

# **CHAPTER 12.0**

## **CERTIFICATION PAGE**

---

The Environmental Analysis Section of the City of San Diego Development Services Department, Land Development Review Division, prepared this Environmental Impact Report. The following professional staff participated in its preparation:

### **CITY OF SAN DIEGO DEVELOPMENT SERVICES DEPARTMENT**

Patricia Grabski, Project Manager, Development Service Department

Myra Herrmann, Senior Planner, Environmental Analysis Section

Kristy Forburger, Associate Planner, Environmental Analysis Section

### **PBS&J**

Craig Close, Associate Vice President

Kim Howlett, Environmental Services Manager

Jennifer Duffy, Senior Engineer

Diane Catalano, Assistant Project Manager

Kevin Smith, Environmental Planner

Justin Valeri, Graphics

Debra Surrell, Word Processor

Serena Drake, Administrative Assistant

### **GIROUX & ASSOCIATES**

Hans Giroux, Principal

### **HELIX ENVIRONMENTAL PLANNING, INC.**

Greg Mason, Project Manager

Dale Ritenour, Biologist

Patrick McNicholas, Biologist

**RINCON CONSULTANTS INC.**

Walter Hamann, RG, CEG, CHG, Vice President  
Daniel Weis, Senior Environmental Scientist

**GALLEGOS & ASSOCIATES**

Dennis Gallegos, Principal  
Monica Guerrero, RPA  
Larry Tift, Graphics  
Karen Hovland, Report Production

**ALLIED GEOTECHNICAL ENGINEERS, INC.**

Tiong J. Liem, R.G./C.E.G, Senior Project Manager  
Sani Sutanto, P.E., Senior Engineer

**APPENDIX A**

**NOTICE OF PREPARATION AND RESPONSES,  
SCOPING MEETING NOTICE  
AND TRANSCRIPT**

**FINAL  
ENVIRONMENTAL IMPACT REPORT  
for the  
OTAY MESA TRUNK SEWER PROJECT**

**NOTICE OF PREPARATION & RESPONSES**



THE CITY OF SAN DIEGO

DEVELOPMENT SERVICES DEPARTMENT

Date of Notice: July 29, 2004

NOTICE OF PREPARATION OF A  
DRAFT ENVIRONMENTAL IMPACT REPORT  
JO: 176361

---

The CITY OF SAN DIEGO will be the Lead Agency and will prepare a draft Environmental Impact Report (EIR) for the project described below. Written comments on the scope and content of the draft EIR must be received by the Land Development Review Division at the address listed below no later than 30 days after receipt of this notice. Please send your written comments to the following address: **Myra Herrmann, Senior Environmental Planner, City of San Diego Development Services Center, 1222 First Avenue, MS 501, San Diego, CA 92101** or e-mail your comments to [mherrmann@sandiego.gov](mailto:mherrmann@sandiego.gov) with the Project Number in the subject line. Responsible agencies are requested to indicate their statutory responsibilities in connection with this project when responding. This notice was published in the SAN DIEGO DAILY TRANSCRIPT, placed on the City of San Diego web-site (<http://clerkdoc.sannet.gov/Website/publicnotice/pubnotceqa.html>), and distributed on July 29, 2004.

**General Project Information:**

- Project No. 40246, SCH No. Pending
- Community Plan Area: OTAY MESA
- Council District: 8
- Applicant: City of San Diego, Metropolitan Wastewater Department

**Subject:** OTAY MESA TRUNK SEWER. The project proposes the construction of approximately 14.7 miles (or 77,850 feet) of new and/or replacement/upgrade sewer line in the Otay Mesa area, Phase 2 and 3 facilities as described in the 2004 Otay Mesa Sewer Master Plan and Alignment Study, which outlines a strategy for the provision of sewer infrastructure to serve the future build out of the Otay Mesa region. The OMTS Master Plan was completed with the construction of the Otay International Center (OIC). Phase 2 would also include upgrades to existing temporary pump station 23T and the construction of new permanent pump station A1 with capacity up to 12 million gallons per day (MGD). The Phase 2 facilities are divided into sub-phases to accommodate sewer flows as development of Otay Mesa proceeds. These sub-phases may be concurrent or sequential depending on the rate development of the project area. The Phase 3 improvements include additional facilities that may be needed to serve projected ultimate build out of Otay Mesa, including the upgrade of pump station A1 to a maximum capacity of 34 MGD. The need for these facilities will be reassessed based on actual growth over the

next 20 years, and would include the construction and/or expansion of the following types of sewer infrastructure:

- Sewer Pipelines (gravity and force mains) and manholes
- Sewer Pump stations
- Diversion structure
- Transition structure

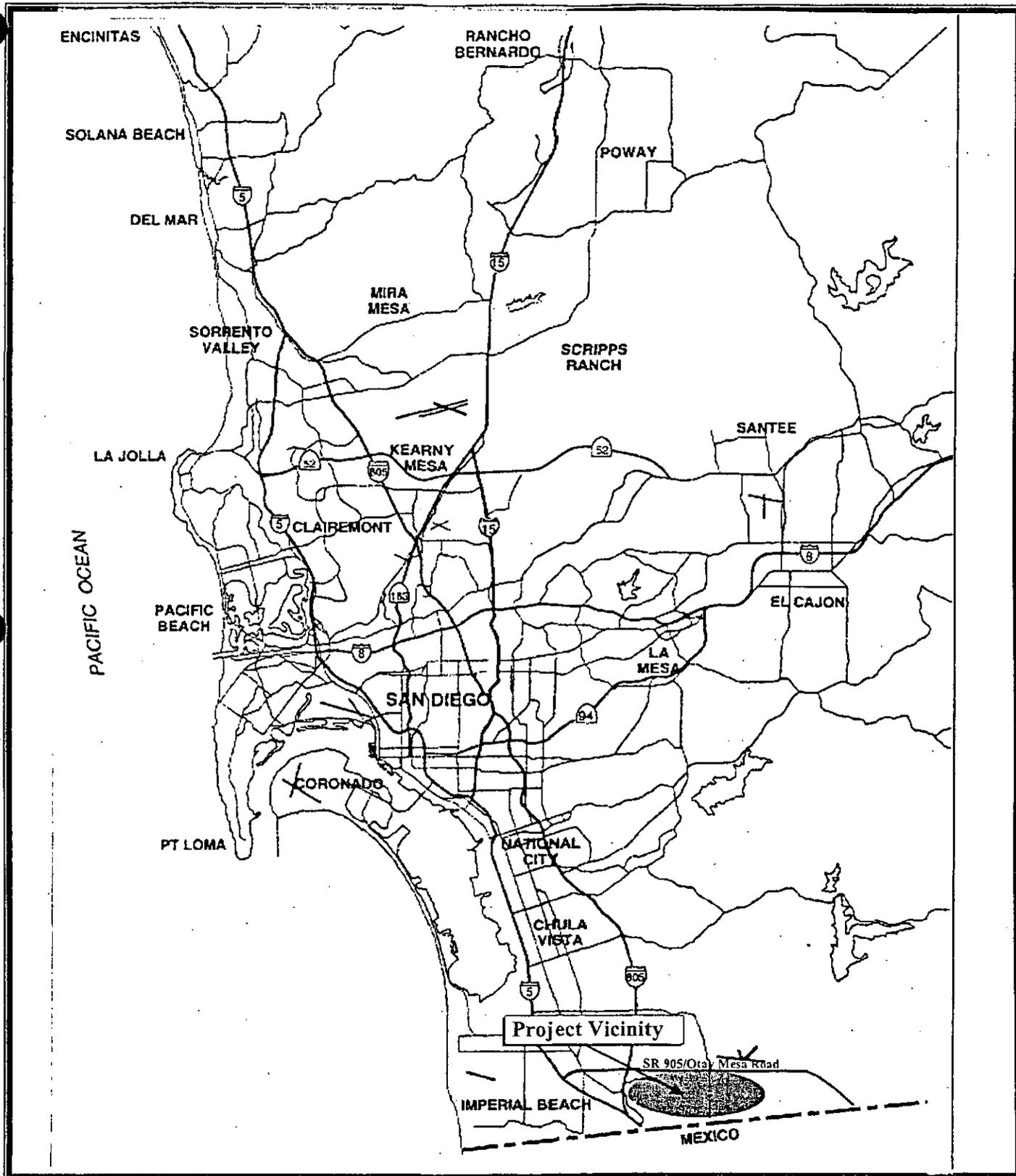
The need for the proposed project is largely based upon future sewer demand in the Otay Mesa area. Therefore, the project would be constructed in phases, so that the new sewer facilities would be built only when the actual sewer flows reach designated thresholds that trigger construction of the next phase. The construction of the project phases is anticipated to be sequential, although a few phases could be constructed concurrently, depending on the rate of development in the project service area.

Based on an Initial Study, it appears that the proposed project may result in significant environmental impacts in the following areas: Land Use, Noise, Paleontological Resources, Utilities, Historical Resources, Air Quality, Biological Resources, Water Quality, Geotechnical Conditions, Hazardous Materials, Visual Quality/Aesthetics, and Energy. In addition, based on the potential impacts of the project to the area, the City is holding a Environmental Impact Report (EIR) preparation meeting (scoping meeting) open to the public on Thursday, August 12, 2004, beginning at 6:30pm. The meeting place is at the Otay Mesa Comfort Suites, 2351 Otay Center Drive.

Attachments: **FIGURE 1: REGIONAL VICINITY MAP**  
**FIGURE 2:**  
**SCOPING LETTER**

Distribution: **SEE ATTACHED**

Chris Zirkle, Assistant Deputy Director  
Development Services Department



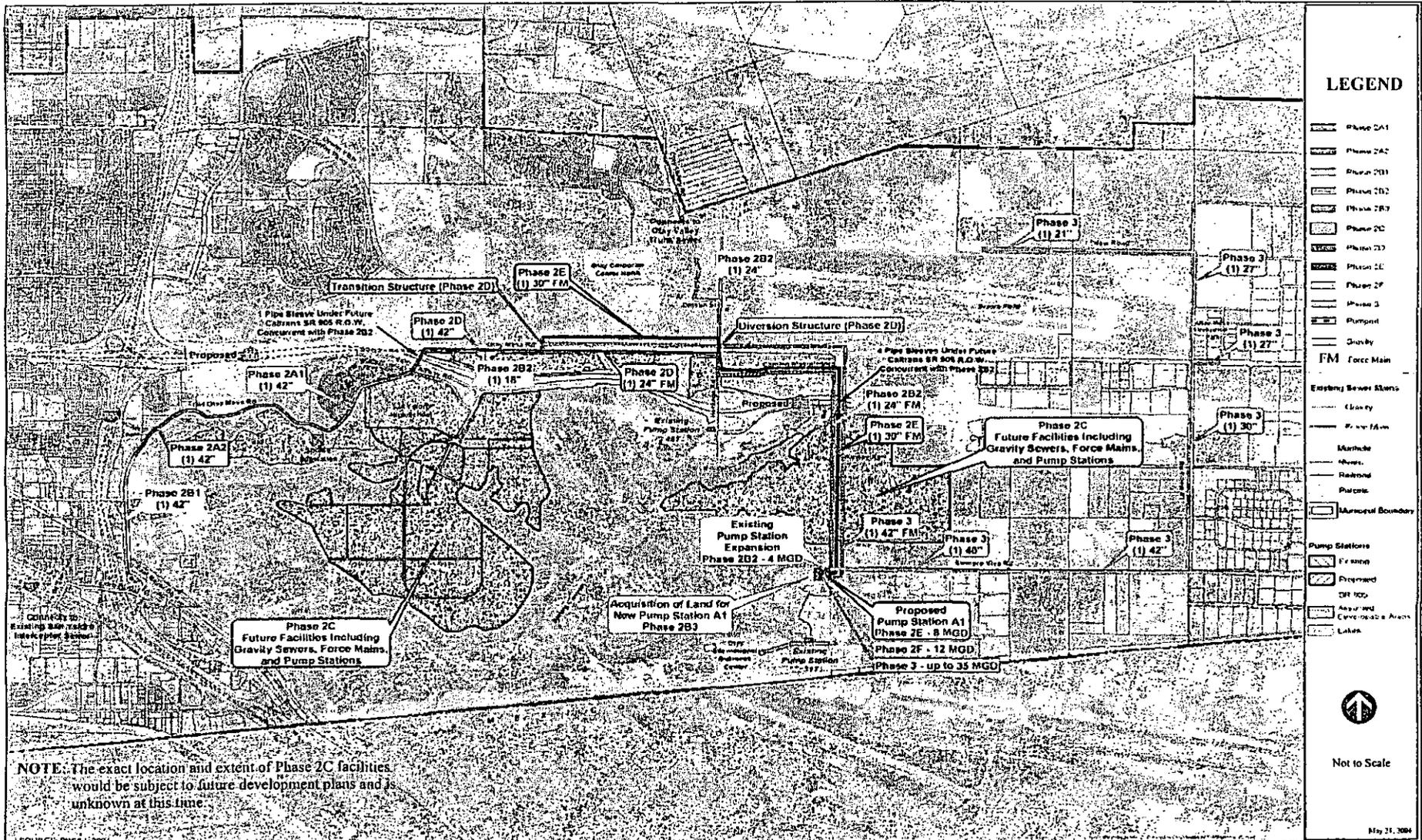
Otay Mesa Trunk Sewer



# Location Map

Environmental Analysis Section Project No. 40246  
 CITY OF SAN DIEGO · DEVELOPMENT SERVICES

Figure  
**1**



**LEGEND**

- Phase 2A1
- Phase 2A2
- Phase 2B1
- Phase 2B2
- Phase 2C
- Phase 2D
- Phase 2E
- Phase 2F
- Phase 3
- Pump
- Sanity
- FM
- Force Main
- Existing Sewer Lines
- Classy
- Private
- Murder
- Phase Boundary
- Pump Stations
- Expansion
- Proposed
- 201100
- Acquiring
- Construction Area
- Lakes

North Arrow  
Not to Scale



**Construction Phasing and Alignment Plan**  
 Environmental Analysis Section - Project No. 40246  
 CITY OF SAN DIEGO · DEVELOPMENT SERVICES

Figure  
**2**

CITY OF SAN DIEGO  
M E M O R A N D U M

**DATE:** July 29, 2004

**TO:** Allan Navarro, Associate Engineer, Metropolitan Wastewater Department

**FROM:** Chris Zirkle, Assistant Deputy Director, Land Development Review Division  
Development Services Department

**SUBJECT:** Scope of Work for a Draft Environmental Impact Report for the Otay Mesa Trunk Sewer Project No. 40246

---

The Environmental Analysis Section (EAS) of the Land Development Review Division has conducted an Initial Study for the Otay Mesa Trunk Sewer (OMTS) project. The project proposes to implement approximately 14.7 miles (or 77,850 feet) of new and/or replacement/upgrade sewer line in the Otay Mesa area. The proposed project is to construct the Phase 2 and 3 facilities described in the 2004 Otay Mesa Sewer Master Plan and Alignment Study. Phase 2 would also include upgrades to existing temporary pump station 23T and the construction of new permanent pump station A1 with capacity up to 12 million gallons per day (MGD). The Phase 2 facilities are divided into sub-phases to accommodate sewer flows as development of Otay Mesa proceeds. These sub-phases may be concurrent or sequential depending on the rate development of the project area. The Phase 3 improvements include additional facilities that may be needed to serve projected ultimate build out of Otay Mesa, including the upgrade of pump station A1 to a maximum capacity of 34 MGD. The need for these facilities will be reassessed based on actual growth over the next 20 years.

Based on the description and potential environmental impacts associated with the proposed project, staff has determined an Environmental Impact Report (EIR) is required for the following issues areas; Land Use, Noise, Paleontological Resources, Utilities, Historical Resources, Air Quality, Biological Resources, Water Quality, Geotechnical Conditions, Hazardous Materials, Visual Quality/Aesthetics, and Energy.

The purpose of this letter is to identify the issues that are to be specifically addressed in the EIR. The EIR should be prepared in accordance with the City's "Environmental Impact Report Guidelines". The issues to be addressed are discussed below. A Notice of Preparation will be distributed to Responsible Agencies and others who may have an interest in the project. Consequently, changes or additions to this scope of work may be required as a result of input received in response to the Notice of Preparation.

**I. INTRODUCTION**

Introduce the project with a brief discussion on the intended use and purpose of the EIR. Provide an explanation of why it is necessary to implement the project. Provide projected timeline for the achievement of the project.

## II. ENVIRONMENTAL SETTING

Describe the precise location of the project and present it on a detailed topographic map and regional map. Provide local and regional description of the environmental setting of the project. Describe the existing zoning and land use designations of the project site and contiguous properties; the site topography; and drainage characteristics. Provide a recent aerial photo of the site and surrounding uses, and clearly delineate the project alignment and components. In addition, provide in the EIR an accurately scaled version of the aerial photo and topographic map as described above.

## III. PROJECT DESCRIPTION

Discuss the goals and objectives and major features of the project. Describe each phase of the project in detail including which phases are near-term and which are to be constructed in the future. In addition, describe the factors that determine the implantations of each phase. Describe all discretionary actions involved in the project. List all permits required from other federal, state and local agencies. Describe in detail the project background, including the need for the project. Describe any off-site activities necessary to implement the proposed project, including roadway modifications and construction staging areas. It is recognized that detailed information about future components of the project may not be available at this time. For such components as the future pump station, a generalized discussion of the most likely size of facilities and a "worst-case" identification of impact areas is appropriate.

## IV. ENVIRONMENTAL ISSUES

In each environmental issue section, the potential for impacts must be thoroughly analyzed and mitigation measures to avoid or substantially lessen impacts must be clearly identified and discussed. Each of the issue statements identified below must be addressed separately within each general environmental issue. Also, a separate section of the EIR should include a brief discussion as to why certain issues were not considered to be potentially significant. Identify a reasonable range of mitigation measures and/or alternatives, whether proposed or not, for each identified significant impact.

The significance determination made in the EIR should reflect the fact that CEQA does not permit deferral of the establishment of mitigation measures and that an impact should be considered significant if it cannot be demonstrated with certainty that it is not (i.e., if a significant impact "may" result).

### 4.1 Land Use

Issue 1: Would the project result in a conflict with the goals, objectives and recommendations of the *City's Progress Guide and General Plan*, the Otay Mesa Community Plan, or any other adopted plans or policies?

Issue 2: Would the proposed project result in a conflict with the purpose and intent of the Environmentally Sensitive Lands (ESL) regulation, the Historical

### Resources Regulation and the Brush Management Regulations of the City of San Diego Land Development Code (LDC)?

Provide analysis of the compatibility of this project with plans adopted for the project area. Analyze how the project would implement and comply with all applicable goals, objectives and recommendations in these plans and analyze whether reasonably foreseeable implementation of the project would be consistent with these plans.

#### 4.2 Noise

- Issue 1: Would the proposed project result in a significant increase in the existing ambient noise levels?
- Issue 2: Would temporary construction noise from the proposed project, or permanent noise generators adversely impact sensitive species (e.g., coastal California gnatcatcher) within the MHPA?

The EIR should analyze the impacts of the noise generated by the operation of the future pump stations and the construction operation. The analysis should discuss any expected quantified change in ambient noise levels. Describe typical construction methods, techniques, and the duration that could be expected in each phase of the project. Briefly describe the City's existing adopted Noise Ordinance and the potential temporary construction noise impacts associated with the implementation of the project that could affect nearby businesses or sensitive receptors such as schools. This section could develop possible scenarios, assumptions, and mitigation measures (exhaust silencers, limitations on construction operation time, etc.) that would reduce noise levels below a level of significance.

#### 4.3 Paleontological Resources

- Issue 1: Would the proposed project result in the loss of significant paleontological resources?

Identify areas which are underlain by fossiliferous formations which if excavated, could yield significant paleontological resources pursuant to the City's Paleontology Guidelines (July 2002). Discuss the possible impacts and establish monitoring and salvaging requirements to be adopted as mitigation measures.

#### 4.4 Utilities

- Issue 1: Would the proposed project result in the need for new systems, or require substantial alterations or relocation related to the existing utilities? These systems include power/energy, natural gas, communication systems, water, sewer, storm drainage systems and solid waste disposal.

In view of the continued growth experienced within the City of San Diego, it is the City's goal to ensure that public utilities will be made available. Therefore, discuss the effects of

the proposed project on the above utilities. Discuss the direct or indirect impact associated with the implementation of the proposed project.

#### 4.5 Historical Resources

- Issue 1: Would the proposed project result in the alteration or destruction of a prehistoric or historic archeological site or religious or sacred uses within the site?
- Issue 2: Would the proposed community plan update result in any adverse physical or aesthetic effects to a prehistoric or historic building, structure, object, or site?
- Issue 3: Would the plan update result in any impact to existing religious or sacred uses within the potential impact area?
- Issue 4: Would the plan update result in the disturbance of any human remains, including those interred outside of formal cemeteries?

A historical resources survey consistent with the City's Historical Resources Guidelines (April 2001) should be conducted. Based on the survey and records search results, the written report should identify potentially significant historical resources that could be affected by the proposed alignment. The EIR should clearly determine the significance of all sites within and adjacent to the project alignment or area of potential effect (e.g., staging areas, manholes, other appurtenances). Based on the potential for archeological resources to exist in the Otay Mesa area, monitoring would likely be required during excavation for the sewer line. The EIR should include a brief description of the Otay Mesa area's historic and prehistoric setting and detail the methodology, results, and conclusions of the background research and record searches conducted for the project, if applicable. The EIR should also discuss any specific management directives included in the State Route 905 EIS/EIR Management Plan for Otay Mesa Prehistoric Resources prepared by Gallegos & Associates in September 1998. The EIR should also discuss the requirement for an archeological monitoring program and include it as mitigation measures if applicable.

#### 4.6 Air Quality

- Issue 1: Would the proposed project result in construction or operational air pollutant emissions that exceed the significance thresholds?
- Issue 2: Would the proposed project have a significant effect on human health or the environment as a result of diesel emissions during construction?

Discuss the potential generation of emission from the operation of the pump stations (include emergency diesel generators). Discuss the generation of short-term diesel emissions from construction vehicles. Evaluate carbon monoxide hot spots if they would result from poor traffic flow resulting from construction detours. Translate these emissions

into parts per million and/or pounds per day to determine if the City's significance thresholds are met with regard to air quality impacts.

#### **4.7 Biological Resources**

- Issue 1: Would the proposed project result in a direct or indirect impact to important habitat or sensitive plant or animal species?
- Issue 2: Would the proposed project result in a reduction in the number of any unique, rare, endangered, sensitive, or fully protected species of plants or animals?
- Issue 3: Would the proposed project result in interference with the nesting/foraging/movement of any resident or migratory fish or wildlife species?
- Issue 4: Would the proposed project result in an impact to a sensitive habitat, including, but not limited to streamside vegetation, oak woodland, vernal pools, wetland, coastal sage scrub, or chaparral?
- Issue 5: Would the proposed project affect the long-term conservation of biological resources as described in the MSCP? Would the proposed plan update meet the objectives of the MSCP's Land Use Adjacency Guidelines or conflict with the provisions of the City's MSCP, Subarea Plan or other approved local, regional, or state conservation plans?
- Issue 6: Would the proposed project result in the introduction of invasive species of plants into the area?
- Issue 7: Would the proposed project result in an impact on City, State, or Federally regulated wetlands (including but not limited to, saltmarsh, vernal pool, lagoon, riparian habitat, etc.) through direct removal, filling, hydrological interruption or other means?
- Issue 8: Would temporary construction noise from the proposed project or permanent noise generators (including pumps, equipment, etc.) adversely impact sensitive species (e.g., coastal California gnatcatcher) within the MHPA?

A biological survey in accordance with the City's Guidelines for Conducting Biological Surveys (July 2002) should be conducted. The report should identify all of the botanical and animal resources within a 300-foot corridor on either side of the alignment. Discuss potential impacts of the project on any sensitive biological resources and identify mitigation measures to reduce the impacts. In addition, include vegetation maps which indicate existing habitat and areas which support or could support sensitive species. The biology report should address the need for additional permitting requirements from other regulatory

agencies such as the Army Corps of Engineers, California Department of Fish and Game, Regional Water Quality Control Board and the US Fish and Wildlife Service.

#### 4.8 Water Quality

Issue 1: Would the proposed project result in an increase in pollutant discharges, including downstream sedimentation to receiving waters during or after construction?

Water quality is affected by sedimentation caused by erosion, by runoff carrying contaminants, and by direct discharge of pollutants (point-source pollution). As land is developed, the impervious surfaces send an increased volume of runoff containing oils, heavy metals, pesticides, fertilizers, and other contaminants (non-point source pollution) into adjacent watersheds. Degradation of water quality could impact human health as well as wildlife systems. Sedimentation can cause impediments to stream flow. In addition, oxygen availability is affected by sedimentation, which can significantly influence aquatic and riparian habitats. Therefore, the MEIR should discuss how the plan update could affect water quality within the project area and downstream.

In addition, compliance with the City's Storm Water Standards should be addressed in the MEIR. A Master Water Quality Technical Report consistent with the City's Storm Water Standards (adopted December 2002) should be prepared for the MEIR. The report should include examples of potential BMPs and outline programs that can be used during and post-construction. The findings in this report should be reflected within this section of the MEIR.

The proposed project could have significant short-term impacts to water quality by introducing sediment into water bodies during construction activities. The proposed project should identify the anticipated location for any loading, staging or storage areas. The project may be required to implement a Storm Water Pollution Prevent Plan (SWPPP) through obtaining a National Pollution Discharge Elimination System (NPDES) Permit from the State Water Resource Control Board. Specific permanent sedimentation and pollution control measures should be discussed in the EIR. The incorporation of pre and post construction Best Management Practices (BMPs) should be addressed in the EIR.

#### 4.9 Geotechnical Conditions

Issue 1: Would the proposed project result in any increase in wind or water erosion of soils either on or off the site?

Issue 2: Would the proposed project expose people or property to geologic hazards such as earthquakes, landslides, mudslides, liquefaction, ground failure, or similar hazards?

Describe how construction of the pipeline would proceed. Provide maximum areas of disturbance and standard erosion control practices which would minimize erosion during construction.

#### 4.10 Hazardous Materials

- Issue 1: Would the proposed project expose people or property to health hazards, including fire?
- Issue 2: Would the proposed project create a future risk of an explosion or the release of hazardous substances (including, but not limited to gas, oil, pesticides, chemicals, or radiation)? Would the proposed project expose people or the environment to a significant hazard through the routine transport, use, or disposal of hazardous materials?
- Issue 3: Would the proposed project be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, create a significant hazard to the public or environment?

Given that industrial uses have occurred on Otay Mesa, the EIR should address the potential for hazardous materials and the expected nature of these materials that could be encountered along the proposed trunk sewer alignment. As part of the environmental review process, steps are needed to disclose and address the safe removal, disposal, and/or remediation of hazardous materials. There are Federal and State requirements that are mandated to be incorporated into a project that may have these issues. The proposed project should conduct a Phase I Environmental Site Assessment and summarize the conclusions or recommendation of the report into the EIR discussion. The Phase I assessment should be prepared in general accordance with the American Society for Testing and Materials (ASTM) standard for the regulatory database review for Phase I Site Assessments.

#### 4.11 Visual Quality/Aesthetics

- Issue 1: Would the proposed project result in the obstruction of any vista or scenic view from a public viewing area?
- Issue 2: Would the proposed project result in the creation of a negative aesthetic site or project?
- Issue 3: Would the proposed project result in a substantial change to natural topography or ground surface relief features?

Provide an evaluation of the visual/aesthetic impacts due to the proposed project and provide grading quantities associated with excavation for pipeline trenches. Describe all proposed structures, if applicable in terms of their building mass, bulk, height, and architecture. If significant impacts to Visual Quality/Aesthetics are identified, mitigation measures and/or project alternatives which would reduce significant impacts to below a level of significance should be provided.

#### **4.12 Energy Conservation**

Issue 1: Would the proposed project result in the use of excessive amounts of electricity or fuel and other forms of energy (e.g., natural gas, oil)?

Describe the energy needs of the various pump stations. Include increases in energy needs as additional phases are constructed.

#### **4.13 Mitigation, Monitoring, and Reporting Program (MMRP)**

Mitigation measures should be clearly identified and discussed and their effectiveness assessed in each issue section of the EIR. In addition, a monitoring and reporting program for each mitigation measure must be included. At a minimum, this program should identify: 1) the department responsible for the monitoring; 2) the monitoring and reporting schedule; 3) the completion requirements. The separate mitigation, monitoring and reporting program (MMRP) should also be contained (verbatim) in a separate section, which will be attached to the EIR.

#### **4.14 Issues Found Not to Be Significant**

The City has concluded that the following issues are not potentially significant and do not require analysis in the EIR: Agricultural Resources/Natural Resources/Mineral Resources, Human Health/Public Safety, Population and Housing, Public Services, Transportation/Circulation, and Water Conservation. However, if these or other potentially significant issues arise during the detailed environmental investigation of the project, consultation with this division is recommended to determine if these other issues areas need to be addressed in the EIR. Additionally, as supplementary information is submitted, the EIR may need to be expanded to include additional issue areas.

### **V. SIGNIFICANT IRREVERSIBLE ENVIRONMENTAL CHANGES**

In accordance with CEQA Section 15126.2(c), the EIR must include a discussion on any significant irreversible environmental changes which would be caused by the proposed action should it be implemented. The EIR should also address the use of nonrenewable resources during the construction and life of the Project. See CEQA Section 15127 for limitation on the requirements for this discussion.

### **VI. GROWTH INDUCEMENT**

The EIR should address the potential for growth inducement through implementation of the community plan update. The EIR should discuss the ways in which the proposed project could foster economic or population growth, or construction of additional housing either directly or indirectly. Accelerated growth could further strain existing community facilities or encourage activities that could significantly affect the environment. This section need not conclude that growth-inducing impacts, if any, are significant unless the project would induce substantial growth or concentration of population.

## **VII. CUMULATIVE EFFECTS**

When the proposed project is considered with other past, present, and reasonably foreseeable projects in the City of San Diego (Otay Mesa Community Plan Update, development proposals, San Ysidro Community Planning Area, etc.), the City of Chula Vista (e.g., General Plan Update and Otay Ranch Village 2) and County of San Diego (e.g., East Mesa Specific Plan) implementation could result in significant environmental changes which are individually limited but cumulatively considerable. Therefore, in accordance with Section 15130 of the CEQA Guidelines, potential cumulative impacts should be discussed in a separate section of the EIR.

Issue 1: What are the cumulative impacts of the proposed project in conjunction with other approved or proposed projects within the subregional area (i.e., City of Chula Vista and County of San Diego)

The EIR should summarize the overall short-term and long-term impacts the proposed project could have in relation to other planned and proposed projects in the area defined above.

## **VIII. ALTERNATIVES**

The EIR should place major attention on reasonable alternatives which avoid or mitigate the project's significant environmental impacts. These alternatives should be identified and discussed in detail, and should address all significant impacts. The alternative's analysis should be conducted in sufficient graphic and narrative detail to clearly assess the relative level of impacts and feasibility. Preceding the detailed alternatives analysis should be a section entitled "Alternatives Considered but Rejected." This section should include a discussion of preliminary alternatives that were considered but not analyzed in detail. The reason for rejection should be explained.

At a minimum the following alternatives should be considered.

### **A. No Project**

Analyze this alternative as though no sewer infrastructure or upgrades would be implemented.

### **B. Alternative Alignments For Otay Mesa Trunk Sewer**

The EIR should analyze and evaluate the comparative merits for the following sewer alignments which would reduce or eliminate significant impacts to Utilities, Noise, Air Quality, Geotechnical Conditions, Hazardous Materials, Visual Quality/Aesthetics, and Energy. The EIR should also discuss any resultant impacts to other impacts areas within the EIR not identified for the currently proposed project.

1. Canyon Ridge Alternative Alignment
2. Deep Sewer Alternative Alignment

If, through the environmental analysis process, other alternatives become apparent which would mitigate potential impacts, these options should be discussed with EAS staff prior to including them in the EIR. It is important to emphasize that the alternatives section of the EIR should constitute a major part of the report.

#### IV. MANDATORY DISCUSSION AREAS

In accordance with CEQA Section 15127, the EIR must include a discussion of the following issue areas:

- A. Any significant environmental effects that cannot be avoided if the proposed project is implemented.
- B. Any significant irreversible environmental changes that would result from the implementation of the proposed project.
- C. Growth-inducing impacts of the proposed project.

This section would also include a brief discussion of why the issue areas of Agricultural Resources/Natural Resources/Mineral Resources, Human Health/Public Safety, Population and Housing, Public Services, Transportation/Circulation, and Water Conservation were not considered to be potentially significant.

Until a screen check EIR is submitted which addresses all of the above issues, the processing timeline for this project will be held in abeyance. Contact Myra Hermann, Senior Planner, at (619) 446-5372, if you have any questions.

*for Myra Hermann*  
Chris Zirkle, Assistant Deputy Director  
Development Services Department

Enclosures: City of San Diego Technical Report and Environmental Impact Report  
Guidelines  
City of San Diego Biological Review References.  
City of San Diego Historical Resources Guidelines.  
City of San Diego Acoustical Report Guidelines  
City of San Diego Paleontological Resources Guidelines

NOTICE OF PREPARATION PUBLIC REVIEW DISTRIBUTION:

U.S. Government

U.S. Fish & Wildlife Service (23)  
Army Corps of Engineers (26)  
Border Patrol (22)  
Environmental Protection Agency (EPA) (19)  
General Services Administration (3)  
Department of Agriculture - Natural Resources Conservation Services (25)  
Department of Transportation, region 9 (2)  
Jennifer Weilbacher, Naval Facilities Engineering Command, Southwest Division (8a)  
Department of Homeland Security -Adele Fasano

State of California

State Clearinghouse (46A)  
Department of Fish & Game (32A)  
Regional Water Quality Control, Region 9 (44)  
Caltrans Planning, District 11 (31)  
Resources Agency (43)  
Native American Heritage Commission (56)  
Office of Historic Preservation (41)  
California Air Resources Board (49)  
Caltrans, Division of Aeronautics (51)  
Integrated Waste Management Board (35)  
CAL EPA (37A)  
Highway Patrol (58)  
Department of Parks & Recreation, Tijuana River National Estuary (229)

County of San Diego

Agriculture Department (64)  
Air Pollution Control District (65)  
Water Authority (73)  
Hazardous Materials Management Division (75)  
Land & Water Division (76)  
Planning and Land Use (68)

City of San Diego

Tom Story, Mayor's Office (91)  
Councilmember Inzunza, District 8  
Development Services Department  
Planning Department  
Economic Development Department  
Office of Binational Affairs - Elsa Saxod (MS 615T)  
Office of the City Attorney - Mary Jo Lanzafame (MS-59)  
Fire and Life Safety (79)  
Bob Ferrier (80)  
Library Department - Gov't Documents (81)  
Police Research & Analysis (84)  
Real Estate Assets Department (85)  
Engineering & Capitol Projects Department (86)  
Historical Resources Board (87)  
Park and Recreation - Open Space Division (89)  
General Services Department (92)  
Environmental Services Department (93A)  
Water Department

City of San Diego (Continued)

Metropolitan Wastewater Department – Allan Navarro (MS 901)  
Transportation Department – Larry Van Wey (MS 609)  
Government Relations – Andrew Poat (MS 51M)  
Wetlands Advisory Board (171)  
San Ysidro Community Service Center (435)

Others

City of Chula Vista (94)  
City of Imperial Beach (98)  
SANDAG (108)  
San Diego Regional Airport Authority (110)  
San Diego Transit (112)  
San Diego Gas & Electric (114)  
MTDB (115)  
Chula Vista School District (118)  
San Diego Unified School District (125)  
San Ysidro School District (127)  
South Bay Unified School District (130)  
Sweetwater Union High School District (131)  
San Diego City Schools (132)  
San Diego Community College District (133)  
Union-Tribune City Desk (140)  
CALPIRG (154)  
San Diego Chamber of Commerce (157)  
Building Industry Federation (158)  
CONVIS (159)  
Sierra Club, San Diego Chapter (165/165A)  
San Diego Natural History Museum (166)  
San Diego Audubon Society (167/167A)  
Airport Relocation Committee (168)  
Environmental Health Coalition (169)  
California Native Plant Society (170)  
San Diego Regulatory Alert (174)  
Ellen Bauder (175)  
Center for Biological Diversity (176)  
Citizen's Coordinate for Century III (179)  
Citizen's Revolting Against Pollution (180)  
EC Allison Research Center (181)  
Endangered Habitats League (182)  
Vernal Pool Society (185)  
League of Women Voters (192)  
David Potter – CPC (194)  
Dr. Jerry Schaefer (209)  
South Coastal Information Center (210)  
San Diego Historical Society (211)  
San Diego Archaeological Center (212)  
Save Our Heritage Organisation (214)  
Ron Christman (215)  
Louie Guassac (215A)  
San Diego County Archaeological Society (218)  
Kumeyaay Cultural Repatriation Committee (225)

Others (Continued)

Native American Distribution - Public Notice Only (225A-R)  
Barona Group of Capitan Grande Band of Mission Indians  
Campo Band of Mission Indians  
Cuyapaipe Band of Mission Indians  
Inaja and Cosmit Band of Mission Indians  
Jamul Band of Mission Indians  
La Posta Band of Mission Indians  
Manzanita Band of Mission Indians  
Sycuan Band of Mission Indians  
Viejas Group of Capitan Grande Band of Mission Indians  
Mesa Grande Band of Mission Indians  
San Pasqual Band of Mission Indians  
Santa Ysabel Band of Diegueño Indians  
La Jolla Band of Mission Indians  
Pala Band of Mission Indians  
Pauma Band of Mission Indians  
Pechanga Band of Mission Indians  
Rincon Band of Luiseno Mission Indians  
Los Coyotes Band of Mission Indians  
Otay Water District - Robert Scholl  
BNB Environmental Consulting (227)  
Otay Mesa Nestor Planning Committee (228)  
Otay Mesa Chamber of Commerce (231A)  
Michael A. Vogt (232)  
Janay Kruger (233)  
Otay Mesa Planning Committee (235)  
San Ysidro Planning and Development Group (433)  
United Border Community Town Council (434)  
Congressman Bob Filner  
Genevieve Blalock  
Pepper Coffey  
Dan Kittredge  
Eric Rivera  
Ruth Schneider  
Bertha Gonzalez  
Alejandra Mier y Teran  
Mike Reynolds  
Jimmy Ayala  
Joe Street  
Tom Tomlinson  
Ron Nelson  
Mel Ingalls  
Emil Wohl  
Robin Casey  
Rob Hixon, CB Richard Ellis  
Judd Halenza  
Mike Murphy  
Dave Bieber  
Dave Nielsen, MNA Consulting

Others (Continued)

John Ponder, Sheppard Mullin

Lee Sherwood, RECON

Danielle Putnam, RBF Consulting

Gregory Shields, ProjectDesign Consultants

Rich Miller, ProjectDesign Consultants

Dave Gatzke, McMillan Communities

Dan Feldman, Sunroad

Sondra Netzer, Centex Homes

James Greco, T&B Planning

Lance Waite, Integral Partners, LLC

Rikki McClintock Alberson, RMA Consultants



Arnold  
Schwarzenegger  
Governor

STATE OF CALIFORNIA  
Governor's Office of Planning and Research  
State Clearinghouse and Planning Unit



Jan Boel  
Acting Director

Notice of Preparation

July 30, 2004

To: Reviewing Agencies

Re: Otay Mesa Trunk Sewer  
SCH# 2004071167

Attached for your review and comment is the Notice of Preparation (NOP) for the Otay Mesa Trunk Sewer draft Environmental Impact Report (EIR).

Responsible agencies must transmit their comments on the scope and content of the NOP, focusing on specific information related to their own statutory responsibility, within 30 days of receipt of the NOP from the Lead Agency. This is a courtesy notice provided by the State Clearinghouse with a reminder for you to comment in a timely manner. We encourage other agencies to also respond to this notice and express their concerns early in the environmental review process.

Please direct your comments to:

Myra Herrmann  
City of San Diego  
1222 First Avenue, MS-501  
San Diego, CA 92101

with a copy to the State Clearinghouse in the Office of Planning and Research. Please refer to the SCH number noted above in all correspondence concerning this project.

If you have any questions about the environmental document review process, please call the State Clearinghouse at (916) 445-0613.

Sincerely,

  
for Scott Morgan  
Project Analyst, State Clearinghouse

Attachments  
cc: Lead Agency



Terry Tamminen  
Agency Secretary  
Cal/EPA



## Department of Toxic Substances Control

5796 Corporate Avenue  
Cypress, California 90630



Arnold Schwarzenegger  
Governor

August 24, 2004

Ms. Myra Herrmann  
Senior Environmental Planner  
City of San Diego Development Services Center  
1222 First Avenue, MS 501  
San Diego, California 92101

### NOTICE OF PREPARATION (NOP) FOR A DRAFT ENVIRONMENTAL IMPACT REPORT (EIR) FOR THE OTAY MESA POWER TRUNK SEWER PROJECT (OMPTS) PROPOSED BY THE CITY OF SAN DIEGO SCH No. 2004071167

Dear Ms. Herrmann:

The Department of Toxic Substances Control (DTSC) has received your NOP of a draft EIR document for the development of approximately 14.7 miles of new and/or replacement/upgrade sewer line in the Otay Mesa area. "The proposed project is to construct the Phase 2 and 3 facilities described in the 2004 Otay Mesa Sewer Master Plan and Alignment Study. Phase 2 would also include upgrades existing temporary pump station 23T and the construction of new permanent pump station A1. The Phase 2 facilities are divided into sub-phases to accommodate sewer flows as development of Otay Mesa proceeds. The Phase 3 improvements include additional facilities that may be needed to serve projected ultimate build out of Otay Mesa, including the upgrade of pump station A1..." Based on the review of the currently submitted document, DTSC has the following comments, which you state will be addressed in the EIR.

1. The EIR must identify all current and historic uses of the site that has resulted in a release of hazardous wastes/substances. The EIR should summarize in a table any sampling results for the soil, air and groundwater. Since industrial uses have occurred on Otay Mesa, the EIR would address the potential and nature of hazardous wastes and materials along the proposed trunk sewer alignment.
2. The EIR must specifically identify any known or potentially contaminated sites within the proposed Project area. For all identified sites, the EIR should evaluate and identify which conditions at the site pose a threat to human health or the environment. A Phase I Environmental Site Assessment may be sufficient to identify these sites. Following are the databases of some of the regulatory agencies:

- National Priorities List (NPL): A list maintained by the United States Environmental Protection Agency (U.S.EPA).
  - Site Mitigation Program Property Database (formerly CalSites): A Database primarily used by the California Department of Toxic Substances Control.
  - Resource Conservation and Recovery Information System (RCRIS): A database of RCRA facilities that is maintained by U.S. EPA.
  - Comprehensive Environmental Response Compensation and Liability Information System (CERCLIS): A database of CERCLA sites that is maintained by U.S.EPA.
  - Solid Waste Information System (SWIS): A database provided by the California Integrated Waste Management Board consists of both open as well as closed and inactive solid waste disposal facilities and transfer stations.
  - Leaking Underground Storage Tanks (LUST) / Spills, Leaks, Investigations and Cleanups (SLIC): A list that is maintained by Regional Water Quality Control Boards.
  - Local County and City maintain lists for hazardous substances cleanup sites and leaking underground storage tanks.
  - The United States Army Corps of Engineers, 911 Wilshire Boulevard, Los Angeles, California, 90017; (213) 452-3908; maintains a list of Formerly Used Defense Sites (FUDS).
3. The EIR should identify the mechanism to initiate any required investigation and/or remediation for any site that may be contaminated, and the government agency to provide appropriate regulatory oversight. If hazardous materials/wastes were stored at the site, an environmental assessment should be conducted to determine if a release has occurred. If so, further studies should be carried out to delineate the nature and extent of the contamination, and the potential threat to public health and/or the environment should be evaluated. It may be necessary to determine if an expedited response action is required to reduce existing or potential threats to public health or the environment. If no immediate threat exists, the final remedy should be implemented in compliance with state regulations and policies.

