Isolate discovery site

1. Work shall be directed away from the location of the discovery and any nearby area reasonably suspected to overlay adjacent human remains until a determination can be made by the Medical Examiner in consultation with the PI concerning the provenance of the remains.
2. The Medical Examiner, in consultation with the PI, will determine the need for a field examination to determine the provenance.
3. If a field examination is not warranted, the Medical Examiner will determine with input from the PI, if the remains are or are most likely to be of Native American origin.

C. If Human Remains ARE determined to be Native American

1. The Medical Examiner will notify the Native American Heritage Commission (NAHC) within 24 hours. By law, ONLY the Medical Examiner can make this call.
2. NAHC will immediately identify the person or persons determined to be the Most Likely Descendent (MLD) and provide contact information.
3. The MLD will contact the PI within 24 hours or sooner after the Medical Examiner has completed coordination, to begin the consultation process in accordance with CEQA Section 15064.5(e), the California Public Resources and Health & Safety Codes.
4. The MLD will have 48 hours to make recommendations to the property owner or representative, for the treatment or disposition with proper dignity, of the human remains and associated grave goods.
5. Disposition of Native American Human Remains will be determined between the MLD and the PI, and, if:
 - a. The NAHC is unable to identify the MLD, OR the MLD failed to make a recommendation within 48 hours after being granted access to the site, 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, the landowner shall reinter the human remains and items associated with Native American human

remains with appropriate dignity on the property in a location not subject to further and future subsurface disturbance, THEN

- c. 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; or
 - (3) Record a document with the County. The document shall be titled "Notice of Reinterment of Native American Remains" and shall include a legal description of the property, the name of the property owner, and the owner's acknowledged signature, in addition to any other information required by PRC 5097.98. The document shall be indexed as a notice under the name of the owner.

V. Night and/or Weekend Work

- A. If night and/or weekend work is included in the contract
 - 1. When night and/or weekend work is included in the contract package, the extent and timing shall be presented and discussed at the precon meeting.
 - 2. The following procedures shall be followed.
 - a. No Discoveries
In the event that no discoveries were encountered during night and/or weekend work, the PI shall record the information on the CSV and submit to MMC via fax by 8AM of the next business day.
 - b. Discoveries
All discoveries shall be processed and documented using the existing procedures detailed in Sections III - During Construction, and IV - Discovery of Human Remains. Discovery of human remains shall always be treated as a significant discovery.
 - c. Potentially Significant Discoveries
If the PI determines that a potentially significant discovery has been made, the procedures detailed under Section III - During Construction and IV-Discovery of Human Remains shall be followed.
 - d. The PI shall immediately contact MMC, or by 8AM of the next business day to report and discuss the findings as indicated in Section III-B, unless other specific arrangements have been made.
- B. If night and/or weekend work becomes necessary during the course of construction
 - 1. The Construction Manager shall notify the RE, or BI, as appropriate, a minimum of 24 hours before the work is to begin.
 - 2. The RE, or BI, as appropriate, shall notify MMC immediately.
- C. All other procedures described above shall apply, as appropriate.

VI. Post Construction

A. Preparation and Submittal of Draft Monitoring Report

1. The PI shall submit two copies of the Draft Monitoring Report (even if negative), prepared in accordance with the Historical Resources Guidelines (Appendix C/D) which describes the results, analysis, and conclusions of all phases of the Archaeological Monitoring Program (with appropriate graphics) to MMC for review and approval within 90 days following the completion of monitoring. It should be noted that if the PI is unable to submit the Draft Monitoring Report within the allotted 90-day timeframe resulting from delays with analysis, special study results or other complex issues, a schedule shall be submitted to MMC establishing agreed due dates and the provision for submittal of monthly status reports until this measure can be met.
 - a. For significant archaeological resources encountered during monitoring, the Archaeological Data Recovery Program shall be included in the Draft Monitoring Report.
 - b. Recording Sites with State of California Department of Parks and Recreation
The PI shall be responsible for recording (on the appropriate State of California Department of Park and Recreation forms-DPR 523 A/B) any significant or potentially significant resources encountered during the Archaeological Monitoring Program in accordance with the City's Historical Resources Guidelines, and submittal of such forms to the South Coastal Information Center with the Final Monitoring Report.
2. MMC shall return the Draft Monitoring Report to the PI for revision or, for preparation of the Final Report.
3. The PI shall submit revised Draft Monitoring Report to MMC for approval.
4. MMC shall provide written verification to the PI of the approved report.
5. MMC shall notify the RE or BI, as appropriate, of receipt of all Draft Monitoring Report submittals and approvals.

