

RRLDC shall consist of revegetation/restoration, planting, irrigation and erosion control plans; including all required graphics, notes, details, specifications, letters, and reports as outlined below.

2. The RRLDC shall be prepared in accordance with the San Diego Land Development Code (LDC) Chapter 14, Article 2, Division 4, the LDC Landscape Standards submittal requirements, and Attachment "B" (General Outline for Revegetation/Restoration Plans) of the City of San Diego's LDC Biology Guidelines (July 2002). The Principal Qualified Design Biologist (PQDB) shall identify and adequately document all pertinent information concerning the revegetation/restoration goals and requirements, such as but not limited to, plant/seed palettes, timing of installation, plant installation specifications, method of watering, protection of adjacent habitat, erosion and sediment control, performance/success criteria, inspection schedule by City staff, document submittals, reporting schedule, etc. The Plans shall also include notes addressing the Five Year Maintenance, Monitoring and Reporting Period.

3. The following notes shall also be on the RRLDC:

The Project Contractor shall be responsible to insure that for all grading and contouring, clearing and grubbing, installation of plant materials, and any necessary maintenance activities or remedial actions required during installation and the 120 day plant establishment/maintenance period are done per approved the approved RRLDC. The following procedures at a minimum, but not limited to, shall be performed:

- a. The Project Contractor shall be responsible for the maintenance of the mitigation area for a minimum period of 120 days. Maintenance visits shall be conducted on a weekly basis throughout the plant establishment/maintenance period.
- b. At the end of the 120 day period the Principal Qualified Construction Biologist (City approved) shall review the mitigation area to assess the completion of the 120 day establishment/maintenance period and submit a report for approval by MMC.
- c. MMC will provide approval in writing to begin the five year maintenance and monitoring program.
- d. Existing indigenous/native species shall not be pruned, thinned or cleared in the revegetation/mitigation area.
- e. The revegetation site shall not be fertilized.
- f. The Project Contractor is responsible for reseedling (if applicable) if weeds are not removed, within one week of written recommendation by the Principal Qualified Construction Biologist.
- g. Weed control measures shall include the following: (1) hand removal, (2) cutting, with power equipment, and (3) chemical control. Hand removal of weeds is the most desirable method of control and will be used wherever possible.
- h. Damaged areas shall be repaired immediately by the Project Contractor. Insect infestations, plant diseases, herbivory, and other pest problems will be closely monitored throughout the five-year maintenance and monitoring program. Protective mechanisms such as metal wire netting shall be used as necessary. Diseased and infected plants shall be immediately disposed of off-site in a legally-acceptable

manner at the discretion of the Principal Qualified Construction Biologist. Where possible, biological controls will be used instead of pesticides and herbicides.

**Prior to Start of Construction**

- A. Principal Qualified Construction Biologist Shall Attend Preconstruction (Precon) Meetings
  1. Prior to beginning any work that requires monitoring:
    - a. The owner/permittee or their authorized representative shall arrange and perform a Precon Meeting that shall include the Project Contractor, the Principal Qualified Construction Biologist, the City Project Manager, the Resident Engineer (RE), and MMC.
    - b. The Principal Qualified Construction Biologist shall also attend any other grading/excavation related Precon Meetings to make comments and/or suggestions concerning the RRLDC with the Project Contractor, RE and MMC.
    - c. If the Principal Qualified Construction Biologist is unable to attend the Precon Meeting, the owner/permittee shall schedule a focused Precon Meeting with the Project Contractor, Principal Qualified Construction Biologist, Project Manager, RE and MMC, prior to the start of any work associated with the revegetation/restoration phase of the project, including site grading preparation.
  2. Where Revegetation/Restoration Work Will Occur
    - a. Prior to the start of any work, the Principal Qualified Construction Biologist shall also submit a revegetation/restoration monitoring exhibit (RRME) based on the appropriate reduced RRLDC (reduced to 11"x 17" format) to the RE and MMC, identifying the areas to be revegetated/restored including the delineation of the construction limit of work line and the construction staging areas. Construction plans shall indicate that the construction staging areas shall not be located within the Refuge.
  3. When Biological Monitoring Will Occur
    - a. Prior to the start of any work, the Principal Qualified Construction Biologist shall also submit a monitoring procedures schedule to the RE and MMC indicating when and where biological monitoring and related activities will occur.
    - b. The Principal Qualified Biologist shall supervise the placement of orange construction fencing or equivalent along the limits of disturbance within and surrounding sensitive habitats as shown on the approved RRLCD.
    - c. All construction activities (including staging areas) shall be restricted to the development area as shown on the approved RRLCD. The Principal Qualified Construction Biologist shall monitor construction activities as needed to ensure that construction activities do not encroach into biologically sensitive areas beyond the limits of disturbance as shown on the approved RRLCD.
  4. Principal Qualified Biologist Shall Contact MMC to Request Modification
    - a. The Principal Qualified Biologist may submit a detailed letter to MMC prior to the start of work or during construction requesting a modification to the RRLCD. This request shall be based on relevant information (such as other sensitive species not listed by federal and/or state agencies and/or not covered by the MSCP and to which any

impacts may be considered significant under CEQA) which may reduce or increase the potential for biological resources to be present.

B. Letters of Qualification Have Been Submitted to ADD

1. The Project Contractor shall submit, for approval, a letter verifying the qualifications of the Principal Qualified Construction Biologist to MMC at the time of Bid Opening. This letter shall identify the Principal Qualified Construction Biologist where applicable, and the names of all other persons involved in the implementation of the revegetation/restoration plan and the five year maintenance and monitoring program, as they are defined in the City of San Diego Biological Review References.
2. MMC will provide a letter to the Project Contractor confirming the qualifications of the Principal Qualified Construction Biologist and all City Approved persons involved in the revegetation/restoration plan and five year maintenance and monitoring program.
3. Prior to the start of work, the owner/permittee must obtain approval from MMC for any personnel changes associated with the revegetation/restoration plan and the five year maintenance and monitoring program.

**During Construction**

A. Principal Qualified Construction Biologist Present During Construction/Grading/Planting

1. The Principal Qualified Construction Biologist shall be present full-time during construction activities including but not limited to, site preparation, cleaning, grading, excavation, landscape establishment in association with the construction of new trail segments, improvement of existing trail segments, construction of a retaining wall, construction of wetland crossings, and construction of staging (parking) areas which could result in impacts to sensitive biological resources as identified on the approved RRLDC. **The Principal Qualified Construction Biologist is responsible for notifying the Project Contractor of changes to any approved construction plans, procedures, and/or activities. The Principal Qualified Construction Biologist through the Project Contractor is responsible to notify the RE and MMC of the changes.**
2. The Principal Qualified Construction Biologist shall document field activity via the Consultant Site Visit Record Forms (CSV). The CSVs shall be faxed by the Principal Qualified Construction Biologist the first day of monitoring, the last day of monitoring, monthly, and in the event that there is a deviation from conditions identified within the approved RRLCD and/or five-year maintenance and monitoring program. The RE shall forward copies to MMC.
3. The Principal Qualified Construction Biologist shall be responsible for maintaining and submitting the CSV at the time that Project Contractor responsibilities end (i.e., upon the completion of construction activity other than that of associated with biology).
4. All construction activities (including staging areas) shall be restricted to the development areas as shown on the approved RRLCD. The Principal Qualified Construction Biologist staff shall monitor construction activities as needed, with MMC concurrence on method and schedule. This is to ensure that construction activities do not encroach into biologically sensitive areas beyond the limits of disturbance as shown on the approved RRLCD.

5. The revegetation/restoration effort shall be visually assessed at the end of 120 day period to determine mortality of individuals. A draft letter report shall be prepared to document the completion of the 120-day plant establishment period. The report shall include discussion on weed control, horticultural treatments (pruning, mulching, and disease control), erosion control, trash/debris removal, replacement planting/reseeding, site protection/signage, pest management, vandalism, and irrigation maintenance.
  6. The RE and the MMC will make a determination if the revegetation/ restoration program's 120 maintenance period is satisfactory or if it will need to be extended prior to the issuance of the Notice of Completion or any bond release.
  7. Removal of temporary construction BMPs, where appropriate, shall be verified in writing on the final construction phase CSV.
- B. Disturbance Notification Process
1. If unauthorized disturbances occur the Principal Qualified Construction Biologist shall direct the Project Contractor to temporarily divert construction in the area of disturbance and immediately notify the RE.
  2. The Principal Qualified Construction Biologist shall also immediately notify MMC by telephone of the disturbance and report the nature and extent of the disturbance and recommend the method of additional protection, such as fencing. After obtaining concurrence with MMC and the RE, the Project Contractor shall install the approved protection under the direction of the Principal Qualified Construction Biologist.
  3. The Principal Qualified Construction Biologist shall also submit written documentation of the disturbance to MMC within 24 hours by fax or email with photos of the resource in context (e.g., show adjacent vegetation).
- C. Determination of Significance
1. The Principal Qualified Construction Biologist shall evaluate the significance of disturbance and provide a detailed analysis and recommendation in a letter report with the appropriate photo documentation to MMC to obtain concurrence and formulate a plan of action which can include fines, fees, and supplemental mitigation costs.
  2. MMC shall review this letter report and provide the RE with MMC's recommendations and procedures.

### **Post Construction**

- A. Five-Year Mitigation, Establishment, Maintenance, Monitoring and Reporting Period.
1. Five-Year Mitigation Establishment/Maintenance Period.
    - a. The Project Contractor or a City (MMC) approved Maintenance Contractor and Principal Qualified Maintenance Biologist shall be retained to complete maintenance and monitoring activities throughout the five-year period.
    - b. Maintenance visits will be conducted twice per month for the first six months, once per month for the remainder of the first year, and quarterly thereafter.
    - c. Maintenance activities will include all items described in the approved RRLDC. Including temp BMPs associated with the revegetation.

- d. Plant replacement will be conducted as recommended by the Principal Qualified Maintenance Biologist and the maintenance period may be extended to the satisfaction of the MMC.
2. Five-year Monitoring and Reporting Program.
  - a. All biological monitoring and reporting shall be conducted by a qualified and city approved Maintenance Biologist, consistent with the approved RRLDC.
  - b. Monitoring shall involve both qualitative monitoring (horticulture) and quantitative monitoring (i.e., performance/success criteria).
  - c. Qualitative monitoring surveys shall be conducted monthly during year one and quarterly during years two through five.
  - d. Qualitative monitoring shall focus on soil conditions (e.g., moisture and fertility), container plant health, seed germination rates, presence of native and non-native (e.g., invasive exotic) species, any significant disease or pest problems, irrigation repair and scheduling, trash removal, illegal trespass, and any erosion problems.
  - e. Quantitative monitoring surveys shall be conducted. Quantitative monitoring surveys shall be conducted monthly during the first quarter and quarterly for the remainder of the first year. Bi-annual monitoring would be conducted for years 2 and 3. Annual monitoring visits would be conducted in years 4 and 5. The revegetation/restoration effort shall be quantitatively evaluated once per year (in spring) during years three through five, to determine compliance with the performance standards identified on the RRLDC. All plant material must have survived without supplemental irrigation for the last two years.
  - f. Quantitative monitoring shall include the use of fixed transects and photo points to determine the vegetative cover within the revegetated habitat. Collection of fixed transect data within the revegetation / restoration site shall result in the calculation of percent cover for each plant species present, percent cover of target vegetation, tree height and diameter at breast height (if applicable) and percent cover of non-native/non invasive vegetation. Container plants will also be counted to determine percent survivorship. The data will be used determine attainment of performance/success criteria identified within the Plans.
  - g. Biological monitoring requirements may be reduced if, before the end of the fifth year, the revegetation meets the fifth year criteria and the irrigation has been terminated for a period of the last two years.
3. Success Criteria for Cholla Dominated Coastal Sage Scrub Revegetation effort (1.35-acre)
  - a. Cholla, like many cacti, is transplanted from cuttings. The limiting factor in establishment is likely to be adequate water. With supplemental irrigation it is expected that 80% of the planted cuttings would survive the first year. If less than 80% survive year One, additional cuttings would be collected and planted until that 80% target is attained. Allowing for natural mortality, 90% of those that survive year One are expected to survive to year Two. After year Two, monitoring would document primarily the development of the planted individuals until success criteria is established up to Year Five.
4. Success Criteria for Coastal Salt Marsh Revegetation Effort (0.02 acre (725 ft<sup>2</sup>))

- a. It is expected that 80% of the planted cuttings would survive the first year. If less than 80% survive Year One, additional container stock would be planted until that 80% target is attained. Allowing for natural mortality, 90% of those that survive year One are expected to survive to year Two. After Year Two, monitoring would document primarily the canopy development of the planted individuals until success criteria is established up to Year Five.

B. Site Progress Reports

1. Site progress reports shall be prepared by the Principal Qualified Maintenance Biologist following each site visit and provided to the owner/permittee and Maintenance Contractor. Site progress reports shall review maintenance activities, qualitative and quantitative (when appropriate) monitoring results including progress of the revegetation relative to the performance/success criteria, and the need for any remedial measures.

C. Annual Reports during the Five Years

1. Draft annual reports (during years 1, 2 and 4) (three copies) summarizing the results of each progress report including quantitative monitoring results and photographs taken from permanent viewpoints shall be submitted to City MMC for City built projects and the USFWS Refuge Manager, for review and approval within 30 days following the completion of that year of monitoring. Draft annual reports (during year 3) (three copies) summarizing the results of each progress report including quantitative monitoring results and photographs taken from permanent viewpoints shall be submitted to City MMC for City built projects and the USFWS Refuge Manager for review and approval within 30 days following the completion of that year of monitoring.
2. City MMC and Refuge Manager shall return the draft annual report to the Principal Qualified Maintenance Biologist for revision or, for final preparation of that year report.
3. The Principal Qualified Maintenance Biologist shall submit final annual report for that year to the owner/permittee, the Maintenance Contractor and City MMC and USFWS Refuge Manager for approval within 30 days of receiving comments on the draft annual report.
4. City MMC and USFWS Refuge Manager will provide written acceptance of the Report to the Principal Qualified Maintenance Biologist, the Maintenance Contractor and the owner/permittee.

D. Final Monitoring Reports(s)

1. The Principal Qualified Maintenance Biologist shall prepare a Final Monitoring Report upon achievement of the fifth year performance / success criteria and completion of the five year maintenance period.
  - a. This report may occur before the end of the fifth year if the revegetation meets the fifth year performance /success criteria and the irrigation has been terminated for a period of the last two years.
  - b. The Final Monitoring report shall be submitted to City MMC for evaluation of the success of the mitigation effort and final acceptance by the City Park and Recreation. A copy shall also be submitted to the USFWS Refuge Manager. A request for a pre-

final inspection shall be submitted at this time which City MMC will schedule with City Park and Recreation Department after review of report.

- c. If at the end of the five years any of the revegetated area fails to meet the project's final success standards, the applicant must consult with City MMC, USFWS Refuge Manager, and the City Park and Recreation Department. This consultation shall take place to determine whether the revegetation effort is acceptable. The applicant understands that failure of any significant portion of the revegetation/restoration area may result in a requirement to replace or renegotiate that portion of the site and/or extend the monitoring and establishment/maintenance period until all success standards are met.
- d. Removal of temporary maintenance BMPs shall be verified in writing on the final construction phase CSVr by the Principal Qualified Maintenance Biologist.

**FENCING**

- 1. Prior to permit issuance or Bid Opening/Bid Award, whichever is applicable, the Assistant Deputy Director (ADD) Environmental designee shall verify that proposed chain-link fencing is depicted on the construction plans and illustrated on both sides of the bike path for the entire length of the bike path, with the exception of the two bridge locations. Fencing specifications shall be as follows: a 6-foot-high security fence consisting of two-inch mesh, 6-gauge (0.192" diameter) black vinyl (or other appropriate black finish) chain link, with a black bottom rail that is secured in the center of the two line post using a 3/8" diameter eye hook anchored into a concrete footing (or equivalent per agreement with the Wildlife Agencies) and a 7-gauge coil spring wire installed upside down (e.g., the finished chain link shall be positioned at the bottom of the fence and the open, sharp-edged links shall be upright). The distance between the lower portion of the fence and the ground shall be no greater than two inches. The entire fence, including the chain link posts, and bottom rail shall be black to improve the overall appearance of the fence.

**SENSITIVE AVIAN SPECIES**

- 1. Construction activities shall occur outside of the breeding period of the light-footed clapper rail (October 1 through February 14), least tern, cactus wren, Belding's Savannah sparrow, and western snowy plover. Prohibiting construction activities during these periods would reduce the impacts to below a level of significance.

<b>Species</b>	<b>Breeding Season<sup>1</sup></b>
Light-footed Clapper Rail	February 15 to September 30
Belding's Savannah Sparrow	February 15 to August 15
California Least Tern	April 1 to September 15
Western Snowy Plover	March 1 to September 15
Burrowing Owl	February 1 to August 31
San Diego Cactus Wren	February 15 to August 15

Note: <sup>1</sup> = breeding seasons taken from USFWS (1997) for light-footed clapper rail;

Source: Tierra (2002) for Belding's Savannah sparrow;

City of San Diego (2002) for California least tern, western snowy plover, burrowing owl and San Diego cactus wren.

2. Due to potentially suitable burrowing owl habitat existing on and immediately off-site, pre-construction surveys shall be conducted to determine presence or absence of this species onsite. If burrowing owls are observed onsite during preconstruction surveys, impacts to the species would be avoided to the maximum extent practical; any individuals would be relocated out of the impacted area using methodologies approved by the wildlife agencies pursuant to the CDFG Staff Report on Burrowing Owls, dated October 1995; and mitigation for impacts to occupied habitat (at the MSCP Subarea Plan ratio) would occur through the conservation of occupied burrowing owl habitat or conservation of lands appropriate for restoration, management and enhancement of burrowing owl nesting and foraging requirements.
3. If there is a potential for indirect noise impacts to nesting raptors, prior to any construction related activity within the development area during the raptor breeding season (February 1 through September 15) the biologist shall conduct a preconstruction survey to determine the presence of active raptor nests. If active nests are detected the biologist in consultation with the ADD Environmental Designee shall establish a species appropriate noise buffer zone. No construction shall occur within this zone.

**ADJACENCY TO MHPA LANDS**

No nighttime lighting shall be allowed during project construction or operation.

## 7.3 Historical Resources

### 7.3.1 CA-SDI-4360

- A. **Impact.** There is the potential that site CA-SDI-4360 would be inadvertently impacted by project grading if the approved limits of grading are not clearly delineated for project construction contractors.
- B. **Finding.** Changes or alterations have been required in, or incorporated into, the project, which avoid or substantially lessen the significant environmental effect as identified in the final EIR.
- C. **Mitigation Measures H1-H2**

#### ***Mitigation Measure H1***

##### **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 Archaeological Monitoring and Native American monitoring, if applicable, have been noted on the appropriate construction documents.
- B. Letters of Qualification have been submitted to the 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 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.

**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 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 for approval identifying the areas to be monitored including the delineation of grading/excavation limits. These areas shall be identified by flagging in the field by the archaeological monitor.
  - 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).
  - c. MMC shall notify the PI that the AME 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 age of existing pipe to be replaced, depth of excavation and/or site graded to bedrock, etc., which may reduce or increase the potential for resources to be present.
5. Approval of AME and Construction Schedule  
After approval of the AME by MMC, the PI shall submit to MMC written authorization of the AME and Construction Schedule from the CM.

### During Construction

- A. Monitor(s) Shall be Present During Grading/Excavation/Trenching
  1. The Archaeological 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 AME and as authorized by the CM. The Native American monitor shall determine the extent of their presence during construction related activities based on the AME and provide that information to the PI and MMC. 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 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 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~~ monitor 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 of the program from MMC, CM and RE. ADRP 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, 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 cannot 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 via the RE 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.

**Discovery of Human Remains**

If human remains are discovered, work shall halt in that area and the following procedures as 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 will 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 will notify the Native American Heritage Commission (NAHC) **within 24 hours**. By law, **ONLY** the Medical Examiner can make this call.
2. The NAHC shall will contact the PI within 24 hours or sooner, after Medical Examiner has completed coordination.
3. NAHC shall will immediately 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. The MLD has 48 hours to make recommendations to the property owner or representative for the treatment or disposition, with proper dignity, of the human remains and associated grave goods.

56. 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 48 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.

c. To protect these sites, the landowner shall do one or more of the following:

- (1) Record the site with the NAHC;
- (2) Record an open space or conservation easement; or
- (3) Record a document with the County.

d. Upon the discovery of multiple Native American human remains during a ground disturbing land development activity, the landowner may agree that additional conferral with descendants is necessary to consider culturally appropriate treatment of multiple Native American human remains. Culturally appropriate treatment of such a discovery may be ascertained from review of the site utilizing cultural and archaeological standards. Where the parties are unable to agree on the appropriate treatment measures the human remains and buried with Native American human remains shall be reinterred with appropriate dignity, pursuant to Section 6.c., above.

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 interment 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.

**Night and/or Weekend Work**

- A. If night and/or weekend work is included in the contract
1. When night and/or weekend work is included in the contract package, the extent and timing shall be presented and discussed at the precon meeting.
  2. The following procedures shall be followed.
    - a. No Discoveries  
In the event that no discoveries were encountered during night and/or weekend work, The PI shall record the information on the CSVr and submit to MMC via the RE by 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 the RE and 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 and/or weekend work becomes necessary during the course of construction
1. The Construction Manager shall notify the RE, or BI, as appropriate, a minimum of 24 hours before the work is to begin.
  2. The RE, or BI, as appropriate, shall notify MMC immediately.
- C. All other procedures described above shall apply, as appropriate.

**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 Archaeological 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 archaeological resources encountered during monitoring, the Archaeological Data Recovery Program or Pipeline Trenching Discovery Process shall be included in the Draft Monitoring Report.
    - b. Recording Sites with State of California Department of Parks and Recreation  
The PI shall be responsible for recording (on the appropriate State of California Department of Park and Recreation forms-DPR 523 A/B) any significant or potentially significant resources encountered during the Archaeological Monitoring Program in accordance with the City's Historical Resources Guidelines, and submittal of such forms to the South Coastal Information Center with the Final Monitoring Report.

2. MMC shall return the Draft Monitoring Report to the PI 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 all Draft Monitoring Report submittals and approvals.
- B. Handling of Artifacts
1. The PI shall be responsible for ensuring that all historical remains collected are cleaned and catalogued
  2. The PI shall be responsible for ensuring that all artifacts are analyzed to identify function and chronology as they relate to the history of the area; that faunal material is identified as to species; and that specialty studies are completed, as appropriate.
- C. Curation of artifacts: Accession Agreement and Acceptance Verification
1. The PI shall be responsible for ensuring that all artifacts associated with the survey, testing and/or data recovery for this project are permanently curated with an appropriate institution. This shall be completed in consultation with MMC and the Native American representative, as applicable.
  2. The PI shall submit the Accession Agreement 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 Accession Agreement 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 one copy of the approved Final Monitoring Report to the RE or BI as appropriate, and one copy to MMC (even if negative), within 90 days after notification from MMC 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.

***Mitigation Measure H2***

Proposed construction limits, and construction staging areas in the area of cultural resource site CA-SDI-4360 (shell midden) shall be confined to the proposed project right-of-way so as to avoid impacting any other portions of this cultural resource site. Prior to project site disturbance, a qualified archaeologist shall identify the limits of site CA-SDI-4360 in relation to approved limits of project disturbance through the use of flagging or environmental fencing so as to ensure no disturbance to this site occurs outside of the approved limits of disturbance for the proposed project. An archaeologist shall monitor site grading activities and recover any significance artifacts in the event they are uncovered during grading activity in this area.

## 8.0 Environmental Impacts Not Fully Mitigated to a Level of Less Than Significant

The City of San Diego City Council hereby finds that, despite the incorporation of mitigation measures outlined in the Final EIR, the following impacts cannot be fully mitigated to a less than significant level:

### 8.1 Land Use

#### A. *Potential Significant Impact*

The proposed project would cover the railroad rails and bridges, which would cause the physical alteration of the existing visual components of the Coronado Belt Line (CBL), a designated local historic resource. The rails would be capped with dirt and the trestle bridges would be "covered" by steel truss bridges. The aesthetic and physical alterations would cause the proposed project to only partially meet the intent of the City's Historical Resources Regulations. Thus, the proposed project would be inconsistent with the City's Historical Resources Regulations and a significant impact is identified.

#### B. *Findings*

The proposed project would aesthetically alter existing components of the CBL, a locally-designated historic resource. The proposed project partially meets the intent of the City of San Diego Historical Resources regulations. Project design features have been incorporated into the project to minimize the impact. Additionally, Mitigation Measures H2, H3, and H4 (see Section 8.2 below) would reduce the conflict with the City's Historical Resources Regulations to the extent feasible; however, the impact is considered to remain significant and unmitigable. Therefore, the City Council hereby finds that specific economic, legal, social, technological, environmental, or other considerations make infeasible project mitigation measures or alternatives that would sufficiently reduce project land use impacts to a less than significant level.

#### C. *Supporting Explanation*

The proposed project would visually alter the historical components of the CBL; however, the components would not be removed. The rails would be capped with soil and steel truss bridges would be placed on top of the existing wooden trestle bridges. Although the proposed project would result in a visual alteration of the CBL, the alteration would not be permanent and would essentially result in preservation for future possibilities. The visual alteration creates a significant and unavoidable land use impact related to consistency with the City's Historical Resources Regulations. The removal of the locally-designated historic features of the CBL (rails and bridges) is not considered environmentally feasible because such an alternative would result in a significant permanent historical resources impact. Therefore, the City Council finds that the approval of overriding considerations is the most feasible for the implementation of the proposed project.

## 8.2 Historical Resources

### A. *Potential Significant Impact*

The proposed project would cover the railroad rails and bridges, which would cause the physical alteration of the existing visual components of the Coronado Belt Line (CBL), a designated local historic resource. The existing train track rails would be covered (capped) with two feet of dirt, and the bike path would be constructed on top of the soil cap. Two pre-fabricated steel truss bridges (the north bridge and the south bridge) would "cover" the existing wooden trestle bridges. According to the City of San Diego's Significance Determination Thresholds, impacts to historical resources would be considered significant if the project would result in any adverse physical or aesthetic effects to a historic structure, object or site. Because the railroad rails and wooden trestle bridges would be covered (i.e., capped), the project would aesthetically alter the existing visual components of the CBL and a significant impact is identified. The impact to the CBL, as it traverses the proposed project area, is considered significant, as the proposed project, although designed to preserve features in place, would result in the alteration of the existing rail corridor and alter the existing aesthetic conditions of the resource within the project corridor.

### B. *Findings*

Using the proposed bridge design (capping of bridges) and construction (capping of rails) technique, the existing wooden railroad trestle bridges would remain in their current place and condition, and would not be modified by the proposed project. Therefore, the proposed project would preserve the historic features of the CBL in place. This construction method is potentially reversible, and would leave the resource available for future preservation options. Implementation of Mitigation Measures H3, H4, and H5, as identified below, would reduce the potential impact to this locally designated resource to the extent feasible; however, the impact is considered to remain significant and unmitigable. This conclusion is based on the unmitigable "temporary" alteration of the CBL features even though the linear feature would be preserved for future options. Therefore, the City Council hereby finds that 1) changes or alternations have been incorporated into the project, which substantially lessen the significant environmental effect as identified in the final EIR; and, 2) specific economic, legal, social, technological, environmental, or other considerations make infeasible project mitigation measures or alternatives that would sufficiently reduce project land use impacts to a less than significant level. In order to preserve the historic components of the CBL, the City Council finds the approval to be the best environmentally feasible alternative.

#### ***Mitigation Measure H3***

Prior to the pre-construction meeting, a modified HAER (Historic American Engineering Report) shall be prepared for any portion of the existing elements of the CBL that would be covered or otherwise modified as part of the proposed project. This is anticipated to include the track, rails, and trestle bridges located within the proposed project corridor. Implementation of this measure shall be verified by the ADD of LDR.

#### ***Mitigation Measure H4***

During construction, any CBL materials encountered that are not feasible to retain shall be recovered, and made available for future use at interpretive facilities planned as part of the proposed project, or other future interpretive facilities in the area. Implementation of this measure shall be verified by the cultural resources construction monitor (PI) during construction.