4. All environmental investigation and/or remediation should be conducted under a Workplan approved by a regulatory agency that has jurisdiction to oversee hazardous waste and hazardous substance. Previously submitted assessment reports, and sampling results for the site should be summarized in the EIR.
5. If the subject property was used for agriculture, onsite soils could contain pesticide residue. If the site was used for dairy and cattle industry operations, the soil could contain related dairy, animal, or hazardous waste. If so, the site may have contributed to soil and groundwater contamination and proper investigation and remedial actions should be conducted at the site prior to any construction.
6. If any property adjacent to the project site is contaminated with hazardous chemicals, and if the proposed project is within 2,000 feet from a contaminated site, then the proposed development may fall within the "Border Zone of a Contaminated Property." Appropriate precautions should be taken prior to construction if the proposed project is within a "Border Zone Property."
7. If any building structures, asphalt or concrete-paved surface areas or transportation structures are planned to be demolished, an investigation should be conducted for the presence of lead-based paints and asbestos containing materials (ACMs). If lead-based paints or ACMs are identified, proper precautions should be taken during demolition activities. Additionally, the contaminants should be remediated in compliance with California environmental regulations and policies.
8. The project construction may require soil excavation and soil filling in certain areas. Appropriate sampling is required prior to disposal of the excavated soil. If the soil is contaminated, properly dispose of it rather than placing it in another location. Land Disposal Restrictions (LDRs) may be applicable to these soils. Also, if the project proposes to import soil to backfill the areas excavated, proper sampling should be conducted to make sure that the imported soil is free of contamination.
9. Human health and the environment of sensitive receptors should be protected during the construction or demolition activities. A study of the site should be conducted to determine whether there are, have been, or will be, any releases of hazardous materials that may pose a risk to human health or the environment.
10. If it is determined that hazardous wastes are, or will be, generated by the proposed operations, the wastes must be managed in accordance with the California Hazardous Waste Control Law (California Health and Safety Code, Division 20, chapter 6.5) and the Hazardous Waste Control Regulations (California Code of Regulations, Title 22, Division 4.5).

11. If it is determined that hazardous wastes are or will be generated and the wastes are (a) stored in tanks or containers for more than ninety days, (b) treated onsite, or (c) disposed of onsite, then a permit from DTSC may be required. If so, the facility should contact DTSC at (818) 551-2171 to initiate pre application discussions and determine the permitting process applicable to the facility.
12. If it is determined that hazardous wastes will be generated, the facility should obtain a United States Environmental Protection Agency Identification Number by contacting (800) 618-6942.
13. Certain hazardous waste treatment processes may require authorization from the local Certified Unified Program Agency (CUPA). Information about the requirement for authorization can be obtained by contacting your local CUPA.
14. If the project plans include discharging waste water to a storm drain, you may be required to obtain a waste water discharge permit from the overseeing Regional Water Quality Control Board.
15. If during construction/demolition of the project, soil or groundwater contamination is suspected, construction/demolition in the area should cease and appropriate health and safety procedures should be implemented. If it is determined that contaminated soil or groundwater exist, the EIR should identify how any required investigation and/or remediation will be conducted, and the government agency to provide appropriate regulatory oversight.
16. The addresses, locations, cross streets and street boundaries should be clearly stated and easily identified if possible.

DTSC provides guidance for cleanup oversight, through the Voluntary Cleanup Program (VCP). For additional information on the VCP, please visit DTSC's web site at [www.dtsc.ca.gov](http://www.dtsc.ca.gov).

If you have any questions regarding this letter, please contact Ms. Teresa Hom, Project Manager, at (714) 484-5477 and email at [thom@dtsc.ca.gov](mailto:thom@dtsc.ca.gov).

Sincerely,



Greg Holmes

Unit Chief

Southern California Cleanup Operations Branch - Cypress Office

cc: See next page

Ms. Myra Herrmann  
August 24, 2004  
Page 5

cc: Governor's Office of Planning and Research  
State Clearinghouse  
P.O. Box 3044  
Sacramento, California 95812-3044

Mr. Guenther W. Moskat, Chief  
Planning and Environmental Analysis Section  
CEQA Tracking Center  
Department of Toxic Substances Control  
P.O. Box 806  
Sacramento, California 95812-0806

## NATIVE AMERICAN HERITAGE COMMISSION

915 CAPITOL MALL, ROOM 364  
SACRAMENTO, CA 95814  
(916) 653-4082  
(916) 657-5390 - Fax



August 24, 2004

Ms. Myra Hermann  
City of San Diego  
1222 First Ave., MS-501  
San Diego, CA 92101

Re: Otay Mesa Trunk Sewer DEIR  
SCH# 2004071167

Dear Ms. Hermann:

Thank you for the opportunity to comment on the above-referenced Negative Declaration. To adequately assess the specific related project impacts on cultural resources, the Commission recommends the following actions be taken:

- Contact the appropriate California Historic Resources Information Center for a record search. The record search will determine:
  - If a part or all of the area of project effect (APE) has been previously surveyed for cultural resources.
  - If any known cultural resources have already been recorded on or adjacent to the APE.
  - If the probability is low, moderate, or high that cultural resources are located in the APE.
  - If a survey is required to determine whether previously unrecorded cultural resources are present.
- If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
  - The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum, and not be made available for public disclosure.
  - The final written report should be submitted within 3 months after work has been completed to the appropriate regional archaeological information center.
- Contact the Native American Heritage Commission for a Sacred Lands File search of the project area and information on tribal contacts in the project vicinity who may have additional cultural resource information.
  - Please provide U.S.G.S. location information for the project site, including Quadrangle, Township, Section, and Range.
  - We recommend that you contact all tribes listed on the contact list to avoid the unanticipated discovery of sensitive Native American resources after the project has begun.
- Lack of surface evidence of archeological resources does not preclude their subsurface existence.
  - Lead agencies should include in their mitigation plan provisions for the identification and evaluation of accidentally discovered archeological resources, per California Environmental Quality Act (CEQA) §15064.5 (f). In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American, with knowledge in cultural resources, should monitor all ground-disturbing activities.
  - Lead agencies should include in their mitigation plan provisions for the disposition of recovered artifacts, in consultation with culturally affiliated Native Americans.

Lead agencies should include provisions for discovery of Native American human remains in their mitigation plan. Health and Safety Code §7050.5, CEQA §15064.5 (e), and Public Resources Code §5097.98 mandate the process to be followed in the event of an accidental discovery of any human remains in a location other than a dedicated cemetery.

Sincerely,

A handwritten signature in cursive script, appearing to read "Carol Gaubatz".

Carol Gaubatz  
Program Analyst  
(916) 653-6251

CC: State Clearinghouse



U.S. Fish and Wildlife Service  
Carlsbad Fish and Wildlife Office  
6010 Hidden Valley Road  
Carlsbad, California 92009  
(760) 431-9440  
FAX (760) 431-5902 + 9618



California Dept. of Fish and Game  
South Coast Regional Office  
4949 Viewridge Avenue  
San Diego, California 92123  
(858) 467-4201  
FAX (858) 467-4299

In Reply Refer To:  
FWS-SDG-4179.1

Mr. Chris Zirkle  
City of San Diego  
Development Services Department  
Land Development Review Division  
1222 First Avenue, Mail Station 501  
San Diego, California 92101

August 27, 2004

Attn: Ms. Myra Herrmann

Re: Comments on the Notice of Preparation of a Draft Environmental Impact Report for the Otay Mesa Trunk Sewer, City of San Diego, San Diego County, California

Dear Mr. Zirkle:

The California Department of Fish and Game (Department) and the U.S. Fish and Wildlife Service), collectively the "Wildlife Agencies," have reviewed the above-referenced Notice of Preparation (NOP) of a Draft Environmental Impact Report (DEIR) for the Otay Mesa Trunk Sewer Project No. 40246, San Diego County, California. The project proposes the construction of approximately 14.7 miles of new and/or replacement/upgrade sewer line in the Otay Mesa area. The project includes construction of Phase 2 and 3 facilities as described in the 2004 Otay Mesa Sewer Master Plan and Alignment Study. Phase 2 includes upgrades to the existing temporary pump station 23T and construction of a new permanent pump station A1 with capacity up to 12 million gallons per day (MGD). Phase 3 includes construction of additional facilities that may be needed to serve the projected ultimate build out of Otay Mesa, including the upgrade of pump station A1 to a maximum capacity of 34 MGD. Timing of implementation of these phases will be reassessed based on actual growth over the next 20 years.

The Wildlife Agencies concur with statements in the NOP that the project could result in significant impacts to the environment. We are especially concerned about potential impacts to (1) vernal pools, their associated watersheds, and federally and state-listed vernal pool species; (2) other wetlands and riparian habitats; (3) the Multiple Habitat Planning Area (MHPA) of the City's Multiple Species Conservation Program (MSCP); and (4) wildlife corridors. As such, we recommend the sewer facilities be located in the footprint of anticipated development and outside of areas with sensitive biological resources to be preserved, including the MHPA. To assist us in our review of the DEIR, assist the City in compliance with pertinent Federal and state statutes

TAKE PRIDE<sup>®</sup>  
IN AMERICA 

and laws, and ensure consistency with the MSCP, we request that the DEIR contain the following information:

1. A complete discussion of the purpose and need for the project and each of the project alternatives.
2. A complete description of the proposed project, including all practicable alternatives that have been considered to reduce project impacts to sensitive habitats and biological resources, including the MHPA.
3. A description of the consistency of the project with the goals of the MSCP. Issue areas in the DEIR that may be influenced by the MSCP include "Land Use," "Landform Alteration/Visual Quality," "Traffic/Circulation," "Biological Resources," "Drainage/Urban Runoff/Water Quality," "Noise," and "Cumulative Effects." Refer to the MSCP documentation for guidance on land use adjacency guidelines and compatible uses within the MHPA.
4. A biological technical report that includes survey methods (including survey personnel, dates, times, and climate conditions), survey results, impact analysis, and proposed mitigation. The report should describe the biological resources associated with each habitat type. These descriptions should include both qualitative and quantitative assessments of the resources present on the proposed subject property and alternative sites, and include complete species lists for all biological resources on site. At a minimum, the following should be included:
  - a. A list of Federally proposed listed or candidate species, state listed and candidate species, and locally sensitive species that occur on, or in habitat contiguous with, the subject property including, but not limited to, narrow endemic species that are on or near the subject property. A detailed discussion of these species, including information pertaining to their local status and distribution, should also be included.
  - b. Specific acreage and description of the types of riparian, wetland, non-wetland waters of the U.S., vernal pools and their watersheds, coastal sage scrub, and other sensitive habitats that may be affected by the proposed project or project alternatives. Maps and tables should be included to summarize such information.
  - c. Fairy shrimp surveys should be conducted in compliance with Service protocols and include mapping the surface area of each vernal pool basin and its corresponding watershed.
  - d. A map showing potential wildlife corridors through and/or adjacent to the subject property.
  - e. Early and late spring plant surveys of sensitive spring blooming annuals should be conducted. Results of surveys should include a section which discusses the

rationale for why species with a high potential for occurrence may not have been detected.

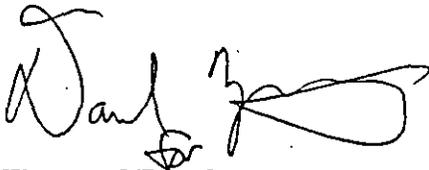
- f. Figures that depict both the development footprint, updated biological data, and the relationship of the subject property to the MHPA both on and off site.
- g. An assessment of direct, indirect, and cumulative project impacts to fish and wildlife species and associated habitats. All facets of the project (e.g., construction, implementation, operation) should be included in this assessment. We are particularly interested in any potential impacts to the MHPA, wildlife corridors, vernal pools and their watersheds, and narrow endemic species. This assessment should also include the following:
  - i. A complete hydrological analysis for this project to evaluate potential changes to hydrology, and how those changes may affect riparian areas, wetlands, vernal pools and their watersheds, and the MHPA.
  - ii. Methods to prevent soil erosion and siltation of habitats on and off site.
  - iii. Methods to be employed to prevent discharge and disposal of toxic and/or caustic substances, including oil and gasoline, from the proposed development.
  - iv. A thorough analysis of noise and light impacts on wildlife, including avian species, and measures to be taken to mitigate any adverse impacts resulting from increased noise and light levels.
  - v. An analysis of how project-induced impacts may induce fragmentation of open space, isolate wildlife and native vegetation communities, and affect wildlife movement at a local and regional scale.
- h. Specific mitigation plans to fully offset project related impacts, including proposals for mitigating the cumulative impacts of direct and indirect habitat loss, degradation, or modification.
  - i. Project impacts should be mitigated through the preservation, creation, restoration, and/or enhancement of affected habitat types consistent with MSCP guidelines.
  - ii. Mitigation plans, if proposed, should be prepared by persons with specific expertise on southern California ecosystems and native plant revegetation techniques. Each plan should include, at a minimum: (a) the location of the mitigation site; (b) the plant species to be used; (c) a schematic layout depicting the mitigation area; (d) time of year that planting will occur; (e) a description of the irrigation methodology to be employed; (f) measures to control exotic vegetation on site; (g) a detailed monitoring program which includes provisions for replanting areas where planted materials

have not survived; and (h) success criteria and identification of the agency that will guarantee successful creation of the mitigation habitat and provide for the conservation of the restoration site in perpetuity.

- iii. Identify measures to be taken to perpetually protect habitat values of preserved and/or mitigation areas. Issues that should be addressed include: restrictions on vehicle, equestrian, and people access; proposed land dedications; monitoring and management programs; control of illegal dumping; restrictions on lighting near mitigation areas; and consistency with the MHPA land use adjacency guidelines, etc.
- iv. Mitigation for impacts on wildlife movement should include consideration of the installation of bridges of adequate span to allow for wildlife movement beneath them, directional fencing long enough to prevent end runs, construction of adequately sized new culverts where need is indicated for wildlife movement and bridges are infeasible, installation of structures (e.g., berms, sound walls) to attenuate noise levels, and light (e.g., car and street lights) attenuation measures.

The Wildlife Agencies appreciate the opportunity to comment on the NOP. We are available to work with the City in designing a project alternative that minimizes impacts to biological resources and the MHPA. Please contact Carolyn Lieberman of the Service at (760) 431-9440 extension 240, or David Mayer of the Department at (858) 467-4230 if you have any questions or comments concerning this letter.

Sincerely,



Therese O'Rourke  
Assistant Field Supervisor  
U.S. Fish and Wildlife Service



Donald Chadwick  
Senior Environmental Scientist  
California Department of Fish and Game

cc: San Diego Regional Water Quality Control Board  
State Clearinghouse  
U.S. Army Corps of Engineers

## DEPARTMENT OF TRANSPORTATION

District 11 · 2829 Juan Street  
P. O. BOX 85406, M.S. 50  
San Diego, CA 92110-2799  
PHONE (619) 688-6954  
FAX (619) 688-4299



*Flex your power!  
Be energy efficient!*

August 30, 2004

11-SD-905 (+ 5/805)

PM var.

Ms. Myra Hermann  
City of San Diego Development Services Dept.  
1222 First Ave., MS-501  
San Diego, CA 92101-4155

RE: Otay Mesa Trunk Sewer (SCH 2004071167)

To Ms. Hermann:

The California Department of Transportation, (Department) appreciates the opportunity to review the Otay Mesa Trunk Sewer project, which crosses Interstates 5 and 805 (I-5, I-805) as well as State Route 905 (SR-905). We have the following comments.

This proposed project, when combined with cumulative impacts of other existing and proposed developments in the Otay Mesa area, will likely create significant traffic, further contributing to existing and forecasted congestion on State facilities. A traffic impact study is necessary to determine this proposed project's near-term and long-term impacts to the State facilities – existing and proposed – and to propose appropriate mitigation measures. The study should be prepared in accordance with the *Caltrans Guide for the Preparation of Traffic Impact Studies*, dated January 2001. Minimum contents of the traffic impact study are listed in Appendix "A" of the TIS guide. All State-owned signalized intersections affected by this project should be analyzed using the intersecting lane vehicle (ILV) procedure from the *Caltrans Highway Design Manual*, Topic 406, page 400-21.

The Department requires Level of Service (LOS) "C" or better at State owned facilities, including intersections (see Appendix "C-3" of the TIS guide). If an intersection is currently below LOS "C," any increase in delay from project-generated traffic must be analyzed and mitigated. The LOS for operating State highway facilities is based upon measures of effectiveness (MOE) (see Appendix "C-2" of the TIS guide). If an existing State highway facility is operating at less than this target LOS, the existing MOE should be maintained. The Department supports the concept of "Fair Share Contributions" for future highway projects that may be required to maintain existing Levels of Service.

Any work performed within the Department's Right of Way (R/W) will require an encroachment permit. Improvement plans for construction within State R/W must include: typical cross sections, adequate structural section, traffic handling plans, and signing and striping plans stamped by a professional engineer. Also, for those portions of the project within the Department's R/W, the permit application must be stated in both English and Metric units (Metric first, with English in parentheses). Additional information regarding encroachment permits may be obtained by contacting our Permits Office at (619) 688-6158. Early coordination with the Department is strongly advised for all encroachment permits.

Ms. Myra Hermann  
August 30, 2004  
Page Two

Furthermore, for any work or improvements within the Department's R/W, the project's environmental studies must include such work. The developer is responsible for quantifying the environmental impacts of the improvements (project level analysis) and completing all appropriate mitigation measures for the impacts. The indirect effects of any mitigation within Department R/W must also be addressed. The developer will be responsible for procuring any necessary permits or approvals from the regulatory and resource agencies for the improvements.

**Traffic Operations comments:**

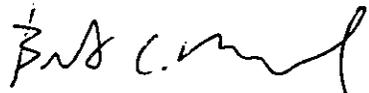
Prior to or concurrent with the encroachment permit application, the applicant will need to provide a detailed, typical cross-section of the proposed trench. Excavations deeper than two feet (2') within Caltrans R/W must be protected with temporary K-railing. Appropriate crash cushions must protect the exposed end of the temporary K-railing which faces oncoming traffic. Refer to the Caltrans Standard Plans July 1999 edition and the Caltrans Standard Plans July 1999 Erratum No. 99-1 edition, sheets T1-T5. All trenches and excavations must be back-filled or steel plated outside the working hours to restore traffic to normal conditions. The general work area must be kept clean and hazard-free during construction. All excavated materials must be well contained.

All work proposed within the State R/W requires lane and shoulder closure charts. Request the charts from the District Traffic Manager, Camille Abou-Fadel, at (858) 467-4328. Refer to the State of California, Department of Transportation, Standard Plans, July 2000, sheets T10-T14. All roadway features (e.g., signs, pavement delineation, roadway surface, etc.) within the State R/W must be protected, maintained in a temporary condition, and/or restored.

Traffic Control Plans are required for a complete review prior to construction. The plans shall be in accordance with the Department's *Manual of Traffic Controls for Construction and Maintenance Work Zones* [1996 (rev. 2) edition]. Traffic restrictions and pedestrian / bicycle detours may also need to be addressed. The Department's District Utilities Branch should also review the proposed project.

Thank you for the opportunity to review this project proposal. If you have specific questions regarding the Traffic Operations comments, please contact Azeb Berhane at (858) 467-2380. If you have specific questions on SR-905, please contact Randy Sanchez at (619) 688-6728. If you have any general questions on the Department's comments, please contact Brent McDonald at (619) 688-6819. The Department looks forward to reviewing the Draft EIR for this project.

Sincerely,



*Mr* MARIO H. ORSO, Chief  
Development Review Branch

Ms. Myra Hermann  
August 30, 2004  
Page Three

cc: BMcDonald	Planning	MS-50
EGojuangco	Traffic Ops	MS-55
RSanchez	PPM 905	MS-27
JReynolds	Environmental	MS-46

**SCOPING MEETING NOTICE  
AND TRANSCRIPT**

---

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

CITY OF SAN DIEGO  
DEVELOPMENT SERVICES DEPARTMENT  
EIR SCOPING MEETING

TRANSCRIPT OF PUBLIC MEETING  
OTAY MESA TRUNK SEWER PROJECT

OTAY MESA COMFORT SUITES  
2351 OTAY CENTER DRIVE  
SAN DIEGO, CALIFORNIA

THURSDAY  
August 12, 2004

**AD HOC REPORTING**  
**110 West C Street, Suite 1209**  
**San Diego, CA 92101**  
**(619) 236-9325**

PARTICIPANTS

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Moderator:

MYRA S. HERRMANN  
Senior Planner  
The City of San Diego  
Land Development Review  
Development Services  
1222 First Avenue, MS 501  
San Diego, California 92101-4155  
(619) 446-5372

Applicant:

ALLAN NAVARRO  
Associate Engineer - Civil  
The City of San Diego  
Engineering and Program Management Division  
Metropolitan Wastewater  
9192 Topaz Way, MS 901  
San Diego, California 92123  
(858) 292-6459

Consultant Team:

KIM B. HOWLETT  
Environmental Services Manager  
and  
CRAIG A. CLOSE, P.E., D.E.E.  
Associate Vice President  
PBS&J  
9275 Sky Park Court, Suite 2000  
San Diego, California 92123  
(858) 874-1810

1 SAN DIEGO, CALIFORNIA THURSDAY, AUGUST 12, 2004 6:43 P.M.

2 ---oOo---

3 MS. HERRMANN: Good evening. My name is Myra  
4 Herrmann. I'm a Senior Planner with the City of San Diego.  
5 Thank you for coming. It's 6:45. We're going to go ahead  
6 and start this meeting. Thank you for coming. Welcome to  
7 the Environmental Impact Report Public Meeting for the Otay  
8 Mesa Trunk Sewer Project. These meetings are referred to as  
9 EIR scoping meetings, and are for the purpose of helping to  
10 define the scope of work for the EIR. This meeting is  
11 required by the California Environmental Quality Act for  
12 projects which may have statewide, regional or area-wide  
13 environmental impacts.

14 The City's Environmental Review staff has  
15 determined that this project meets this threshold, and  
16 thereby scheduled this meeting to gather public input prior  
17 to preparing the project's environmental document. The  
18 City's Environmental Review staff are required by the City's  
19 municipal code to provide the public and decision-makers  
20 with independently prepared environmental documents which  
21 disclose impacts to the physical environment. This  
22 information is used by decision-makers as part of the  
23 deliberative process in approving or denying a project. The  
24 environmental document does not recommend approval or  
25 denial, but is provided as information on the environmental

1 impacts of a project.

2 A few comments about how this meeting will be  
3 conducted. First, we'll have a brief description of the  
4 project, followed by a short presentation by the Applicant,  
5 which, since we have nobody here at this time except the  
6 applicant, we may not do today.

7 This meeting is designed to get as much public  
8 input on areas that need to be addressed in the environ-  
9 mental document as possible in the time allotted for the  
10 meeting. Therefore, each speaker is asked to introduce  
11 themselves, state their address, and complete their comments  
12 within three minutes. In addition to verbal comments, which  
13 are being taped for the record, there are forms available  
14 from City staff upon which you can provide written comments.

15 We will need to have these comment forms submitted to City  
16 staff by the close of the meeting.

17 Please refrain from attempting to conduct a  
18 debate on the merits of the project at this meeting, as that  
19 is not its purpose. Rather, focus your comments on those  
20 environmental impacts you would like thoroughly analyzed in  
21 the project's environmental document.

22 Lastly, I will be acting as the moderator and  
23 time-keeper for the duration of the meeting, and therefore,  
24 would respectfully request that you yield when notified that  
25 your three minutes are up.

1           Thank you for your patience. We'll now begin  
2 with the project description by City staff and a brief  
3 presentation by the project applicant.

4           Okay. The Otay Mesa Trunk Sewer. The project  
5 proposes the construction of approximately 14.7 miles of new  
6 and/or replacement upgraded sewer line in the Otay Mesa  
7 area, phase two and three facilities, as described in the  
8 2004 Otay Mesa Sewer Master Plan and Alignment Study, which  
9 outlined a strategy for the provision of sewer  
10 infrastructure to serve the future build-out of the Otay  
11 Mesa region. The Otay Mesa Trunk Sewer Master Plan was  
12 completed with the construction of the Otay International  
13 Center. Phase two would also include upgrades to existing  
14 temporary pump station 23T and the construction of new  
15 permanent pump station A1, with a capacity up to 12 million  
16 gallons per day.

17           The phase two facilities are divided into sub-  
18 phases to accommodate sewer flows as development of Otay  
19 Mesa proceeds. These sub-phrases may be concurrent or  
20 sequential, depending on the rate of development of the  
21 project area.

22           The phase three improvements include additional  
23 facilities that may be needed to serve projected ultimate  
24 build-out of Otay Mesa, including the upgrade at pump  
25 station A1 to a maximum capacity of 34 MGD.

1           The need for these facilities will be reassessed  
2 based on actual growth over the next 20 years, and would  
3 include the construction and/or expansion of the following  
4 types of sewer infrastructure: sewer pipelines, gravity  
5 enforced mains and manholes, sewer pump stations, diversion  
6 structures, transition structure.

7           The need for the proposed project is largely  
8 based upon future sewer demand in the Otay Mesa area.  
9 Therefore, the project would be constructed in phases so  
10 that the new sewer facilities would be built only when the  
11 actual sewer flows reach designated thresholds that trigger  
12 construction of the next phase. The construction of the  
13 project phases is anticipated to be sequential, although a  
14 few phases could be constructed concurrently, depending on  
15 the rate of development in the project service area.

16           Well, that's the project description. It's  
17 almost 7:00 -- 6:50 -- so I'm going to go ahead and close  
18 this meeting since we don't have any people from the public  
19 here to speak. I want to thank the consultant team and  
20 staff from Metropolitan Wastewater Department for coming to  
21 attend this meeting.

22           We'll close that meeting. Thank you.  
23  
24  
25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

(Proceedings adjourned at 6:48 p.m.)

CERTIFICATE

I certify, under penalty of perjury, that the foregoing is a verbatim transcription prepared from the electronic sound recording produced at the proceedings in the above-entitled matter, and is a true and accurate transcript of said proceedings to the best of my ability and belief.

\_\_\_\_\_  
Michael J. Williamson  
Transcriber

\_\_\_\_\_  
Date

**ATTACHMENT A**  
**Mitigation Monitoring and Reporting Program for**  
**Otay Mesa Trunk Sewer**  
**Project No. 40246**

The California Environmental Quality Act (CEQA), Section 21081.6 (Assembly Bill [AB] 3180) requires that a Mitigation Monitoring and Reporting Program (MMRP) be adopted upon certification of an Environmental Impact Report (EIR) in order to ensure that the mitigation measures are implemented. The following MMRP is designed to ensure compliance with AB 3180 during implementation of mitigation measures, and identifies at a minimum, the entity responsible for monitoring, what is to be monitored, how the monitoring is to be accomplished, the monitoring and reporting schedule and completion requirements. The Mitigation Monitoring and Reporting Program for the Otay Mesa Trunk Sewer Project is under the jurisdiction of the City of San Diego. The following is a description of the Mitigation Monitoring and Reporting Program to be completed for the project.

**Land Use**

To reduce potential significant land use impacts from conflicts with the MSCP Subarea Plan policies for Construction/Maintenance of Utilities and the Land Use Adjacency Guidelines to below a level of significance, the project builder shall implement the following mitigation measures:

1. All staging areas shall be located in existing disturbed or developed areas outside the MHPA and drainage areas. All equipment and/or materials related to construction shall be stored in designated and properly maintained staging areas. The location of the staging areas shall be reviewed and approved by the City Manager. A responsible party (i.e., superintendent, resident engineer) shall be identified to ensure that all construction crews and/or field workers comply with these measures.
2. Prior to the City's first pre-construction meeting, all construction and staging area limits shall be clearly delineated with orange construction fencing and silt fencing or fiber rolls to ensure that construction activity remains within the defined construction limits. A qualified biologist shall inspect the fencing prior to the start of construction and shall monitor activities during construction to avoid unauthorized impacts. The schedule for the biological monitoring visits during construction shall be determined at the pre-construction meeting for each phase of project construction. In addition, an educational brochure shall be developed for distribution to construction and maintenance personnel to minimize the occurrence of unauthorized activities. The qualified biologist shall provide direction to construction personnel regarding the need to avoid impacts adjacent sensitive areas.
3. Prior to the City's final construction inspection of the expansion of Pump Station 23T and the construction and/or expansion of Pump Station A1, all new lighting installed at the pump stations shall be shielded to prevent light spillover to adjacent MHPA areas, in conformance with the City's MSCP Adjacency Guidelines. The shielding shall consist of fixtures that physically direct light away from adjacent MHPA areas.
4. If construction is planned within or adjacent to the MHPA during nighttime hours, lighting shall be directed and/or shielded to prevent light spillover to adjacent MHPA areas, in conformance with the

City's MSCP Adjacency Guidelines. The shielding shall consist of fixtures that physically direct light away from adjacent MHPA areas.

5. During nocturnal operation of any dewatering pumps the construction contractor shall require temporary berms or sound walls, or the relocation of the dewatering pumps outside the 160-foot noise "envelope" of any sensitive receptor.
6. The project contractor shall place all stationary construction equipment so that emitted noise is directed away from identified sensitive receptors.
7. The construction contractor shall locate equipment staging in areas that will create the greatest distance between construction related noise sources and noise sensitive receptors. Construction staging areas shall not be located adjacent to residential land uses.
8. If construction is planned within or adjacent to the MHPA during the breeding season of sensitive avian species, it shall only occur subject to the City's Mitigation, Monitoring, and Reporting Conditions for Potential Impacts to Habitats Occupied by Sensitive Avian Species. Nesting avians are susceptible to disturbance from construction activity. Any construction activity within 500 feet of an active raptor nest, or within 300 feet of a Cooper's hawk nest, shall be considered significant. Five hundred feet has been recognized by biologists and agencies as a conservative distance to use in addressing potential indirect nesting impacts for most raptor species. All phases of construction for the proposed project that are located adjacent to the MHPA shall be required to comply with the mitigation measures Land Use - 8a, 8b, and 8c, described below, to reduce potential indirect construction noise impacts to sensitive bird species to below a level of significance.
- 8a. Pre-construction protocol surveys, conducted by a qualified biologist, shall be required for the following species if any phase of project construction would occur adjacent to the MHPA between the identified species' breeding seasons:
  - March 1 to August 15 (Coastal California gnatcatcher)
  - February 1 to August 31 (Burrowing owl)
  - February 1 to July 30 (Raptors - tall trees)
  - February 15 to August 15 (Cactus Wren)

If it is determined that construction activities should occur during the raptor breeding season, one pre-construction nest survey shall be conducted within 500 feet of the impact area to look for active raptor nests. If no active nests are found, no further mitigation shall be required.

- 8b. If one or more active nests are found, monitoring shall be conducted throughout construction by a qualified biologist to ensure that all construction activities remain at least 500 feet from the active nest, with the exception of Cooper's hawk nest, for which construction activities shall remain 300 feet away from the nest. The biologist shall also determine when the nest becomes inactive and construction can move closer to the nest site. If construction activities are conducted within the MHPA, additional raptor impact avoidance shall occur, as listed below:

Golden Eagle	4,000 feet from nesting, and
Northern Harrier	900 feet from nesting site.

- 8c. Any removal of potential raptor nesting trees or other structures should occur during the non-breeding season (i.e., between August 1 and January 31st).

## Noise

To reduce potentially significant noise impacts from construction and operation of the proposed project to below a level of significance, the project builder shall implement the following mitigation measures:

1. Prior to the operation of Pump Station A1, sound absorption panels shall be installed inside the pump room on the walls and ceiling to reduce interior noise levels.
2. Prior to the operation of Pump Station A1, a final acoustical performance test shall be conducted at the pump station by a qualified acoustician within ninety (90) days after project completion. The test shall verify compliance with the recommended 75 dB Leq property line noise standard. Any violation of standards shall require pump station modification and retesting within ninety (90) days. Standard test protocols as to equipment selected, proper exposure and test duration, calibration, and monitoring parameters shall be used and documented in the final acoustical test report.
3. For any pump station(s) constructed as part of Phase 2C, an acoustical noise analysis shall be prepared by a qualified individual to determine if the proposed pump station(s) would have a significant operational impact on nearby sensitive receptors. If a significant operational noise impact would occur, noise abatement measures shall be implemented to reduce noise to below a level of significance, and/or the pump station shall be relocated to an area where noise impacts to sensitive receptors would be below a level of significance.
4. Along project roadways, including Siempre Viva Road, Cactus Road, Old Otay Mesa Road or Beyer Boulevard, where impulse noise levels at adjacent residences would exceed the 75 dB Leq noise threshold, the construction contractor shall implement one or more of the following measures to reduce noise impacts to impacted residents:
  1. Erect temporary barriers to separate the noise-generating equipment from adjacent residences. The temporary barriers shall be constructed of either 3/4-inch plywood or steel-framed canvas batts.
  2. Limit the total hours per day working near any individual receiver.
  3. Utilize smaller, quieter equipment and limit the use of jackhammers (shielded, if necessary) to break up reinforced concrete only.
  4. Reimburse affected stay-at-home residents to spend a day or two at a recreational amenity away from the job site until the pavement breaking is completed.
5. The construction contractor shall implement the following measures whenever any major impulsive noise source is operating within 280 feet of any project-area classroom.
  1. Perform the activity when school is not in session;
  2. Shield the activity with a solid barrier to break the line-of-sight; and
  3. Perform the activity only during small fractions of any hour.

## **Paleontological Resources**

In order to reduce potentially significant impacts to paleontological resources to below a level of significance, the project builder shall implement the following mitigation measure:

Prior to the City's first pre-construction meeting, or the issuance of a building or grading permit, whichever is applicable, the project builder shall provide a letter of verification to the Assistant Deputy Director (ADD) of Land Development Review (LDR) stating that a qualified paleontologist has been retained to implement the monitoring program. A qualified paleontologist is defined as an individual with a Ph.D. or M.S. degree in paleontology or geology who is a recognized expert in the application of paleontological procedures and techniques such as screen washing of materials and identification of fossil deposits. The following conditions apply to the implementation of mitigation measure Paleontological Resources – 1:

### **I. Prior to Permit Issuance or Bid Opening/Bid Award**

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

1. Prior to permit issuance, or Bid Opening/Bid Award, whichever is applicable, the Assistant Deputy Director (ADD) Environmental designee shall verify that the requirements for Paleontological Monitoring have been noted on the appropriate construction documents.

#### **B. Letters of Qualification have been submitted to ADD**

1. Prior to Bid Award, the applicant shall submit a letter of verification to Mitigation Monitoring Coordination (MMC) identifying the Principal Investigator (PI) for the project and the names of all persons involved in the paleontological monitoring program, as defined in the City of San Diego Paleontology Guidelines.
2. MMC will provide a letter to the applicant confirming the qualifications of the PI and all persons involved in the paleontological monitoring of the project.
3. Prior to the start of work; the applicant shall obtain approval from MMC for any personnel changes associated with the monitoring program.

### **II. Prior to Start of Construction**

#### **A. Verification of Records Search**

1. The PI shall provide verification to MMC that a site specific records search has been completed. Verification includes, but is not limited to a copy of a confirmation letter from San Diego Natural History Museum, other institution or, if the search was in-house, a letter of verification from the PI stating that the search was completed.
2. The letter shall introduce any pertinent information concerning expectations and probabilities of discovery during trenching and/or grading activities.

#### **B. PI Shall Attend Precon Meetings**

1. Prior to beginning any work that requires monitoring, the Applicant shall arrange a Precon Meeting that shall include the PI, Construction Manager (CM) and/or Grading Contractor, Resident Engineer (RE), Building Inspector (BI), if appropriate, and MMC. The qualified paleontologist shall attend any grading/excavation-related Precon Meetings to make comments and/or suggestions concerning the Paleontological Monitoring program with the Construction Manager and/or Grading Contractor.

- a. If the PI is unable to attend the Precon Meeting, the Applicant shall schedule a focused Precon Meeting with MMC, the PI, RE, CM or BI, if appropriate, prior to the start of any work that requires monitoring.
2. Acknowledgement of Responsibility for Curation (CIP or Other Public Projects)

The applicant shall submit a letter to MMC acknowledging their responsibility for the cost of curation associated with all phases of the paleontological monitoring program.
3. Identify Areas to be Monitored
  - a. Prior to the start of any work that requires monitoring, the PI shall submit a Paleontological Monitoring Exhibit (PME) based on the appropriate construction documents (reduced to 11x17) to MMC for approval identifying the areas to be monitored including the delineation of grading/excavation limits.
  - b. The PME shall be based on the results of a site-specific records search as well as information regarding existing known soil conditions (native or formation).
  - c. MMC shall notify the PI that the PME has been approved.
4. When Monitoring Will Occur
  - a. Prior to the start of any work, the PI shall also submit a construction schedule to MMC through the RE indicating when and where monitoring will occur.
  - b. The PI may submit a detailed letter to MMC prior to the start of work or during construction requesting a modification to the monitoring program. This request shall be based on relevant information such as review of final construction documents which indicate conditions such as depth of excavation and/or site graded to bedrock, presence or absence of fossil resources, etc., which may reduce or increase the potential for resources to be present.
5. Approval of PME and Construction Schedule

After approval of the PME by MMC, the PI shall submit to MMC written authorization of the PME and Construction Schedule from the CM.

### **III. During Construction**

- A. Monitor Shall be Present During Grading/Excavation/Trenching
  1. The monitor shall be present full-time during grading/excavation/trenching activities including, but not limited to mainline, laterals, jacking and receiving pits, services and all other appurtenances associated with underground utilities as identified on the PME and as authorized by the CM that could result in impacts to formations with high and/or moderate resource sensitivity at depths of 10 feet or greater and as authorized by the Construction Manager. The Construction Manager is responsible for notifying the RE, PI, and MMC of changes to any construction activities.
  2. The monitor shall document field activity via the Consultant Site Visit Record (CSVSR). The CSVSR's shall be faxed by the CM to the RE the first day of monitoring, the last day of monitoring (notification of monitoring completion), monthly, and in the case of ANY discoveries. The RE shall forward copies to MMC.
  3. The PI may submit a detailed letter to the CM and/or RE for concurrence and forwarding to MMC during construction requesting a modification to the monitoring program when a field condition

such as trenching activities that do not encounter formational soils as previously assumed, and/or when unique/unusual fossils are encountered, which may reduce or increase the potential for resources to be present.

**B. Discovery Notification Process**

1. In the event of a discovery, the Paleontological Monitor shall direct the contractor to temporarily divert trenching activities in the area of discovery and immediately notify the RE or BI, as appropriate.
2. The Monitor shall immediately notify the PI (unless Monitor is the PI) of the discovery.
3. The PI shall immediately notify MMC by phone of the discovery, and shall also submit written documentation to MMC within 24 hours by fax or email with photos of the resource in context, if possible.

**C. Determination of Significance**

1. The PI shall evaluate the significance of the resource.
  - a. The PI shall immediately notify MMC by phone to discuss significance determination and shall also submit a letter to MMC indicating whether additional mitigation is required. The determination of significance for fossil discoveries shall be at the discretion of the PI.
  - b. If the resource is significant, the PI shall submit a Paleontological Recovery Program (PRP) and obtain written approval of the program from MMC, MC and/or RE. PRP and any mitigation must be approved by MMC, RE and/or CM before ground disturbing activities in the area of discovery will be allowed to resume.
    - (1) Note: For Pipeline Trenching Projects Only. The PI shall implement the Discovery Process for Pipeline Trenching projects identified below under "D."
  - c. If resource is not significant (e.g., small pieces of broken common shell fragments or other scattered common fossils) the PI shall notify the RE, or BI, as appropriate, that a non-significant discovery has been made. The Paleontologist shall continue to monitor the area without notification to MMC unless a significant resource is encountered.
  - d. The PI shall submit a letter to MMC indicating that fossil resources will be collected, curated, and documented in the Final Monitoring Report. The letter shall also indicate that no further work is required.
    - (1) Note: For Pipeline Trenching Projects Only. If the fossil discovery is limited in size, both in length and depth, the information value is limited and there are no unique fossil features associated with the discovery area, then the discovery should be considered not significant.
    - (2) Note: for Pipeline Trenching Projects Only. If significance can not be determined, the Final Monitoring Report and Site Record shall identify the discovery as Potentially Significant.

**D. Discovery Process for Significant Resources - Pipeline Trenching Projects**

The following procedure constitutes adequate mitigation of a significant discovery encountered during pipeline trenching activities including but not limited to excavation for jacking pits, receiving pits, laterals, and manholes to reduce impacts to below a level of significance.

1. Procedures for documentation, curation and reporting
  - a. One hundred percent of the fossil resources within the trench alignment and width shall be documented in-situ photographically, drawn in plan view (trench and profiles of side walls), recovered from the trench and photographed after cleaning, then analyzed and curated consistent with Society of Invertebrate Paleontology Standards. The remainder of the deposit within the limits of excavation (trench walls) shall be left intact and so documented.
  - b. The PI shall prepare a Draft Monitoring Report and submit to MMC via the RE as indicated in Section VI-A.
  - c. The PI shall be responsible for recording (on the appropriate forms for the San Diego Natural History Museum) the resource(s) encountered during the Paleontological Monitoring Program in accordance with the City's Paleontological Guidelines. The forms shall be submitted to the San Diego Natural History Museum and included in the Final Monitoring Report.
  - d. The Final Monitoring Report shall include a recommendation for monitoring of any future work in the vicinity of the resource.

#### **IV. Night Work**

- A. If night work is included in the contract
  1. When night work is included in the contract package, the extent and timing shall be presented and discussed at the Precon Meeting.
  2. The following procedures shall be followed.
    - a. No Discoveries  
In the event that no discoveries were encountered during night work, the PI shall record the information on the CSVR and submit to MMC via the RE via fax by 9 AM the following morning, if possible.
    - b. Discoveries  
All discoveries shall be processed and documented using the existing procedures detailed in Sections III - During Construction.
    - c. Potentially Significant Discoveries  
If the PI determines that a potentially significant discovery has been made, the procedures detailed under Section III - During Construction shall be followed.
    - d. The PI shall immediately contact the RE and MMC, or by 8 AM the following morning, to report and discuss the findings as indicated in Section III-B, unless other specific arrangements have been made.
- B. If night work becomes necessary during the course of construction
  1. The Construction Manager shall notify the RE, or BI, as appropriate, a minimum of 24 hours before the work is to begin.
  2. The RE, or BI, as appropriate, shall notify MMC immediately.
- C. All other procedures described above shall apply, as appropriate.

## V. Post Construction

### A. Submittal of Draft Monitoring Report

1. The PI shall submit two copies of the Draft Monitoring Report (even if negative) which describes the results, analysis, and conclusions of all phases of the Paleontological Monitoring Program (with appropriate graphics) to MMC via the RE for review and approval within 90 days following the completion of monitoring.
  - a. For significant paleontological resources encountered during monitoring, the Paleontological Recovery Program or Pipeline Trenching Discovery Process shall be included in the Draft Monitoring Report.
  - b. Recording Sites with the San Diego Natural History Museum

The PI shall be responsible for recording (on the appropriate forms) any significant or potentially significant fossil resources encountered during the Paleontological Monitoring Program in accordance with the City's Paleontological Guidelines, and submittal of such forms to the San Diego Natural History Museum with the Final Monitoring Report.
2. MMC shall return the Draft Monitoring Report to the PI via the RE for revision or for preparation of the Final Report.
3. The PI shall submit revised Draft Monitoring Report to MMC via the RE 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 the Draft Monitoring Report.

### B. Handling of Fossil Remains.

The PI shall be responsible for ensuring that all fossil remains collected are cleaned and catalogued

### C. Curation of Artifacts: Deed of Gift and Acceptance Verification

1. The PI shall be responsible for ensuring that all fossil remains associated with the monitoring for this project are permanently curated with an appropriate institution.
2. The PI shall submit the Deed of Gift and catalogue record(s) to the RE or BI, as appropriate, for donor signature with a copy submitted to MMC.
3. The RE or BI, as appropriate, shall obtain signature on the Deed of Gift and shall return to PI with copy submitted to MMC.
4. The PI shall include the Acceptance Verification from the curation institution in the Final Monitoring Report submitted to the RE or BI and MMC.

### D. Final Monitoring Report(s)

1. The PI shall submit two copies of the Final Monitoring Report to MMC (even if negative), within 90-days after notification from MMC of the approved report.
2. The RE shall, in no case, issue the Notice of Completion until receiving a copy of the approved Final Monitoring Report from MMC, which includes the Acceptance Verification from the curation institution.

