

Item 202A  
2/3/25

(R-2025-350)  
(COR. COPY)

RESOLUTION NUMBER R- 316018

DATE OF FINAL PASSAGE FEB 03 2025

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO CERTIFYING THAT THE CITY AS A RESPONSIBLE AGENCY, HAS REVIEWED AND CONSIDERED THE INFORMATION CONTAINED IN FINAL ENVIRONMENTAL IMPACT REPORT (EIR22-001; SCH 2022060260) THAT WAS PREPARED AND CERTIFIED BY THE CITY OF CHULA VISTA, AS LEAD AGENCY, AND ADOPTING FINDINGS, A STATEMENT OF OVERRIDING CONSIDERATIONS, AND A MITIGATION, MONITORING REPORTING PROGRAM PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT IN APPROVING ACTIONS RELATED TO THE NAKANO PROJECT, PRJ 1076302.

RECITALS

The Council of the City of San Diego (Council) adopts this Resolution based on the following:

A. Under the California Environmental Quality Act (CEQA) Guidelines (California Code of Regulations Chapter 3, Division 6, Title 14; Article 6, sections 15070 to 15075), the City of Chula Vista, as the lead agency for the amendments to the Chula Vista General Plan, Specific Plan, Tentative Map, Property Exchange Tax Agreement and Annexation Agreement for the Nakano project, and Resolution of Support for the Proposed Reorganization Project that would allow for the future 215-unit (up to 221 units maximum) residential development (the Nakano Project), prepared an Environmental Impact Report (EIR22-001; SCH No. 2022060260), which documents, describes, discloses, and analyzes the environmental impacts of the Nakano Project.

B. On December 3, 2024, the City Council of the City of Chula Vista certified the Final Environmental Impact Report (EIR22-001; SCH No. 2022060260) (Final EIR) for the Nakano Project. The City Council of the City of Chula Vista adopted Findings of Fact and a Statement of Overriding Considerations as required by CEQA, together with a Mitigation

Monitoring and Reporting Program for the Nakano Project and approved their portion of the Nakano Project.

C. On January 11, 2023, Tri Pointe Homes submitted a Resolution of Application to the Local Agency Formation Commission (LAFCO), Pre-Zone, General Plan/Community Plan Amendments and Multiple Species Conservation Program Minor Amendment, Annexation Agreement, Site Development Permit, Sewer Easement Vacations, Amendment to the City of San Diego City Council District Boundary, and Annexation into the Ocean View Hills Maintenance Assessment District, application for the Nakano Project (PRJ-1076302) to the City of San Diego for approval.

D. The City, with respect to the application (PRJ-1076302), is a responsible agency for the Nakano Project as provided in CEQA Guidelines section 15096. Prior to taking discretionary actions for approval of the Nakano Project, including the construction and any other approvals to implement the Nakano Project by the City as a responsible agency under CEQA, the Council makes certain findings pursuant to CEQA Guidelines 15050, 15091 and 15096.

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

F. The Office of the City Attorney prepared this Resolution based on the information provided by City staff, including information provided by affected third parties and verified by City staff, with the understanding that this information is complete and accurate.

ACTION ITEMS

Be it resolved by the Council of the City of San Diego:

1. The City has reviewed and considered the information contained in the Final EIR prepared and certified by the City of Chula Vista relevant to the City's approval of discretionary actions within the City's jurisdiction necessary for the Nakano Project as described in the Final EIR.

2. The City has reviewed and considered the CEQA Findings and the Council determined:

- a) In certifying the Final EIR, the City of Chula Vista identified, analyzed, disclosed, and adopted the mitigation measures for the Nakano Project;
- b) The information and analysis contained in the Final EIR are adequate for the City's use as a responsible agency and for the City's consideration of discretionary actions to approve the Nakano Project (PRJ-1076302);
- c) The City's discretionary action to approve the Nakano Project (PRJ-1076302) is within the scope of the activities described and evaluated in the Final EIR and further evaluated by the City's CEQA Section 15162 Evaluation (15162 Evaluation);
- d) The City has not identified a feasible alternative or additional feasible mitigation measures within its powers that would substantially lessen or avoid any significant effect that the Nakano Project would have on the environment; and
- e) Since the Final EIR was certified, there have been no substantial changes to the Nakano Project and no substantial changes in the Nakano Project circumstances that would require major revisions to the Final EIR due to the involvement of new significant environmental effects or an increase in the severity of previously identified impacts, and there is no new information of substantial importance that would change the conclusions set forth in the Final EIR.


3. Under CEQA Section 21081 and State CEQA Guidelines Section 15091, the Council adopts the Findings and Statements of Overriding Considerations made for the Nakano Project, which are attached to this Resolution as Exhibit A.

4. Under CEQA Section 21081.6, the Council adopts the Mitigation Monitoring and Reporting Program to implement the changes to the Nakano Project as required by the Council to mitigate or avoid significant effects on the environment, which is attached to this Resolution as Exhibit B.

5. The City Clerk is directed to file a Notice of Determination in accordance with CEQA with the Clerk of the Board of Supervisors for the County of San Diego and the State Clearinghouse in the Office of Planning and Research regarding the Project following adoption of City Attorney Resolutions R-2025-347 (San Diego Resolution ~~R316022~~), R-2025-348 (San Diego Resolution R-~~316021~~), R-2025-349 (San Diego Resolution ~~R316020~~), and R-2025-351 (San Diego Resolution R-~~316019~~), and final passage of City Attorney Ordinances O-2025-71 (San Diego Ordinance O- ~~21918~~) O-2025-72 (San Diego Ordinance O- ~~21920~~) and O-2025-73 (San Diego Ordinance O- ~~21919~~).

APPROVED: HEATHER FERBERT, City Attorney

By

  
\_\_\_\_\_  
Corrine L. Neuffer  
Senior Chief Deputy City Attorney

CLN:jn2  
January 8, 2025  
January 22, 2025 (COR.COPY)  
Or.Dept: DSD  
Doc. No. 3923014.2

Attachments: Exhibit A – CEQA Findings of Fact and Statement of Overriding Considerations  
Exhibit B – Mitigation, Monitoring, and Reporting Program

(R-2025-350)  
(COR. COPY)

I certify that the Council of the City of San Diego adopted this Resolution at a meeting held on

~~FEB 03~~ 2025

DIANA J.S. FUENTES  
City Clerk

By *Kristell Medina*  
Deputy City Clerk

**Exhibit A**

**FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATIONS**

**Nakano Project**

PRJ-1076302

SCH No. 2022060260

**DRAFT**

**December 6, 2024**

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## **I. INTRODUCTION**

### **a. Findings of Fact and Statement of Overriding Considerations**

The following Candidate Findings are made for the Nakano Project (project). The environmental effects of the project are addressed in the Final Environmental Impact Report (Final EIR) dated MONTH DAY, 2024, which is incorporated by reference herein.

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

1. Changes or alterations have been required in, or incorporated into, the project which 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.

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

CEQA further requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits of a proposed project against its unavoidable environmental effects when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered "acceptable" [Section 15093(a) of the State CEQA Guidelines]. When the lead agency approves a project which will result in the occurrence of significant effects which are identified in the Final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its actions based on the Final EIR and/or other information in the record.

The Findings and Statement of Overriding Considerations have been submitted by the City of San Diego Development Services Department as Candidate Findings to be made by the decision-making

body. The Environmental Analysis Section of the Development Services Department (DSD) does not recommend that the discretionary body either adopt or reject these findings. They are attached to allow readers of this report an opportunity to review the applicant's position on this matter and to review potential reasons for approving the project despite the significant and unavoidable effects identified in the Final EIR. It is the exclusive discretion of the decision-maker certifying the EIR to determine the adequacy of the proposed Candidate. It is the role of staff to independently evaluate the proposed the Candidate Findings, and to make a recommendation to the decision-maker regarding their legal adequacy.

**b. Record of Proceedings**

For purposes of CEQA and these Findings and SOC, 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 of Chula Vista in conjunction with the project;
- All responses to the NOP received by the City of Chula Vista;
- The Draft EIR;
- The Final EIR;
- All written comments submitted by agencies or members of the public during the public review comment period on the Draft EIR;
- All responses to the written comments included in the Final EIR;
- All written and oral public testimony presented during a noticed public hearing for the project at which such testimony was taken;
- The Mitigation Monitoring and Reporting Program;
- The reports and technical memoranda included or referenced in 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 of San Diego including, but not limited to, federal, state, and local laws and regulations;
- Any documents expressly cited in these Findings and SOC; and
- Any other relevant materials required to be in the record of proceedings by Public Resources Section 21167.6(e).



### **c. Custodian and Location of Records**

#### **City of San Diego**

The documents and other materials that constitute the administrative record for the City of San Diego's actions related to the project are located at the City of San Diego's 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).

The Final EIR was placed on the Development Services Department's website at <https://www.sandiego.gov/ceqa/final>. This information is provided in compliance with Public Resources Code Section 21081.6(a)(2) and State CEQA Guidelines Section 15091(e).

## **2.0 PROJECT SUMMARY**

### **2.1 Project Location**

The approximately 23.77-acre project parcel is located within the City of Chula Vista, with the Otay River Valley Park to the north, Denney Road to the east, Palm Avenue to the south, and Interstate-805 (I-805) to the west. The project site is located at the southern edge of the City of Chula Vista, bordered by the City of San Diego on the west, south, and east sides. The project site is approximately 5.8 miles east of the Pacific Ocean and approximately 11 miles south of downtown San Diego. Additionally, the project site is approximately 3.2 miles north of the San Ysidro Port of Entry to Mexico.

### **2.2 Project Description**

#### **2.2.1 Statement of Objectives**

The objectives of the project include the following:

1. Develop underutilized property to provide housing in response to regional housing needs.
2. Achieve efficient provision of services through reorganization of the property through an application to the San Diego Local Agency Formation Commission (LAFCO) to detach from the City of Chula Vista and Otay Water District (OWD) and annex into the City of San Diego.
3. Provide a compact residential development pattern that is conducive to walking and bicycling.
4. Construct a variety of housing types at a density range that maximizes development potential consistent with the surrounding residential communities.

5. Provide amenities that contribute to the nearby Otay Valley Regional Park (OVRP) recreational uses and community connectivity, including an overlook to the park and multi-modal connections.
6. Generate financial benefits to the local economy, through efficient provision of public services, providing workforce housing, and generating property tax and local jobs.

### **2.2.2 Project Components**

The project proposes a 215-unit residential development and their supporting amenities, with up to 221 units allowed per the Uncodified Ordinance. Recreational amenities include pocket parks, an overlook park associated with the OVRP, and publicly accessible trail connections to the OVRP. Primary site access is proposed via an off-site connection to Dennery Road, and secondary emergency access is proposed via a connection to Golden Sky Way in the adjacent RiverEdge Terrace residential development. The project proposes a private internal street network and would require off-site remedial grading north of the project site on property owned by the City of Chula Vista and within the City of Chula Vista's jurisdiction.

The EIR analyzes three possible development scenarios, one of which is the subject of these Findings: Annexation Scenario 2a. These Findings are applicable to Annexation Scenario 2a, for which the City of Chula Vista is the lead agency.

Under Annexation Scenario 2a, site grading and development of the project site would not proceed until after approval of City of Chula Vista discretionary actions and the LAFCO reorganization process is complete. In this scenario, the City of San Diego would issue grading and building permits for the project site and all off-site improvement areas after approval of the LAFCO reorganization.

The following is a summary of the project components under Annexation Scenario 2a.

#### **Residential Unit Mix**

While the site plan identifies a total of 215 units consisting of 61 detached condominiums, 84 duplexes, and 70 townhome dwelling units (see Final EIR, Table 3-1 and Figure 3-1), the environmental analysis assumes up to 221 units.

The detached condominiums would be two-story, standalone units that share no adjoining walls with neighboring units. The condominiums would feature three to five bedrooms and attached two-bay garages and would range in size from approximately 1,761 to 2,135 square feet. Duplex units would range in size from approximately 1,461 to 1,668 square feet. The attached townhomes would consist of four to five units clustered in a row with no separation between units. The townhomes would be two or three stories with varied roof pitching. Each townhome unit would include two to four bedrooms, two to two-and-one-half bathrooms, and a two-bay garage. The townhome units would range in size from approximately 1,083 to 1,480 square feet.

The project would provide 10 percent of the total units, or 22 units, as affordable. A total of 11 units would be affordable to low-income households (five percent of the total) and 11 units would be affordable to moderate-income households (five percent of the total).

### **Access and Off-site Roadway Improvements**

Access to and from the project site would be provided via Dennery Road, a City of San Diego 4-Lane Collector located southeast of the project site. At the project entrance along Dennery Road, the existing driveway would be replaced with a full curb, gutter and non-contiguous sidewalk, and a new 25-foot-wide driveway would be constructed approximately 40 feet southwest of the existing driveway. The project would remove and/or repair existing trees and landscaping affected by driveway construction.

