

RESOLUTION NUMBER R- **314485**

DATE OF FINAL PASSAGE **DEC 14 2022**

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO DETERMINING THAT NEGOTIATION AND EXECUTION OF A DEPARTMENT OF WATER RESOURCES GRANT AGREEMENT, AND ACCEPTANCE, APPROPRIATION, AND EXPENDITURE OF GRANT FUNDING FOR UPPER AUBURN CREEK REVITALIZATION PROJECT (S-22008) FOR PRELIMINARY PLANNING ACTIVITIES ARE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT PURSUANT TO CEQA GUIDELINES SECTIONS 15061(b)(3) AND 15262.

WHEREAS, the Council of the City of San Diego is considering authorizing the negotiation and execution of a California Department of Water Resources grant agreement, acceptance, appropriation, and expenditure of grant funding, and related actions in connection with the Upper Auburn Creek Revitalization Project (S-22008) for preliminary planning activities; and

WHEREAS, the California Environmental Quality Act (CEQA) (Public Resources Code section 21000 et seq.), section 21084, states that the CEQA Guidelines thereto (California Code of Regulations, Title 14, Chapter 3, Section 15000 et seq.), adopted by the California Office of Planning and Research pursuant to Public Resources Code section 21083, shall list those classes of projects which have been determined not to have a significant effect on the environment and which shall be exempt from CEQA; and

WHEREAS, pursuant to that authority, CEQA Guidelines sections 15260 through 15285 list the CEQA statutory exemptions promulgated by the California State Legislature; and

WHEREAS, the City Planning Department determined that the negotiation and execution of a California Department of Water Resources grant agreement, acceptance,

appropriation, and expenditure of grant funding, and related actions in connection with the Upper Auburn Creek Revitalization Project (S-22008) for preliminary planning activities are statutorily exempt from CEQA pursuant to CEQA Guidelines section 15262 (entitled "Feasibility and Planning Studies") and are exempt from CEQA under the common sense exemption in CEQA Guidelines section 15061(b)(3); and

WHEREAS, CEQA Guidelines section 15061(b)(3) provides that CEQA only applies to projects which have the potential for causing a significant effect on the environment.

Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA; and

WHEREAS, the Council of the City of San Diego (Council) considered the potential environmental effects of the project; and

WHEREAS, this action authorizing the negotiation and execution of a California Department of Water Resources grant agreement, acceptance, appropriation, and expenditure of grant funding, and related actions in connection with the Upper Auburn Creek Revitalization Project (S-22008) for preliminary planning activities does not constitute approval of the project pursuant to CEQA Guidelines section 15352(a) and will not foreclose review of alternatives or mitigation measures by the public as part of the future CEQA process; and

WHEREAS, on November 15, 2022, the Council held a duly noticed public meeting, and considered the written record and related public comment and evidence concerning the project; and

WHEREAS, the Council, exercising its independent judgment, determined that the project will not result in a significant effect on the environment and is exempt from CEQA because it meets the requirements of CEQA Guidelines section 15262, in that the project involves only

feasibility or planning studies for possible future actions (i.e., potential creek revitalization activities), which the City has not approved, adopted, or funded; and

WHEREAS, the Council, exercising its independent judgment, determined that the project will not result in a significant effect on the environment and is exempt from CEQA under the common sense exemption in CEQA Guidelines section 15061(b)(3) because the project will be subject to discretionary review in accordance with the City's Land Development Code and the provisions of CEQA pursuant to section 15004 of the CEQA Guidelines, which provides direction to lead agencies on the appropriate timing for environmental review; and

WHEREAS, the Council, exercising its independent judgment, determined that no exception set forth in CEQA Guidelines section 15300.2 applies to the project because: no cumulative impacts were identified; no significant effects on the environment were identified; none of the land is adjacent to a scenic highway; no historical resources will be affected by the action; and none of the land is identified on a list of hazardous waste sites pursuant to California Government Code section 65962.5; and

WHEREAS, the Office of the City Attorney has drafted this resolution based on the information provided by City staff, with the understanding that this information is complete, true, and accurate; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, as follows:

1. That the negotiation and execution of a California Department of Water Resources grant agreement, acceptance, appropriation, and expenditure of grant funding, and related actions in connection with the Upper Auburn Creek Revitalization Project (S-22008) for preliminary planning activities will not result in a significant effect on the environment and is statutorily exempt from CEQA pursuant to CEQA Guidelines section 15262; and is exempt

under the common sense exemption in CEQA Guidelines section 15061(b)(3) which provides that CEQA only applies to actions having the potential to cause a significant effect on the environment.

2. No exception set forth in CEQA Guidelines section 15300.2 applies to the negotiation and execution of a California Department of Water Resources grant agreement, acceptance, appropriation, and expenditure of grant funding, and related actions in connection with the Upper Auburn Creek Revitalization Project (S-22008) for preliminary planning activities.

APPROVED: MARA W. ELLIOTT, City Attorney

By /s/ Jeanne L. MacKinnon
Jeanne L. MacKinnon
Deputy City Attorney

JLM:hm
10/21/2022
Or.Dept: SWD
Doc. No. 3122262

I certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of DEC 06 2022

ELIZABETH S. MALAND
City Clerk

By Rupprecht Medina
Deputy City Clerk

Approved: 12/14/22
(date)

Todd Gloria
TODD GLORIA, Mayor

Vetoed: _____
(date)

TODD GLORIA, Mayor

Passed by the Council of The City of San Diego on DEC 06 2022, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	<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"/>
Stephen Whitburn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery Steppe	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Marni von Wilpert	<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"/>
Raul A. Campillo	<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"/>
Sean Elo-Rivera	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage DEC 14 2022.

(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:

TODD GLORIA
Mayor of The City of San Diego, California.

(Seal)

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

By Kristell Medina, Deputy

Office of the City Clerk, San Diego, California

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