## Historical Resources

In order to reduce potentially significant impacts to historical resources to below a level of significance, the project builder shall implement the following mitigation measures:

1. Prior to the City's first preconstruction meeting, a testing and mitigation program for site CA-SDI-11424 shall be implemented to determine the western site boundary, based on CEQA, City of San Diego Historical Resource Guidelines, and the Otay Mesa Management Plan. For the portions of this site located within undeveloped land, surface collection should be used to determine the surface site boundaries and areas of artifact concentration in order to ascertain placement of test units and/or shovel test pits (STPs) and/or backhoe trenches. Excavation units (1x1-m) should be placed in those areas where ground stone, fire-altered rock, or a concentration of flaked material occurs. Backhoe trenching should be used at those sites where deep subsurface deposits (i.e., historic privies or dumps or subsurface prehistoric deposits) are possible. For any portion of this site located within developed land, a field visit to spot check the area, collection of surface artifacts, and a construction monitoring program shall be implemented. The test program shall include a literature/historic files review, mapping of any remaining structures, and backhoe trenching when applicable for determining the location of historical dumps.
2. Prior to the City's first pre-construction meeting a construction monitoring program shall be implemented for all known archeological sites located within the Phase 2 project alignment. These sites include CA-SDI 10185, CA-SDI-10963, CA-SDI-11424, CA-SDI-14083, CA-SDI-14084, CA-SDI-6941, CA-SDI-7208, CA-SDI-10188, CA-SDI-10197, and CA-SDI-10511. The following monitoring program shall be implemented:
  - I. Prior to Permit Issuance, Award of Contract or First Preconstruction Meeting
    - A. Land Development Review (LDR) Plan Check
      1. Prior to permit issuance, or after award of the contract, 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, if applicable, have been noted on the appropriate construction documents.
    - B. Letters of Qualification have been submitted to ADD
      1. The applicant shall submit a letter of verification to Mitigation Monitoring Coordination (MMC) identifying the Principal Investigator (PI) for the project and the names of all persons involved in the archaeological monitoring program, as defined in the City of San Diego Historical Resources Guidelines (HRG). If applicable, individuals involved in the archaeological monitoring program must have completed the 40-hour HAZWOPER training with certification documentation.
      2. MMC will provide a letter to the applicant confirming the qualifications of the PI and all persons involved in the archaeological monitoring of the project.
      3. Prior to the start of work, the applicant must obtain approval from MMC for any personnel changes associated with the monitoring program.

## II. Prior to Start of Construction

### A. Verification of Records Search

1. The PI shall provide verification to MMC that a site specific records search (1/4 mile radius) has been completed. Verification includes, but is not limited to a copy of a confirmation letter from South Coast Information Center, or, if the search was in-house, a letter of verification from the PI stating that the search was completed.
2. The letter shall introduce any pertinent information concerning expectations and probabilities of discovery during trenching and/or grading activities.
3. The PI may submit a detailed letter to MMC requesting a reduction to the 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, Construction Manager (CM) and/or Grading Contractor, Resident Engineer (RE), Building Inspector (BI), if appropriate, and MMC. The qualified Archaeologist shall attend any grading/excavation related Precon Meetings to make comments and/or suggestions concerning the Archaeological Monitoring program with the Construction Manager and/or Grading Contractor.
  - a. If the PI is unable to attend the Precon Meeting, the Applicant shall schedule a focused Precon Meeting with MMC, the PI, RE, CM or BI, if appropriate, prior to the start of any work that requires monitoring.
2. Acknowledgement of Responsibility for Curation (CIP or Other Public Projects)
3. The applicant shall submit a letter to MMC acknowledging their responsibility for the cost of curation associated with all phases of the archaeological monitoring program.
4. Identify Areas to be Monitored
5. Prior to the start of any work that requires monitoring, the PI shall submit an Archaeological Monitoring Exhibit (AME) based on the appropriate construction documents (reduced to 11x17) to MMC identifying the areas to be monitored including the delineation of grading/excavation limits.
6. The AME shall be based on the results of a site specific records search as well as information regarding the age of existing pipelines, laterals and associated appurtenances and/or any known soil conditions (native or formation).
7. When Monitoring Will Occur
  - a. Prior to the start of any work, the PI shall also submit a construction schedule to MMC through the RE indicating when and where monitoring will occur.
  - b. The PI may submit a detailed letter to MMC prior to the start of work or during construction requesting a modification to the monitoring program. This request shall be based on relevant information such as review of final construction documents which indicate conditions such as: age of existing pipe to be replaced, depth of excavation and/or site graded to bedrock, etc., that may reduce or increase the potential for resources to be present.

### III. During Construction

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

1. The monitor shall be present full-time during grading/excavation/trenching activities including, but not limited to mainline, laterals, services and all other appurtenances associated with underground utilities as identified on the AME. The Construction Manager is responsible for notifying the RE, PI, and MMC of changes to any construction activities.
2. The monitor shall document field activity via the Consultant Site Visit Record (CSVR). The CSVR's shall be faxed by the CM to the RE the first day of monitoring, the last day of monitoring, monthly, notification of monitoring completion, and in the case of ANY discoveries. The RE shall forward copies to MMC.
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 trenching activities, presence of fossil formations, or when native soils are encountered may reduce or increase the potential for resources to be present.

#### B. Discovery Notification Process

1. In the event of a discovery, the Archaeological Monitor shall direct the contractor to temporarily divert trenching activities in the area of discovery and immediately notify the RE or BI, as appropriate.
2. The Monitor shall immediately notify the PI (unless Monitor is the PI) of the discovery.
3. The PI shall immediately notify MMC by phone of the discovery, and shall also submit written documentation to MMC within 24 hours by fax or email with photos of the resource in context, if possible.

#### C. Determination of Significance

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

(1) Note: For Pipeline Trenching Projects Only. If the deposit is limited in size, both in length and depth; the information value is limited and is not associated with

any other resource; and there are no unique features/artifacts associated with the deposit, the discovery should be considered not significant.

- (2) Note: For Pipeline Trenching Projects Only. If significance can not be determined, the Final Monitoring Report and Site Record (DPR Form 523A/B) shall identify the discovery as Potentially Significant.

D. Discovery Process for Significant Resources - Pipeline Trenching Projects

The following procedure constitutes adequate mitigation of a significant discovery encountered during pipeline trenching activities including but not limited to excavation for jacking pits, receiving pits, laterals, and manholes to reduce impacts to below a level of significance:

1. Procedures for documentation, curation and reporting
  - a. One hundred percent of the artifacts within the trench alignment and width shall be documented in-situ, to include photographic records, plan view of the trench and profiles of side walls, recovered, photographed after cleaning and analyzed and curated. The remainder of the deposit within the limits of excavation (trench walls) shall be left intact.
  - b. The PI shall prepare a Draft Monitoring Report and submit to MMC as indicated in Section VI-A.
  - c. The PI shall be responsible for recording (on the appropriate State of California Department of Park and Recreation forms-DPR 523 A/B) the resource(s) encountered during the Archaeological Monitoring Program in accordance with the City's Historical Resources Guidelines. The DPR forms shall be submitted to the South Coastal Information Center for either a Primary Record or SDI Number and included in the Final Monitoring Report.
  - d. The Final Monitoring Report shall include a recommendation for monitoring of any future work in the vicinity of the resource.

IV. Discovery of Human Remains

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

A. Notification

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

B. Isolate discovery site

1. Work shall be directed away from the location of the discovery and any nearby area reasonably suspected to overlay adjacent human remains until a determination can be made by the Medical Examiner in consultation with the PI concerning the provenience of the remains.

2. The Medical Examiner, in consultation with the PI, shall determine the need for a field examination to determine the provenience.
3. If a field examination is not warranted, the Medical Examiner shall determine with input from the PI, if the remains are or are most likely to be of Native American origin.

C. If Human Remains **ARE** determined to be Native American

1. The Medical Examiner shall notify the Native American Heritage Commission (NAHC). By law, **ONLY** the Medical Examiner can make this call.
2. The NAHC shall contact the PI within 24 hours or sooner, after Medical Examiner has completed coordination.
3. NAHC shall identify the person or persons determined to be the Most Likely Descendent (MLD) and provide contact information..
4. The PI shall coordinate with the MLD for additional consultation.
5. Disposition of Native American Human Remains shall be determined between the MLD and the PI, IF:
  - a. The NAHC is unable to identify the MLD, OR the MLD failed to make a recommendation within 24 hours after being notified by the Commission; OR;
  - b. The landowner or authorized representative rejects the recommendation of the MLD and mediation in accordance with PRC 5097.94 (k) by the NAHC fails to provide measures acceptable to the landowner.

D. If Human Remains are **NOT** Native American

1. The PI shall contact the Medical Examiner and notify them of the historic era context of the burial.
2. The Medical Examiner will determine the appropriate course of action with the PI and City staff (PRC 5097.98).
3. If the remains are of historic origin, they shall be appropriately removed and conveyed to the Museum of Man for analysis. The decision for internment of the human remains shall be made in consultation with MMC, EAS, the applicant department and/or Real Estate Assets Department (READ) and the Museum of Man.

V. Night Work

A. If night work is included in the contract

1. When night work is included in the contract package, the extent and timing shall be presented and discussed at the precon meeting.
2. The following procedures shall be followed.
  - a. No Discoveries

In the event that no discoveries were encountered during night work, The PI shall record the information on the CSVN and submit to MMC via fax by 9am the following morning, if possible.

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.

c. Potentially Significant Discoveries

If the PI determines that a potentially significant discovery has been made, the procedures detailed under Section III - During Construction shall be followed.

d. The PI shall immediately contact MMC, or by 8AM the following morning to report and discuss the findings as indicated in Section III-B, unless other specific arrangements have been made.

B. If night work becomes necessary during the course of construction

1. The Construction Manager shall notify the RE, or BI, as appropriate, a minimum of 24 hours before the work is to begin.
2. The RE, or BI, as appropriate, shall notify MMC immediately.

C. All other procedures described above shall apply, as appropriate.

VI. Post Construction

A. Completion of Monitoring Program and Submittal of Draft Monitoring Report

1. The PI shall submit two copies of the Draft Monitoring Report (even if negative) 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.
  - a. For significant archaeological resources encountered during monitoring, the Archaeological Data Recovery Program or Pipeline Trenching Discovery Process shall be included in the Draft Monitoring Report.
  - b. MMC shall return the Draft Monitoring Report to the PI for revision or, for preparation of the Final Report.
  - c. Recording Sites with State of California Department of Parks and Recreation  
The PI shall be responsible for recording (on the appropriate State of California Department of Park and Recreation forms-DPR 523 A/B) any significant or potentially significant resources encountered during the Archaeological Monitoring Program in accordance with the City's Historical Resources Guidelines, and submittal of such forms to the South Coastal Information Center with the Final Monitoring Report.
  - d. MMC shall notify the RE or BI, as appropriate, of receipt of the Draft Monitoring Report.
2. Handling of Artifacts
  - a. The PI shall be responsible for ensuring that all cultural remains collected are cleaned and catalogued

- b. 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. Curation of artifacts: Deed of Gift and Acceptance Verification
    - a. 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 EAS and the Native American representative, as applicable.
    - b. The PI shall submit the Deed of Gift and catalogue record(s) to MMC for signature by the RE or BI, as appropriate.
    - c. The RE or BI, as appropriate shall obtain signature on Deed of Gift and shall return to MMC.
    - d. MMC shall return the signed Deed of Gift to the PI.
    - e. The PI shall include the Acceptance Verification from the curation institution to MMC with submittal of the Final Monitoring Report.
- B. Final Monitoring Report(s)
1. The PI shall submit two copies of the Final Monitoring Report to MMC (even if negative), within 90-days after approval of the draft report, which describes the results, analysis, and conclusions of all phases of the Archaeological Monitoring Program (with appropriate graphics).
  2. The RE shall, in no case, issue the Notice of Completion until receiving a copy of the approved Final Monitoring Report from MMC which includes the Acceptance Verification from the curation institution.

### **Air Quality**

To reduce potential air quality impacts from pollutant emissions to below a level of significance, the project builder shall implement the following mitigation measures:

1. When pipeline alignments and pump station location(s) have been determined for Phase 2C, an air quality technical report shall be prepared by a qualified individual that identifies whether construction or operational activities associated with Phase 2C pipelines and pump stations would generate pollutant emissions which exceed significance thresholds. If significance thresholds would be exceeded, pollutant emission reduction measures shall be implemented to reduce impacts to below a level of significance.
2. Prior to the City's first preconstruction meeting for the construction of Phase 3, an air quality technical report shall be prepared by a qualified individual that identifies whether construction activities associated with Phase 3 pipeline installation would generate pollutant emissions which exceed significance thresholds. If significance thresholds would be exceeded for construction activities, pollutant emission reduction measures shall be implemented to reduce impacts to below a level of significance.
3. Prior to the City's first preconstruction meeting for the construction of the 35 MGD pump station, an air quality emissions analysis shall be conducted by a qualified individual to determine if the

emergency generators proposed for the pump station backup power would exceed allowable emissions thresholds. If such an exceedance would occur, measures shall be implemented to reduce impacts to below a level of significance.

4. Prior to the City's first preconstruction meeting, the project engineer shall identify one or more of the following mitigation measures on the appropriate grading plans which shall be implemented during all phases of construction for the proposed project:
  1. Limit the disturbance "footprint" to as small an area as practical.
  2. Water all active construction areas at least twice daily.
  3. Cover all off-site haul trucks or maintain at least two feet of freeboard.
  4. Pave or apply water four times daily to all unpaved parking or staging areas.
  5. Sweep or wash any site access points within 30 minutes of any visible dirt deposition on any public roadway.
  6. Cover or water twice daily any on-site stockpiles of debris, dirt or other dusty material.
  7. Suspend all operations on any unpaved surface if winds exceed 25 mph.
  8. Hydroseed or otherwise stabilize any cleared area which is to remain inactive for more than 96 hours after clearing is completed.
  9. *Require 90-day low-NOx tune-ups for off-road equipment.*
  10. Encourage car pooling for construction workers.
  11. Limit lane closures to off-peak travel periods.
  12. Park construction vehicles off traveled roadways.
  13. Wet down or cover dirt hauled off site.
  14. Wash or sweep access points daily.
  15. Encourage receipt of materials during non-peak traffic hours.
  16. Sandbag construction sites for erosion control.

### **Biological Resources**

In order to reduce potentially significant impacts to sensitive habitat, animal and plant species to below a level of significance, the project builder shall implement the following mitigation measures:

1. Prior to the City's first pre-construction meeting, direct impacts to non-native grassland located at the site of proposed Pump Station A1 shall be mitigated in accordance with the City's Biology Guidelines mitigation ratio for non-native grassland located outside of the MHPA as listed in Table 4.7-4. According to this table, mitigation for an impact to 2.8 acres of non-native grassland would consist of the purchase, dedication or conservation of 1.4 acres of mitigation land within the MHPA (2.8 acres of non-native grassland would be required if mitigated outside the MHPA).
2. Prior to the City's first pre-construction meeting for each phase of construction for the pipeline alignment, a qualified biologist shall field verify the proposed pipeline alignment to determine any

areas where the alignment would be located outside of the paved roadway alignment footprint. If no areas would be located outside of the paved roadway alignment footprint, no further action shall be required. If construction activities would extend outside of the existing roadway alignment footprint, an appropriately timed field survey shall be conducted to determine if any sensitive habitats, animal or plant species would be impacted during construction. If the alignment would be located outside of the paved roadway alignment footprint and would impact sensitive habitats, animal or plant species, then **Biological Resources – 2a** and **2b** shall be followed.

- 2a. If sensitive habitat would be impacted by the proposed project, the qualified biologist shall determine whether the habitat is located inside or outside of the MHPA and in what level of the City’s tier system the habitat is located. Impacts to each type of habitat shall be mitigated in accordance with the City’s Biology Guidelines mitigation ratios listed in Table 4.7-4. According to this table, mitigation for impacts to sensitive habitats would consist of the purchase or dedication of land at a ratio between 0.5:1 to 4:1 from a mitigation bank or an area within the MHPA. In addition, appropriately-timed pre-construction surveys shall be conducted by a qualified biologist pursuant to state and federal protocols to determine if sensitive species are present within the sensitive habitat areas. If only sensitive habitat is impacted, and no sensitive animal or plant species are determined to be present onsite, then the sensitive habitat shall be mitigated in accordance with Table 4.7-4. If sensitive species are detected onsite, then mitigation measure **Biological Resources – 2c** would be implemented.

**Table 4.7-4. Mitigation Ratios for Impacts to Sensitive Habitats**

Vegetation Community (Tier)	Impacts and Mitigation Inside MHPA	Impacts Outside and Mitigation Inside MHPA	Project Impacts to Habitat (Acres)	Required Mitigation (Acres)
Vernal pool (N/A)	2:1 to 4:1	2:1 to 4:1	-	-
Freshwater marsh (N/A)	2:1	2:1	-	-
Mule fat scrub (N/A)	2:1	2:1	-	-
Southern willow scrub (N/A)	2:1	2:1	-	-
Seasonal pond (N/A)	1:1	1:1	-	-
Disturbed wetland (N/A)	1:1	1:1	-	-
Maritime succulent scrub (I)	2:1	1:1	-	-
Maritime succulent scrub – disturbed (I)	2:1	1:1	-	-
Diegan coastal sage scrub (II)	1:1	1:1	-	-
Diegan coastal sage scrub – disturbed (II)	1:1	1:1	-	-
Non-native grassland (IIIB)	1:1	0.5:1	2.8	1.4

N/A: Not Applicable to the City’s Tier System  
 Source: City of San Diego, 2002

- 2b. If construction activities would extend outside of the existing roadway alignment footprint, and sensitive habitats would be impacted, as determined in mitigation measure **Biological Resources – 2a**, then a qualified biologist shall conduct regular monitoring visits during construction to assure that construction personnel and equipment do not encroach into any sensitive areas. The schedule for

biological monitoring visits shall be determined at the pre-construction meeting for each project construction phase. To the extent feasible, construction work near vernal pool areas shall be conducted outside the rainy season and construction work near habitats of sensitive species shall be conducted outside the breeding season of those species.

- 2c. If sensitive animal or plant species are observed, based on a protocol surveys performed by a qualified biologist, they shall be avoided when possible. If impacts cannot be avoided, the significance of the impacts to those species must be evaluated in a second tier document in compliance with CEQA and any significant impacts shall be mitigated based on the recommendations of the qualified biologist.

The recommended mitigation ratios in Table 4.7-4 shall be subject to change based on the project's impact on federally listed species, including (potentially) the San Diego button-celery, Otay Mesa mint, California orcutt grass, Otay tarplant, spreading navarretia, Riverside fairy shrimp, San Diego fairy shrimp, coastal California gnatcatcher, and quino checkerspot butterfly in accordance with the City's Biological Guidelines.

3. Prior to first preconstruction meeting for the construction of Pump Station A1, focused surveys for sensitive plant species shall be conducted at the Pump Station A1 site by a qualified biologist during the appropriate season as part of or prior to the project planning or design phase. Two rare plant surveys shall be conducted at the Pump Station A1 site, one in the early spring (April/May) and the other during mid to late July, to identify any federal, state, and City (narrow endemic) sensitive plant species. If sensitive plant species are observed onsite, they shall be avoided if possible. If impacts cannot be avoided, the significance of the impacts to those species shall be evaluated in a second tier document in compliance with CEQA and any significant impacts shall be mitigated based on the recommendations of the qualified biologist. Typically, impacts to any listed or City narrow endemic plants require species-specific mitigation, usually in the form of plant salvage and translocation to a suitable preserve area.
4. Prior to construction of Pump Station A1, a qualified biologist shall survey the Pump Station A1 site for the presence of suitable habitat for the following wildlife species: San Diego and Riverside fairy shrimp, quino checkerspot butterfly, and burrowing owl. If the biologist finds suitable habitat for any of these species, sensitive animal surveys for each species identified on the Pump Station site shall be conducted by a qualified biologist in accordance with the measures listed in Biological Resources – 4a, -4b, and 4-c.
- 4a. If suitable habitat for San Diego or Riverside fairy shrimp is found on the Pump Station A1 site, U.S. Fish and Wildlife Service (USFWS) protocol surveys shall be required to determine the extent of these species within appropriate habitat (water holding basins) on site. Two seasons of surveys shall be required by the USFWS protocol. The surveys shall consist of two dry season surveys, two wet season surveys, or one of each. The dry season survey shall involve collecting soil samples in the summer and conducting a lab analysis to determine if fairy shrimp cysts are present. Wet season surveys shall require biweekly visits when the pools are full of water to net for adult fairy shrimp.

The City regulates impacts to vernal pools within its jurisdiction; however, it does not have the authority to permit take of listed fairy shrimp. Take of the listed fairy shrimp shall require a federal Endangered Species Act (ESA) Section 10(a) permit processed through the USFWS. In order to process a 10(a) permit, the applicant shall prepare several documents including a Habitat Conservation

Plan (HCP), Environmental Assessment (EA), Alternatives Analysis (AA), Implementing Agreement (IA), and associated mitigation and habitat restoration documents.

- 4b. If suitable habitat for the quino checkerspot butterfly is found on the Pump Station A1 site, USFWS focused protocol surveys shall be required, which call for a pre-survey habitat assessment and approximately six weekly surveys during the quino flight period (generally early spring). The USFWS shall determine when conditions are suitable to begin surveys based on observations at several known quino sites. Similar to the San Diego and Riverside fairy shrimp, the quino checkerspot butterfly is not an MSCP covered species. Any take of this species would require an ESA Section 10(a) permit processed through the USFWS.
- 4c. If suitable habitat for the burrowing owl is found on the Pump Station A1 site, surveys shall be conducted during both wintering (December 1 through January 31) and nesting seasons (April 15 and July 15), unless the species is detected during the first season of surveys. If the burrowing owl is observed onsite, impacts to the species shall be avoided to the maximum extent practicable. If impacts can not be avoided, all impacted individuals shall be relocated out of the impact area using passive or active methods approved by the wildlife agencies. Timing of any relocation activity shall be carried out prior to the nesting season (February 1 to August 31). Mitigation for impacts to occupied habitat shall be through conservation of occupied burrowing owl habitat or conservation of lands appropriate for restoration, management, and enhancement of burrowing owl nesting and foraging habitat per the City's MSCP and Biological Guidelines. A management plan for the burrowing owl shall include enhancement of known historical and/or potential burrowing owl habitat, and management for ground squirrels (the primary excavator of burrowing owl burrows). Enhancement measures may include creation of artificial burrows and vegetation management to enhance foraging habitat. The management plan shall also include monitoring of burrowing owl nest sites to determine use and nesting success; predator control; and establishing a 300-foot wide impact avoidance area (within the preserve) around conserved occupied burrows.
5. Immediately after pipeline alignments and pump station locations have been determined for Phase 2C, a comprehensive biological resources survey and analysis shall be prepared by a qualified biologist to determine if construction and/or operation of Phase 2C pipeline and pump station facilities would result in significant direct or indirect impacts to sensitive biological resources, including sensitive habitats, plant species and animal species. The report shall be submitted to the Assistant Deputy Director (ADD) of Land Development Review (LDR) for concurrent review by Environmental Analysis Section (EAS) and MSCP staff. Any direct or indirect impacts to biological resources identified as a result of Phase 2C shall be mitigated in accordance with the City's Biology Guidelines (City of San Diego 2002). Impacts shall be reduced to below a level of significance whenever possible.

### **Hazardous Materials**

In order to reduce potentially significant hazards impacts to the public or the environment to below a level of significance, the project builder shall implement the following mitigation measures:

1. Prior to the City's first pre-construction meeting, the applicant shall provide a letter of verification to the Assistant Deputy Director (ADD) of Land Development Review (LDR), the City's Local Enforcement Agency (LEA), and the Environmental Services Department (ESD), stating that a qualified hazardous materials monitor has been retained to implement the soil monitoring program

during project excavation and trenching. The monitoring program shall be implemented during the following project construction phases: Phase 2B1 along Via De San Ysidro, East and West San Ysidro Boulevards, Hill Street; Phase 2B2 along Heritage Road; and Phases 2B2, 2E and 3 along Otay Mesa Road in the vicinity of Brown Field and along Cactus Road in the vicinity of the former Tripp Landfill. In addition, if soil sampling of the proposed Pump Station A1 site indicates that contaminated soils are located at this site, then the monitoring program shall also be implemented during excavation of the contaminated areas of the Pump Station A1 site. During these project phases, the monitoring program shall be conducted for the presence of petroleum hydrocarbon contamination, burn ash, debris-laden fill material, and discolored or odorous soil in the upper 10 feet of the soil column in all phases except 2B1. Monitoring shall occur for all excavation depths during Phase 2B1. If such soil is encountered, it should be evaluated by a qualified professional and handled in accordance with applicable environmental laws and regulations.

2. Prior to the City's first pre-construction meeting, the applicant shall prepare a Community Health and Safety Plan for approval by the City's Local Enforcement Agency (LEA) for Phases 2B2, 2E and 3 along Cactus Road in the vicinity of Tripp Landfill.
3. Prior to the City's first pre-construction meeting, construction plans shall be reviewed by City LEA and ESD staff for dewatering plans and operations. If dewatering plans and operations are proposed, environmental monitoring for the presence of free product and impacted groundwater shall be conducted as a part of dewatering plans and operations.
4. During excavation and construction activities for all phases of the proposed project, any undocumented underground storage tanks (USTs) or other subsurface features indicative of potential contamination that are encountered along the project alignment shall be evaluated and handled in accordance with all applicable federal and state environmental laws and regulations. Specifically, the County Department of Environmental Health and the City LEA and ESD shall be notified if any USTs are discovered within the excavated areas of the proposed project alignment.
5. Prior to the City's first pre-construction meeting, construction plans shall be reviewed by City LEA and ESD staff for the destruction of existing groundwater monitoring wells located within the proposed project alignment. If the project would require the destruction of existing groundwater monitoring wells, permission to destroy such wells shall be obtained by the appropriate responsible parties and regulatory agencies.
6. Prior to the City's first pre-construction meeting, the applicant shall provide proof of all necessary licenses and certifications to perform the excavation and other construction operations to the ADD of LDR. The project builder shall also ensure through employee training that all contractors and workers are made aware of the potential presence of petroleum hydrocarbons and other contaminants in the proposed project alignment. Health and safety measures shall be taken to minimize the risk of human exposure to contaminants during excavation and construction activities.
7. Prior to the City's first pre-construction meeting or the issuance of a site development permit for the construction of Pump Station A1, whichever is applicable, soil sampling shall be conducted at the Pump Station A1 site by a qualified professional in order to determine if hydrocarbon-impacted soil is present on the site. If no contaminated soil is found onsite, no further action shall be required. If contaminated soils are found onsite, mitigation measure Hazardous Material – 1 shall be implemented during all excavation of identified areas of contamination within the proposed Pump Station A1 site.

8. When pipeline alignments and pump station location(s) have been determined for Phase 2C, a comprehensive Phase I site assessment shall be conducted by a qualified hazardous materials specialist in order to determine if Phase 2C would have the potential to result in significant hazardous materials impacts due to known or unknown contaminated soils and groundwater which may exist along the proposed project alignment. For potentially significant impacts, the Phase I site assessment shall include recommendations for the remediation of impacts to a level below significant, which may be similar to mitigation measures Hazardous Materials - 1 through 7, listed above. Mitigation measures implemented to reduce potentially significant impacts shall be approved by the City LEA and ESD and the ADD of LDR.

### **Visual Quality/Aesthetics**

To reduce potentially significant visual quality impacts associated with the creation of a negative aesthetic site to below a level of significance, the project builder shall implement the following mitigation measure:

For any pump station(s) constructed as part of Phase 2C, the architectural style and materials used in the pump station building(s) shall be designed to blend with the surrounding uses of the area.

### **Energy**

To reduce potentially significant energy impacts associated with the excessive use of energy to below a level of significance, the project builder shall implement the following mitigation measure:

Any pump station(s) constructed as part of Phase 2C shall be designed to incorporate energy efficient components such as soft start motors, high efficiency motors, energy-efficient interior, and exterior lighting and skylights in order to avoid the excessive use of fuel or energy.

# **DRAFT CANDIDATE FINDINGS REGARDING THE ENVIRONMENTAL IMPACT REPORT FOR THE PROPOSED OTAY MESA TRUNK SEWER PROJECT (Project No. 40246)**

## **I. INTRODUCTION**

The following Draft Candidate Findings are made for the Draft Environmental Impact Report (the "DEIR") for the proposed Otay Mesa Trunk Sewer Project (the "Project"). The DEIR (Project No. 40246/SCH No. 2004071167), which is incorporated by reference herein, analyzes the significant and potentially significant environmental impacts that may occur as a result of the proposed Project.

The California Environmental Quality Act ("CEQA") (California Public Resources Code §§21000 et seq.) and the State CEQA Guidelines ("CEQA Guidelines") (Title 14, California Code of Regulations, §§15000 et seq.) require that no public agency shall approve or carry out a project which identifies one or more significant environmental effects of the project unless the public agency makes one or more written finding for each of those significant effects, accompanied by a brief explanation of the rationale for each finding. The possible findings are:

1. Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant environmental effects on the environment;
2. Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can or should be, adopted by that other agency; or
3. Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the DEIR.

(CEQA, §21081(a); CEQA Guidelines, §15091(a))

CEQA and the CEQA Guidelines further require that, where the decision of the public agency allows the occurrence of significant effects which are identified in the DEIR but are not at least substantially mitigated, the agency shall state in writing the specific reasons to support its action based on the DEIR and/or other information in the record. (CEQA Guidelines, §15093(b))

The following Findings have been submitted by the Project applicant as candidate Findings to be made by the decision-making body. 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 potential reasons for approving the Project.

## **II. PROJECT DESCRIPTION AND PURPOSE**

The project proposes the construction of approximately 14.7 miles (or 77,850 feet) of new and/or replacement/upgrade sewer line in the Otay Mesa area. The project would construct Phases 2 and 3 as described in the 2004 Otay Mesa Sewer Master Plan and Alignment Study, which outlines a strategy for the provision of sewer infrastructure to serve the future build out of the Otay Mesa region. Phase 2 facilities would be divided into sub-phases to provide infrastructure to accommodate sewer flows as development of Otay Mesa proceeds. These sub-phases may be concurrent or sequential depending on the rate of development in the project area. Phase 2 facilities would include construction of pipelines, construction of a trunk sewer diversion structure, construction of a force main to gravity line sewer transition structure, an upgrade to existing temporary pump station 23T, and the construction of new

pump station A1 with a capacity up to 12 million gallons per day (MGD). Phase 3 improvements include additional facilities that may be needed to serve the projected ultimate build out of Otay Mesa, including the upgrade of pump station A1 to a maximum capacity of 34 MGD. The need for these facilities would be reassessed based on actual growth over the next 20 years. The project would be located within paved roadway rights-of-way (ROW) in the Otay Mesa and San Ysidro communities of the City of San Diego. For the purposes of this project, ROW is defined as the roadway alignment footprint and consists only of the paved portion of the roadway alignment. The proposed pump station A1 would be constructed adjacent to the existing temporary pump station 23T at the southwest corner of Cactus Road and Siempre Viva Road.

The purpose of the project is to provide adequate infrastructure to meet future projected sewer demand in the Otay Mesa area. The project would be constructed in phases, so that the new sewer facilities would be built only when the actual sewer flows reach designated thresholds that trigger construction of the next phase.

### **III. ISSUES ADDRESSED IN DEIR**

The DEIR contains an environmental analysis of the potential impacts associated with implementing the Project. The environmental issues addressed in the DEIR were determined to be significant or potentially significant based on the Initial Study prepared for the Project by the City of San Diego. The following issues were determined to be significant or potentially significant: land use; noise; paleontological resources; historical resources; air quality; biological resources; hazards and hazardous materials; visual quality/aesthetics; and energy.

### **IV. FINDINGS REGARDING INSIGNIFICANT IMPACTS**

The City finds, based on substantial evidence appearing in the DEIR, its supporting technical reports, and the administrative record that the following impacts or potential impacts are less than significant:

#### **A. Utilities**

With respect to alterations to utilities, the proposed project would not result in a need for new systems or require substantial alternations related to the following utilities: water, power and energy, natural gas and communications systems. The project proposes phased construction of a trunk sewer line in order to accommodate future wastewater flows from proposed new development in the Otay Mesa area. The sewer line itself would not result in the need for substantial alterations to utilities. Therefore, no significant utilities impacts were identified.

#### **B. Air Quality (Partial)**

The proposed project would not have a significant effect on human health or the environment as a result of diesel emissions during construction. The proposed project would result in temporary construction activities that would not result in long durations of exposure to diesel exhaust. In addition, the proposed pump stations would be designed to comply with the City's Odor Control Design Guidelines (December 1996), which would ensure that sewer odor impacts are minimized. Therefore, no significant impacts related to diesel air toxics health risks or odors were identified.

#### **C. Hydrology/Water Quality**

The proposed project would not result in significant impacts from an increase in pollutant discharges, including downstream sedimentation to receiving waters during or following construction. The project would implement construction and permanent storm water Best Management Practices (BMPs), consistent with the NPDES Construction Permit, NPDES General Permit and the City's Storm Water

Standards Manual. Therefore, impacts from project-related pollutant discharges would be below a level of significance.

*The proposed project would not significantly impact the hydrology and water quality of the area's surface and groundwater, either on- or offsite. The proposed project would implement construction and permanent storm water BMPs, consistent with the NPDES Construction Permit, NPDES General Permit and the City's Storm Water Standards Manual. These BMPs would ensure that temporary dewatering activities and other construction activities would reduce potentially significant impacts to water quality to below a level of significance. The proposed project would be mostly located beneath existing roadways, which would be repaved and returned to pre-project conditions after construction. Therefore, the installation of pipelines would not affect surface hydrology or alter the drainage patterns or runoff volumes along the proposed pipeline alignment. Operation of the proposed project is not anticipated to result in significant impacts to surface or groundwater.*

Project implementation of construction and permanent storm water BMPs, consistent with the NPDES Construction Permit, NPDES General Permit and the City's Storm Water Standards Manual, would also ensure that the proposed project would not result in a substantial increase in runoff volumes from the site or a significant impact related to the discharge of pollutants into an already impaired water body.

#### **D. Geotechnical Conditions**

The proposed project would not result in significant impacts associated with wind or water erosion. During construction, dust control measures would be implemented consistent with the San Diego Air Pollution Control District (SDAPCD) regulations to control wind erosion. Upon completion of construction, the roadways would be resurfaced along the project alignment; therefore, wind erosion would not occur. To control water erosion, the proposed project would comply with the NPDES general permit for construction activities, pursuant to which, as part of an erosion control plan, appropriate construction site erosion and sedimentation control BMPs would be implemented. Operational water erosion impacts are not anticipated to be significant due to the project's compliance with NPDES permits and the City's Storm Water Standards Manual.

The proposed project has been identified to have a low potential for ground rupture resulting from onsite faulting. Construction of a portion of the pipeline (Phase 2A2) within Old Otay Mesa Road would go through a landslide. However, compliance with Federal and Cal-OSHA safety regulations and incorporation of design features that would provide additional pipeline strength through the landslide area would render impacts related to landslides to be less than significant. In addition, the project area is considered to have a very low susceptibility to seismic-induced soil liquefaction. Therefore, implementation of the proposed project would not result in exposing people or property to geologic hazards such as earthquakes, landslides, mudslides, liquefaction, ground failure, or similar hazards.

#### **E. Visual Quality/Aesthetics (Partial)**

*The construction of the proposed project would not result in the obstruction of any vista or scenic view from a public viewing area. In addition, construction of the proposed project would not result in substantial changes to the natural topography or ground surface relief features. Therefore, impacts associated with view obstruction and changes to topography would be below a level of significance. The proposed project would result in potentially significant visual impacts associated with construction of pump station A1.*

## **V. FINDINGS REGARDING IMPACTS DETERMINED TO BE INSIGNIFICANT DURING THE INITIAL STUDY**

### **A. Agricultural Resources**

The proposed project would not result in the conversion of prime farmland, unique farmland or farmland of statewide importance to non-agricultural uses, conflict with existing zoning for agricultural use or a Williamson Act contract, or involve other changes in the existing environment which could result in the conversion of farmland to non-agricultural use. Therefore, the proposed project would not result in significant impacts to agricultural resources.

### **B. Mineral Resources**

The proposed project would not result in the loss of availability of a known mineral resource that would be of value to the region or the loss of a locally-important mineral resource recovery site as delineated on a local general plan, specific plan or other land use plan. According to the report *Mineral Land Classification: Aggregate Materials in the Western San Diego County Production Consumption Region* prepared by the California Department of Conservation Division of Mines and Geology (1982), the proposed project alignment and pump stations would not be located in areas identified as mineral resource zones for aggregate material. Therefore, the proposed project would result in significant impacts to mineral resources.

### **C. Population and Housing**

The proposed project would not directly impact population growth in the Otay Mesa community because it does not propose the development of new homes or businesses nor would the proposed project displace substantial numbers of existing housing or persons. The proposed sewer pipelines would be located under existing and proposed roadway ROW and would not affect existing or proposed housing. In addition, no existing housing is located on the proposed Pump Station A1 site. Thus, the project would not directly impact population growth or housing.

### **D. Public Services**

The proposed project would not have a direct impact on public services, including police, fire, schools, and parks, because it would not result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, or the need for new or physically altered governmental facilities in order to maintain acceptable service ratios, response times or other performance objectives. Existing police and fire protection in the Otay Mesa area would be adequate to serve the operation of the proposed pump station. No public services would be required to serve the proposed sewer pipeline. Therefore, the proposed project would not result in the need for new governmental facilities and no significant impacts to public services would occur.

### **E. Recreational Resources**

The proposed project would not increase the use of existing neighborhood and regional parks or other recreational facilities nor would it include recreational facilities or require the construction or expansion of recreational facilities. The proposed sewer pipelines would be located under existing roadway ROW and would avoid canyons and other environmentally sensitive areas that may be used for recreational uses. The siting of the proposed pump station would also avoid areas designated for recreational uses. The proposed project would not result in the creation of jobs or housing that would have the potential to increase the use of existing recreational resources in the Otay Mesa area. Therefore, the proposed project would not adversely affect recreational resources.

## **F. Transportation/Parking**

The proposed project would not result in an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system, or exceed a level of service standard established by the county congestion management agency for designated roads or highways. The proposed project is the expansion and upgrade of sewer pipelines and pump stations and would not result in a substantial increase in vehicle trips. The proposed project would result in an increase in vehicle trips during construction, however, these impacts would be temporary and would be reduced through project features, such as project phasing, preparation and implementation of a traffic control plan, and nighttime/weekend construction activities. Therefore, transportation impacts would be temporary in nature and considered less than significant.

The proposed project would not result in inadequate emergency access during construction. Emergency access for police/fire vehicles would be maintained along the project alignment at all times during construction. After construction, roadways would be returned to pre-project conditions and would not result in conflicts with existing or future emergency access within the project area.

The proposed project would not result in impacts to existing parking. During construction, equipment staging areas and worker parking would be concentrated along the existing public ROW, and utilize existing off-street parking. This loss of on-street parking is considered a temporary impact and would not require mitigation, as parking would be restored after construction activities are completed. The proposed pump station would include parking for maintenance and operations and would not be intended for public parking use. *It is estimated that Pump Station A1 would have approximately five striped spaces for parking which would be adequate for the operation and maintenance of the proposed pump station.* Therefore, impacts during construction would be temporary in nature and considered less than significant.

## **G. Water Conservation**

The construction of new sewer pipeline and the proposed pump station is not anticipated to require substantial amounts of water. Some watering of stockpiled soils would occur during construction, however, the water demand would be temporary in nature.

The daily operation of the proposed sewer pipeline would not require the use of water although maintenance (i.e., cleaning) of the sewer pipelines would be required a few times per year. Typically, the amount of water used to clean each pipeline segment would be limited to the capacity of the water tank mounted on a Vactor truck, which is approximately 1,000 gallons. The water demand for the maintenance of sewer pipelines would also be temporary in nature.

A small amount of water would be required for operation of proposed Pump Station A1. Water demands at the pump station would be limited to restroom facilities and routine maintenance/cleaning activities such as washing the floors. Water demands for restroom facilities and maintenance/cleaning activities would be limited to 40 hours per week and would not be considered excessive. Therefore, impacts would be considered less than significant.

**VI. FINDINGS REGARDING IMPACTS THAT CAN BE MITIGATED TO BELOW A LEVEL OF SIGNIFICANCE (CALIFORNIA PUBLIC RESOURCES CODE §21081(A)(1))**

The City, having reviewed and considered the information contained in the DEIR, the appendices, to the DEIR, and the administrative record, finds, pursuant to California Public Resources Code §21081(a)(1) and CEQA Guidelines §15091(a)(1), that changes or alterations have been required in, or incorporated into, the proposed Project which would mitigate, avoid, or substantially lessen to below a level of significance the following potentially significant environmental effects identified in the DEIR in the following categories: land use, noise, paleontological resources, historical resources, air quality, biological resources, hazards and hazardous materials, visual quality/aesthetics, and energy.

**A. Land Use**

**Potential Impacts**

**Conflicts with MSCP Subarea Plan:** The project alignment is located adjacent to areas designated as Multi-Habitat Planning Areas (MHPA) in the MSCP Subarea Plan. Project construction adjacent to MHPA would have the potential to conflict with MSCP policies for Construction/Maintenance of Utilities and the MSCP Land Use Adjacency Guidelines, which would result in a significant impact associated with an adopted land use plan.

**Facts in Support of Finding:** Implementation of the following mitigation measures would reduce potentially significant impacts associated with project conflicts with the MSCP Land Use Adjacency Guidelines to below a level of significance. Measures *Land Use – 1* and *2* are intended to reduce indirect impacts from errant construction activities to below a level of significance. Indirect impacts from night lighting are addressed with measures *Land Use – 3* and *4* and indirect impacts from noise are addressed with measures *Land Use – 5, 6, 7, 8, 8a, 8b* and *8c*.

Specifically, implementation of the following mitigation measures would substantially land use impacts to below a level of significance:

- (a) **Location of Staging Areas (*Land Use – 1*):** All staging areas shall be located in existing disturbed or developed areas outside the MHPA and drainage areas. All equipment and/or materials related to construction shall be stored in designated and properly maintained staging areas. The location of the staging areas shall be reviewed and approved by the City Manager. A responsible party (i.e., superintendent, resident engineer) shall be identified to ensure that all construction crews and/or field workers comply with these measures.
- (b) **Fencing of Staging Areas (*Land Use – 2*):** Prior to the City's first pre-construction meeting, all construction and staging area limits shall be clearly delineated with orange construction fencing and silt fencing or fiber rolls to ensure that construction activity remains within the defined construction limits. A qualified biologist shall inspect the fencing prior to the start of construction and shall monitor activities during construction to avoid unauthorized impacts. The schedule for the biological monitoring visits during construction shall be determined at the pre-construction meeting for each phase of project construction. In addition, an educational brochure shall be developed for distribution to construction and maintenance personnel to minimize the occurrence of unauthorized activities. The qualified biologist shall provide direction to construction personnel regarding the need to avoid impacts adjacent sensitive areas.
- (c) **Pump Station Lighting (*Land Use – 3*):** Prior to the City's final construction inspection of the expansion of Pump Station 23T and the construction and/or expansion of Pump Station A1, all

new lighting installed at the pump stations shall be shielded to prevent light spillover to adjacent MHPA areas, in conformance with the City's MSCP Adjacency Guidelines. The shielding shall consist of fixtures that physically direct light away from adjacent MHPA areas.

- (d) **Construction Lighting (*Land Use – 4*):** If construction is planned within or adjacent to the MHPA during nighttime hours, lighting shall be directed and/or shielded to prevent light spillover to adjacent MHPA areas, in conformance with the City's MSCP Adjacency Guidelines. The shielding shall consist of fixtures that physically direct light away from adjacent MHPA areas.
- (e) **Nighttime Noise from Dewatering Activities (*Land Use – 5*):** During nocturnal operation of any dewatering pumps the construction contractor shall require temporary berms or sound walls, or the relocation of the dewatering pumps outside the 160-foot noise "envelope" of any sensitive receptor.
- (f) **Stationary Construction Equipment Noise (*Land Use – 6*):** The project contractor shall place all stationary construction equipment so that emitted noise is directed away from identified sensitive receptors.
- (g) **Construction Staging Area Noise (*Land Use – 7*):** The construction contractor shall locate equipment staging in areas that will create the greatest distance between construction related noise sources and noise sensitive receptors. Construction staging areas shall not be located adjacent to residential land uses.
- (h) **Noise Impacts to Sensitive Avian Species (*Land Use – 8*):** If construction is planned within or adjacent to the MHPA during the breeding season of sensitive avian species, it shall only occur subject to the City's Mitigation, Monitoring, and Reporting Conditions for Potential Impacts to Habitats Occupied by Sensitive Avian Species. Nesting avians are susceptible to disturbance from construction activity. Any construction activity within 500 feet of an active raptor nest, or within 300 feet of a Cooper's hawk nest, shall be considered significant. Five hundred feet has been recognized by biologists and agencies as a conservative distance to use in addressing potential indirect nesting impacts for most raptor species. All phases of construction for the proposed project that are located adjacent to the MHPA shall be required to comply with the mitigation measures *Land Use – 8a, 8b, and 8c*, described below, to reduce potential indirect construction noise impacts to sensitive bird species to below a level of significance.