The following off-site improvements would be implemented at the intersection of Palm Avenue/Dennery Road:

- **Palm Avenue Left Turn Bay Storage:** To accommodate additional project trips, for eastbound left turns, the project would extend the existing dual left turn bay storage at the intersection of Palm Avenue and Dennery Road by an additional 85 feet to provide approximately 365 feet of left turn storage.
- **Dennery Road Right Turn Bay Storage:** To accommodate additional project trips, for southbound right turns, the project would extend the exclusive right turn lane by an additional 50 feet to provide approximately 145 feet of right turn storage.
- As part of the City of San Diego's street safety policy, *Systemic Safety: The Data-Driven Path to Vision Zero*, upgraded traffic signal heads with retroreflective backplates would be installed by the project at all intersection approaches at the intersection of Palm Avenue/Dennery Road.
- As part of the City of San Diego's street safety policy, *Systemic Safety: The Data-Driven Path to Vision Zero*, proposed improvements at the intersection of Palm Avenue and Dennery Road include the installation of audible countdown pedestrian heads for each pedestrian phase and upgrading the traffic controller to a 2070 controller including software update and communications equipment per current City of San Diego standards by the project.

The following off-site improvements would be implemented at the intersection of Dennery Road and Red Coral Lane/Red Fin Lane:

- To accommodate the project's eastbound U-turning vehicles along Dennery Road, the project would extend the left turn storage by an additional 50 feet at the intersection of Dennery Road and Red Coral Lane/Red Fin Lane to provide approximately 240 feet of left turn storage.
- The existing bicycle loop detectors along Dennery Road at Red Fin Lane would be upgraded and Type E Modified front loops per City of San Diego Standard Drawing SDE-104 would be installed on all approaches by the project.

### **Open Space, Recreation Amenities, and Landscaping**

The project would include several pocket parks, paseos, and trail connections to the OVRP (see Final EIR Figure 3-6). The central overlook pocket park at the northern boundary would provide a trail connection to the OVRP. The pocket park at the northwestern corner of the project site would offer two playground areas. An approximate 0.04-acre monument entry pocket park would be provided near the project entrance.

The project would emphasize trail connections to the OVRP for both residents and members of the surrounding community. An existing trail connection running along the western side of the project site would be retained as a 7-to-8-foot-wide trail enhanced with decomposed granite surfacing to provide connection to the OVRP trail system. In addition to the north-south trail connection, the project would provide trail improvements within the parcel to the north to enhance the OVRP trail system. The trails in the north within the OVRP would be 8 feet wide, with decomposed granite surfacing, header boards on each side, and peeler pole fencing on one side of the trail. Trail improvements would be constructed consistent with the OVRP trail guidelines.

Street trees would be provided along Dennery Road in addition to the proposed private streets. Native, drought-tolerant species would be emphasized for water conservation, fire resistance, and erosion control. The homeowners association would be responsible for long-term maintenance of all landscaping outside of individual homeowner lots.

### **Fire Management**

The project would incorporate fuel modification alongside roadways and generally within 100 feet of residences. Where 100 feet of brush management cannot be accommodated, alternative compliance measures would be incorporated to provide enhanced fire protection. Alternative compliance measures include the installation of radiant heat walls that include either 6-foot masonry walls or 6-foot masonry with glass view fence wall. Both walls would provide fire protection; however, the masonry with glass view wall would be provided along the northern project border to provide views toward the Otay River. Additional alternative compliance measures would be installed including dual-glazed/ dual-tempered panes and additional 10-foot perpendicular returns along adjacent wall faces.

### **Signage, Lighting Walls, and Fencing**

The project would include vertical monument signage with lighting within private property, along the project frontage at the entrance driveway from Dennery Road. Additional monument signage with lighting within private property is proposed at the entry into the residential area at the project entrance driveway, outside of the public right-of-way. Lighting is proposed throughout the development for safety and aesthetic purposes. Pole-mounted lighting would be provided along private streets and bollard lighting is proposed within the pocket parks along the northern end of the project site. Trail signage is also proposed.

The rear of residential lots along the northern project boundary would have glass and block fire-rated walls for alternative compliance fire protection, while providing views to the adjacent open

space. These walls would be a maximum of 6-foot-tall concrete masonry unit wall topped with a 3-foot tall glass component. Composite split rail fencing is proposed throughout the project site, specifically along proposed trails and pedestrian paths, and along the project boundaries and detention basin located in the northwest portion of the project site. 6-foot-tall masonry block walls with decorative caps are proposed at the rear of certain yard areas where noise attenuation is needed. In other areas, 6-foot-tall, non-combustible, fire-retardant wood fence or vinyl fencing is proposed to separate rear yards. To accommodate the project site access from Dennerly Road while maintaining roadway design standards along Private Street A, a concrete masonry block retaining wall is proposed along the south side of Private Street A to retain the adjacent slope. This wall would run a length of 419 feet with a maximum height of 14 feet. Just east of Lot 14, an approximately 125-linear-foot-long stepped retaining wall with a maximum height of 24 feet would be constructed to retain the adjacent slope. Approximately 23.6 feet of the wall height would be exposed. Fence and wall details are depicted on Final EIR Figure 3-10.

### **Grading**

Grading is proposed on a total of 21.18 acres within and adjacent to the project site. Off-site improvement areas would include an approximate 0.45-acre area of remedial grading and trail improvements within the OVRP to the north. Off-site improvements to the south and east would include grading within an approximate 1.28-acre area of disturbance associated with the project's access road and secondary emergency only access road located in the City of San Diego. The total project disturbance footprint including all grading, off-site improvement areas, and buffer areas beyond grading limits is 23.37 acres.

### **Development Regulations**

In Annexation Scenario 2a, the City of San Diego would adopt a rezoning ordinance to allow for the project site to be zoned Residential Multiple Unit 1-1 (RM-1-1), which would permit a maximum density of one dwelling unit for each 3,000 square feet of lot area. The project site would be designated Residential-Low Medium in the Otay Mesa Community Plan and City of San Diego General Plan.

Development regulations for the project site would be as defined in the San Diego Municipal Code (SDMC) for the RM-1-1 zone except for two deviations requested as follows:

- A deviation is proposed for minimum and standard side yard setbacks where the required minimum side yard setback is 5 feet or 10 percent of the premises width (100 feet), whichever is greater; the proposed minimum side yard setback is 10 feet. Where the standard setback is 8 feet or 10 percent of the premises width (100 feet), whichever is greater, the proposed standard side yard setback is 10 feet.
- A deviation is requested to increase the retaining wall height outside of the required yard in the RM-1-1 zone from 12 feet to 204 feet. The reduced setbacks and increased wall height allow the proposed development to meet the Otay Mesa Community Plan design guideline objective of providing a diversity of housing opportunities for a variety of household types, lifestyles, and income levels, while meeting conservation goals for environmentally sensitive

lands and maximizing the health, safety, and welfare of the community. Requiring 100 feet minimum and standard side yard setbacks and 12 feet maximum retaining wall height will eliminate much of the development footprint, and the project will not be able to maximize the number of residential units.

Additionally, site design regulations would be adopted through an uncodified ordinance. The project would be required to comply with RM-1-1 zone regulations, and proposed deviations, site design criteria, and conditions of approval would be part of the uncodified ordinance. Based on the proposed RM-1-1 zone, the project site could accommodate up to 345 units; however, the maximum development potential for the project site would be limited to 221 units through the uncodified ordinance.

### **2.3 Discretionary Actions**

The initial discretionary actions for the project would occur in the City of Chula Vista under Annexation Scenario 2a and would include the following:

- Amend the City of Chula Vista's General Plan to redesignate the project site from Open Space (OS) to Residential Medium to allow residential development at a density range of 6.1 to 11 dwelling units per acre.
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- Adopt the Nakano Specific Plan to establish the land use, intensity, development regulations, design standards, and primary infrastructure components needed to support development of the site.
- Approve a Tentative Map to subdivide the property as a condominium project as defined by Section 4125 of the Civil Code of the State of California and as filed pursuant to the Subdivision Map Act.
- Certify the project EIR.
- Adopt the CEQA Findings, a Statement of Overriding Considerations, and a Mitigation Monitoring and Reporting Program for the project.
- Adopt a Resolution of Support for the City of San Diego's Application to LAFCO consenting to the reorganization annexing the project site into the City of San Diego.
- Approve an Annexation Agreement outlining the process by which the project would be processed and annexed into the City of San Diego.

After approval of the City of Chula Vista discretionary actions, then the following City of San Diego discretionary actions for the project would occur:

- Adopt a Rezoning Ordinance delineating the zoning territory not yet incorporated into the City of San Diego as Residential Multiple Unit Zone, RM-1-1.

- Amend the City of San Diego General Plan municipal boundaries to incorporate the site and to designate the site Residential.
- Amend the Otay Mesa Community Plan boundaries to incorporate the site and to designate the site as Residential – Low Medium.
- Adopt Site Development Plan Findings as required by SDMC Section 126.0505 for the off-site primary and secondary emergency only access roads currently within the City of San Diego.
- Approve a Multiple Species Conservation Program (MSCP) Subarea Plan Minor Amendment to include the property within the City of San Diego Subarea Plan.
- Approve a Resolution of Application to LAFCO.
- Approve an Annexation Agreement outlining the process by which the project would be processed and annexed into the City of San Diego.
- Approve a City of San Diego sewer easement vacation pursuant to Section 66434(G) of the Subdivision Map Act. Adopt an uncodified ordinance allowing site development to proceed after annexation. The uncodified ordinance would ensure project consistency with the Land Development Code and applicable City of San Diego requirements.
- Wetland Deviation findings based on the Biologically Superior Option in accordance with SDMC Section 143.0150 for the portion of the project site.
- Amend the City of San Diego City Council District Boundary to incorporate the project site into District 8.
- Annex the project site into the Ocean View Hills Maintenance Assessment District.

The following actions would also be required to be taken by LAFCO:

- Approve a City of San Diego, City of Chula Vista, and OWD Sphere of Influence Amendments.
- Approve a resolution to detach the project site from the City of Chula Vista and OWD.
- Detach the project site from the City of Chula Vista and Annex the project site to the City of San Diego.

Additionally, prior to submittal of a LAFCO application, the OWD would provide a Resolution or Letter of Support to detach the property from the OWD boundaries and annex the property into the City of San Diego for water services. San Diego Gas & Electric would be required to approve easement vacations along the northern and eastern property line as shown on the Tentative Map. Easements would be vacated pursuant to Section 66434(G) of the Subdivision Map Act. The project would also require approvals from the California Department of Fish and Wildlife (CDFW), Regional Water Quality Control Board (RWQCB), and U.S. Army Corps of Engineers for impacts to jurisdictional waters and wildlife species.

### **3.0 ENVIRONMENTAL REVIEW AND PUBLIC PARTICIPATION**

In compliance with Section 15082 of the CEQA Guidelines, the City of Chula Vista published a NOP on May 5, 2022, which began a 30-day period for comments on the appropriate scope of the Draft EIR. Consistent with Public Resources Code Section 21083.9 and Section 15082 of the CEQA Guidelines, a public scoping meeting was to be held to solicit comments regarding the scope and analysis of the EIR. However, due to the declared state of emergency related to the COVID-19 virus and in the interest of protecting public health and safety, the City of Chula Vista followed health mandates from Governor Newsom and the County to slow the spread of the COVID-19 virus by limiting public meetings. Therefore, the City of Chula Vista did not conduct an in-person scoping meeting. A pre-recorded presentation was made available on the City of Chula Vista's website from May 5 to July 14, 2022, in addition to publication of the NOP. Comment letters received during the NOP review period are included in the Final EIR as Appendix A.

The City of Chula Vista published the Draft EIR on April 26, 2024. Pursuant to CEQA Guidelines Section 15085, upon publication of the Draft EIR, the City of Chula Vista also filed a Notice of Completion with the State Clearinghouse of the Governor's Office of Planning and Research indicating that the Draft EIR had been completed and was available for review and comment by the public until June 11, 2024. The public review period was subsequently extended to June 26, 2024, to accommodate a request from the United States Fish and Wildlife Service (USFWS) and CDFW. At this time, the City of Chula Vista also posted a Notice of Availability of the Draft EIR pursuant to CEQA Guidelines Section 15087.