**Mitigation Measure H5**

Prior to commencement of construction related activities, the Assistant Deputy Director of Land Development Review (ADD of LDR) shall assure that interpretive facilities are provided and are shown on construction documents within the project corridor that include elements of the CBL history, including, but not limited to public art, rail artifacts, relevant area history, etc. As proposed, interpretive facilities would be located at two points along the bike path segment. These facilities would provide information regarding the history of the CBL and would be constructed of materials that represent railroad features.

**C. Supporting Explanation**

The preservation (capping of rails and bridges) of the CBL in place creates a significant and unavoidable historical resources impact related to the City of San Diego's Significance Determination Thresholds, as it would visually alter the historical components of the CBL. The City has participated in discussions with representatives of the San Diego Association of Governments (SANDAG) and Save Our Heritage Organisation (SOHO) in order to design the proposed project in a manner that would maintain as much of the locally-designated historical features of the CBL as feasible. To achieve this goal, the project was significantly redesigned in an effort to respond to SOHO's input and concerns regarding the proposed project. Specific project features that have been incorporated include: 1) maintaining the existing railroad trestle bridges in their current condition and in a manner that maintains the ability to view the structures from various locations; 2) maintaining the existing steel rails in place; and 3) providing interpretive facilities regarding the history of the CBL on the proposed bikeway segment.

The proposed project has also incorporated Mitigation Measures H3, H4 and H5 into the project in an effort to decrease the significant impacts to the CBL. However, these mitigation measures do not reduce the impact to a level less than significant. No feasible mitigation has been identified that would reduce the impact to a level less than significant.

Additionally, the City evaluated project alternatives that would avoid the significant impacts to the CBL. It was found that the range of alternatives that would completely avoid any alteration to the CBL are severely restricted by the presence of highly sensitive wetland habitats and endangered species, and the San Diego National Wildlife Refuge, which borders the project on both sides of the MTS right-of-way. Any permanent encroachment outside the right-of-way into the Refuge would not be permitted (see U.S. Fish and Wildlife (San Diego National Wildlife Refuge) comment letter (Comment #6), dated July 13, 2007; also Clean Water Act Section 404(b)(1) regarding least damaging practicable alternative).

The City has taken the historic features of the CBL into consideration during project design, mitigation preparation, and project alternatives evaluation, but has not been able to feasibly mitigate the project-related impacts to CBL to a level less than significant. However, implementation of the proposed project would not result in the removal of the historical components of the CBL. The proposed project would result in a visual alteration of the CBL, but the alteration would not be permanent and would essentially result in preservation for future possibilities. The removal of the historical components of the CBL is not considered environmentally feasible because such an alternative would result in irreversible historical resources impacts. Therefore, the City Council finds that the approval of overriding considerations is the most feasible for the implementation of the proposed project.

## 9.0 Effects Found Not to be Significant

The City finds, based on the substantial evidence appearing in Chapter 7.0 of the EIR, that the following impacts will not be significant: recreation, population and housing, public services and utilities (fire and emergency medical, police, wastewater, storm water, water, and solid waste), agricultural resources, mineral resources, human health and public safety, and paleontological resources.

## 10.0 Findings Regarding Infeasible Alternatives

The City, having reviewed and considered the information in the EIR, finds pursuant to CEQA Guidelines §15091 (a)(3) that (i) the EIR considers a reasonable range of Project alternatives, and (ii) specific economic legal, social, technological or other considerations for the provision of employment opportunities for highly trained workers, make infeasible the proposed Project alternatives identified in the EIR as well as other alternatives or mitigation measures which would reduce significant impact associated with the project.

The EIR considers a reasonable range of alternatives. The alternatives to the Project are evaluated in Chapter 11.0 of the EIR in terms of their ability to meet the primary objectives of the proposed project, and eliminate or further reduce its significant environmental effects. Based on these two parameters, the following alternatives are considered: (1) No Project Alternative, (2) Pond 20 Alternative, (3) Remove Track/Railroad Bridge Rehabilitation Alternative, (4) Joint Use Alternative, and (5) Joint Use Alternative Excluding Bridges. This range includes various degrees and natures of development between and including no development and the full Project. Table 11-1 (see EIR page 11-2) summarizes the direct environmental effects of the proposed project as compared to these alternatives. The alternatives are summarized below:

### 10.1 Alternatives Considered but Rejected without Detailed Analysis

Based on parameters described in Section 11.0 of the EIR, the following three main alternatives were considered but rejected without detailed analysis. In addition, at least two alignment alternatives were considered for each of the four project site areas (see EIR Figure 11-1 for area locations).

1. **Elevated Bike Path Alternative**

This alternative would involve constructing an elevated bike path above the existing railroad tracks as bridges in order to avoid disturbance of the locally-designated historic CBL. However, this alternative was rejected because construction costs would be prohibitive and the construction footprint would be substantial, which would cause greater wetland disturbance than the proposed project.

2. **San Diego Rail Partners Alternatives**

Several potential alternatives are identified in *Rails and Trails a Formula for Successful Sharing of the Coronado Branch Railroad Right of Way by a Bike Trail and Tourist Railway* (San Diego Railway Partners, 2000). These alternatives are focused on the joint-use of the rail corridor with

railroad and bike trail facilities, including outrigging wooden trestles, concrete sleeving of wooden pile trestles, and replacing existing bridges with box culverts and/or tubular culverts. However, these alternatives were rejected, as they would not avoid wetland impacts.

3. **Retail Rail and Ties in Place Alternative**

This alternative is identical to the proposed project, with the exception that the existing timber railroad ties located within the proposed bikeway corridor, would not be removed. This alternative has been rejected from further consideration because it presents potential maintenance problems and it would not reduce or avoid any significant impact associated with the proposed project.

4. **Area 1 Alignment Alternatives**

*Alignment Alternative 1B*

This alignment alternative would extend the existing Bay Boulevard bike lanes from Palomar Street south to the South Bay Salt Works main entrance road. This alignment alternative was rejected from further consideration because of potential conflicts with vehicles entering the South Bay Salt Works facility, as well as filling of an existing drainage channel.

*Alignment Alternative 1C*

This alignment alternative would construct a Class I bicycle/pedestrian path along the east side of the existing railroad tracks, from Palomar Street south to the South Bay Salt Works main entrance. This alignment alternative was rejected from further consideration because it would require fill of an existing drainage channel, it conflicts with vehicles entering the South Bay Salt Works facility, and it would require additional right-of-way or public easement area from South Bay Salt Works.

*Alignment Alternative 1D*

This alignment alternative would place the proposed Class I bike path on the existing railroad. The rail line in Area 1 is currently functional and, therefore, would require relocation in order to implement the Class I bike path. Due to the impacts and costs associated with relocating the rail line, this alignment alternative was rejected from further consideration.

5. **Area 2 Alignment Alternatives**

*Alignment Alternative 2B*

This alignment alternative would extend the proposed project's alignment for Area 2 using an existing maintenance road located along the eastern edge of the South Bay Salt Works operations. This alignment alternative was rejected from further consideration because of potential conflicts with vehicles entering the South Bay Salt Works facility.

*Alignment Alternative 2C*

This alignment alternative would include several Class I bike path alternatives considered along the existing railroad tracks, including on the tracks, east of the tracks and west of the tracks. These alignment alternatives were rejected because of the lack of available right-of-way, the potential extension of rail service, the potential for vandalism, and environmental impacts, including the filling of drainage channels and ponds.

*Alignment Alternative 2D*

This alignment alternative would maintain the existing interim Class I bike path along Main Street and the Otay River, and the Class II bike lanes along Saturn Boulevard and Palm Avenue. This alignment alternative was rejected because it would not alleviate the potential vehicle/bicycle conflicts that currently exist from using the existing roadways, nor would it reduce the safety concerns that exist from use of the bikeway when the Otay River crossing is flooded.

6. **Area 3 Alignment Alternatives**

*Alignment Alternative 3B*

This alignment alternative would place the Class I bike path on top of the existing railroad tracks. This alignment alternative was rejected because MTS and the South Bay Salt Works requested that the railroad tracks be available for future extension of service.

*Alignment Alternative 3C*

This alignment alternative would locate the bike path along the western edge of the railroad tracks, but was rejected because it would reduce the available width of the existing maintenance road and would have the potential to introduce pedestrians into the salt pond areas.

*Alignment Alternative 3D*

This alignment alternative would maintain the existing interim Class I bike path along the Main Street Dike and Otay River, and the Class II bike lanes along Saturn Boulevard and Palm Avenue. This alignment alternative was rejected because it would not alleviate the potential vehicle/bicycle conflicts that currently exist from using the existing roadways, nor would it reduce the safety concerns that exist from use of the bikeway when the Otay River crossing is flooded.

7. **Area 4 Alignment Alternatives**

*Alignment Alternative 4B*

This alignment alternative would construct the Class I bike path on top of the existing railroad tracks, while rehabilitating the southern bridge and replacing the northern bridge with a suspension bridge. This alignment alternative was rejected from further consideration because

it would have temporary wetland impacts, operational impacts to bird species, and the replacement bridge would be out of character with the surrounding area.

*Alignment Alternative 4C*

This alignment alternative would construct the Class I bike path on the existing maintenance road adjacent to the South Bay Salt Works ponds. One new bridge would need to be constructed over the Otay River. This alignment alternative was rejected because of potential conflicts with maintenance vehicles, introduction of pedestrians/bicycles near sensitive bird habitat, the need for an easement from South Bay Salt Works, and wetland impacts due to bridge construction.

*Alignment Alternative 4D*

This alignment alternative would construct the Class I bike path immediately west of the existing railroad tracks and would include two new bridges over Otay River. Although this alignment alternative would allow for future use of the railroad tracks, it was rejected because it would require extensive grading and construction of the bridges, which would have wetland impacts.

*Alignment Alternative 4E*

This alignment alternative would construct the Class I bike path on the dike located east and south of the existing Otay River channel and would include two new bridges over Otay River. This alignment alternative was rejected because construction of the bridges over Otay River would result in wetland impacts.

*Alignment Alternative 4F*

This alignment alternative would maintain the existing interim Class I bike path along the Main Street Dike and the Otay River, and the bike lanes along Saturn Boulevard and Paim Avenue. This alignment alternative was rejected because it would not alleviate the potential vehicle/bicycle conflicts that currently exist from using the existing roadways, nor would it reduce the safety concerns that exist from use of the bikeway when the Otay River crossing is flooded. In addition, this alignment alternative would not meet the project objectives.

## 10.2 Alternatives Considered but Rejected with Detailed Analysis

### 1. No Project Alternative

The "No Project Alternative" assumes that no development occurs on the proposed project site. Implementation of the No Project Alternative would continue the vehicle/bicycle conflicts that currently exist from using the existing bike lanes (along roadways). In addition, this alternative would not reduce the safety concerns that exist from crossing the Otay River when it is flooded.

A summary of the environmental impacts of this alternative is provided in Table 11-1 of the EIR. The analysis of this alternative, which is provided in Chapter 11.0, concludes that this alternative would avoid impacts associated with land use, biological resources and historical resources because no changes would be made to the project site.

This alternative fails to meet the project objectives as stated on Page 3-16 of the Final EIR. These objectives are:

- Implement the goals of the City of San Diego Bicycle Master Plan, which identifies the proposed project site, from 13<sup>th</sup> Street to Main Street/Frontage Road, for the development of a Top Priority Class I segment of the Bayshore Bikeway,
- Provide the community with a Class I bike route around San Diego Bay,
- Provide increased safety to bicyclists and pedestrians by providing a Class I bike facility,
- Encourage more use of the Bayshore Bike Route and proposed path,
- Provide the opportunity for bikeway users to experience the natural ecological setting of south San Diego Bay,
- Help relieve traffic congestion and contribute to improved air quality by reducing the number of vehicle trips and related air emissions,
- Design and implement a project with the intention of minimizing impacts to sensitive biological resources, and,
- Maintain (cap) the existing railroad rails and bridges so as to preserve the locally-designated historic resource.

Therefore, the City Council finds that the "No Project" Alternative is rejected because it fails to meet the project objectives.

2. **Pond 20 Alternative**

The "Pond 20 Alternative" assumes realignment of the bikepath through Salt Pond 20, located south of the proposed alignment, to Saturn Avenue (north of Palm Avenue). Much of Pond 20 consists of waters of the United States and State of California Coastal Wetlands. The potentially least damaging Pond 20 Alternative would begin at the eastern end of Calla Avenue in the City of Imperial Beach, then cross (west to east) the southwestern portion of the Pond 20 property, continuing along the property line between the Pond 20 Property and the existing developed area of the City of San Diego, and rejoining the existing street system at Saturn Boulevard within the City of San Diego. In addition, the Pond 20 property is under the jurisdiction of and owned by the San Diego County Regional Airport Authority.

A summary of the environmental impacts of this alternative is provided in Table 11-1, and the analysis is provided in Chapter 11.0 of the EIR. This alignment would avoid the locally-

designated historic CBL by rerouting the bikepath through Salt Pond 20. Thus, implementation of the Pond 20 Alternative would reduce the unmitigable impact to land use and historical resources, as it would avoid alteration of the CBL; however, this alternative would directly impact biological resources. In particular, a permanent impact to wetlands would result where no direct, permanent impact to waters of the U.S., or wetlands would occur under the proposed project. The Pond 20 Alternative would meet all of the project's objectives, with the exception of the minimization of impacts to sensitive biological resources.

Therefore, the City Council finds that the "Pond 20" Alternative is rejected because unlike the proposed project, it would result in permanent wetland impacts.

3. **Remove Track/Railroad Bridge Rehabilitation Alternative**

The "Remove Track/Railroad Bridge Rehabilitation" Alternative assumes removal of existing damaged or unserviceable railroad track and ties, and rehabilitation of the two existing railroad trestle bridges in order to support the bikepath. The bridge rehabilitation would also consist of the placement of a concrete deck, and the addition of railing/fencing.

This alignment would not avoid or lessen the significant impacts associated with the proposed project. A summary of the environmental impacts of this alternative is provided in Table 11-1, and the analysis is provided in Chapter 11.0 of the EIR. Land use, biological resources and historical resources impacts would be greater under this alternative than with the proposed project. Most project objectives would be met under this alternative. Overall this alternative is not environmentally superior to the proposed project.

Therefore, the City Council finds that the "Remove Track/Railroad Bridge Rehabilitation" Alternative is rejected because it would result in greater land use, biological resources, and historical resources impacts than the proposed project.

4. **Joint Use Alternative**

The Joint Use Alternative assumes joint use of the bikepath and the railroad within the existing MTS right-of-way for the entire length of the project. The bikepath would parallel the rails and ties on the berm and for the length of the bridges. This alternative would require placement of a retaining wall and embankment fill to support the bikepath along the berm; and rehabilitation and/or modification of the existing wooden trestle bridges to support the bikepath parallel to the existing bridge alignment. The historic rails and ties of the CBL would be avoided under this alternative.

A summary of the environmental impacts of this alternative is provided in Table 11-1, and the analysis is provided in Chapter 11.0 of the EIR. This alternative would still result in a significant and unmitigable impact to land use and historical resources, as while impacts to CBL would be lessened, the alternative would still result in alteration of the components of the CBL. The Joint Use Alternative would, however, result in greater temporary wetland impacts than the proposed project, and would also result in permanent impacts to wetlands that would not

occur under the proposed project. In addition, this alternative would meet all of the project's objectives, with the exception of the minimization of impacts to sensitive biological resources. Overall this alternative is environmentally superior to the proposed project.

Therefore, the City Council finds that the "Joint Use" Alternative is rejected because unlike the proposed project, it would result in permanent wetland impacts.

5. **Joint Use Alternative Excluding Bridges**

The "Joint Use Alternative Excluding Bridges" is similar to the Joint Use Alternative; however, this alternative would not rehabilitate and/or modify the existing wooden trestle bridges. Instead, the Joint Use Alternative Excluding Bridges would place pre-fabricated bridges across the existing debilitated trestle bridges for the entire bridge spans, as would occur under the proposed project. As with the Joint Use Alternative, under this alternative, the bikepath would parallel the rails and ties on the berm and would require placement of a retaining wall and embankment fill to support the bikepath on the berm.

A summary of the environmental impacts of this alternative is provided in Table 11-1, and the analysis is provided in Chapter 11.0 of the EIR. This alternative would still result in a significant and unmitigable impact to land use and historical resources, as while impacts to CBL would be lessened, the alternative would still result in alteration of the components of the CBL. The Joint Use Alternative would, however, result in greater temporary wetland impacts than the proposed project, and would also result in permanent impacts to wetlands that would not occur under the proposed project. In addition, this alternative would meet all of the project's objectives, with the exception of the minimization of impacts to sensitive biological resources. Overall this alternative is environmentally superior to the proposed project.

Therefore, the City Council finds that the "Joint Use Alternative Excluding Bridges" is rejected because unlike the proposed project, it would result in permanent wetland impacts.

## 11.0 Statement of Overriding Considerations

The City Council hereby declares that pursuant to State CEQA Guidelines Section 15093, the City Council has balanced the benefits of the Project against any unavoidable environmental impacts in determining whether to approve the Project. If the benefits of the Project outweigh the unavoidable adverse environmental impacts, those impacts may be considered "acceptable."

The City Council hereby declares that the Final EIR has discussed significant effects that may occur as a result of the Project. With implementation of the mitigation measures discussed in the EIR, these effects can be mitigated to a level of less than significant except for unavoidable significant impacts as discussed in Section 8.0 of these Findings.

The City Council hereby declares that it has made a reasonable and good faith effort to eliminate or substantially mitigate the potential impacts resulting from the Project.

The City Council hereby declares that to the extent any mitigation measures recommended in the EIR and/or Project could not be incorporated, such mitigation measures are infeasible because they would impose restrictions on the Project that would prohibit the realization of specific economic, social, and other benefits that this City Council finds outweigh the unmitigated impacts. All of the alternatives set forth in the EIR are either environmentally inferior, fail to meet the project objectives, or are not economically viable to the proposed project.

The City Council hereby declares that, having reduced adverse significant environmental effects of the Project to the extent feasible by adopting the proposed mitigation measures, having considered the entire administrative record on the Project, and having weighed the benefits of the Project against its unavoidable adverse impacts (land use, historical resources) after mitigation, the City Council has determined that the following social, economic, and environmental benefits of the Project outweigh the potential unavoidable adverse impacts and render those potential adverse environmental impacts acceptable based upon the following considerations:

1. The Project will implement the goals of the City of San Diego Bicycle Master Plan, which identifies the proposed project site, from 13<sup>th</sup> street to Main Street/Frontage Road, for the development of a Top Priority Class I segment of the Bayshore Bikeway.
2. The Project will provide the community with an additional Class I bike route around San Diego Bay.
3. The Project will provide increased safety to bicyclists and pedestrians by providing a Class I bicycle facility, which provides a completely separated right-of-way for the exclusive use of bicycles and pedestrians, with no cross flow of motorized traffic.
4. The Project will encourage more use of the existing Bayshore Bikeway route and the proposed segment by providing a more continuous bicycle route.
5. The Project will provide the opportunity for bikeway users to experience the natural ecological setting of south San Diego Bay.

6. The Project will encourage increased usage of the Bayshore Bikeway while at the same time promoting alternative forms of transportation (other than automobiles) by providing an attractive and safe route for pedestrians and bicyclists. ~~help relieve traffic congestion and contribute to improved air quality by reducing the number of vehicle trips and related air emissions.~~
7. The Project will design and implement a project with the intention of minimizing impacts to sensitive biological resources.
8. The Project will maintain (cap) the existing railroad rails and bridges, which are components of the CBL, so as to preserve the locally-designated historic resource.

The City Council hereby declares that the forgoing provided to the public through the approval and implementation of the Project outweighs the identified significant adverse environmental impacts of the Project that cannot be mitigated (land use, historical resources). The City Council finds that the Project benefits outweigh the unavoidable adverse environmental effects identified in the EIR and therefore finds those impacts to be acceptable.

**MITIGATION MONITORING AND REPORTING PROGRAM**  
**BAYSHORE BIKEWAY – WESTERN SALT SEGMENT**  
**PROJECT NO. 1901**

This Mitigation Monitoring and Reporting Program is designed to ensure compliance with Public Resources Code Section 21081.6 during implementation of mitigation measures. This program identifies at a minimum: the department responsible for the monitoring, what is to be monitored, how the monitoring shall be accomplished, the monitoring and reporting schedule, and completion requirements. A record of the Mitigation Monitoring and Reporting Program will be maintained at the offices of the Land Development Review Division, 1222 First Avenue, Fifth Floor, San Diego, CA, 92101. All mitigation measures contained in the Environmental Impact Report (Project No. 1901) shall be made conditions of the project as may be further described below.

**A. Land Use**

**IMPACT:** The proposed project would cover the railroad rails and bridges, which would cause the physical alteration of the existing visual components of the Coronado Belt Line (CBL), a designated local historic resource. The rails would be capped with dirt and the trestle bridges would be "covered" by steel truss bridges. The aesthetic and physical alterations would cause the proposed project to only partially meet the intent of the City's Historical Resources Regulations. Thus, the proposed project would be inconsistent with the City's Historical Resources Regulations. Project design features have been incorporated into the project to minimize the impact. Additionally, Mitigation Measures H2, H3, and H4 (see Section C, below) would reduce the conflict with the City's Historical Resources Regulations to the extent feasible; however, the impact is considered to remain significant and unmitigable.

**IMPACT:** The proposed project is located entirely within the MHPA, within an existing transportation corridor, and is therefore subject to the MHPA Adjacency Guidelines. The project's potential conflict with these guidelines is considered a significant impact. Mitigation Measure LU1, as provided below, would ensure the proposed project would be consistent with the MHPA Adjacency Guidelines. Mitigation Measure LU1 would reduce the significant impact to below a level of significance.

**Mitigation Measure LU1**

The project shall comply with the applicable MSCP Subarea Plan land use adjacency guidelines to ensure minimal impacts to the MHPA. Specifically, the project shall comply with the following measures regarding Drainage, Toxics, Lighting, Noise, Barriers, Invasives, and Grading/Land Development.

Drainage. All new and proposed parking lots and developed areas in and adjacent to the preserve must not drain directly into the MHPA. All developed and paved areas must prevent the release of toxins, chemicals, petroleum products, exotic plant materials, and other elements that might degrade or harm the natural environment or ecosystem processes within the MHPA.

Toxics. Land uses, such as recreation and agriculture, that use chemicals or generate by-products such as manure, that are potentially toxic or impactful to wildlife, sensitive species, habitat, or water quality need to incorporate measures to reduce impacts caused by the application and/or drainage of such materials into the MHPA.

Lighting. Lighting of all developed areas adjacent to the MHPA should be directed away from the MHPA. Where necessary, development should provide adequate shielding with non-invasive plant materials (preferably native), berming, and/or other methods to protect the MHPA and sensitive species from night lighting.

Noise. Uses in or adjacent to the MHPA should be designed to minimize noise impacts. Berms or walls should be constructed adjacent to commercial areas, recreational areas, and any other use that may introduce noises that could impact or interfere with wildlife utilization of the MHPA.

Barriers. New development adjacent to the MHPA may be required to provide barriers (e.g. non-invasive vegetation, rocks/boulders, fences, walls, and/or signage) along the MHPA boundaries to direct public access to appropriate locations and reduce domestic animal predation.

Invasives. No invasive non-native plant species shall be introduced into areas adjacent to the MHPA.

Grading/Land Development. Manufactured slopes associated with site development shall be included within the development footprint for projects within or adjacent to the MHPA.

**Method of Verification:** ADD shall verify that all the MSCP Subarea Plan land use adjacency guidelines are incorporated into the design documents.

**Timing of Verification:** During project design and implementation.

**Responsible Person:** ADD of LDR

## **B. Biological Resources**

**IMPACT:** The proposed project has the potential to result in the following impacts:

- Temporary, indirect construction noise impacts resulting in the disturbance of nesting bird species during construction of the bike path on top of the Main Street Dike and within Area 4.
- Direct, permanent impact to approximately 1.35 acres of disturbed coastal sage scrub as a result in construction in Area 4.
- Permanent, indirect impacts to Belding's Savannah sparrow as the result of abandonment of the narrow strip of marsh adjacent to the proposed bike path.
- Temporary impacts to approximately 0.02 acre of coastal salt marsh habitat, 0.01 acre of disturbed Diegan Coastal sage scrub, 0.003 acre of salt panne, and 0.027 acre of ruderal habitat as the result of 10-foot wide plywood access paths needed for construction of the steel truss bridges.

- No burrowing owls have been detected on the project site; however, suitable habitat exists in the project area.

Mitigation measures provided below will reduce the significant impact to below a level of significance.

**Mitigation Measures A1, A2, A3, and B1-B19**

Prior to the commencement of any construction related activity (including earthwork) on-site for PTS 1901, the City of San Diego shall make arrangements to schedule a pre-construction meeting to ensure implementation of the MMRP. The meeting shall include the City Field Resident Engineer (RE), the monitoring biologist, a USFWS Refuge Representative (i.e., Refuge Manager), and staff from the City's Mitigation Monitoring and Coordination (MMC) Section.

Prior to the preconstruction meeting, the Assistant Deputy Director of the Land Development Review Division (LDR) shall verify that the following mitigation measures are noted on the construction plans/contract specifications submitted and included in the specifications under the heading *Environmental Mitigation Requirements*.

Construction plans shall include provisions for site security in order to prevent unauthorized access onto the project site and adjacent salt ponds during construction. Specific site security measures could include the installation of barriers and locked gates at both ends of the construction alignment and, if necessary, the presence of a security officer to patrol the construction site when no construction activities are underway.

**UPLAND MITIGATION**

Prior to the commencement of any construction related activity on-site (including earthwork and fencing) and/or the preconstruction meeting for PTS 1901, mitigation for direct impacts to 1.35-acres of cholla-dominated disturbed Diegan coastal sage scrub that result from the proposed bikeway shall be assured to the satisfaction of the City Assistant Deputy Director (ADD) of the Land Development Review Division (LDR)/Environmental Designee.

- (1a) A total of 1.35 acres of Tier II Diegan coastal sage scrub habitat located inside (1:1 ratio) the MHPA will be created on-site; or,
- (1b) A total of 1.35 acres of coastal sage scrub credit shall be contributed to the habitat acquisition fund (or combination thereof).

**BIOLOGICAL MONITORING PROGRAM DURING CONSTRUCTION**

At least thirty days prior to the Precon Meeting, the EAS approved, USFWS qualified Biologist shall verify that any special reports, maps, plans and time lines, such as but not limited to, plant salvage plans, revegetation plans; plant relocation requirements and timing, avian or other wildlife protocol surveys, impact avoidance areas described below, or other such information, have been completed and updated. The biologist should identify pertinent information concerning protection of sensitive resources, such as but not limited to, flagging of individual plants or small plant groups, limits of grade fencing and limits of silt fencing (locations may include 10-foot or less inside the limits of grading, or up against and just

inside of the limits of the grade fencing). Plant salvage may be initiated at this time (or sooner if addressed in the approved, Conceptual Revegetation Plan) under the direction of EAS, MMC and the USFWS.

Biological Monitor shall attend Preconstruction Meeting(s)

- a. The qualified Biologist shall attend any grading related Precon Meetings to make comments and/or suggestions concerning the monitoring program with the Construction Manager and/or Grading Contractor.
- b. If the Biologist or USFWS is not able to attend the Precon Meeting, the RE or BI, if appropriate, will schedule a focused Precon Meeting for the Biologist, USFWS, MMC, and EAS staff, as appropriate. Monitors, Construction Manager and appropriate Contractor's representatives to meet and review the job on-site prior to start of any work that requires monitoring or construction on-site (including fencing).

Identify Areas to be Monitored

At the Precon Meeting, the Biologist shall submit to MMC a Biological Monitoring Exhibit (BME) site/grading plan (reduced to 11"x17") that identifies areas to be protected, fenced, and monitored, as well as areas that may require delineation of grading limits. Silt fencing (or other suitable environmental fencing) shall be installed to clearly delineate the limits of the right-of-way and Refuge interface, the environmentally sensitive areas (ESA's), and the proposed temporary construction access locations through the Refuge. These fencing requirements shall be included in the construction plans.

When Monitoring Will Occur

Prior to the commencement of work, the qualified Biologist shall also submit a construction schedule to MMC through the RE or BI, as appropriate, indicating when and where monitoring is to begin and shall notify MMC of the start date for monitoring, at a minimum, the qualified biologist should be present when initial grading is occurring in the vicinity of sensitive habitat and for any earthwork in or adjacent to habitat during any potential avian nesting season to ensure conformance with state and federal migratory bird acts.