***Land Use – 8a:*** Pre-construction protocol surveys, conducted by a qualified biologist, shall be required for the following species if any phase of project construction would occur adjacent to the MHPA between the identified species' breeding seasons:

- March 1 to August 15 (Coastal California gnatcatcher)
- February 1 to August 31 (Burrowing owl)
- February 1 to July 30 (Raptors - tall trees)
- February 15 to August 15 (Cactus Wren)

If it is determined that construction activities would occur during the raptor breeding season, one pre-construction nest survey shall be conducted within 500 feet of the impact area to look for active raptor nests. If no active nests are found, no further mitigation shall be required.

***Land Use – 8b:*** If one or more active nests are found, monitoring shall be conducted throughout construction by a qualified biologist to ensure that all construction activities remain at least 500 feet from the active nest, with the exception of Cooper's hawk nest, for which construction

activities shall remain 300 feet away from the nest. The biologist shall also determine when the nest becomes inactive and construction can move closer to the nest site. If construction activities are conducted within the MHPA, additional raptor impact avoidance shall occur, as listed below:

- Golden Eagle 4,000 feet from nesting, and
- Northern Harrier 900 feet from nesting site.

**Land Use – 8c:** Any removal of potential raptor nesting trees or other structures should occur during the non-breeding season (i.e., between August 1 and January 31st).

Mitigation measures *Land Use 1, 2, 3, 4, 5, 6, 7, 8, 8a, 8b,* and *8c* of the DEIR are feasible and made binding through the project conditions of approval and the MMRP, and are incorporated by reference as if fully set forth herein.

## B. Noise

### Potential Impacts

**Increase in Ambient Noise Levels:** Noise generated from operation of proposed Pump Station A1 would potentially exceed the 85 dB standard for interior noise levels averaged over 8 hours and would result in a significant noise impact. Noise from operation of the pump station would have the potential to impact nearby sensitive receptors if it were to exceed the 75 dB Leq property line noise standard. Operational noise from pump station(s) constructed as a part of Phase 2C would have the potential to result in significant impacts to nearby sensitive receptors, including residences and schools.

**Temporary Construction Noise:** Noise generated from the nocturnal operation of dewatering pumps within 160 feet of any residence within the project area would result in a significant noise impact to sensitive receptors. This impact would be mitigated with implementation of mitigation measure *Land Use – 5* (listed above). Staging areas constructed adjacent to residential uses would result in potentially significant impacts to residents; however, this impact would be mitigated with implementation of mitigation measure *Land Use-6* (listed above). Impulse noise from construction equipment would result in potentially significant impacts to residents living along the following project roadways: Siempre Viva Road, Cactus Road, Old Otay Mesa Road or Beyer Boulevard. Impulse noise levels at schools and learning institutions located along project roadways would also result in potentially significant noise impacts.

**Facts in Support of Finding:** Implementation of mitigation measures *Noise - 1* through *5* of the DEIR would mitigate project operational and construction-related noise impacts to below a level of significance.

- (a) Interior Pump Station A1 Noise (*Noise – 1*):** Prior to the operation of Pump Station A1, sound absorption panels shall be installed inside the pump room on the walls and ceiling to reduce interior noise levels.
- (b) Exterior Pump Station A1 Noise (*Noise – 2*):** Prior to the operation of Pump Station A1, a final acoustical performance test shall be conducted at the pump station by a qualified acoustician within ninety (90) days after project completion. The test shall verify compliance with the recommended 75 dB Leq property line noise standard. Any violation of standards shall require pump station modification and retesting within ninety (90) days. Standard test protocols as to equipment selected, proper exposure and test duration, calibration, and monitoring parameters shall be used and documented in the final acoustical test report.

- (c) **Exterior Phase 2C Pump Station Noise (*Noise – 3*):** For any pump station(s) constructed as part of Phase 2C, an acoustical noise analysis shall be prepared by a qualified individual to determine if the proposed pump station(s) would have a significant operational impact on nearby sensitive receptors. If a significant operational noise impact would occur, noise abatement measures shall be implemented to reduce noise to below a level of significance, and/or the pump station shall be relocated to an area where noise impacts to sensitive receptors would be below a level of significance.
- (d) **Construction Noise to Residents (*Noise – 4*):** Along project roadways, including Siempre Viva Road, Cactus Road, Old Otay Mesa Road or Beyer Boulevard, where impulse noise levels at adjacent residences would exceed the 75 dB Leq noise threshold, the construction contractor shall implement one or more of the following measures to reduce noise impacts to impacted residents:
1. Erect temporary barriers to separate the noise-generating equipment from adjacent residences. The temporary barriers shall be constructed of either 3/4-inch plywood or steel-framed canvas batts.
  2. Limit the total hours per day working near any individual receiver.
  3. Utilize smaller, quieter equipment and limit the use of jackhammers (shielded, if necessary) to break up reinforced concrete only.
  4. Reimburse affected stay-at-home residents to spend a day or two at a recreational amenity away from the job site until the pavement breaking is completed.
- (e) **Construction Noise to Schools (*Noise – 5*):** The construction contractor shall implement the following measures whenever any major impulsive noise source is operating within 280 feet of any project-area classroom.
1. Perform the activity when school is not in session;
  2. Shield the activity with a solid barrier to break the line-of-sight; and
  3. Perform the activity only during small fractions of any hour.

Mitigation measures *Noise - 1* through *5* of the DEIR are feasible and are made binding through the project conditions of approval and the MMRP, and are incorporated by reference as if fully set forth herein.

### C. Paleontological Resources

#### Potential Impacts

Implementation of the proposed project could have significant adverse effects on paleontological resources with trenching activities within the Quaternary Stream-Terrace Deposits, Lindavista Formation, San Diego Formation, Bay Point Formation and Otay Formation.

**Facts in Support of Finding:** Implementation of mitigation measures *Paleontological Resources - 1* of the DEIR would reduce potential impacts to paleontological resources to below a level of significance.

- (a) **Impacts to Paleontological Resources (*Paleontological Resources – 1*):** Prior to the City's first pre-construction meeting, or the issuance of a building or grading permit, whichever is applicable, the project builder shall provide a letter of verification to the Assistant Deputy Director (ADD) of Land Development Review (LDR) stating that a qualified paleontologist has been retained to

implement the monitoring program. A qualified paleontologist is defined as an individual with a Ph.D. or M.S. degree in paleontology or geology who is a recognized expert in the application of paleontological procedures and techniques such as screen washing of materials and identification of fossil deposits. The following conditions apply to the implementation of mitigation measure *Paleontological Resources – 1*:

## **I. Prior to Permit Issuance or Bid Opening/Bid Award**

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

1. Prior to permit issuance, or Bid Opening/Bid Award, whichever is applicable, the Assistant Deputy Director (ADD) Environmental designee shall verify that the requirements for Paleontological Monitoring have been noted on the appropriate construction documents.

### **B. Letters of Qualification have been submitted to ADD**

1. Prior to Bid Award, the applicant shall submit a letter of verification to Mitigation Monitoring Coordination (MMC) identifying the Principal Investigator (PI) for the project and the names of all persons involved in the paleontological monitoring program, as defined in the City of San Diego Paleontology Guidelines.
2. MMC will provide a letter to the applicant confirming the qualifications of the PI and all persons involved in the paleontological monitoring of the project.
3. Prior to the start of work, the applicant shall obtain approval from MMC for any personnel changes associated with the monitoring program.

## **II. Prior to Start of Construction**

### **A. Verification of Records Search**

1. The PI shall provide verification to MMC that a site specific records search has been completed. Verification includes, but is not limited to a copy of a confirmation letter from San Diego Natural History Museum, other institution or, if the search was in-house, a letter of verification from the PI stating that the search was completed.
2. The letter shall introduce any pertinent information concerning expectations and probabilities of discovery during trenching and/or grading activities.

### **B. PI Shall Attend Precon Meetings**

1. Prior to beginning any work that requires monitoring, the Applicant shall arrange a Precon Meeting that shall include the PI, Construction Manager (CM) and/or Grading Contractor, Resident Engineer (RE), Building Inspector (BI), if appropriate, and MMC. The qualified paleontologist shall attend any grading/excavation-related Precon Meetings to make comments and/or suggestions concerning the Paleontological Monitoring program with the Construction Manager and/or Grading Contractor.
  - a. If the PI is unable to attend the Precon Meeting, the Applicant shall schedule a focused Precon Meeting with MMC, the PI, RE, CM or BI, if appropriate, prior to the start of any work that requires monitoring.

2. Acknowledgement of Responsibility for Curation (CIP or Other Public Projects)

The applicant shall submit a letter to MMC acknowledging their responsibility for the cost of curation associated with all phases of the paleontological monitoring program.

3. Identify Areas to be Monitored

- a. Prior to the start of any work that requires monitoring, the PI shall submit a Paleontological Monitoring Exhibit (PME) based on the appropriate construction documents (reduced to 11x17) to MMC for approval identifying the areas to be monitored including the delineation of grading/excavation limits.
- b. The PME shall be based on the results of a site-specific records search as well as information regarding existing known soil conditions (native or formation).
- c. MMC shall notify the PI that the PME has been approved.

4. When Monitoring Will Occur

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

5. Approval of PME and Construction Schedule

After approval of the PME by MMC, the PI shall submit to MMC written authorization of the PME and Construction Schedule from the CM.

### III. During Construction

A. Monitor Shall be Present During Grading/Excavation/Trenching

1. The monitor shall be present full-time during grading/excavation/trenching activities including, but not limited to mainline, laterals, jacking and receiving pits, services and all other appurtenances associated with underground utilities as identified on the PME and as authorized by the CM that could result in impacts to formations with high and/or moderate resource sensitivity at depths of 10 feet or greater and as authorized by the Construction Manager. The Construction Manager is responsible for notifying the RE, PI, and MMC of changes to any construction activities.
2. The monitor shall document field activity via the Consultant Site Visit Record (CSVSR). The CSVSR's shall be faxed by the CM to the RE the first day of monitoring, the last day of monitoring (notification of monitoring completion), monthly, and in the case of ANY discoveries. The RE shall forward copies to MMC.
3. The PI may submit a detailed letter to the CM and/or RE for concurrent and forwarding to MMC during construction requesting a modification to the monitoring program when a field condition such as trenching activities that do not encounter formational soils as previously assumed, and/or when unique/unusual fossils are encountered, which may reduce or increase the potential for resources to be present.

## B. Discovery Notification Process

1. In the event of a discovery, the Paleontological Monitor shall direct the contractor to temporarily divert trenching activities in the area of discovery and immediately notify the RE or BI, as appropriate.
2. The Monitor shall immediately notify the PI (unless Monitor is the PI) of the discovery.
3. The PI shall immediately notify MMC by phone of the discovery, and shall also submit written documentation to MMC within 24 hours by fax or email with photos of the resource in context, if possible.

## C. Determination of Significance

1. The PI shall evaluate the significance of the resource.
  - a. The PI shall immediately notify MMC by phone to discuss significance determination and shall also submit a letter to MMC indicating whether additional mitigation is required. The determination of significance for fossil discoveries shall be at the discretion of the PI.
  - b. If the resource is significant, the PI shall submit a Paleontological Recovery Program (PRP) and obtain written approval of the program from MMC, MC and/or RE. PRP and any mitigation must be approved by MMC, RE and/or CM before ground disturbing activities in the area of discovery will be allowed to resume.
    - (1) Note: For Pipeline Trenching Projects Only. The PI shall implement the Discovery Process for Pipeline Trenching projects identified below under "D."
  - c. If resource is not significant (e.g., small pieces of broken common shell fragments or other scattered common fossils) the PI shall notify the RE, or BI, as appropriate, that a non-significant discovery has been made. The Paleontologist shall continue to monitor the area without notification to MMC unless a significant resource is encountered.
  - d. The PI shall submit a letter to MMC indicating that fossil resources will be collected, curated, and documented in the Final Monitoring Report. The letter shall also indicate that no further work is required.
    - (1) Note: For Pipeline Trenching Projects Only. If the fossil discovery is limited in size, both in length and depth, the information value is limited and there are no unique fossil features associated with the discovery area, then the discovery should be considered not significant.
    - (2) Note: for Pipeline Trenching Projects Only. If significance can not be determined, the Final Monitoring Report and Site Record shall identify the discovery as Potentially Significant.

## D. Discovery Process for Significant Resources - Pipeline Trenching Projects

The following procedure constitutes adequate mitigation of a significant discovery encountered during pipeline trenching activities including but not limited to excavation for jacking pits, receiving pits, laterals, and manholes to reduce impacts to below a level of significance.

1. Procedures for documentation, curation and reporting
  - a. One hundred percent of the fossil resources within the trench alignment and width shall be documented in-situ photographically, drawn in plan view (trench and profiles of side walls), recovered from the trench and photographed after cleaning, then analyzed and curated consistent with Society of Invertebrate Paleontology Standards. The remainder of the deposit within the limits of excavation (trench walls) shall be left intact and so documented.
  - b. The PI shall prepare a Draft Monitoring Report and submit to MMC via the RE as indicated in Section VI-A.
  - c. The PI shall be responsible for recording (on the appropriate forms for the San Diego Natural History Museum) the resource(s) encountered during the Paleontological Monitoring Program in accordance with the City's Paleontological Guidelines. The forms shall be submitted to the San Diego Natural History Museum and included in the Final Monitoring Report.
  - d. The Final Monitoring Report shall include a recommendation for monitoring of any future work in the vicinity of the resource.

#### **IV. Night Work**

##### **A. If night work is included in the contract**

1. When night work is included in the contract package, the extent and timing shall be presented and discussed at the Precon Meeting.
2. The following procedures shall be followed.
  - a. No Discoveries

In the event that no discoveries were encountered during night work, the PI shall record the information on the CSVN and submit to MMC via the RE via fax by 9 AM the following morning, if possible.
  - b. Discoveries

All discoveries shall be processed and documented using the existing procedures detailed in Sections III - During Construction.
  - c. Potentially Significant Discoveries

If the PI determines that a potentially significant discovery has been made, the procedures detailed under Section III - During Construction shall be followed.
  - d. The PI shall immediately contact the RE and MMC, or by 8 AM the following morning, to report and discuss the findings as indicated in Section III-B, unless other specific arrangements have been made.

##### **B. If night work becomes necessary during the course of construction**

1. The Construction Manager shall notify the RE, or BI, as appropriate, a minimum of 24 hours before the work is to begin.
2. The RE, or BI, as appropriate, shall notify MMC immediately.

##### **C. All other procedures described above shall apply, as appropriate.**

## V. Post Construction

### A. Submittal of Draft Monitoring Report

1. The PI shall submit two copies of the Draft Monitoring Report (even if negative) which describes the results, analysis, and conclusions of all phases of the Paleontological Monitoring Program (with appropriate graphics) to MMC via the RE for review and approval within 90 days following the completion of monitoring,
  - a. For significant paleontological resources encountered during monitoring, the Paleontological Recovery Program or Pipeline Trenching Discovery Process shall be included in the Draft Monitoring Report.
  - b. Recording Sites with the San Diego Natural History Museum  
The PI shall be responsible for recording (on the appropriate forms) any significant or potentially significant fossil resources encountered during the Paleontological Monitoring Program in accordance with the City's Paleontological Guidelines, and submittal of such forms to the San Diego Natural History Museum with the Final Monitoring Report.
2. MMC shall return the Draft Monitoring Report to the PI via the RE for revision or for preparation of the Final Report.
3. The PI shall submit revised Draft Monitoring Report to MMC via the RE 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 the Draft Monitoring Report.

### B. Handling of Fossil Remains.

The PI shall be responsible for ensuring that all fossil remains collected are cleaned and catalogued

### C. Curation of Artifacts: Deed of Gift and Acceptance Verification

1. The PI shall be responsible for ensuring that all fossil remains associated with the monitoring for this project are permanently curated with an appropriate institution.
2. The PI shall submit the Deed of Gift and catalogue record(s) to the RE or BI, as appropriate, for donor signature with a copy submitted to MMC.
3. The RE or BI, as appropriate, shall obtain signature on the Deed of Gift and shall return to PI with copy submitted to MMC.
4. The PI shall include the Acceptance Verification from the curation institution in the Final Monitoring Report submitted to the RE or BI and MMC.

### D. Final Monitoring Report(s)

1. The PI shall submit two copies of the Final Monitoring Report to MMC (even if negative), within 90-days after notification from MMC of the approved report.
2. The RE shall, in no case, issue the Notice of Completion until receiving a copy of the approved Final Monitoring Report from MMC, which includes the Acceptance Verification from the curation institution.

## D. Historical Resources

### Potential Impacts

Project excavation and trenching during the construction of Phase 2 facilities would have the potential to impact all sites identified during the historical resources record search, literature review and site survey, which include one archaeological site identified as significant (CA-SDI-11424), three untested sites (CA-SDI-10963, CA-SDI-14083, and CA-SDI-14084), and five sites that were identified as not significant but may still contain unknown archaeological resources (CA-SDI-6941, CA-SDI-7208, CA-SDI-10188, CA-SDI-10197, CA-SDI-10511).

**Facts in Support of the Finding:** Implementation of the following mitigation measures Historical Resources - 1 and 2 of the DEIR would reduce potentially significant historical resources impacts to below a level of significance.

- (a) **Impacts to Significant Archaeological Site CA-SDI-11424 (*Historical Resources - 1*):** Prior to the City's first preconstruction meeting, a testing and mitigation program for site CA-SDI-11424 shall be implemented to determine the western site boundary, based on CEQA, City of San Diego Historical Resource Guidelines, and the Otay Mesa Management Plan. For the portions of this site located within undeveloped land, surface collection should be used to determine the surface site boundaries and areas of artifact concentration in order to ascertain placement of test units and/or shovel test pits (STPs) and/or backhoe trenches. Excavation units (1x1-m) should be placed in those areas where ground stone, fire-altered rock, or a concentration of flaked material occurs. Backhoe trenching should be used at those sites where deep subsurface deposits (i.e., historic privies or dumps or subsurface prehistoric deposits) are possible. For any portion of this site located within developed land, a field visit to spot check the area, collection of surface artifacts, and a construction monitoring program shall be implemented. The test program shall include a literature/historic files review, mapping of any remaining structures, and backhoe trenching when applicable for determining the location of historical dumps.
- (b) **Impacts to Known Archaeological Sites (*Historical Resources - 2*):** Prior to the City's first pre-construction meeting a construction monitoring program shall be implemented for all known archeological sites located within the Phase 2 project alignment. These sites include CA-SDI 10185, CA-SDI-10963, CA-SDI-11424, CA-SDI-14083, CA-SDI-14084, CA-SDI-6941, CA-SDI-7208, CA-SDI-10188, CA-SDI-10197, and CA-SDI-10511. The following monitoring program shall be implemented:

### **I. Prior to Permit Issuance, Award of Contract or First Preconstruction Meeting**

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

1. Prior to permit issuance, or after award of the contract, 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, if applicable, have been noted on the appropriate construction documents.

#### B. Letters of Qualification have been submitted to ADD

1. The applicant shall submit a letter of verification to Mitigation Monitoring Coordination (MMC) identifying the Principal Investigator (PI) for the project and the names of all persons involved in the archaeological monitoring program, as defined in the City of San Diego Historical Resources Guidelines (HRG). If

applicable, individuals involved in the archaeological monitoring program must have completed the 40-hour HAZWOPER training with certification documentation.

2. MMC will provide a letter to the applicant confirming the qualifications of the PI and all persons involved in the archaeological monitoring of the project.
3. Prior to the start of work, the applicant must obtain approval from MMC for any personnel changes associated with the monitoring program.

## **II. Prior to Start of Construction**

### **A. Verification of Records Search**

1. The PI shall provide verification to MMC that a site specific records search (1/4 mile radius) has been completed. Verification includes, but is not limited to a copy of a confirmation letter from South Coast Information Center, or, if the search was in-house, a letter of verification from the PI stating that the search was completed.
2. The letter shall introduce any pertinent information concerning expectations and probabilities of discovery during trenching and/or grading activities.
3. The PI may submit a detailed letter to MMC requesting a reduction to the 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, Construction Manager (CM) and/or Grading Contractor, Resident Engineer (RE), Building Inspector (BI), if appropriate, and MMC. The qualified Archaeologist shall attend any grading/excavation related Precon Meetings to make comments and/or suggestions concerning the Archaeological Monitoring program with the Construction Manager and/or Grading Contractor.
  - a. If the PI is unable to attend the Precon Meeting, the Applicant shall schedule a focused Precon Meeting with MMC, the PI, RE, CM or BI, if appropriate, prior to the start of any work that requires monitoring.
2. Acknowledgement of Responsibility for Curation (CIP or Other Public Projects)  
The applicant shall submit a letter to MMC acknowledging their responsibility for the cost of curation associated with all phases of the archaeological monitoring program.
3. Identify Areas to be Monitored
  - a. Prior to the start of any work that requires monitoring, the PI shall submit an Archaeological Monitoring Exhibit (AME) based on the appropriate construction documents (reduced to 11x17) to MMC identifying the areas to be monitored including the delineation of grading/excavation limits.
  - b. The AME shall be based on the results of a site specific records search as well as information regarding the age of existing pipelines, laterals and associated appurtenances and/or any known soil conditions (native or formation).
4. When Monitoring Will Occur
  - a. Prior to the start of any work, the PI shall also submit a construction schedule to MMC through the RE indicating when and where monitoring will occur.
  - b. The PI may submit a detailed letter to MMC prior to the start of work or during construction requesting a modification to the monitoring program. This request shall be based on relevant information such as review of final construction

documents which indicate conditions such as: age of existing pipe to be replaced, depth of excavation and/or site graded to bedrock, etc., that may reduce or increase the potential for resources to be present.

### **III. During Construction**

#### **A. Monitor Shall be Present During Grading/Excavation/Trenching**

1. The monitor shall be present full-time during grading/excavation/trenching activities including, but not limited to mainline, laterals, services and all other appurtenances associated with underground utilities as identified on the AME. The Construction Manager is responsible for notifying the RE, PI, and MMC of changes to any construction activities.
2. The monitor shall document field activity via the Consultant Site Visit Record (CSVSR). The CSVSR's shall be faxed by the CM to the RE the first day of monitoring, the last day of monitoring, monthly, notification of monitoring completion, and in the case of ANY discoveries. The RE shall forward copies to MMC.
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 trenching activities, presence of fossil formations, or when native soils are encountered may reduce or increase the potential for resources to be present.

#### **B. Discovery Notification Process**

1. In the event of a discovery, the Archaeological Monitor shall direct the contractor to temporarily divert trenching activities in the area of discovery and immediately notify the RE or BI, as appropriate.
2. The Monitor shall immediately notify the PI (unless Monitor is the PI) of the discovery.
3. The PI shall immediately notify MMC by phone of the discovery, and shall also submit written documentation to MMC within 24 hours by fax or email with photos of the resource in context, if possible.

#### **C. Determination of Significance**

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

- (1) Note: For Pipeline Trenching Projects Only. If the deposit is limited in size, both in length and depth; the information value is limited and is not associated with any other resource; and there are no unique features/artifacts associated with the deposit, the discovery should be considered not significant.
- (2) Note: For Pipeline Trenching Projects Only. If significance can not be determined, the Final Monitoring Report and Site Record (DPR Form 523A/B) shall identify the discovery as Potentially Significant.

**D. Discovery Process for Significant Resources - Pipeline Trenching Projects**

The following procedure constitutes adequate mitigation of a significant discovery encountered during pipeline trenching activities including but not limited to excavation for jacking pits, receiving pits, laterals, and manholes to reduce impacts to below a level of significance:

1. Procedures for documentation, curation and reporting
  - a. One hundred percent of the artifacts within the trench alignment and width shall be documented in-situ, to include photographic records, plan view of the trench and profiles of side walls, recovered, photographed after cleaning and analyzed and curated. The remainder of the deposit within the limits of excavation (trench walls) shall be left intact.
  - b. The PI shall prepare a Draft Monitoring Report and submit to MMC as indicated in Section VI-A.
  - c. The PI shall be responsible for recording (on the appropriate State of California Department of Park and Recreation forms-DPR 523 A/B) the resource(s) encountered during the Archaeological Monitoring Program in accordance with the City's Historical Resources Guidelines. The DPR forms shall be submitted to the South Coastal Information Center for either a Primary Record or SDI Number and included in the Final Monitoring Report.
  - d. The Final Monitoring Report shall include a recommendation for monitoring of any future work in the vicinity of the resource.

**IV. Discovery of Human Remains**

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

**A. Notification**

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

**B. Isolate discovery site**

1. Work shall be directed away from the location of the discovery and any nearby area reasonably suspected to overlay adjacent human remains until a determination can be made by the Medical Examiner in consultation with the PI concerning the provenience of the remains.
2. The Medical Examiner, in consultation with the PI, shall determine the need for a field examination to determine the provenience.

3. If a field examination is not warranted, the Medical Examiner shall determine with input from the PI, if the remains are or are most likely to be of Native American origin.
- C. If Human Remains **ARE** determined to be Native American
1. The Medical Examiner shall notify the Native American Heritage Commission (NAHC). By law, **ONLY** the Medical Examiner can make this call.
  2. The NAHC shall contact the PI within 24 hours or sooner, after Medical Examiner has completed coordination.
  3. NAHC shall identify the person or persons determined to be the Most Likely Descendent (MLD) and provide contact information..
  4. The PI shall coordinate with the MLD for additional consultation.
  5. Disposition of Native American Human Remains shall be determined between the MLD and the PI, IF:
    - a. The NAHC is unable to identify the MLD, OR the MLD failed to make a recommendation within 24 hours after being notified by the Commission; OR;
    - b. The landowner or authorized representative rejects the recommendation of the MLD and mediation in accordance with PRC 5097.94 (k) by the NAHC fails to provide measures acceptable to the landowner.
- D. If Human Remains are **NOT** Native American
1. The PI shall contact the Medical Examiner and notify them of the historic era context of the burial.
  2. The Medical Examiner will determine the appropriate course of action with the PI and City staff (PRC 5097.98).
  3. If the remains are of historic origin, they shall be appropriately removed and conveyed to the Museum of Man for analysis. The decision for internment of the human remains shall be made in consultation with MMC, EAS, the applicant department and/or Real Estate Assets Department (READ) and the Museum of Man.

## V. Night Work

- A. If night work is included in the contract
1. When night work is included in the contract package, the extent and timing shall be presented and discussed at the precon meeting.
  2. *The following procedures shall be followed.*
    - a. No Discoveries
 

In the event that no discoveries were encountered during night work, The PI shall record the information on the CSVR and submit to MMC via fax by 9am the following morning, if possible.
    - 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.
    - c. Potentially Significant Discoveries
 

If the PI determines that a potentially significant discovery has been made, the procedures detailed under Section III - During Construction shall be followed.

- d. The PI shall immediately contact MMC, or by 8AM the following morning to report and discuss the findings as indicated in Section III-B, unless other specific arrangements have been made.
- B. If night work becomes necessary during the course of construction
    1. The Construction Manager shall notify the RE, or BI, as appropriate, a minimum of 24 hours before the work is to begin.
    2. The RE, or BI, as appropriate, shall notify MMC immediately.
  - C. All other procedures described above shall apply, as appropriate.

## **VI. Post Construction**

- A. Completion of Monitoring Program and Submittal of Draft Monitoring Report
  1. The PI shall submit two copies of the Draft Monitoring Report (even if negative) 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,
    - a. For significant archaeological resources encountered during monitoring, the Archaeological Data Recovery Program or Pipeline Trenching Discovery Process shall be included in the Draft Monitoring Report.
    - b. MMC shall return the Draft Monitoring Report to the PI for revision or, for preparation of the Final Report.
    - c. Recording Sites with State of California Department of Parks and Recreation  
The PI shall be responsible for recording (on the appropriate State of California Department of Park and Recreation forms-DPR 523 A/B) any significant or potentially significant resources encountered during the Archaeological Monitoring Program in accordance with the City's Historical Resources Guidelines, and submittal of such forms to the South Coastal Information Center with the Final Monitoring Report.
    - d. MMC shall notify the RE or BI, as appropriate, of receipt of the Draft Monitoring Report.
  2. Handling of Artifacts
    - a. The PI shall be responsible for ensuring that all cultural remains collected are cleaned and catalogued
    - b. 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. Curation of artifacts: Deed of Gift and Acceptance Verification
    - a. 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 EAS and the Native American representative, as applicable.
    - b. The PI shall submit the Deed of Gift and catalogue record(s) to MMC for signature by the RE or BI, as appropriate.
    - c. The RE or BI, as appropriate shall obtain signature on Deed of Gift and shall return to MMC.
    - d. MMC shall return the signed Deed of Gift to the PI.

- e. The PI shall include the Acceptance Verification from the curation institution to MMC with submittal of the Final Monitoring Report.

**B. Final Monitoring Report(s)**

1. The PI shall submit two copies of the Final Monitoring Report to MMC (even if negative), within 90-days after approval of the draft report, which describes the results, analysis, and conclusions of all phases of the Archaeological Monitoring Program (with appropriate graphics).
2. The RE shall, in no case, issue the Notice of Completion until receiving a copy of the approved Final Monitoring Report from MMC which includes the Acceptance Verification from the curation institution.

Mitigation measures *Historical Resources – 1* and *2* of the DEIR are feasible and are made binding through the project conditions of approval and the MMRP, and are incorporated by reference as if fully set forth herein.

**E. Air Quality (Partial)**

**Potential Impacts**

Construction and operation of Phase 2C, and construction of Phase 3, would also have the potential to result in air pollutant emissions that exceed significance thresholds. A potentially significant impact may occur if the emergency generators for the 35 MGD pump station were to operate for longer than 2.4 hours per day. Although phases 2A1, 2A2, 2B1, 2B2, 2D, 2E and 2F of the proposed project would not result in a significant air quality impact from project construction, a mitigation measure is proposed to further reduce pollutant emissions during construction.

**Facts in Support of Finding:** Implementation of mitigation measures *Air Quality - 1* through *4* of the DEIR would reduce project impacts associated with air quality to below a level of significance.

- (a) **Construction/Operation of Phase 2C Facilities (*Air Quality – 1*):** When pipeline alignments and pump station location(s) have been determined for Phase 2C, an air quality technical report shall be prepared by a qualified individual that identifies whether construction or operational activities associated with Phase 2C pipelines and pump stations would generate pollutant emissions which exceed significance thresholds. If significance thresholds would be exceeded, pollutant emission reduction measures shall be implemented to reduce impacts to below a level of significance.
- (b) **Construction of Phase 3 Facilities (*Air Quality – 2*):** Prior to the City's first preconstruction meeting for the construction of Phase 3, an air quality technical report shall be prepared by a qualified individual that identifies whether construction activities associated with Phase 3 pipeline installation would generate pollutant emissions which exceed significance thresholds. If significance thresholds would be exceeded for construction activities, pollutant emission reduction measures shall be implemented to reduce impacts to below a level of significance.
- (c) **Emergency Generators for 35 MGD Pump Station (*Air Quality – 3*):** Prior to the City's first preconstruction meeting for the construction of the 35 MGD pump station, an air quality emissions analysis shall be conducted by a qualified individual to determine if the emergency generators proposed for the pump station backup power would exceed allowable emissions thresholds. If such an exceedance would occur, measures shall be implemented to reduce impacts to below a level of significance.

(d) **Construction Best Management Practices (*Air Quality – 4*):** Prior to the City’s first preconstruction meeting, the project engineer shall identify one or more of the following mitigation measures on the appropriate grading plans which shall be implemented during all phases of construction for the proposed project:

1. Limit the disturbance “footprint” to as small an area as practical.
2. Water all active construction areas at least twice daily.
3. Cover all off-site haul trucks or maintain at least two feet of freeboard.
4. Pave or apply water four times daily to all unpaved parking or staging areas.
5. Sweep or wash any site access points within 30 minutes of any visible dirt deposition on any public roadway.
6. Cover or water twice daily any on-site stockpiles of debris, dirt or other dusty material.
7. Suspend all operations on any unpaved surface if winds exceed 25 mph.
8. Hydroseed or otherwise stabilize any cleared area which is to remain inactive for more than 96 hours after clearing is completed.
9. Require 90-day low- NO<sub>x</sub> tune-ups for off-road equipment.
10. Encourage carpooling for construction workers.
11. Limit lane closures to off-peak travel periods.
12. Park construction vehicles off traveled roadways.
13. Wet down or cover dirt hauled off site.
14. Wash or sweep access points daily.
15. Encourage receipt of materials during non-peak traffic hours.
16. Sandbag construction sites for erosion control.

Mitigation measures *Air Quality 1* through *4* of the DEIR are feasible and are made binding through the project conditions of approval and the MMRP, and are incorporated by reference as if fully set forth herein.

## **F. Biological Resources**

### **Potential Impacts**

The expansion of Pump Station A1 would result in a direct significant impact to 2.8 acres of non-native grassland and would have the potential to impact unknown sensitive plant and animal species on the pump station site. In addition, direct impacts to habitats and sensitive animal and plant species would have the potential to occur if the proposed pipeline alignment were to extend outside of the ROW. Potentially significant indirect impacts that may result from construction of the proposed project include a decrease in water and air quality, and increases in night lighting, noise, and errant construction impacts. Phase 2C has not been surveyed for biological resources, and would be located in a currently undeveloped area of Otay Mesa; therefore, this phase would have the potential to result in significant direct impacts to sensitive habitats, plants, and animals.

The proposed project would also result in potentially significant indirect impacts to biological resources related to air quality, night lighting, noise, and errant construction impacts. Construction-related fugitive dust impacts to sensitive habitat, animal and plant species in the project area would be mitigated to below a level of significance with implementation of mitigation measure *Air Quality – 4* (listed above). Impacts from construction and operational lighting at night would be mitigated to below a level of significance with implementation of mitigation measures *Land Use – 3* and *4* (listed above). Indirect noise impacts

from construction or operational activities would be mitigated to below a level of significance with implementation of mitigation measures *Land Use – 5, 6, 7, 8, 8a, 8b* and *8c* (listed above). Errant construction impacts to sensitive habitats, plants or animals would be mitigated to below a level of significance with implementation of mitigation measures *Land Use – 1* and *2* (listed above).

**Facts in Support of Finding:** Implementation of mitigation measures would reduce impacts associated with Sensitive Habitat, Animal and Plant Species to below a level of significance. Specifically, mitigation measures *Biological Resources 1* through *5* of the DEIR are feasible to substantially lessen biological resources impacts to below a level of significance:

- (a) **Impacts to Non-native Grassland Habitat (*Biological Resources – 1*):** Prior to the City's first pre-construction meeting, direct impacts to non-native grassland located at the site of proposed Pump Station A1 shall be mitigated in accordance with the City's Biology Guidelines mitigation ratio for non-native grassland located outside of the MHPA as listed in Table 4.7-4. According to this table, mitigation for an impact to 2.8 acres of non-native grassland would consist of the purchase, dedication or conservation of 1.4 acres of mitigation land within the MHPA (2.8 acres of non-native grassland would be required if mitigated outside the MHPA).
  
- (b) **Impacts to Habitat Outside the ROW (*Biological Resources – 2*):** Prior to the City's first pre-construction meeting for each phase of construction for the pipeline alignment, a qualified biologist shall field verify the proposed pipeline alignment to determine any areas where the alignment would be located outside of the paved roadway alignment footprint. If no areas would be located outside of the paved roadway alignment footprint, no further action shall be required. If construction activities would extend outside of the existing roadway alignment footprint, an appropriately timed field survey shall be conducted to determine if any sensitive habitats, animal or plant species would be impacted during construction. If the alignment would be located outside of the paved roadway alignment footprint and would impact sensitive habitats, animal or plant species, then *Biological Resources – 2a* and *2b* shall be followed.

***Biological Resources – 2a:*** If sensitive habitat would be impacted by the proposed project, the qualified biologist shall determine whether the habitat is located inside or outside of the MHPA and in what level of the City's tier system the habitat is located. Impacts to each type of habitat shall be mitigated in accordance with the City's Biology Guidelines mitigation ratios listed in Table 4.7-4. According to this table, mitigation for impacts to sensitive habitats would consist of the purchase or dedication of land at a ratio between 0.5:1 to 4:1 from a mitigation bank or an area within the MHPA. In addition, appropriately-timed pre-construction surveys shall be conducted by a qualified biologist pursuant to state and federal protocols to determine if sensitive species are present within the sensitive habitat areas. If only sensitive habitat is impacted, and no sensitive animal or plant species are determined to be present onsite, then the sensitive habitat shall be mitigated in accordance with Table 4.7-4. If sensitive species are detected onsite, then mitigation measure *Biological Resources – 2c* would be implemented.

**Table 4.7-4. Mitigation Ratios for Impacts to Sensitive Habitats**

Vegetation Community (Tier)	Impacts and Mitigation Inside MHPA	Impacts Outside and Mitigation Inside MHPA	Project Impacts to Habitat (Acres)	Required Mitigation (Acres)
Vernal pool (N/A)	2:1 to 4:1	2:1 to 4:1	-	-
Freshwater marsh (N/A)	2:1	2:1	-	-
Mule fat scrub (N/A)	2:1	2:1	-	-
Southern willow scrub (N/A)	2:1	2:1	-	-
Seasonal pond (N/A)	1:1	1:1	-	-
Disturbed wetland (N/A)	1:1	1:1	-	-
Maritime succulent scrub (I)	2:1	1:1	-	-
Maritime succulent scrub – disturbed (I)	2:1	1:1	-	-
Diegan coastal sage scrub (II)	1:1	1:1	-	-
Diegan coastal sage scrub – disturbed (II)	1:1	1:1	-	-
Non-native grassland (IIB)	1:1	0.5:1	2.8	1.4

N/A: Not Applicable to the City' Tier System  
 Source: City of San Diego, 2002

**Biological Resources – 2b:** If construction activities would extend outside of the existing roadway alignment footprint, and sensitive habitats would be impacted, as determined in mitigation measure **Biological Resources – 2a**, then a qualified biologist shall conduct regular monitoring visits during construction to assure that construction personnel and equipment do not encroach into any sensitive areas. The schedule for biological monitoring visits shall be determined at the pre-construction meeting for each project construction phase. To the extent feasible, construction work near vernal pool areas shall be conducted outside the rainy season and construction work near habitats of sensitive species shall be conducted outside the breeding season of those species.

**Biological Resources – 2c:** If sensitive animal or plant species are observed, based on a protocol surveys performed by a qualified biologist, they shall be avoided when possible. If impacts cannot be avoided, the significance of the impacts to those species must be evaluated in a second tier document in compliance with CEQA and any significant impacts shall be mitigated based on the recommendations of the qualified biologist.

The recommended mitigation ratios in Table 4.7-4 shall be subject to change based on the project's impact on federally listed species, including (potentially) the San Diego button-celery, Otay Mesa mint, California orcutt grass, Otay tarplant, spreading navarretia, Riverside fairy shrimp, San Diego fairy shrimp, coastal California gnatcatcher, and quino checkerspot butterfly in accordance with the City's Biological Guidelines.

- (c) **Impacts to Sensitive Plant Species at Pump Station A1 Site (Biological Resources – 3):** Prior to first preconstruction meeting for the construction of Pump Station A1, focused surveys for sensitive plant species shall be conducted at the Pump Station A1 site by a qualified biologist during the appropriate season as part of or prior to the project planning or design phase. Two rare plant surveys shall be conducted at the Pump Station A1 site, one in the early spring (April/May) and the other during mid to late July, to identify any federal, state, and City (narrow endemic) sensitive plant species. If sensitive plant species are observed onsite, they shall be avoided if

possible. If impacts cannot be avoided, the significance of the impacts to those species shall be evaluated in a second tier document in compliance with CEQA and any significant impacts shall be mitigated based on the recommendations of the qualified biologist. Typically, impacts to any listed or City narrow endemic plants require species-specific mitigation, usually in the form of plant salvage and translocation to a suitable preserve area.

- (d) **Impacts to Sensitive Animal Species at Pump Station A1 Site (*Biological Resources – 4*):** Prior to construction of Pump Station A1, a qualified biologist shall survey the Pump Station A1 site for the presence of suitable habitat for the following wildlife species: San Diego and Riverside fairy shrimp, quino checkerspot butterfly, and burrowing owl. If the biologist finds suitable habitat for any of these species, sensitive animal surveys for each species identified on the Pump Station site shall be conducted by a qualified biologist in accordance with the measures listed in *Biological Resources – 4a, -4b, and 4-c*.

***Biological Resources – 4a:*** If suitable habitat for San Diego or Riverside fairy shrimp is found on the Pump Station A1 site, U.S. Fish and Wildlife Service (USFWS) protocol surveys shall be required to determine the extent of these species within appropriate habitat (water holding basins) on site. Two seasons of surveys shall be required by the USFWS protocol. The surveys shall consist of two dry season surveys, two wet season surveys, or one of each. The dry season survey shall involve collecting soil samples in the summer and conducting a lab analysis to determine if fairy shrimp cysts are present. Wet season surveys shall require biweekly visits when the pools are full of water to net for adult fairy shrimp.

The City regulates impacts to vernal pools within its jurisdiction; however, it does not have the authority to permit take of listed fairy shrimp. Take of the listed fairy shrimp shall require a federal Endangered Species Act (ESA) Section 10(a) permit processed through the USFWS. In order to process a 10(a) permit, the applicant shall prepare several documents including a Habitat Conservation Plan (HCP), Environmental Assessment (EA), Alternatives Analysis (AA), Implementing Agreement (IA), and associated mitigation and habitat restoration documents.

***Biological Resources – 4b:*** If suitable habitat for the quino checkerspot butterfly is found on the Pump Station A1 site, USFWS focused protocol surveys shall be required, which call for a pre-survey habitat assessment and approximately six weekly surveys during the quino flight period (generally early spring). The USFWS shall determine when conditions are suitable to begin surveys based on observations at several known quino sites. Similar to the San Diego and Riverside fairy shrimp, the quino checkerspot butterfly is not an MSCP covered species. Any take of this species would require an ESA Section 10(a) permit processed through the USFWS.

***Biological Resources – 4c:*** If suitable habitat for the burrowing owl is found on the Pump Station A1 site, surveys shall be conducted during both wintering (December 1 through January 31) and nesting seasons (April 15 and July 15), unless the species is detected during the first season of surveys. If the burrowing owl is observed onsite, impacts to the species shall be avoided to the maximum extent practicable. If impacts can not be avoided, all impacted individuals shall be relocated out of the impact area using passive or active methods approved by the wildlife agencies. Timing of any relocation activity shall be carried out prior to the nesting season (February 1 to August 31). Mitigation for impacts to occupied habitat shall be through conservation of occupied burrowing owl habitat or conservation of lands appropriate for restoration, management, and enhancement of burrowing owl nesting and foraging habitat per the City's MSCP and Biological Guidelines. A management plan for the burrowing owl shall include enhancement of known historical and/or potential burrowing owl habitat, and management for ground squirrels (the primary excavator of burrowing owl burrows). Enhancement measures may

include creation of artificial burrows and vegetation management to enhance foraging habitat. The management plan shall also include monitoring of burrowing owl nest sites to determine use and nesting success; predator control; and establishing a 300-foot wide impact avoidance area (within the preserve) around conserved occupied burrows.

- (e) **Phase 2C Biological Resources Impacts (*Biological Resources – 5*):** Immediately after pipeline alignments and pump station locations have been determined for Phase 2C, a comprehensive biological resources survey and analysis shall be prepared by a qualified biologist to determine if construction and/or operation of Phase 2C pipeline and pump station facilities would result in significant direct or indirect impacts to sensitive biological resources, including sensitive habitats, plant species and animal species. The report shall be submitted to the Assistant Deputy Director (ADD) of Land Development Review (LDR) for concurrent review by Environmental Analysis Section (EAS) and MSCP staff. Any direct or indirect impacts to biological resources identified as a result of Phase 2C shall be mitigated in accordance with the City's Biology Guidelines (City of San Diego 2002). Impacts shall be reduced to below a level of significance whenever possible.