During the public review period, the City of Chula Vista received comments on the environmental document. After the close of public review period, the City of Chula Vista 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 by the City of Chula Vista in October 2024. 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 Scenario 2a will have no impacts or less than significant impacts, and require no mitigation measures with respect to the following issues:

- Land Use (Physically Divide a Community; Consistency with Multiple Species Conservation Plans; Deviation or Variance)
- Air Quality (All Thresholds)
- Biological Resources (Wildlife Corridors and Nurseries; Conflicts with Plans)
- Geologic and Paleontological Resources (All Thresholds)
- Health and Safety (Handling, Storage and Treatment; Emissions near School; Airport Safety; Emergency Plans; Wildland Fires)
- Historic Resources (Human Remains; Sacred Uses)
- Noise (All Thresholds)



- Transportation (Transportation System, Design Hazard; Emergency Access)
- Aesthetics (All Thresholds)
- Hydrology and Water Quality (Water Quality–Operational; Groundwater; Drainage; Flood, Tsunami, Seiche; Conflict with Plans)
- Public Services and Facilities (All Thresholds)
- Utilities and Sewer Systems (All Thresholds)
- Wildfire (All Thresholds)
- Energy (All Thresholds)
- Mineral Resources (All Thresholds)
- Population and Housing (All Thresholds)
- Agricultural and Forestry Resources (All Thresholds)

The Final EIR concludes that implementation of the project Scenario 2a would result in **significant direct, indirect, and/or cumulative impacts that would be mitigated to less than significant levels** with respect to the following issues:

- Biological Resources (Sensitive Species and Habitats, Wetlands)
- Health and Safety/Hazardous Materials (Exposure to Toxic Substance; Hazardous Materials Site)
- Historical Resources (Prehistoric Resources)
- Tribal Cultural Resources (Tribal Resources)
- Hydrology and Water Quality (Water Quality–Construction)

The Final EIR concludes that implementation of the project Scenario 2a would result in **significant and unavoidable direct and/or cumulative impacts** with respect to the following issues:

- Land Use (Plan Consistency – San Diego Housing Element)
- Greenhouse Gas (All Thresholds)
- Transportation (Vehicle Miles Traveled)

## **5.0 FINDINGS REGARDING SIGNIFICANT IMPACTS**

In making each of the findings below, the City of San Diego 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 of San Diego, 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 (SCH No. 2022060260) as described below.

### **5.1.1 Biological Resources**

#### **5.1.1.1 Potentially Significant Effect**

The project would result in direct impacts to 17.25 acres of sensitive upland vegetation communities (Tier II and IIIB) within the project site and off-site improvement areas. Direct impacts would be potentially significant.

##### **5.1.1.1.1 Facts in Support of Finding**

The project would result in potentially significant direct impacts to sensitive upland vegetation communities, consisting of 3.60 acres of Tier II vegetation communities (Diegan coastal sage scrub) and 13.65 acres of Tier IIIB vegetation communities (non-native grassland). The project may also result in indirect impacts to the remaining habitat on the site and adjacent to the site. As detailed in Final EIR Section 4.3.3.2, the mitigation identified below would be required to reduce these impacts. See Final EIR section 4.3.3.2.

**Mitigation Measures:** Mitigation measure BIO-SD-1 requires the owner/permittee to provide compensatory mitigation for sensitive upland habitat loss in accordance with the City of San Diego's 2018 Biology Guidelines. The owner/permittee would meet the mitigation obligation through the Pacific Highlands Ranch Restoration and Mitigation Credit Area. The mitigation ratios shall be Diegan coastal sage scrub at a 1:1 ratio and non-native grassland at a 0.5:1 ratio inside the MHPA. Mitigation for 3.43 acres of Diegan coastal sage scrub (Tier II), 0.17 acre of Diegan coastal sage scrub: Baccharis-dominated (Tier II), and 13.65 acres of non-native grassland (Tier IIIB) will be achieved through the preservation of 10.43 acres of Diegan coastal sage scrub habitat (Tier II). The applicant shall provide proof of mitigation credit purchase to the City of San Diego via a mitigation ledger prior to the issuance of any land BIO permits.

Mitigation measure BIO-SD-2 requires, prior to construction, a Qualified Biologist be retained to implement the monitoring program and all necessary documentation be submitted to the City's Mitigation Monitoring Coordination (MMC) section. Orange construction fencing is required adjacent to the sensitive biological habitats and prior to construction the construction crew must attend an on-site educational session regarding the need to avoid impacts outside of approved construction area.

##### **5.1.1.1.2 Finding**

A total of 3.60 acres of Tier II vegetation communities (Diegan coastal sage scrub) and 13.65 acres of Tier III vegetation communities (non-native grassland) would be directly impacted as a result of project development. Implementation of the mitigation measures BIO-SD-1 and BIO-SD-2 would require preservation of like habitat consistent with the ratios consistent with the City of San Diego's Biology Guidelines listed in Final EIR Table 4.3-5. Therefore, mitigation measures BIO-SD-1 and

BIO-SD-2 would ensure that all direct, and indirect impacts related to sensitive upland habitats under Annexation Scenario 2a would be reduced to less than significant levels.

**Reference:** These Findings incorporate by reference the information and analysis included in Final EIR Section 4.3, Biological Resources, and Final EIR Appendix D.

#### **5.1.1.2 Potentially Significant Effect**

The project would result in indirect impacts to special-status plant species within the on-site and off-site areas during grading and construction, including California adolphia, San Diego bur-sage, San Diego barrel cactus, San Diego County viguiera, small-flowered microseris, and ashy spike-moss. Impacts would be potentially significant. Additionally, direct impacts to 14 Otay tarplant individuals within the off-site improvement area would be significant.

##### **5.1.1.2.1 Facts in Support of Finding**

The project Annexation Scenario 2a may result indirect and indirect impacts to special-status plant species within the on-site and off-site areas including California adolphia, San Diego bur-sage, San Diego barrel cactus, San Diego County viguiera, small-flowered microseris, and ashy spike-moss, as well as direct impacts to Otay tarplant as detailed in Final EIR Section 4.3.3.2 and Final EIR Appendix D.

**Mitigation Measures:** Direct impacts to California adolphia, San Diego bur-sage, San Diego barrel cactus, San Diego County viguiera, small-flowered microseris, and ashy spike-moss would be mitigated via the compensatory habitat mitigation BIO-SD-1 above, as these species occur within those habitat types.

Indirect impacts to sensitive plant species would be avoided through the implementation of SD-BIO-2 discussed above, which requires fencing and monitoring by a biologist during grading to avoid indirect impacts to sensitive habitats and plants.

Otay tarplant is a narrow endemic species, and would be mitigated via BIO-SD-3 that requires the preparation and implementation of a project-specific Otay Tarplant Mitigation Plan or the provision of mitigation bank credits for this species prior to the issuance of construction permits. The Otay Tarplant Mitigation Plan must provide for the replacement of impacted plant individuals at a 4:1 ratio within an area to be preserved. The plan would be implemented under the supervision of a Qualified Biologist per the performance criteria identified and would include a five-year maintenance and monitoring period. Monitoring reports would be provided to the City at the completion of the 120-day establishment period, annually, and at the end of the fifth year demonstrating the performance criteria are met. The Otay tarplant mitigation site shall be addressed through a long-term management plan, which would be funded by the applicant based on a Property Analysis Record and managed by an agency, nonprofit organization, or other entity approved by the City of San Diego in perpetuity.

#### **5.1.1.2.2 Finding**

Implementation of the mitigation measure BIO-SD-1 would provide habitat-based compensatory mitigation for sensitive plant species. Mitigation measure BIO-SD-2 would ensure fencing and monitoring by a biologist is completed to avoid indirect impacts to sensitive plant species. Mitigation measure BIO-SD-3 provides mitigation for Otay tarplant, including replacement, management and maintenance in perpetuity. Therefore, direct and indirect impacts related to special status plants under Annexation Scenario 2a would be reduced to less than significant levels.

**Reference:** These Findings incorporate by reference the information and analysis included in Final EIR Section 4.3, Biological Resources, and Final EIR Appendix D.

#### **5.1.1.3 Potentially Significant Effect**

The project would result in direct and indirect impacts to special-status wildlife species including least Bell's vireo, coastal California gnatcatcher, burrowing owl, yellow-breasted chat, yellow warbler, and Crotch's bumble bee. Impacts would be potentially significant. Additionally, due to their moderate potential to forage within the project impact areas, direct impacts to foraging Crotch's bumble bee during construction would be potentially significant.

##### **5.1.1.3.1 Facts in Support of Finding**

The project may result in direct and indirect impacts to special-status wildlife species within the on-site and off-site areas including least Bell's vireo, coastal California gnatcatcher, burrowing owl, yellow-breasted chat, yellow warbler, and Crotch's bumble bee as detailed in Final EIR Section 4.3.3.2 and Final EIR Appendix D.

**Mitigation Measures:** Mitigation measure BIO-SD-1 would provide habitat-based compensatory mitigation for special-status wildlife, as described above. Mitigation measure BIO-SD-4 includes avian protection requirements to either avoid construction during the nesting season for least Bell's vireo, burrowing owl, coastal California gnatcatcher, yellow-breasted chat, and yellow warbler (February 1 to September 15) or provide a preconstruction survey by a Qualified Biologist to identify any active nests and associated nesting avoidance measures. Mitigation measure BIO-SD-5 requires specific avoidance measures for least Bell's vireo, which includes additional construction noise measures if noise exceeds 60 decibels. Mitigation measure BIO-SD-6 provides specific survey and avoidance measures for burrowing owls, which includes specific guidance if active burrows are located and adherence to the California Department of Fish and Game 2012 Staff Report guidance regarding burrowing owls. Crotch's bumble bee-specific guidance is provided in mitigation measures BIO-SD-7 and includes specific survey requirements in accordance with the CDFW Considerations for California Endangered Species Act Candidate Bumble Bee Species (June 6, 2023) and coordination with CDFW for an Incidental Take Permit if Crotch's bumble bee is located. Overall, the mitigation measures would avoid significant impacts to sensitive wildlife species.

#### **5.1.1.3.2 Finding**

In addition to mitigation measure BIO-SD-1 requiring habitat-based mitigation, the project would implement BIO-SD-4 through BIO-SD-7 requiring specific measures associated with each special status species. BIO-SD-4 to BIO-SD-6 requires preconstruction should occur outside of the breeding season for least Bell's vireo, burrowing owl, coastal California gnatcatcher, yellow-breasted chat, and yellow warbler or a preconstruction survey shall be completed by a Qualified Biologist preconstruction to determine their presence or absence. If determined present, then avoidance measures would be required. Similarly, Crotch's bumble bee impacts would be avoided through BIO-SD-7, which requires surveys prior to construction initiation and, if needed, coordination with CDFW to obtain an Incidental Take Permit. Implementation of BIO-SD-1 and BIO-SD-4 through BIO-SD-7 would ensure that direct, and indirect significant impacts related to sensitive species and habitats under the Annexation Scenario 2a would be reduced to less than significant levels.

**Reference:** These Findings incorporate by reference the information and analysis included in Final EIR Section 4.3, Biological Resources, and Final EIR Appendix D.

#### **5.1.1.4 Potentially Significant Effect**

Consistent with City of San Diego Biology Guidelines (2018) and the ESL Regulations, impacts to potential jurisdictional resources within the project area would be avoided and minimized to the extent feasible. However, despite effort to avoid and minimize impacts, a total of 0.40 acre of impacts to potential RWQCB wetland waters, CDFW riparian, and City of San Diego wetlands would occur with project implementation (see Final EIR Figure 4.3-6). Direct and indirect impacts to wetlands would be potentially significant.

##### **5.1.1.4.1 Facts in Support of Finding**

The project would result in direct impacts to 0.40 acre of wetland habitat, as well as potential indirect impacts to the remaining wetlands on-site and adjacent to the site as detailed in Final EIR Section 4.3.4.2 and Chapter 7.2.3. Under Annexation Scenario 2a, impacts to wetlands would require a deviation from the ESL wetland regulations in accordance with SDMC Section 143.0150. The project qualifies for a wetland deviation under the Biologically Superior Option because the wetlands are considered low quality, and the project has demonstrated wetlands avoidance to the extent feasible. In addition, the project would result in a biologically superior design through creation/establishment and enhancement/ rehabilitation within Spring Canyon, as well as improvements to the on-site wetlands. Wetland enhancement/ rehabilitation would include the conversion of non-native riparian habitat (i.e., tamarisk scrub) into native riparian habitat, while wetland creation/establishment would include the conversion of disturbed habitat and non-native grassland habitat to native riparian habitat. All details of wetland and wetland buffer requirements are provided in the Wetland Plan (Final EIR Appendix D, Attachment 13).

**Mitigation Measures:** Indirect impacts to wetlands would be avoided through BIO-SD-2, which requires fencing around sensitive biological resources to remain and monitoring by a qualified biologist during construction activities.