Biological Monitor Shall Be Present During Grading/Excavation

The qualified Biological Monitor shall be on site at a minimum when initial grading is occurring adjacent to wetland habitats and/or potential occupied avian or sensitive species habitat, to ensure that no take of sensitive species or active bird nests occurs, grading limits are observed, and that orange fencing and silt fencing are installed to protect sensitive areas outside earthwork limits. The qualified biologist shall document activity via the Consultant Site Visit Record. This record shall be sent to the RE or BI, as appropriate, each month. The RE, or BI as appropriate, will forward copies to MMC. The biological monitor shall have the authority to divert work or temporarily stop operations to avoid previously unanticipated significant impacts. IT IS THE CONTRACTOR RESPONSIBILITY TO KEEP MONITORS UP-TO-DATE WITH CURRENT PLANS.

During Construction

- a. No staging/storage areas for equipment and materials shall be located within or directly adjacent to habitat retained in open space area; no equipment maintenance shall be conducted within or near adjacent open space.
- b. Natural drainage patterns shall be maintained as much as possible during construction. Erosion control techniques, including the use of sandbags, hay bales, and/or the installation of sediment traps, shall be used to control erosion and deter drainage during construction activities into the adjacent open space. The contractor shall comply with all of the provisions of the Storm Water Pollution Prevention Plan for the project.
- c. No trash, oil, parking or other construction related activities shall be allowed outside the established limits of grading. All construction related debris shall be removed off site to an approved disposal facility.

Post Construction

- a. The Biologist shall be responsible for ensuring that all field notes and reports have been completed, all outstanding items of concern have been resolved or noted for follow up, and that specialty studies are completed, as appropriate.
- b. Within three months following the completion of monitoring, two copies of the Final Biological Monitoring Report (even if negative) and/or evaluation report, if applicable, which describes the results, analysis, and conclusions of the Biological Monitoring Program (with appropriate graphics) shall be submitted by the Biologist to the MMC for approval by the ADD of LDR.
- c. During any construction activity (including earthwork and fence placement) for PTS 1901, if any previously undisclosed, additional, unforeseen, inadvertent, direct or indirect additional biological resources are impacted (as noted by the applicant, contractors, biological monitor, the Wildlife Agencies, the City, or other entity), they shall be disclosed. Such impacts shall be rehabilitated, revegetated, and /or mitigated per the City's ESL Guidelines and/or as determined by other jurisdictional agencies. Such additional measures shall be included as part of the Final Biological Monitoring Report.
- d. MMC shall notify the RE of receipt of the Final Biological Monitoring Report.

**HABITAT RESTORATION PROGRAM FOR UPLAND (CHOLLA DOMINATED COASTAL SAGE SCRUB) AND WETLAND (TEMPORARY IMPACTS TO COASTAL SALT MARSH )**

Prior to the commencement of any construction related activity on-site (including earthwork) and/or the preconstruction meeting for PTS 1901, the applicant department shall submit revegetation plans and specifications for both upland and wetland restoration efforts. The separate efforts shall be clearly delineated with appropriate success criteria.

Restoration of Cholla Dominated Coastal Sage Scrub would be accomplished by collecting cuttings of Cholla species on-site, allowing these cuttings to callous and subsequently planting them. It is anticipated that this would be accomplished in the ruderal areas along the newly constructed bike path and along the adjacent haul road (the potential cholla/CSS restoration location is identified on EIR Figure 5.2-3b).

Areas of coastal salt marsh temporarily impacted during construction are expected to recover naturally. In the event that trampled areas do not return to their pre-project condition, these areas would be planted with a mosaic of the same species impacted by construction as presented below. Prior to the temporary disturbance of coastal salt marsh habitat, the existing status of the habitat shall be documented so as to allow comparison between the pre- and post-project conditions. As such, prior to construction, the coastal salt marsh habitat to be impacted shall be qualitatively recorded via photo documentation. Additionally, a species list shall be generated and general species abundance and distribution recorded.

- a. Salt marsh species would be planted from 3 inch "rose pots" grown from seed or cuttings collected from the project vicinity. Species other than pickleweed (*Salicornia virginica*) would be propagated and planted to ensure a diverse salt marsh at the created site. Pickleweed is known to invade naturally and would not be excluded from the site. Species to be planted from propagated stock include:

<u>Scientific Name</u>	<u>Common Name</u>
<i>Batis maritima</i>	saltwort
<i>Frankenia salina</i>	alkali heath
<i>Limonium californicum</i>	sea lavender
<i>Distichlis spicata</i>	saltgrass
<i>Salicornia subterminalis</i>	glasswort
<i>Monanthochloe littoralis</i>	shoregrass

**Prior to Permit Issuance.**

- 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 the revegetation/restoration mitigation, including mitigation of direct-permanent impacts cholla cactus dominated Coastal Sage Scrub and direct-temporary impacts to Coastal Salt Marsh have been shown and noted on the appropriate revegetation and restoration landscape construction documents (RRLCD) and also, within the first two pages, listed with condition number and page numbers under the heading of 'Environmental and Development Permit Requirements - Notes and Index'. The RRLCD must be found to be in conformance with the **Biological Resources Technical Report for the Proposed Western Salt**

**Segment of the Bayshore Bikeway Conceptual Revegetation Plan**, prepared by Tierra Environmental Services, (April 2007) the requirements of which are summarized below:

B. Revegetation and Restoration Landscape Construction Documents

1. The RRLDC shall be prepared on D-sheets and submitted to the City of San Diego Development Services Department and Park and Recreation Department Open Space Section (OSR) for review and approval. OSR shall consult with Mitigation Monitoring Coordination (MMC) prior to approval of RRLDC to coordinate specific field inspection issues on behalf of the City Park and Recreation Department Open Space Section. The RRLDC shall consist of revegetation/restoration, planting, irrigation and erosion control plans; including all required graphics, notes, details, specifications, letters, and reports as outlined below.
2. The RRLDC shall be prepared in accordance with the San Diego Land Development Code (LDC) Chapter 14, Article 2, Division 4, the LDC Landscape Standards submittal requirements, and Attachment "B" (General Outline for Revegetation/Restoration Plans) of the City of San Diego's LDC Biology Guidelines (July 2002). The Principal Qualified Design Biologist (PQDB) shall identify and adequately document all pertinent information concerning the revegetation/restoration goals and requirements, such as but not limited to, plant/seed palettes, timing of installation, plant installation specifications, method of watering, protection of adjacent habitat, erosion and sediment control, performance/success criteria, inspection schedule by City staff, document submittals, reporting schedule, etc. The Plans shall also include notes addressing the Five Year Maintenance, Monitoring and Reporting Period.
3. The following notes shall also be on the RRLDC:

The Project Contractor shall be responsible to insure that for all grading and contouring, clearing and grubbing, installation of plant materials, and any necessary maintenance activities or remedial actions required during installation and the 120 day plant establishment/maintenance period are done per approved the approved RRLDC. The following procedures at a minimum, but not limited to, shall be performed:

  - a. The Project Contractor shall be responsible for the maintenance of the mitigation area for a minimum period of 120 days. Maintenance visits shall be conducted on a weekly basis throughout the plant establishment/maintenance period.
  - b. At the end of the 120 day period the Principal Qualified Construction Biologist (City approved) shall review the mitigation area to assess the completion of the 120 day establishment/maintenance period and submit a report for approval by MMC.
  - c. MMC will provide approval in writing to begin the five year maintenance and monitoring program.
  - d. Existing indigenous/native species shall not be pruned, thinned or cleared in the revegetation/mitigation area.

- e. The revegetation site shall not be fertilized.
- f. The Project Contractor is responsible for reseeded (if applicable) if weeds are not removed, within one week of written recommendation by the Principal Qualified Construction Biologist.
- g. Weed control measures shall include the following: (1) hand removal, (2) cutting, with power equipment, and (3) chemical control. Hand removal of weeds is the most desirable method of control and will be used wherever possible.
- h. Damaged areas shall be repaired immediately by the Project Contractor. Insect infestations, plant diseases, herbivory, and other pest problems will be closely monitored throughout the five-year maintenance and monitoring program. Protective mechanisms such as metal wire netting shall be used as necessary. Diseased and infected plants shall be immediately disposed of off-site in a legally-acceptable manner at the discretion of the Principal Qualified Construction Biologist. Where possible, biological controls will be used instead of pesticides and herbicides.

**Prior to Start of Construction**

A. Principal Qualified Construction Biologist Shall Attend Preconstruction (Precon) Meetings

- 1. Prior to beginning any work that requires monitoring:
  - a. The owner/permittee or their authorized representative shall arrange and perform a Precon Meeting that shall include the Project Contractor, the Principal Qualified Construction Biologist, the City Project Manager, the Resident Engineer (RE), and MMC.
  - b. The Principal Qualified Construction Biologist shall also attend any other grading/excavation related Precon Meetings to make comments and/or suggestions concerning the RRLDC with the Project Contractor, RE and MMC.
  - c. If the Principal Qualified Construction Biologist is unable to attend the Precon Meeting, the owner/permittee shall schedule a focused Precon Meeting with the Project Contractor, Principal Qualified Construction Biologist, Project Manager, RE and MMC, prior to the start of any work associated with the revegetation/ restoration phase of the project, including site grading preparation.
- 2. Where Revegetation/Restoration Work Will Occur
  - a. Prior to the start of any work, the Principal Qualified Construction Biologist shall also submit a revegetation/restoration monitoring exhibit (RRME) based on the appropriate reduced RRLDC (reduced to 11"x 17" format) to the RE and MMC, identifying the areas to be revegetated/restored including the delineation of the construction limit of work line and the construction staging areas. Construction plans shall indicate that the construction staging areas shall not be located within the Refuge.

3. When Biological Monitoring Will Occur

- a. Prior to the start of any work, the Principal Qualified Construction Biologist shall also submit a monitoring procedures schedule to the RE and MMC indicating when and where biological monitoring and related activities will occur.
- b. The Principal Qualified Biologist shall supervise the placement of orange construction fencing or equivalent along the limits of disturbance within and surrounding sensitive habitats as shown on the approved RRLCD.
- c. All construction activities (including staging areas) shall be restricted to the development area as shown on the approved RRLCD. The Principal Qualified Construction Biologist shall monitor construction activities as needed to ensure that construction activities do not encroach into biologically sensitive areas beyond the limits of disturbance as shown on the approved RRLCD.

4. Principal Qualified Biologist Shall Contact MMC to Request Modification

- a. The Principal Qualified Biologist may submit a detailed letter to MMC prior to the start of work or during construction requesting a modification to the RRLCD. This request shall be based on relevant information (such as other sensitive species not listed by federal and/or state agencies and/or not covered by the MSCP and to which any impacts may be considered significant under CEQA) which may reduce or increase the potential for biological resources to be present.

B. Letters of Qualification Have Been Submitted to ADD

1. The Project Contractor shall submit, for approval, a letter verifying the qualifications of the Principal Qualified Construction Biologist to MMC at the time of Bid Opening. This letter shall identify the Principal Qualified Construction Biologist where applicable, and the names of all other persons involved in the implementation of the revegetation/restoration plan and the five year maintenance and monitoring program, as they are defined in the City of San Diego Biological Review References.
2. MMC will provide a letter to the Project Contractor confirming the qualifications of the Principal Qualified Construction Biologist and all City Approved persons involved in the revegetation/restoration plan and five year maintenance and monitoring program.
3. Prior to the start of work, the owner/permittee must obtain approval from MMC for any personnel changes associated with the revegetation/restoration plan and the five year maintenance and monitoring program.

**During Construction**

A. Principal Qualified Construction Biologist Present During Construction./ Grading/Planting

1. The Principal Qualified Construction Biologist shall be present full-time during construction activities including but not limited to, site preparation, cleaning, grading, excavation,

landscape establishment in association with the construction of new trail segments, improvement of existing trail segments, construction of a retaining wall, construction of wetland crossings, and construction of staging (parking) areas which could result in impacts to sensitive biological resources as identified on the approved RRLDC. **The Principal Qualified Construction Biologist is responsible for notifying the Project Contractor of changes to any approved construction plans, procedures, and/or activities. The Principal Qualified Construction Biologist through the Project Contractor is responsible to notify the RE and MMC of the changes.**

2. The Principal Qualified Construction Biologist shall document field activity via the Consultant Site Visit Record Forms (CSVr). The CSVrs shall be faxed by the Principal Qualified Construction Biologist the first day of monitoring, the last day of monitoring, monthly, and in the event that there is a deviation from conditions identified within the approved RRLCD and/or five-year maintenance and monitoring program. The RE shall forward copies to MMC.
3. The Principal Qualified Construction Biologist shall be responsible for maintaining and submitting the CSVr at the time that Project Contractor responsibilities end (i.e., upon the completion of construction activity other than that of associated with biology).
4. All construction activities (including staging areas) shall be restricted to the development areas as shown on the approved RRLCD. The Principal Qualified Construction Biologist staff shall monitor construction activities as needed, with MMC concurrence on method and schedule. This is to ensure that construction activities do not encroach into biologically sensitive areas beyond the limits of disturbance as shown on the approved RRLCD.
5. The revegetation/restoration effort shall be visually assessed at the end of 120 day period to determine mortality of individuals. A draft letter report shall be prepared to document the completion of the 120-day plant establishment period. The report shall include discussion on weed control, horticultural treatments (pruning, mulching, and disease control), erosion control, trash/debris removal, replacement planting/reseeding, site protection/signage, pest management, vandalism, and irrigation maintenance.
6. The RE and the MMC will make a determination if the revegetation/ restoration program's 120 maintenance period is satisfactory or if it will need to be extended prior to the issuance of the Notice of Completion or any bond release.
7. Removal of temporary construction BMPs; where appropriate, shall be verified in writing on the final construction phase CSVr.

B. Disturbance Notification Process

1. If unauthorized disturbances occur the Principal Qualified Construction Biologist shall direct the Project Contractor to temporarily divert construction in the area of disturbance and immediately notify the RE.

2. The Principal Qualified Construction Biologist shall also immediately notify MMC by telephone of the disturbance and report the nature and extent of the disturbance and recommend the method of additional protection, such as fencing. After obtaining concurrence with MMC and the RE, the Project Contractor shall install the approved protection under the direction of the Principal Qualified Construction Biologist.
3. The Principal Qualified Construction Biologist shall also submit written documentation of the disturbance to MMC within 24 hours by fax or email with photos of the resource in context (e.g., show adjacent vegetation).

C. Determination of Significance

1. The Principal Qualified Construction Biologist shall evaluate the significance of disturbance and provide a detailed analysis and recommendation in a letter report with the appropriate photo documentation to MMC to obtain concurrence and formulate a plan of action which can include fines, fees, and supplemental mitigation costs.
2. MMC shall review this letter report and provide the RE with MMC's recommendations and procedures.

**Post Construction**

- A. Five-Year Mitigation, Establishment, Maintenance, Monitoring and Reporting Period.
  1. Five-Year Mitigation Establishment/Maintenance Period.
    - a. The Project Contractor or a City (MMC) approved Maintenance Contractor and Principal Qualified Maintenance Biologist shall be retained to complete maintenance and monitoring activities throughout the five-year period.
    - b. Maintenance visits will be conducted twice per month for the first six months, once per month for the remainder of the first year, and quarterly thereafter.
    - c. Maintenance activities will include all items described in the approved RRLDC. Including temp BMPs associated with the revegetation.
    - d. Plant replacement will be conducted as recommended by the Principal Qualified Maintenance Biologist and the maintenance period may be extended to the satisfaction of the MMC.
  2. Five-year Monitoring and Reporting Program.
    - a. All biological monitoring and reporting shall be conducted by a qualified and city approved Maintenance Biologist, consistent with the approved RRLDC.
    - b. Monitoring shall involve both qualitative monitoring (horticulture) and quantitative monitoring (i.e., performance/success criteria).
    - c. Qualitative monitoring surveys shall be conducted monthly during year one and quarterly during years two through five.

- d. Qualitative monitoring shall focus on soil conditions (e.g., moisture and fertility), container plant health, seed germination rates, presence of native and non-native (e.g., invasive exotic) species, any significant disease or pest problems, irrigation repair and scheduling, trash removal, illegal trespass, and any erosion problems.
  - e. Quantitative monitoring surveys shall be conducted. Quantitative monitoring surveys shall be conducted monthly during the first quarter and quarterly for the remainder of the first year. Bi-annual monitoring would be conducted for years 2 and 3. Annual monitoring visits would be conducted in years 4 and 5. The revegetation/restoration effort shall be quantitatively evaluated once per year (in spring) during years three through five, to determine compliance with the performance standards identified on the RRLDC. All plant material must have survived without supplemental irrigation for the last two years.
  - f. Quantitative monitoring shall include the use of fixed transects and photo points to determine the vegetative cover within the revegetated habitat. Collection of fixed transect data within the revegetation/restoration site shall result in the calculation of percent cover for each plant species present, percent cover of target vegetation, tree height and diameter at breast height (if applicable) and percent cover of non-native/non invasive vegetation. Container plants will also be counted to determine percent survivorship. The data will be used determine attainment of performance/success criteria identified within the Plans.
  - g. Biological monitoring requirements may be reduced if, before the end of the fifth year, the revegetation meets the fifth year criteria and the irrigation has been terminated for a period of the last two years.
3. Success Criteria for Cholla Dominated Coastal Sage Scrub Revegetation effort (1.35-acre)
- a. Cholla, like many cacti, is transplanted from cuttings. The limiting factor in establishment is likely to be adequate water. With supplemental irrigation it is expected that 80% of the planted cuttings would survive the first year. If less than 80% survive year One, additional cuttings would be collected and planted until that 80% target is attained. Allowing for natural mortality, 90% of those that survive year One are expected to survive to year Two. After year Two, monitoring would document primarily the development of the planted individuals until success criteria is established up to Year Five.
4. Success Criteria for Coastal Salt Marsh Revegetation Effort (0.02 acre (725 ft<sup>2</sup>))
- a. It is expected that 80% of the planted cuttings would survive the first year. If less than 80% survive Year One, additional container stock would be planted until that 80% target is attained. Allowing for natural mortality, 90% of those that survive year One are expected to survive to year Two. After Year Two, monitoring would document primarily the canopy development of the planted individuals until success criteria is established up to Year Five.

B. Site Progress Reports

1. Site progress reports shall be prepared by the Principal Qualified Maintenance Biologist following each site visit and provided to the owner/permittee and Maintenance Contractor. Site progress reports shall review maintenance activities, qualitative and quantitative (when appropriate) monitoring results including progress of the revegetation relative to the performance/success criteria, and the need for any remedial measures.

C. Annual Reports during the Five Years

1. Draft annual reports (during years 1, 2 and 4) (three copies) summarizing the results of each progress report including quantitative monitoring results and photographs taken from permanent viewpoints shall be submitted to City MMC for City built projects and the USFWS Refuge Manager, for review and approval within 30 days following the completion of that year of monitoring. Draft annual reports (during year 3) (three copies) summarizing the results of each progress report including quantitative monitoring results and photographs taken from permanent viewpoints shall be submitted to City MMC for City built projects and the USFWS Refuge Manager for review and approval within 30 days following the completion of that year of monitoring.
2. City/ MMC and Refuge Manager shall return the draft annual report to the Principal Qualified Maintenance Biologist for revision or, for final preparation of that year report.
3. The Principal Qualified Maintenance Biologist shall submit final annual report for that year to the owner/permittee, the Maintenance Contractor and City MMC and USFWS Refuge Manager for approval within 30 days of receiving comments on the draft annual report.
4. City MMC and USFWS Refuge Manager will provide written acceptance of the Report to the Principal Qualified Maintenance Biologist, the Maintenance Contractor and the owner/permittee.

D. Final Monitoring Reports(s)

1. The Principal Qualified Maintenance Biologist shall prepare a Final Monitoring Report upon achievement of the fifth year performance / success criteria and completion of the five year maintenance period.
  - a. This report may occur before the end of the fifth year if the revegetation meets the fifth year performance /success criteria and the irrigation has been terminated for a period of the last two years.
  - b. The Final Monitoring report shall be submitted to City MMC for evaluation of the success of the mitigation effort and final acceptance by the City Park and Recreation. A copy shall also be submitted to the USFWS Refuge Manager. A request for a pre-final inspection shall be submitted at this time which City MMC will schedule with City Park and Recreation Department after review of report.

- c. If at the end of the five years any of the revegetated area fails to meet the project's final success standards, the applicant must consult with City MMC, USFWS Refuge Manager, and the City Park and Recreation Department. This consultation shall take place to determine whether the revegetation effort is acceptable. The applicant understands that failure of any significant portion of the revegetation/restoration area may result in a requirement to replace or renegotiate that portion of the site and/or extend the monitoring and establishment/maintenance period until all success standards are met.
- d. Removal of temporary maintenance BMPs shall be verified in writing on the final construction phase CSV by the Principal Qualified Maintenance Biologist.

**FENCING**

- 1. Prior to permit issuance or Bid Opening/Bid Award, whichever is applicable, the Assistant Deputy Director (ADD) Environmental designee shall verify that proposed chain-link fencing is depicted on the construction plans and illustrated on both sides of the bike path for the entire length of the bike path, with the exception of the two bridge locations. Fencing specifications shall be as follows: a security fence up to seven feet high consisting of two-inch mesh, 6-gauge (0.192" diameter) black vinyl (or other appropriate black finish) chain link, with a black bottom rail that is secured in the center of the two line post using a 3/8" diameter eye hook anchored into a concrete footing (or equivalent per agreement with the Wildlife Agencies) and a 7-gauge coil spring wire installed upside down (e.g., the finished chain link shall be positioned at the bottom of the fence and the open, sharp-edged links shall be upright). The distance between the lower portion of the fence and the ground shall be no greater than two inches. The entire fence, including the chain link, posts, and bottom rail shall be black to improve the overall appearance of the fence.

**SENSITIVE AVIAN SPECIES**

- 1. Construction activities shall occur outside of the breeding period of the light-footed clapper rail (October 1 through February 14), least tern, cactus wren, Belding's Savannah sparrow, and western snowy plover. Prohibiting construction activities during these periods would reduce the impacts to below a level of significance.

<b>Species</b>	<b>Breeding Season<sup>1</sup></b>
Light-footed Clapper Rail	February 15 to September 30
Belding's Savannah Sparrow	February 15 to August 15
California Least Tern	April 1 to September 15
Western Snowy Plover	March 1 to September 15
Burrowing Owl	February 1 to August 31
San Diego Cactus Wren	February 15 to August 15

Note: <sup>1</sup> = breeding seasons taken from USFWS (1997) for light-footed clapper rail;

Source: Tierra (2002) for Belding's Savannah sparrow;

City of San Diego (2002) for California least tern, western snowy plover, burrowing owl and San Diego cactus wren.

- 2. Due to potentially suitable burrowing owl habitat existing on and immediately off-site, pre-construction surveys shall be conducted to determine presence or absence of this species

onsite. If burrowing owls are observed onsite during preconstruction surveys, impacts to the species would be avoided to the maximum extent practical; any individuals would be relocated out of the impacted area using methodologies approved by the wildlife agencies pursuant to the CDFG Staff Report on Burrowing Owls, dated October 1995; and mitigation for impacts to occupied habitat (at the MSCP Subarea Plan ratio) would occur through the conservation of occupied burrowing owl habitat or conservation of lands appropriate for restoration, management and enhancement of burrowing owl nesting and foraging requirements.

3. If there is a potential for indirect noise impacts to nesting raptors, prior to any construction related activity within the development area during the raptor breeding season (February 1 through September 15) the biologist shall conduct a preconstruction survey to determine the presence of active raptor nests. If active nests are detected the biologist in consultation with the ADD Environmental Designee shall establish a species appropriate noise buffer zone. No construction shall occur within this zone.

**NIGHTTIME LIGHTING**

No nighttime lighting shall be allowed during project construction or operation.

**Method of Verification:** ADD shall verify that all the requirements for biological monitoring are noted on construction documents.

**Timing of Verification:** Prior to, during, and post construction.

**Responsible Person:** ADD of LDR

## **C. Historical Resources**

**IMPACT:** There is the potential that site CA-SDI-4360 would be inadvertently impacted by project grading if the approved limits of grading are not clearly delineated for project construction contractors. Mitigation Measure H1, as provided below, would ensure that no significant indirect impact to CA-SDI-4360 would result from the proposed project construction activities. Mitigation Measure H1 would reduce the significant impact to below a level of significance.

**Mitigation Measure H1:**

**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 Archaeological

Monitoring and Native American Monitor have been noted on the appropriate construction documents.

- B. Letters of Qualification have been submitted to the 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 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.

**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 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 and Native American Monitor shall attend any grading/excavation related Precon Meetings to make comments and/or suggestions concerning the Archaeological Monitoring program with the Construction Manager and/or Grading Contractor.
    - a. If the PI is unable to attend the Precon Meeting, the Applicant shall schedule a focused Precon Meeting with MMC, the PI, RE, CM or BI, if appropriate, prior to the start of any work that requires monitoring.
  2. 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 for approval identifying the areas to be monitored including the delineation of grading/excavation limits. These areas shall be identified by flagging in the field by the archaeological monitor.
- 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).
- c. MMC shall notify the PI that the AME 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 age of existing pipe to be replaced, depth of excavation and/or site graded to bedrock, etc., which may reduce or increase the potential for resources to be present.

5. Approval of AME and Construction Schedule

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

**During Construction**

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

1. The monitor and Native American 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 AME and as authorized by the CM. **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 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 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 Monitor 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 of the program from MMC, CM and RE. ADRP 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, 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 cannot 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 via the RE 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.

#### **Discovery of Human Remains**

If human remains are discovered, work shall halt in that area and the following procedures as 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, will determine the need for a field examination to determine the provenience.
3. If a field examination is not warranted, the Medical Examiner will determine with input from the PI, if the remains are or are most likely to be of Native American origin.

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

1. The Medical Examiner will notify the Native American Heritage Commission (NAHC) within 24 hours. By law, **ONLY** the Medical Examiner can make this call.
2. The NAHC will contact the PI within 24 hours or sooner, after Medical Examiner has completed coordination.
3. NAHC will immediately 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. The MLD has 48 hours to make recommendations to the property owner or representative for the treatment or disposition, with proper dignity, of the human remains and the associated grave goods.
6. 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 48 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.
  - c. To protect these sites, the landowner shall do one or more of the following:
    - (1) Record the site with the NACH;
    - (2) Record an open space or conservation easement; or
    - (3) Record a document with the County.
  - d. Upon the discovery of multiple Native American human remains during a ground disturbing land development activity, the landowner may agree that additional conferral with descendants is necessary to consider culturally appropriate treatment of multiple Native American human remains. Culturally appropriate treatment of such a discovery may be ascertained from review of the site utilizing cultural and archaeological standards. Where the parties are unable to agree on the appropriate treatment measures the human remains and buried with Native American human remains shall be reinterred with appropriate dignity, pursuant to Section 6.c., above.

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.

#### **Night and/or Weekend 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 and/or weekend work, The PI shall record the information on the CSVR and submit to MMC via the RE by fax by 9am the following morning, of the next business day.

##### b. Discoveries

All discoveries shall be processed and documented using the existing procedures detailed in Sections III - During Construction, and IV - Discovery of Human Remains.

##### 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 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 and/or weekend work becomes necessary during the course of construction

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

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

#### **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 Archaeological 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 archaeological resources encountered during monitoring, the Archaeological Data Recovery Program or Pipeline Trenching Discovery Process shall be included in the Draft Monitoring Report.
  - b. Recording Sites with State of California Department of Parks and Recreation  
The PI shall be responsible for recording (on the appropriate State of California Department of Park and Recreation forms-DPR 523 A/B) any significant or potentially significant resources encountered during the Archaeological Monitoring Program in accordance with the City's Historical Resources Guidelines, and submittal of such forms to the South Coastal Information Center with the Final Monitoring Report.
2. MMC shall return the Draft Monitoring Report to the PI 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 all Draft Monitoring Report submittals and approvals.

B. Handling of Artifacts

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

C. Curation of artifacts: Accession Agreement and Acceptance Verification

1. The PI shall be responsible for ensuring that all artifacts associated with the survey, testing and/or data recovery for this project are permanently curated with an appropriate institution. This shall be completed in consultation with MMC and the Native American representative, as applicable.
2. The PI shall submit the Accession Agreement 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 Accession Agreement 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 one copy of the approved Final Monitoring Report to the RE or BI as appropriate, and one copy to MMC (even if negative), within 90 days after notification from MMC 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.