Mitigation measures *Biological Resources 1* through *5* of the DEIR are feasible and are made binding through the Project conditions of approval and the MMRP, and are incorporated by reference as if fully set forth herein.

## G. Hazardous Materials

### Potential Impacts

Construction of the proposed project would have the potential to result in significant hazardous materials impacts during the implementation of Phases 2A2, 2B1, 2B2, 2D, 2E, 2F, and 3 due to known or unknown contaminated soils and groundwater which may exist along the proposed project alignment. Construction of Phase 2C would also have the potential to result in a significant hazard to the public or the environment. The operation of the proposed project would not result in a significant impact associated with hazardous materials storage or use.

**Facts in Support of Finding:** Mitigation measures *Hazardous Materials – 1* through *8* are feasible and would mitigate potentially significant hazardous materials impacts to below a level of significance.

- (a) **Soil Monitoring Program (*Hazardous Materials – 1*):** Prior to the City's first pre-construction meeting, the applicant shall provide a letter of verification to the Assistant Deputy Director (ADD) of Land Development Review (LDR), the City's Local Enforcement Agency (LEA), and the Environmental Services Department (ESD), stating that a qualified hazardous materials monitor has been retained to implement the soil monitoring program during project excavation and trenching. The monitoring program shall be implemented during the following project construction phases: Phase 2B1 along Via De San Ysidro, East and West San Ysidro Boulevards, Hill Street; Phase 2B2 along Heritage Road; and Phases 2B2, 2E and 3 along Otay Mesa Road in the vicinity of Brown Field and along Cactus Road in the vicinity of the former Tripp Landfill. In addition, if soil sampling of the proposed Pump Station A1 site indicates that contaminated soils are located at this site, then the monitoring program shall also be implemented during excavation of the contaminated areas of the Pump Station A1 site. During these project phases, the monitoring program shall be conducted for the presence of petroleum hydrocarbon contamination, burn ash, debris-laden fill material, and discolored or odorous soil in the upper 10 feet of the soil column in all phases except 2B1. Monitoring shall occur for all excavation depths during Phase 2B1. If such soil is encountered, it should be evaluated by a qualified professional and handled in accordance with applicable environmental laws and regulations.

- (b) **Community Health and Safety Plan (*Hazardous Materials – 2*):** Prior to the City's first pre-construction meeting, the applicant shall prepare a Community Health and Safety Plan for approval by the City's Local Enforcement Agency (LEA) for Phases 2B2, 2E and 3 along Cactus Road in the vicinity of Tripp Landfill.
- (c) **Dewatering Activities (*Hazardous Materials – 3*):** Prior to the City's first pre-construction meeting, construction plans shall be reviewed by City LEA and ESD staff for dewatering plans and operations. If dewatering plans and operations are proposed, environmental monitoring for the presence of free product and impacted groundwater shall be conducted as a part of dewatering plans and operations.
- (d) **Underground Storage Tanks (*Hazardous Materials – 4*):** During excavation and construction activities for all phases of the proposed project, any undocumented underground storage tanks (USTs) or other subsurface features indicative of potential contamination that are encountered along the project alignment shall be evaluated and handled in accordance with all applicable federal and state environmental laws and regulations. Specifically, the County Department of Environmental Health and the City LEA and ESD shall be notified if any USTs are discovered within the excavated areas of the proposed project alignment.
- (e) **Destruction of Groundwater Monitoring Wells (*Hazardous Materials – 5*):** Prior to the City's first pre-construction meeting, construction plans shall be reviewed by City LEA and ESD staff for the destruction of existing groundwater monitoring wells located within the proposed project alignment. If the project would require the destruction of existing groundwater monitoring wells, permission to destroy such wells shall be obtained by the appropriate responsible parties and regulatory agencies.
- (f) **Contractor Certification and Training (*Hazardous Materials – 6*):** Prior to the City's first pre-construction meeting, the applicant shall provide proof of all necessary licenses and certifications to perform the excavation and other construction operations to the ADD of LDR. The project builder shall also ensure through employee training that all contractors and workers are made aware of the potential presence of petroleum hydrocarbons and other contaminants in the proposed project alignment. Health and safety measures shall be taken to minimize the risk of human exposure to contaminants during excavation and construction activities.
- (g) **Soil Sampling at Pump Station A1 Site (*Hazardous Materials – 7*):** Prior to the City's first pre-construction meeting or the issuance of a site development permit for the construction of Pump Station A1, whichever is applicable, soil sampling shall be conducted at the Pump Station A1 site by a qualified professional in order to determine if hydrocarbon-impacted soil is present on the site. If no contaminated soil is found onsite, no further action shall be required. If contaminated soils are found onsite, mitigation measure *Hazardous Material – 1* shall be implemented during all excavation of identified areas of contamination within the proposed Pump Station A1 site.
- (h) **Phase I Site Assessment for Project Phase 2C Facilities (*Hazardous Materials – 8*):** When pipeline alignments and pump station location(s) have been determined for Phase 2C, a comprehensive Phase I site assessment shall be conducted by a qualified hazardous materials specialist in order to determine if Phase 2C would have the potential to result in significant hazardous materials impacts due to known or unknown contaminated soils and groundwater which may exist along the proposed project alignment. For potentially significant impacts, the Phase I site assessment shall include recommendations for the remediation of impacts to a level below significant, which may be similar to mitigation measures *Hazardous Materials - 1* through

7, listed above. Mitigation measures implemented to reduce potentially significant impacts shall be approved by the City LEA and ESD and the ADD of LDR.

Mitigation measures *Hazardous Materials 1* through *8* of the DEIR are feasible and is made binding by the conditions of approval for the Project and the MMRP and are incorporated by reference as if fully set forth herein.

#### H. Visual Quality/Aesthetics (Partial)

##### Potential Impacts

**Creation of a Negative Aesthetic Site:** Pump stations constructed as part of Phase 2C would have the potential to result in the creation of a negative aesthetic site or project. Impacts would be potentially significant.

**Facts in Support of Finding:** Mitigation measure *Visual Quality/Aesthetics – 1* would mitigate potentially significant visual quality impacts to below a level of significance.

- (a) **Phase 2C Pump Stations (*Visual Quality/Aesthetics – 1*):** For any pump station(s) constructed as part of Phase 2C, the architectural style and materials used in the pump station building(s) shall be designed to blend with the surrounding land uses of the area in order to avoid creating a negative aesthetic site.

Mitigation measure *Visual Quality/Aesthetics – 1* of the DEIR is feasible and is made binding by the conditions of approval for the Project and the MMRP and are incorporated by reference as if fully set forth herein.

#### I. Energy

##### Potential Impacts

**Excessive Use of Energy:** Any pump stations constructed as part of Phase 2C would have the potential to result in the use of excessive amounts of fuel or energy during operation.

**Facts in Support of Finding:** The potential energy impacts resulting from project operation of Phase 2C pump stations would be potentially significant. Mitigation measure *Energy – 1* would reduce impacts associated with excessive use of energy to below a level of significance.

- (a) **Phase 2C Pump Stations (*Energy – 1*):** Any pump station(s) constructed as part of Phase 2C shall be designed to incorporate energy efficient components such as soft start motors, high efficiency motors, energy-efficient interior, and exterior lighting and skylights in order to avoid the excessive use of fuel or energy.

Mitigation measure *Energy – 1* of the DEIR is feasible and made binding by the conditions of approval of the Project and the MMRP and are incorporated by reference as if fully set forth herein.

**VII. FINDINGS REGARDING IMPACTS WHOSE MITIGATION IS WITHIN THE RESPONSIBILITY AND JURISDICTION OF ANOTHER AGENCY (CALIFORNIA PUBLIC RESOURCES CODE §21081(A)(2))**

The City, having reviewed and considered the information contained in the DEIR, the appendices to the DEIR, and the administrative record, finds, pursuant to California Public Resources Code §21081(a)(2) and CEQA Guidelines §15091(a)(2), that there are no significant impacts for which mitigation measures can and should be adopted by another public agency.

**VIII. FINDINGS REGARDING INFEASIBLE ALTERNATIVES AND MITIGATION MEASURES (CALIFORNIA PUBLIC RESOURCES CODE §21081(a)(3))**

The City, having reviewed and considered the information contained in the DEIR, the appendices to the DEIR, and the administrative record, finds, pursuant to California Public Resources Code §21081(a)(3) and CEQA Guidelines §15091(a)(3), that (i) the DEIR considers a reasonable range of project alternatives and mitigation measures. The proposed project would not result in any significant and unavoidable impacts in any environmental issue categories. The project underwent an extensive screening process prior to preparation of the DEIR, which determined that the proposed project would be the least environmentally damaging option. This is due to the proposed pipeline alignment's location almost entirely within roadway ROW. However, in accordance with CEQA, alternatives to the proposed project have been analyzed and addressed. The following provides a summary of the project alternatives proposed and a comparison of impacts between the proposed project and each alternative.

**A. Infeasibility of Alternatives to Reduce or Avoid Significant Impacts As Compared to the Proposed Project**

The City, having reviewed and considered the information contained in the DEIR, the appendices to the DEIR, and the administrative record, pursuant to California Public Resources Code §21081(a)(3) and CEQA Guidelines §15091(a)(3), finds that specific economic, legal, social, technical, or other conditions, including provision of employment opportunities for highly trained workers, make infeasible the alternatives as follows:

1. **No Project Alternative.** In the case of the proposed Otay Mesa Trunk Sewer Project, the proposed OMTS project would not be implemented. The existing sewerage system in the east mesa would continue to pump wastewater to the Otay Valley Trunk Sewer.

The No Project Alternative would not result in conflicts with any adopted land use plans, including the City's MSCP Land Use Adjacency Guidelines, because no construction would occur under this alternative. Therefore, the No Project Alternative would be consistent with all applicable plans and policies.

Similar to the proposed project, the No Project Alternative would not result in significant impacts to utilities or water quality/hydrology.

The No Project Alternative would avoid significant noise impacts associated with the construction and operation of proposed pump station A1 and the operation of Phase 2C pump stations.

Potentially significant air quality impacts associated with the construction and operation of Phase 2C pump stations, the construction of Phase 3 facilities and the operation of the 35 MGD pump station A1 emergency generators would be avoided under the No Project Alternative because it would not result in any new construction.

Potentially significant impacts to paleontological resources and subsurface prehistoric or historic archeological resources would be avoided because the No Project Alternative would not include any subsurface disturbances or disturbances to historical structures.

The No Project Alternative would avoid direct impacts to sensitive habitats, plants and animals, and indirect impacts to wildlife species because it would not include construction in areas with sensitive biological resources. Potentially significant indirect and direct biological resources impacts associated with Phase 2C pump stations would be avoided.

The No Project Alternative would avoid potentially significant impacts to visual quality/aesthetics and energy associated with Phase 2C pump stations because these facilities would not be constructed.

The No Project Alternative would not involve excavation and construction activities with the potential to encounter contaminated groundwater or include the construction of an underground sewer pipeline that would have the potential to traverse through or near several known hazardous materials contamination sites with existing or previously removed underground storage tanks.

**Facts in Support of Finding:** The significant, mitigable impacts to land use, noise, paleontological resources, historical resources, air quality, biological resources, hazards and hazardous materials, visual quality/aesthetics, and energy would be avoided. However, with the anticipated growth in population within the project area, there would be an increase to sewage generation and demands upon utilities. The No Project Alternative would not provide an adequate sewage system for future growth in the Otay Mesa area. Therefore, a new significant impact would occur with implementation of the No Project Alternative. This impact could be mitigated through the provision of new or upgraded wastewater facilities.

Further, the No Project Alternative is not considered feasible because the following project objectives would not be met:

- Extension of the existing OMTS system to accommodate future flows in the Otay Mesa area and to provide greater capacity to convey wastewater.
- Provide sewer service to the currently underdeveloped western portion of Otay Mesa, including new developments along Old Otay Mesa Road.
- Upgrade of the eastern portion of the Otay Mesa sewer system to accommodate build-out flows.
- Upgrade the capacity of existing temporary Pump Station 23T from 2 million gallons per day (MGD) to 4 MGD.
- Construct a new Pump Station A1 with a capacity of up to 35 MGD, which would replace temporary Pump Station 23T.
- Provide upgraded and new sewer service pipelines in the Otay Mesa area within existing right-of-way (ROW) in order to minimize environmental impacts.
- Provide upgraded and new sewer service in Otay Mesa over a phased implementation timeline in which facilities are built, as they are needed and in coordination with other major projects in the area.
- Direct the majority of all sewer flows from the Otay Mesa area to the San Ysidro Interceptor via the OMTS sewer and minimize or eliminate flows to the Otay Valley Trunk Sewer.

**2. Canyon Ridge Alternative:** The Canyon Ridge Alternative is a gravity alternative alignment that would be located in the west mesa area. This alternative would eliminate the need for existing Pump Stations 23T and proposed Pump Station A1. Existing Pump Station 31T would still be required and Pump Station 48T may still be required. The eastern portions of the alternative alignment along La Media and Siempre Viva Roads would be the same as the proposed project. At the site of existing Pump Station 23T, the Canyon Ridge Alternative would implement a deep sewer pipeline north under Cactus Road for approximately 650 feet. The alignment would then turn west under proposed future roads to Spring Canyon. This alternative alignment would require the construction of a bridge over a portion of Spring Canyon. After crossing the canyon, the alignment would be located in the ROW of the proposed Airway Road extension. Thereafter, the alignment would continue west under Airway Road to Old Otay Mesa Road. Once under Old Otay Mesa Road, the alignment would be the same as the proposed project.

Similar to the proposed project, this alternative would require pump stations and force mains in the currently undeveloped portions of the west mesa that have been designated for future development. The force main sewer pipelines would connect to the gravity lines in Caliente and Airway Roads and connect these areas to the Canyon Ridge backbone system in Old Otay Mesa Road.

**Facts in Support of Finding:** This alternative would require the construction of a bridge across Spring Canyon in areas designated as MHPA and containing sensitive biological resources would conflict with the City's MSCP regulations. Since Spring Canyon is an undeveloped natural area, the Canyon Ridge Alternative would also have the potential to conflict with the City's Historical Resources Regulations and ESL Regulations. Implementation of the Canyon Ridge Alternative would also conflict with two adopted San Diego City Council policies. Council Policy 400-13 focuses on planning for the redirection of sewage discharge away from canyons and other environmentally sensitive lands and Council Policy 400-14 focuses on planning for management of sewer facilities located in canyons and other environmentally sensitive lands. Both policies emphasize that, wherever economically practical, sewer infrastructure should be relocated out of canyons or other environmentally sensitive lands. Both policies were adopted by the City Council on January 22, 2002.

The Canyon Ridge Alternative would have the potential to result in increased impacts to sensitive biological resources because of its location within Spring Canyon. This canyon is located within the Multiple Habitat Planning Area (MHPA) of the City's MSCP and contains sensitive biological habitats including vernal pools, non-native grassland, and coastal sage scrub (MSCP Subarea Plan 1997). The canyon areas support a significant population of MSCP-covered plant and animal species including San Diego thorn-mint, Orcutt's bird's beak, Orcutt's brodiaea, variegated dudleya, San Diego button-celery, coast barrel cactus, Otay tarplant, prostrate navarretia, snake cholla, California orcutt grass, Otay Mesa mint, San Diego goldenstar, small-leaved rose, Riverside fairy shrimp, San Diego horned lizard, orange-throated whiptail, Wright's checkerspot butterfly, northern harrier, Cooper's hawk, golden eagle, peregrine falcon, burrowing owl, cactus wren, and the California gnatcatcher.

This alternative would result in new significant impacts to aesthetics/visual quality associated with the bridge crossing Spring Canyon. It is likely that mitigation to reduce impacts would not reduce them to below a level of significance, and therefore, this impact to aesthetics/visual quality may be significant and unavoidable.

Further, the Canyon Ridge Alternative is not considered feasible because the following Otay Mesa Trunk Sewer Project objectives would not be met:

- Provide upgraded and new sewer service in Otay Mesa over a phased implementation timeline in which facilities are built, as they are needed and in coordination with other major projects in the area.

This alternative would only partially meet the following project objective:

- Provide upgraded and new sewer service pipelines in the Otay Mesa Area within existing ROW.

In addition, two of the project objectives would not be applicable. These two objectives are listed below.

- Upgrade the capacity of existing Pump Station 23T from 2 MGD to 4 MGD; and
- Construct a new Pump Station A1 with a capacity of up to 34 MGD, which would replace temporary Pump Station 23T.

**3. Deep Sewer Alternative:** The Deep Sewer Alternative is a gravity alternative in which the sewer pipeline would be located along a similar alignment as the proposed project but at increased depth. This alternative would eliminate the need for existing Pump Station 23T and proposed Pump Station A1. Existing temporary Pump Stations 31T and 48T would still be required and new Phase 2C pump stations would also be required. The eastern portions of the alternative alignment along La Media and Siempre Viva Roads and the western portions of the alignment along Old Otay Mesa Road, East Beyer Boulevard, Center Road, San Ysidro Boulevard, and Via de San Ysidro Boulevard would be the same as the proposed project. At the site of existing Pump Station 23T, the Deep Sewer Alternative would implement a sewer pipeline at a depth of 30-feet under Cactus Road and transition to a deep sewer approximately 400 feet north of Pump Station 23T. The deep sewer pipeline alignment would follow Cactus Road to the north and then to the west under Camino Maquiladora. The alignment would follow Camino Maquiladora in a westerly direction to the proposed Heritage Road under-crossing of SR-905. After this under-crossing, the alignment would continue west under Otay Mesa Road to Caliente Road. The alignment would be located under Caliente Road to Airway Road, and would continue west under Airway Road to Old Otay Mesa Road. At this point, the alignment would be similar to the proposed project alignment and would become shallower and flow by gravity to the San Ysidro Interceptor.

**Facts in Support of Finding:** While this alternative would reduce many of the significant and mitigable impacts identified under the proposed project, it would create new problems because it would be difficult to construct, access and maintain due to its depth. The main disadvantage of the deep sewer alternative would be the constructability of a sewer pipeline that would be over 140 feet deep at maximum depth. Constructability issues would be associated with the depth of the sewer main, construction access pits for tunneling, and manhole connections. Parallel shallow sewer mains would also be required to convey sewage from local development to the deep sewer.

The Deep Sewer Alternative would increase the potential to contaminate groundwater during construction activities from drilling for the proposed pipeline. The depths of the pipeline would be deeper and thus more likely to encounter groundwater.

Further, the Deep Sewer Alternative is not considered feasible because the following project objectives would not be met:

- Provide upgraded and new sewer service in Otay Mesa over a phased implementation timeline in which facilities are built, as they are needed and in coordination with other major projects in the area.

This alternative would only partially meet the following project objective:

- Provide upgraded and new sewer service pipelines in the Otay Mesa Area within existing ROW.

In addition, two of the project objectives would not be applicable. These two objectives are listed below.

- Upgrade the capacity of existing Pump Station 23T from 2 MGD to 4 MGD; and
- Construct a new Pump Station A1 with a capacity of up to 34 MGD, which would replace temporary Pump Station 23T.



000117

Revised MWD - 8020 10/2/07

# REQUEST FOR COUNCIL ACTION

CITY OF SAN DIEGO

1. CERTIFICATE NUMBER (FOR AUDITOR'S USE ONLY)  
**2800223**

TO: CITY ATTORNEY

2. FROM (ORIGINATING DEPARTMENT): Metropolitan Wastewater Department

3. DATE: July 25, 2007

4. SUBJECT: Otay Mesa Trunk Sewer Dept. of Transportation (Caltrans) Utility Agreements 31766 and 31768 and Certification of Otay Mesa Trunk Sewer Environmental Impact Report

5. PRIMARY CONTACT (NAME, PHONE, & MAIL STA.)  
Allan Navarro, 858-292-6459, MS 901A

6. SECONDARY CONTACT (NAME, PHONE, & MAIL STA.)  
Craig Whittemore, 858-292-6471, MS901A

7. CHECK BOX IF REPORT TO COUNCIL IS ATTACHED

### 8. COMPLETE FOR ACCOUNTING PURPOSES

FUND	41506	41506			9. ADDITIONAL INFORMATION / ESTIMATED COST:
DEPT.	773				<b>FY=08</b> Construction Costs: \$3,704,918 Contingency: \$ 150,000 Related Costs: \$ 50,000 <b>This Request: \$3,904,918</b>
ORGANIZATION	960				
OBJECT ACCOUNT	4279	76100			
JOB ORDER	141340				
C.I.P. NUMBER	40-933.0/40-936.3				
AMOUNT	\$3,904.918	\$220,948			

### 10. ROUTING AND APPROVALS

ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED	ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED
1	ORIG. DEPT.	<i>[Signature]</i>	10/3/07	8	DEPUTY CHIEF	<i>[Signature]</i>	10-8-07
2	E.O.C.	<i>[Signature]</i>	10/3/07	9	C.O.O.	<i>[Signature]</i>	10-8-07
3	E.A.S.	<i>[Signature]</i>	10/3/07	10	CITY ATTORNEY	<i>[Signature]</i>	10/9/07
4	LIAISON OFFICE	<i>[Signature]</i>		11	ORIG. DEPT.	<i>[Signature]</i>	10/9/07
5	F.M.	<i>[Signature]</i>	10/3/07		DOCKET COORD:	<i>[Signature]</i>	
6	AUDITOR	<i>[Signature]</i>	10/3/07		COUNCIL LIAISON	<i>[Signature]</i>	
7					COUNCIL PRESIDENT	<i>[Signature]</i>	

RESOLUTIONS   
  ORDINANCE(S)   
  AGREEMENT(S)   
  DEED(S)

SPOB   
 CONSENT   
 ADOPTION

REFER TO: \_\_\_\_\_   
 COUNCIL DATE: 10/23/07

#### 11. PREPARATION OF:

1. Authorizing the Mayor, or his designee, to enter into State of California Department of Transportation (Caltrans) Utility Agreement Numbers 31766 and 31768 for a total amount not to exceed \$3,904,918 for the construction of the City of San Diego's new sewer facilities and for the relocation of existing sewer facilities, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for these expenditures are, or will be, on deposit with the City Treasurer.

NOTE: See Continuation Page

#### 11A. STAFF RECOMMENDATIONS:

Adopt the Resolutions

#### 12. SPECIAL CONDITIONS (REFER TO A.R. 3.20 FOR INFORMATION ON COMPLETING THIS SECTION.)

**COUNCIL DISTRICT(S):** Eight (8)

**COMMUNITY AREA(S):** Otay Mesa and San Ysidro

**ENVIRONMENTAL IMPACT:** The City of San Diego, as Lead Agency under CEQA has prepared and completed an Environmental Impact Report (Project No. 40246), dated September 15, 2005, and Mitigation, Monitoring and Reporting Program covering this activity.

**ATTACHMENTS:** Utility Agreement Numbers 31766 and 31768 and Copy of the Otay Mesa Trunk Sewer EIR.

**CITY CLERK INSTRUCTIONS:** Please forward two copies of the Resolution to MWD, MS 901A, Attn: Rose Salarda.

000118

SECTION 11- PREPARATION OF: RESOLUTIONS, ORDINANCES, ETC. (CONTINUED):

2. Authorizing the expenditure of \$3,904,918 from Sewer Fund 41506, CIP 40-933.0 Annual Allocation – MWWWD Trunk Sewers, Caltrans/State Route 905 Otay Mesa Trunk Sewer Project for the Caltrans Agreement, contingency, and related costs, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer.
3. Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess budgeted funds, if any, to the appropriate reserves.
4. Certifying that the information contained in the file for Project No.40246 has been completed in compliance with the California Environmental Quality Act (CEQA) Guidelines, and that said Environmental Impact Report (EIR) reflects the independent judgment of the City of San Diego as Lead Agency; Stating for the record that the final EIR has been reviewed and considered; Certifying the final EIR; and Adopting the Mitigation, Monitoring and Reporting Program.

000119

**EXECUTIVE SUMMARY SHEET**

<b>DATE REPORT ISSUED:</b>	July 25, 2007	<b>REPORT NO.:</b>
<b>ATTENTION:</b>	Council President and City Council	
<b>ORIGINATING DEPARTMENT:</b>	Metropolitan Wastewater Department	
<b>SUBJECT:</b>	Otay Mesa Trunk Sewer Dept. of Transportation (Caltrans) Utility Agreements 31766 and 31768	
<b>COUNCIL DISTRICT(S):</b>	Eight (8)	
<b>STAFF CONTACT:</b>	Allan Navarro (858)292-6459, Craig Whittemore (858)292-6471	

**REQUESTED ACTION:**

Enter into the California Department of Transportation (Caltrans) Utility Agreement Numbers 31766 and 31768, for a total amount not to exceed \$3,904,918, for the construction of the City of San Diego's new sewer facilities and the relocation of existing sewer facilities in the Otay Mesa area.

Authorize the expenditure of \$3,904,918 from Sewer Fund 41506, CIP 40-933.0, Annual Allocation - MWW Trunk Sewers, for the Caltrans Utility Agreements, contingency, and related costs.

Stating for the record that the final EIR has been reviewed and considered; Certifying the final EIR;

**STAFF RECOMMENDATION:**

Adopt the resolutions.

**EXECUTIVE SUMMARY:**

In order to provide adequate sewage conveyance capacity and accommodate future growth in the Otay Mesa community, the City Council approved a participation agreement with Pardee Homes (Pardee) on December 3, 2001, Resolution No. RR-295816, for the Otay Mesa Trunk Sewer (OMTS) project. During the design of the OMTS it was noted that the new State Route 905 (SR-905) alignment would impact the construction of the OMTS at Old Otay Mesa Road and at Cactus Road. During the project coordination between the City and the California Department of Transportation (Caltrans), it was agreed that it would be more cost effective if Caltrans would build the portions of the sewer crossing SR-905 at Old Otay Mesa Road and Cactus Road.

Utility Agreement No. 31768 obligates Caltrans to build a 42-inch sewer pipe inside a 72-inch steel casing crossing under SR-905 along Old Otay Mesa Road and a 16-inch sewer pipe inside a 72-inch steel casing (the casing size will accommodate the anticipated future sewer pipe improvements) under SR-905 at the Cactus Road crossing for an estimated cost of \$3,704,918. Caltrans will reimburse the City up to \$178,899 for inspection services. In addition, SR-905 will impact other City sewers east of Cactus Road.

Utility Agreement No. 31766 obligates Caltrans to relocate all other sewer facilities impacted by the SR-905 construction at no cost to the City and Caltrans will reimburse the City up to \$42,049 for additional inspection services.

The sewer work described in Utility Agreement No. 31768 is budgeted in FY 2009 in CIP 40-930.0, Otay Mesa Trunk Sewer. With the passage of the Transportation Bonds in November 2006 Caltrans accelerated the construction of SR-905 and will be advertising the project by the end of 2007. It is therefore necessary to accelerate the construction of these sewer pipeline crossings.

In addition, this action will certify the Environmental Impact Report (EIR) for the Otay Mesa Trunk Sewer, Project No. 420246, and adopt the Mitigation Monitoring, and Reporting Program.

000120

**FISCAL CONSIDERATIONS:**

The total amount of this request is \$3,904,918 and is available in Sewer Fund 41506, CIP 40-933.0, Annual Allocation – MWWD Trunk Sewers. In addition, Caltrans will reimburse the City up to \$220,948 for City's inspection costs. The project costs may be bond reimbursed approximately 80% by current or future debt financings.

**PREVIOUS COUNCIL and/or COMMITTEE ACTION:**

This action was reviewed and approved by the National Resources & Culture Committee on September 26, 2007.

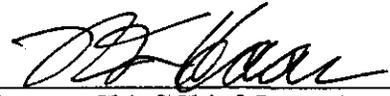
**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:**

All public outreach efforts, such as community presentations and construction updates, were done by Caltrans.

**KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):**

Caltrans  
Otay Mesa Community

  
\_\_\_\_\_  
Originating Department

  
\_\_\_\_\_  
Deputy Chief/Chief Operating Officer

000121

40-936.3  
Caltrans/SR-905 Otay Mesa TS  
APPO9i as of 07/25/07

ACTIVITY	CURRENT APPROP.	EXPEND.	ENCUMB.	NET BALANCE	APPROP. CHANGE	REVISED APPROP.	JO Number
					pending 1472		
<b>A. ENGINEERING</b>							
4114 PRELIM ENG-IN HOUSE				0.00	0.00	0.00	141341
4115 CONSTR. ENGR.				0.00	0.00	0.00	
4116 CONSTR. ENGR. (IN-HOUSE)				0.00	50,000.00	50,000.00	
4118 ENGR SVC				0.00	0.00	0.00	
4120 UNCLASS PROF SVC				0.00		0.00	
4226 CITY FORCES				0.00	0.00	0.00	
<b>TOTAL ENGINEERING</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$50,000.00</b>	<b>\$50,000.00</b>	
<b>B. CONSTRUCTION</b>							
4220 CONSTRUCTION CONTRACT				0.00	3,704,918.00	3,704,918.00	
42220 CONSTRUCTION CONTRACT - JOC				0.00	0.00	0.00	
4210 CONTRACTUAL SERV, COMNET				0.00		0.00	
4229 CON SVCS - OTH AGY				0.00		0.00	
4810 INSURANCE				0.00		0.00	
<b>TOTAL CONSTRUCTION</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$3,704,918.00</b>	<b>\$3,704,918.00</b>	
<b>C. EQUIPMENT AND FURNISHINGS</b>							
4922 (CONST. RELATED)				0.00		0.00	
<b>TOTAL EQUIP. &amp; FURN.</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	
<b>D. CONTINGENCIES</b>							
4905 CONTINGENCY RESERVE	0.00			0.00	150,000.00	150,000.00	
4909 POOLED CONTINGENCY				0.00		0.00	
<b>E. OTHER</b>							
4278 PEND COUNCIL ACTION AUDITOR				0.00		0.00	
42781 PENDING AUDITOR CERTIFICATE				0.00		0.00	
4279 OTHER NON PERSONNEL	100,000.00			100,000.00	-100,000.00	0.00	
4280 OTH NON PRSNL AU				0.00		0.00	
4282 OTH NON PRSNL EX				0.00		0.00	
4146 MISC PERMIT/FEE				0.00		0.00	
<b>TOTAL OTHER</b>	<b>\$100,000.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$100,000.00</b>	<b>-\$100,000.00</b>	<b>\$0.00</b>	
<b>F. LAND ACQUISITION</b>							
4638 PROPERTY ACQUISITION	0.00	0.00		0.00		0.00	
<b>G. TOTAL PROJECT COST</b>	<b>\$100,000.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$100,000.00</b>	<b>\$3,804,918.00</b>	<b>\$3,904,918.00</b>	

COMMENTS: Funding will come from AA - MWWD Trunk Sewers, CIP#40-933.0. Appropriations will move from 4279 to 4116 for in-house work.

000122

## PROJECT COST ESTIMATE

Caltrans/SR-905 Otay Mesa TS  
40-936.3

TYPE AWARD Caltrans

Prepared by: Charlie Senteno  
Date: July 27, 2007  
JO #: 141341

ACTIVITY	CIP NO. or Other Source of Funds		TOTALS	
	% of "E"	40-936.3		
<b>A. Engineering</b>				
4120-Pro. Services	0%	\$0		
4114-Pre. Engr - In-House	0%	\$0		
4115-Pre. Engr - As Needed	0%	\$0		
4116-Constr. Engr.	1%	\$50,000		
4118-Eng Service	0%	\$0		
<b>TOTAL ENGINEERING</b>		<b>\$50,000</b>	<b>\$50,000</b>	<b>1%</b>
<b>B. Construction</b>				
4220-Prime Constr. Contract	95%	\$3,704,918		
42220-Construction Contract - JOC	0%	\$0		
4810-Insurance	0%	\$0		
4229-Const. Svcs, Other Agency	0%	\$0		
4210-Contractual Services, COMNET	0%	\$0		
<b>TOTAL CONSTRUCTION</b>		<b>\$3,704,918</b>	<b>\$3,704,918</b>	<b>95%</b>
<b>C. Equipment and Furnishings</b>				
4922-(Const. Related)	0%	\$0		
<b>TOTAL EQUIP. &amp; FURN.</b>		<b>\$0</b>	<b>\$0</b>	<b>0%</b>
<b>D. CONTINGENCIES</b>				
4905-Contingencies	4%	\$150,000	\$150,000	4%
4909-Pooled Contingency	0%	\$0	\$0	0%
<b>E. SUB-TOTAL</b>		<b>\$3,904,918</b>	<b>\$3,904,918</b>	<b>100%</b>
<b>F. OTHER</b>				
4278-Pending Council Action		\$0	\$0	
42781-Pending Auditor Cert		\$0	\$0	
4279-Other Non-Personnel		\$0	\$0	
4280-Unallocated Reserve Au		\$0	\$0	
4282-Unallocated Reserve Ex		\$0	\$0	
4146-Misc. Permit/Fee		\$0	\$0	
<b>G. LAND ACQUISITION</b>				
4638-Land Acquisition		\$0	\$0	
<b>H. TOTAL PROJECT COST</b>		<b>\$3,904,918</b>	<b>\$3,904,918</b>	
		Uncommitted/Unprogrammed, Object Accts 4278, 42781, 4279	\$100,000	
		Pending transfer from AA-MWWD Trunk Sewers (CIP#40-933.0) (part of this request	\$3,804,918	
		(This Request)	\$3,904,918	
		Remaining Uncommitted	\$0	
<b>FUNDING:</b>	46-601.0			
Fund No:	41506			
CIP No.	40-936.3			
Programmed	\$0			
Uncom. Bal.	\$0			
<b>THIS REQUEST</b>	<b>\$3,904,918</b>			

COMMENTS:

000123

The City of San Diego  
CERTIFICATE OF CITY AUDITOR AND COMPTROLLER

CERTIFICATE OF UNALLOTTED BALANCE

ORIGINATING

AC 2800223

DEPT. NO.: 773

I HEREBY CERTIFY that the money required for the allotment of funds for the purpose set forth in the foregoing resolution is available in the Treasury, or is anticipated to come into the Treasury, and is otherwise unallotted.

Amount: \$200,000.00 Fund: 41506

Purpose: Authorizing the expenditure of funds for related costs for the construction of Otay Mesa Trunk Sewer Dept. of Transportation (Caltrans) Utility Agreements 31766 and 31768.

Date: September 20, 2007

By: Robert Barreras *Robert Barreras*  
AUDITOR AND COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA

ACCTG. LINE	CY PY	FUND	DEPT	ORG.	ACCOUNT	JOB ORDER	OPERATION ACCOUNT	BENF/ EQUIP	FACILITY	AMOUNT
1	0	41506	773	960	4278	141340				200,000.00
TOTAL AMOUNT										\$200,000.00

FUND OVERRIDE

CERTIFICATION OF UNENCUMBERED BALANCE

I HEREBY CERTIFY that the indebtedness and obligation to be incurred by the contract or agreement authorized by the hereto attached resolution, can be incurred without the violation of any of the provisions of the Charter of the City of San Diego; and I do hereby further certify, in conformity with the requirements of the Charter of the City of San Diego, that sufficient moneys have been appropriated for the purpose of said contract, that sufficient moneys to meet the obligations of said contract are actually in the Treasury, or are anticipated to come into the Treasury, to the credit of the appropriation from which the same are to be drawn, and that the said money now actually in the Treasury, together with the moneys anticipated to come into the Treasury, to the credit of said appropriation, are otherwise unencumbered.

Not to Exceed: \$3,704,918.00

Vendor: Dept. of Transportation (Caltrans)

Purpose: Authorizing the expenditure of funds for the construction of Otay Mesa Trunk Sewer Dept. of Transportation (Caltrans) Utility Agreements 31766 and 31768.

Date: September 20, 2007

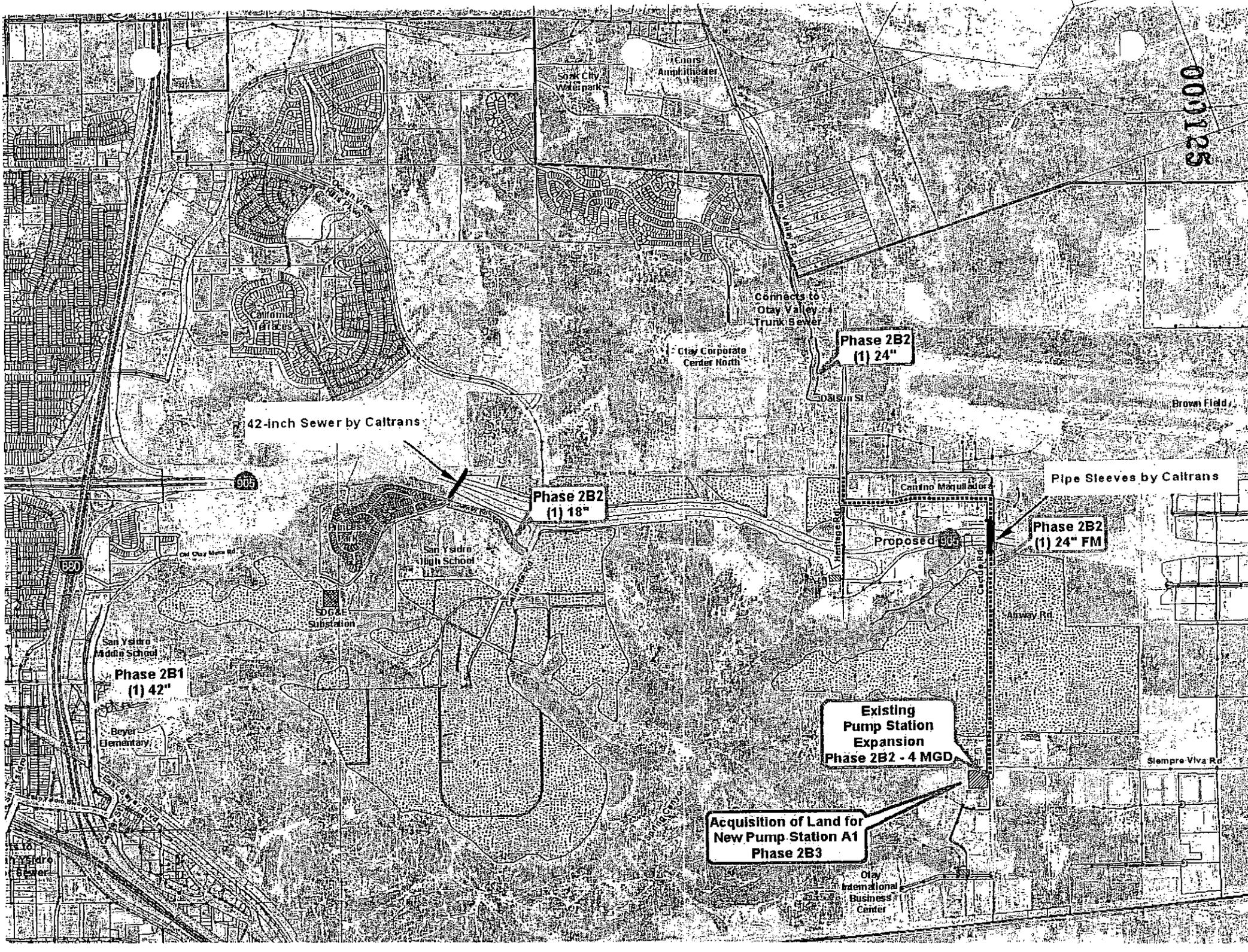
By: Robert Barreras *Robert Barreras*  
AUDITOR AND COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA

ACCTG. LINE	CY PY	FUND	DEPT	ORG.	ACCOUNT	JOB ORDER	OPERATION ACCOUNT	BENF/ EQUIP	FACILITY	AMOUNT
1	0	41506	773	960	4240	141344				\$3,704,918.00
TOTAL AMOUNT										\$3,704,918.00

FUND OVERRIDE

000125



Stark City Waterpark  
Choirs Amphitheater

Connects to  
Otay Valley  
Trunk Sewer

Otay Corporate  
Center North

Phase 2B2  
(1) 24"

42-inch Sewer by Caltrans

Phase 2B2  
(1) 18"

Pipe Sleeves by Caltrans

Phase 2B2  
(1) 24" FM

Existing  
Pump Station  
Expansion  
Phase 2B2 - 4 MGD

Acquisition of Land for  
New Pump Station A1  
Phase 2B3

Phase 2B1  
(1) 42"

San Ysidro  
Elementary

San Ysidro  
Middle School

SDG&E  
Substation

San Ysidro  
High School

Casino Mequillar

Proposed

Arroyo Rd.

Siempre Viva Rd.

Otay  
International  
Business  
Center

RESOLUTION NUMBER R- \_\_\_\_\_

DATE OF FINAL PASSAGE \_\_\_\_\_

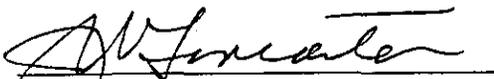
A RESOLUTION AUTHORIZING APPROVAL OF UTILITY AGREEMENTS NOS. 31766 AND 31768 WITH THE STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION FOR RELOCATION OF EXISTING AND CONSTRUCTION OF NEW PORTIONS OF THE OTAY MESA TRUNK SEWER SYSTEM

BE IT RESOLVED, by the Council of the City of San Diego, that California Department of Transportation Utility Agreements Nos. 31766 and 31768 [Caltrans Agreements Nos. 31766 and 31768], for the relocation of existing and construction of new portions of the City's Otay Mesa Trunk Sewer System, under the terms and conditions set forth in Caltrans Agreements Nos. 31766 and 31768 on file in the office of the City Clerk as Documents No. RR \_\_\_\_\_ and RR \_\_\_\_\_ are approved and the Mayor or his designee is hereby authorized to execute the agreements on behalf of the City.

BE IT FURTHER RESOLVED, that the expenditure of an amount not to exceed \$3,904,918 from Sewer Fund 41506, CIP 40-933.0 Annual Allocation - MWWD Trunk Sewers, Caltrans/State Route 905 Otay Mesa Trunk Sewer Project is authorized for the purpose of providing funds for Caltrans Agreements Nos. 31766 and 31768.

BE IT FURTHER RESOLVED, that the City Auditor and Comptroller, upon advice from the administering department, is authorized to transfer excess funds, if any, to the appropriate reserves.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By   
James W. Lancaster  
Deputy City Attorney

JWL:ca  
10/0207  
Or.Dept:MWWD  
Aud. Cert.: 280023  
R-2008-292  
MWWD #8020

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of \_\_\_\_\_.

ELIZABETH S. MALAND  
City Clerk

By \_\_\_\_\_  
Deputy City Clerk

Approved: \_\_\_\_\_  
(date)

\_\_\_\_\_  
JERRY SANDERS, Mayor

Vetoed: \_\_\_\_\_  
(date)

\_\_\_\_\_  
JERRY SANDERS, Mayor

RESOLUTION NUMBER R-\_\_\_\_\_

DATE OF FINAL PASSAGE \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL CERTIFYING ENVIRONMENTAL IMPACT REPORT, PROJECT NO. 40246 REGARDING THE OTAY MESA TRUNK SEWER PROJECT; ADOPTING THE MITIGATION AND MONITORING REPORT; AND DIRECTING THE CLERK TO FILE A NOTICE OF DETERMINATION

WHEREAS, Environmental Impact Report, Project No. 40246, dated September 15, 2005, was prepared in connection with the City of San Diego's Otay Mesa Trunk Sewer Project; and

WHEREAS, on \_\_\_\_\_, 2007, the Council of the City of San Diego conducted a public hearing on the issues contained in Environmental Impact Report, Project No. 40246; NOW, THEREFORE,

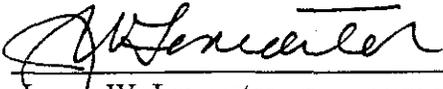
BE IT RESOLVED, that it is certified that Environmental Impact Report, Project No. 40246, dated September 15, 2005, on file in the office of the City Clerk, has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code section 21000 et seq.), as amended, and the State guidelines thereto (California Code of Regulations section 15000 et seq.); that the report reflects the independent judgment of the City of San Diego as Lead Agency; and that the information contained in the report, together with any comments received during the public review process, has been reviewed and considered by this Council.

BE IT FURTHER RESOLVED, that pursuant to California Public Resources Code section 21081.6, the Council adopts the Mitigation Monitoring and Reporting Program, or

alterations to implement the changes to the project as required by this body in order to mitigate or avoid significant effects on the environment, a copy of which is attached hereto as Attachment A and incorporated herein by reference.