The project would implement BIO-SD-8 to offset direct impacts to 0.40 acre of RWQCB wetland waters, CDFW riparian, and City wetlands. A total of 0.80 acre of mitigation for permanent impacts shall be provided, with a 1:1 creation/restoration component to ensure no net loss. The owner/permittee shall provide a Final Wetlands Plan and submit it for review and approval to the satisfaction of the City of San Diego, USFWS, RWQCB, and CDFW. The plan shall include, at a minimum, an implementation strategy; appropriate seed mixtures and planting method; irrigation; quantitative and qualitative success criteria; maintenance, monitoring, and reporting program; estimated completion time; contingency measures; and identify long-term funding. The project proponent shall provide funding in an amount approved by the City and the Wildlife Agencies based on a Property Analysis Record, or similar cost estimation method, to secure the ongoing funding for the perpetual long-term management, maintenance, and monitoring of the off-site wetland mitigation area by an agency, nonprofit organization, or other entity approved by the City and the Wildlife Agencies.

The project would implement BIO-SD-9 to ensure the long-term conservation of the on-site remaining environmentally sensitive lands in accordance with Section 143.0140(a) of the SDMC ESL regulation (City of San Diego 2022). Long-term management of the wetlands within the covenant of easement would be managed by the homeowners association in accordance with the Long-term Management Plan (BIO-SD-10).

Mitigation measure BIO-SD-10 requires a long-term management plan for the remaining on-site wetlands to be prepared and approved by the City prior to the issuance of construction permits. This plan must require (1) yearly inspection and enforcement of lighting within the site to be directed and shielded away from the wetland area; (2) yearly maintenance of the 6-foot block wall that separates the development from the wetland area to reduce intrusion into the wetlands; (3) control invasive species appearing within the wetland three times a year; (4) brush management once a year with techniques that protect habitat quality; and (5) trash removal once a year. Funding for maintenance in perpetuity to implement this plan would be required prior to the issuance of construction permits.

#### **5.1.1.4.2 Finding**

In addition to mitigation measure BIO-SD-2 relating to indirect impacts to sensitive habitat, the project would implement BIO-SD-8 to BIO-SD-9 requiring specific mitigation associated with impacts to jurisdictional wetland resources. BIO-SD-8 requires compensatory wetland mitigation resulting in no overall net loss of wetlands at ratios approved by RWQCB, CDFW, and the City of San Diego. To ensure no net loss, the mitigation shall include a 1:1 creation or restoration component per the City's Biology Guidelines (2018). Additionally, a Wetlands Plan is required to be submitted and approved by RWQCB, CDFW, and the City to ensure a long-term planting and viability plan for the wetlands restoration. BIO-SD-9 requires the remaining environmentally sensitive lands to be placed in a covenant of easement (Figure 6-1) per Section 143.0140(a) of the SDMC. Additionally, mitigation measure BIO-SD-10 requires the preparation and approval of a long-term management plan associated with the on-site wetland. With the implementation of BIO-SD-8 through BIO-SD-10, direct impacts to wetlands would be reduced to less than significant. With the implementation of BIO-SD-2, indirect impacts to wetlands during construction would be reduced to less than significant.

**Reference:** These Findings incorporate by reference the information and analysis included in Final EIR Section 4.3, Biological Resources, and Final EIR Appendix D.

## **5.1.2 Health and Safety/Hazardous Materials**

### **5.1.2.1 Potentially Significant Effect**

The project could create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment, resulting in a direct significant impact.

### **5.1.2.2 Facts in Support of Finding**

Although no burn ash was identified within the project site or within areas of the adjacent Davies property proposed for remedial grading, there is a potential risk that during construction of the project site, of burn ash being released during grading, which would have a direct significant impact as detailed in Final EIR Section 4.6.3.1 and Final EIR Appendix H.

**Mitigation Measure:** Mitigation measure HAZ-SD-1 requires the preparation of a Community Health and Safety Plan (CHSP) prior to the issuance of any construction permit. This plan must be approved by the City of San Diego Local Enforcement Agency (LEA) and the LEA shall be included in preconstruction meetings. The CHSP shall include a site description, the scope of work to be conducted, responsibilities and key personal and contact information, analysis of hazards present, and procedures and protocols based on current regulatory standards and guidance to be utilized in the event hazardous conditions related to burn ash is encountered. The CHSP shall include information informing all personnel of the potential presence of burn ash and procedures to follow if any is encountered during construction activities. The Owner/Permittee shall provide the City of San Diego with evidence of completion and approval of the CHSP prior to issuance of grading permits.

### **5.1.2.3 Finding**

Mitigation measure HAZ-SD-1 requires preparation of a CHSP under the oversight of the City of San Diego LEA to detail potential hazards that may be present, and procedures and protocols based on current regulatory standards to be utilized in the event any hazardous condition is encountered. Specifically, the CHSP would include procedures to follow should burn ash be encountered during grading and construction activities. Implementation of mitigation measure HAZ-SD-1 would ensure adverse impacts related to the potential accidental release of burn ash during grading for the areas currently within the City of San Diego would be reduced to less than significant.

**Reference:** These Findings incorporate by reference the information and analysis included in Final EIR Section 4.8.3.2 and Final EIR Appendix H.

### **5.1.3 Historical and Tribal Cultural Resources**

#### **5.1.3.1 Potentially Significant Effect**

A potentially significant impact to unknown prehistoric/archaeological resources could result during on-site grading and grading within the off-site components improvement areas. Therefore, impacts to historical resources associated with potential discovery of buried archaeological remains and/or Tribal Cultural Resources would be significant.

#### **5.1.3.2 Facts in Support of Finding**

During grading activities, there is a potential to impact buried prehistoric archaeological resources and/or Tribal Cultural Resources. This could result in direct significant impacts as detailed in Final EIR Sections 4.7.3.2 and 4.10.3.2 and Final EIR Appendix K.

**Mitigation Measure:** Mitigation measure HIST-SD-1 would require that, prior to issuance of a grading permit for any construction-related activity, the owner/permittee shall undertake a monitoring program to protect unknown archeological resources that may be encountered during construction and/or maintenance-related activities. The monitoring plan includes checking entitlement plans, submitting letters of qualifications, verifying records search, and attending preconstruction meetings; it also calls for monitors being present during grading, excavation, and/or trenching; and defines a protocol in the case a resource is discovered. If a resource is discovered, the Principal Investigator (PI) and Native American consultant/monitor shall evaluate the significance of the resource. If human remains are discovered, the procedures set forth in Public Resources Code Section 15064.5(e), Public Resources Code Section 5097.98 and Health and Safety Code Section 7050.5 shall be undertaken. The procedures and protocols outlined in the mitigation measure HIST-SD-1 would ensure that any significant resources discovered during ground-disturbing activities would not be damaged or destroyed during ground-disturbing activities.

#### **5.1.3.3 Finding**

Implementation of mitigation measure HIST-SD-1 requires archaeological and Native American monitoring during grading to ensure oversight during ground-disturbing activities. Should unidentified potentially significant historic archaeological or Tribal Cultural Resources be discovered during project grading, the monitors would halt work to allow the resources to be evaluated. If significant resources are recovered, implementation of a Research Design and Data Recovery Program would be required. Therefore, implementation of mitigation measure HIST-SD-1 would ensure significant resources are treated properly to reduce significant direct impacts to less than significant.

**Reference:** These Findings incorporate by reference the information and analysis included in Final EIR Section 4.7, Historical Resources, Section 4.10, Tribal Cultural Resources, and Final EIR Appendix K.



#### **5.1.4 Hydrology and Water Quality**

##### **5.1.4.1 Potentially Significant Effect**

As detailed above in Section 5.1.2, the project site may contain burn ash hazardous materials. The project could violate water quality standards or waste discharge requirements or otherwise substantially degrade surface or groundwater quality during grading of soils containing such materials, resulting in a significant direct impact to water quality.

##### **5.1.4.2 Facts in Support of Finding**

Due to the potential for burn ash to be encountered during site grading, pollutants could be released during construction and flow into surface water. The potential to encounter burn ash within the project site would result in a potentially significant impact to water quality, as detailed in Final EIR Section 4.12.3.2 and Final EIR Appendix K.

**Mitigation Measures:** See above discussion in Section 5.1.2.2 of mitigation measure HAZ-SD-1. In summary, mitigation measure HAZ-SD-1 requires preparation of a CHSP under the oversight of the City of San Diego LEA to address potential hazards that may be present and avoid significant impacts to water quality.

##### **5.1.4.3 Finding**

The project would implement mitigation measure HAZ-SD-1, requiring preparation and approval of a CHSP prior to ground-disturbing activities within the City of San Diego. Under the oversight of the City of San Diego LEA, the CHSP would detail potential hazards that may be present, as well as procedures and protocols based on current regulatory standards to be utilized in the event any hazardous condition is encountered. Specifically, the CHSP would include procedures to follow should burn ash be encountered during grading and construction activities. Therefore, implementation of mitigated measure HAZ-SD-1 would reduce potential direct and indirect impacts related to pollutant runoff (burn ash) to less than significant levels.

**Reference:** These Findings incorporate by reference the information and analysis included in Final EIR Section 4.12, Hydrology and Water Quality and Final EIR Appendices H-1 through H-5.

#### **5.2 Impacts that Would Remain Significant and Unavoidable: Findings Pursuant to State CEQA Guidelines Section 15091(a)(3)**

The City of San Diego, having reviewed and considered the information contained in the Final EIR and the Record of Proceedings, and pursuant to Public Resource Code Section 21081(a)(3) and CEQA Guidelines Section 15091(a)(3), finds that specific economic, legal, social, technological, or other considerations make infeasible any mitigation measures related to land use plan consistency (consistency with the City of San Diego General Plan 021-2029 Housing Element) for the project's greenhouse gas [GHG]) and vehicle miles traveled (VMT) impacts as explained in more detail in the Final EIR.

"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." Public Resources Code Section 21081 and CEQA Guidelines Section 15091(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 because of its failure to meet project objectives or on related public policy grounds. These Findings are appropriate because there are no feasible mitigation measures available that would reduce the identified project impacts to below a level of significance.

## **5.2.1 Greenhouse Gas Emissions**

### **5.2.1.1 Potentially Significant Effect**

The project would result in significant impacts associated with GHG emissions and conflict with applicable plans, policies, and/or regulation adopted for the purpose of reducing the emissions of GHGs.

#### **5.2.1.2 Facts in Support of Finding**

Under Annexation Scenario 2a, the project would implement the City of San Diego's Climate Action Plan (CAP) Consistency Regulations and proposed project design features. However, because the project would not be consistent with the growth projections used in the development of the CAP, cumulative GHG impacts would be significant. Therefore, impacts related to GHG emissions and conflicts with applicable plans, policies, or regulations adopted for the purpose of reducing the emissions of GHGs would be significant as detailed in Final EIR Section 4.5 and Final EIR Appendix M-1.

**Mitigation Measures:** Mitigation measure GHG-SD-1 would provide a transit subsidy program to future residents with annual reports provided to the City Engineer for the first five years. Mitigation measure GHG-SD-2 requires a yearly flyer to be provided to homeowners and tenants regarding available transit-designated bicycle routes, local bicycle groups and programs, local walking routes and programs, and rideshare programs. Mitigation measure GHG-SD-3 requires the permittee to provide one bicycle (up to a \$400 value) per unit to the first buyer of each unit. Mitigation measure GHG-SD-4 requires the building plans to identify appliances (clothes washers, dishwashers, refrigerators, and ceiling fans) to be Energy Star-rated. Mitigation measure GHG-SD-5 requires building plans to include non-gas residential water heaters (e.g., electric or solar water heating). Mitigation measure GHG-SD-6 requires landscape plans to provide for low-water use/drought tolerant plant species with low-water use irrigation (e.g., spray head or drip), where required.

#### **5.2.1.3 Finding**

The project would implement mitigation measures GHG-SD-1 through GHG-SD-6 to reduce the project's GHG emission impact. The project would also implement the City of San Diego's CAP Consistency Regulations. However, per the City of San Diego's CAP threshold guidance, a project that would generate more emissions than planned for in the City of San Diego CAP would result in a significant impact with regards to GHG. The project site is not currently within the City of San Diego

and therefore the associated GHG emissions were not accounted for in the City of San Diego CAP. As such, the project would be required to achieve net zero emissions in order to not increase emissions beyond the level assumed in the CAP. All feasible mitigation has been implemented as further detailed in the GHG Emissions Technical Report (see Appendix G). While the proposed mitigation measures would reduce GHG emissions to the extent feasible, the project would not achieve net zero emissions and therefore would not be consistent with the CAP, resulting in a significant and unavoidable cumulative GHG emission impact after mitigation.

No other feasible mitigation measures have been identified or proposed that would mitigate this impact to below a level of significance. Specific economic, legal, social, technological, or other considerations described below make the mitigation measures or project alternatives identified in the Final EIR infeasible. Thus, the impact is significant and unavoidable.

**Reference:** These Findings incorporate by reference the information and analysis included in Final EIR Section 4.5, EIR Section 7.2.5, and Final EIR Appendix G.