**Method of Verification:** ADD of LDR shall verify the requirements for cultural resources monitoring are noted on construction documents.

**Timing of Verification:** Prior to, during, and post construction.

**Responsible Person:** ADD of LDR

**Mitigation Measure H2:**

Proposed construction limits, and construction staging areas in the area of cultural resource site CA-SDI-4360 (shell midden) shall be confined to the proposed project right-of-way so as to avoid impacting any other portions of this cultural resource site. Prior to project site disturbance, a qualified archaeologist shall identify the limits of site CA-SDI-4360 in relation to approved limits of project disturbance through the use of flagging or environmental fencing so as to ensure no disturbance to this site occurs outside of the approved limits of disturbance for the proposed project. An archaeologist shall monitor site grading activities and recover any significance artifacts in the event they are uncovered during grading activity in this area.

**Method of Verification:** Define limits of grading and monitor during grading.

**Timing of Verification:** Prior to and during grading activities.

**Responsible Person:** Qualified archaeologist.

**IMPACT:** The proposed project would cover the railroad rails and bridges, which would cause the physical alteration of the existing visual components of the Coronado Belt Line (CBL), a designated local historic resource. The rails would be capped with dirt and the trestle bridges would be "covered" by steel truss bridges. The impact to the CBL, as it traverses the proposed project area, is considered significant, as the proposed project, although designed to preserve features in place, would result in the alteration of the existing rail corridor and alter the existing aesthetic conditions of the resource within the project corridor. Mitigation Measures H2, H3, and H4 would reduce the potential impact to this locally designated resource to the extent feasible; however, the impact is considered to remain significant and unmitigable. This conclusion is based on the unmitigable "temporary" alteration of the CBL features even though the linear feature would be preserved for future options.

**Mitigation Measure H3:**

Prior to the pre-construction meeting, a modified HAER (Historic American Engineering Report) shall be prepared for any portion of the existing elements of the CBL that would be covered or otherwise modified as part of the proposed project. This is anticipated to include the track, rails, and trestle bridges located within the proposed project corridor. Implementation of this measure shall be verified by the ADD of LDR.

**Method of Verification:** ADD's receipt of modified HAER.

**Timing of Verification:** Prior to pre-construction meeting.

**Responsible Person:** ADD of LDR and ESD

**Mitigation Measure H4:**

During construction, any CBL materials encountered that are not feasible to retain shall be recovered, and made available for future use at interpretive facilities planned as part of the proposed project, or other future interpretive facilities in the area. Implementation of this measure shall be verified by the cultural resources construction monitor (PI) during construction.

**Method of Verification:** Monitoring during construction.

**Timing of Verification:** During and post construction.

**Responsible Person:** Construction Monitor and MMC.

**Mitigation Measure H5:**

Prior to commencement of construction related activities, the Assistant Deputy Director of Land Development Review (ADD of LDR) shall assure that interpretive facilities are provided and are shown on construction documents within the project corridor that include elements of the CBL history, including, but not limited to public art, rail artifacts, relevant area history, etc. As proposed, interpretive facilities would be located at two points along the bike path segment. These facilities would provide information regarding the history of the CBL and would be constructed of materials that represent railroad features.

**Method of Verification:** ADD shall verify that all the interpretive facilities are included on the construction documents.

**Timing of Verification:** Prior to commencement of construction.

**Responsible Person:** ADD of LDR

5500  
9/18

DOCKET SUPPORTING INFORMATION  
CITY OF SAN DIEGO  
**EQUAL OPPORTUNITY CONTRACTING PROGRAM EVALUATION**

DATE:  
August 23, 2007

SUBJECT: Actions Related to the Construction of the Bayshore Bikeway

**GENERAL CONTRACT INFORMATION**

Recommended Contractor: Har Construction, Inc.

Amount of this Action: \$4,802,306.13

Original Contract: \$4,802,306.13

Funding Source: City of San Diego

**SUBCONTRACTOR PARTICIPATION**

**This Action**

Adkan Engineers (Other)	\$ 18,280.00	0.38%
JCF Bridge & Concrete (Other)	\$ 250,000.00	5.20%
JD Paving (Other)	\$ 253,878.00	5.28%
LSI (Other)	\$ 6,534.60	0.13%
MTGL Incorporated (Other)	\$ 41,820.00	0.87%
San Diego Erosion Control (Other)	\$ 29,891.00	0.62%
Varanus (Biological) Monitoring (Other)	\$ 45,000.00	0.93%
<b>Total Certified Participation</b>	<b>\$ 0.00</b>	<b>0.00%</b>
<b>Total Other Participation</b>	<b>\$ 645,403.60</b>	<b>13.43%</b>
<b>Total Participation</b>	<b>\$ 645,403.60</b>	<b>13.43%</b>

**EQUAL EMPLOYMENT OPPORTUNITY COMPLIANCE**

Equal Opportunity: Required

Har Construction, Inc. has submitted a Work Force Report for their San Diego employees dated August 24, 2007 indicating 12 employees in the Administrative Work Force and 46 employees in the Trade Work Force. The Administrative Work Force Analysis indicates the Firm has fewer than 15 employees and therefore, is exempt from the employment category goals.

The Trade Work Force Analysis indicates no under representations in any of the ethnic categories:

**ADDITIONAL COMMENTS**

The *Work Force Analysis* is attached.

RII



File: Admin WOFO 2000

Date WOFO Submitted: 8/24/2007  
 Input by: SH

Goals reflect statistical labor force availability for the following: 2000 CLFA  
 San Diego, CA

City of San Diego/Equal Opportunity Contracting  
**WORK FORCE ANALYSIS REPORT**  
 FOR

Company: HAR Construction, Inc.

I. TOTAL WORK FORCE:

	Black		Hispanic		Asian		American Indian		Filipino		White		Other	
	M	F	M	F	M	F	M	F	M	F	M	F	M	F
Mgmt & Financial	0	0	4	2	0	0	0	0	0	0	3	0	0	0
Professional	0	0	0	0	0	0	0	0	0	0	1	0	0	0
A&E, Science, Computer	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Technical	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Sales	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Administrative Support	0	0	2	2	0	0	0	0	0	0	0	0	0	0
Services	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Crafts	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Operative Workers	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Transportation	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Laborers	0	0	0	0	0	0	0	0	0	0	0	0	0	0
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>4</b>	<b>4</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>4</b>	<b>0</b>	<b>0</b>	<b>0</b>

HOW TO READ TOTAL WORK FORCE SECTION:

The information blocks in Section I (Total Work Force) identify the absolute number of the firm's employees. Each employee is listed in their respective ethnic/gender and employment category. The percentages listed under the heading of "CLFA Goals" are the County Labor Force Availability goals for each employment and ethnic/gender category.

Mgmt & Financial  
 Professional  
 A&E, Science, Computer  
 Technical  
 Sales  
 Administrative Support  
 Services  
 Crafts  
 Operative Workers  
 Transportation  
 Laborers

TOTAL EMPLOYEES		
ALL	M	F
9	7	2
1	1	0
0	0	0
0	0	0
0	0	0
2	0	2
0	0	0
0	0	0
0	0	0
0	0	0
0	0	0
0	0	0
0	0	0
<b>TOTAL</b>	<b>12</b>	<b>4</b>

Female Goals  
 39.8%  
 59.5%  
 22.3%  
 49.0%  
 49.4%  
 73.2%  
 62.3%  
 8.6%  
 36.7%  
 15.2%  
 11.1%

HOW TO READ EMPLOYMENT ANALYSIS SECTION:

The percentages listed in the goals column are calculated by multiplying the CLFA goals by the number of employees in that job category. The number in that column represents the percentage of each protected group that should be employed by the firm to meet the CLFA goal. A negative number will be shown in the discrepancy column for each underrepresented goal of at least 1.00 position.

II. EMPLOYMENT ANALYSIS

This firm has fewer than 15 employees and is, therefore, exempt from the employment category goals.

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

State of California }  
 County of Los Angeles } SS.

On August 28, 2007 before me, Betty A. Borrer, Notary Public  
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")  
 personally appeared Arman Gabany  
Name(s) of Signer(s)

personally known to me  
 proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal:  
Betty A. Borrer  
Signature of Notary Public

**OPTIONAL**

*Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.*

**Description of Attached Document**

Title or Type of Document: \_\_\_\_\_

Document Date: \_\_\_\_\_ Number of Pages: \_\_\_\_\_

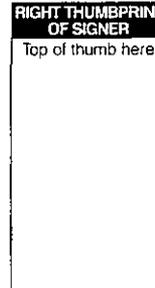
Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer**

Signer's Name: \_\_\_\_\_

- Individual
- Corporate Officer — Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_



LICENSE TO PLACE PERMANENT IMPROVEMENTS  
IN SD&AE RIGHT-OF-WAY

THIS LICENSE, made this \_\_\_\_\_ day of \_\_\_\_\_ 2007, between the San Diego and Arizona Eastern Railway Company (hereinafter referred to as "LICENSOR") and the City of San Diego (hereinafter referred to as "LICENSEE").

WITNESSETH, that LICENSOR, in consideration of zero dollars (\$0), paid by LICENSEE to LICENSOR, covenant and agree as follows:

1. Subject to the terms and conditions hereinafter set forth, LICENSOR licenses LICENSEE to construct and maintain the following improvements (hereinafter IMPROVEMENTS) across, under, over, or along the right-of-way of LICENSOR of the type and at the location described below:

A bike path between 13<sup>th</sup> Street in Imperial Beach and the Salt Works in the City of San Diego (MP \_\_\_) including paving, bridge structures, and a haul road.

The exact location and description of the IMPROVEMENTS identified above are shown on the drawing marked Exhibit "A" consisting of \_\_\_ pages, attached hereon and part a part hereof and subject to termination for future railway purposes at no expense or liability to licensor.

2. LICENSEE shall use the IMPROVEMENTS solely for the following purpose:

Operation and maintenance of a bike path and shall not use it for any other purpose whatsoever.

3. LICENSEE shall, at its own cost and subject to the supervision and control of LICENSOR'S appointed representative - engineer, locate, construct, and maintain the IMPROVEMENTS in such a manner and of such material that it will not at any time be a source of danger or interference with the present or future operation of any facilities owned and/or operated by LICENSOR with LICENSOR'S right-of-way.

4. In cases where LICENSEE is permitted under Paragraph 2 hereof to use facilities considered potentially dangerous to facilities owned and operated by LICENSOR, special installation, construction, and maintenance requirements shall be followed by LICENSEE as identified on Exhibit "B" attached hereto and made a part hereof. If at any time LICENSEE shall, in the judgment of LICENSOR, fail to perform properly its obligations under this paragraph, LICENSOR may, at its option, itself perform such work as it deems necessary for the safe operation of its facilities, and in such event LICENSEE agrees to pay, within fifteen (15) days after invoicing for such work performed, the cost so incurred by LICENSOR, but failure on the part of LICENSOR to perform the obligations of LICENSEE shall not release LICENSEE from liability hereunder for loss or damage occasioned thereby.

5. LICENSEE shall reimburse LICENSOR for any expenses incurred by LICENSOR during the installation, construction or maintenance of the IMPROVEMENTS identified herein.

6. LICENSEE shall at all times indemnify and hold harmless LICENSOR from any and all losses, damage, expenses, or liabilities that LICENSOR may incur as a result of the installation, construction, maintenance, use, existence, or state of repair of the IMPROVEMENTS identified herein.
7. If at any time LICENSEE fails or refuses to comply with or carry out any or all of the covenants herein, LICENSOR may, at its election, revoke this license in accordance with the provisions of Paragraph 8.
8. THIS LICENSE is given by LICENSOR and accepted by LICENSEE upon the express condition that the same may be terminated at any time by either party upon thirty (30) days notice in writing to be served upon the other party, stating therein the date that such termination shall take place, and that upon the termination of this license in this or any other manner herein provided, LICENSEE, upon demand of LICENSOR, shall abandon the use of the IMPROVEMENTS and remove the same and restore the right-of-way and any other improvements or facilities within said right-of-way whether owned by LICENSOR or others to their original condition in which they were prior to the installation of the IMPROVEMENTS. In case LICENSEE fails to restore LICENSOR'S right-of-way and improvements or facilities as aforementioned within ten (10) days after the effective date of termination, LICENSOR may proceed with such work at the expense of LICENSEE. No termination hereof shall release LICENSEE from any liability or obligation hereunder, whether of indemnity or otherwise, resulting from any acts, omissions, or events happening prior to the date the IMPROVEMENTS are removed and the right-of-way of LICENSOR restored as above provided.
9. In the case of eviction of LICENSEE by anyone owning or obtaining title to the right-of-way on which the IMPROVEMENTS are located, or the sale or abandonment by LICENSOR of said right-of-way, LICENSOR shall not be liable to LICENSEE for any damage of any nature whatsoever or refund any payment made by LICENSEE to LICENSOR hereunder, except the proportionate part of any recurring rental charge which may have been paid hereunder in advance.
10. All notices to be given hereunder shall be given in writing, by depositing same in the United States mail duly registered or certified, with postage prepaid, and addressed to the LICENSEE or LICENSOR as the case may be at the addresses shown on the signature page hereof, or addressed to such other address as the parties hereto may from time to time designate.
11. In the event that two or more parties execute this instrument as LICENSEE, all the covenants and agreements of LICENSEE in this license shall be the joint and several covenants and agreements of such parties.
12. All the covenants and provisions of this instrument shall be binding upon and inure to the benefit of the successors, legal representatives and assigns of the parties to the same extent and effect as the same are binding upon and inure to the benefit of the parties hereto, but no assignment hereof by LICENSEE, its successors, legal representatives or assigns, or any subsequent assignee, shall be binding upon LICENSOR without the written consent of LICENSOR in each instance.
13. Any work performed on LICENSOR'S right-of-way by LICENSEE or LICENSEE'S contractor shall be done in a satisfactory workmanlike manner and in accordance with plans and

specifications approved by LICENSOR, and no work shall be permitted until said plans and specifications have been approved by LICENSOR.

14. LICENSEE shall obtain a valid RIGHT OF ENTRY permit from LICENSOR as a part of this license prior to entering upon LICENSOR'S right-of-way at any time whether to install, inspect, maintain, or remove the IMPROVEMENTS and shall comply with the terms, conditions, and requirements of said permit, including the insurance requirements, as a part of this license.

THIS LICENSE DOES NOT GRANT UNLIMITED ACCESS TO LICENSOR'S RIGHT-OF-WAY. FAILURE TO OBTAIN AND COMPLY WITH THE REQUIREMENTS OF A VALID RIGHT-OF-WAY PERMIT WILL BE SUFFICIENT REASON FOR LICENSOR TO TERMINATE THIS LICENSE.

15. Any contractor or subcontractor performing work on or in connection with the IMPROVEMENTS shall for the purpose of this agreement, and particularly for the purposes of Section 6 of this instrument, be conclusively deemed to be the servant and agent of LICENSEE acting on behalf and within the scope of such contractor's or subcontractor's employment for LICENSEE.

IN WITNESS WHEREOF:

SAN DIEGO AND IMPERIAL VALLEY  
RAILWAY COMPANY

LICENSEE (Name and Address – please print)

\_\_\_\_\_  
President

\_\_\_\_\_  
Signature

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Phone: ()

Attachments: Exhibit A. Location Map

**EXHIBIT 'A'**  
**LEGAL DESCRIPTION**

**PEDESTRIAN AND NON-MOTOR VEHICULAR RIGHT-OF-WAY EASEMENT  
WEST OF MAIN STREET**

**PARCEL 'A'**

THAT PORTION OF THE SOUTH HALF OF THE NORTHEAST QUARTER OF SECTION 21, TOWNSHIP 18 SOUTH, RANGE 2 WEST, SAN BERNARDINO MERIDIAN, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO UNITED STATES GOVERNMENT SURVEY APPROVED FEBRUARY 25, 1870, LYING WITHIN A 16.00 FOOT WIDE STRIP OF LAND, THE CENTERLINE BEING DESCRIBED AS FOLLOWS: .

BEGINNING AT THE INTERSECTION OF THE NORTHERLY LINE OF SAID SOUTH HALF OF THE NORTHEAST QUARTER OF SECTION 21 AND THE WESTERLY RIGHT-OF-WAY LINE OF "PARCEL 1A (AMENDED)" AS DESCRIBED IN THE FINAL ORDER OF CONDEMNATION RECORDED OCTOBER 28, 1970 AS FILE NO. 197570, FROM WHICH THE NORTHWEST CORNER OF SAID SOUTH HALF OF THE NORTHEAST QUARTER BEARS NORTH 87°54'18" WEST 487.90 FEET;

THENCE ALONG SAID WESTERLY RIGHT-OF-WAY LINE SOUTH 20°09'19" WEST (RECORD SOUTH 20°08'52" WEST) 31.20 FEET TO THE **TRUE POINT OF BEGINNING**, SAID POINT ALSO THE BEGINNING OF A NON-TANGENT 150.00 FOOT RADIUS CURVE CONCAVE NORTHERLY, A RADIAL TO WHICH BEARS SOUTH 19°09'40"EAST;

THENCE LEAVING SAID WESTERLY RIGHT-OF-WAY LINE ALONG SAID CURVE 53.92 FEET THROUGH A CENTRAL ANGLE OF 20°35'42";

THENCE NORTH 88°33'58" WEST 394.87 FEET TO THE EASTERLY RIGHT-OF-WAY LINE OF SATURN BOULEVARD, 60 FEET WIDE, AS DEDICATED PER MAP NO. 1111 FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY JANUARY 11, 1908.

**EXHIBIT 'A'**  
**LEGAL DESCRIPTION**

**PEDESTRIAN AND NON-MOTOR VEHICULAR RIGHT-OF-WAY EASEMENT  
WEST OF MAIN STREET**

THE SIDELINES OF SAID 16.00 FOOT WIDE STRIP SHALL BE CONTINUED OR SHORTENED TO BEGIN AT THE SAID WESTERLY RIGHT-OF-WAY LINE OF "PARCEL 1A (AMENDED)" AND SHALL BE LENGTHENED OR SHORTENED TO END AT THE SAID EASTERLY RIGHT-OF-WAY LINE OF SATURN BOULEVARD.

CONTAINS APPROXIMATELY 7,181 SQ. FT (0.165 ACRE) MORE OR LESS.



MICHAEL JAMES KNAPTON

P.L.S.8012 EXPIRES 12/31/08

5/15/07

DATE



**2006 Regional Transportation Improvement Program  
Amendment No. 6  
San Diego Region (in \$000s)**

**San Diego, City of**

MPO ID: SD108 Capacity Status: NCI RTIP #: 06-06  
 TITLE: Bayshore Bikeway Exempt Category: Air Quality - Bicycle and pedestrian facilities  
 DESCRIPTION: Along the bayshore bikeway at the borders of Imperial Beach (13th Street) and Chula Vista (Main Street) - design/construct class I bike path (581400)  
 CHANGE REASON: Increase funding, Revise funding

	TOTAL	PRIOR	06/07	07/08	08/09	09/10	10/11	PE	RW	CON
PTA	\$90	\$90						\$90		
TransNet - B	\$772	\$54		\$718				\$329		\$443
TransNet - MC	\$3,774			\$3,774				\$1,284		\$2,490
<b>TOTAL</b>	<b>\$4,636</b>	<b>\$144</b>		<b>\$4,492</b>				<b>\$1,703</b>		<b>\$2,933</b>

**PROJECT PRIOR TO AMENDMENT**

	TOTAL	PRIOR	06/07	07/08	08/09	09/10	10/11	PE	RW	CON
CMAQ	\$310	\$310						\$310		
PTA	\$90	\$90						\$90		
RSTP	\$2,977			\$2,977				\$487	\$80	\$2,410
TransNet - B	\$439	\$54		\$385				\$54	\$10	\$375
<b>TOTAL</b>	<b>\$3,816</b>	<b>\$454</b>		<b>\$3,362</b>				<b>\$941</b>	<b>\$90</b>	<b>\$2,785</b>

MPO ID: SD11 Capacity Status: NCI RTIP #: 06-06  
 TITLE: Regents Road Bridge Exempt Category: Other - Engineering studies  
 DESCRIPTION: Bridge spanning the AT&SF railroad and a portion of the Rose Canyon floodplain connecting the existing Regents Rd on both sides of the canyon - future widening Regents Rd from 100' north of Lahitte Ct to Governor and from 100' north of Lahitte Ct to the south abutment of the bridge including four lane with sidewalks and class II bike lanes (CIP 53-044.0)  
 CHANGE REASON: Increase funding

	TOTAL	PRIOR	06/07	07/08	08/09	09/10	10/11	PE	RW	CON
Local Funds	\$38,236	\$4,413	\$800	\$18,896	\$14,127			\$38,236		
TransNet - L	\$108	\$108						\$108		
<b>TOTAL</b>	<b>\$38,344</b>	<b>\$4,521</b>	<b>\$800</b>	<b>\$18,896</b>	<b>\$14,127</b>			<b>\$38,344</b>		

**PROJECT PRIOR TO AMENDMENT**

	TOTAL	PRIOR	06/07	07/08	08/09	09/10	10/11	PE	RW	CON
Local Funds	\$30,685	\$5,213	\$800	\$23,678	\$994			\$29,885	\$800	
TransNet - L	\$900	\$108		\$792				\$900		
<b>TOTAL</b>	<b>\$31,585</b>	<b>\$5,321</b>	<b>\$800</b>	<b>\$24,470</b>	<b>\$994</b>			<b>\$30,785</b>	<b>\$800</b>	

**2006 Regional Transportation Improvement Program  
Amendment No. 6  
San Diego Region (in \$000s)**

**RTIP Fund Types**

AC	=	Advanced Construction
BIA	=	Bureau of Indian Affairs
BTA	=	Bicycle Transportation Account (State)
CBI	=	Corridors and Borders Infrastructure Program (Federal)
CMAQ	=	Congestion Mitigation and Air Quality (Federal)
DEMO	=	High Priority Demonstration Program under TEA-21 (Federal)
DEMO-Sec 115	=	High Priority Demonstration Program under FY 2004 Appropriations
DEMO-Sec 117/STP	=	Surface Transportation Program under FHWA Administrative Program (congressionally directed appropriations)
FSP	=	Freeway Service Patrol (State)
HBP	=	Highway Bridge Program under SAFETEA-LU (Federal)
HBRR	=	Highway Bridge Repair and Rehabilitation under TEA-21 (Federal)
HES/SRTS	=	Hazard Elimination System/Safet Routes to School (Federal)
HPP	=	High Priority Demonstration Program under SAFETEA-LU (Federal)
HSIP	=	Highway Safety Improvement Program (State)
IBRC	=	Innovative Bridge Research & Construction (Federal)
IM	=	Interstate Maintenance Discretionary (Federal)
IRR	=	Indian Reservation Roads program (Federal)
ITS	=	Intelligent Transportation System (Federal)
NCPD	=	National Corridor Planning & Development (Federal - part of CBI)
PLH	=	Public Lands Highway (Federal)
PTA	=	Public Transportation Account (State)
RSTP	=	Regional Surface Transportation Program (Federal)
RTP	=	Recreational Trails Program (Federal)
SHOPP AC	=	State Highway Operation & Protection Program federal share (for Caltrans use only)
SHOPP State Cash	=	State Highway Operation & Protection Program cash match (for Caltrans use only)
STIP-IIP	=	State Transportation Improvement Program - Interregional Program (State)
STIP-RIP	=	State Transportation Improvement Program - Regional Improvement Program (State)
Section 5307	=	Federal Transit Administration Urbanized Area Formula Program
Section 5309 (Bus)	=	Federal Transit Administration Discretionary Program
Section 5309 (FG)	=	Federal Transit Administration Fixed Guideway Modernization (Rail Mod)
Section 5309 (NS)	=	Federal Transit Administration Discretionary - New Starts Program
Section 5310	=	Federal Transit Administration Elderly & Disabled Program
Section 5311	=	Federal Transit Administration Rural Program
Section 5316 (JARC)	=	Federal Transit Administration Jobs Access Reverse Commute
Section 5317 (NF)	=	Federal Transit Administration New Freedom

**2006 Regional Transportation Improvement Program  
Amendment No. 6  
San Diego Region (in \$000s)**

TCRP	=	Traffic Congestion Relief Program (State)
TCSP	=	Transportation & Community & System Preservation (Federal)
TDA	=	Transportation Development Act (State)
TDA-B	=	Transportation Development Act-Bicycle & Pedestrian Facilities (State)
TEA	=	Transportation Enhancement Activities Program (Federal)
TSM	=	Transportation Systems Management (State)
TransNet-78	=	Prop. A Local Transportation Sales Tax - SR 78 (Local)
TransNet-H	=	Prop. A Local Transportation Sales Tax - Highway (Local)
TransNet-L	=	Prop. A Local Transportation Sales Tax - Local Streets & Roads (Local)
TransNet-LSI	=	Prop. A Extension Local Transportation Sales Tax -Local System Improvements (Local)
TransNet-MC	=	Prop. A Extension Local Transportation Sales Tax - Major Corridors (Local)
TransNet-REMP	=	Prop. A Extension Local Transportation Sales Tax - Regional Environmental Mitigation (Local)
TransNet-T	=	Prop. A Local Transportation Sales Tax - Transit (Local)
TransNet-TSI	=	Prop. A Extension Local Transportation Sales Tax - Transit System Improvements (Local)

**DEPARTMENT OF TRANSPORTATION**  
 DIVISION OF TRANSPORTATION PROGRAMMING  
 1120 N STREET  
 P. O. BOX 942873  
 SACRAMENTO, CA 94273-0001  
 PHONE (916) 654-5021  
 FAX (916) 654-2738  
 FFY: 711



*Flex your power!  
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July 25, 2007

Gene K. Fong  
 Division Administrator  
 Federal Highway Administration  
 650 Capitol Mall, Suite 4-100  
 Sacramento, CA 95814

Leslie T. Rogers  
 Regional Administrator  
 Federal Transit Administration  
 201 Mission Street, Suite 2210  
 San Francisco, CA 94105

Attention: Sue Kiser

Attention: Ray Sukys

Dear Ms. Kiser and Mr. Sukys:

With this letter, and pursuant to the authority delegated to me, I approve the following amendment of the San Diego Association of Governments' (SANDAG) 2006/07 - 2010/11 Federal Transportation Improvement Program (FTIP):

<u>No.</u>	<u>Description</u>
6	<p><b>State, Local, and Transit Elements</b></p> <ul style="list-style-type: none"> <li>Adds or modifies projects from various funding programs in San Diego County. The amendment includes projects with funding from the Regional Surface Transportation Program, State Transportation Improvement Program, High Priority Projects Program, High Risk Rural Roads Program, Highway Safety Improvement Program, Congestion Mitigation and Air Quality (CMAQ) Program, Proposition 1B – Transportation Bond Program, Safe Routes to School Program, Highway Bridge Program, and the Federal Transit Administration (FTA) 5307, 5309, 5311 and 5316 programs.</li> <li>Adds fourth year, Fiscal Year (FY) 2009/10, programming to SANDAG's FTIP in compliance with the requirements of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users.</li> </ul>

See enclosure.

I am also recommending that the Federal Highway Administration and FTA approve this FTIP Amendment No. 6 for inclusion into California's 2007 Federal Statewide Transportation Improvement Program (FSTIP). The updated financial summary also includes the financial information through FY 2010/11. Projects included in this FTIP, in fiscal years beyond the four-year cycle of the current FSTIP, are not approved as part of this FTIP amendment and are for information only. Please note that approval of this amendment does not constitute eligibility determination for projects in this amendment that are funded from CMAQ program.

Gene K. Fong / Leslie T. Rogers

July 25, 2007

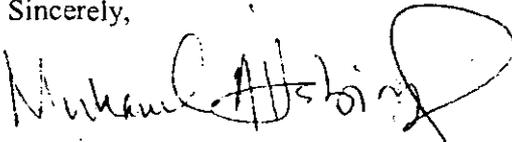
Page 2

The updated programming has been found by SANDAG to conform to applicable air quality regulations. Therefore, this FTIP amendment is consistent with the State Implementation Plan. The financial impacts of this amendment are compatible with anticipated revenues in the FSTIP Financial Plan and do not significantly affect the overall financial analysis.

In accordance with existing law, public involvement procedures are a part of the project selection process. SANDAG prepared this FTIP amendment under that process permitting citizens, affected local agencies, other public agencies, and other interested parties reasonable opportunity for comment.

Please address any questions on this FSTIP approval request to Abhijit Bagde, of my staff, at (916) 654-3638.