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

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By   
James W. Lancaster  
Deputy City Attorney

JWL:ca  
10/02/07  
Aud.Cert:N/A  
Or.Dept:MWWD  
R-2008-293

I hereby certify that the foregoing resolution was passed by the Council of the City of San Diego, at its meeting of \_\_\_\_\_.

ELIZABETH S. MALAND, City Clerk

By \_\_\_\_\_  
Deputy City Clerk

Approved: \_\_\_\_\_  
(date)

\_\_\_\_\_  
JERRY SANDERS, Mayor

Vetoed: \_\_\_\_\_  
(date)

\_\_\_\_\_  
JERRY SANDERS, Mayor

**ATTACHMENT A**  
**Mitigation Monitoring and Reporting Program for**  
**Otay Mesa Trunk Sewer**  
**Project No. 40246**

The California Environmental Quality Act (CEQA), Section 21081.6 (Assembly Bill [AB] 3180) requires that a Mitigation Monitoring and Reporting Program (MMRP) be adopted upon certification of an Environmental Impact Report (EIR) in order to ensure that the mitigation measures are implemented. The following MMRP is designed to ensure compliance with AB 3180 during implementation of mitigation measures, and identifies at a minimum, the entity responsible for monitoring, what is to be monitored, how the monitoring is to be accomplished, the monitoring and reporting schedule and completion requirements. The Mitigation Monitoring and Reporting Program for the Otay Mesa Trunk Sewer Project is under the jurisdiction of the City of San Diego. The following is a description of the Mitigation Monitoring and Reporting Program to be completed for the project.

**Land Use**

To reduce potential significant land use impacts from conflicts with the MSCP Subarea Plan policies for Construction/Maintenance of Utilities and the Land Use Adjacency Guidelines to below a level of significance, the project builder shall implement the following mitigation measures:

1. All staging areas shall be located in existing disturbed or developed areas outside the MHPA and drainage areas. All equipment and/or materials related to construction shall be stored in designated and properly maintained staging areas. The location of the staging areas shall be reviewed and approved by the City Manager. A responsible party (i.e., superintendent, resident engineer) shall be identified to ensure that all construction crews and/or field workers comply with these measures.
2. Prior to the City's first pre-construction meeting, all construction and staging area limits shall be clearly delineated with orange construction fencing and silt fencing or fiber rolls to ensure that construction activity remains within the defined construction limits. A qualified biologist shall inspect the fencing prior to the start of construction and shall monitor activities during construction to avoid unauthorized impacts. The schedule for the biological monitoring visits during construction shall be determined at the pre-construction meeting for each phase of project construction. In addition, an educational brochure shall be developed for distribution to construction and maintenance personnel to minimize the occurrence of unauthorized activities. The qualified biologist shall provide direction to construction personnel regarding the need to avoid impacts adjacent sensitive areas.
3. Prior to the City's final construction inspection of the expansion of Pump Station 23T and the construction and/or expansion of Pump Station A1, all new lighting installed at the pump stations shall be shielded to prevent light spillover to adjacent MHPA areas, in conformance with the City's MSCP Adjacency Guidelines. The shielding shall consist of fixtures that physically direct light away from adjacent MHPA areas.
4. If construction is planned within or adjacent to the MHPA during nighttime hours, lighting shall be directed and/or shielded to prevent light spillover to adjacent MHPA areas, in conformance with the

City's MSCP Adjacency Guidelines. The shielding shall consist of fixtures that physically direct light away from adjacent MHPA areas.

5. During nocturnal operation of any dewatering pumps the construction contractor shall require temporary berms or sound walls, or the relocation of the dewatering pumps outside the 160-foot noise "envelope" of any sensitive receptor.
  6. The project contractor shall place all stationary construction equipment so that emitted noise is directed away from identified sensitive receptors.
  7. The construction contractor shall locate equipment staging in areas that will create the greatest distance between construction related noise sources and noise sensitive receptors. Construction staging areas shall not be located adjacent to residential land uses.
  8. If construction is planned within or adjacent to the MHPA during the breeding season of sensitive avian species, it shall only occur subject to the City's Mitigation, Monitoring, and Reporting Conditions for Potential Impacts to Habitats Occupied by Sensitive Avian Species. Nesting avians are susceptible to disturbance from construction activity. Any construction activity within 500 feet of an active raptor nest, or within 300 feet of a Cooper's hawk nest, shall be considered significant. Five hundred feet has been recognized by biologists and agencies as a conservative distance to use in addressing potential indirect nesting impacts for most raptor species. All phases of construction for the proposed project that are located adjacent to the MHPA shall be required to comply with the mitigation measures Land Use - 8a, 8b, and 8c, described below, to reduce potential indirect construction noise impacts to sensitive bird species to below a level of significance.
- 8a. Pre-construction protocol surveys, conducted by a qualified biologist, shall be required for the following species if any phase of project construction would occur adjacent to the MHPA between the identified species' breeding seasons:
- March 1 to August 15 (Coastal California gnatcatcher)
  - February 1 to August 31 (Burrowing owl)
  - February 1 to July 30 (Raptors - tall trees)
  - February 15 to August 15 (Cactus Wren)

If it is determined that construction activities should occur during the raptor breeding season, one pre-construction nest survey shall be conducted within 500 feet of the impact area to look for active raptor nests. If no active nests are found, no further mitigation shall be required.

- 8b. If one or more active nests are found, monitoring shall be conducted throughout construction by a qualified biologist to ensure that all construction activities remain at least 500 feet from the active nest, with the exception of Cooper's hawk nest, for which construction activities shall remain 300 feet away from the nest. The biologist shall also determine when the nest becomes inactive and construction can move closer to the nest site. If construction activities are conducted within the MHPA, additional raptor impact avoidance shall occur, as listed below:

Golden Eagle	4,000 feet from nesting, and
Northern Harrier	900 feet from nesting site.

- 8c. Any removal of potential raptor nesting trees or other structures should occur during the non-breeding season (i.e., between August 1 and January 31st).

### Noise

To reduce potentially significant noise impacts from construction and operation of the proposed project to below a level of significance, the project builder shall implement the following mitigation measures:

1. Prior to the operation of Pump Station A1, sound absorption panels shall be installed inside the pump room on the walls and ceiling to reduce interior noise levels.
2. Prior to the operation of Pump Station A1, a final acoustical performance test shall be conducted at the pump station by a qualified acoustician within ninety (90) days after project completion. The test shall verify compliance with the recommended 75 dB Leq property line noise standard. Any violation of standards shall require pump station modification and retesting within ninety (90) days. Standard test protocols as to equipment selected, proper exposure and test duration, calibration, and monitoring parameters shall be used and documented in the final acoustical test report.
3. For any pump station(s) constructed as part of Phase 2C, an acoustical noise analysis shall be prepared by a qualified individual to determine if the proposed pump station(s) would have a significant operational impact on nearby sensitive receptors. If a significant operational noise impact would occur, noise abatement measures shall be implemented to reduce noise to below a level of significance, and/or the pump station shall be relocated to an area where noise impacts to sensitive receptors would be below a level of significance.
4. Along project roadways, including Siempre Viva Road, Cactus Road, Old Otay Mesa Road or Beyer Boulevard, where impulse noise levels at adjacent residences would exceed the 75 dB Leq noise threshold, the construction contractor shall implement one or more of the following measures to reduce noise impacts to impacted residents:
  1. Erect temporary barriers to separate the noise-generating equipment from adjacent residences. The temporary barriers shall be constructed of either 3/4-inch plywood or steel-framed canvas batts.
  2. Limit the total hours per day working near any individual receiver.
  3. Utilize smaller, quieter equipment and limit the use of jackhammers (shielded, if necessary) to break up reinforced concrete only.
  4. Reimburse affected stay-at-home residents to spend a day or two at a recreational amenity away from the job site until the pavement breaking is completed.
5. The construction contractor shall implement the following measures whenever any major impulsive noise source is operating within 280 feet of any project-area classroom.
  1. Perform the activity when school is not in session;
  2. Shield the activity with a solid barrier to break the line-of-sight; and
  3. Perform the activity only during small fractions of any hour.

**Paleontological Resources**

In order to reduce potentially significant impacts to paleontological resources to below a level of significance, the project builder shall implement the following mitigation measure:

Prior to the City's first pre-construction meeting, or the issuance of a building or grading permit, whichever is applicable, the project builder shall provide a letter of verification to the Assistant Deputy Director (ADD) of Land Development Review (LDR) stating that a qualified paleontologist has been retained to implement the monitoring program. A qualified paleontologist is defined as an individual with a Ph.D. or M.S. degree in paleontology or geology who is a recognized expert in the application of paleontological procedures and techniques such as screen washing of materials and identification of fossil deposits. The following conditions apply to the implementation of mitigation measure Paleontological Resources – 1:

**I. Prior to Permit Issuance or Bid Opening/Bid Award**

A. Land Development Review (LDR) Plan Check

1. Prior to permit issuance, or Bid Opening/Bid Award, whichever is applicable, the Assistant Deputy Director (ADD) Environmental designee shall verify that the requirements for Paleontological Monitoring have been noted on the appropriate construction documents.

B. Letters of Qualification have been submitted to ADD

1. Prior to Bid Award, the applicant shall submit a letter of verification to Mitigation Monitoring Coordination (MMC) identifying the Principal Investigator (PI) for the project and the names of all persons involved in the paleontological monitoring program, as defined in the City of San Diego Paleontology Guidelines.
2. MMC will provide a letter to the applicant confirming the qualifications of the PI and all persons involved in the paleontological monitoring of the project.
3. Prior to the start of work, the applicant shall obtain approval from MMC for any personnel changes associated with the monitoring program.

**II. Prior to Start of Construction**

A. Verification of Records Search

1. The PI shall provide verification to MMC that a site specific records search has been completed. Verification includes, but is not limited to a copy of a confirmation letter from San Diego Natural History Museum, other institution or, if the search was in-house, a letter of verification from the PI stating that the search was completed.
2. The letter shall introduce any pertinent information concerning expectations and probabilities of discovery during trenching and/or grading activities.

B. PI Shall Attend Precon Meetings

1. Prior to beginning any work that requires monitoring, the Applicant shall arrange a Precon Meeting that shall include the PI, Construction Manager (CM) and/or Grading Contractor, Resident Engineer (RE), Building Inspector (BI), if appropriate, and MMC. The qualified paleontologist shall attend any grading/excavation-related Precon Meetings to make comments and/or suggestions concerning the Paleontological Monitoring program with the Construction Manager and/or Grading Contractor.

- a. If the PI is unable to attend the Precon Meeting, the Applicant shall schedule a focused Precon Meeting with MMC, the PI, RE, CM or BI, if appropriate, prior to the start of any work that requires monitoring.
2. Acknowledgement of Responsibility for Curation (CIP or Other Public Projects)
 

The applicant shall submit a letter to MMC acknowledging their responsibility for the cost of curation associated with all phases of the paleontological monitoring program.
3. Identify Areas to be Monitored
  - a. Prior to the start of any work that requires monitoring, the PI shall submit a Paleontological Monitoring Exhibit (PME) based on the appropriate construction documents (reduced to 11x17) to MMC for approval identifying the areas to be monitored including the delineation of grading/excavation limits.
  - b. The PME shall be based on the results of a site-specific records search as well as information regarding existing known soil conditions (native or formation).
  - c. MMC shall notify the PI that the PME has been approved.
4. When Monitoring Will Occur
  - a. Prior to the start of any work, the PI shall also submit a construction schedule to MMC through the RE indicating when and where monitoring will occur.
  - b. The PI may submit a detailed letter to MMC prior to the start of work or during construction requesting a modification to the monitoring program. This request shall be based on relevant information such as review of final construction documents which indicate conditions such as depth of excavation and/or site graded to bedrock; presence or absence of fossil resources, etc., which may reduce or increase the potential for resources to be present.
5. Approval of PME and Construction Schedule
 

After approval of the PME by MMC, the PI shall submit to MMC written authorization of the PME and Construction Schedule from the CM.

### III. During Construction

- A. Monitor Shall be Present During Grading/Excavation/Trenching
  1. The monitor shall be present full-time during grading/excavation/trenching activities including, but not limited to mainline, laterals, jacking and receiving pits, services and all other *appurtenances associated with underground utilities as identified on the PME and as authorized by the CM that could result in impacts to formations with high and/or moderate resource sensitivity at depths of 10 feet or greater and as authorized by the Construction Manager. The Construction Manager is responsible for notifying the RE, PI, and MMC of changes to any construction activities.*
  2. The monitor shall document field activity via the Consultant Site Visit Record (CSVR). The CSVR's shall be faxed by the CM to the RE the first day of monitoring, the last day of monitoring (notification of monitoring completion), monthly, and in the case of ANY discoveries. The RE shall forward copies to MMC.
  3. The PI may submit a detailed letter to the CM and/or RE for concurrence and forwarding to MMC during construction requesting a modification to the monitoring program when a field condition

such as trenching activities that do not encounter formational soils as previously assumed, and/or when unique/unusual fossils are encountered, which may reduce or increase the potential for resources to be present.

B. Discovery Notification Process

1. In the event of a discovery, the Paleontological Monitor shall direct the contractor to temporarily divert trenching activities in the area of discovery and immediately notify the RE or BI, as appropriate.
2. The Monitor shall immediately notify the PI (unless Monitor is the PI) of the discovery.
3. The PI shall immediately notify MMC by phone of the discovery, and shall also submit written documentation to MMC within 24 hours by fax or email with photos of the resource in context, if possible.

C. Determination of Significance

1. The PI shall evaluate the significance of the resource.
  - a. The PI shall immediately notify MMC by phone to discuss significance determination and shall also submit a letter to MMC indicating whether additional mitigation is required. The determination of significance for fossil discoveries shall be at the discretion of the PI.
  - b. If the resource is significant, the PI shall submit a Paleontological Recovery Program (PRP) and obtain written approval of the program from MMC, MC and/or RE. PRP and any mitigation must be approved by MMC, RE and/or CM before ground disturbing activities in the area of discovery will be allowed to resume.

(1) Note: For Pipeline Trenching Projects Only. The PI shall implement the Discovery Process for Pipeline Trenching projects identified below under "D."

- c. If resource is not significant (e.g., small pieces of broken common shell fragments or other scattered common fossils) the PI shall notify the RE, or BI, as appropriate, that a non-significant discovery has been made. The Paleontologist shall continue to monitor the area without notification to MMC unless a significant resource is encountered.
- d. The PI shall submit a letter to MMC indicating that fossil resources will be collected, curated, and documented in the Final Monitoring Report. The letter shall also indicate that no further work is required.

(1) Note: For Pipeline Trenching Projects Only. If the fossil discovery is limited in size, both in length and depth, the information value is limited and there are no unique fossil features associated with the discovery area, then the discovery should be considered not significant.

(2) Note: for Pipeline Trenching Projects Only. If significance can not be determined, the Final Monitoring Report and Site Record shall identify the discovery as Potentially Significant.

D. Discovery Process for Significant Resources - Pipeline Trenching Projects

The following procedure constitutes adequate mitigation of a significant discovery encountered during pipeline trenching activities including but not limited to excavation for jacking pits, receiving pits, laterals, and manholes to reduce impacts to below a level of significance.

1. Procedures for documentation, curation and reporting
  - a. One hundred percent of the fossil resources within the trench alignment and width shall be documented in-situ photographically, drawn in plan view (trench and profiles of side walls), recovered from the trench and photographed after cleaning, then analyzed and curated consistent with Society of Invertebrate Paleontology Standards. The remainder of the deposit within the limits of excavation (trench walls) shall be left intact and so documented.
  - b. The PI shall prepare a Draft Monitoring Report and submit to MMC via the RE as indicated in Section VI-A.
  - c. The PI shall be responsible for recording (on the appropriate forms for the San Diego Natural History Museum) the resource(s) encountered during the Paleontological Monitoring Program in accordance with the City's Paleontological Guidelines. The forms shall be submitted to the San Diego Natural History Museum and included in the Final Monitoring Report.
  - d. The Final Monitoring Report shall include a recommendation for monitoring of any future work in the vicinity of the resource.

#### IV. Night Work

- A. If night work is included in the contract
  1. When night work is included in the contract package, the extent and timing shall be presented and discussed at the Precon Meeting.
  2. The following procedures shall be followed.
    - a. No Discoveries
 

In the event that no discoveries were encountered during night work, the PI shall record the information on the CSV and submit to MMC via the RE via fax by 9 AM the following morning, if possible.
    - b. Discoveries
 

All discoveries shall be processed and documented using the existing procedures detailed in Sections III - During Construction.
    - c. Potentially Significant Discoveries
 

If the PI determines that a potentially significant discovery has been made, the procedures detailed under Section III - During Construction shall be followed.
    - d. The PI shall immediately contact the RE and MMC, or by 8 AM the following morning, to report and discuss the findings as indicated in Section III-B, unless other specific arrangements have been made.
- B. If night work becomes necessary during the course of construction
  1. The Construction Manager shall notify the RE, or BI, as appropriate, a minimum of 24 hours before the work is to begin.
  2. The RE, or BI, as appropriate, shall notify MMC immediately.
- C. All other procedures described above shall apply, as appropriate.

## V. Post Construction

### A. Submittal of Draft Monitoring Report

1. The PI shall submit two copies of the Draft Monitoring Report (even if negative) which describes the results, analysis, and conclusions of all phases of the Paleontological Monitoring Program (with appropriate graphics) to MMC via the RE for review and approval within 90 days following the completion of monitoring,
  - a. For significant paleontological resources encountered during monitoring, the Paleontological Recovery Program or Pipeline Trenching Discovery Process shall be included in the Draft Monitoring Report.
  - b. Recording Sites with the San Diego Natural History Museum
 

The PI shall be responsible for recording (on the appropriate forms) any significant or potentially significant fossil resources encountered during the Paleontological Monitoring Program in accordance with the City's Paleontological Guidelines, and submittal of such forms to the San Diego Natural History Museum with the Final Monitoring Report.
2. MMC shall return the Draft Monitoring Report to the PI via the RE for revision or for preparation of the Final Report.
3. The PI shall submit revised Draft Monitoring Report to MMC via the RE 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 the Draft Monitoring Report.*

### B. Handling of Fossil Remains.

The PI shall be responsible for ensuring that all fossil remains collected are cleaned and catalogued

### C. Curation of Artifacts: Deed of Gift and Acceptance Verification

1. The PI shall be responsible for ensuring that all fossil remains associated with the monitoring for this project are permanently curated with an appropriate institution.
2. The PI shall submit the Deed of Gift and catalogue record(s) to the RE or BI, as appropriate, for donor signature with a copy submitted to MMC.
3. The RE or BI, as appropriate, shall obtain signature on the Deed of Gift and shall return to PI with copy submitted to MMC.
4. The PI shall include the Acceptance Verification from the curation institution in the Final Monitoring Report submitted to the RE or BI and MMC.

### D. Final Monitoring Report(s)

1. The PI shall submit two copies of the Final Monitoring Report to MMC (even if negative), within 90-days after notification from MMC of the approved report.
2. The RE shall, in no case, issue the Notice of Completion until receiving a copy of the approved Final Monitoring Report from MMC, which includes the Acceptance Verification from the curation institution.

## Historical Resources

In order to reduce potentially significant impacts to historical resources to below a level of significance, the project builder shall implement the following mitigation measures:

1. Prior to the City's first preconstruction meeting, a testing and mitigation program for site CA-SDI-11424 shall be implemented to determine the western site boundary, based on CEQA, City of San Diego Historical Resource Guidelines, and the Otay Mesa Management Plan. For the portions of this site located within undeveloped land, surface collection should be used to determine the surface site boundaries and areas of artifact concentration in order to ascertain placement of test units and/or shovel test pits (STPs) and/or backhoe trenches. Excavation units (1x1-m) should be placed in those areas where ground stone, fire-altered rock, or a concentration of flaked material occurs. Backhoe trenching should be used at those sites where deep subsurface deposits (i.e., historic privies or dumps or subsurface prehistoric deposits) are possible. For any portion of this site located within developed land, a field visit to spot check the area, collection of surface artifacts, and a construction monitoring program shall be implemented. The test program shall include a literature/historic files review, mapping of any remaining structures, and backhoe trenching when applicable for determining the location of historical dumps.
2. Prior to the City's first pre-construction meeting a construction monitoring program shall be implemented for all known archeological sites located within the Phase 2 project alignment. These sites include CA-SDI 10185, CA-SDI-10963, CA-SDI-11424, CA-SDI-14083, CA-SDI-14084, CA-SDI-6941, CA-SDI-7208, CA-SDI-10188, CA-SDI-10197, and CA-SDI-10511. The following monitoring program shall be implemented:
  - I. Prior to Permit Issuance, Award of Contract or First Preconstruction Meeting
    - A. Land Development Review (LDR) Plan Check
      1. Prior to permit issuance, or after award of the contract, 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, if applicable, have been noted on the appropriate construction documents.
    - B. Letters of Qualification have been submitted to ADD
      1. The applicant shall submit a letter of verification to Mitigation Monitoring Coordination (MMC) identifying the Principal Investigator (PI) for the project and the names of all persons involved in the archaeological monitoring program, as defined in the City of San Diego Historical Resources Guidelines (HRG). If applicable, individuals involved in the archaeological monitoring program must have completed the 40-hour HAZWOPER training with certification documentation.
      2. MMC will provide a letter to the applicant confirming the qualifications of the PI and all persons involved in the archaeological monitoring of the project.
      3. Prior to the start of work, the applicant must obtain approval from MMC for any personnel changes associated with the monitoring program.

## II. Prior to Start of Construction

## A. Verification of Records Search

1. The PI shall provide verification to MMC that a site specific records search (1/4 mile radius) has been completed. Verification includes, but is not limited to a copy of a confirmation letter from South Coast Information Center, or, if the search was in-house, a letter of verification from the PI stating that the search was completed.
2. The letter shall introduce any pertinent information concerning expectations and probabilities of discovery during trenching and/or grading activities.
3. The PI may submit a detailed letter to MMC requesting a reduction to the 1/4-mile radius.

## B. PI Shall Attend Precon Meetings

1. Prior to beginning any work that requires monitoring, the Applicant shall arrange a Precon Meeting that shall include the PI, Construction Manager (CM) and/or Grading Contractor, Resident Engineer (RE), Building Inspector (BI), if appropriate, and MMC. The qualified Archaeologist shall attend any grading/excavation related Precon Meetings to make comments and/or suggestions concerning the Archaeological Monitoring program with the Construction Manager and/or Grading Contractor.
  - a. If the PI is unable to attend the Precon Meeting, the Applicant shall schedule a focused Precon Meeting with MMC, the PI, RE, CM or BI, if appropriate, prior to the start of any work that requires monitoring.
2. Acknowledgement of Responsibility for Curation (CIP or Other Public Projects)
3. The applicant shall submit a letter to MMC acknowledging their responsibility for the cost of curation associated with all phases of the archaeological monitoring program.
4. Identify Areas to be Monitored
5. Prior to the start of any work that requires monitoring, the PI shall submit an Archaeological Monitoring Exhibit (AME) based on the appropriate construction documents (reduced to 11x17) to MMC identifying the areas to be monitored including the delineation of grading/excavation limits.
6. The AME shall be based on the results of a site specific records search as well as information regarding the age of existing pipelines, laterals and associated appurtenances and/or any known soil conditions (native or formation).
7. When Monitoring Will Occur
  - a. Prior to the start of any work, the PI shall also submit a construction schedule to MMC through the RE indicating when and where monitoring will occur.
  - b. The PI may submit a detailed letter to MMC prior to the start of work or during construction requesting a modification to the monitoring program. This request shall be based on relevant information such as review of final construction documents which indicate conditions such as: age of existing pipe to be replaced, depth of excavation and/or site graded to bedrock, etc., that may reduce or increase the potential for resources to be present.

### III. During Construction

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

1. The monitor shall be present full-time during grading/excavation/trenching activities including, but not limited to mainline, laterals, services and all other appurtenances associated with underground utilities as identified on the AME. The Construction Manager is responsible for notifying the RE, PI, and MMC of changes to any construction activities.
2. The monitor shall document field activity via the Consultant Site Visit Record (CSVSR). The CSVSR's shall be faxed by the CM to the RE the first day of monitoring, the last day of monitoring, monthly, notification of monitoring completion, and in the case of ANY discoveries. The RE shall forward copies to MMC.
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 trenching activities, *presence of fossil formations*, or when native soils are encountered may reduce or increase the potential for resources to be present.

#### B. Discovery Notification Process

1. In the event of a discovery, the Archaeological Monitor shall direct the contractor to temporarily divert trenching activities in the area of discovery and immediately notify the RE or BI, as appropriate.
2. The Monitor shall immediately notify the PI (unless Monitor is the PI) of the discovery.
3. The PI shall immediately notify MMC by phone of the discovery, and shall also submit written documentation to MMC within 24 hours by fax or email with photos of the resource in context, if possible.

#### C. Determination of Significance

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

(1) Note: For Pipeline Trenching Projects Only. If the deposit is limited in size, both in length and depth; the information value is limited and is not associated with

any other resource; and there are no unique features/artifacts associated with the deposit, the discovery *should be considered not significant.*

- (2) Note: For Pipeline Trenching Projects Only. If significance can not be determined, the Final Monitoring Report and Site Record (DPR Form 523A/B) shall identify the discovery as Potentially Significant.

#### D. Discovery Process for Significant Resources - Pipeline Trenching Projects

The following procedure constitutes adequate mitigation of a significant discovery encountered during pipeline trenching activities including but not limited to excavation for jacking pits, receiving pits, laterals, and manholes to reduce impacts to below a level of significance:

1. Procedures for documentation, curation and reporting
  - a. One hundred percent of the artifacts *within the trench alignment and width* shall be documented in-situ, to include photographic records, plan view of the trench and profiles of side walls, recovered, photographed after cleaning and analyzed and curated. The remainder of the deposit within the limits of excavation (trench walls) shall be left intact.
  - b. The PI shall prepare a Draft Monitoring Report and submit to MMC as indicated in Section VI-A.
  - c. ~~The PI shall be responsible for recording (on the appropriate State of California Department of Park and Recreation forms DPR 523 A/B) the resource(s) encountered during the Archaeological Monitoring Program in accordance with the City's Historical Resources Guidelines. The DPR forms shall be submitted to the South Coastal Information Center for either a Primary Record or SDI Number and included in the Final Monitoring Report.~~
  - d. The Final Monitoring Report shall include a recommendation for monitoring of any future work in the vicinity of the resource.

#### IV. Discovery of Human Remains

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

- A. Notification
  1. Archaeological Monitor shall notify the RE or BI as appropriate, MMC, and the PI, if the Monitor is not qualified as a PI. MMC will notify the appropriate Senior Planner in the Environmental Analysis Section (EAS).
  2. The PI shall notify the Medical Examiner after consultation with the RE, either in person or via telephone.
- B. Isolate discovery site
  1. Work shall be directed away from the location of the discovery and any nearby area reasonably suspected to overlay adjacent human remains until a determination can be made by the Medical Examiner in consultation with the PI concerning the provenience of the remains.

2. The Medical Examiner, in consultation with the PI, shall determine the need for a field examination to determine the provenience.
  3. If a field examination is not warranted, the Medical Examiner shall determine with input from the PI, if the remains are or are most likely to be of Native American origin.
- C. If Human Remains **ARE** determined to be Native American
1. The Medical Examiner shall notify the Native American Heritage Commission (NAHC). By law, **ONLY** the Medical Examiner can make this call.
  2. The NAHC shall contact the PI within 24 hours or sooner, after Medical Examiner has completed coordination.
  3. NAHC shall identify the person or persons determined to be the Most Likely Descendent (MLD) and provide contact information..
  4. The PI shall coordinate with the MLD for additional consultation.
  5. Disposition of Native American Human Remains shall be determined between the MLD and the PI, IF:
    - a. The NAHC is unable to identify the MLD, OR the MLD failed to make a recommendation within 24 hours after being notified by the Commission; OR;
    - b. The landowner or authorized representative rejects the recommendation of the MLD and mediation in accordance with PRC 5097.94 (k) by the NAHC fails to provide measures acceptable to the landowner.
- D. If Human Remains are **NOT** Native American
1. The PI shall contact the Medical Examiner and notify them of the historic era context of the burial.
  2. The Medical Examiner will determine the appropriate course of action with the PI and City staff (PRC 5097.98).
  3. If the remains are of historic origin, they shall be appropriately removed and conveyed to the Museum of Man for analysis. The decision for internment of the human remains shall be made in consultation with MMC, EAS, the applicant department and/or Real Estate Assets Department (READ) and the Museum of Man.

#### V. Night Work

- A. If night work is included in the contract
1. When night work is included in the contract package, the extent and timing shall be presented and discussed at the precon meeting.
  2. The following procedures shall be followed.
    - a. No Discoveries

In the event that no discoveries were encountered during night work, The PI shall record the information on the CSVr and submit to MMC via fax by 9am the following morning, if possible.

## 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.

## c. Potentially Significant Discoveries

If the PI determines that a potentially significant discovery has been made, the procedures detailed under Section III - During Construction shall be followed.

## d. The PI shall immediately contact MMC, or by 8AM the following morning to report and discuss the findings as indicated in Section III-B, unless other specific arrangements have been made.

## B. If night work becomes necessary during the course of construction

1. The Construction Manager shall notify the RE, or BI, as appropriate, a minimum of 24 hours before the work is to begin.
2. The RE, or BI, as appropriate, shall notify MMC immediately.

## C. All other procedures described above shall apply, as appropriate.

## VI. Post Construction

~~A. Completion of Monitoring Program and Submittal of Draft Monitoring Report~~

1. The PI shall submit two copies of the Draft Monitoring Report (even if negative) 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,
  - a. For significant archaeological resources encountered during monitoring, the Archaeological Data Recovery Program or Pipeline Trenching Discovery Process shall be included in the Draft Monitoring Report.
  - b. MMC shall return the Draft Monitoring Report to the PI for revision or, for preparation of the Final Report.
  - c. Recording Sites with State of California Department of Parks and Recreation
 

The PI shall be responsible for recording (on the appropriate State of California Department of Park and Recreation forms-DPR 523 A/B) any significant or potentially significant resources encountered during the Archaeological Monitoring Program in accordance with the City's Historical Resources Guidelines, and submittal of such forms to the South Coastal Information Center with the Final Monitoring Report.
  - d. MMC shall notify the RE or BI, as appropriate, of receipt of the Draft Monitoring Report.
2. Handling of Artifacts
  - a. The PI shall be responsible for ensuring that all cultural remains collected are cleaned and catalogued

- b. 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. Curation of artifacts: Deed of Gift and Acceptance Verification
    - a. 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 EAS and the Native American representative, as applicable.
    - b. The PI shall submit the Deed of Gift and catalogue record(s) to MMC for signature by the RE or BI, as appropriate.
    - c. The RE or BI, as appropriate shall obtain signature on Deed of Gift and shall return to MMC.
    - d. MMC shall return the signed Deed of Gift to the PI.
    - e. The PI shall include the Acceptance Verification from the curation institution to MMC with submittal of the Final Monitoring Report.
- B. Final Monitoring Report(s)
    1. The PI shall submit two copies of the Final Monitoring Report to MMC (even if negative), within 90-days after approval of the draft report, which describes the results, analysis, and conclusions of all phases of the Archaeological Monitoring Program (with appropriate graphics).
    2. The RE shall, in no case, issue the Notice of Completion until receiving a copy of the approved Final Monitoring Report from MMC which includes the Acceptance Verification from the curation institution.

### **Air Quality**

To reduce potential air quality impacts from pollutant emissions to below a level of significance, the project builder shall implement the following mitigation measures:

1. When pipeline alignments and pump station location(s) have been determined for Phase 2C, an air quality technical report shall be prepared by a qualified individual that identifies whether construction or operational activities associated with Phase 2C pipelines and pump stations would generate pollutant emissions which exceed significance thresholds. If significance thresholds would be exceeded, pollutant emission reduction measures shall be implemented to reduce impacts to below a level of significance.
2. Prior to the City's first preconstruction meeting for the construction of Phase 3, an air quality technical report shall be prepared by a qualified individual that identifies whether construction activities associated with Phase 3 pipeline installation would generate pollutant emissions which exceed significance thresholds. If significance thresholds would be exceeded for construction activities, pollutant emission reduction measures shall be implemented to reduce impacts to below a level of significance.
3. Prior to the City's first preconstruction meeting for the construction of the 35 MGD pump station, an air quality emissions analysis shall be conducted by a qualified individual to determine if the

emergency generators proposed for the pump station backup power would exceed allowable emissions thresholds. If such an exceedance would occur, measures shall be implemented to reduce impacts to below a level of significance.

4. Prior to the City's first preconstruction meeting, the project engineer shall identify one or more of the following mitigation measures on the appropriate grading plans which shall be implemented during all phases of construction for the proposed project:
  1. Limit the disturbance "footprint" to as small an area as practical.
  2. Water all active construction areas at least twice daily.
  3. Cover all off-site haul trucks or maintain at least two feet of freeboard.
  4. Pave or apply water four times daily to all unpaved parking or staging areas.
  5. Sweep or wash any site access points within 30 minutes of any visible dirt deposition on any public roadway.
  6. Cover or water twice daily any on-site stockpiles of debris, dirt or other dusty material.
  7. Suspend all operations on any unpaved surface if winds exceed 25 mph.
  8. Hydroseed or otherwise stabilize any cleared area which is to remain inactive for more than 96 hours after clearing is completed.
  9. Require 90-day low-NOx tune-ups for off-road equipment.
  10. Encourage car pooling for construction workers.
  11. Limit lane closures to off-peak travel periods.
  12. Park construction vehicles off traveled roadways.
  13. Wet down or cover dirt hauled off site.
  14. Wash or sweep access points daily.
  15. Encourage receipt of materials during non-peak traffic hours.
  16. Sandbag construction sites for erosion control.

### Biological Resources

In order to reduce potentially significant impacts to sensitive habitat, animal and plant species to below a level of significance, the project builder shall implement the following mitigation measures:

1. Prior to the City's first pre-construction meeting, direct impacts to non-native grassland located at the site of proposed Pump Station A1 shall be mitigated in accordance with the City's Biology Guidelines mitigation ratio for non-native grassland located outside of the MHPA as listed in Table 4.7-4. According to this table, mitigation for an impact to 2.8 acres of non-native grassland would consist of the purchase, dedication or conservation of 1.4 acres of mitigation land within the MHPA (2.8 acres of non-native grassland would be required if mitigated outside the MHPA).
2. Prior to the City's first pre-construction meeting for each phase of construction for the pipeline alignment, a qualified biologist shall field verify the proposed pipeline alignment to determine any

areas where the alignment would be located outside of the paved roadway alignment footprint. If no areas would be located outside of the paved roadway alignment footprint, no further action shall be required. If construction activities would extend outside of the existing roadway alignment footprint, an appropriately timed field survey shall be conducted to determine if any sensitive habitats, animal or plant species would be impacted during construction. If the alignment would be located outside of the paved roadway alignment footprint and would impact sensitive habitats, animal or plant species, then *Biological Resources – 2a* and *2b* shall be followed.

- 2a. If sensitive habitat would be impacted by the proposed project, the qualified biologist shall determine whether the habitat is located inside or outside of the MHPA and in what level of the City's tier system the habitat is located. Impacts to each type of habitat shall be mitigated in accordance with the City's Biology Guidelines mitigation ratios listed in Table 4.7-4. According to this table, mitigation for impacts to sensitive habitats would consist of the purchase or dedication of land at a ratio between 0.5:1 to 4:1 from a mitigation bank or an area within the MHPA. In addition, appropriately-timed pre-construction surveys shall be conducted by a qualified biologist pursuant to state and federal protocols to determine if sensitive species are present within the sensitive habitat areas. If only sensitive habitat is impacted, and no sensitive animal or plant species are determined to be present onsite, then the sensitive habitat shall be mitigated in accordance with Table 4.7-4. If sensitive species are detected onsite, then mitigation measure *Biological Resources – 2c* would be implemented.

**Table 4.7-4. Mitigation Ratios for Impacts to Sensitive Habitats**

Vegetation Community (Tier)	Impacts and Mitigation Inside MHPA	Impacts Outside and Mitigation Inside MHPA	Project Impacts to Habitat (Acres)	Required Mitigation (Acres)
Vernal pool (N/A)	2:1 to 4:1	2:1 to 4:1	-	-
Freshwater marsh (N/A)	2:1	2:1	-	-
Mule fat scrub (N/A)	2:1	2:1	-	-
Southern willow scrub (N/A)	2:1	2:1	-	-
Seasonal pond (N/A)	1:1	1:1	-	-
Disturbed wetland (N/A)	1:1	1:1	-	-
Maritime succulent scrub (I)	2:1	1:1	-	-
Maritime succulent scrub – disturbed (I)	2:1	1:1	-	-
Diegan coastal sage scrub (II)	1:1	1:1	-	-
Diegan coastal sage scrub – disturbed (II)	1:1	1:1	-	-
Non-native grassland (IIIB)	1:1	0.5:1	2.8	1.4

N/A: Not Applicable to the City's Tier System  
Source: City of San Diego, 2002

- 2b. If construction activities would extend outside of the existing roadway alignment footprint, and sensitive habitats would be impacted, as determined in mitigation measure *Biological Resources – 2a*, then a qualified biologist shall conduct regular monitoring visits during construction to assure that construction personnel and equipment do not encroach into any sensitive areas. The schedule for

biological monitoring visits shall be determined at the pre-construction meeting for each project construction phase. To the extent feasible, construction work near vernal pool areas shall be conducted outside the rainy season and construction work near habitats of sensitive species shall be conducted outside the breeding season of those species.

- 2c. If sensitive animal or plant species are observed, based on a protocol surveys performed by a qualified biologist, they shall be avoided when possible. If impacts cannot be avoided, the significance of the impacts to those species must be evaluated in a second tier document in compliance with CEQA and any significant impacts shall be mitigated based on the recommendations of the qualified biologist.

The recommended mitigation ratios in Table 4.7-4 shall be subject to change based on the project's impact on federally listed species, including (potentially) the San Diego button-celery, Otay Mesa mint, California orcutt grass, Otay tarplant, spreading navarretia, Riverside fairy shrimp, San Diego fairy shrimp, coastal California gnatcatcher, and quino checkerspot butterfly in accordance with the City's Biological Guidelines.

3. Prior to first preconstruction meeting for the construction of Pump Station A1, focused surveys for sensitive plant species shall be conducted at the Pump Station A1 site by a qualified biologist during the appropriate season as part of or prior to the project planning or design phase. Two rare plant surveys shall be conducted at the Pump Station A1 site, one in the early spring (April/May) and the other during mid to late July, to identify any federal, state, and City (narrow endemic) sensitive plant species. ~~If sensitive plant species are observed onsite, they shall be avoided if possible. If impacts cannot be avoided, the significance of the impacts to those species shall be evaluated in a second tier document in compliance with CEQA and any significant impacts shall be mitigated based on the recommendations of the qualified biologist. Typically, impacts to any listed or City narrow endemic plants require species-specific mitigation, usually in the form of plant salvage and translocation to a suitable preserve area.~~
4. Prior to construction of Pump Station A1, a qualified biologist shall survey the Pump Station A1 site for the presence of suitable habitat for the following wildlife species: San Diego and Riverside fairy shrimp, quino checkerspot butterfly, and burrowing owl. If the biologist finds suitable habitat for any of these species, sensitive animal surveys for each species identified on the Pump Station site shall be conducted by a qualified biologist in accordance with the measures listed in Biological Resources – 4a, -4b, and 4-c.
- 4a. If suitable habitat for San Diego or Riverside fairy shrimp is found on the Pump Station A1 site, U.S. Fish and Wildlife Service (USFWS) protocol surveys shall be required to determine the extent of these species within appropriate habitat (water holding basins) on site. Two seasons of surveys shall be required by the USFWS protocol. The surveys shall consist of two dry season surveys, two wet season surveys, or one of each. The dry season survey shall involve collecting soil samples in the summer and conducting a lab analysis to determine if fairy shrimp cysts are present. Wet season surveys shall require biweekly visits when the pools are full of water to net for adult fairy shrimp.

The City regulates impacts to vernal pools within its jurisdiction; however, it does not have the authority to permit take of listed fairy shrimp. Take of the listed fairy shrimp shall require a federal Endangered Species Act (ESA) Section 10(a) permit processed through the USFWS. In order to process a 10(a) permit, the applicant shall prepare several documents including a Habitat Conservation

Plan (HCP), Environmental Assessment (EA), Alternatives Analysis (AA), Implementing Agreement (IA), and associated mitigation and habitat restoration documents.

- 4b. If suitable habitat for the quino checkerspot butterfly is found on the Pump Station A1 site, USFWS focused protocol surveys shall be required, which call for a pre-survey habitat assessment and approximately six weekly surveys during the quino flight period (generally early spring). The USFWS shall determine when conditions are suitable to begin surveys based on observations at several known quino sites. Similar to the San Diego and Riverside fairy shrimp, the quino checkerspot butterfly is not an MSCP covered species. Any take of this species would require an ESA Section 10(a) permit processed through the USFWS.
- 4c. If suitable habitat for the burrowing owl is found on the Pump Station A1 site, surveys shall be conducted during both wintering (December 1 through January 31) and nesting seasons (April 15 and July 15), unless the species is detected during the first season of surveys. If the burrowing owl is observed onsite, impacts to the species shall be avoided to the maximum extent practicable. If impacts can not be avoided, all impacted individuals shall be relocated out of the impact area using passive or active methods approved by the wildlife agencies. Timing of any relocation activity shall be carried out prior to the nesting season (February 1 to August 31). Mitigation for impacts to occupied habitat shall be through conservation of occupied burrowing owl habitat or conservation of lands appropriate for restoration, management, and enhancement of burrowing owl nesting and foraging habitat per the City's MSCP and Biological Guidelines. A management plan for the burrowing owl shall include enhancement of known historical and/or potential burrowing owl habitat, and management for ground squirrels (the primary excavator of burrowing owl burrows). Enhancement measures may include creation of artificial burrows and vegetation management to enhance foraging habitat. The management plan shall also include monitoring of burrowing owl nest sites to determine use and nesting success; predator control; and establishing a 300-foot wide impact avoidance area (within the preserve) around conserved occupied burrows.
5. Immediately after pipeline alignments and pump station locations have been determined for Phase 2C, a comprehensive biological resources survey and analysis shall be prepared by a qualified biologist to determine if construction and/or operation of Phase 2C pipeline and pump station facilities would result in significant direct or indirect impacts to sensitive biological resources, including sensitive habitats, plant species and animal species. The report shall be submitted to the Assistant Deputy Director (ADD) of Land Development Review (LDR) for concurrent review by Environmental Analysis Section (EAS) and MSCP staff. Any direct or indirect impacts to biological resources identified as a result of Phase 2C shall be mitigated in accordance with the City's Biology Guidelines (City of San Diego 2002). Impacts shall be reduced to below a level of significance whenever possible.

### **Hazardous Materials**

In order to reduce potentially significant hazards impacts to the public or the environment to below a level of significance, the project builder shall implement the following mitigation measures:

1. Prior to the City's first pre-construction meeting, the applicant shall provide a letter of verification to the Assistant Deputy Director (ADD) of Land Development Review (LDR), the City's Local Enforcement Agency (LEA), and the Environmental Services Department (ESD), stating that a qualified hazardous materials monitor has been retained to implement the soil monitoring program

during project excavation and trenching. The monitoring program shall be implemented during the following project construction phases: Phase 2B1 along Via De San Ysidro, East and West San Ysidro Boulevards, Hill Street; Phase 2B2 along Heritage Road; and Phases 2B2, 2E and 3 along Otay Mesa Road in the vicinity of Brown Field and along Cactus Road in the vicinity of the former Tripp Landfill. In addition, if soil sampling of the proposed Pump Station A1 site indicates that contaminated soils are located at this site, then the monitoring program shall also be implemented during excavation of the contaminated areas of the Pump Station A1 site. During these project phases, the monitoring program shall be conducted for the presence of petroleum hydrocarbon contamination, burn ash, debris-laden fill material, and discolored or odorous soil in the upper 10 feet of the soil column in all phases except 2B1. Monitoring shall occur for all excavation depths during Phase 2B1. If such soil is encountered, it should be evaluated by a qualified professional and handled in accordance with applicable environmental laws and regulations.