## **5.2.2 Transportation/Circulation**

### **5.2.2.1 Potentially Significant Effect**

The project would exceed VMT thresholds identified in the City of San Diego Transportation Study Manual (TSM). Pursuant to the TSM the project would exceed the threshold of 15 percent below the regional mean VMT per capita. Direct and cumulative impacts would be significant.

### **5.2.2.2 Facts in Support of Finding**

The project would apply Transportation Demand Management measure T-4 (Integrate Affordable and Below Market Rate Housing) from the California Air Pollution Control Officers Association (CAPCOA) Handbook for Analyzing Greenhouse Gas Emission Reductions, Assessing Climate Vulnerabilities, and Advancing Health and Equity. The project proposes 22 affordable units (11 low-income and 11 moderate-income). Measure T-4 would apply to the 11 low-income units. Application of this strategy resulted in a reduction of approximately 1.4 percent of the project's total VMT per capita, resulting in 90.6 percent of the regional mean VMT per capita, which is above the City of San Diego's threshold of 85 percent of the regional average VMT per capita. Therefore, even with the application of CAPCOA reduction measures, and GHG related project design features (PDFs), impacts would be significant (EIR Sections 4.9 and 7.2.5).

**Mitigation Measures:** Mitigation measure TRA-SD-1 requires the owner/permittee pay the City of San Diego Active Transportation In Lieu Fee, consistent with SDMC Section 143.1101.

### **5.2.2.3 Finding**

The project would implement mitigation measures TRA-SD-1 requiring the collection of funds consistent with SDMC Section 143.1101 to be used to fund VMT reducing infrastructure projects throughout the City of San Diego. However, notwithstanding implementation of CAPCOA reduction measure T-4 and mitigation measure TRA-SD-1, because the project would not be able to reduce

VMT to below 85 percent of regional mean (per capita), it would result in a significant and unavoidable direct and cumulative VMT impact after mitigation. The project will rely upon the Findings and Statement of Overriding Considerations of the City of San Diego 's Complete Communities: Mobility Choices FEIR (State Clearinghouse #2019060003) and pay the required City of San Diego Active Transportation In-Lieu Fee as mitigation to the extent feasible.

No other feasible mitigation measures have been identified or proposed that would mitigate this impact to below a level of significance. Specific economic, legal, social, technological, or other considerations described below make the mitigation measures or project alternatives identified in the Final EIR infeasible. Thus, the direct and cumulative impact is significant and unavoidable.

**Reference:** These Findings incorporate by reference the information and analysis included in Final EIR Section 4.9, EIR Section 7.2.5 and Final EIR Appendix M-1.

### **5.2.3 Land Use**

#### **5.2.3.1 Potentially Significant Effect**

Under Annexation Scenario 2a, site grading and development proceed after the LAFCO reorganization process is complete. Therefore, all development-related impacts are based on City of San Diego regulations and policies. The project would conflict with the City of San Diego General Plan Housing Element because it would not be consistent with Goal 5, Objective O which states that housing policies should align with state and local emissions reduction and climate adaptation strategies. Therefore, direct and cumulative impacts associated with land use plans and policies would be significant.

#### **5.2.3.2 Facts in Support of Finding**

Although the project would implement mitigation measures GHG-SD-1 through GHG-SD-6 (see Section 5.2.1.2), GHG emissions are considered significant because the project site is not currently within the City of San Diego and associated emissions were not accounted for in the City of San Diego CAP. To meet the assumptions in the CAP, the project would have to obtain net zero or negative GHG emissions. While the inclusion of mitigation measures GHG-SD-1 through GHG-SD-4 would reduce GHG emissions, the associated reduction cannot be shown to result in net zero emissions, and it cannot be demonstrated that the project would achieve emissions consistent with the CAP. As such, the project would not be consistent with the CAP and the project would not be consistent with Goal 5, Objective O of the Housing Element.

#### **5.2.3.3 Finding**

The project would implement the GHG mitigation measures described above in Section 5.2.1.2. However, because it cannot be demonstrated that the project is consistent with the City of San Diego CAP, the project would result in a significant and unavoidable direct and cumulative GHG impact after mitigation.

No other feasible mitigation measures have been identified or proposed that would mitigate this impact to below a level of significance. Specific economic, legal, social, technological, or other considerations described below make the mitigation measures or project alternatives identified in the Final EIR infeasible. Thus, the impact is significant and unavoidable.

**Reference:** These Findings incorporate by reference the information and analysis included in Final EIR Section 4.1 and EIR Section 7.2.1.

### **5.3 Findings Regarding Alternatives [CEQA § 21081(a)(3) and CEQA Guidelines § 15091(a)(3)]**

Because the project has the potential to cause one or more significant environmental effects, the City of San Diego 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 of San Diego, 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 (ER22-001/SCH No. 2022060260):

*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 (ER22-001/ SCH No. 2022060260) 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.

The objectives of the proposed project are stated above in Section 2.2.1 Statement of Objectives.

The City Council must consider the feasibility of any alternatives to the project, evaluating whether these alternatives could avoid or substantially lessen significant environmental effects while achieving most of the objectives of the project.

The Final EIR includes an analysis of one alternative scenarios comparable to the Annexation Scenario 2a: the Reduced Footprint Wetland Impact Reduction Alternative. The No Project (No Development) and No Project (Development under the Existing Plan alternatives are not available for the City of San Diego to adopt, as they would be under the discretion of the City of Chula Vista. In

addition, the Reduced Unit Alternative (200 units) was found to be infeasible for the City of San Diego as it would not comply with City of San Diego requirements to provide a secondary access.

### **5.3.1 Reduced Footprint Wetland Impact Reduction Alternative**

This alternative would reduce project impacts to wetlands that would occur from construction of the proposed main entrance road from Dennery Road and a gated secondary emergency access road. To reduce project impacts to wetlands from the proposed access roadways, the access would be redesigned to include bridging over the wetlands. To allow for bridging to reduce wetland impacts, and to provide a 100-foot buffer around the wetland area, the development footprint would be reduced and shifted to the west. This alternative would develop up to 221 dwelling units of the same design on a reduced footprint compared to the project. To accommodate the reduced footprint, a combination of the unit types would be constructed to three stories instead of two stories. The same deviations to the City of San Diego Land Development Code would be required under this alternative, with an additional deviation for the increased building height. Additional details of this alternative are provided in Final EIR Section 9.5.

#### **5.3.3.1 Potentially Significant Effects**

Under this alternative, all impacts would be the same, except that the following would be incrementally reduced: Biological Resources (wetlands); Geological (paleontological resources); and Historic and Tribal Cultural Resources (prehistoric and human remains).

None of the impacts associated with this alternative would be greater than those resulting from the proposed project.

#### **5.3.3.2 Finding and Supporting Facts**

The Reduced Footprint Wetland Impact Reduction Alternative would reduce the severity of the project's impacts related to biological resources due to a reduction in wetland impacts; however, impacts to other biological resources would remain significant, the same as Annexation Scenario 2a. Potential impacts related to the following issue areas would be less than those resulting from the proposed project, with or without mitigation: Paleontological Resources, Historical Resources, and Tribal Cultural Resources.

The Reduced Footprint Wetland Impact Reduction Alternative would meet Objective 1, as it would redevelop an underutilized property to provide housing in response to housing needs. This alternative would also meet Objective 2 because it would require LAFCO action to annex into the City of San Diego. Objectives 3 and 5 would be met because, although the footprint of the development would be reduced, this alternative would provide a residential community conducive to walking and bicycling and provide amenities that contribute to the nearby OVRP recreational uses. Additionally, construction of this alternative would generate some financial benefits and meet Objective 6. Due to the reduced development footprint and the need to construct three-story residential structures, housing under this alternative would be constructed as a single product: rowhomes. This would not meet Objective 4, which is to provide a variety of housing. Overall, the Reduced Footprint Wetland

Impact Reduction Alternative would meet five out of six objectives and would meet the basic project objectives.

**Reference:** These Findings incorporate by reference the information and analysis included in Final EIR Section 9.5, Reduced Footprint Wetland Impact Reduction Alternative.

## **6.0 FINDINGS REGARDING OTHER CEQA CONSIDERATIONS**

### **6.1 Growth Inducement**

#### **6.1.1 Short-term Growth Inducement**

Short-term growth could occur due to the increased demand for trade skills and labor during construction. It is anticipated that this demand would be met predominantly by the local labor force and would not require the importation of a substantial number of workers or cause an increased demand for temporary or permanent local housing. Further, construction of the project is expected to take approximately 48 months. Since construction would be short-term and temporary, it would not lead to an increase in employment on-site that would stimulate the need for additional housing or services. Accordingly, no associated substantial short-term growth-inducing effects would result.

#### **6.1.2 Induce Population Growth**

The project would result in greater population growth than originally assessed under the City of San Diego's General Plan. The proposed construction of 221 units is not anticipated to result in an unplanned population increase beyond the San Diego Association of Governments (SANDAG) Regional Population and Housing Forecast, considering there is a shortage of housing to accommodate the existing and planned population. Although the project would increase the residential density of the site, the proposed housing would be growth accommodating because of the need for housing to support the anticipated regional growth that would occur with or without development of the project. Thus, the project would not directly induce substantial unplanned population growth to the area. The population would be accommodated in proximity to a major transit stop, regional shopping, medical uses, and parks. The project site is not located in a Transit Priority Area, as defined by SANDAG's San Diego Forward: 2021 Regional Plan.

As detailed in Section 4.2.3.2 of the Final EIR, SANDAG Series 13 estimates the population in the City of San Diego would grow from 1,453,267 in 2020 to 1,665,609 in 2035. This would equate to an additional 14,156 persons per year from 2020 to 2035. Furthermore, SANDAG Series 13 estimates that the City of San Diego would have 559,143 residential units in 2020 and 640,668 residential units in 2035. This would equate to an additional 5,435 units per year from 2020 to 2035. Implementation of the project would result in an increase in 221 residential units in a location assumed to be open space in SANDAG's growth projections. While the project would include residential in an area previously planned for open space, this would be accommodated in the regional growth projections. As discussed in the City of San Diego General Plan Housing Element 2021-2029 the City of San Diego is currently experiencing a housing shortage and, as a result, in urgent need of additional housing. The City of San Diego's assigned target of the Regional Housing Needs Allocation (RHNA) target for the 2021-2029 RHNA Cycle is 108,036 homes. Although the City of San Diego is planning for

additional housing to meet current need, during the fifth RHNA Cycle (2010-2020), the City of San Diego was assigned a target of permitting 88,096 new housing units and less than half of those units were constructed (42,275) as of December 2019. The proposed construction of 221 units is not anticipated to result in an unplanned population increase beyond SANDAG Regional Population and Housing Forecast considering there is a shortage of housing to accommodate the existing and planned population. Therefore, the project would not induce unplanned population growth.

### **6.1.3 Induce Extension of Roads**

As discussed in Final EIR Section 4.14.3.2, the project would connect to existing utility connections that serve the surrounding community to accommodate the internal utility infrastructure needs of the development. No new major infrastructure facilities are required specifically to accommodate the project. No existing capacity deficiencies were identified for water, wastewater, or storm drain facilities that would serve the project. Furthermore, the project would not generate sewage flow or stormwater that would exceed the capacity already planned for the sewer line or storm drain. Lastly, the internal roadway network proposed to be constructed within the project site would connect to the existing roadway network surrounding the project site.

Since the project site is surrounded by existing development and would connect to existing utility infrastructure, implementation of the project would not remove a barrier to economic or population growth through the construction or connection of new public utility infrastructure. The project would not induce road extensions or the need for new infrastructure.

Overall, the project would not remove barriers to growth and would not be considered growth-inducing.

### **6.2 Significant Irreversible Environmental Changes**

Section 15126.2(d) of the CEQA Guidelines requires an EIR to address any significant irreversible environmental changes that may occur because of project implementation. Consistent with the analysis in Section 5.2 of the Final EIR, the City of San Diego finds that implementation of the project would result in significant irreversible impacts to non-renewable resources. Construction and operation of future housing sites would result in the irretrievable commitment of limited, slowly renewable, and nonrenewable resources, which would limit the availability of these resource quantities for future generations or for other uses. Implementation of the project would require the irreversible consumption of natural resources and energy. Natural resource consumption would include lumber and other forest products, sand and gravel, asphalt, steel, copper, other metals, and water. Building materials, while perhaps recyclable in part at some long-term future date, would for practical purposes be considered permanently consumed. Energy derived from non-renewable sources, such as fossil and nuclear fuels, would be consumed during construction and operational lighting, heating, cooling, and transportation uses. However, through required compliance with the regulations in effect at the time of development, the amount and rate of consumption of these resources would not result in significant environmental impacts or the unnecessary, inefficient, or wasteful use of resources.