Sincerely,



*for* RACHEL FALSETTI  
Acting Chief  
Division of Transportation Programming

Enclosures

- c: Lisa Hanf - EPA Office of Air Planning (w/enclosure)
- Gary Gallegos - San Diego Association of Governments
- Sookyung Kim - San Diego Association of Governments
- Muhamed Aljabiry - Caltrans
- Abhijit Bagde - Caltrans



**U.S. DEPARTMENT OF TRANSPORTATION**  
FEDERAL HIGHWAY ADMINISTRATION  
CALIFORNIA DIVISION  
650 Capitol Mall, Suite 4-100  
Sacramento, CA. 95814  
August 22, 2007

IN REPLY REFER TO  
**HDA-CA**  
Document #: S50925

Mr. Will Kempton, Director  
California Department of Transportation  
1120 N Street  
Sacramento, CA 95814

Attention: Federal Resources Office, M.S. 82  
For Rachel Falsetti, Division of Transportation Programming

Dear Mr. Kempton:

SUBJECT: SANDAG 2006 RTIP/FSTIP AMENDMENT NO. 6

We have completed our review of Amendment No. 6 to the San Diego Association of Governments (SANDAG) 2006 Regional Transportation Improvement Program (RTIP) that was submitted by your letter dated July 25, 2007. The SANDAG Board of Directors adopted Resolution No. 2008-01 on July 20, 2007, approving this RTIP modification and reaffirming the conformity of the transportation improvement program with the State Implementation Plan (SIP) for air quality. As detailed in the enclosure to your letter, this SANDAG RTIP amendment proposes to add 44 new project listings, delete 4 project listings, and modify 80 project listings in California's 2006/07-2009/10 Federal Statewide Transportation Improvement Program (FSTIP). Based on our review of the RTIP financial constraint documentation that was submitted with this amendment, we have determined that the amended RTIP is financially constrained as required by the Federal surface transportation programs authorizing legislation and statewide and metropolitan planning and programming regulations.

We find that the SANDAG 2006 RTIP, including Amendment No. 6, was developed through a continuing, cooperative and comprehensive transportation planning process in accord with the metropolitan transportation planning provisions of 23 U.S.C. §134 and 49 U.S.C. Chapter 53 as amended by Section 6001 of Public Law 109-59, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU). The addition of this fourth year of programming revises the SANDAG MPO 2006/07 – 2008/09 RTIP into the 2006/07 – 2009/10 RTIP. This approval does not constitute a compliance finding with the remainder of the SAFETEA-LU provisions, but constitutes approval and inclusion of the SANDAG MPO RTIP Amendment No. 6 into California's 2006/07 – 2009/10 FSTIP. Based upon FHWA's understanding that a gap closure analysis has been completed, SANDAG will be able to continue to amend the 2006/07 – 2009/10 RTIP beyond the SAFETEA-LU implementation deadline of July 1, 2007.

**MOVING THE**  
**AMERICAN**  
**ECONOMY**

A handwritten signature in black ink, appearing to be a stylized 'Z' or similar character, written over the slogan.

We have determined that the adopted modifications to the SANDAG RTIP that are proposed for inclusion in California's 2006 Federal Statewide Transportation Improvement Program (FSTIP) by this amendment are associated with projects or project phases that are exempt from the requirement to determine conformity pursuant to 40 CFR §93.126 or §93.127, and as a consequence, this amendment is not subject to the regional emissions analysis and conformity determination requirements of the U.S. Environmental Protection Agency's (EPA's) Transportation Conformity Rule as amended. Our transportation planning and air quality conformity findings have been coordinated with the regional offices of the U.S. EPA and Federal Transit Administration (FTA). We are approving this amendment to the 2006 FSTIP for the SANDAG region in accord with the *July 15, 2004, Memorandum of Understanding between the FHWA, California Division and the FTA, Region IX*.

If you have questions or need additional information concerning our FSTIP approval for this SANDAG RTIP amendment, please contact Wade Hobbs of the FHWA California Division office at (916) 498-5027, or by email at [wade.hobbs@fhwa.dot.gov](mailto:wade.hobbs@fhwa.dot.gov).

Sincerely,

*/s/ Leslie T. Rogers*

Leslie T. Rogers  
Regional Administrator  
Federal Transit Administration

*/s/ K. Sue Kiser*

For  
Gene K. Fong  
Division Administrator  
Federal Highway Administration

cc: (e-mail)

Randy Steen, Caltrans, Federal Resources

Abhijit Bagde, Caltrans, Transportation Programming

Sookyung Kim, SANDAG

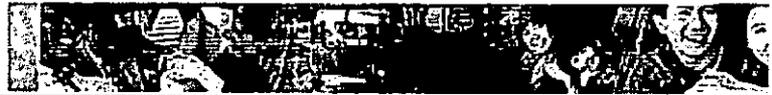
John Kelly, EPA Region IX ([kelly.johnj@epa.gov](mailto:kelly.johnj@epa.gov))

Hymie Luden, FTA Region IX

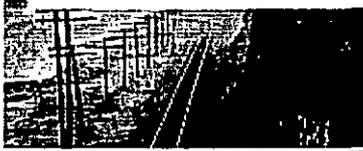
cc:

SANDAG 2006 FTIP Binder

WEH/ac



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## Transportation Comprehensive Transportation Projects

### 2006 Regional Transportation Improvement Program

SANDAG, as the Metropolitan Planning Organization (MPO) and the Regional Transportation Planning Agency (RTPA), is required by state and federal laws to develop and adopt a Regional Transportation Improvement Program (RTIP) every two years. The RTIP is a \$6 billion multi-year program of proposed major highway, arterial, transit, and bikeway projects including the *TransNet* Program of Projects. The 2006 RTIP covers Fiscal Years 2007 through 2011 and incrementally develops the Regional Transportation Plan, the long-range transportation plan for the San Diego region.

At the August 4, 2006, meeting the Board of Directors adopted the **Final 2006 RTIP**. SANDAG received **federal approval** on October 2, 2006.

### Federal Air Quality Conformity Requirements

Federal regulations also require SANDAG to conduct an air quality conformity analysis of all regionally significant projects that increase the transportation system capacity. All regionally significant capacity increasing transportation projects regardless of funding sources must be included in the RTIP. The San Diego region was re-designated to attainment for the federal one-hour ozone standard (June 26, 2003 Federal Register). The 2006 RTIP includes the transportation conformity for both the 2006 RTIP and a re-determination for the 2030 RTP: 2006 Update. SANDAG received federal approval for conformity on October 2, 2006.

### ProjectTrak

SANDAG implemented an online database system for the RTIP and for *TransNet* cash drawdown requests. ProjectTrak is designed to streamline project programming as well as *TransNet* payment processes. The link to ProjectTrak and its User Manual is available below under Links.

### TransNet Extension Street and Road Guidelines

Beginning with FY 2009, agencies submitting projects using *TransNet* Local System Improvement funds are required to program at minimum 70 percent of the revenues toward Congestion Relief projects and no more than 30 percent toward maintenance projects. At its June 23, 2006, meeting, the SANDAG Board approved the final **guidelines**.

### Annual Listing of Obligated Projects - FY 2006

Federal law requires SANDAG to publish an **annual listing of projects**, including investments in pedestrian walkways and bicycle transportation facilities, for which federal funds have been obligated in the preceding year. This **report** includes the listing of all federally funded transportation projects in the SANDAG region that were obligated during the federal fiscal year 2006 (October 1, 2005 to September 30, 2006).

Obligation refers to the federal government's commitment to pay or reimburse the lead agency for the federal share of a project's cost. Obligation does not indicate expenditure or project completion; only that the project has been approved for federal reimbursement.

#### PROGRAMS

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## 2006 RTIP Amendments

Refer to the 2006 RTIP for requirements and types of amendments. Amendments are scheduled on a quarterly basis and scheduled for the Transportation Committee meetings held in the months of October, January, April, and July. **Agencies are required to have project amendments approved by its governing body before SANDAG takes action.** The due dates are final; no late submittals will be accepted. If SANDAG does not have the proper documentation that the projects were approved by its governing body, including a **signed resolution**, the project(s) will NOT be included in the amendment. Please refer to the updated **amendment schedule** for more information.

### Amendment No. 1: October 27, 2006

Type: Formal  
State Approval Date: **November 9, 2006**  
Federal Approval Date: **December 1, 2006**

### Amendment No. 2: January 19, 2007

Type: Formal  
State Approval Date: **February 8, 2007**  
Federal Approval Date: **March 2, 2007**

### Amendment No. 3: March 23, 2007

Type: Formal  
State Approval Date: **April 17, 2007**  
Federal Approval Date: **May 3, 2007**

### Amendment No. 4: April 20, 2007

Type: Formal  
State Approval Date: **April 27, 2007**  
Federal Approval Date: **May 9, 2007**

### Amendment No. 5: May 4, 2007

Type: Formal  
State Approval Date: **May 14, 2007**  
Federal Approval Date: **June 5, 2007**

### Amendment No. 6: July 20, 2007

Type: Formal  
State Approval Date: **July 25, 2007**  
Federal Approval Date: **August 22, 2007**

## Project Manager

Sookyung Kim, Financial Programming Manager  
Phone: (619) 699-6909, E-mail: [ski@sandag.org](mailto:ski@sandag.org)

## Downloads:

- 2006 RTIP List of Projects as of Amendment No. 6 [PDF, 290 KB]
- *TransNet* Revenue Forecast for Local Street and Road Program [PDF, 34 KB]
- Projects Exempt from Air Quality Conformity [PDF, 38 KB]
- SAFETEA-LU List of High Priority Projects in San Diego [PDF, 38 KB]
- Memo to Local Agencies [PDF, 483 KB]
- 2006 RTIP Workshop Presentation [PDF, 439 KB]
- Amended *TransNet* Policy [PDF, 129 KB]
- *TransNet* Revenue Forecasts FY 2007 - 2011 - Street and Road Program [PDF, 33 KB]

## Related Resources

### Links

- [ProjectTrak](#)

- **ProjectTrak Manual**

**Projects**

- ***TransNet Keeps San Diego Moving***

**Publications**

- ***TransNet Extension and Ordinance Plan*** [PDF: 3MB]
- ***Annual List of Federally Obligated Projects - FY 2006*** [PDF: 113KB]
- ***Fact Sheet - Regional Transportation Improvement Program*** [PDF: 507KB]
- ***Regional Transportation Improvement Program - 2006*** [PDF: 5MB]

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SANDAG, 401 B Street, Suite 800, San Diego, CA 92101  
ph: (619) 699-1900, fax: (619) 699-1905, [webmaster@sandag.org](mailto:webmaster@sandag.org)

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5500  
9/18  
N/A

# REQUEST FOR COUNCIL ACTION

CITY OF SAN DIEGO

1. CERTIFICATE NUMBER (FOR AUDITOR'S USE)  
N/A

TO: CITY ATTORNEY  
FROM (ORIGINATING DEPARTMENT): Patricia Grabski/DSD & Frank Gaines/ECP  
DATE: July 30, 2007

SUBJECT: Actions Related to the Construction of the Bayshore Bikeway

PRIMARY CONTACT (NAME, PHONE, & MAIL STA.): Patricia Grabski, 446-5277, MS 302  
SECONDARY CONTACT (NAME, PHONE, & MAIL STA.): Frank Gaines, 533-3771, MS 611  
CHECK BOX IF REPORT TO COUNCIL IS ATTACHED:

### 8. COMPLETE FOR ACCOUNTING PURPOSES

FUND		30301			9. ADDITIONAL INFORMATION / ESTIMATED COST:
DEPT.					The Site Development Permit is paid through a deposit account from ECP.
ORGANIZATION					The construction contract is \$3,077,863.17.
OBJECT ACCOUNT	9544	9544			Previously authorized: \$1,016,775.13
JOB ORDER	581400	581400			This request: \$3,642,000.00
C.I.P. NUMBER					Total CIP costs: \$4,658,775.13
AMOUNT	\$3,774,000	\$718,000			

### 10. ROUTING AND APPROVALS

ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED	ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED
1	ORIG. DEPT	MARCELA ESCOBAR FOR (DSD)	8/15/07	9	DEPUTY CHIEF (DSD)	Bees Murray	8/15/07
2	ORIG. DEPT	PATT BOEKAMP (ECP)	8/15/07	10	DEPUTY CHIEF (ECP)	R. F. Kean	9-6-07
3	EAS	Myra Hernandez	8/15/07	11	CITY ATTORNEY		
4	EOCP	V. Amore Ferris	8/27/07	12	ORIG. DEPT (DSD)		8/15/07
5	COUNCIL LIASION OFFICE		9/4/07	13	ORIG. DEPT (ECP)		
6	CIP/FM	Clayton Lott	9/5/07	DOCKET COORD: [Signature] COUNCIL LIAISON [Signature]			
7	AUDITOR	[Signature]	9/5/07	COUNCIL PRESIDENT [Signature] <input type="checkbox"/> SPOB <input type="checkbox"/> CONSENT <input checked="" type="checkbox"/> ADOPTION			
8	REAL ESTATE ASSETS			REFER TO: _____ COUNCIL DATE: 9/13/07			

11. PREPARATION OF:  RESOLUTIONS  ORDINANCE(S)  AGREEMENT(S)  DEED(S)

1. Resolution certifying that the information contained in Project No. 1901 has been completed in compliance with the California Environmental Quality Act (CEQA) and State 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 prior to approving the project; certifying the Final EIR; adopting the Final EIR; adopting the Findings and Statement of Overriding Considerations; and adopting the Mitigation, Monitoring, and Reporting Program.

(OVER)

11A. STAFF RECOMMENDATIONS:  
Approve the resolutions and the easement deed in item 11.

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

**COUNCIL DISTRICT:** 8  
**COMMUNITY AREA:** Otay Mesa-Nestor  
**ENVIRONMENTAL IMPACT:** The City of San Diego as Lead Agency under CEQA has prepared and completed an EIR, Project No. 1901, dated August 8, 2007, Mitigation, Monitoring, and Reporting Program covering this activity.  
**HOUSING IMPACT:** None with this action.  
**INSTRUCTIONS TO THE CITY CLERK:** A ten (10) day public notice is required in a newspaper and to property owners and tenants within 300 feet of the project. Return two copies of the completed resolutions to Frank Gaines, MS 611 and to Patricia Grabski, MS 302.

2. Resolution approving Site Development Permit No. 3276.
3. Resolution authorizing the Auditor and Comptroller to establish a new fund to receive SANDAG Transnet Major Corridor (MC) funds.
4. Resolution authorizing the Mayor, or his representative, to accept \$3,774,000 in SANDAG MC Transnet funds to fully fund CIP 58-140.0, Bayshore Bikeway
5. Resolution authorizing Mayor or his representative to accept \$718,000 of Transnet Bikeway funds (Fund 30301)
6. Resolution authorizing the deappropriation and return of previously received Federal and State funds (Fund 38683, not to exceed \$850,000) in CIP 58-140.0, Bayshore Bikeway, to the appropriate agencies.
7. Resolution authorizing the Auditor and Comptroller to return excess budgeted funds, if any, to the appropriate reserves.
8. Resolution authorizing the increase in the FY 2008 budget of CIP 58-140.0, Bayshore Bikeway of \$3,642,000
9. Resolution authorizing the Auditor and Comptroller to appropriate and expend up to \$4,492,000 (\$3,774,000 in SANDAG Transnet Major Corridor (MC) funds and \$718,000 of Transnet Bikeway, Fund 30301), for purposes of designing and constructing the Bayshore Bikeway, CIP 58-140.0, *contingent upon Auditor's first certifying funds will be on deposit with the City Treasurer*
10. Resolution authorizing the Mayor, or his representative, to accept an easement deed from M&A Gabae, CLP, for that portion of the bikeway not owned by MTS/SD&AE.
11. Resolution authorizing the Mayor, or his representative, to enter into a license agreement for the use of the MTS/SD&AE right-of-way for purposes of constructing and operating the Bayshore Bikeway.
12. Resolution authorizing the Mayor, or his representative, to enter into a Construction Contract (BID No. K093903C) with the lowest responsible and reliable bidder contingent upon receipt of all permits *and Auditor's first certifying that funds are or will be on deposit with the City Treasurer*

**REQUEST FOR COUNCIL ACTION**  
CITY OF SAN DIEGO

1. CERTIFICATE NUMBER  
(FOR AUDITOR'S USE ONLY)  
*N/A*

TO: CITY ATTORNEY  
2. FROM (ORIGINATING DEPARTMENT): Patricia Grabski/DSD & Frank Gaines/ECP  
3. DATE: July 30, 2007

4. SUBJECT: Actions Related to the Construction of the Bayshore Bikeway  
5. PRIMARY CONTACT (NAME, PHONE, & MAIL STA.): Patricia Grabski, 446-5277, MS 302  
6. SECONDARY CONTACT (NAME, PHONE, & MAIL STA.): Frank Gaines, 533-3771, MS 611  
7. CHECK BOX IF REPORT TO COUNCIL IS ATTACHED

**8. COMPLETE FOR ACCOUNTING PURPOSES**

FUND		30301			9. ADDITIONAL INFORMATION / ESTIMATED COST:
DEPT.					The Site Development Permit is paid through a deposit account from ECP.
ORGANIZATION					The construction contract is \$3,077,863.17.
OBJECT ACCOUNT	9544	9544			Previously authorized: \$1,016,775.13
JOB ORDER	581400	581400			This request: <u>\$3,642,000.00</u>
C.I.P. NUMBER					Total CIP costs: <u>\$4,658,775.13</u>
AMOUNT	\$3,774,000	\$718,000			

**10. ROUTING AND APPROVALS**

ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED	ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED
1	ORIG. DEPT	MARCELA ESCOBAR FOR (DSD)	8/15/07	9	DEPUTY CHIEF (DSD)	Bees Murray	8/15/07
2	ORIG. DEPT	PATTI BOEKAMP FOR (ECP)	9/15/07	10	DEPUTY CHIEF (ECP)	R. Khan	9-6-07
3	EAS	MYRA FERRELL	8/15/07	11	CITY ATTORNEY	H. C. Ok	9.6.07
4	EOCP	Patricia Grabski	8/27/07	12	ORIG. DEPT (DSD)		8/15/07
5	COUNCIL LIASION OFFICE		9/4/07	13	ORIG. DEPT (ECP)	Frank Gaines	9/6/07
6	CIP/FM	Clayton Hottel	9/5/07	DOCKET COORD: <u>[Signature]</u> COUNCIL LIAISON <u>[Signature]</u>			
7	AUDITOR	[Signature]	9/5/07	COUNCIL PRESIDENT <input type="checkbox"/> SPOB <input type="checkbox"/> CONSENT <input type="checkbox"/> ADOPTION <input type="checkbox"/>			
8	REAL ESTATE ASSETS	SEE ATTACHMENT		REFER TO: _____ COUNCIL DATE: _____			

11. PREPARATION OF:  RESOLUTIONS  ORDINANCE(S)  AGREEMENT(S)  DEED(S)

1. Resolution certifying that the information contained in Project No. 1901 has been completed in compliance with the California Environmental Quality Act (CEQA) and State 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 prior to approving the project; certifying the Final EIR; adopting the Final EIR; adopting the Findings and Statement of Overriding Considerations; and adopting the Mitigation, Monitoring, and Reporting Program.

(OVER)

11A. STAFF RECOMMENDATIONS:  
Approve the resolutions and the easement deed in item 11.

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

COUNCIL DISTRICT: 8  
COMMUNITY AREA: Otay Mesa-Nestor  
ENVIRONMENTAL IMPACT: The City of San Diego as Lead Agency under CEQA has prepared and completed an EIR, Project No. 1901, dated August 8, 2007, Mitigation, Monitoring, and Reporting Program covering this activity.  
HOUSING IMPACT: None with this action.  
INSTRUCTIONS TO THE CITY CLERK: A ten (10) day public notice is required in a newspaper and to property owners and tenants within 300 feet of the project. Return two copies of the completed resolutions to Frank Gaines, MS 611 and to Patricia Grabski, MS 302.

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Recording Requested by:  
City Real Estate Assets Dept.  
After recording mail to:

**Real Estate Assets Dept.  
City of San Diego  
Mail Station 51A**

621	020	06	PTN
622	120	23	PTN

SPACE ABOVE THIS LINE FOR RECORDER'S USE  
NO DOCUMENTARY TAX DUE - R & T 11922 (amended)  
Presented for record by the CITY OF SAN DIEGO

**EASEMENT DEED**

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

**M & A GABEE, A CALIFORNIA LIMITED PARTNERSHIP**

HEREBY GRANT(S) To The City of San Diego, a municipal corporation, in the County of San Diego, State of California, a permanent easement and right-of-way **for pedestrian and non-motor vehicular purposes** and incidents and appurtenances thereto, over, under, upon, along and across all that real property situated in the City of San Diego, County of San Diego, State of California, described as follows:

See Exhibit "A" attached hereto and as shown on Exhibit "B" attached hereto for illustration purposes.

This is to certify that the interest in the real property conveyed by this instrument to the City of San Diego, a municipal corporation, is hereby accepted the undersigned officer on behalf of the City of San Diego pursuant to authority conferred by Resolution No. 250320, adopted by the Council of the City of San Diego on October 1, 1979, and the grantee consents to recordation thereof by its duly authorized officer.

M&A GABEE, A CALIFORNIA LIMITED PARTNERSHIP  
By: ~~Sancam, Inc., Its General Partner~~

By: \_\_\_\_\_

Arman Gabay, Its Vice-President

Print Name and Title

Dated 8/28/07 By \_\_\_\_\_

**NOTICE OF DETERMINATION**

TO: X Recorder/County Clerk  
P.O. Box 1750, MS A33  
1600 Pacific Hwy, Room 260  
San Diego, CA 92101-2422

FROM: City of San Diego  
Development Services Department  
1222 First Avenue, MS 501  
San Diego, CA 92101

X Office of Planning and Research  
1400 Tenth Street, Room 121  
Sacramento, CA 95814

Project Title: **BAYSHORE BIKEWAY** Project Number: 1901 State Clearinghouse Number: 2002121129

Applicant: CITY OF SAN DIEGO, ENGINEERING AND CAPITAL PROJECTS DEPARTMENT – 1010 SECOND AVENUE, SUITE 1100, MS 611 SAN DIEGO, CA 92101 CONTACT: FRANK GAINES, 619-533-3771.

Project Location: The proposed project is located in the northern portion of the Otay Mesa-Nestor Community Plan area, west of Interstate 5, and is bordered by the City of Imperial Beach to the west and south, and the City of Chula Vista to the north, in the Otay Mesa-Nestor Community, in the City and County of San Diego.

Project Description: CITY COUNCIL APPROVAL, SITE DEVELOPMENT PERMIT (SDP) and PEDESTRIAN AND NON-MOTOR VEHICULAR RIGHT-OF-WAY EASEMENT to allow for the construction of a 1.8-mile Class I bikepath located along the Otay River Berm and the Main Street Dike and the relocation of an existing haul road utilized by South Bay Salt Works. The bikepath would be a segment of the 24-mile Bayshore Bikeway, and would connect to an existing segment at 13<sup>th</sup> Street (City of Imperial Beach) on the west and Main Street (City of San Diego) on the east. The bikepath would be located primarily within the Metropolitan Transit System (MTS) railroad right-of-way. The bikepath would be 12 feet wide, including an 8-foot wide paved asphalt path with 2-foot wide paved porous concrete shoulders on each side of the bikepath. A chain link fence up to seven (7) feet high would be erected on both sides of the bike path along the entire alignment. An additional one-foot of fill material would be placed on each side of the path, between the proposed porous concrete shoulders and the fence. The bikepath is proposed to cross the Otay River in two locations. The proposed project would include the placement of two steel truss bridges above the existing, unserviceable wooden trestle bridges that currently cross the Otay River at these locations. The existing wooden trestle bridges, as well as existing railroad rails and ties, are part of the locally-designated historic Coronado Railroad Belt Line (CBL) Historic Resource Board (HRB) Number: 640.

This is to advise that the City of San Diego City Council on \_\_\_\_\_ approved the above described project and made the following determinations:

1. The project in its approved form X will, \_\_\_ will not, have a significant effect on the environment.
2. X An Environmental Impact Report was prepared for this project and certified pursuant to the provisions of CEQA.
3. Mitigation measures X were, \_\_\_ were not, made a condition of the approval of the project.
4. (EIR only) Findings X were, \_\_\_ were not, made pursuant to CEQA Guidelines Section 15091.
5. (EIR only) A Statement of Overriding Considerations X was, \_\_\_ was not, adopted for this project.

Record of project approval may be examined at the address above.

It is hereby certified that the final environmental report, including comments and responses, is available to the general public at the office of the Land Development Review Division, Fifth Floor, Development Services Center, 1222 First Avenue, San Diego, CA 92101.

Analyst: FORBURGER

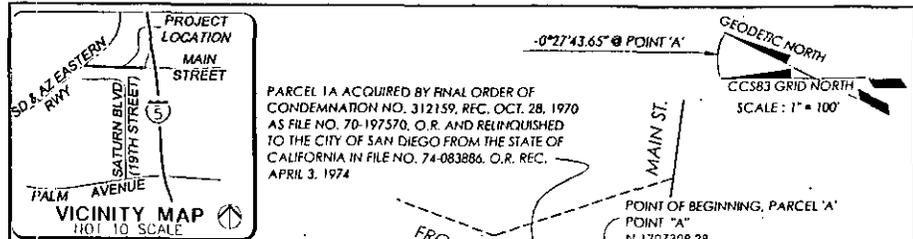
Telephone: (619) 533-6301

Filed by: \_\_\_\_\_

Signature

Title

Reference: California Public Resources Code, Sections 21108 and 21152.



PARCEL 1A ACQUIRED BY FINAL ORDER OF CONDEMNATION NO. 312159, REC. OCT. 28, 1970 AS FILE NO. 70-197570, O.R. AND RELINQUISHED TO THE CITY OF SAN DIEGO FROM THE STATE OF CALIFORNIA IN FILE NO. 74-083886, O.R. REC. APRIL 3, 1974

**BASIS OF BEARINGS**

THE BASIS OF BEARINGS FOR THIS DRAWING IS THE CALIFORNIA COORDINATE SYSTEM, C.C.S.83, ZONE 6, EPOCH 1991.35 AND IS DETERMINED BY G.P.S. MEASUREMENTS TAKEN ON JUNE 2, 2003 AT POINTS 'A' & 'B' AS SHOWN HEREON. POINTS 'A' & 'B' WERE ESTABLISHED FROM G.P.S. STATION 1371 AND G.P.S. STATION 185 PER RECORD OF SURVEY 14492. THE BEARING FROM POINT 'A' TO POINT 'B' IS NORTH 87°54'18" WEST.

THE COMBINED GRID FACTOR AT POINT 'A' IS 1.0000362  
 GRID DISTANCE = GROUND DISTANCE X COMBINED SCALE FACTOR  
 ELEVATION AT POINT 'A' IS 10.1 FT.

**LEGEND**

INDICATES PEDESTRIAN AND NON-MOTOR VEHICLE RIGHT-OF-WAY EASEMENT ACQUIRED  
 PARCEL 'A' AREA: 0.165 ACRES (7,181 SQ. FT.)  
 PARCEL 'B' AREA: 0.299 ACRES (13,034 SQ. FT.)  
 T.P.O.B.: TRUE POINT OF BEGINNING  
 P.O.B.: POINT OF BEGINNING

**REFERENCES**

MAP NO. 635, MAP NO. 1111

**EASEMENT NOTES**

- AN EASEMENT GRANTED TO SAN DIEGO GAS AND ELECTRIC CO. REC. APRIL 19, 1951 IN BOOK 4062, PAGE 447, O.R.
  - AN EASEMENT GRANTED TO SAN DIEGO GAS AND ELECTRIC CO. REC. APRIL 20, 1951 IN BOOK 4065, PAGE 35, O.R.
- AN UNPLOITABLE EASEMENT GRANTED TO SAN DIEGO GAS AND ELECTRIC CO. REC. JAN. 18, 1937 IN BOOK 6423, PAGE 431, O.R.