2. Prior to the City's first pre-construction meeting, the applicant shall prepare a Community Health and Safety Plan for approval by the City's Local Enforcement Agency (LEA) for Phases 2B2, 2E and 3 along Cactus Road in the vicinity of Tripp Landfill.
3. Prior to the City's first pre-construction meeting, construction plans shall be reviewed by City LEA and ESD staff for dewatering plans and operations. If dewatering plans and operations are proposed, environmental monitoring for the presence of free product and impacted groundwater shall be conducted as a part of dewatering plans and operations.

---

4. During excavation and construction activities for all phases of the proposed project, any undocumented underground storage tanks (USTs) or other subsurface features indicative of potential contamination that are encountered along the project alignment shall be evaluated and handled in accordance with all applicable federal and state environmental laws and regulations. Specifically, the County Department of Environmental Health and the City LEA and ESD shall be notified if any USTs are discovered within the excavated areas of the proposed project alignment.
5. Prior to the City's first pre-construction meeting, construction plans shall be reviewed by City LEA and ESD staff for the destruction of existing groundwater monitoring wells located within the proposed project alignment. If the project would require the destruction of existing groundwater monitoring wells, permission to destroy such wells shall be obtained by the appropriate responsible parties and regulatory agencies.
6. Prior to the City's first pre-construction meeting, the applicant shall provide proof of all necessary licenses and certifications to perform the excavation and other construction operations to the ADD of LDR. The project builder shall also ensure through employee training that all contractors and workers are made aware of the potential presence of petroleum hydrocarbons and other contaminants in the proposed project alignment. Health and safety measures shall be taken to minimize the risk of human exposure to contaminants during excavation and construction activities.
7. Prior to the City's first pre-construction meeting or the issuance of a site development permit for the construction of Pump Station A1, whichever is applicable, soil sampling shall be conducted at the Pump Station A1 site by a qualified professional in order to determine if hydrocarbon-impacted soil is present on the site. If no contaminated soil is found onsite, no further action shall be required. If contaminated soils are found onsite, mitigation measure Hazardous Material - 1 shall be implemented during all excavation of identified areas of contamination within the proposed Pump Station A1 site.

000151

8. When pipeline alignments and pump station location(s) have been determined for Phase 2C, a comprehensive Phase I site assessment shall be conducted by a qualified hazardous materials specialist in order to determine if Phase 2C would have the potential to result in significant hazardous materials impacts due to known or unknown contaminated soils and groundwater which may exist along the proposed project alignment. For potentially significant impacts, the Phase I site assessment shall include recommendations for the remediation of impacts to a level below significant, which may be similar to mitigation measures Hazardous Materials - 1 through 7, listed above. Mitigation measures implemented to reduce potentially significant impacts shall be approved by the City LEA and ESD and the ADD of LDR.

### **Visual Quality/Aesthetics**

To reduce potentially significant visual quality impacts associated with the creation of a negative aesthetic site to below a level of significance, the project builder shall implement the following mitigation measure:

For any pump station(s) constructed as part of Phase 2C, the architectural style and materials used in the pump station building(s) shall be designed to blend with the surrounding uses of the area.

### **Energy**

To reduce potentially significant energy impacts associated with the excessive use of energy to below a level of significance, the project builder shall implement the following mitigation measure:

---

Any pump station(s) constructed as part of Phase 2C shall be designed to incorporate energy efficient components such as soft start motors, high efficiency motors, energy-efficient interior, and exterior lighting and skylights in order to avoid the excessive use of fuel or energy.

000152

MWD-8020

000153

STATE OF CALIFORNIA—BUSINESS, TRANSPORTATION AND HOUSING AGENCY

ARNOLD SCHWARZENEGGER, Governor

**DEPARTMENT OF TRANSPORTATION**

DISTRICT 11

4050 TAYLOR STREET, MS 310

SAN DIEGO, CA 92110

PHONE (619) 688-6682

FAX (619) 688-2570 or 3106



*Flex your power!  
Be energy efficient!*

September 11, 2006

11-SD-905  
K.P. R9.3/R18.62  
P.M. R5.8/R11.6  
E.A. 091821  
UA 31766, 31768

City of San Diego  
Metropolitan Waste Water Department  
9192 Topaz Way, MS 901  
San Diego, CA 92123

Attention: Allan Navarro

Dear Mr. Navarro:

Enclosed are five copies of the Utility Agreements No. **31766 and 31768**. If the Agreements are satisfactory, **please execute and return the four originals of each Agreement to our office for further processing**. The copies are for your files until we can return a fully executed document to you. Please call me at (619) 688-6682 if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Debbie Rodriguez".

Debbie Rodriguez  
Utility Coordinator  
Right of Way Division

Encls.

000155

Dist	Co	Rte	KP (P.M.)	EA
11	SD	905	R9.3/R18.62 (R5.8/R11.6)	091821
FEDERAL AID NUMBER A905 (015)			OWNER'S FILE	
FEDERAL PARTICIPATION: On the Project <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No    On the Utilities <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No				

**UTILITY AGREEMENT NO. 31766 DATE**

The State of California acting by and through the Department of Transportation, hereinafter called "STATE" proposes to construct a new freeway (Phase 1) in San Diego County in San Diego from 1.1 km east of the Route 905/805 separation to 0.6 km west of the Mexico Border and CITY OF SAN DIEGO, hereinafter called "OWNER", owns and maintains sewer facilities within the limits of STATE's project.

It is hereby mutually agreed that:

**I. WORK TO BE DONE**

In accordance with Notice to Owner 31766 dated 12/29/05 STATE shall relocate OWNER's sewer facilities as shown on STATE's contract plans for the improvement of State Route 905, EA 091824 which by this reference are made a part hereof. OWNER hereby acknowledges review of STATE's plans for work and agrees to the construction in the manner proposed. Deviations from the OWNER's plan described above initiated by either the STATE or the OWNER, shall be agreed upon by both parties hereto under a Revised Notice to Owner. Such Revised Notices to Owner, approved by the STATE and agreed to/acknowledged by the OWNER, will constitute an approved revision of the plan described above and are hereby made a part hereof. No work under said deviation shall commence prior to written execution by the OWNER of the Revised Notice to Owner. Changes in the scope of the work will require an amendment to this Agreement in addition to the Revised Notice to Owner. OWNER shall have the right to inspect the work during construction. Upon completion of the work by STATE, OWNER agrees to accept ownership and maintenance of the constructed facilities and relinquishes to STATE ownership of the replaced facilities.

**II. LIABILITY FOR WORK:**

The existing facilities are lawfully maintained in their present location and qualify for relocation at STATE expense under the provisions of Section 703 of the Streets and Highways Code.

**III. PERFORMANCE OF WORK:**

Owner shall have access to all phases of the relocation work to be performed by STATE, as described in Section I above, for the purpose of inspection to ensure that the work is in accordance with the specifications contained in the Highway Construction Contract; however, all questions regarding the work being performed will be directed to STATE's Resident Engineer for their evaluation and final disposition.

IV. PAYMENT FOR WORK:

The STATE shall pay its share of the actual cost of the herein-described work within 90 days after receipt of five (5) copies of OWNER's itemized bill, signed by a responsible official of OWNER's organization and prepared on OWNER's letterhead, compiled on the basis of the actual and necessary cost and expense. The OWNER shall maintain records of the actual costs incurred and charged or allocated to the project in accordance with recognized accounting principles. The OWNER's billing cost to STATE is \$42,049.00.

It is understood and agreed that the STATE will not pay for any betterment or increase in capacity of OWNER's facilities in the new location and that OWNER shall give credit to the STATE for the salvage value of any material or parts salvaged and retained or sold by OWNER.

Not more frequently than once a month, but at least quarterly, OWNER will prepare and submit progress bills for costs incurred not to exceed OWNER's recorded costs as of the billing date less estimated credits applicable to completed work. Payment of progress bills which exceed the amount of this Agreement may be made after receipt and approval by STATE of documentation supporting the cost increase and after an Amendment to this Agreement has been executed by the parties to this Agreement.

The OWNER shall submit a final bill to the STATE within 360 days after the completion of the work described in Section I. above. If the STATE has not received a final bill within 360 days after notification of completion of OWNER's work described in Section I. of this Agreement, and STATE has delivered to OWNER fully executed Director's Deeds, Consents to Common Use or Joint Use Agreements as required for OWNER's facilities, STATE will provide written notification to OWNER of its intent to close its file within 30 days and OWNER hereby acknowledges, to the extent allowed by law, that all remaining costs will be deemed to have been abandoned. If the STATE processes a final bill for payment more than 360 days after notification of completion of OWNER's work, payment of the late bill may be subject to allocation and/or approval by the California Transportation Commission.

The final billing shall be in the form of an itemized statement of the total costs charged to the project, less the credits provided for in this Agreement, and less any amounts covered by progress billings. However, the STATE shall not pay final bills which exceed the estimated cost of this Agreement without documentation of the reason for the increase of said cost from the OWNER and approval of documentation by STATE. Except, if the final bill exceeds the OWNER's estimated costs solely as the result of a revised Notice to Owner as provided for in Section I, a copy of said revised Notice to Owner shall suffice as documentation. In either case, payment of the amount over the estimated cost of this Agreement may be subject to allocation and/or approval by the California Transportation Commission.

In any event if the final bill exceeds 125% of the estimated cost of this agreement, an Amended Agreement shall be executed by the parties to this Agreement prior to the payment of the OWNER's final bill. Any and all increases in costs that are the direct result of deviations from the work described in Section I of this Agreement shall have the prior concurrence of STATE.

Detailed records from which the billing is compiled shall be retained by the OWNER for a period of three years from the date of the final payment and will be available for audit by State and/or Federal auditors. Owner agrees to comply with Contract Cost Principles and Procedures as set forth in 48 CFR, Chapter 1, Part 31, et seq., 23 CFR, Chapter 1, Parts 101, 201, et al. If a subsequent State and/or Federal audit determines payments to be unallowable, OWNER agrees to reimburse STATE upon receipt of STATE billing.

V. GENERAL CONDITIONS:

All costs accrued by OWNER as a result of STATE's request of June 17, 2004 to review, study and/or prepare relocation plans and estimates for the project associated with this Agreement may be billed pursuant to the terms and conditions of this Agreement.

V. GENERAL CONDITIONS: (Continued)

If STATE's project which precipitated this Agreement is canceled or modified so as to eliminate the necessity of work by OWNER, STATE will notify OWNER in writing and STATE reserves the right to terminate this Agreement by Amendment. The Amendment shall provide mutually acceptable terms and conditions for terminating the Agreement.

All obligations of STATE under the terms of this Agreement are subject to the passage of the annual Budget Act by the State Legislature and the allocation of those funds by the California Transportation Commission.

OWNER shall submit a Notice of Completion to the STATE within 30 days of the completion of the work described herein.

Where OWNER has prior rights in areas which will be within the highway right of way and where OWNER's facilities will remain on or be relocated on STATE highway right of way, a Joint Use Agreement or Consent to Common Use Agreement shall be executed by the parties.

It is understood that said highway is a Federal aid highway and accordingly, 23 CFR, Chapter 1, Part 645 is hereby incorporated into this Agreement.

\* \* \* \*

UTILITY AGREEMENT NO. 31766

THE ESTIMATED COST TO STATE FOR ITS SHARE OF THE ABOVE DESCRIBED WORK IS \$ 736,809.00

CERTIFICATION OF FUNDS				
I hereby certify upon my own personal knowledge that budgeted funds are available for the period and purpose of the expenditure shown here.				
<i>AS Whinn</i>			1-30-2001	
HQ Accounting Officer			Date	
ITEM	CHAP	STAT	FY	AMOUNT
2660-301-0892, 0042-20	38	2005	05/06	\$42,049.00

FUND TYPE	EA	AMOUNT
Design Funds		\$
Construction Funds	091824	\$694,760.00
RW Funds	091829	\$ 42,049.00

IN WITNESS WHEREOF, the above parties have executed this Agreement the day and year above written.

STATE:

OWNER: CITY OF SAN DIEGO

By *David W. Johnson* 1/11/06  
 District Division Chief, Right of Way  
 Delegated, DAVID W. JOHNSON, Chief  
 Utility Relocation Branch

By \_\_\_\_\_  
 Name \_\_\_\_\_ Date \_\_\_\_\_  
 Title \_\_\_\_\_

By *Debbie Rodriguez* 1/11/06  
 Debbie Rodriguez  
 Utility Coordinator Date

DO NOT WRITE BELOW - FOR ACCOUNTING PURPOSES ONLY

PLANNING AND MANAGEMENT COMPLETES EXCEPT SHADED FIELDS

UTILITY COMPLETES:

T CODE	DOCUMENT NUMBER	SUF RIX	DIST	UNIT	CHG DIST	EA	SUB JOB	SPECIAL DESIGNATION	FFY	FA	OBJ CODE	DOLLAR AMOUNT
	UA31766		11	440	11	091829	3	STIP 931766	06	6	054	42,049.00
	UA										054	

EA FUNDING VERIFIED:	
Sign: <u><i>forunzer</i></u>	8/1/06
Print: _____	
R/W Planning and Management Date	

REVIEW / REQUEST FUNDING:	
Sign: <u><i>Debbie Rodriguez</i></u>	1/11/06
Print: _____	
Debbie Rodriguez Utility Coordinator Date	

Distribution: 3 originals to R/W Accounting  
 3 originals returned to R/W Planning & Management

1111-0-0

000159

Dist	Co	Rte	KP (P.M.)	EA
11	SD	905	R9.3/R18.62 (R5.8/R11.6)	091821
FEDERAL AID NUMBER A905 (015)			OWNER'S FILE	
FEDERAL PARTICIPATION: On the Project <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No On the Utilities <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No				

UTILITY AGREEMENT NO. 31766 DATE \_\_\_\_\_

The State of California acting by and through the Department of Transportation, hereinafter called "STATE" proposes to construct a new freeway (Phase I) in San Diego County in San Diego from 1.1 km east of the Route 905/805 separation to 0.6 km west of the Mexico Border and CITY OF SAN DIEGO, hereinafter called "OWNER", owns and maintains sewer facilities within the limits of STATE's project.

It is hereby mutually agreed that:

I. WORK TO BE DONE

In accordance with Notice to Owner 31766 dated 12/29/05 STATE shall relocate OWNER's sewer facilities as shown on STATE's contract plans for the improvement of State Route 905, EA 091824 which by this reference are made a part hereof. OWNER hereby acknowledges review of STATE's plans for work and agrees to the construction in the manner proposed. Deviations from the OWNER's plan described above initiated by either the STATE or the OWNER, shall be agreed upon by both parties hereto under a Revised Notice to Owner. Such Revised Notices to Owner, approved by the STATE and agreed to/acknowledged by the OWNER, will constitute an approved revision of the plan described above and are hereby made a part hereof. No work under said deviation shall commence prior to written execution by the OWNER of the Revised Notice to Owner. Changes in the scope of the work will require an amendment to this Agreement in addition to the Revised Notice to Owner. OWNER shall have the right to inspect the work during construction. Upon completion of the work by STATE, OWNER agrees to accept ownership and maintenance of the constructed facilities and relinquishes to STATE ownership of the replaced facilities.

II. LIABILITY FOR WORK:

The existing facilities are lawfully maintained in their present location and qualify for relocation at STATE expense under the provisions of Section 703 of the Streets and Highways Code.

III. PERFORMANCE OF WORK:

Owner shall have access to all phases of the relocation work to be performed by STATE, as described in Section I above, for the purpose of inspection to ensure that the work is in accordance with the specifications contained in the Highway Construction Contract; however, all questions regarding the work being performed will be directed to STATE's Resident Engineer for their evaluation and final disposition.

IV. PAYMENT FOR WORK:

The STATE shall pay its share of the actual cost of the herein-described work within 90 days after receipt of five (5) copies of OWNER's itemized bill, signed by a responsible official of OWNER's organization and prepared on OWNER's letterhead, compiled on the basis of the actual and necessary cost and expense. The OWNER shall maintain records of the actual costs incurred and charged or allocated to the project in accordance with recognized accounting principles. The OWNER's billing cost to STATE is \$42,049.00.

It is understood and agreed that the STATE will not pay for any betterment or increase in capacity of OWNER's facilities in the new location and that OWNER shall give credit to the STATE for the salvage value of any material or parts salvaged and retained or sold by OWNER.

Not more frequently than once a month, but at least quarterly, OWNER will prepare and submit progress bills for costs incurred not to exceed OWNER's recorded costs as of the billing date less estimated credits applicable to completed work. Payment of progress bills which exceed the amount of this Agreement may be made after receipt and approval by STATE of documentation supporting the cost increase and after an Amendment to this Agreement has been executed by the parties to this Agreement.

The OWNER shall submit a final bill to the STATE within 360 days after the completion of the work described in Section I. above. If the STATE has not received a final bill within 360 days after notification of completion of OWNER's work described in Section I. of this Agreement, and STATE has delivered to OWNER fully executed Director's Deeds, Consents to Common Use or Joint Use Agreements as required for OWNER's facilities, STATE will provide written notification to OWNER of its intent to close its file within 30 days and OWNER hereby acknowledges, to the extent allowed by law, that all remaining costs will be deemed to have been abandoned. If the STATE processes a final bill for payment more than 360 days after notification of completion of OWNER's work, payment of the late bill may be subject to allocation and/or approval by the California Transportation Commission.

The final billing shall be in the form of an itemized statement of the total costs charged to the project, less the credits provided for in this Agreement, and less any amounts covered by progress billings. However, the STATE shall not pay final bills which exceed the estimated cost of this Agreement without documentation of the reason for the increase of said cost from the OWNER and approval of documentation by STATE. Except, if the final bill exceeds the OWNER's estimated costs solely as the result of a revised Notice to Owner as provided for in Section I, a copy of said revised Notice to Owner shall suffice as documentation. In either case, payment of the amount over the estimated cost of this Agreement may be subject to allocation and/or approval by the California Transportation Commission.

In any event if the final bill exceeds 125% of the estimated cost of this agreement, an Amended Agreement shall be executed by the parties to this Agreement prior to the payment of the OWNER's final bill. Any and all increases in costs that are the direct result of deviations from the work described in Section I of this Agreement shall have the prior concurrence of STATE.

Detailed records from which the billing is compiled shall be retained by the OWNER for a period of three years from the date of the final payment and will be available for audit by State and/or Federal auditors. Owner agrees to comply with Contract Cost Principles and Procedures as set forth in 48 CFR, Chapter 1, Part 31, et seq., 23 CFR, Chapter 1, Parts 101, 201, et al. If a subsequent State and/or Federal audit determines payments to be unallowable, OWNER agrees to reimburse STATE upon receipt of STATE billing.

V. GENERAL CONDITIONS:

All costs accrued by OWNER as a result of STATE's request of June 17, 2004 to review, study and/or prepare relocation plans and estimates for the project associated with this Agreement may be billed pursuant to the terms and conditions of this Agreement.

V. GENERAL CONDITIONS: (Continued)

If STATE's project which precipitated this Agreement is canceled or modified so as to eliminate the necessity of work by OWNER, STATE will notify OWNER in writing and STATE reserves the right to terminate this Agreement by Amendment. The Amendment shall provide mutually acceptable terms and conditions for terminating the Agreement.

All obligations of STATE under the terms of this Agreement are subject to the passage of the annual Budget Act by the State Legislature and the allocation of those funds by the California Transportation Commission.

OWNER shall submit a Notice of Completion to the STATE within 30 days of the completion of the work described herein.

Where OWNER has prior rights in areas which will be within the highway right of way and where OWNER's facilities will remain on or be relocated on STATE highway right of way, a Joint Use Agreement or Consent to Common Use Agreement shall be executed by the parties.

It is understood that said highway is a Federal aid highway and accordingly, 23 CFR, Chapter 1, Part 645 is hereby incorporated into this Agreement.

\* \* \* \*

UTILITY AGREEMENT NO. 31766

THE ESTIMATED COST TO STATE FOR ITS SHARE OF THE ABOVE DESCRIBED WORK IS \$ 736,809.00

CERTIFICATION OF FUNDS				
I hereby certify upon my own personal knowledge that budgeted funds are available for the period and purpose of the expenditure shown here.				
<i>[Signature]</i>				1-30-2006
HQ Accounting Officer				Date
ITEM	CHAP	STAT	FY	AMOUNT
2660-301-0892 0042-20	38	2005	05/06	\$ 42,049.00

FUND TYPE	EA	AMOUNT
Design Funds		\$
Construction Funds	091824	\$694,760.00
RW Funds	091829	\$ 42,049.00

IN WITNESS WHEREOF, the above parties have executed this Agreement the day and year above written.

STATE:

OWNER: CITY OF SAN DIEGO

By *[Signature]* 1/11/06  
 District Division Chief, Right of Way  
 Delegated, DAVID W. JOHNSON, Chief  
 Utility Relocation Branch

By \_\_\_\_\_  
 Name \_\_\_\_\_ Date \_\_\_\_\_  
 Title \_\_\_\_\_

By *[Signature]* 1/11/06  
 Debbie Rodriguez  
 Utility Coordinator Date

DO NOT WRITE BELOW - FOR ACCOUNTING PURPOSES ONLY

PLANNING AND MANAGEMENT COMPLETES EXCEPT SHADED FIELDS

UTILITY COMPLETES:

T CODE	DOCUMENT NUMBER	SUF FIX	DIST	UNIT	CHG DIST	EA	SUB JOB	SPECIAL DESIGNATION	FFY	FA	OBJ CODE	DOLLAR AMOUNT
	UA31766		11	440	11	091829	STIP	931766	06	6	054	42,049.00
	UA										054	

EA FUNDING VERIFIED:

Sign: *[Signature]*  
 Print: \_\_\_\_\_  
 R/W Planning and Management Date 1/11/06

REVIEW / REQUEST FUNDING:

Sign: *[Signature]* 1/11/06  
 Print: \_\_\_\_\_  
 Debbie Rodriguez  
 Utility Coordinator Date

Distribution: 3 originals to R/W Accounting  
3 originals returned to R/W Planning & Management

000163

MWD-8020  
ORIGINAL

Dist 11	Co SD	Rte 905	KP (P.M.) R9.3/R18.62 (R5.8/R11.6)	EA 091821
FEDERAL AID NUMBER A905 (015)			OWNER'S FILE	
FEDERAL PARTICIPATION: On the Project <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No    On the Utilities <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No				

UTILITY AGREEMENT NO. 31766 DATE \_\_\_\_\_

The State of California acting by and through the Department of Transportation, hereinafter called "STATE" proposes to construct a new freeway (Phase 1) in San Diego County in San Diego from 1.1 km east of the Route 905/805 separation to 0.6 km west of the Mexico Border and CITY OF SAN DIEGO, hereinafter called "OWNER", owns and maintains sewer facilities within the limits of STATE's project.

It is hereby mutually agreed that:

I. WORK TO BE DONE

In accordance with Notice to Owner 31766 dated 12/29/05 STATE shall relocate OWNER's sewer facilities as shown on STATE's contract plans for the improvement of State Route 905, EA 091824 which by this reference are made a part hereof. OWNER hereby acknowledges review of STATE's plans for work and agrees to the construction in the manner proposed. Deviations from the OWNER's plan described above initiated by either the STATE or the OWNER, shall be agreed upon by both parties hereto under a Revised Notice to Owner. Such Revised Notices to Owner, approved by the STATE and agreed to/acknowledged by the OWNER, will constitute an approved revision of the plan described above and are hereby made a part hereof. No work under said deviation shall commence prior to written execution by the OWNER of the Revised Notice to Owner. Changes in the scope of the work will require an amendment to this Agreement in addition to the Revised Notice to Owner. OWNER shall have the right to inspect the work during construction. Upon completion of the work by STATE, OWNER agrees to accept ownership and maintenance of the constructed facilities and relinquishes to STATE ownership of the replaced facilities.

II. LIABILITY FOR WORK:

The existing facilities are lawfully maintained in their present location and qualify for relocation at STATE expense under the provisions of Section 703 of the Streets and Highways Code.

III. PERFORMANCE OF WORK:

Owner shall have access to all phases of the relocation work to be performed by STATE, as described in Section I above, for the purpose of inspection to ensure that the work is in accordance with the specifications contained in the Highway Construction Contract; however, all questions regarding the work being performed will be directed to STATE's Resident Engineer for their evaluation and final disposition.

IV. PAYMENT FOR WORK:

The STATE shall pay its share of the actual cost of the herein-described work within 90 days after receipt of five (5) copies of OWNER's itemized bill, signed by a responsible official of OWNER's organization and prepared on OWNER's letterhead, compiled on the basis of the actual and necessary cost and expense. The OWNER shall maintain records of the actual costs incurred and charged or allocated to the project in accordance with recognized accounting principles. The OWNER's billing cost to STATE is \$42,049.00.

It is understood and agreed that the STATE will not pay for any betterment or increase in capacity of OWNER's facilities in the new location and that OWNER shall give credit to the STATE for the salvage value of any material or parts salvaged and retained or sold by OWNER.

Not more frequently than once a month, but at least quarterly, OWNER will prepare and submit progress bills for costs incurred not to exceed OWNER's recorded costs as of the billing date less estimated credits applicable to completed work. Payment of progress bills which exceed the amount of this Agreement may be made after receipt and approval by STATE of documentation supporting the cost increase and after an Amendment to this Agreement has been executed by the parties to this Agreement.

The OWNER shall submit a final bill to the STATE within 360 days after the completion of the work described in Section I. above. If the STATE has not received a final bill within 360 days after notification of completion of OWNER's work described in Section I. of this Agreement, and STATE has delivered to OWNER fully executed Director's Deeds, Consents to Common Use or Joint Use Agreements as required for OWNER's facilities, STATE will provide written notification to OWNER of its intent to close its file within 30 days and OWNER hereby acknowledges, to the extent allowed by law, that all remaining costs will be deemed to have been abandoned. If the STATE processes a final bill for payment more than 360 days after notification of completion of OWNER's work, payment of the late bill may be subject to allocation and/or approval by the California Transportation Commission.

The final billing shall be in the form of an itemized statement of the total costs charged to the project, less the credits provided for in this Agreement, and less any amounts covered by progress billings. However, the STATE shall not pay final bills which exceed the estimated cost of this Agreement without documentation of the reason for the increase of said cost from the OWNER and approval of documentation by STATE. Except, if the final bill exceeds the OWNER's estimated costs solely as the result of a revised Notice to Owner as provided for in Section I, a copy of said revised Notice to Owner shall suffice as documentation. In either case, payment of the amount over the estimated cost of this Agreement may be subject to allocation and/or approval by the California Transportation Commission.

In any event if the final bill exceeds 125% of the estimated cost of this agreement, an Amended Agreement shall be executed by the parties to this Agreement prior to the payment of the OWNER's final bill. Any and all increases in costs that are the direct result of deviations from the work described in Section I of this Agreement shall have the prior concurrence of STATE.

Detailed records from which the billing is compiled shall be retained by the OWNER for a period of three years from the date of the final payment and will be available for audit by State and/or Federal auditors. Owner agrees to comply with Contract Cost Principles and Procedures as set forth in 48 CFR, Chapter 1, Part 31, et seq., 23 CFR, Chapter 1, Parts 101, 201, et al. If a subsequent State and/or Federal audit determines payments to be unallowable, OWNER agrees to reimburse STATE upon receipt of STATE billing.

V. GENERAL CONDITIONS:

All costs accrued by OWNER as a result of STATE's request of June 17, 2004 to review, study and/or prepare relocation plans and estimates for the project associated with this Agreement may be billed pursuant to the terms and conditions of this Agreement.

V. GENERAL CONDITIONS: (Continued)

If STATE's project which precipitated this Agreement is canceled or modified so as to eliminate the necessity of work by OWNER, STATE will notify OWNER in writing and STATE reserves the right to terminate this Agreement by Amendment. The Amendment shall provide mutually acceptable terms and conditions for terminating the Agreement.

All obligations of STATE under the terms of this Agreement are subject to the passage of the annual Budget Act by the State Legislature and the allocation of those funds by the California Transportation Commission.

OWNER shall submit a Notice of Completion to the STATE within 30 days of the completion of the work described herein.

Where OWNER has prior rights in areas which will be within the highway right of way and where OWNER's facilities will remain on or be relocated on STATE highway right of way, a Joint Use Agreement or Consent to Common Use Agreement shall be executed by the parties.

It is understood that said highway is a Federal aid highway and accordingly, 23 CFR, Chapter 1, Part 645 is hereby incorporated into this Agreement.

\* \* \* \*

009166

UTILITY AGREEMENT NO. 31766

THE ESTIMATED COST TO STATE FOR ITS SHARE OF THE ABOVE DESCRIBED WORK IS \$ 736,809.00

CERTIFICATION OF FUNDS				
I hereby certify upon my own personal knowledge that budgeted funds are available for the period and purpose of the expenditure shown here.				
<i>[Signature]</i>			1-30-2006	
HQ Accounting Officer			Date	
ITEM	CHAP	STAT	FY	AMOUNT
2660-301-0892, 0042-20	38	2005	05/06	\$ 42,049.00

FUND TYPE	EA	AMOUNT
Design Funds		\$
Construction Funds	091824	\$694,760.00
RW Funds	091829	\$ 42,049.00

IN WITNESS WHEREOF, the above parties have executed this Agreement the day and year above written.

STATE:

OWNER: CITY OF SAN DIEGO

By *[Signature]* 1/11/06  
 District Division Chief, Right of Way  
 Delegated, DAVID W. JOHNSON, Chief  
 Utility Relocation Branch

By \_\_\_\_\_  
 Name \_\_\_\_\_ Date \_\_\_\_\_  
 Title \_\_\_\_\_

By *[Signature]* 1/11/06  
 Debbie Rodriguez  
 Utility Coordinator Date

DO NOT WRITE BELOW - FOR ACCOUNTING PURPOSES ONLY

PLANNING AND MANAGEMENT COMPLETES EXCEPT SHADED FIELDS

UTILITY COMPLETES:

T CODE	DOCUMENT NUMBER	SUF FIX	DIST	UNIT	CHG DIST	EA	SUB JOB	SPECIAL DESIGNATION	FFY	FA	OBJ CODE	DOLLAR AMOUNT
	UA31766		11	440	11	091829	3	STIP 931766	06	6	054	42,049.00
	UA										054	

EA FUNDING VERIFIED:	
Sign: <u><i>[Signature]</i></u>	8/1/06
Print: _____	
R/W Planning and Management Date	

REVIEW / REQUEST FUNDING:	
Sign: <u><i>[Signature]</i></u>	1/11/06
Print: _____	
Debbie Rodriguez Utility Coordinator Date	

Distribution: 3 originals to R/W Accounting  
3 originals returned to R/W Planning & Management



IV. PAYMENT FOR WORK:

The STATE shall pay its share of the actual cost of the herein-described work within 90 days after receipt of five (5) copies of OWNER's itemized bill, signed by a responsible official of OWNER's organization and prepared on OWNER's letterhead, compiled on the basis of the actual and necessary cost and expense. The OWNER shall maintain records of the actual costs incurred and charged or allocated to the project in accordance with recognized accounting principles. The OWNER's billing cost to STATE is \$42,049.00.

It is understood and agreed that the STATE will not pay for any betterment or increase in capacity of OWNER's facilities in the new location and that OWNER shall give credit to the STATE for the salvage value of any material or parts salvaged and retained or sold by OWNER.

Not more frequently than once a month, but at least quarterly, OWNER will prepare and submit progress bills for costs incurred not to exceed OWNER's recorded costs as of the billing date less estimated credits applicable to completed work. Payment of progress bills which exceed the amount of this Agreement may be made after receipt and approval by STATE of documentation supporting the cost increase and after an Amendment to this Agreement has been executed by the parties to this Agreement.

The OWNER shall submit a final bill to the STATE within 360 days after the completion of the work described in Section I. above. If the STATE has not received a final bill within 360 days after notification of completion of OWNER's work described in Section I. of this Agreement, and STATE has delivered to OWNER fully executed Director's Deeds, Consents to Common Use or Joint Use Agreements as required for OWNER's facilities, STATE will provide written notification to OWNER of its intent to close its file within 30 days and OWNER hereby acknowledges, to the extent allowed by law, that all remaining costs will be deemed to have been abandoned. If the STATE processes a final bill for payment more than 360 days after notification of completion of OWNER's work, payment of the late bill may be subject to allocation and/or approval by the California Transportation Commission.

The final billing shall be in the form of an itemized statement of the total costs charged to the project, less the credits provided for in this Agreement, and less any amounts covered by progress billings. However, the STATE shall not pay final bills which exceed the estimated cost of this Agreement without documentation of the reason for the increase of said cost from the OWNER and approval of documentation by STATE. Except, if the final bill exceeds the OWNER's estimated costs solely as the result of a revised Notice to Owner as provided for in Section I, a copy of said revised Notice to Owner shall suffice as documentation. In either case, payment of the amount over the estimated cost of this Agreement may be subject to allocation and/or approval by the California Transportation Commission.

In any event if the final bill exceeds 125% of the estimated cost of this agreement, an Amended Agreement shall be executed by the parties to this Agreement prior to the payment of the OWNER's final bill. Any and all increases in costs that are the direct result of deviations from the work described in Section I of this Agreement shall have the prior concurrence of STATE.

Detailed records from which the billing is compiled shall be retained by the OWNER for a period of three years from the date of the final payment and will be available for audit by State and/or Federal auditors. Owner agrees to comply with Contract Cost Principles and Procedures as set forth in 48 CFR, Chapter 1, Part 31, et seq., 23 CFR, Chapter 1, Parts 101, 201, et al. If a subsequent State and/or Federal audit determines payments to be unallowable, OWNER agrees to reimburse STATE upon receipt of STATE billing.

V. GENERAL CONDITIONS:

All costs accrued by OWNER as a result of STATE's request of June 17, 2004 to review, study and/or prepare relocation plans and estimates for the project associated with this Agreement may be billed pursuant to the terms and conditions of this Agreement.

## V. GENERAL CONDITIONS: (Continued)

If STATE's project which precipitated this Agreement is canceled or modified so as to *eliminate the necessity of* work by OWNER, STATE will notify OWNER in writing and STATE reserves the right to terminate this Agreement by Amendment. The Amendment shall provide mutually acceptable terms and conditions for terminating the Agreement.

All obligations of STATE under the terms of this Agreement are subject to the passage of the annual Budget Act by the State Legislature and the allocation of those funds by the California Transportation Commission.

OWNER shall submit a Notice of Completion to the STATE within 30 days of the completion of the work described herein.

Where OWNER has prior rights in areas which will be within the highway right of way and where OWNER's facilities will remain on or be relocated on STATE highway right of way, a Joint Use Agreement or Consent to Common Use Agreement shall be executed by the parties.

It is understood that said highway is a Federal aid highway and accordingly, 23 CFR, Chapter 1, Part 645 is hereby incorporated into this Agreement.

\* \* \* \*

UTILITY AGREEMENT NO. 31766

THE ESTIMATED COST TO STATE FOR ITS SHARE OF THE ABOVE DESCRIBED WORK IS \$ 736,809.00

CERTIFICATION OF FUNDS				
I hereby certify upon my own personal knowledge that budgeted funds are available for the period and purpose of the expenditure shown here.				
<i>AS Smith</i>			1-30-2006	
Accounting Officer			Date	
ITEM	CHAP	STAT	FY	AMOUNT
2660-301-0892 0042-20	38	2005	05/06	\$42,049.00

FUND TYPE	EA	AMOUNT
Design Funds		\$
Construction Funds	091824	\$694,760.00
RW Funds	091829	\$ 42,049.00

IN WITNESS WHEREOF, the above parties have executed this Agreement the day and year above written.

STATE:

OWNER: CITY OF SAN DIEGO

By *David W. Johnson* 1/11/06  
 District Division Chief, Right of Way  
 Delegated, DAVID W. JOHNSON, Chief  
 Utility Relocation Branch

By \_\_\_\_\_  
 Name \_\_\_\_\_  
 Title \_\_\_\_\_  
 Date \_\_\_\_\_

By *Debbie Rodriguez* 1/11/06  
 Debbie Rodriguez  
 Utility Coordinator  
 Date

DO NOT WRITE BELOW - FOR ACCOUNTING PURPOSES ONLY

PLANNING AND MANAGEMENT COMPLETES EXCEPT SHADED FIELDS

UTILITY COMPLETES:

ITEM CODE	DOCUMENT NUMBER	SUP RIX	DIST	UNIT	CHG DIST	EA	SUB JOB	SPECIAL DESIGNATION	FFY	FA	OBJ CODE	DOLLAR AMOUNT
	UA31766		11	440	11	091829	3	STIP 931766	06	6	054	\$42,049.00
	UA										054	

EA FUNDING VERIFIED:	
Sign: <u><i>David W. Johnson</i></u>	Date: <u>1/11/06</u>
Print: _____	
R/W Planning and Management	

REVIEW / REQUEST FUNDING:	
Sign: <u><i>Debbie Rodriguez</i></u>	Date: <u>1/11/06</u>
Print: _____	
Debbie Rodriguez Utility Coordinator	

Distribution: 3 originals to R/W Accounting  
 3 originals returned to R/W Planning & Management

000171

MWD-8022

Dist	Co	Rte	KP (P.M.)	EA
11	SD	905	R9.3/R18.62 (R5.8/R11.6)	091821
FEDERAL AID NUMBER A905 (015)			OWNER'S FILE	
FEDERAL PARTICIPATION: On the Project <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No On the Utilities <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No				

UTILITY AGREEMENT NO. 31766 DATE \_\_\_\_\_

The State of California acting by and through the Department of Transportation, hereinafter called "STATE" proposes to construct a new freeway (Phase 1) in San Diego County in San Diego from 1.1 km east of the Route 905/805 separation to 0.6 km west of the Mexico Border and CITY OF SAN DIEGO, hereinafter called "OWNER", owns and maintains sewer facilities within the limits of STATE's project.

It is hereby mutually agreed that:

I. WORK TO BE DONE

In accordance with Notice to Owner 31766 dated 12/29/05 STATE shall relocate OWNER's sewer facilities as shown on STATE's contract plans for the improvement of State Route 905, EA 091824 which by this reference are made a part hereof. OWNER hereby acknowledges review of STATE's plans for work and agrees to the construction in the manner proposed. Deviations from the OWNER's plan described above initiated by either the STATE or the OWNER, shall be agreed upon by both parties hereto under a Revised Notice to Owner. Such Revised Notices to Owner, approved by the STATE and agreed to/acknowledged by the OWNER, will constitute an approved revision of the plan described above and are hereby made a part hereof. No work under said deviation shall commence prior to written execution by the OWNER of the Revised Notice to Owner. Changes in the scope of the work will require an amendment to this Agreement in addition to the Revised Notice to Owner. OWNER shall have the right to inspect the work during construction. Upon completion of the work by STATE, OWNER agrees to accept ownership and maintenance of the constructed facilities and relinquishes to STATE ownership of the replaced facilities.

II. LIABILITY FOR WORK:

The existing facilities are lawfully maintained in their present location and qualify for relocation at STATE expense under the provisions of Section 703 of the Streets and Highways Code.

III. PERFORMANCE OF WORK:

Owner shall have access to all phases of the relocation work to be performed by STATE, as described in Section I above, for the purpose of inspection to ensure that the work is in accordance with the specifications contained in the Highway Construction Contract; however, all questions regarding the work being performed will be directed to STATE's Resident Engineer for their evaluation and final disposition.

IV. PAYMENT FOR WORK:

The STATE shall pay its share of the actual cost of the herein-described work within 90 days after receipt of five (5) copies of OWNER's itemized bill, signed by a responsible official of OWNER's organization and prepared on OWNER's letterhead, compiled on the basis of the actual and necessary cost and expense. The OWNER shall maintain records of the actual costs incurred and charged or allocated to the project in accordance with recognized accounting principles. The OWNER's billing cost to STATE is \$42,049.00.

It is understood and agreed that the STATE will not pay for any betterment or increase in capacity of OWNER's facilities in the new location and that OWNER shall give credit to the STATE for the salvage value of any material or parts salvaged and retained or sold by OWNER.

Not more frequently than once a month, but at least quarterly, OWNER will prepare and submit progress bills for costs incurred not to exceed OWNER's recorded costs as of the billing date less estimated credits applicable to completed work. Payment of progress bills which exceed the amount of this Agreement may be made after receipt and approval by STATE of documentation supporting the cost increase and after an Amendment to this Agreement has been executed by the parties to this Agreement.

The OWNER shall submit a final bill to the STATE within 360 days after the completion of the work described in Section I. above. If the STATE has not received a final bill within 360 days after notification of completion of OWNER's work described in Section I. of this Agreement, and STATE has delivered to OWNER fully executed Director's Deeds, Consents to Common Use or Joint Use Agreements as required for OWNER's facilities, STATE will provide written notification to OWNER of its intent to close its file within 30 days and OWNER hereby acknowledges, to the extent allowed by law, that all remaining costs will be deemed to have been abandoned. If the STATE processes a final bill for payment more than 360 days after notification of completion of OWNER's work, payment of the late bill may be subject to allocation and/or approval by the California Transportation Commission.

The final billing shall be in the form of an itemized statement of the total costs charged to the project, less the credits provided for in this Agreement, and less any amounts covered by progress billings. However, the STATE shall not pay final bills which exceed the estimated cost of this Agreement without documentation of the reason for the increase of said cost from the OWNER and approval of documentation by STATE. Except, if the final bill exceeds the OWNER's estimated costs solely as the result of a revised Notice to Owner as provided for in Section I, a copy of said revised Notice to Owner shall suffice as documentation. In either case, payment of the amount over the estimated cost of this Agreement may be subject to allocation and/or approval by the California Transportation Commission.

In any event if the final bill exceeds 125% of the estimated cost of this agreement, an Amended Agreement shall be executed by the parties to this Agreement prior to the payment of the OWNER's final bill. Any and all increases in costs that are the direct result of deviations from the work described in Section I of this Agreement shall have the prior concurrence of STATE.

Detailed records from which the billing is compiled shall be retained by the OWNER for a period of three years from the date of the final payment and will be available for audit by State and/or Federal auditors. Owner agrees to comply with Contract Cost Principles and Procedures as set forth in 48 CFR, Chapter 1, Part 31, et seq., 23 CFR, Chapter 1, Parts 101, 201, et al. If a subsequent State and/or Federal audit determines payments to be unallowable, OWNER agrees to reimburse STATE upon receipt of STATE billing.

V. GENERAL CONDITIONS:

All costs accrued by OWNER as a result of STATE's request of June 17, 2004 to review, study and/or prepare relocation plans and estimates for the project associated with this Agreement may be billed pursuant to the terms and conditions of this Agreement.

V. GENERAL CONDITIONS: (Continued)

If STATE's project which precipitated this Agreement is canceled or modified so as to eliminate the necessity of work by OWNER, STATE will notify OWNER in writing and STATE reserves the right to terminate this Agreement by Amendment. The Amendment shall provide mutually acceptable terms and conditions for terminating the Agreement.

All obligations of STATE under the terms of this Agreement are subject to the passage of the annual Budget Act by the State Legislature and the allocation of those funds by the California Transportation Commission.

OWNER shall submit a Notice of Completion to the STATE within 30 days of the completion of the work described herein.

Where OWNER has prior rights in areas which will be within the highway right of way and where OWNER's facilities will remain on or be relocated on STATE highway right of way, a Joint Use Agreement or Consent to Common Use Agreement shall be executed by the parties.

It is understood that said highway is a Federal aid highway and accordingly, 23 CFR, Chapter 1, Part 645 is hereby incorporated into this Agreement.

\* \* \* \*

UTILITY AGREEMENT NO. 31766

THE ESTIMATED COST TO STATE FOR ITS SHARE OF THE ABOVE DESCRIBED WORK IS \$ 736,809.00

CERTIFICATION OF FUNDS				
I hereby certify upon my own personal knowledge that budgeted funds are available for the period and purpose of the expenditure shown here.				
<i>[Signature]</i>				1-30-2006
HO Accounting Officer				Date
ITEM	CHAP	STAT	FY	AMOUNT
2660-301-0892, 2042-20	38	2005	05/06	42,049.00

FUND TYPE	EA	AMOUNT
Design Funds		\$
Construction Funds	091824	\$694,760.00
RW Funds	091829	\$ 42,049.00

IN WITNESS WHEREOF, the above parties have executed this Agreement the day and year above written.