## **7.0 FINDINGS REGARDING RESPONSES TO LETTERS OF COMMENTS AND FINAL EIR REVISIONS**

The Final EIR includes the comments received on the Draft EIR and responses to those comments. The focus of the responses to comments is on the disposition of significant environmental issues that are raised in the comments, as specified by CEQA Guidelines Section 15088(c).

**Finding/Rationale:** Responses to comments made on the Draft EIR and revisions in the Final EIR merely clarify and amplify the analysis presented in the Draft EIR, and do not trigger the need to recirculate per CEQA Guidelines section 15088.5(b).

## **8.0 STATEMENT OF OVERRIDING CONSIDERATIONS**

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

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

Pursuant to the Public Resources Code §21081(b) and CEQA Guidelines § 15093, the City Council, having considered all of the foregoing, finds that the following specific overriding economic, legal, social, technological, or other benefits associated with the project outweigh unavoidable adverse direct impacts related to Land use (conflict with the City of San Diego Housing Element goals and policies), GHG (emissions and conflicts with plans) and Transportation (VMT).

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

### **Public Services Benefits**

- Annexation of the project site into the City of San Diego would allow for the more efficient provision of public services. With the project site being accessed from City of San Diego public roads and served by City of San Diego water and sewer facilities, annexation of the project site would alleviate the City of Chula Vista and City of San Diego from the potential necessity and administrative/fiscal burden of needing out-of-agency agreements for services. It would additionally alleviate the likely need for tax-sharing agreements between

the City of San Diego and City of Chula Vista to ensure the tax revenue from development in the City of Chula Vista appropriately funds the City of San Diego services upon which it relies.

### **Recreational Benefits**

- The project would construct on-site community facilities and other recreational amenities that would be accessible to the public, including several pocket parks, paseos, and trail connections to the OVRP, as shown in the Final EIR on Figure 3-6. Of the project's five park areas, two are sited along the northern boundary to increase access and views toward the OVRP. The central overlook pocket park at the northern boundary would also provide a public trail connection to the OVRP, and the pocket park at the northwestern corner of the site would offer two playground areas. All of the park areas would provide amenities to the community. Three paseos are also included. Finally, an approximate 0.04-acre monument entry pocket park would be provided near the project entrance that would provide a meeting location for trail users.
- The City of San Diego is one of the joint powers of the OVRP and would benefit from the proposed overlook and trail improvements related to the OVRP. Trails associated with the OVRP would provide benefits to the community residents.

### **Biological Benefits**

- The project would provide drainage improvements that would reduce an erosion/drainage incision concern that currently exists on the property. Under the existing conditions, high volumes of runoff are discharged from the Kiaser Permanente site to the south through the onsite drainage, which has resulted in scour and erosion of the onsite drainage. The project would install a low-flow splitter that would regulate flows through the onsite drainage. During high flow conditions, excess drainage would be directed to an adjacent biofiltration basin and piped through the development, before sheet flowing north via a headwall. In addition, a culvert under the secondary access road would maintain flows between the on-site City of San Diego wetlands, before flowing north into an additional culvert that directs flows to rip-rap, before sheet flowing north towards the Otay River with rip-rap along the northern project boundary. This would reduce existing erosion issues, improve downstream water quality, and improve the biological value of the drainage through the site. The Otay River flows through the City of San Diego jurisdiction, and the improvement of water quality would be a benefit to the City.
- The project would provide remediation of portions of the Davies property (see Final EIR Figure 4.6-2), which may be causing water pollution in the Otay River due to stormwater runoff.

### **Regional Housing Benefits**

- The project would accommodate the need for housing to support the anticipated regional growth. The City of San Diego is currently experiencing a housing crisis and the project's contribution of dwelling units (i.e., up to 221 dwelling units consisting of detached

condominiums, duplexes, and townhome dwelling units) would assist in alleviating the regional crisis. The project would provide 22 on-site affordable homes with 11 homes affordable-to-low-income households and 11 homes affordable-to-moderate income households.

- The project would assist the City with meeting the regional housing needs. The City would be entitled to receive credit towards its share of the regional housing needs allocation for the number of qualifying dwelling units.
- The project would assist the City in meeting housing goals by providing new housing opportunities to the City by utilizing an undeveloped site for an infill development near existing commercial and recreational uses and provide a cohesive design that is compatible in use, scale and character with the surrounding neighborhood.
- The project includes a range of housing types, sizes and bedrooms that meet the household family sizes anticipated in Otay Mesa community. The project promotes affordable housing development through the provision of a variety of housing types that are affordable in nature.

#### **Conclusion**

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

## EXHIBIT B

### MITIGATION MONITORING AND REPORTING PROGRAM

**Nakano Project  
PRJ-1076302  
SCH No. 2022060260**

This Mitigation Monitoring and Reporting Program is designed to ensure compliance with Public Resources Code Section 21081.6 during the 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 PRJ-1076302/ EIR No. 22-001/SCH No. 2022060260 shall be made conditions of the Uncodified Ordinance and, a Site Development Permit as 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.**"

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>

3. The **TITLE INDEX SHEET** must also show on which pages the "Environmental/ Mitigation Requirements" notes are provided.
4. **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 Biological Monitor  
Site Safety Manager  
Qualified Archaeological Monitor*

**Note: Failure of all responsible Permit Holder's representatives and consultants to attend shall require an additional meeting with all parties present.**

**CONTACT INFORMATION:**

- a) The PRIMARY POINT OF CONTACT is the **RE** at the **Field Engineering Division - 858-627-3200**
- b) For Clarification of ENVIRONMENTAL REQUIREMENTS, applicant t is also required to call **RE and MMC at 858-627-3360.**

2. **MMRP COMPLIANCE:** This Project, PRJ-1076302, 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:

- U.S. Army Corps of Engineers (404 Permit)
- Regional Water Quality Control Board (401 Certification)
- California Department of Fish and Wildlife (Streambed Alteration Agreement)
- San Diego Gas and Electric (Easement Vacations)

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 schedule:

<b>DOCUMENT SUBMITTAL/INSPECTION CHECKLIST</b>		
<b>Issue Area</b>	<b>Document Submittal</b>	<b>Associated Inspection/Approvals/Notes</b>
General	Consultant Qualification Letters	Prior to Preconstruction Meeting
General	Consultant Construction Monitoring Exhibits	Prior to or at Preconstruction Meeting
Biological Resources	Grading Plans	Prior to Grading Permit Issuance
Historical Resources / Tribal Cultural Resources	Archaeology Monitoring Exhibit	Prior to Grading Permit Issuance / Archaeology/Historic Site Observation during grading
Land Use/ Greenhouse Gas Emissions	Building Plans and Occupancy Permit	Prior to Building Permit and Occupancy Permit
Health and Safety / Water Quality	Grading Plans/ Community Health and Safety Plan	Prior to Grading Plan/ City Local Enforcement Agency Approval
Transportation	Building Plans	Prior to Building Permit / City Engineer Approval
Bond Release	Request for Bond Release Letter	Final MMRP Inspections Prior to Bond Release Letter

## C. SPECIFIC MMRP ISSUE AREA CONDITIONS/REQUIREMENTS

### Biological Resources

#### **BIO-SD-1 Sensitive Upland Vegetation**

Prior to issuance of any construction permits, including but not limited to, the first Grading Permit, Demolition Permits and Building Permits or a Notice to Proceed for Subdivisions, by the City of San Diego for Annexation Scenario 2a, the owner/permittee shall mitigate for impacts to sensitive upland vegetation in accordance with the City of San Diego's 2018 Biology Guidelines. The project owner/permittee shall mitigate direct impacts to Diegan coastal sage scrub and Diegan coastal sage scrub: Baccharis-dominated at a 1:1 mitigation ratio and non-native grassland at a 0.5:1 ratio inside the MHPA. Mitigation for 3.43 acres of Diegan coastal sage scrub (Tier II), 0.17 acre of Diegan coastal sage scrub: Baccharis-dominated (Tier II), and 13.65 acres of non-native grassland (Tier IIIB) will be achieved through the preservation of 10.43 acres of Diegan coastal sage scrub habitat (Tier II) at the Pacific Highlands Ranch Restoration and Mitigation Credit Area. The applicant shall provide proof of mitigation credit purchase to the City of San Diego via a mitigation ledger prior to issuance of any land development permits.

#### **BIO-SD-2 Biological Resource Protection During Construction**

##### **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, MSCP, ESL, project



permit conditions; 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. **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.
- F. **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 preconstruction 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 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.

#### **BIO-SD-3 Otay Tarplant Mitigation Plan**

Prior to issuance of any construction permits, including but not limited to, the first Grading Permit, Demolition Permits and Building Permits or a Notice to Proceed for Subdivisions, shall incorporate the following mitigation measures into the project design and include them verbatim on all appropriate construction documents. In lieu of the below Otay Tarplant Mitigation Plan, the owner/permittee may also purchase equivalent mitigation credits at a City of San Diego-approved mitigation bank, subject to Wildlife Agency review and approval. The mitigation bank must contain an Otay tarplant population or have the species reintroduced for the purposes of mitigation. The applicant is required to provide proof of mitigation credit purchase to the City of San Diego prior to the issuance of any construction development permits.

#### **Prior to Permit Issuance**

##### **A. Land Development Review (LDR) Plan Check**

1. Prior to the NTP or 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 Otay tarplant individual plants at a 4:1 ratio. While the number of individual plants present may vary year-to-year, it is estimated 14 individuals would be impacted and

mitigation would include 56 Otay tarplant individuals. The landscape construction documents and specifications must be found to be in conformance with the Otay Tarplant Mitigation Plan for the Nakano Project prepared by RECON 2022, 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. 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 *upland* 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 reseedling (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. PQB 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 (BMPs) 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 the project's grading permit which could 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 CSVSRs 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 Diegan coastal sage scrub (including Baccharis-variant), non-native grassland, southern willow scrub, emergent wetland, and disturbed wetland, as shown on the approved LCD.
6. The PQB 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 BMPs, such as gravel bags, straw logs, silt fences or equivalent erosion control measures, as needed to

ensure prevention of any significant sediment transport. In 4.0 Environmental Analysis 4.3 Biological Resources Nakano Project EIR Page 4.3-59 addition, the PQB/QBM shall be responsible to verify the removal of all temporary construction BMPs upon completion of construction activities. Removal of temporary construction BMPs shall be verified in writing on the final construction phase CSV.

8. PQB shall verify in writing on the CSV'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 a 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 occurs 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 (BMPs). After obtaining concurrence with MMC and the RE, PQB and CM shall install the approved protection and agreement on BMPs.
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 to 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 BMPs, 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 BMPs upon completion of construction activities. Removal of temporary postconstruction BMPs shall be verified in writing on the final postconstruction phase CSV.

#### **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.

**D. Management and Maintenance in Perpetuity**

The Otay tarplant mitigation area shall be protected and managed/maintained in perpetuity. The Otay tarplant mitigation site shall be addressed through a long-term management plan. The Otay tarplant mitigation area shall be covered by a Covenant of Easement to the benefit of the City of San Diego or dedicated in-fee title to the City of San Diego. The project proponent shall provide funding in an amount approved by the City of San Diego based on a Property Analysis Record, or similar cost estimation method, to secure the ongoing funding for the perpetual long-term management, maintenance, and monitoring of the off-site mitigation area pursuant to the long-term management plan by an agency, nonprofit organization, or other entity approved by the City of San Diego.

#### **BIO-SD-4 Avian Protection Requirements**

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, removal of habitat that supports active nests in the proposed area of disturbance (both on-site and within the Wetland Plan area of work) should occur outside of the breeding season for least Bell's vireo, burrowing owl, coastal California gnatcatcher, yellow-breasted chat, and yellow warbler (February 1 to September 15) or a preconstruction survey shall be completed by a Qualified Biologist preconstruction to determine the presence or absence of nesting least Bell's vireo, burrowing owl, coastal California gnatcatcher, yellow-breasted chat, and yellow warbler on the proposed area of disturbance. The preconstruction survey shall be conducted within 10 calendar days prior to the start of construction activities (including removal of vegetation). The applicant shall submit the results of the preconstruction survey to City of San Diego DSD for review and written approval prior to initiating any construction activities. If nesting birds are detected, a letter report in conformance with the City of San Diego'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 shall be submitted to the City of San Diego for review and written approval and implemented to the satisfaction of the City of San Diego. The City of San Diego'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.