LINE TABLE		
LINE	LENGTH	BEARING
L7	45.89'	N88°33'58"W

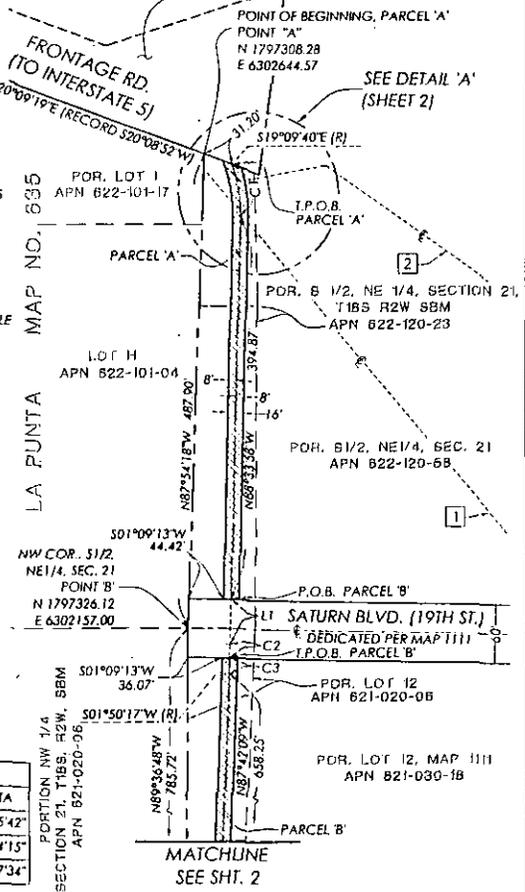
CURVE TABLE			
CURVE	LENGTH	RADIUS	DELTA
C1	53.92'	150.00'	20°35'42"
C2	14.11'	2000.00'	00°24'15"
C3	16.04'	2000.00'	00°27'34"

PROJECT 095240002

**Kimley-Horn and Associates, Inc.**  
 Engineering, Planning and Environmental Consultants  
 517 La Jolla Village Drive, Suite 201, San Diego, California 92161  
 Tel: (619) 594-9111 Fax: (619) 594-9113  
 Email: knapton@kimley-horn.com  
 MICHAEL J. KNAPTON, P.L.S. 8012  
 DATE: 8/15/07

**PEDESTRIAN AND NON-MOTOR VEHICULAR RIGHT-OF-WAY EASEMENT WEST OF MAIN STREET**

DESCRIPTION	BY	APPR'VD	DATE	FILMED	CITY OF SAN DIEGO, CALIFORNIA SHEET 1 OF 2 SHEETS	P.I.S. 1901 JO NO. 58-1400
					FOR CITY ENGINEER	6299-1796 NAD 83 COORDINATES
						156-1739 LAMBERT COORDINATES
					STATUS	20750-1-B





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

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

WHEREAS, SD&AE Railroad and M&A Gabae, CLP, Owners, and the City of San Diego, Engineering and Capital Projects Department, Transportation Design Division, Permittee, submitted an application to the City of San Diego for a site development permit and easement deed for the Bayshore Bikeway project; and

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

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

WHEREAS, the issue was heard by the City Council on \_\_\_\_\_; and

WHEREAS, the City Council considered the issues discussed in Environmental Impact Report No. 1901; NOW, THEREFORE,

BE IT RESOLVED, by the City Council, that it is certified that Final Environmental Impact Report No. 1901, 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 said report, together with any comments received during the public review process, has been reviewed and considered by this City Council in connection with the approval of a site development permit and easement deed for the Bayshore Bikeway project.

BE IT FURTHER RESOLVED, that pursuant to California Public Resources Code section 21081 and California Code of Regulations section 15091, the City Council adopts the findings made with respect to the project, a copy of which is on file in the office of the City Clerk and incorporated herein by reference.

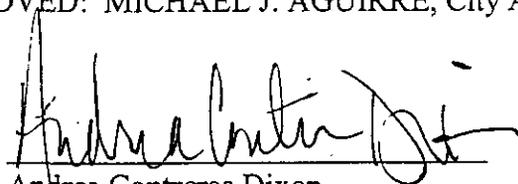
BE IT FURTHER RESOLVED, that pursuant to California Code of Regulations section 15093, the City Council adopts the Statement of Overriding Considerations, a copy of which is on file in the office of the City Clerk and incorporated herein by reference, with respect to the project.

BE IT FURTHER RESOLVED, that pursuant to California Public Resources Code section 21081.6, the City 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 Exhibit A, and incorporated herein by reference.

BE IT FURTHER RESOLVED, that the City Clerk is directed to file a Notice of Determination [NOD] 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



Andrea Contreras Dixon  
Deputy City Attorney

ACD:pev  
08/22/07  
Or.Dept:DSD  
R-200-137  
MMS #5210

## MITIGATION MONITORING AND REPORTING PROGRAM

## BAYSHORE BIKEWAY – WESTERN SALT SEGMENT

## PROJECT NO. 1901

This Mitigation Monitoring and Reporting Program is designed to ensure compliance with Public Resources Code Section 21081.6 during implementation of mitigation measures. This program identifies at a minimum: the department responsible for the monitoring, what is to be monitored, how the monitoring shall be accomplished, the monitoring and reporting schedule, and completion requirements. A record of the Mitigation Monitoring and Reporting Program will be maintained at the offices of the Land Development Review Division, 1222 First Avenue, Fifth Floor, San Diego, CA, 92101. All mitigation measures contained in the Environmental Impact Report (Project No. 1901) shall be made conditions of the project as may be further described below.

**A. Land Use**

**IMPACT:** The proposed project would cover the railroad rails and bridges, which would cause the physical alteration of the existing visual components of the Coronado Belt Line (CBL), a designated local historic resource. The rails would be capped with dirt and the trestle bridges would be "covered" by steel truss bridges. The aesthetic and physical alterations would cause the proposed project to only partially meet the intent of the City's Historical Resources Regulations. Thus, the proposed project would be inconsistent with the City's Historical Resources Regulations. Project design features have been incorporated into the project to minimize the impact. Additionally, Mitigation Measures H2, H3, and H4 (see Section C, below) would reduce the conflict with the City's Historical Resources Regulations to the extent feasible; however, the impact is considered to remain significant and unmitigable.

**IMPACT:** The proposed project is located entirely within the MHPA, within an existing transportation corridor, and is therefore subject to the MHPA Adjacency Guidelines. The project's potential conflict with these guidelines is considered a significant impact. Mitigation Measure LU1, as provided below, would ensure the proposed project would be consistent with the MHPA Adjacency Guidelines. Mitigation Measure LU1 would reduce the significant impact to below a level of significance.

**Mitigation Measure LU1**

The project shall comply with the applicable MSCP Subarea Plan land use adjacency guidelines to ensure minimal impacts to the MHPA. Specifically, the project shall comply with the following measures regarding Drainage, Toxics, Lighting, Noise, Barriers, Invasives, and Grading/Land Development.

Drainage. All new and proposed parking lots and developed areas in and adjacent to the preserve must not drain directly into the MHPA. All developed and paved areas must prevent the release of toxins, chemicals, petroleum products, exotic plant materials, and other elements that might degrade or harm the natural environment or ecosystem processes within the MHPA.

Toxics. Land uses, such as recreation and agriculture, that use chemicals or generate by-products such as manure, that are potentially toxic or impactful to wildlife, sensitive species, habitat, or water quality need to incorporate measures to reduce impacts caused by the application and/or drainage of such materials into the MHPA.

Lighting. Lighting of all developed areas adjacent to the MHPA should be directed away from the MHPA. Where necessary, development should provide adequate shielding with non-invasive plant materials (preferably native), berming, and/or other methods to protect the MHPA and sensitive species from night lighting.

Noise. Uses in or adjacent to the MHPA should be designed to minimize noise impacts. Berms or walls should be constructed adjacent to commercial areas, recreational areas, and any other use that may introduce noises that could impact or interfere with wildlife utilization of the MHPA.

Barriers. New development adjacent to the MHPA may be required to provide barriers (e.g. non-invasive vegetation, rocks/boulders, fences, walls, and/or signage) along the MHPA boundaries to direct public access to appropriate locations and reduce domestic animal predation.

Invasives. No invasive non-native plant species shall be introduced into areas adjacent to the MHPA.

Grading/Land Development. Manufactured slopes associated with site development shall be included within the development footprint for projects within or adjacent to the MHPA.

**Method of Verification:** ADD shall verify that all the MSCP Subarea Plan land use adjacency guidelines are incorporated into the design documents.

**Timing of Verification:** During project design and implementation.

**Responsible Person:** ADD of LDR

## **B. Biological Resources**

**IMPACT:** The proposed project has the potential to result in the following impacts:

- Temporary, indirect construction noise impacts resulting in the disturbance of nesting bird species during construction of the bike path on top of the Main Street Dike and within Area 4.
- Direct, permanent impact to approximately 1.35 acres of disturbed coastal sage scrub as a result in construction in Area 4.
- Permanent, indirect impacts to Belding's Savannah sparrow as the result of abandonment of the narrow strip of marsh adjacent to the proposed bike path.
- Temporary impacts to approximately 0.02 acre of coastal salt marsh habitat, 0.01 acre of disturbed Diegan Coastal sage scrub, 0.003 acre of salt panne, and 0.027 acre of ruderal habitat as the result of 10-foot wide plywood access paths needed for construction of the steel truss bridges.

- No burrowing owls have been detected on the project site; however, suitable habitat exists in the project area.

Mitigation measures provided below will reduce the significant impact to below a level of significance.

**Mitigation Measures A1, A2, A3, and B1-B19**

Prior to the commencement of any construction related activity (including earthwork) on-site for PTS 1901, the City of San Diego shall make arrangements to schedule a pre-construction meeting to ensure implementation of the MMRP. The meeting shall include the City Field Resident Engineer (RE), the monitoring biologist, a USFWS Refuge Representative (i.e., Refuge Manager), and staff from the City's Mitigation Monitoring and Coordination (MMC) Section.

Prior to the preconstruction meeting, the Assistant Deputy Director of the Land Development Review Division (LDR) shall verify that the following mitigation measures are noted on the construction plans/contract specifications submitted and included in the specifications under the heading *Environmental Mitigation Requirements*.

Construction plans shall include provisions for site security in order to prevent unauthorized access onto the project site and adjacent salt ponds during construction. Specific site security measures could include the installation of barriers and locked gates at both ends of the construction alignment and, if necessary, the presence of a security officer to patrol the construction site when no construction activities are underway.

**UPLAND MITIGATION**

Prior to the commencement of any construction related activity on-site (including earthwork and fencing) and/or the preconstruction meeting for PTS 1901, mitigation for direct impacts to 1.35-acres of cholla-dominated disturbed Diegan coastal sage scrub that result from the proposed bikeway shall be assured to the satisfaction of the City Assistant Deputy Director (ADD) of the Land Development Review Division (LDR)/Environmental Designee.

- (1a) A total of 1.35 acres of Tier II Diegan coastal sage scrub habitat located inside (1:1 ratio) the MHPA will be created on-site; or,
- (1b) A total of 1.35 acres of coastal sage scrub credit shall be contributed to the habitat acquisition fund (or combination thereof).

**BIOLOGICAL MONITORING PROGRAM DURING CONSTRUCTION**

At least thirty days prior to the Precon Meeting, the EAS approved, USFWS qualified Biologist shall verify that any special reports, maps, plans and time lines, such as but not limited to, plant salvage plans, revegetation plans, plant relocation requirements and timing, avian or other wildlife protocol surveys, impact avoidance areas described below, or other such information, have been completed and updated. The biologist should identify pertinent information concerning protection of sensitive resources, such as but not limited to, flagging of individual plants or small plant groups, limits of grade fencing and limits of silt fencing (locations may include 10-feet or less inside the limits of grading, or up against and just

inside of the limits of the grade fencing). Plant salvage may be initiated at this time (or sooner if addressed in the approved, Conceptual Revegetation Plan) under the direction of EAS, MMC and the USFWS.

Biological Monitor shall attend Preconstruction Meeting(s)

- a. The qualified Biologist shall attend any grading related Precon Meetings to make comments and/or suggestions concerning the monitoring program with the Construction Manager and/or Grading Contractor.
- b. If the Biologist or USFWS is not able to attend the Precon Meeting, the RE or BI, if appropriate, will schedule a focused Precon Meeting for the Biologist, USFWS, MMC, and EAS staff, as appropriate, Monitors, Construction Manager and appropriate Contractor's representatives to meet and review the job on-site prior to start of any work that requires monitoring or construction on-site (including fencing).

Identify Areas to be Monitored

At the Precon Meeting, the Biologist shall submit to MMC a Biological Monitoring Exhibit (BME) site/grading plan (reduced to 11"x17") that identifies areas to be protected, fenced, and monitored, as well as areas that may require delineation of grading limits. Silt fencing (or other suitable environmental fencing) shall be installed to clearly delineate the limits of the right-of-way and Refuge interface, the environmentally sensitive areas (ESA's), and the proposed temporary construction access locations through the Refuge. These fencing requirements shall be included in the construction plans.

When Monitoring Will Occur

Prior to the commencement of work, the qualified Biologist shall also submit a construction schedule to MMC through the RE or BI, as appropriate, indicating when and where monitoring is to begin and shall notify MMC of the start date for monitoring, at a minimum, the qualified biologist should be present when initial grading is occurring in the vicinity of sensitive habitat and for any earthwork in or adjacent to habitat during any potential avian nesting season to ensure conformance with state and federal migratory bird acts.

Biological Monitor Shall Be Present During Grading/Excavation

The qualified Biological Monitor shall be on site at a minimum when initial grading is occurring adjacent to wetland habitats and/or potential occupied avian or sensitive species habitat, to ensure that no take of sensitive species or active bird nests occurs, grading limits are observed, and that orange fencing and silt fencing are installed to protect sensitive areas outside earthwork limits. The qualified biologist shall document activity via the Consultant Site Visit Record. This record shall be sent to the RE or BI, as appropriate, each month. The RE, or BI as appropriate, will forward copies to MMC. The biological monitor shall have the authority to divert work or temporarily stop operations to avoid previously unanticipated significant impacts. IT IS THE CONTRACTOR RESPONSIBILITY TO KEEP MONITORS UP-TO-DATE WITH CURRENT PLANS.

During Construction

- a. No staging/storage areas for equipment and materials shall be located within or directly adjacent to habitat retained in open space area; no equipment maintenance shall be conducted within or near adjacent open space.
- b. Natural drainage patterns shall be maintained as much as possible during construction. Erosion control techniques, including the use of sandbags, hay bales, and/or the installation of sediment traps, shall be used to control erosion and deter drainage during construction activities into the adjacent open space. The contractor shall comply with all of the provisions of the Storm Water Pollution Prevention Plan for the project.
- c. No trash, oil, parking or other construction related activities shall be allowed outside the established limits of grading. All construction related debris shall be removed off site to an approved disposal facility.

Post Construction

- a. The Biologist shall be responsible for ensuring that all field notes and reports have been completed, all outstanding items of concern have been resolved or noted for follow up, and that specialty studies are completed, as appropriate.
- b. Within three months following the completion of monitoring, two copies of the Final Biological Monitoring Report (even if negative) and/or evaluation report, if applicable, which describes the results, analysis, and conclusions of the Biological Monitoring Program (with appropriate graphics) shall be submitted by the Biologist to the MMC for approval by the ADD of LDR.
- c. During any construction activity (including earthwork and fence placement) for PTS 1901, if any previously undisclosed, additional, unforeseen, inadvertent, direct or indirect *additional biological resources are impacted (as noted by the applicant, contractors, biological monitor, the Wildlife Agencies, the City, or other entity)*, they shall be disclosed. Such impacts shall be rehabilitated, revegetated, and /or mitigated per the City's ESL Guidelines and/or as determined by other jurisdictional agencies. Such additional measures shall be included as part of the Final Biological Monitoring Report.
- d. MMC shall notify the RE of receipt of the Final Biological Monitoring Report.

**HABITAT RESTORATION PROGRAM FOR UPLAND (CHOLLA DOMINATED COASTAL SAGE SCRUB) AND WETLAND (TEMPORARY IMPACTS TO COASTAL SALT MARSH)**

Prior to the commencement of any construction related activity on-site (including earthwork) and/or the preconstruction meeting for PTS 1901, the applicant department shall submit revegetation plans and specifications for both upland and wetland restoration efforts. The separate efforts shall be clearly delineated with appropriate success criteria.

Restoration of Cholla Dominated Coastal Sage Scrub would be accomplished by collecting cuttings of Cholla species on-site, allowing these cuttings to callous and subsequently planting them. It is anticipated that this would be accomplished in the ruderal areas along the newly constructed bike path and along the adjacent haul road (the potential cholla/CSS restoration location is identified on EIR Figure 5.2-3b).

Areas of coastal salt marsh temporarily impacted during construction are expected to recover naturally. In the event that trampled areas do not return to their pre-project condition, these areas would be planted with a mosaic of the same species impacted by construction as presented below. Prior to the temporary disturbance of coastal salt marsh habitat, the existing status of the habitat shall be documented so as to allow comparison between the pre- and post-project conditions. As such, prior to construction, the coastal salt marsh habitat to be impacted shall be qualitatively recorded via photo documentation. Additionally, a species list shall be generated and general species abundance and distribution recorded.

- a. Salt marsh species would be planted from 3 inch "rose pots" grown from seed or cuttings collected from the project vicinity. Species other than pickleweed (*Salicornia virginica*) would be propagated and planted to ensure a diverse salt marsh at the created site. Pickleweed is known to invade naturally and would not be excluded from the site. Species to be planted from propagated stock include:

<u>Scientific Name</u>	<u>Common Name</u>
<i>Batis maritima</i>	saltwort
<i>Frankenia salina</i>	alkali heath
<i>Limonium californicum</i>	sea lavender
<i>Distichlis spicata</i>	saltgrass
<i>Salicornia subterminalis</i>	glasswort
<i>Monanthochloe littoralis</i>	shoregrass

**Prior to Permit Issuance.**

- 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 the revegetation/restoration mitigation, including mitigation of direct-permanent impacts cholla cactus dominated Coastal Sage Scrub and direct-temporary impacts to Coastal Salt Marsh have been shown and noted on the appropriate revegetation and restoration landscape construction documents (RRLCD) and also, within the first two pages, listed with condition number and page numbers under the heading of 'Environmental and Development Permit Requirements - Notes and Index'. The RRLCD must be found to be in conformance with the **Biological Resources Technical Report for the Proposed Western Salt**

**Segment of the Bayshore Bikeway Conceptual Revegetation Plan**; prepared by Tierra Environmental Services, (April 2007) the requirements of which are summarized below:

- B. Revegetation and Restoration Landscape Construction Documents
1. The RRLDC shall be prepared on D-sheets and submitted to the City of San Diego Development Services Department and Park and Recreation Department Open Space Section (OSR) for review and approval. OSR shall consult with Mitigation Monitoring Coordination (MMC) prior to approval of RRLDC to coordinate specific field inspection issues on behalf of the City Park and Recreation Department Open Space Section. The RRLDC shall consist of revegetation/restoration, planting, irrigation and erosion control plans; including all required graphics, notes, details, specifications, letters, and reports as outlined below.
  2. The RRLDC shall be prepared in accordance with the San Diego Land Development Code (LDC) Chapter 14, Article 2, Division 4, the LDC Landscape Standards submittal requirements, and Attachment "B" (General Outline for Revegetation/Restoration Plans) of the City of San Diego's LDC Biology Guidelines (July 2002). The Principal Qualified Design Biologist (PQDB) shall identify and adequately document all pertinent information concerning the revegetation/restoration goals and requirements, such as but not limited to, plant/seed palettes, timing of installation, plant installation specifications, method of watering, protection of adjacent habitat, erosion and sediment control, performance/success criteria, inspection schedule by City staff, document submittals, reporting schedule, etc. The Plans shall also include notes addressing the Five Year Maintenance, Monitoring and Reporting Period.
  3. The following notes shall also be on the RRLDC:

The Project Contractor shall be responsible to insure that for all grading and contouring, clearing and grubbing, installation of plant materials, and any necessary maintenance activities or remedial actions required during installation and the 120 day plant establishment/maintenance period are done per approved the approved RRLDC. The following procedures at a minimum, but not limited to, shall be performed:

    - a. The Project Contractor shall be responsible for the maintenance of the mitigation area for a minimum period of 120 days. Maintenance visits shall be conducted on a weekly basis throughout the plant establishment/maintenance period.
    - b. At the end of the 120 day period the Principal Qualified Construction Biologist (City approved) shall review the mitigation area to assess the completion of the 120 day establishment/maintenance period and submit a report for approval by MMC.
    - c. MMC will provide approval in writing to begin the five year maintenance and monitoring program.
    - d. Existing indigenous/native species shall not be pruned, thinned or cleared in the revegetation/mitigation area.

- e. The revegetation site shall not be fertilized.
- f. The Project Contractor is responsible for reseedling (if applicable) if weeds are not removed, within one week of written recommendation by the Principal Qualified Construction Biologist.
- g. Weed control measures shall include the following: (1) hand removal, (2) cutting, with power equipment, and (3) chemical control. Hand removal of weeds is the most desirable method of control and will be used wherever possible.
- h. Damaged areas shall be repaired immediately by the Project Contractor. Insect infestations, plant diseases, herbivory, and other pest problems will be closely monitored throughout the five-year maintenance and monitoring program. Protective mechanisms such as metal wire netting shall be used as necessary. Diseased and infected plants shall be immediately disposed of off-site in a legally-acceptable manner at the discretion of the Principal Qualified Construction Biologist. Where possible, biological controls will be used instead of pesticides and herbicides.

**Prior to Start of Construction**

A. Principal Qualified Construction Biologist Shall Attend Preconstruction (Precon) Meetings

- 1. Prior to beginning any work that requires monitoring:
  - a. The owner/permittee or their authorized representative shall arrange and perform a Precon Meeting that shall include the Project Contractor, the Principal Qualified Construction Biologist, the City Project Manager, the Resident Engineer (RE), and MMC.
  - b. The Principal Qualified Construction Biologist shall also attend any other grading/excavation related Precon Meetings to make comments and/or suggestions concerning the RRLDC with the Project Contractor, RE and MMC.
  - c. If the Principal Qualified Construction Biologist is unable to attend the Precon Meeting, the owner/permittee shall schedule a focused Precon Meeting with the Project Contractor, Principal Qualified Construction Biologist, Project Manager, RE and MMC, prior to the start of any work associated with the revegetation/ restoration phase of the project, including site grading preparation.
- 2. Where Revegetation/Restoration Work Will Occur
  - a. Prior to the start of any work, the Principal Qualified Construction Biologist shall also submit a revegetation/restoration monitoring exhibit (RRME) based on the appropriate reduced RRLDC (reduced to 11"x 17" format) to the RE and MMC, identifying the areas to be revegetated/restored including the delineation of the construction limit of work line and the construction staging areas. Construction plans shall indicate that the construction staging areas shall not be located within the Refuge.

3. When Biological Monitoring Will Occur
  - a. Prior to the start of any work, the Principal Qualified Construction Biologist shall also submit a monitoring procedures schedule to the RE and MMC indicating when and where biological monitoring and related activities will occur.
  - b. The Principal Qualified Biologist shall supervise the placement of orange construction fencing or equivalent along the limits of disturbance within and surrounding sensitive habitats as shown on the approved RRLCD.
  - c. All construction activities (including staging areas) shall be restricted to the development area as shown on the approved RRLCD. The Principal Qualified Construction Biologist shall monitor construction activities as needed to ensure that construction activities do not encroach into biologically sensitive areas beyond the limits of disturbance as shown on the approved RRLCD.
4. Principal Qualified Biologist Shall Contact MMC to Request Modification
  - a. The Principal Qualified Biologist may submit a detailed letter to MMC prior to the start of work or during construction requesting a modification to the RRLCD. This request shall be based on relevant information (such as other sensitive species not listed by federal and/or state agencies and/or not covered by the MSCP and to which any impacts may be considered significant under CEQA) which may reduce or increase the potential for biological resources to be present.

B. Letters of Qualification Have Been Submitted to ADD

1. The Project Contractor shall submit, for approval, a letter verifying the qualifications of the Principal Qualified Construction Biologist to MMC at the time of Bid Opening. This letter shall identify the Principal Qualified Construction Biologist where applicable, and the names of all other persons involved in the implementation of the revegetation/restoration plan and the five year maintenance and monitoring program, as they are defined in the City of San Diego Biological Review References.
2. MMC will provide a letter to the Project Contractor confirming the qualifications of the Principal Qualified Construction Biologist and all City Approved persons involved in the revegetation/restoration plan and five year maintenance and monitoring program.
3. Prior to the start of work, the owner/permittee must obtain approval from MMC for any personnel changes associated with the revegetation/restoration plan and the five year maintenance and monitoring program.

**During Construction**

A. Principal Qualified Construction Biologist Present During Construction / Grading/Planting

1. The Principal Qualified Construction Biologist shall be present full-time during construction activities including but not limited to, site preparation, cleaning, grading, excavation,

landscape establishment in association with the construction of new trail segments, improvement of existing trail segments, construction of a retaining wall, construction of wetland crossings, and construction of staging (parking) areas which could result in impacts to sensitive biological resources as identified on the approved RRLDC. **The Principal Qualified Construction Biologist is responsible for notifying the Project Contractor of changes to any approved construction plans, procedures, and/or activities. The Principal Qualified Construction Biologist through the Project Contractor is responsible to notify the RE and MMC of the changes.**

2. The Principal Qualified Construction Biologist shall document field activity via the Consultant Site Visit Record Forms (CSV). The CSVs shall be faxed by the Principal Qualified Construction Biologist the first day of monitoring, the last day of monitoring, monthly, and in the event that there is a deviation from conditions identified within the approved RRLCD and/or five-year maintenance and monitoring program. The RE shall forward copies to MMC.
3. The Principal Qualified Construction Biologist shall be responsible for maintaining and submitting the CSV at the time that Project Contractor responsibilities end (i.e., upon the completion of construction activity other than that of associated with biology).
4. All construction activities (including staging areas) shall be restricted to the development areas as shown on the approved RRLCD. The Principal Qualified Construction Biologist staff shall monitor construction activities as needed, with MMC concurrence on method and schedule. This is to ensure that construction activities do not encroach into biologically sensitive areas beyond the limits of disturbance as shown on the approved RRLCD.
5. The revegetation/restoration effort shall be visually assessed at the end of 120 day period to determine mortality of individuals. A draft letter report shall be prepared to document the completion of the 120-day plant establishment period. The report shall include discussion on weed control, horticultural treatments (pruning, mulching, and disease control), erosion control, trash/debris removal, replacement planting/reseeding, site protection/signage, pest management, vandalism, and irrigation maintenance.
6. The RE and the MMC will make a determination if the revegetation/ restoration program's 120 maintenance period is satisfactory or if it will need to be extended prior to the issuance of the Notice of Completion or any bond release.
7. Removal of temporary construction BMPs, where appropriate, shall be verified in writing on the final construction phase CSV.

**B. Disturbance Notification Process**

1. If unauthorized disturbances occur the Principal Qualified Construction Biologist shall direct the Project Contractor to temporarily divert construction in the area of disturbance and immediately notify the RE.

2. The Principal Qualified Construction Biologist shall also immediately notify MMC by telephone of the disturbance and report the nature and extent of the disturbance and recommend the method of additional protection, such as fencing. After obtaining concurrence with MMC and the RE, the Project Contractor shall install the approved protection under the direction of the Principal Qualified Construction Biologist.
3. The Principal Qualified Construction Biologist shall also submit written documentation of the disturbance to MMC within 24 hours by fax or email with photos of the resource in context (e.g., show adjacent vegetation).

C. Determination of Significance

1. The Principal Qualified Construction Biologist shall evaluate the significance of disturbance and provide a detailed analysis and recommendation in a letter report with the appropriate photo documentation to MMC to obtain concurrence and formulate a plan of action which can include fines, fees, and supplemental mitigation costs.
2. MMC shall review this letter report and provide the RE with MMC's recommendations and procedures.

**Post Construction**

A. Five-Year Mitigation, Establishment, Maintenance, Monitoring and Reporting Period.

1. Five-Year Mitigation Establishment/Maintenance Period.
  - a. The Project Contractor or a City (MMC) approved Maintenance Contractor and Principal Qualified Maintenance Biologist shall be retained to complete maintenance and monitoring activities throughout the five-year period.
  - b. Maintenance visits will be conducted twice per month for the first six months, once per month for the remainder of the first year, and quarterly thereafter.
  - c. Maintenance activities will include all items described in the approved RRLDC. Including temp BMPs associated with the revegetation.
  - d. Plant replacement will be conducted as recommended by the Principal Qualified Maintenance Biologist and the maintenance period may be extended to the satisfaction of the MMC.
2. Five-year Monitoring and Reporting Program.
  - a. All biological monitoring and reporting shall be conducted by a qualified and city approved Maintenance Biologist, consistent with the approved RRLDC.
  - b. Monitoring shall involve both qualitative monitoring (horticulture) and quantitative monitoring (i.e., performance/success criteria).
  - c. Qualitative monitoring surveys shall be conducted monthly during year one and quarterly during years two through five.