STATE:

OWNER: CITY OF SAN DIEGO

By *[Signature]* 1/11/06  
 District Division Chief/Right of Way  
 Delegated, DAVID W. JOHNSON, Chief  
 Utility Relocation Branch

By \_\_\_\_\_  
 Name \_\_\_\_\_ Date \_\_\_\_\_  
 Title \_\_\_\_\_

By *[Signature]* 1/11/06  
 Debbie Rodriguez  
 Utility Coordinator Date

DO NOT WRITE BELOW - FOR ACCOUNTING PURPOSES ONLY

PLANNING AND MANAGEMENT COMPLETES EXCEPT SHADED FIELDS

UTILITY COMPLETES:

CODE	DOCUMENT NUMBER	SUPP. #	DIST	UNIT	CHG. DIST	EA	SUB JOB	SPECIAL DESIGNATION	FFY	FA	OBJ CODE	DOLLAR AMOUNT
	UA31766		11	440	11	091829-3	STIP	931766	05/06	6	054	42,049.00
	UA										054	

EA FUNDING VERIFIED:

Sign: *[Signature]*  
 Print: \_\_\_\_\_  
 R/W Planning and Management Date 8/1/06

REVIEW/REQUEST FUNDING:

Sign: *[Signature]* 1/11/06  
 Print: \_\_\_\_\_  
 Debbie Rodriguez  
 Utility Coordinator Date

Distribution: 3 originals to R/W Accounting  
3 originals returned to R/W Planning & Management

000175

MWD-8020

ORIGINAL

Dist 11	Co SD	Rte 905	KP (P.M.) R9.3/R18.62 (R5.8/R11.6)	EA 091821
FEDERAL AID NUMBER A905 (015)			OWNER'S FILE N/A	
FEDERAL PARTICIPATION: On the Project <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No On the Utilities <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No				

UTILITY AGREEMENT NO. 31768 DATE \_\_\_\_\_

The State of California acting by and through the Department of Transportation, hereinafter called "STATE" proposes to construct a new freeway (Phase 1) in San Diego County in San Diego from 1.1 km east of the Route 905/805 separation to 0.6 km west of the Mexico Border and CITY OF SAN DIEGO, hereinafter called "OWNER", owns and maintains sewer facilities within the limits of STATE's project.

It is hereby mutually agreed that:

I. WORK TO BE DONE

In accordance with Notice to Owner 31768 dated 1/10/06 STATE shall relocate OWNER's sewer facilities as shown on STATE's contract plans for the improvement of State Route 905, EA 091824 which by this reference are made a part hereof. OWNER hereby acknowledges review of STATE's plans for work and agrees to the construction in the manner proposed. Deviations from the OWNER's plan described above initiated by either the STATE or the OWNER, shall be agreed upon by both parties hereto under a Revised Notice to Owner. Such Revised Notices to Owner, approved by the STATE and agreed to/acknowledged by the OWNER, will constitute an approved revision of the plan described above and are hereby made a part hereof. No work under said deviation shall commence prior to written execution by the OWNER of the Revised Notice to Owner. Changes in the scope of the work will require an amendment to this Agreement in addition to the Revised Notice to Owner. OWNER shall have the right to inspect the work during construction. Upon completion of the work by STATE, OWNER agrees to accept ownership and maintenance of the constructed facilities and relinquishes to STATE ownership of the replaced facilities.

II. LIABILITY FOR WORK:

Existing facilities are located in their present position pursuant to rights superior to those of the STATE and will be relocated at STATE expense.

III. PERFORMANCE OF WORK:

Owner shall have access to all phases of the relocation work to be performed by STATE, as described in Section I above, for the purpose of inspection to ensure that the work is in accordance with the specifications contained in the Highway Construction Contract; however, all questions regarding the work being performed will be directed to STATE's Resident Engineer for their evaluation and final disposition.

IV. PAYMENT FOR WORK:

The STATE shall pay its share of the actual cost of the herein-described work within 90 days after receipt of five (5) copies of OWNER's itemized bill, signed by a responsible official of OWNER's organization and prepared on OWNER's letterhead, compiled on the basis of the actual and necessary cost and expense. The OWNER shall maintain records of the actual costs incurred and charged or allocated to the project in accordance with recognized accounting principles. The OWNER's billing cost to STATE is \$178,899.00.

The State shall perform the work under Section I above at no expense to OWNER except as hereinafter provided. It is understood that the relocation as herein contemplated includes betterment to OWNER's facilities by reason of increased capacity in the estimated amount of \$3,704,918.00, said amount to be deposited upon demand in the San Diego District Office of the Department of Transportation, prior to the time that the subject freeway contract bid is opened by the STATE. The final betterment payment shall be calculated based upon the actual quantities installed as determined by the STATE's engineer, and the current cost data as determined from the records of the OWNER. In addition, the OWNER shall credit the STATE at the time of the final billing for all the accrued depreciation and the salvage value of any material or parts salvaged and retained by the OWNER.

Not more frequently than once a month, but at least quarterly, OWNER will prepare and submit progress bills for costs incurred not to exceed OWNER's recorded costs as of the billing date less estimated credits applicable to completed work. Payment of progress bills which exceed the amount of this Agreement may be made after receipt and approval by STATE of documentation supporting the cost increase and after an Amendment to this Agreement has been executed by the parties to this Agreement.

The OWNER shall submit a final bill to the STATE within 360 days after the completion of the work described in Section I. above. If the STATE has not received a final bill within 360 days after notification of completion of OWNER's work described in Section I. of this Agreement, and STATE has delivered to OWNER fully executed Director's Deeds, Consents to Common Use or Joint Use Agreements as required for OWNER's facilities, STATE will provide written notification to OWNER of its intent to close its file within 30 days and OWNER hereby acknowledges, to the extent allowed by law, that all remaining costs will be deemed to have been abandoned. If the STATE processes a final bill for payment more than 360 days after notification of completion of OWNER's work, payment of the late bill may be subject to allocation and/or approval by the California Transportation Commission.

The final billing shall be in the form of an itemized statement of the total costs charged to the project, less the credits provided for in this Agreement, and less any amounts covered by progress billings. However, the STATE shall not pay final bills which exceed the estimated cost of this Agreement without documentation of the reason for the increase of said cost from the OWNER and approval of documentation by STATE. Except, if the final bill exceeds the OWNER's estimated costs solely as the result of a revised Notice to Owner as provided for in Section I, a copy of said revised Notice to Owner shall suffice as documentation. In either case, payment of the amount over the estimated cost of this Agreement may be subject to allocation and/or approval by the California Transportation Commission.

In any event if the final bill exceeds 125% of the estimated cost of this agreement, an Amended Agreement shall be executed by the parties to this Agreement prior to the payment of the OWNER's final bill. Any and all increases in costs that are the direct result of deviations from the work described in Section I of this Agreement shall have the prior concurrence of STATE.

Detailed records from which the billing is compiled shall be retained by the OWNER for a period of three years from the date of the final payment and will be available for audit by State and/or Federal auditors. Owner agrees to comply with Contract Cost Principles and Procedures as set forth in 48 CFR, Chapter 1, Part 31, et seq., 23 CFR, Chapter 1, Parts 101, 201, et al. If a subsequent State and/or Federal audit determines payments to be unallowable, OWNER agrees to reimburse STATE upon receipt of STATE billing.

V. GENERAL CONDITIONS:

All costs accrued by OWNER as a result of STATE's request of June 17, 2004 to review, study and/or prepare relocation plans and estimates for the project associated with this Agreement may be billed pursuant to the terms and conditions of this Agreement.

## V. GENERAL CONDITIONS: (Continued)

- If STATE's project which precipitated this Agreement is canceled or modified so as to eliminate the necessity of work by OWNER, STATE will notify OWNER in writing and STATE reserves the right to terminate this Agreement by Amendment. The Amendment shall provide mutually acceptable terms and conditions for terminating the Agreement.

All obligations of STATE under the terms of this Agreement are subject to the passage of the annual Budget Act by the State Legislature and the allocation of those funds by the California Transportation Commission.

OWNER shall submit a Notice of Completion to the STATE within 30 days of the completion of the work described herein.

Where OWNER has prior rights in areas which will be within the highway right of way and where OWNER's facilities will remain on or be relocated on STATE highway right of way, a Joint Use Agreement or Consent to Common Use Agreement shall be executed by the parties.

It is understood that said highway is a Federal aid highway and accordingly, 23 CFR, Chapter 1, Part 645 is hereby incorporated into this Agreement.

\* \* \* \*

UTILITY AGREEMENT NO. 31768

THE ESTIMATED COST TO STATE FOR ITS SHARE OF THE ABOVE DESCRIBED WORK IS \$ 1,371,870.00

CERTIFICATION OF FUNDS				
I hereby certify upon my own personal knowledge that budgeted funds are available for the period and purpose of the expenditure shown here.				
<i>A. J. Whinn</i>				1-30-2006
HQ Accounting Officer				Date
ITEM	CHAP	STAT	FY	AMOUNT
2660-301-0892, 0042-20	38	2005	05/06	178,899.00

FUND TYPE	EA	AMOUNT
Design Funds		\$
Construction Funds	091824	\$ 1,192,971.00
RW Funds	091829	\$ 178,899.00

IN WITNESS WHEREOF, the above parties have executed this Agreement the day and year above written.

STATE:

OWNER: CITY OF SAN DIEGO

By *David W. Johnson* 1/17/06  
 District Division Chief, Right of Way  
 Delegated, DAVID W. JOHNSON, Chief  
 Utility Relocation Branch

By \_\_\_\_\_  
 Name \_\_\_\_\_ Date \_\_\_\_\_  
 Title \_\_\_\_\_

By *Debbie Rodriguez* 1/17/06  
 Debbie Rodriguez  
 Utility Coordinator Date

DO NOT WRITE BELOW - FOR ACCOUNTING PURPOSES ONLY

PLANNING AND MANAGEMENT COMPLETES EXCEPT SHADED FIELDS

UTILITY COMPLETES:

DOCUMENT NUMBER	SUR/FIX	DIST	UNIT	CHG DIST	EA	SUB JOB	SPECIAL DESIGNATION	FFY	FA	OBJ CODE	DOLLAR AMOUNT
UA31768		11	440	11	091824	STP	931768	06		054	178,899.00
UA										054	

EA FUNDING VERIFIED:	
Sign: <i>[Signature]</i>	
Print: _____	8/1/06
R/W Planning and Management	Date

REVIEW / REQUEST FUNDING:	
Sign: <i>[Signature]</i>	
Print: _____	1/17/06
Debbie Rodriguez	Date
Utility Coordinator	

Distribution: 3 originals to R/W Accounting  
 3 originals returned to R/W Planning & Management

000179

MWD - 8020  
ORIGINAL

Dist	Co	Rte	KP (P.M.)	EA
11	SD	905	R9.3/R18.62 (R5.8/R11.6)	091821
FEDERAL AID NUMBER A905 (015)			OWNER'S FILE N/A	
FEDERAL PARTICIPATION: On the Project <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No    On the Utilities <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No				

UTILITY AGREEMENT NO. 31768 DATE \_\_\_\_\_

The State of California acting by and through the Department of Transportation, hereinafter called "STATE" proposes to construct a new freeway (Phase 1) in San Diego County in San Diego from 1.1 km east of the Route 905/805 separation to 0.6 km west of the Mexico Border and CITY OF SAN DIEGO, hereinafter called "OWNER", owns and maintains sewer facilities within the limits of STATE's project.

It is hereby mutually agreed that:

I. WORK TO BE DONE

In accordance with Notice to Owner 31768 dated 1/10/06 STATE shall relocate OWNER's sewer facilities as shown on STATE's contract plans for the improvement of State Route 905, EA 091824 which by this reference are made a part hereof. OWNER hereby acknowledges review of STATE's plans for work and agrees to the construction in the manner proposed. Deviations from the OWNER's plan described above initiated by either the STATE or the OWNER, shall be agreed upon by both parties hereto under a Revised Notice to Owner. Such Revised Notices to Owner, approved by the STATE and agreed to/acknowledged by the OWNER, will constitute an approved revision of the plan described above and are hereby made a part hereof. No work under said deviation shall commence prior to written execution by the OWNER of the Revised Notice to Owner. Changes in the scope of the work will require an amendment to this Agreement in addition to the Revised Notice to Owner. OWNER shall have the right to inspect the work during construction. Upon completion of the work by STATE, OWNER agrees to accept ownership and maintenance of the constructed facilities and relinquishes to STATE ownership of the replaced facilities.

II. LIABILITY FOR WORK:

Existing facilities are located in their present position pursuant to rights superior to those of the STATE and will be relocated at STATE expense.

III. PERFORMANCE OF WORK:

Owner shall have access to all phases of the relocation work to be performed by STATE, as described in Section I above, for the purpose of inspection to ensure that the work is in accordance with the specifications contained in the Highway Construction Contract; however, all questions regarding the work being performed will be directed to STATE's Resident Engineer for their evaluation and final disposition.

## IV. PAYMENT FOR WORK:

The STATE shall pay its share of the actual cost of the herein-described work within 90 days after receipt of five (5) copies of OWNER's itemized bill, signed by a responsible official of OWNER's organization and prepared on OWNER's letterhead, compiled on the basis of the actual and necessary cost and expense. The OWNER shall maintain records of the actual costs incurred and charged or allocated to the project in accordance with recognized accounting principles. The OWNER's billing cost to STATE is \$178,899.00.

The State shall perform the work under Section I above at no expense to OWNER except as hereinafter provided. It is understood that the relocation as herein contemplated includes betterment to OWNER's facilities by reason of increased capacity in the estimated amount of \$3,704,918.00, said amount to be deposited upon demand in the San Diego District Office of the Department of Transportation, prior to the time that the subject freeway contract bid is opened by the STATE. The final betterment payment shall be calculated based upon the actual quantities installed as determined by the STATE's engineer, and the current cost data as determined from the records of the OWNER. In addition, the OWNER shall credit the STATE at the time of the final billing for all the accrued depreciation and the salvage value of any material or parts salvaged and retained by the OWNER.

Not more frequently than once a month, but at least quarterly, OWNER will prepare and submit progress bills for costs incurred not to exceed OWNER's recorded costs as of the billing date less estimated credits applicable to completed work. Payment of progress bills which exceed the amount of this Agreement may be made after receipt and approval by STATE of documentation supporting the cost increase and after an Amendment to this Agreement has been executed by the parties to this Agreement.

The OWNER shall submit a final bill to the STATE within 360 days after the completion of the work described in Section I. above. If the STATE has not received a final bill within 360 days after notification of completion of OWNER's work described in Section I. of this Agreement, and STATE has delivered to OWNER fully executed Director's Deeds, Consents to Common Use or Joint Use Agreements as required for OWNER's facilities, STATE will provide written notification to OWNER of its intent to close its file within 30 days and OWNER hereby acknowledges, to the extent allowed by law, that all remaining costs will be deemed to have been abandoned. If the STATE processes a final bill for payment more than 360 days after notification of completion of OWNER's work, payment of the late bill may be subject to allocation and/or approval by the California Transportation Commission.

The final billing shall be in the form of an itemized statement of the total costs charged to the project, less the credits provided for in this Agreement, and less any amounts covered by progress billings. However, the STATE shall not pay final bills which exceed the estimated cost of this Agreement without documentation of the reason for the increase of said cost from the OWNER and approval of documentation by STATE. Except, if the final bill exceeds the OWNER's estimated costs solely as the result of a revised Notice to Owner as provided for in Section I, a copy of said revised Notice to Owner shall suffice as documentation. In either case, payment of the amount over the estimated cost of this Agreement may be subject to allocation and/or approval by the California Transportation Commission.

In any event if the final bill exceeds 125% of the estimated cost of this agreement, an Amended Agreement shall be executed by the parties to this Agreement prior to the payment of the OWNER's final bill. Any and all increases in costs that are the direct result of deviations from the work described in Section I of this Agreement shall have the prior concurrence of STATE.

Detailed records from which the billing is compiled shall be retained by the OWNER for a period of three years from the date of the final payment and will be available for audit by State and/or Federal auditors. Owner agrees to comply with Contract Cost Principles and Procedures as set forth in 48 CFR, Chapter 1, Part 31, et seq., 23 CFR, Chapter 1, Parts 101, 201, et al. If a subsequent State and/or Federal audit determines payments to be unallowable, OWNER agrees to reimburse STATE upon receipt of STATE billing.

## V. GENERAL CONDITIONS:

All costs accrued by OWNER as a result of STATE's request of June 17, 2004 to review, study and/or prepare relocation plans and estimates for the project associated with this Agreement may be billed pursuant to the terms and conditions of this Agreement.

000181

V. GENERAL CONDITIONS: (Continued)

If STATE's project which precipitated this Agreement is canceled or modified so as to eliminate the necessity of work by OWNER, STATE will notify OWNER in writing and STATE reserves the right to terminate this Agreement by Amendment. The Amendment shall provide mutually acceptable terms and conditions for terminating the Agreement.

All obligations of STATE under the terms of this Agreement are subject to the passage of the annual Budget Act by the State Legislature and the allocation of those funds by the California Transportation Commission.

OWNER shall submit a Notice of Completion to the STATE within 30 days of the completion of the work described herein.

Where OWNER has prior rights in areas which will be within the highway right of way and where OWNER's facilities will remain on or be relocated on STATE highway right of way, a Joint Use Agreement or Consent to Common Use Agreement shall be executed by the parties.

It is understood that said highway is a Federal aid highway and accordingly, 23 CFR, Chapter 1, Part 645 is hereby incorporated into this Agreement.

\* \* \* \*

UTILITY AGREEMENT NO. 31768

THE ESTIMATED COST TO STATE FOR ITS SHARE OF THE ABOVE DESCRIBED WORK IS \$ 1,371,870.00

CERTIFICATION OF FUNDS				
I hereby certify upon my own personal knowledge that budgeted funds are available for the period and purpose of the expenditure shown here.				
<i>ASW</i>			1-30-2006	
HQ/Accounting Officer			Date	
ITEM	CHAP	STAT	FY	AMOUNT
2666-301-0892 0042-20	38	2005	05/06	\$ 178,899.00

FUND TYPE	EA	AMOUNT
Design Funds		\$
Construction Funds	091824	\$ 1,192,971.00
RW Funds	091829	\$ 178,899.00

IN WITNESS WHEREOF, the above parties have executed this Agreement the day and year above written.

STATE:

OWNER: CITY OF SAN DIEGO

By *David W. Johnson* 1/17/06  
 District Division Chief, Right of Way  
 Delegated, DAVID W. JOHNSON, Chief  
 Utility Relocation Branch

By \_\_\_\_\_  
 Name \_\_\_\_\_ Date \_\_\_\_\_  
 Title \_\_\_\_\_

By *Debbie Rodriguez* 1/17/06  
 Debbie Rodriguez  
 Utility Coordinator Date

DO NOT WRITE BELOW - FOR ACCOUNTING PURPOSES ONLY

PLANNING AND MANAGEMENT COMPLETES EXCEPT SHADED FIELDS

UTILITY COMPLETES:

DOC CODE	DOCUMENT NUMBER	SUF/FIX	DIST	UNIT	CHG DIST	EA	SUB JOB	SPECIAL DESIGNATION	FFY	FA	OBJ CODE	DOLLAR AMOUNT
	UA31768		11	440	11	091824	301P	31768	06	0	054	178,899.00
	UA										054	

EA FUNDING VERIFIED:  
 Sign: *Johnson*  
 Print: \_\_\_\_\_  
 R/W Planning and Management Date 1/17/06

REVIEW / REQUEST FUNDING:  
 Sign: *Debbie Rodriguez* 1/17/06  
 Print: \_\_\_\_\_  
 Debbie Rodriguez  
 Utility Coordinator Date

Distribution: 3 originals to R/W Accounting  
 3 originals returned to R/W Planning & Management

000183

MWD-8020  
 ORIGINAL

Dist	Co	Rte	KP (P.M.)	EA
11	SD	905	R9.3/R18.62 (R5.8/R11.6)	091821
FEDERAL AID NUMBER A905 (015)			OWNER'S FILE N/A	
FEDERAL PARTICIPATION: On the Project <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No On the Utilities <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No				

UTILITY AGREEMENT NO. 31768 DATE \_\_\_\_\_

The State of California acting by and through the Department of Transportation, hereinafter called "STATE" proposes to construct a new freeway (Phase 1) in San Diego County in San Diego from 1.1 km east of the Route 905/805 separation to 0.6 km west of the Mexico Border and CITY OF SAN DIEGO, hereinafter called "OWNER", owns and maintains sewer facilities within the limits of STATE's project.

It is hereby mutually agreed that:

I. WORK TO BE DONE

In accordance with Notice to Owner 31768 dated 1/10/06 STATE shall relocate OWNER's sewer facilities as shown on STATE's contract plans for the improvement of State Route 905, EA 091824 which by this reference are made a part hereof. OWNER hereby acknowledges review of STATE's plans for work and agrees to the construction in the manner proposed. Deviations from the OWNER's plan described above initiated by either the STATE or the OWNER, shall be agreed upon by both parties hereto under a Revised Notice to Owner. Such Revised Notices to Owner, approved by the STATE and agreed to/acknowledged by the OWNER, will constitute an approved revision of the plan described above and are hereby made a part hereof. No work under said deviation shall commence prior to written execution by the OWNER of the Revised Notice to Owner. Changes in the scope of the work will require an amendment to this Agreement in addition to the Revised Notice to Owner. OWNER shall have the right to inspect the work during construction. Upon completion of the work by STATE, OWNER agrees to accept ownership and maintenance of the constructed facilities and relinquishes to STATE ownership of the replaced facilities.

II. LIABILITY FOR WORK:

Existing facilities are located in their present position pursuant to rights superior to those of the STATE and will be relocated at STATE expense.

III. PERFORMANCE OF WORK:

Owner shall have access to all phases of the relocation work to be performed by STATE, as described in Section I above, for the purpose of inspection to ensure that the work is in accordance with the specifications contained in the Highway Construction Contract; however, all questions regarding the work being performed will be directed to STATE's Resident Engineer for their evaluation and final disposition.

## IV. PAYMENT FOR WORK:

The STATE shall pay its share of the actual cost of the herein-described work within 90 days after receipt of five (5) copies of OWNER's itemized bill, signed by a responsible official of OWNER's organization and prepared on OWNER's letterhead, compiled on the basis of the actual and necessary cost and expense. The OWNER shall maintain recrds of the actual costs incurred and charged or allocated to the project in accordance with recognized accounting principles. The OWNER's billing cost to STATE is \$178,899.00.

The State shall perform the work under Section I above at no expense to OWNER except as hereinafter provided. It is understood that the relocation as herein contemplated includes betterment to OWNER's facilities by reason of increased capacity in the estimated amount of \$3,704,918.00, said amount to be deposited upon demand in the San Diego District Office of the Department of Transportation, prior to the time that the subject freeway contract bid is opened by the STATE. The final betterment payment shall be calculated based upon the actual quantities installed as determined by the STATE's engineer, and the current cost data as determined from the records of the OWNER. In addition, the OWNER shall credit the STATE at the time of the final billing for all the accrued depreciation and the salvage value of any material or parts salvaged and retained by the OWNER.

Not more frequently than once a month, but at least quarterly, OWNER will prepare and submit progress bills for costs incurred not to exceed OWNER's recorded costs as of the billing date less estimated credits applicable to completed work. Payment of progress bills which exceed the amount of this Agreement may be made after receipt and approval by STATE of documentation supporting the cost increase and after an Amendment to this Agreement has been executed by the parties to this Agreement.

The OWNER shall submit a final bill to the STATE within 360 days after the completion of the work described in Section I. above. If the STATE has not received a final bill within 360 days after notification of completion of OWNER's work described in Section I. of this Agreement, and STATE has delivered to OWNER fully executed Director's Deeds, Consents to Common Use or Joint Use Agreements as required for OWNER's facilities, STATE will provide written notification to OWNER of its intent to close its file within 30 days and OWNER hereby acknowledges, to the extent allowed by law, that all remaining costs will be deemed to have been abandoned. If the STATE processes a final bill for payment more that 360 days after notification of completion of OWNER's work, payment of the late bill may be subject to allocation and/or approval by the California Transportation Commission.

The final billing shall be in the form of an itemized statement of the total costs charged to the project, less the credits provided for in this Agreement, and less any amounts covered by progress billings. However, the STATE shall not pay final bills which exceed the estimated cost of this Agreement without documentation of the reason for the increase of said cost from the OWNER and approval of documentation by STATE. Except, if the final bill exceeds the OWNER's estimated costs solely as the result of a revised Notice to Owner as provided for in Section I, a copy of said revised Notice to Owner shall suffice as documentation. In either case, payment of the amount over the estimated cost of this Agreement may be subject to allocation and/or approval by the California Transportation Commission.

In any event if the final bill exceeds 125% of the estimated cost of this agreement, an Amended Agreement shall be executed by the parties to this Agreement prior to the payment of the OWNER's final bill. Any and all increases in costs that are the direct result of deviations from the work described in Section I of this Agreement shall have the prior concurrence of STATE.

Detailed records from which the billing is compiled shall be retained by the OWNER for a period of three years from the date of the final payment and will be available for audit by State and/or Federal auditors. Owner agrees to comply with Contract Cost Principles and Procedures as set forth in 48 CFR, Chapter 1, Part 31, et seq., 23 CFR, Chapter 1, Parts 101, 201, et al. If a subsequent State and/or Federal audit determines payments to be unallowable, OWNER agrees to reimburse STATE upon receipt of STATE billing.

## V. GENERAL CONDITIONS:

All costs accrued by OWNER as a result of STATE's request of June 17, 2004 to review, study and/or prepare relocation plans and estimates for the project associated with this Agreement may be billed pursuant to the terms and conditions of this Agreement.

## V. GENERAL CONDITIONS: (Continued)

If STATE's project which precipitated this Agreement is canceled or modified so as to eliminate the necessity of work by OWNER, STATE will notify OWNER in writing and STATE reserves the right to terminate this Agreement by Amendment. The Amendment shall provide mutually acceptable terms and conditions for terminating the Agreement.

All obligations of STATE under the terms of this Agreement are subject to the passage of the annual Budget Act by the State Legislature and the allocation of those funds by the California Transportation Commission.

OWNER shall submit a Notice of Completion to the STATE within 30 days of the completion of the work described herein.

Where OWNER has prior rights in areas which will be within the highway right of way and where OWNER's facilities will remain on or be relocated on STATE highway right of way, a Joint Use Agreement or Consent to Common Use Agreement shall be executed by the parties.

It is understood that said highway is a Federal aid highway and accordingly, 23 CFR, Chapter 1, Part 645 is hereby incorporated into this Agreement.

\* \* \* \*



Dist	Co	Rte	KP (P.M.)	EA
11	SD	905	R9.3/R18.62 (R5.8/R11.6)	091821
FEDERAL AID NUMBER A905 (015)			OWNER'S FILE N/A	
FEDERAL PARTICIPATION: On the Project <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No    On the Utilities <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No				

UTILITY AGREEMENT NO. 31768 DATE \_\_\_\_\_

The State of California acting by and through the Department of Transportation, hereinafter called "STATE" proposes to construct a new freeway (Phase 1) in San Diego County in San Diego from 1.1 km east of the Route 905/805 separation to 0.6 km west of the Mexico Border and CITY OF SAN DIEGO, hereinafter called "OWNER", owns and maintains sewer facilities within the limits of STATE's project.

It is hereby mutually agreed that:

I. WORK TO BE DONE

In accordance with Notice to Owner 31768 dated 1/10/06 STATE shall relocate OWNER's sewer facilities as shown on STATE's contract plans for the improvement of State Route 905, EA 091824 which by this reference are made a part hereof. OWNER hereby acknowledges review of STATE's plans for work and agrees to the construction in the manner proposed. Deviations from the OWNER's plan described above initiated by either the STATE or the OWNER, shall be agreed upon by both parties hereto under a Revised Notice to Owner. Such Revised Notices to Owner, approved by the STATE and agreed to/acknowledged by the OWNER, will constitute an approved revision of the plan described above and are hereby made a part hereof. No work under said deviation shall commence prior to written execution by the OWNER of the Revised Notice to Owner. Changes in the scope of the work will require an amendment to this Agreement in addition to the Revised Notice to Owner. OWNER shall have the right to inspect the work during construction. Upon completion of the work by STATE, OWNER agrees to accept ownership and maintenance of the constructed facilities and relinquishes to STATE ownership of the replaced facilities.

II. LIABILITY FOR WORK:

Existing facilities are located in their present position pursuant to rights superior to those of the STATE and will be relocated at STATE expense.

III. PERFORMANCE OF WORK:

Owner shall have access to all phases of the relocation work to be performed by STATE, as described in Section I above, for the purpose of inspection to ensure that the work is in accordance with the specifications contained in the Highway Construction Contract; however, all questions regarding the work being performed will be directed to STATE's Resident Engineer for their evaluation and final disposition.

## IV. PAYMENT FOR WORK:

The STATE shall pay its share of the actual cost of the herein-described work within 90 days after receipt of five (5) copies of OWNER's itemized bill, signed by a responsible official of OWNER's organization and prepared on OWNER's letterhead, compiled on the basis of the actual and necessary cost and expense. The OWNER shall maintain records of the actual costs incurred and charged or allocated to the project in accordance with recognized accounting principles. The OWNER's billing cost to STATE is \$178,899.00.

The State shall perform the work under Section I above at no expense to OWNER except as hereinafter provided. It is understood that the relocation as herein contemplated includes betterment to OWNER's facilities by reason of increased capacity in the estimated amount of \$3,704,918.00, said amount to be deposited upon demand in the San Diego District Office of the Department of Transportation, prior to the time that the subject freeway contract bid is opened by the STATE. The final betterment payment shall be calculated based upon the actual quantities installed as determined by the STATE's engineer, and the current cost data as determined from the records of the OWNER. In addition, the OWNER shall credit the STATE at the time of the final billing for all the accrued depreciation and the salvage value of any material or parts salvaged and retained by the OWNER.

Not more frequently than once a month, but at least quarterly, OWNER will prepare and submit progress bills for costs incurred not to exceed OWNER's recorded costs as of the billing date less estimated credits applicable to completed work. Payment of progress bills which exceed the amount of this Agreement may be made after receipt and approval by STATE of documentation supporting the cost increase and after an Amendment to this Agreement has been executed by the parties to this Agreement.

The OWNER shall submit a final bill to the STATE within 360 days after the completion of the work described in Section I. above. If the STATE has not received a final bill within 360 days after notification of completion of OWNER's work described in Section I. of this Agreement, and STATE has delivered to OWNER fully executed Director's Deeds, Consents to Common Use or Joint Use Agreements as required for OWNER's facilities, STATE will provide written notification to OWNER of its intent to close its file within 30 days and OWNER hereby acknowledges, to the extent allowed by law, that all remaining costs will be deemed to have been abandoned. If the STATE processes a final bill for payment more than 360 days after notification of completion of OWNER's work, payment of the late bill may be subject to allocation and/or approval by the California Transportation Commission.

The final billing shall be in the form of an itemized statement of the total costs charged to the project, less the credits provided for in this Agreement, and less any amounts covered by progress billings. However, the STATE shall not pay final bills which exceed the estimated cost of this Agreement without documentation of the reason for the increase of said cost from the OWNER and approval of documentation by STATE. Except, if the final bill exceeds the OWNER's estimated costs solely as the result of a revised Notice to Owner as provided for in Section I, a copy of said revised Notice to Owner shall suffice as documentation. In either case, payment of the amount over the estimated cost of this Agreement may be subject to allocation and/or approval by the California Transportation Commission.

In any event if the final bill exceeds 125% of the estimated cost of this agreement, an Amended Agreement shall be executed by the parties to this Agreement prior to the payment of the OWNER's final bill. Any and all increases in costs that are the direct result of deviations from the work described in Section I of this Agreement shall have the prior concurrence of STATE.

Detailed records from which the billing is compiled shall be retained by the OWNER for a period of three years from the date of the final payment and will be available for audit by State and/or Federal auditors. Owner agrees to comply with Contract Cost Principles and Procedures as set forth in 48 CFR, Chapter 1, Part 31, et seq., 23 CFR, Chapter 1, Parts 101, 201, et al. If a subsequent State and/or Federal audit determines payments to be unallowable, OWNER agrees to reimburse STATE upon receipt of STATE billing.

## V. GENERAL CONDITIONS:

All costs accrued by OWNER as a result of STATE's request of June 17, 2004 to review, study and/or prepare relocation plans and estimates for the project associated with this Agreement may be billed pursuant to the terms and conditions of this Agreement.

## V. GENERAL CONDITIONS: (Continued)

If STATE's project which precipitated this Agreement is canceled or modified so as to eliminate the necessity of work by OWNER, STATE will notify OWNER in writing and STATE reserves the right to terminate this Agreement by Amendment. The Amendment shall provide mutually acceptable terms and conditions for terminating the Agreement.

All obligations of STATE under the terms of this Agreement are subject to the passage of the annual Budget Act by the State Legislature and the allocation of those funds by the California Transportation Commission.

OWNER shall submit a Notice of Completion to the STATE within 30 days of the completion of the work described herein.

Where OWNER has prior rights in areas which will be within the highway right of way and where OWNER's facilities will remain on or be relocated on STATE highway right of way, a Joint Use Agreement or Consent to Common Use Agreement shall be executed by the parties.

It is understood that said highway is a Federal aid highway and accordingly, 23 CFR, Chapter 1, Part 645 is hereby incorporated into this Agreement.

\* \* \* \*

UTILITY AGREEMENT NO. 31768

THE ESTIMATED COST TO STATE FOR ITS SHARE OF THE ABOVE DESCRIBED WORK IS \$ 1,371,870.00

CERTIFICATION OF FUNDS				
I hereby certify upon my own personal knowledge that budgeted funds are available for the period and purpose of the expenditure shown here.				
<i>ASW</i>			1-30-2006	
HQ Accounting Officer			Date	
ITEM	CHAP	STAT	FY	AMOUNT
2660-301-0992, 0042-20	38	0005	05/06	\$ 178,899.00

FUND TYPE	EA	AMOUNT
Design Funds		\$
Construction Funds	091824	\$ 1,192,971.00
RW Funds	091829	\$ 178,899.00

IN WITNESS WHEREOF, the above parties have executed this Agreement the day and year above written.

STATE:

OWNER: CITY OF SAN DIEGO

By *David W. Johnson* 1/17/06  
 District Division Chief, Right of Way  
 Delegated, DAVID W. JOHNSON, Chief  
 Utility Relocation Branch

By \_\_\_\_\_  
 Name \_\_\_\_\_  
 Title \_\_\_\_\_

By *Debbie Rodriguez* 1/17/06  
 Debbie Rodriguez  
 Utility Coordinator  
 Date

DO NOT WRITE BELOW - FOR ACCOUNTING PURPOSES ONLY

PLANNING AND MANAGEMENT COMPLETES EXCEPT SHADED FIELDS

UTILITY COMPLETES:

CODE	DOCUMENT NUMBER	SUF/FIX	DIST	UNIT	CHG DIST	EA	SUB JOB	SPECIAL DESIGNATION	FFY	FA	OBJ CODE	DOLLAR AMOUNT
	UA31768		11	440	11	091824	301P	931768	06	6	054	178,899.00
	UA										054	

EA FUNDING VERIFIED:
Sign: <i>[Signature]</i>
Print: _____
R/W Planning and Management
Date: 8/1/06

REVIEW / REQUEST FUNDING:
Sign: <i>[Signature]</i>
Print: _____
Debbie Rodriguez
Utility Coordinator
Date: 1/17/06

Distribution: 3 originals to R/W Accounting  
 3 originals returned to R/W Planning & Management

000191

MWO-802

Dist 11	Co SD	Rte 905	KP (P.M.) R9.3/R18.62 (R5.8/R11.6)	EA 091821
FEDERAL AID NUMBER A905 (015)			OWNER'S FILE N/A	
FEDERAL PARTICIPATION: On the Project <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No    On the Utilities <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No				

UTILITY AGREEMENT NO. 31768 DATE \_\_\_\_\_

The State of California acting by and through the Department of Transportation, hereinafter called "STATE" proposes to construct a new freeway (Phase 1) in San Diego County in San Diego from 1.1 km east of the Route 905/805 separation to 0.6 km west of the Mexico Border and CITY OF SAN DIEGO, hereinafter called "OWNER", owns and maintains sewer facilities within the limits of STATE's project.

It is hereby mutually agreed that:

I. WORK TO BE DONE

In accordance with Notice to Owner 31768 dated 1/10/06 STATE shall relocate OWNER's sewer facilities as shown on STATE's contract plans for the improvement of State Route 905, EA 091824 which by this reference are made a part hereof. OWNER hereby acknowledges review of STATE's plans for work and agrees to the construction in the manner proposed. Deviations from the OWNER's plan described above initiated by either the STATE or the OWNER, shall be agreed upon by both parties hereto under a Revised Notice to Owner. Such Revised Notices to Owner, approved by the STATE and agreed to/acknowledged by the OWNER, will constitute an approved revision of the plan described above and are hereby made a part hereof. No work under said deviation shall commence prior to written execution by the OWNER of the Revised Notice to Owner. Changes in the scope of the work will require an amendment to this Agreement in addition to the Revised Notice to Owner. OWNER shall have the right to inspect the work during construction. Upon completion of the work by STATE, OWNER agrees to accept ownership and maintenance of the constructed facilities and relinquishes to STATE ownership of the replaced facilities.

II. LIABILITY FOR WORK:

Existing facilities are located in their present position pursuant to rights superior to those of the STATE and will be relocated at STATE expense.

III. PERFORMANCE OF WORK:

Owner shall have access to all phases of the relocation work to be performed by STATE, as described in Section I above, for the purpose of inspection to ensure that the work is in accordance with the specifications contained in the Highway Construction Contract; however, all questions regarding the work being performed will be directed to STATE's Resident Engineer for their evaluation and final disposition.

UTILITY AGREEMENT NO. 31768

## IV. PAYMENT FOR WORK:

The STATE shall pay its share of the actual cost of the herein-described work within 90 days after receipt of five (5) copies of OWNER's itemized bill, signed by a responsible official of OWNER's organization and prepared on OWNER's letterhead, compiled on the basis of the actual and necessary cost and expense. The OWNER shall maintain records of the actual costs incurred and charged or allocated to the project in accordance with recognized accounting principles. The OWNER's billing cost to STATE is \$178,899.00.

The State shall perform the work under Section I above at no expense to OWNER except as hereinafter provided. It is understood that the relocation as herein contemplated includes betterment to OWNER's facilities by reason of increased capacity in the estimated amount of \$3,704,918.00, said amount to be deposited upon demand in the San Diego District Office of the Department of Transportation, prior to the time that the subject freeway contract bid is opened by the STATE. The final betterment payment shall be calculated based upon the actual quantities installed as determined by the STATE's engineer, and the current cost data as determined from the records of the OWNER. In addition, the OWNER shall credit the STATE at the time of the final billing for all the accrued depreciation and the salvage value of any material or parts salvaged and retained by the OWNER.

Not more frequently than once a month, but at least quarterly, OWNER will prepare and submit progress bills for costs incurred not to exceed OWNER's recorded costs as of the billing date less estimated credits applicable to completed work. Payment of progress bills which exceed the amount of this Agreement may be made after receipt and approval by STATE of documentation supporting the cost increase and after an Amendment to this Agreement has been executed by the parties to this Agreement.

The OWNER shall submit a final bill to the STATE within 360 days after the completion of the work described in Section I. above. If the STATE has not received a final bill within 360 days after notification of completion of OWNER's work described in Section I. of this Agreement, and STATE has delivered to OWNER fully executed Director's Deeds, Consents to Common Use or Joint Use Agreements as required for OWNER's facilities, STATE will provide written notification to OWNER of its intent to close its file within 30 days and OWNER hereby acknowledges, to the extent allowed by law, that all remaining costs will be deemed to have been abandoned. If the STATE processes a final bill for payment more than 360 days after notification of completion of OWNER's work, payment of the late bill may be subject to allocation and/or approval by the California Transportation Commission.

The final billing shall be in the form of an itemized statement of the total costs charged to the project, less the credits provided for in this Agreement, and less any amounts covered by progress billings. However, the STATE shall not pay final bills which exceed the estimated cost of this Agreement without documentation of the reason for the increase of said cost from the OWNER and approval of documentation by STATE. Except, if the final bill exceeds the OWNER's estimated costs solely as the result of a revised Notice to Owner as provided for in Section I, a copy of said revised Notice to Owner shall suffice as documentation. In either case, payment of the amount over the estimated cost of this Agreement may be subject to allocation and/or approval by the California Transportation Commission.

In any event if the final bill exceeds 125% of the estimated cost of this agreement, an Amended Agreement shall be executed by the parties to this Agreement prior to the payment of the OWNER's final bill. Any and all increases in costs that are the direct result of deviations from the work described in Section I of this Agreement shall have the prior concurrence of STATE.

Detailed records from which the billing is compiled shall be retained by the OWNER for a period of three years from the date of the final payment and will be available for audit by State and/or Federal auditors. Owner agrees to comply with Contract Cost Principles and Procedures as set forth in 48 CFR, Chapter 1, Part 31, et seq., 23 CFR, Chapter 1, Parts 101, 201, et al. If a subsequent State and/or Federal audit determines payments to be unallowable, OWNER agrees to reimburse STATE upon receipt of STATE billing.

## V. GENERAL CONDITIONS:

All costs accrued by OWNER as a result of STATE's request of June 17, 2004 to review, study and/or prepare relocation plans and estimates for the project associated with this Agreement may be billed pursuant to the terms and conditions of this Agreement.

## V. GENERAL CONDITIONS: (Continued)

If STATE's project which precipitated this Agreement is canceled or modified so as to eliminate the necessity of work by OWNER, STATE will notify OWNER in writing and STATE reserves the right to terminate this Agreement by Amendment. The Amendment shall provide mutually acceptable terms and conditions for terminating the Agreement.

All obligations of STATE under the terms of this Agreement are subject to the passage of the annual Budget Act by the State Legislature and the allocation of those funds by the California Transportation Commission.

OWNER shall submit a Notice of Completion to the STATE within 30 days of the completion of the work described herein.

Where OWNER has prior rights in areas which will be within the highway right of way and where OWNER's facilities will remain on or be relocated on STATE highway right of way, a Joint Use Agreement or Consent to Common Use Agreement shall be executed by the parties.

It is understood that said highway is a Federal aid highway and accordingly, 23 CFR, Chapter 1, Part 645 is hereby incorporated into this Agreement.

\* \* \* \*

UTILITY AGREEMENT NO. 31768

THE ESTIMATED COST TO STATE FOR ITS SHARE OF THE ABOVE DESCRIBED WORK IS \$ 1,371,870.00

CERTIFICATION OF FUNDS				
I hereby certify upon my own personal knowledge that budgeted funds are available for the period and purpose of the expenditure shown here.				
<i>A. J. [Signature]</i>				1-30-2006
HQ Accounting Officer				Date
ITEM	CHAP	STAT	FY	AMOUNT
2660-301-0892, 0042-20	38	2005	05/06	* 178,899.00

FUND TYPE	EA	AMOUNT
Design Funds		\$
Construction Funds	091824	\$ 1,192,971.00
RW Funds	091829	\$ 178,899.00

IN WITNESS WHEREOF, the above parties have executed this Agreement the day and year above written.

STATE:

OWNER: CITY OF SAN DIEGO

By *[Signature]* 1/17/06  
 District Division Chief, Right of Way  
 Delegated, DAVID W. JOHNSON, Chief  
 Utility Relocation Branch

By \_\_\_\_\_  
 Name \_\_\_\_\_  
 Title \_\_\_\_\_

By *[Signature]* 1/17/06  
 Debbie Rodriguez  
 Utility Coordinator

DO NOT WRITE BELOW - FOR ACCOUNTING PURPOSES ONLY

PLANNING AND MANAGEMENT COMPLETES EXCEPT SHADED FIELDS

UTILITY COMPLETES:

IT	DOCUMENT	SUR	DIST	UNIT	CHG	EA	SUB	SPECIAL	FFY	FA	OBJ	DOLLAR
CODE	NUMBER	FIX			DIST		JOB	DESIGNATION			CODE	AMOUNT
	UA31768		11	440	11	091829	STP	931768	06		054	178,899.00
	UA										054	

EA FUNDING VERIFIED:	
Sign: <u><i>[Signature]</i></u>	
Print: _____	8/1/06
R/W Planning and Management Date	

REVIEW / REQUEST FUNDING:	
Sign: <u><i>[Signature]</i></u>	1/17/06
Print: _____	
Debbie Rodriguez Date Utility Coordinator	

Sign &

Distribution: 3 originals to R/W Accounting  
3 originals returned to R/W Planning & Management