#### **BIO-SD-5 Direct Impact Avoidance and Noise Restrictions for Least Bell's Vireo**

Prior to issuance of any construction permits, including but not limited to, the first Grading Permit, Demolition Permits and Building Permits or a Notice to Proceed for Subdivisions, the City of San Diego Manager (or appointed designee) shall verify that the following project requirements regarding the least Bell's vireo are shown on the construction and wetland restoration 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 of San Diego 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 [dB(A)] 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 USFWS 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:

1. 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
- 2a. 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 dB(A) 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 dB(A) 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 of San Diego Manager at least two weeks prior to the commencement of construction activities. Prior to the commencement of any construction activities during the breeding season, areas restricted from such activities shall be staked or fenced under the supervision of a qualified biologist; or
- 2b. 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 dB(A) 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 dB(A) 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 dB(A) 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 Qualified Biologist

and the City of San Diego Manager, as necessary, to reduce noise levels to below 60 dB(A) hourly average or to the ambient noise level if it already exceeds 60 dB(A) 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 of San Diego Manager and applicable resource agencies for review and written approval which demonstrates whether or not mitigation measures such as noise walls are necessary between March 15 and September 15 as follows:
1. 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.
  2. If this evidence concludes that no impacts to this species are anticipated, no mitigation measures would be necessary.

#### **BIO-SD-6 Burrowing Owl Preconstruction Survey and Avoidance in the City of San Diego**

Prior to issuance of any construction permits, including but not limited to, the first Grading Permit, Demolition Permits and Building Permits or a Notice to Proceed for Subdivisions, the City of San Diego Manager (or appointed designee) shall verify that the following project requirements regarding burrowing owl are shown on the construction plans:

#### **PRECONSTRUCTION SURVEY ELEMENT**

##### **Prior to Permit or Notice to Proceed Issuance:**

1. As this project area has been determined to be burrowing owl occupied or to have burrowing owl occupation potential, the Applicant Department or Permit Holder shall submit evidence to the ADD of Entitlements and MSCP staff, to the satisfaction of the City, verifying that a biologist possessing qualifications pursuant to the "Staff Report on Burrowing Owl Mitigation, State of California Natural Resources Agency Department of Fish and Game, March 7, 2012 (hereafter referred as CDFG 2012, Staff Report), has been retained to implement a burrowing owl construction impact avoidance program.
2. The qualified burrowing owl biologist (or their designated biological representative) shall attend the preconstruction meeting to inform construction personnel about the City of San Diego's burrowing owl requirements and subsequent survey schedule.

**Prior to Start of Construction:**

1. The Applicant Department or Permit Holder and Qualified Biologist must ensure that initial preconstruction/take avoidance surveys of the project "site" are completed between 14 and 30 days before initial construction activities begin, including brushing, clearing, grubbing, or grading of the project site regardless of the time of the year. "Site" means the project site and the area within a radius of 450 feet of the project site. The report shall be submitted and approved by the Wildlife Agencies and/or City of San Diego MSCP staff in writing prior to construction or burrowing owl eviction(s) and shall include maps of the project site and burrowing owl locations on aerial photos.
2. The preconstruction survey shall follow the methods described in CDFG 2012, Staff Report - Appendix D.
3. 24 hours prior to commencement of ground-disturbing activities, the Qualified Biologist shall verify results of preconstruction/take avoidance surveys via review of the Survey Report (see report requirements in CDFG 2012, Staff Report - Appendix D 3) that is to be provided to the City and Wildlife Agencies. Written verification via the Survey Report shall be provided to the City of San Diego's MMC and MSCP Sections, and to the satisfaction of these sections. If results of the preconstruction surveys have changed and burrowing owl are present in areas not previously identified, immediate notification to the City of San Diego and Wildlife Agencies shall be provided prior to ground-disturbing activities.

**During Construction:**

1. Best Management Practices shall be employed as burrowing owls are known to use open pipes, culverts, excavated holes, and other burrow-like structures at construction sites. Legally permitted active construction projects which are burrowing owl occupied and have followed all protocol in this mitigation section, or sites within 450 feet of occupied burrowing owl areas, should undertake measures to discourage burrowing owls from recolonizing previously occupied areas or colonizing new portions of the site. Such measures include, but are not limited to, ensuring that the ends of all pipes and culverts are covered when they are not being worked on, and covering rubble piles, dirt piles, ditches, and berms.
2. Ongoing Burrowing Owl Detection - If burrowing owls or active burrows are not detected during the preconstruction surveys, Section "A" below shall be followed. If burrowing owls or burrows are detected during the preconstruction surveys, Section "B" shall be followed. NEITHER THE MSCP SUBAREA PLAN NOR THIS MITIGATION SECTION ALLOWS FOR ANY BURROWING OWLS TO BE INJURED OR KILLED OUTSIDE **OR** WITHIN THE MHPA; in addition, IMPACTS TO BURROWING OWLS WITHIN THE MHPA MUST BE AVOIDED.

**A. Post Survey Follow Up if Burrowing Owls and/or Signs of Active Natural or Artificial Burrows Are Not Detected During the Initial**

**Preconstruction Survey** - Monitoring the site for new burrows is required using CDFG Staff Report 2012 Appendix D methods for the period following the initial preconstruction survey, until construction is scheduled to be complete and is complete (NOTE - Using a projected completion date [that is amended if needed] will allow development of a monitoring schedule).

- 1) If no active burrows are found but burrowing owls are observed to occasionally (1-3 sightings) use the site for roosting or foraging, they should be allowed to do so with no changes in the construction or construction schedule.
- 2) If no active burrows are found but burrowing owls are observed during follow up monitoring to repeatedly (4 or more sightings) use the site for roosting or foraging, the City of San Diego's MMC and MSCP Sections shall be notified and any portion of the site where owls have been sited and that has not been graded or otherwise disturbed shall be avoided until further notice.
- 3) If a burrowing owl begins using a burrow on the site at any time after the initial preconstruction survey, procedures described in Section B must be followed.
- 4) Any actions other than these require the approval of the City of San Diego and the Wildlife Agencies.

**B. Post Survey Follow Up if Burrowing Owls and/or Active Natural or Artificial Burrows are Detected During the Initial Preconstruction**

**Survey** - Monitoring the site for new burrows is required using Appendix D CDFG 2012, Staff Report for the period following the initial preconstruction survey, until construction is scheduled to be complete and is complete (NOTE - Using a projected completion date (that is amended if needed) will allow development of a monitoring schedule which adheres to the required number of surveys in the detection protocol).

- 1) This section (B) applies only to sites (including biologically defined territory) wholly outside of the MHPA - all direct and indirect impacts to burrowing owls within the MHPA SHALL be avoided.
- 2) If one or more burrowing owls are using any burrows (including pipes, culverts, debris piles, etc.) on or within 300 feet of the proposed construction area, the City of San Diego's MMC and MSCP Sections shall be immediately contacted. The City of San Diego's MSCP and MMC Section shall contact the Wildlife Agencies regarding eviction/collapsing burrows and enlist appropriate City of San Diego biologist for on-going

coordination with the Wildlife Agencies and the qualified consulting burrowing owl biologist. No construction shall occur within 300 feet of an active burrow without written concurrence from the Wildlife Agencies. This distance may increase or decrease, depending on the burrow's location in relation to the site's topography, and other physical and biological characteristics.

- a) **Outside the Breeding Season** - If the burrowing owl is using a burrow on-site outside the breeding season (i.e., September 1–January 31), the burrowing owl may be evicted after the qualified burrowing owl biologist has determined via fiber optic camera or other appropriate device, that no eggs, young, or adults are in the burrow. Eviction requires preparation of an Exclusion Plan prepared in accordance with CDFG 2012 Staff Report, Appendix E (or most recent guidance available) for review and submittal to Wildlife Agencies and City of San Diego (MMC and MSCP). Written concurrence from the Wildlife Agencies is required prior to Exclusion Plan implementation.
  - b) **During Breeding Season** - If a burrowing owl is using a burrow onsite during the breeding season (February 1–August 31), construction shall not occur within 300 feet of the burrow until the young have fledged and are no longer dependent on the burrow, at which time the burrowing owls can be evicted. Eviction requires preparation of an Exclusion Plan prepared in accordance with CDFG 2012 Staff Report, Appendix E (or most recent guidance available) for review and submittal to Wildlife Agencies and City of San Diego (MMC and MSCP). Written concurrence from the Wildlife Agencies is required prior to Exclusion Plan implementation.
3. **Survey Reporting During Construction** - Details of construction surveys and evictions (if applicable) carried out shall be immediately (within 5 working days or sooner) reported to the City of San Diego's MMC, and MSCP Sections and the Wildlife Agencies and must be provided in writing (as by e-mail) and acknowledged to have been received by the required Agencies and DSD Staff member(s).

**Post Construction:**

1. Details of all surveys and actions undertaken on-site with respect to burrowing owls (i.e., occupation, eviction, locations etc.) shall be reported to the City of San Diego's MMC Section and the Wildlife Agencies within 21 days post-construction and prior to the release of any grading bonds. This report



must include summaries of all previous reports for the site; and maps of the project site and burrowing owl locations on aerial photos.

**BIO-SD-7 Direct Impact Avoidance for Crotch's Bumble Bee**

Should this species no longer be a state candidate for listing or state listed as threatened or endangered at the time of the preconstruction meeting, then no avoidance measures shall be required.

1. Prior to the Notice to Proceed (NTP) for any construction permits, including but not limited to, the first Grading Permit, Demolition Plans/Permits and Building Plans/Permits, the Development Services Department (DSD) Director's Environmental Designee shall verify the following project requirements regarding the Crotch's bumble bee are shown on the construction permit:
  - A. To avoid impacts to Crotch's bumble bee, removal of habitat in the proposed area of disturbance must occur outside of the Colony Active Period between April 1 through August 31. If removal of habitat in the proposed area of disturbance must occur during the Colony Active Period, a Qualified Biologist shall conduct a preconstruction survey to determine the presence or absence of Crotch's bumble bee within the proposed area of disturbance.
  - B. Surveys must be conducted by a Qualified Biologist meeting the qualifications discussed in the California Department of Fish and Wildlife (CDFW) guidance (i.e., Survey Considerations for California Endangered Species Act [CESA] Candidate Bumble Bee Species, dated June 6, 2023). The Qualified Biologist shall send all photo vouchers to a CDFW-approved taxonomist to confirm the identifications of the bumble bees encountered during surveys.
  - C. The preconstruction survey shall be conducted during the colony active period between April 1 through August 31 by the Qualified Biologist within 30 calendar days prior to the issuance of Grading Permit, Demolition Plans/Permits and Building Plans/Permits and within one year prior to the initiation of project activities (including removal of vegetation). The preconstruction survey shall consist of photographic surveys following California Department of Fish and Wildlife (CDFW) guidance (i.e., Survey Considerations for California Endangered Species Act [CESA] Candidate Bumble Bee Species, dated June 6, 2023). The surveys shall consist of passive methods unless a Memorandum of Understanding is obtained, as described below. The surveys shall consist of three separate visits spaced two to four weeks apart. Survey results will be considered valid until the start of the next colony active period.

- D. If additional activities (e.g., capture or handling) are deemed necessary to identify bumble bees of an unknown species that may be Crotch's bumble bee, then the Qualified Biologist shall obtain required authorization via a Memorandum of Understanding or Scientific Collecting Permit pursuant to CDFW Survey Considerations for CESA Candidate Bumble Bee Species (CDFW 2023). Survey methods that involve lethal take of species are not acceptable.
- E. The Qualified Biologist/owner permittee shall submit the results (including positive or negative survey results) of the pre-construction survey to City DSD (Mitigation Monitoring and Coordination) City Planning Department (MSCP) staff and CDFW for review and written approval prior to the issuance of Grading Permit, Demolition Plans/Permits and Building Plans/Permits.
- F. If pre-construction surveys identify Crotch's bumble bee individuals on-site, the Qualified Biologist shall notify and consult with CDFW to determine whether project activities would result in impacts to Crotch's bumble bee, in which case an Incidental Take Permit (ITP) may be required. If an ITP is required, it shall be obtained prior to issuance of Grading Permit, Demolition Plans/Permits and Building Plans/Permits and all necessary permit conditions shall be fulfilled prior to initiation of project activities. Take of any endangered, threatened, candidate species that results from the project is prohibited, except as authorized by State law (California Fish and Game Code §§ 86, 2062, 2067, 2068, 2080, 2085; California Code of Regulations, Title 14, §786.9) under the CESA.
- G. Survey data shall be submitted by the Qualified Biologist to the CNDDDB in accordance with the Memorandum of Understanding with CDFW, or Scientific Collecting Permit requirements, as applicable.

#### **BIO-SD-8 Wetland Restoration/Creation and Permits**

Prior to issuance of any construction permits, including but not limited to, the first Grading Permit, Demolition Permits and Building Permits or a Notice to Proceed for Subdivisions the owner/permittee shall provide compensatory wetland mitigation in accordance with the City of San Diego Land Development Code Biology Guidelines, resulting in no overall net loss of wetlands. To offset the loss of 0.40 acre of impacts to RWQCB wetland waters, CDFW riparian, and City of San Diego wetlands (a total of 0.80 acre of mitigation for jurisdictional impacts) shall be provided. To ensure no net loss, this shall include a 1:1 creation or restoration component (0.40 acre of creation or restoration).