B. Handling of Artifacts

1. The PI shall be responsible for ensuring that all cultural remains collected are cleaned and catalogued
2. The PI shall be responsible for ensuring that all artifacts are analyzed to identify function and chronology as they relate to the history of the area; that faunal material is identified as to species; and that specialty studies are completed, as appropriate.
3. The cost for curation is the responsibility of the property owner.

C. Curation of artifacts: Accession Agreement and Acceptance Verification

1. The PI shall be responsible for ensuring that all artifacts associated with the survey, testing and/or data recovery for this project are permanently

- curated with an appropriate institution. This shall be completed in consultation with MMC and the Native American representative, as applicable.
2. The PI shall include the Acceptance Verification from the curation institution in the Final Monitoring Report submitted to the RE or BI and MMC.
 3. When applicable to the situation, the PI shall include written verification from the Native American consultant/monitor indicating that Native American resources were treated in accordance with state law and/or applicable agreements. If the resources were reinterred, verification shall be provided to show what protective measures were taken to ensure no further disturbance occurs in accordance with Section IV – Discovery of Human Remains, Subsection 5.
- D. Final Monitoring Report(s)
1. The PI shall submit one copy of the approved Final Monitoring Report to the RE or BI as appropriate, and one copy to MMC (even if negative), within 90 days after notification from MMC that the draft report has been approved.
 2. The RE shall, in no case, issue the Notice of Completion and/or release of the Performance Bond for grading until receiving a copy of the approved Final Monitoring Report from MMC which includes the Acceptance Verification from the curation institution.

Noise (Operational)

MM 5.8-1: Prior to issuance of Building Permit the City shall require the design and installation of stationary noise sources for the project to include the following:

- Implement best design considerations and shielding, including installing stationary noise sources associated with HVAC systems indoors in mechanical rooms.
- Prior to the installation of equipment, the applicant or its designee shall prepare an acoustical study(s) of proposed mechanical equipment, which shall identify all noise-generating equipment, predict noise level property lines from all identified equipment, and recommended mitigation to be implemented (e.g., enclosures, barriers, site orientation), as necessary, to comply with the City of San Diego noise ordinance.

Tribal Cultural Resources

- MM 5.10-1** Prior to issuance of Building Permit or beginning of any construction related activity for the Riverwalk River Park, the Development Services Department (DSD) Director's Environmental Designee (ED) shall verify the plant palette shown on construction documents includes plants from the following species traditionally utilized by the Native American tribes culturally affiliated with the project area in barrier plantings and adjacent to the River Park Pathway: mugwort (*Artemisia douglasiana*), mulefat (*Baccharis salicifolia*), western ragweed (*Ambrosia psilostachya*), California deergrass (*Muhlenbergia rigens*), red willow (*Salix lasiolepis*), elderberry (*Sambucus nigra*), Fremont's cottonwood (*Populus fremontii*), black willow (*Salix exigua*), and arroyo willow (*Salix lasiolepis*), yerba mansa (*Anemopsis*), spiny rush (*Juncas acutus*), pale spikerush (*Elocharis macrostachya*), Saltmarsh fleabone (*Pluchea odorata*), Creeping wild rye (*leymus tritcoides*), San Diego sagewort (*Artemisia palmeri*), Tarragon (*Artemisia dracunculus*), and Purple needlegrass (*Stipa pulchra*).
- MM 5.10-2** Prior to issuance of Building Permit or beginning of any construction related activity for the Riverwalk River Park, the Development Services Department (DSD) Director's Environmental Designee (ED) shall verify the interpretive signage along the River Pathway as shown on construction documents. Signage shall include 20 plant identification signs (each approximately 6 by 8-inches) along the River Pathway with plants traditionally utilized by Native American tribes identified by a symbol. A storyboard sign (approximately 20 by 30 inches) shall also be provided that describes the native plants identified along the river pathway and their relationship to the Kumeyaay people's ability to thrive in the region. The interpretative signage plan shall be reviewed and accepted to the satisfaction of DSD, Iipay of Santa Isabel, and Jamul Indian Village.
- MM 5.10-3** Prior to recordation of Final Map for the South District, Owner/permittee shall submit a street sign plan that includes Kumeyaay street names to be reviewed and accepted to the satisfaction of DSD.
- MM 5.10-4** Prior to issuance of any construction permits, such as Demolition, Grading or Building, or beginning any construction related activity on-site, Owner/Permittee shall implement the conditions as detailed in MM 5.6-1 Historical Resources (Archaeological Data Recovery Monitoring) and MM 5.6-2 Historical Resources (Archaeology and Native American Monitoring).

Passed by the Council of The City of San Diego on 11/17/2020, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Barbara Bry	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Ward	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Georgette Gómez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage NOV 17 2020.

(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

(Seal)

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

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

By , Deputy

Office of the City Clerk, San Diego, California

Resolution Number R- 313360