- d. Qualitative monitoring shall focus on soil conditions (e.g., moisture and fertility), container plant health, seed germination rates, presence of native and non-native (e.g., invasive exotic) species, any significant disease or pest problems, irrigation repair and scheduling, trash removal, illegal trespass, and any erosion problems.
  - e. Quantitative monitoring surveys shall be conducted. Quantitative monitoring surveys shall be conducted monthly during the first quarter and quarterly for the remainder of the first year. Bi-annual monitoring would be conducted for years 2 and 3. Annual monitoring visits would be conducted in years 4 and 5. The revegetation/restoration effort shall be quantitatively evaluated once per year (in spring) during years three through five, to determine compliance with the performance standards identified on the RRLDC. All plant material must have survived without supplemental irrigation for the last two years.
  - f. Quantitative monitoring shall include the use of fixed transects and photo points to determine the vegetative cover within the revegetated habitat. Collection of fixed transect data within the revegetation/restoration site shall result in the calculation of percent cover for each plant species present, percent cover of target vegetation, tree height and diameter at breast height (if applicable) and percent cover of non-native/non invasive vegetation. Container plants will also be counted to determine percent survivorship. The data will be used determine attainment of performance/success criteria identified within the Plans.
  - g. Biological monitoring requirements may be reduced if, before the end of the fifth year, the revegetation meets the fifth year criteria and the irrigation has been terminated for a period of the last two years.
3. Success Criteria for Cholla Dominated Coastal Sage Scrub Revegetation effort (1.35-acre)
- a. Cholla, like many cacti, is transplanted from cuttings. The limiting factor in establishment is likely to be adequate water. With supplemental irrigation it is expected that 80% of the planted cuttings would survive the first year. If less than 80% survive year One, additional cuttings would be collected and planted until that 80% target is attained. Allowing for natural mortality, 90% of those that survive year One are expected to survive to year Two. After year Two, monitoring would document primarily the development of the planted individuals until success criteria is established up to Year Five.
4. Success Criteria for Coastal Salt Marsh Revegetation Effort (0.02 acre (725 ft<sup>2</sup>))
- a. It is expected that 80% of the planted cuttings would survive the first year. If less than 80% survive Year One, additional container stock would be planted until that 80% target is attained. Allowing for natural mortality, 90% of those that survive year One are expected to survive to year Two. After Year Two, monitoring would document primarily the canopy development of the planted individuals until success criteria is established up to Year Five.

B. Site Progress Reports

1. Site progress reports shall be prepared by the Principal Qualified Maintenance Biologist following each site visit and provided to the owner/permittee and Maintenance Contractor. Site progress reports shall review maintenance activities, qualitative and quantitative (when appropriate) monitoring results including progress of the revegetation relative to the performance/success criteria, and the need for any remedial measures.

C. Annual Reports during the Five Years

1. Draft annual reports (during years 1, 2 and 4) (three copies) summarizing the results of each progress report including quantitative monitoring results and photographs taken from permanent viewpoints shall be submitted to City MMC for City built projects and the USFWS Refuge Manager, for review and approval within 30 days following the completion of that year of monitoring. Draft annual reports (during year 3) (three copies) summarizing the results of each progress report including quantitative monitoring results and photographs taken from permanent viewpoints shall be submitted to City MMC for City built projects and the USFWS Refuge Manager for review and approval within 30 days following the completion of that year of monitoring.
2. City/ MMC and Refuge Manager shall return the draft annual report to the Principal Qualified Maintenance Biologist for revision or, for final preparation of that year report.
3. The Principal Qualified Maintenance Biologist shall submit final annual report for that year to the owner/permittee, the Maintenance Contractor and City MMC and USFWS Refuge Manager for approval within 30 days of receiving comments on the draft annual report.
4. City MMC and USFWS Refuge Manager will provide written acceptance of the Report to the Principal Qualified Maintenance Biologist, the Maintenance Contractor and the owner/permittee.

D. Final Monitoring Reports(s)

1. The Principal Qualified Maintenance Biologist shall prepare a Final Monitoring Report upon *achievement of the fifth year performance / success criteria and completion of the five year maintenance period.*
  - a. This report may occur before the end of the fifth year if the revegetation meets the fifth year performance /success criteria and the irrigation has been terminated for a period of the last two years.
  - b. The Final Monitoring report shall be submitted to City MMC for evaluation of the success of the mitigation effort and final acceptance by the City Park and Recreation. A copy shall also be submitted to the USFWS Refuge Manager. A request for a pre-final inspection shall be submitted at this time which City MMC will schedule with City Park and Recreation Department after review of report.

- c. If at the end of the five years any of the revegetated area fails to meet the project's final success standards, the applicant must consult with City MMC, USFWS Refuge Manager, and the City Park and Recreation Department. This consultation shall take place to determine whether the revegetation effort is acceptable. The applicant understands that failure of any significant portion of the revegetation/restoration area may result in a requirement to replace or renegotiate that portion of the site and/or extend the monitoring and establishment/maintenance period until all success standards are met.
- d. Removal of temporary maintenance BMPs shall be verified in writing on the final construction phase CSV by the Principal Qualified Maintenance Biologist.

**FENCING**

- 1. Prior to permit issuance or Bid Opening/Bid Award, whichever is applicable, the Assistant Deputy Director (ADD) Environmental designee shall verify that proposed chain-link fencing is depicted on the construction plans and illustrated on both sides of the bike path for the entire length of the bike path, with the exception of the two bridge locations. Fencing specifications shall be as follows: a security fence up to seven feet high consisting of two-inch mesh, 6-gauge (0.192" diameter) black vinyl (or other appropriate black finish) chain link, with a black bottom rail that is secured in the center of the two line post using a 3/8" diameter eye hook anchored into a concrete footing (or equivalent per agreement with the Wildlife Agencies) and a 7-gauge coil spring wire installed upside down (e.g., the finished chain link shall be positioned at the bottom of the fence and the open, sharp-edged links shall be upright). The distance between the lower portion of the fence and the ground shall be no greater than two inches. The entire fence, including the chain link, posts, and bottom rail shall be black to improve the overall appearance of the fence.

**SENSITIVE AVIAN SPECIES**

- 1. Construction activities shall occur outside of the breeding period of the light-footed clapper rail (October 1 through February 14), least tern, cactus wren, Belding's Savannah sparrow, and western snowy plover. Prohibiting construction activities during these periods would reduce the impacts to below a level of significance.

<b>Species</b>	<b>Breeding Season<sup>1</sup></b>
Light-footed Clapper Rail	February 15 to September 30
Belding's Savannah Sparrow	February 15 to August 15
California Least Tern	April 1 to September 15
Western Snowy Plover	March 1 to September 15
Burrowing Owl	February 1 to August 31
San Diego Cactus Wren	February 15 to August 15

Note: <sup>1</sup> = breeding seasons taken from USFWS (1997) for light-footed clapper rail;

Source: Tierra (2002) for Belding's Savannah sparrow;

City of San Diego (2002) for California least tern, western snowy plover, burrowing owl and San Diego cactus wren.

- 2. Due to potentially suitable burrowing owl habitat existing on and immediately off-site, pre-construction surveys shall be conducted to determine presence or absence of this species

onsite. If burrowing owls are observed onsite during preconstruction surveys, impacts to the species would be avoided to the maximum extent practical; any individuals would be relocated out of the impacted area using methodologies approved by the wildlife agencies pursuant to the CDFG Staff Report on Burrowing Owls, dated October 1995; and mitigation for impacts to occupied habitat, (at the MSCP Subarea Plan ratio) would occur through the conservation of occupied burrowing owl habitat or conservation of lands appropriate for restoration, management and enhancement of burrowing owl nesting and foraging requirements.

3. If there is a potential for indirect noise impacts to nesting raptors, prior to any construction related activity within the development area during the raptor breeding season (February 1 through September 15) the biologist shall conduct a preconstruction survey to determine the presence of active raptor nests. If active nests are detected the biologist in consultation with the ADD Environmental Designee shall establish a species appropriate noise buffer zone. No construction shall occur within this zone.

**NIGHTTIME LIGHTING**

No nighttime lighting shall be allowed during project construction or operation.

**Method of Verification:** ADD shall verify that all the requirements for biological monitoring are noted on construction documents.

**Timing of Verification:** Prior to, during, and post construction.

**Responsible Person:** ADD of LDR

## **C. Historical Resources**

**IMPACT:** There is the potential that site CA-SDI-4360 would be inadvertently impacted by project grading if the approved limits of grading are not clearly delineated for project construction contractors. Mitigation Measure H1, as provided below, would ensure that no significant indirect impact to CA-SDI-4360 would result from the proposed project construction activities. Mitigation Measure H1 would reduce the significant impact to below a level of significance.

**Mitigation Measure H1:**

**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 Archaeological

Monitoring and Native American Monitor have been noted on the appropriate construction documents.

B. Letters of Qualification have been submitted to the 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 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.

**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 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 and Native American Monitor shall attend any grading/excavation related Precon Meetings to make comments and/or suggestions concerning the Archaeological Monitoring program with the Construction Manager and/or Grading Contractor.
  - a. If the PI is unable to attend the Precon Meeting, the Applicant shall schedule a focused Precon Meeting with MMC, the PI, RE, CM or BI, if appropriate, prior to the start of any work that requires monitoring.
2. 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 for approval identifying the areas to be monitored including the delineation of grading/excavation limits. These areas shall be identified by flagging in the field by the archaeological monitor.
- 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).
- c. MMC shall notify the PI that the AME 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 age of existing pipe to be replaced, depth of excavation and/or site graded to bedrock, etc., which may reduce or increase the potential for resources to be present.

5. Approval of AME and Construction Schedule

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

**During Construction**

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

1. The monitor and Native American 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 AME and as authorized by the CM. **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 (CSV). The CSV'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 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 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 Monitor 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 of the program from MMC, CM and RE. ADRP 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, 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 cannot 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 via the RE 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.

**Discovery of Human Remains**

If human remains are discovered, work shall halt in that area and the following procedures as 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, will determine the need for a field examination to determine the provenience.
3. If a field examination is not warranted, the Medical Examiner will determine with input from the PI, if the remains are or are most likely to be of Native American origin.

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

1. The Medical Examiner will notify the Native American Heritage Commission (NAHC) within 24 hours. By law, **ONLY** the Medical Examiner can make this call.
2. The NAHC will contact the PI within 24 hours or sooner, after Medical Examiner has completed coordination.
3. NAHC will immediately 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. The MLD has 48 hours to make recommendations to the property owner or representative for the treatment or disposition, with proper dignity, of the human remains and the associated grave goods.
6. 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 48 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.
  - c. To protect these sites, the landowner shall do one or more of the following:
    - (1) Record the site with the NACH;
    - (2) Record an open space or conservation easement; or
    - (3) Record a document with the County.
  - d. Upon the discovery of multiple Native American human remains during a ground disturbing land development activity, the landowner may agree that additional conferral with descendants is necessary to consider culturally appropriate treatment of multiple Native American human remains. Culturally appropriate treatment of such a discovery may be ascertained from review of the site utilizing cultural and archaeological standards. Where the parties are unable to agree on the appropriate treatment measures the human remains and buried with Native American human remains shall be reinterred with appropriate dignity, pursuant to Section 6.c., above.

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.

#### **Night and/or Weekend 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 and/or weekend work, The PI shall record the information on the CSVr and submit to MMC via the RE by fax by 9am the following morning, of the next business day.
    - b. Discoveries

All discoveries shall be processed and documented using the existing procedures detailed in Sections III - During Construction, and IV - Discovery of Human Remains.
    - 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 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 and/or weekend work becomes necessary during the course of construction
  1. The Construction Manager shall notify the RE, or BI, as appropriate, a minimum of 24 hours before the work is to begin.
  2. The RE, or BI, as appropriate, shall notify MMC immediately.
- C. All other procedures described above shall apply, as appropriate.

#### **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 Archaeological 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 archaeological resources encountered during monitoring, the Archaeological Data Recovery Program or Pipeline Trenching Discovery Process shall be included in the Draft Monitoring Report.
  - b. Recording Sites with State of California Department of Parks and Recreation  
The PI shall be responsible for recording (on the appropriate State of California Department of Park and Recreation forms-DPR 523 A/B) any significant or potentially significant resources encountered during the Archaeological Monitoring Program in accordance with the City's Historical Resources Guidelines, and submittal of such forms to the South Coastal Information Center with the Final Monitoring Report.
2. MMC shall return the Draft Monitoring Report to the PI 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 all Draft Monitoring Report submittals and approvals.

**B. Handling of Artifacts**

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

**C. Curation of artifacts: Accession Agreement and Acceptance Verification**

1. The PI shall be responsible for ensuring that all artifacts associated with the survey, testing and/or data recovery for this project are permanently curated with an appropriate institution. This shall be completed in consultation with MMC and the Native American representative, as applicable.
2. The PI shall submit the Accession Agreement 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 Accession Agreement 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 one copy of the approved Final Monitoring Report to the RE or BI as appropriate, and one copy to MMC (even if negative), within 90 days after notification from MMC 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.

**Method of Verification:** ADD of LDR shall verify the requirements for cultural resources monitoring are noted on construction documents.

**Timing of Verification:** Prior to, during, and post construction.

**Responsible Person:** ADD of LDR

**Mitigation Measure H2:**

Proposed construction limits, and construction staging areas in the area of cultural resource site CA-SDI-4360 (shell midden) shall be confined to the proposed project right-of-way so as to avoid impacting any other portions of this cultural resource site. Prior to project site disturbance, a qualified archaeologist shall identify the limits of site CA-SDI-4360 in relation to approved limits of project disturbance through the use of flagging or environmental fencing so as to ensure no disturbance to this site occurs outside of the approved limits of disturbance for the proposed project. An archaeologist shall monitor site grading activities and recover any significance artifacts in the event they are uncovered during grading activity in this area.

**Method of Verification:** Define limits of grading and monitor during grading.

**Timing of Verification:** Prior to and during grading activities.

**Responsible Person:** Qualified archaeologist.

**IMPACT:** The proposed project would cover the railroad rails and bridges, which would cause the physical alteration of the existing visual components of the Coronado Belt Line (CBL), a designated local historic resource. The rails would be capped with dirt and the trestle bridges would be "covered" by steel truss bridges. The impact to the CBL, as it traverses the proposed project area, is considered significant, as the proposed project, although designed to preserve features in place, would result in the alteration of the existing rail corridor and alter the existing aesthetic conditions of the resource within the project corridor. Mitigation Measures H2, H3, and H4 would reduce the potential impact to this locally designated resource to the extent feasible; however, the impact is considered to remain significant and unmitigable. This conclusion is based on the unmitigable "temporary" alteration of the CBL features even though the linear feature would be preserved for future options.

**Mitigation Measure H3:**

Prior to the pre-construction meeting, a modified HAER (Historic American Engineering Report) shall be prepared for any portion of the existing elements of the CBL that would be covered or otherwise modified as part of the proposed project. This is anticipated to include the track, rails, and trestle bridges located within the proposed project corridor. Implementation of this measure shall be verified by the ADD of LDR.

**Method of Verification:** ADD's receipt of modified HAER.

**Timing of Verification:** Prior to pre-construction meeting.

**Responsible Person:** ADD of LDR and ESD

**Mitigation Measure H4:**

During construction, any CBL materials encountered that are not feasible to retain shall be recovered, and made available for future use at interpretive facilities planned as part of the proposed project, or other future interpretive facilities in the area. Implementation of this measure shall be verified by the cultural resources construction monitor (PI) during construction.

**Method of Verification:** Monitoring during construction.

**Timing of Verification:** During and post construction.

**Responsible Person:** Construction Monitor and MMC.

**Mitigation Measure H5:**

Prior to commencement of construction related activities, the Assistant Deputy Director of Land Development Review (ADD of LDR) shall assure that interpretive facilities are provided and are shown on construction documents within the project corridor that include elements of the CBL history, including, but not limited to public art, rail artifacts, relevant area history, etc. As proposed, interpretive facilities would be located at two points along the bike path segment. These facilities would provide information regarding the history of the CBL and would be constructed of materials that represent railroad features.

**Method of Verification:** ADD shall verify that all the interpretive facilities are included on the construction documents.

**Timing of Verification:** Prior to commencement of construction.

**Responsible Person:** ADD of LDR

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

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

WHEREAS, SD&AE Railroad and M&A Gabae, CLP, Owners/City of San Diego Engineering and Capital Projects Department, Transportation Design Division, Permittee, filed an application with the City of San Diego for a site development permit to construct a 1.8-mile Class I bike path along the Otay River Berm and the Main Street Dike and to relocate an existing haul road utilized by the South Bay Salt Works known as the Bayshore Bikeway project, legally described as portions of Sections 20 and 21, Township 18 South, Range 2 West, San Bernardino Base Meridian, in the Otay Mesa-Nestor Community Plan area, in the IH-2-1, IL-3-1 and OF-1-1 zones; and

WHEREAS, on September 6, 2007, the Planning Commission of the City of San Diego considered Site Development Permit [SDP] No. 3276, and voted to recommend City Council approval of the Permit; and

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

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

BE IT RESOLVED, by the Council of the City of San Diego, that it adopts the following findings with respect to Site Development Permit No. 3276:

**A. SITE DEVELOPMENT PERMIT – SAN DIEGO MUNICIPAL CODE [SDMC] SECTION 126.0504**

**1. Findings for all Site Development Permits:**

**a. The proposed development will not affect the applicable land use plan.** The Otay Mesa-Nestor Community Plan land use designation for the project area is Open Space. The proposed project is the realignment of a 1.8-mile segment of an existing Class II bike route currently located along the southeastern segment of the Bayshore Bikeway route. The new realignment would be classified as a Class I segment of the bikeway and would be located along the Otay River Berm and Main Street Dike. The project would be located in an existing transportation corridor. A portion of an existing haul road utilized by South Bay Salt Works would be relocated along the Main Street Dike to the Otay River Berm north of the Main Street Dike within the Metropolitan Transit System [MTS] right-of-way. The project would also require the construction of two steel truss bridges on top of two existing wooden railroad bridges that are part of the Coronado Belt Line [CBL], which is a locally-designated historical resource. The proposed steel truss bridges would provide bicycle and pedestrian access across the Otay River and maintain the existing bridge structures in place.

Implementation of the proposed project will not affect the Otay Mesa-Nestor Community Plan or any other applicable land use plans. Development associated with the proposed project (i.e., the construction of a new Class I bike path) is addressed in the Otay Valley Regional Park and Salt Ponds Topics of the Otay Mesa-Nestor Community Plan

**b. The proposed development will not be detrimental to the public health, safety, and welfare.** The proposed project would realign an existing Class II bike route that follows 13th Street, Palm Avenue, and Saturn Boulevard in the Otay Mesa-Nestor Community Plan area. The proposed project would be a Class I bicycle facility and would provide a completely separated right-of-way for the exclusive use of bicycles and pedestrians, with no cross flow of motorized traffic along the proposed bike path segment. Removing the bike route from the roadways would also encourage more use of the bikeway and provide the opportunity for bikeway users to experience the natural ecological setting of south San Diego Bay. The proposed bike path would be constructed in accordance with applicable City engineering and CalTrans standards to minimize any risk to public health, safety, and welfare.

The proposed project would include removal of the wooden railroad ties. The timber ties are in various states of deterioration, and are expected to continue to deteriorate. If the ties were to be kept in place, compacted material would be placed over the ties, and the bike path would be expected to experience surface pavement deterioration (potholes, cracks, and surface level changes) over time, as the ties would continue to deteriorate and crumble under the bike path surface, creating voids under the bike path users. This situation is considered unsafe and presents significant safety issues for future users of the bike path. Therefore, the bike path as proposed would not be detrimental to public health, safety, and welfare.

c. **The proposed development will comply with the applicable regulations of the Land Development Code.** The proposed bike path will comply with the applicable regulations of the Land Development Code [LDC] except for deviations to impact a special flood hazard area and historical resources.

The CBL is a locally designated historical resource. The CBL is located within the transportation right-of-way and as such has the potential to be impacted by the proposed project. If the bike path were to be moved off of the existing berm (and thus off of the CBL) direct permanent biological impacts (i.e., wetland impacts) would result.

The proposed project has been designed to retain the existing rails and trestle bridges of the CBL. The existing railroad ties are proposed to be removed for health, safety and maintenance. As proposed, the existing train track rails would be covered (capped) with two feet of dirt, and the bike path would be constructed on top of the soil cap. Two pre-fabricated steel truss bridges (the north and south bridges) would be placed over the top of the two existing railroad trestle bridges located within the project corridor. Using this proposed bridge design and construction technique, the existing railroad trestle bridges will remain in their current place and condition, and would not be modified by the proposed project.

The project also involves environmental constraints, which include the presence of environmentally sensitive upland habitat, sensitive species, and wetlands. As such, the proposed project could have a significant environmental effect upon biological resources. However, the project has been designed to avoid and minimize potential impacts to environmentally sensitive lands to the maximum extent practicable. The project will avoid all permanent impacts to wetlands. However, construction of the steel truss bridges would result in minor, temporary disturbance of coastal salt marsh habitat as the result of very limited construction access. The areas of temporarily impacted wetland vegetation are expected to recover naturally. In the event that trampled areas do not return to their pre-project condition, these areas would be planted with a mosaic of the same species impacted by construction, as identified in the Mitigation, Monitoring and Reporting Program [MMRP].

The project will comply with the applicable Multiple Habitat Conservation Program [MSCP] Subarea Plan land use adjacency guidelines to ensure minimal impacts to the Multiple Habitat Plan Area [MHPA]. Furthermore, the Site Development Permit [SDP] prepared for this project includes various conditions and exhibits of approval relevant to achieving compliance with the regulations of the LDC in effect for the project site.

## 2. Supplemental Findings – Environmentally Sensitive Lands

a. **The site is physically suitable for the design and siting of the proposed development and the development will result in minimum disturbance to environmentally sensitive lands.** The proposed project is located within an existing transportation corridor and the MHPA on land supporting Tier II habitat, including disturbed coastal sage scrub adjacent to wetlands associated with the Otay River and salt ponds of the South Bay Salt Works. The project proposes to construct a new segment of the Bayshore Bikeway on a narrow strip of land composed of the Main Street Dike, Otay River berm, and MTS right-of-way.

A biological resource analysis was conducted that identified vegetation communities and sensitive species occurring along the alignment, within a 300-foot wide alignment corridor including 150 feet on either side of the center line of the proposed alignment. Sensitive habitats in the area include uplands (Diegan coastal sage scrub) and wetlands (coastal salt marsh). Sensitive species in the area include light-footed clapper rail, western snowy plover, California least tern, Belding's Savannah sparrow, and, potentially, salt marsh bird's beak.

The proposed project will result in permanent impacts to approximately 1.353 acres of coastal sage scrub (Tier II upland habitat). Impacts totaling more than 0.1 acre of upland habitat would be considered significant and mitigation would be required. Therefore, in accordance with the City's Biological Guidelines, the impact to coastal sage scrub would require a 1:1 mitigation ratio of in-kind habitat (same habitat type) because mitigation is proposed to occur within the MHPA.

The proposed project will also result in a temporary impact to 725 square feet of coastal salt marsh. This temporary impact will be in the form of trampling of vegetation (the area would not be graded). The areas of temporarily impacted wetland vegetation are expected to recover naturally. In the event that trampled areas do not return to their pre-project condition, these areas would be planted with a mosaic of the same species impacted by construction, as identified in the MMRP.

Two historical resources have been identified within the project corridor: a prehistoric shell midden and a portion of the locally-designated historical CBL. Project construction would be confined to the proposed project right-of-way so as to avoid impacting portions of the shell midden.

The CBL is a locally-designated historical resource. The CBL is located within the transportation right-of-way and as such will be impacted by the proposed project. If the bike path were to be moved off of the existing berm (and thus off of the CBL), direct permanent biological impacts (i.e., wetland impacts) would result.

The proposed project has been designed to retain the existing rails and trestle bridges of the CBL. The existing railroad ties are proposed to be removed for health, safety and maintenance reasons. As proposed, the existing train track rails would be covered (capped) with two feet of dirt, and the bike path would be constructed on top of the soil cap. Two pre-fabricated steel truss bridges (the north and south bridges) would be placed over the top of the two existing railroad trestle bridges located within the project corridor. Using this proposed bridge design and construction technique, the existing railroad trestle bridges will remain in their current place and condition, and would not be modified by the proposed project. Therefore, the proposed project would preserve the features of the CBL in place, to the extent feasible. As proposed, this method would preserve the existing features of the CBL, and preserve the integrity of these features, while allowing construction of the proposed project. In addition, as proposed, the project would avoid all permanent wetland impacts and result in only minor temporary wetland impacts. Therefore, the siting of the proposed improvements will result in minimal disturbance, to the extent feasible, to environmentally sensitive lands.

**b. The proposed development will minimize the alteration of natural land forms and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards.** The proposed project will be located on existing berms and dikes and would require minimal grading with no significant alteration to the existing topography as the majority of project construction will involve replacement of topsoil over the alignment. Disturbed areas will be revegetated.

The potential geologic hazards are considered to be insignificant. The nearest faults to the proposed project site are buried traces of the Rose Canyon Fault Zone, located approximately one mile north in San Diego Bay, and numerous traces of the La Nacion Fault Zone located approximately three miles to the northeast. In the event of a major earthquake, it is possible that the levees may experience seismic-related ground failure. However, proper engineering of the minor amount of resurfacing of soils during grading activities ensure that no impact would result. Soil liquefaction, lateral spreading, subsidence, collapse, and landslides are considered to be a very low possibility which minimizes the geological hazards to ground shaking from an earthquake.

The proposed project is located within the Otay Valley Watershed. The project does not propose development or activities that would result in an alteration of any hydrologic features or drainages within the Otay Valley Hydrologic Unit. The proposed project would be constructed on the top of a relatively flat berm and dike, and would not affect developed properties located in the floodplain. Implementation of the project will involve minor grading activity to create a smooth, even surface along the berm and dike. This would not involve any change in landforms that would cause an impediment to the flow of floodwaters.

Construction of the two bridges would require erosion/sediment control treatment best management practices [BMP's]. BMP's include, but are not limited to the use of hydroseeding, soil binders, and porous concrete. Following project completion, the bike path would be maintained by the City of San Diego to minimize the potential for significant water quality impacts from the proposed project.

**c. The proposed development will be sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands.** The proposed bike path is the least environmentally damaging practicable alternative. The proposed bike path would be located on existing berms and dikes within the existing MTS right-of-way. The berms are vegetated primarily with ruderal species. Locating the proposed bike path on existing berms and dikes prevents adverse impacts to most adjacent environmentally sensitive lands, including wetlands. The only permanent impact to adjacent environmentally sensitive lands would be approximately 1.353 acres of disturbed coastal sage scrub. Impacts associated with this habitat would be mitigated at a 1:1 ratio as it is proposed to be mitigated within the MHPA. No permanent wetlands impacts would occur as a result of the proposed project.

**d. The proposed development will be consistent with the City of San Diego's Multiple Species Conservation Program (MSCP) Subarea Plan.** The proposed project lies entirely within the MHPA of the City of San Diego MSCP Subarea Plan. Land within the MHPA has been designated for habitat conservation, and development in these areas is

regulated by the Biology Guidelines for the Environmental Sensitive Lands [ESL] regulations in the City of San Diego Land Development Code (1998).

The proposed project would result in direct, permanent impacts to approximately 1.353 acres of upland vegetation (disturbed coastal sage scrub – Tier II). This habitat is considered an uncommon upland form in the City of San Diego Biology Guidelines. Therefore, mitigation for impacts within the MHPA will be required at a 1:1 ratio as it is proposed to be mitigated within the MHPA.

The ESL regulations identify General Development Regulations for all ESL and Development Regulations for Sensitive Biological Resources. As discussed below, the proposed project would comply with the ESL. Consistency with the ESL and MHPA Land Use Adjacency Guidelines constitutes consistency with the MSCP and MSCP Subarea Plan.