Prior to issuance of land development permits, including clearing, grubbing, grading, and/or construction permits by the City of San Diego that impact jurisdictional waters, the project applicant shall obtain all necessary permits from RWQCB, and CDFW, and shall mitigate direct impacts in accordance with the terms and conditions of all required permits. Areas under the jurisdictional authority of RWQCB, and CDFW shall be delineated on all grading plans.

The applicant shall prepare a Final Wetland Plan and submit it for review and approval to the satisfaction of the City of San Diego, USFWS, RWQCB, and CDFW. The plan shall include, at a minimum, an implementation strategy; appropriate seed mixtures and planting method; irrigation; quantitative and qualitative success criteria; maintenance, monitoring, and reporting program; estimated completion time; contingency measures; and identify long-term funding. The project applicant shall implement the Wetland Plan subject to the oversight and approval of the City of San Diego DSD director (or their designee), RWQCB, and CDFW.

Additionally, as a project design feature, the Final Wetland Plan shall include 2.21 acres of weed control within the Spring Canyon corridor and 0.46 acre of wetland creation/establishment area that shall serve as partial mitigation for Southwest Village project being processed by the City of San Diego (SCH 2004651076; PRJ-0614791).

The project proponent shall provide funding in an amount approved by the City and the Wildlife Agencies based on a Property Analysis Record (PAR) (Center for Natural Lands Management ©1998), or similar cost estimation method, to secure the ongoing funding for the perpetual long-term management, maintenance, and monitoring of the off-site wetland mitigation area by an agency, nonprofit organization, or other entity approved by the City and the Wildlife Agencies. A Wetland Plan has been prepared and is included in Attachment 13 of the Biological Resources Report.

### **BIO-SD-9 Protection and Management Element**

Prior to issuance of any construction permits, including but not limited to, the first Grading Permit, Demolition Permits and Building Permits or a Notice to Proceed for Subdivisions, the remaining environmentally sensitive lands (ESL) shall be placed in a covenant of easement (Figure 6-1) per Section 143.0140(a) of the SDMC ESL regulation (City of San Diego 2022). These lands will not be used towards mitigation and will be protected from future development. Long-term management of the

wetlands within the covenant of easement would be managed by the Homeowners Association in accordance with the Long-term Management Plan (see BIO-SD-10).

### **BIO-SD-10**

Prior to the issuance of any construction permits, including but not limited to, the first Grading Permit, Demolition Permits and Building Permits or a Notice to Proceed for Subdivisions, a long-term management plan shall be prepared to the satisfaction of the City of San Diego DSD director (or their designee), USFWS, and CDFW to address the ongoing maintenance of the on-site wetlands to remain. This plan shall require (1) yearly inspection and enforcement of lighting within the site to be directed and shielded away from the wetland area; (2) yearly maintenance of the 6-foot block wall that separates the development from the wetland area to reduce intrusion into the wetlands; (3) control invasive species appearing within the wetland three times a year; (4) brush management once a year with techniques that protect habitat quality; and (5) trash removal once a year. The project proponent shall provide funding in an amount approved by the City and the Wildlife Agencies based on a Property Analysis Record (Center for Natural Lands Management 1998), or similar cost estimation method, to secure the ongoing funding for the perpetual long-term management, maintenance, and monitoring of the on-site wetland area by the Owner/Permittee.

### **Health and Safety / Hazardous Materials / Water Quality**

#### **HAZ-SD-1 Community Health and Safety Plan**

Prior to issuance of any construction permits, including but not limited to: the first Grading Permit, Demolition Permits and Building Permits or a Notice to Proceed for Subdivisions, the Owner/Permittee shall prepare a Community Health and Safety Plan (CHSP) to address the project site and potential burn ash contamination to be reviewed and approved by the City of San Diego Local Enforcement Agency (LEA). The CHSP shall include a site description, the scope of work to be conducted, responsibilities and key personal and contact information, analysis of hazards present, and procedures and protocols based on current regulatory standards and guidance to be utilized in the event hazardous conditions related to burn ash is encountered. Such conditions can include visual observations that indicate evidence of burn ash such as heat frosted glass shards, or stained or discolored soil. The CHSP shall include information informing all personnel of the potential presence of burn ash and procedures to follow if any is encountered during construction activities.

The City of San Diego LEA shall be invited to any preconstruction meetings and the approved CHSP shall be distributed to all contractors and implemented by the Owner/Permittee, the Contractor, and subcontractors prior to and during all soil excavation activities. The Contractor shall serve as the Site Safety Manager and oversee the implementation of the CHSP. The Owner/Permittee shall provide the City of San Diego evidence of completion and approval of the CHSP prior to issuance of grading permits.

## **Historical Resources / Tribal Cultural Resources**

### **HIST-SD-1 Archeological 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 Permits and Building 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 the Mitigation Monitoring and Coordination (MMC) office 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 (¼-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 CM and/or Grading Contractor.

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
  - a. 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.
  - b. The AME shall be based on the results of a site specific records search as well as information regarding existing known soil conditions (native or formation).

### 3. When Monitoring Will Occur

- a. Prior to the start of any work, the PI shall also submit a construction schedule to MMC through the RE indicating when and where monitoring will occur.
- b. The PI may submit a detailed letter to MMC prior to the start of work or during construction requesting a modification to the monitoring program. This request shall be based on relevant information such as review of final construction documents which indicate site conditions such as depth of excavation and/or site graded to bedrock, etc., which may reduce or increase the potential for resources to be present.

### **III. During Construction**

#### A. Monitor(s) Shall be Present During Grading/Excavation/Trenching

1. The archaeological monitor shall be present full-time during all soil disturbing and grading/excavation/trenching activities that could result in impacts to archaeological resources as identified on the AME. The CM 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 Occupational Safety and Health Administration (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 (CSV). The CSVs shall be faxed or emailed 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 a 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 Guidelines 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 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 offsite until a determination can be made regarding the provenance of the



human remains; and the following procedures as set forth in CEQA Section 15064.3(e), the California Public Resources Code (Section 5097.98) and state Health and Safety Code (Section 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 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 not 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 Guidelines Section 15064.3(e), and 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 Section 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 Section 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 preconstruction 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 CSVR and submit to MMC via fax by 8 a.m. 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 8 a.m. 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 CM 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 523A/B) any significant or potentially significant resources encountered during the Archaeological Monitoring Program in accordance with the City of San Diego's HRG, 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 cataloged.
  - 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.

## **Greenhouse Gas Emissions**

### **GHG-SD-1 Transit Passes**

Prior to the issuance of the first occupancy, the Owner/Permittee shall implement a transit subsidy program. The subsidy value will be limited to the equivalent value of

25 percent of the cost of an MTS "Regional Adult Monthly/30 Day Pass" (currently \$72, which equates to a subsidy value of \$18 per month). Subsidies will be available on a per-unit basis to residential tenants for a period of five years (five years after issuance of the first occupancy permit). Owner/Permittee shall provide an annual report to the City Engineer in each of the first five years demonstrating how the offer was publicized to residents and documenting the results of the program each year, including number of participants and driveway traffic counts.

**GHG-SD-2 Commute Trip Reduction Program**

Prior to the issuance of first occupancy, the Owner/Permittee shall develop and implement a commute trip reduction program that requires each homeowner and tenant to be provided with a one-page flyer every year that provides information regarding available transit, designated bicycle routes, local bicycle groups and programs, local walking routes and programs, and rideshare programs.

**GHG-SD-3 Bicycle Micro-mobility Fleet**

Prior to the issuance of the first occupancy permit, the Owner/Permittee shall provide one bicycle (up to a \$400 value) per unit to the first buyer of each unit.

**GHG-SD-4 Energy Star Appliances**

Prior to the issuance of building permits, the Owner/Permittee shall submit building plans illustrating that residential structures shall have Energy Star rated appliances (clothes washers, dishwashers, refrigerators, and ceiling fans).

**GHG-SD-5 Alternative Water Heating**

Prior to the issuance of building permits, the Owner/Permittee shall submit building plans illustrating that residential structures shall have non-gas water heaters (e.g., electric or solar water heating).

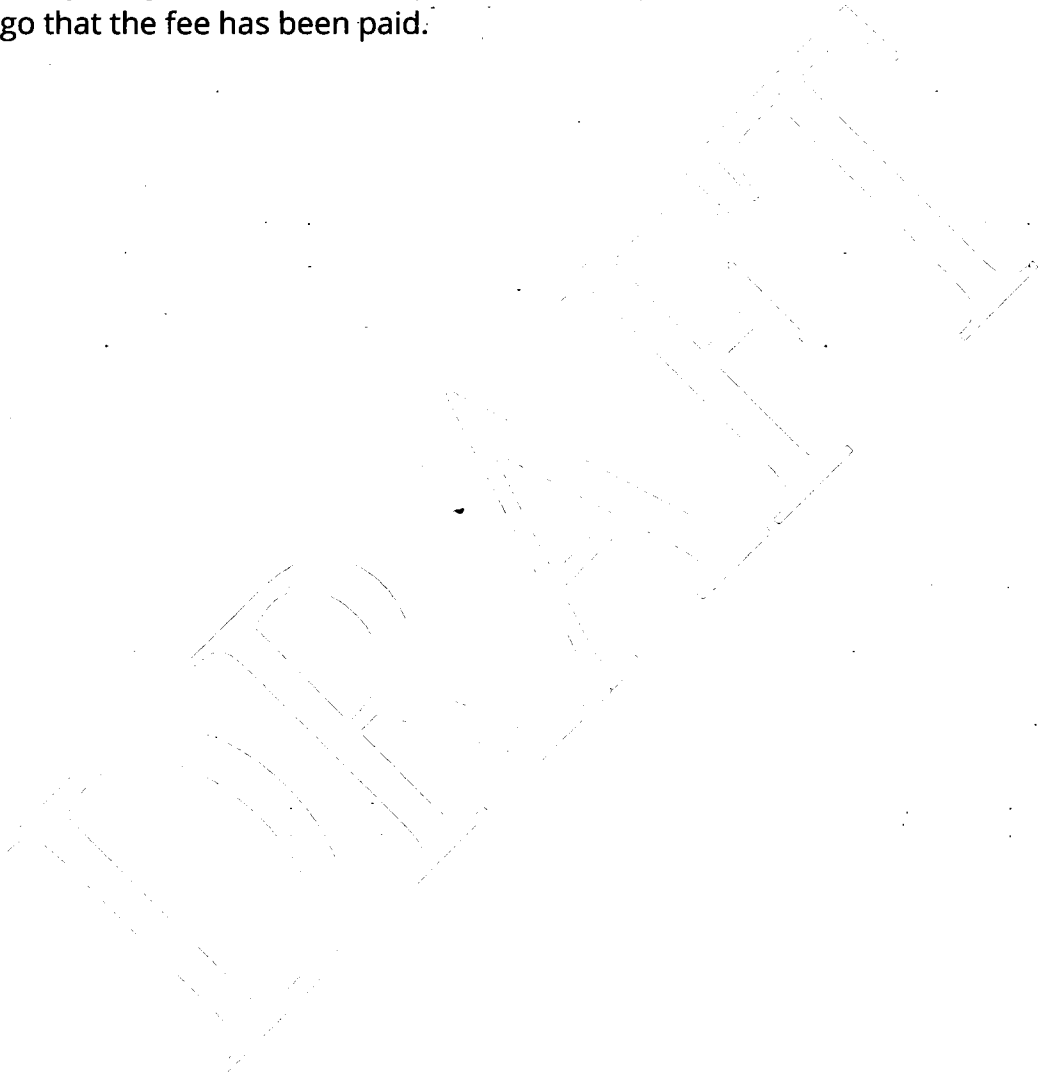
**GHG-SD-6 Water Efficient Landscaping**

Prior to the issuance of building permits, the Owner/Permittee shall submit landscaping plans illustrating that the project would provide low-water use/drought tolerant plant species with low-water use irrigation (e.g., spray head or drip), where required.

**Transportation**

**TRA-SD-1 San Diego Active Transportation In Lieu Fee**

Prior to issuance of the first building permit, the owner/permittee shall pay the City of San Diego Active Transportation In Lieu Fee, consistent with SDMC Section 143.1101, as mitigation to the greatest extent feasible, satisfactory to the City of San Diego Engineer. The owner/permittee shall provide evidence to the City of San Diego that the fee has been paid.



Passed by the Council of The City of San Diego on FEB 03 2025, 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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Henry L. Foster III	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marni von Wilpert	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kent Lee	<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 FEB 03 2025.

**(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)

DIANA J.S. FUENTES  
City Clerk of The City of San Diego, California.

By *José María Medina*, Deputy

Office of the City Clerk, San Diego, California

316018

Resolution Number R-\_\_\_\_\_