*State and federal law precludes adverse impacts to wetlands or listed non-covered species habitat. The applicant shall confer with the U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service and/or California Department of Fish and Game before any public hearing for the development proposal. The applicant shall solicit input from the Resource Agencies on impact avoidance, minimization, mitigation and buffer requirements, including the need for upland transitional habitat. The applicant shall, to the maximum extent feasible, incorporate the Resource Agencies' recommendations prior to the first public hearing. Grading or construction permits shall not be issued for any project that adversely impacts Wetlands or listed non-covered species habitat until all necessary federal and state permits have been obtained.*

The proposed project is located entirely within the MHPA on land supporting Tier II habitat including disturbed coastal sage scrub adjacent to wetlands associated with the Otay River and salt ponds of the South Bay Salt Works. The project proposes to construct a new segment of the Bayshore Bikeway on a narrow strip of land composed of the Main Street Dike, Otay River berm, and Metropolitan Transit Development Board [MTDB] right-of-way. The proposed alignment is bordered on both sides by a portion of the South San Diego Bay Unit of the National Wildlife Refuge. The U.S. Army Corps of Engineers [ACOE], USFWS, and CDF&G have been consulted and resource agency input has been incorporated into the project as now proposed. The project would involve the construction of two bridges, which would temporarily disturb coastal salt marsh habitat. Construction access would be very limited, and subject to approval of a Special Use Permit [SUP] by the U.S. Fish and Wildlife Service [USFWS] San Diego National Wildlife Refuge Complex. This temporary impact would be mitigated at a 1:1 ratio onsite through restoration of habitat to pre-project conditions, if needed.

*Outside and inside the MHPA, impacts to wetlands, including vernal pools in naturally occurring complexes, shall be avoided. A wetland buffer shall be maintained around all wetlands as appropriate to protect the functions and values of the wetland. Mitigation for impacts associated with a deviation shall achieve the goal of no-net-loss and retain in-kind functions and values.*

Because all significant impacts associated with wetland habitat would be avoided (or mitigated at a 1:1 ratio for temporary effects) the project would achieve the goal of no-net-

loss of habitat and retain in kind functions and values, as required by Section 143.0141(b) of the ESL regulations.

The City of San Diego and the California Coastal Commission require wetland buffers for projects adjacent to wetlands in order to protect the functions and values of the wetlands. However, in the case of the proposed bike path segment, the provision of a wetland buffer is constrained by the linear nature of the Otay River and associated wetlands and the South Bay Salt Works harvesting operations. Along a portion of the alignment, upland habitat occurs in narrow strips between the railroad track or haul road and wetlands. This upland habitat provides a narrow wetland buffer (approximately 50 feet). Furthermore, where the haul road and railroad tracks are currently elevated, the bike path segment would be elevated above the Otay River and associated wetlands thereby providing a vertical buffer from these habitats.

In addition, Section 143.0130(e) of the City's LDC maintains that public access paths are permitted uses in wetland buffer areas. The proposed bike path segment would be considered a public access path and would therefore be an allowable use in wetland buffer areas, and no significant impact to wetland buffers would result.

*Inside the MHPA, development shall avoid impacts to narrow endemic species. Outside the MHPA, measures for protection of narrow endemic species shall be required such as management enhancement, restoration and/or transplantation.*

According to the biological resources analysis for the proposed project, no narrow endemic plant species were found during surveys of the proposed segment alignment (Tierra Environmental Services, 2007). Therefore, no significant impact to narrow endemic species would occur.

*Inside the MHPA, development is permitted only if necessary to achieve the allowable development area in accordance with the regulations set forth in the OR-1-2 zone, pursuant to Section 131.0250(b) of the LDC, unless exempted from the development area regulations pursuant to Section 143.0111 of the LDC.*

The project is not located within the OR zone. According to Section 131.0250(b) of the City's Land Development Code, if a premise is within the OR-1-2 zone and located entirely within the boundary of the MHPA, a maximum of 25 percent of the site may be developed.

*Inside and adjacent to the MHPA, all development proposals shall be consistent with the City's MSCP Subarea Plan.*

The proposed project is consistent with the City of San Diego MSCP Subarea Plan as the MHPA Land Use Adjacency Guidelines have been incorporated into the MMRP.

*Inside the MHPA, any change of an agricultural use to a non-agricultural use is subject to the development area regulations of Section 143.0141(d) of the LDC. Existing agricultural operations that exceed the allowable development area may remain as agricultural use only and do not count as part of the allowable development area.*

No portion of the project site contains existing agricultural areas and the proposed project would not result in the conversion of land in agricultural use to a non-agricultural use. Therefore, no significant impact to agricultural land would occur.

*All development occurring in sensitive biological resources both inside and outside the MHPA is subject to a site-specific impact analysis conducted by the Assistant Deputy Director of Land Development Review [ADD of LDR], in accordance with the Biology Guidelines in the Land Development Manual. The impact analysis shall evaluate impacts to sensitive biological resources and CEQA sensitive species. The analysis shall determine the corresponding mitigation, where appropriate, and the requirements for protection and management. Mitigation may include any of the following as appropriate to the nature and extent of the impact.*

- a) *Acquisition or dedication of another site that can serve to mitigate the project impacts, with limited right of entry for habitat management, as necessary, if the site is not dedicated. This site must have long-term viability and the biological values must be equal to or greater than the impacted site.*
- b) *Preservation or dedication of on-site sensitive biological resources, creation of new habitat, or enhancement of existing degraded habitat, with limited right of entry for habitat management, as necessary, if the site is not dedicated. The site must have long-term viability and the biological values must be equal to or greater than the impacted site.*
- c) *In circumstances where the area of impact is small, monetary payment of compensation into a fund in lieu of other forms of mitigation. The City shall use the fund to acquire, maintain and administer habitat areas pursuant to the City Council Resolution No. R-275129, adopted February 12, 1990. Where appropriate, the City Manager is authorized to enter into agreements with public agencies or private non-profit conservancies or foundations to administer the funds and acquire or maintain habitat preservation areas.*

Impacts to sensitive biological resources would be fully mitigated onsite. The direct, temporary impact resulting from temporary access needed for construction of the two bridges would be mitigated at a 1:1 ratio, as well as, direct impacts to disturbed coastal sage scrub would be mitigated at 1:1 ratio onsite within the MHPA. Therefore, the proposed project would be consistent with the City of San Diego Biology Guidelines and no significant impact would occur.

Sensitive biological resources located outside the allowable development area would be left in a natural state. Therefore, no significant impact to sensitive biological resources located outside the allowable development area would occur.

*Grading during wildlife breeding seasons shall be consistent with the requirements of the MSCP Subarea Plan.*

No construction activities would occur during the breeding seasons of sensitive bird species. As identified in the Environmental Impact Report [EIR] Mitigation Measure BR16, construction activities will be restricted to outside the breeding season (October 1 to February 14).

*Sensitive biological resources that are outside of the allowable development area on a premises, or are acquired as off-site mitigation as a condition of permit issuance, are to be left in a natural state and used only for those passive activities allowed as condition of permit approval. If the land is not dedicated in fee to the City, identification of permissible passive activities and any other conditions of the permit shall be incorporated into the covenant of easement that shall be recorded against title to the property, in accordance with procedures set forth in Section 143.015 of the LDC2. The U.S. Fish and Wildlife Service and the California Department of Fish and Game are to be named as third party beneficiaries to any covenant of easement recorded pursuant to this section.*

All mitigation would occur onsite within the City's MHPA which is located within the USFWS San Diego Bay National Wildlife Refuge.

**e. The proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply.** The proposed project is located adjacent to the Otay River and San Diego Bay. However, the proposed bike path will be located on existing dikes and berms and will not contribute to the erosion of public beaches or impact local shoreline sand supply. The proposed project will not increase erosional forces in the area, or result in an increase in the rate and amount of flow through the Otay River. In addition, according to the Floodplain Elevations prepared for the proposed project (Kimley-Horn and Associates, Inc., 2006), the project would not affect developed properties located in the floodplain.

**f. The nature and extent of mitigation required as a condition of the permit is reasonably related to, and calculated to alleviate, negative impacts created by the proposed development.** The mitigation for upland vegetation (coastal sage scrub) will be required at a 1:1 ratio and is a condition of the permit. The mitigation is reasonably related to, and calculated to alleviate, negative impacts created by the proposed development.

### **3. Supplemental Findings – Environmentally Sensitive Lands Deviations**

**a. There are no feasible measures that can further minimize the potential adverse effects on environmentally sensitive lands.** The proposed bike path alignment is the least environmentally damaging alternative. The proposed project would avoid permanent impacts to wetlands by constructing the bike path within the existing MTS right-of-way (CBL), instead of adjacent to it. Environmentally sensitive lands are located adjacent to the right-of-way. Although this alternative would avoid permanent wetland impacts, it would result in unavoidable impacts to historical resources. Mitigation measures associated with the proposed project would reduce the historical resource impact; however, the impact would still remain significant and unavoidable.

In addition, the proposed project will result in a direct permanent impact to approximately 1.353 acres of coastal sage scrub (Tier II upland habitat). Impacts totaling more than 0.1 acre of upland habitat would be considered significant and mitigation would be required. According to the City's Biological Guidelines, the impact to coastal sage scrub would require a 1:1 mitigation ratio of in-kind habitat (same habitat type) because mitigation is proposed to occur within the MHPA. Mitigation for the coastal sage scrub impact would reduce the biological impact to a level less than significant. Therefore, the proposed project would avoid adverse effects on environmentally sensitive lands although it will result in significant and unavoidable cultural resources impacts.

**b. The proposed deviation is the minimum necessary to afford relief from special circumstances or conditions of the land, not of the applicant's making.** The proposed deviation to impact the CBL is the minimum necessary to afford relief from special circumstances or conditions of the land, not of the applicant's making. The routing alternatives are limited due to engineering and environmental site constraints. To avoid impacts to the CBL the proposed bike path would have to be constructed adjacent to the belt line. Although this alternative would avoid impacts to the CBL, it would result in permanent impacts to wetlands as environmentally sensitive lands are located adjacent to the belt line, and not permissible because the project is in an existing transportation corridor (MTS right-of-way) and adjacent to the USFWS San Diego Bay National Wildlife Refuge.

**4. Supplemental Findings—Environmentally Sensitive Lands Deviation from Federal Emergency Management Agency Regulations**

**a. The City Engineer has determined that the proposed development, within any designated floodway will not result in an increase in flood levels during the base flood discharge.** The proposed project is consistent with the City of San Diego Regulations for Special Flood Hazard Areas. Pursuant to Section 143.0145 of the LDC, the project is consistent with the development regulations as set forth for the OF zone. The proposed project does not involve any new development within the floodplain and, according to the Floodplain Elevations prepared for the proposed project (Kimley-Horn and Associates, Inc., 2006); the project would not affect developed properties located in the floodplain. The project proposes the placement of two steel truss bridges on top of the existing railroad bridges to provide bicycle and pedestrian access across the Otay River and would not result in an increase in flood levels during the base flood discharge.

**b. The City Engineer has determined that the deviation would not result in additional threats to public safety, extraordinary public expense, or create a public nuisance.** The project proposes the placement of two steel truss bridges on top of the existing two railroad bridges to provide bicycle and pedestrian access across the Otay River which is located in the floodplain. Because the proposed project does not involve any new development within the floodplain, the City Engineer has determined that the deviation, to allow the two steel truss bridges, would not result in additional threats to public safety, extraordinary public expense, or create a public nuisance. Further, the City Engineer has determined that the proposed project is consistent with the City of San Diego regulations for Special Flood Hazard Areas.

**5. Supplemental Findings – Historical Resources Deviation for Substantial Alteration of a Designated Historical Resource or Within a Historical District**

a. **There are no feasible measures, including a less environmentally damaging alternative, that can further minimize the potential adverse effects on the designated historical resource or historical district.** Pursuant to California Environmental Quality Act [CEQA] Guideline Section 15126.6(a), the EIR analyzed a range of alternatives that could avoid or substantially lessen the significant impacts of the proposed project. The range of alternatives that would completely avoid any alteration to the CBL are severely restricted by the presence of highly sensitive wetland habitats and endangered species, and the USFWS San Diego Bay National Wildlife Refuge, which borders the project on both sides.

The EIR, pages 11-1 through 11-8, describe in detail the constraints within the project area and the rationale as to the preferred alignment. Furthermore, Section 11.0 Alternatives provides an evaluation of five different alternatives to the proposed project, with the primary emphasis of avoiding or reducing the potentially significant impacts of the proposed project associated with the CBL. With the exception of “Alternative C Remove Track/Railroad Bridge Rehabilitation,” each of the alternatives would avoid the impact to the CBL. However, the EIR also identifies that each of these alternatives are not considered feasible.

As identified on EIR page 11-8, that the City did consider, but rejected, an alternative that would retain the wooden ties in place. This alternative would be identical to the proposed project, with the exception that the existing timber railroad ties located within the proposed bikeway corridor, would not be removed (removal of the timber ties is proposed as part of the project). This alternative has been rejected from further consideration because it presents potential maintenance problems. The timber ties are in various states of deterioration, and are expected to continue to deteriorate. The project would place compacted material over the ties, and the bike path would be expected to experience surface pavement deterioration (potholes, cracks, and surface level changes) over time, as the ties continue to deteriorate and crumble under the bike path surface, creating voids under the bike path users. Additionally, as described in the EIR, the alternative is rejected from further consideration because it does not reduce or avoid any significant impact associated with the proposed project, yet it would increase maintenance activity along the corridor. Even under this alternative (retain wooden ties in place), the significant, unavoidable impact identified to the CBL would remain, as the project would visually alter this resource.

Furthermore, retaining the wooden ties (bury in place) is not feasible from a health and safety standpoint. As described above, the timber ties are in various states of deterioration, and are expected to continue to deteriorate. The bike path would be expected to experience surface pavement deterioration (potholes, cracks, and surface level changes) over time, as the ties continue to deteriorate and crumble under the bike path surface, creating voids under the bike path users and an uneven path surface. This situation is considered unsafe and presents safety issues for future users of the bike path.

The condition of the ties, within the City of San Diego, can be distinguished from other adjacent jurisdictions (e.g. Imperial Beach). According to the SANDAG South Bay

Excursion Train Study (1996) which examined the condition of the CBL the following conditions were documented.

*The condition of the rail/ties through the Salt Works Ponds:*

The track in this stretch is intact except for a couple of rails that have been removed. However, the track section is fouled with medium to dense brush. Rail and tie plate condition ranges from moderate to extreme corrosion. In some places the tie plates are completely rusted through and/or the rail base is severely corroded. The tie condition is poor to very poor where the ties are not too obscured by dirt and brush to see. There are long distances with no competent ties. The track is bedded in sand and dirt. The subgrade consists of sandy soil through a salt marsh.

*The condition of the rail/ties through Imperial Beach:*

This track section extends along Coronado Bay from approximately 13th Street to a few hundred feet west of the maintenance facility crossing at 10th Street. The track is open and intact except west of 10th street where it is buried in dirt with dense grass growing on it. The rail is 75 pounds rail -- it and the tie plate's exhibit moderate rusting. Tie conditions appears to be better than it is from the Western Salt to 13th Street.....Nevertheless, some of the existing ties could be effective in holding gauge surface and line". Finally, even if the wooden ties were retained in place, the significant, unavoidable impact identified to the CBL would remain as the project would visually alter this resource. The resource will remain buried, and although preserved in place, will still not be visible therefore the significant, unavoidable impact would remain.

Finally, even if the wooden ties were retained in place, the significant, unavoidable impact identified to the CBL would remain as the project would visually alter this resource. The resource will remain buried and although preserved in place, will still not be visible; therefore, the significant, unavoidable impact would remain.

**b. The deviation is the minimum necessary to afford relief and accommodate the development and all feasible measures to mitigate for the loss of any portion of the historical resource have been provided by the applicant.** The City has worked with Save Our Heritage Organization [SOHO] with the goal of designing the proposed bikeway in a manner that would maintain as much of the locally-designated historic features of the CBL as feasible. To achieve this goal, the project was significantly redesigned in an effort to response to SOHO's input and concerns regarding the proposed project. Specific project features that have been incorporated include: 1) maintaining the existing railroad trestle bridges in their current condition and in a manner that maintains the ability to view the structures from various locations; 2) maintaining the existing steel rails in place; and 3) providing interpretive facilities regarding

the history of the CBL on the proposed bikeway segment. However, as described above, the timber ties are in various states of deterioration, and are expected to continue to deteriorate. The bike path would be expected to experience surface pavement deterioration (potholes, cracks, and surface level changes) over time, as the ties continue to deteriorate and crumble under the bike path surface, creating voids under the bike path users and an uneven path surface. This situation is considered unsafe and presents significant safety issues for future users of the bike path. Furthermore, additional alternatives are not feasible, as described above.

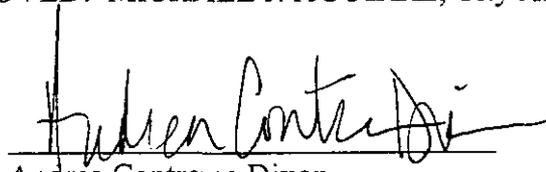
**c. The denial of the proposed development would result in economic hardship to the owner. For purposes of this finding, "economic hardship" means there is no reasonable beneficial use of a property and it is not feasible to derive a reasonable economic return from the property.** The project site is confined to an established transportation corridor and the MTS right-of-way. The rail has been inactive for over 50 years and is in a dilapidated condition. The project represents the most reasonable, beneficial use for the existing transportation corridor and would provide a public benefit. There is no alternative, suitable use for the property that would derive a reasonable economic benefit. The project is located within a narrow transportation corridor and is confined on either side by the Refuge and sensitive habitats. Other than the proposed bikeway, there are no other feasible uses for the project site.

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

BE IT FURTHER RESOLVED, that Site Development Permit No. 3276 is granted to SD&AE Railroad and M&A Gabae, CLP, Owners/City of San Diego Engineering and Capital Projects Department, Transportation and Design Division, Permittee, under the terms and conditions set forth in the attached permit which is made a part of this resolution.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By

  
Andrea Contreras Dixon  
Deputy City Attorney

ACD:pev

08/22/07

Or.Dept:DSD

R-2007-138

MMS #5210

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**RECORDING REQUESTED BY**  
CITY OF SAN DIEGO  
DEVELOPMENT SERVICES DEPARTMENT  
PERMIT INTAKE, MAIL STATION 501

**WHEN RECORDED MAIL TO**  
**CITY CLERK**  
**MAIL STATION 2A**

SPACE ABOVE THIS LINE FOR RECORDER'S USE

JOB ORDER NUMBER 581400

**SITE DEVELOPMENT PERMIT NO. 3276**  
**BAYSHORE BIKEWAY [MMRP]**  
**CITY COUNCIL**

This Site Development Permit No. 3276 is granted by the City Council of the City of San Diego to SD&AE Railroad and M&A Gabae, CLP, Owners/the Engineering and Capital Projects Department of the City of San Diego, Engineering and Capital Projects Department, Transportation Design Division, Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0500. The site is located north along the Otay River Berm and the Main Street Dike in the IH-2-1, IL-3-1 and OF-1-1 zones of the Otay Mesa-Nestor Community Plan area. The project site is legally described as portions of Sections 20 and 21, Township 18 South, Range 2 West, San Bernardino Base Meridian.

Subject to the terms and conditions set forth in this Permit, permission is granted to the Owners/Permittee for the construction of an approximately 1.8-mile Class I bike path located along the Otay River Berm and the Main Street Dike and the relocation of an existing haul road utilized by the South Bay Salt Works as described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated \_\_\_\_\_, on file in the Development Services Department.

The project or facility shall include:

- a. A 12-foot wide bike path including an 8-foot wide paved asphalt path with 2-foot wide paved porous concrete shoulders on each side of the bike path;
- b. A chain link fence erected on both sides of the bike path along the entire alignment and an additional one foot of fill material placed on each side of the path, between the proposed porous concrete shoulders and the fence;
- c. Two pre-fabricated steel bridges;
- d. Landscaping (planting, irrigation and landscape related improvements);

- e. A deviation from the Federal Emergency Management Agency Regulations, SDMC section 143.0145(d) to construct two steel truss bridges where structures are not permitted in a special flood hazard area;
- f. A deviation from the Historic Resources Regulations, SDMC section 143.0260, to cap (cover) the existing Coronado Belt Line train tracks rails with 2-feet of dirt; and
- g. Accessory improvements determined by the City Manager to be consistent with the land use and development standards in effect for this site per the adopted community plan, California Environmental Quality Act Guidelines, public and private improvement requirements of the City Engineer, the underlying zone(s), conditions of this Permit, and any other applicable regulations of the SDMC in effect for this site.

**STANDARD REQUIREMENTS:**

1. This Permit must be utilized within thirty-six months after the date on which all rights of appeal have expired. Failure to utilize and maintain utilization of this permit as described in the SDMC will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all the SDMC requirements and applicable guidelines in affect at the time the extension is considered by the appropriate decision maker.
2. No permit for the construction, occupancy or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:
  - a. The Owners/Permittee signs and returns the Permit to the Development Services Department; and
  - b. The Permit is recorded in the Office of the San Diego County Recorder.
3. Unless this Permit has been revoked by the City of San Diego the property included by reference within this Permit shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the City Manager.
4. This Permit is a covenant running with the subject property and shall be binding upon the Owners/Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this Permit and all referenced documents.
5. The utilization and continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
6. Issuance of this Permit by the City of San Diego does not authorize the Owner/Permittee for this permit to violate any Federal, State or City laws, ordinances,

regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).

7. In accordance with authorization granted to the City of San Diego from the United States Fish and Wildlife Service [USFWS] pursuant to Section 10(a) of the ESA and by the California Department of Fish and Game [CDFG] pursuant to Fish and Game Code section 2835 as part of the Multiple Species Conservation Program [MSCP], the City of San Diego through the issuance of this Permit hereby confers upon Owner/Permittee the status of Third Party Beneficiary as provided for in Section 17 of the City of San Diego Implementing Agreement [IA], executed on July 16, 1997, and on file in the Office of the City Clerk as Document No. OO-18394. Third Party Beneficiary status is conferred upon Owner/Permittee by the City: (1) to grant Owner/Permittee the legal standing and legal right to utilize the take authorizations granted to the City pursuant to the MSCP within the context of those limitations imposed under this Permit and the IA, and (2) to assure Owner/Permittee that no existing mitigation obligation imposed by the City of San Diego pursuant to this Permit shall be altered in the future by the City of San Diego, USFWS, or CDFG, except in the limited circumstances described in Sections 9.6 and 9.7 of the IA. If mitigation lands are identified but not yet dedicated or preserved in perpetuity, maintenance and continued recognition of Third Party Beneficiary status by the City is contingent upon Owner/Permittee maintaining the biological values of any and all lands committed for mitigation pursuant to this Permit and of full satisfaction by Owner/Permittee of mitigation obligations required by this Permit, as described in accordance with Section 17.1D of the IA.

8. The Owner/Permittee shall secure all necessary building permits. The Owner/Permittee is informed that to secure these permits, substantial modifications to the building and site improvements to comply with applicable building, fire, mechanical and plumbing codes and State law requiring access for disabled people may be required.

9. Construction plans shall be in substantial conformity to Exhibit "A." No changes, modifications or alterations shall be made unless appropriate application(s) or amendment(s) to this Permit have been granted.

10. All of the conditions contained in this Permit have been considered and have been determined to be necessary in order to make the findings required for this Permit. It is the intent of the City that the holder of this Permit be required to comply with each and every condition in order to be afforded the special rights which the holder of the Permit is entitled as a result of obtaining this Permit.

In the event that any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable, or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" condition(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de

novo and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.

11. The applicant shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney's fees, against the City or its agents, officers, or employees, including, but not limited to, any action to attack, set aside, void, challenge, or annul this development approval and any environmental document or decision. The City will promptly notify applicant of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, the applicant shall not thereafter be responsible to defend, indemnify, and hold harmless the City or its agents, officers, and employees. The City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, applicant shall pay all of the costs related thereto, including without limitation reasonable attorney's fees and costs. In the event of a disagreement between the City and applicant regarding litigation issues, the City shall have the authority to control the litigation and make litigation related decisions, including, but not limited to, settlement or other disposition of the matter. However, the applicant shall not be required to pay or perform any settlement unless such settlement is approved by applicant.

#### **ENVIRONMENTAL/MITIGATION REQUIREMENTS:**

12. Mitigation requirements are tied to the environmental document, specifically the Mitigation, Monitoring, and Reporting Program [MMRP]. These MMRP conditions are incorporated into the permit by reference or authorization for the project.

13. The mitigation measures specified in the MMRP, and outlined in Environmental Impact Report No. 1901 shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL/MITIGATION REQUIREMENTS.

14. The Owner/Permittee shall comply with the MMRP as specified in Environmental Impact Report No. 1901 satisfactory to the City Manager and the City Engineer. Prior to the issuance of the "Notice to Proceed" with construction, all conditions of the MMRP shall be adhered to, to the satisfaction of the City Engineer. All mitigation measures as specifically outlined in the MMRP shall be implemented for the following issue areas: Land Use (MHPA Land Use Adjacency Guidelines), Historical Resources and Biological Resources.

15. Prior to the issuance of any construction permit, the Owners/Permittee shall pay the Long Term Monitoring Fee in accordance with the Development Services Fee Schedule to cover the City's costs associated with implementation of permit compliance monitoring.

#### **LANDSCAPE REQUIREMENTS:**

16. No change, modification, or alteration shall be made to the project unless appropriate application or amendment of this Permit shall have been granted by the City.

17. Prior to issuance of any engineering permits for right-of-way improvements, complete landscape construction documents for the bike path improvements shall be submitted to the City Manager for approval. Location of proposed vegetation native to the coastal salt marsh environment shall be identified on all construction documents and existing native vegetation shall be preserved during improvement activities, in conformance with Exhibit "A," Landscape Concept Plan.

18. Prior to issuance of any engineering permits for grading, construction documents for revegetation of all disturbed land including irrigation (if applicable) shall be submitted in accordance with the Landscape Standards and to the satisfaction of the City Manager.

19. All required landscape shall be maintained in a disease, weed, and litter free condition at all times. Severe pruning or "topping" of trees is not permitted unless specifically noted in this Permit.

20. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved construction document plans is damaged or removed during demolition, or construction, it shall be repaired and/or replaced in kind and equivalent size per the approved documents to the satisfaction of the City Manager within thirty days of damage.

**PLANNING/DESIGN REQUIREMENTS:**

21. All signs associated with this development shall be consistent with sign criteria established by either the approved Exhibit "A" or Citywide sign regulations.

22. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located and in accordance with the applicable regulations in the SDMC.

23. Prior to the issuance of any construction permit, the Permittee shall acquire a pedestrian and non-motor vehicular right-of-way easement and license.

**INFORMATION ONLY:**

- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this development permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code section 66020.
- This development may be subject to impact fees at the time of construction permit issuance

APPROVED by the City Council of the City of San Diego on \_\_\_\_\_  
by Resolution No. R-\_\_\_\_\_..

AUTHENTICATED BY THE CITY MANAGER

By \_\_\_\_\_

---

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

**SD&AE RAILROAD**

Owner

By \_\_\_\_\_

**M&A GABAE, CLP**

Owner

By \_\_\_\_\_

**CITY OF SAN DIEGO ENGINEERING  
AND CAPITAL PROJECTS  
DEPARTMENT, TRANSPORTATION  
DESIGN DIVISION**

Permittee

By \_\_\_\_\_

**NOTE: Notary acknowledgments  
must be attached per Civil Code  
section 1180 et seq.**

PERMIT/OTHER - Permit Shell 11-01-04

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

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

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

1. That the Mayor, or designee, is authorized to accept SANDAG MC Transnet Funds, in the amount of \$3,774,000 for CIP No. 58-140.0, Bayshore Bikeway.

2. That the City Auditor and Comptroller is authorized to establish a new fund to receive SANDAG Transnet Major Corridor (MC) funds.

3. That the Mayor, or designee, is authorized to accept Transnet Bikeway funds (Fund 30301), in the amount of \$718,000 for CIP No. 58-140.0, Bayshore Bikeway.

4. That the City Auditor and Comptroller is authorized to deappropriate and transfer an amount not to exceed \$850,000 in Federal Congestion Management Air Quality (CMAQ) funds from CIP No. 58-140.0, Bayshore Bikeway, Fund No. 38683, Federal and State funds, back to the appropriate agencies.

5. That the Fiscal Year 2008 Capital Improvements Program Budget for CIP No. 58-140.0, Bayshore Bikeway, is amended by increasing the budget amount by \$3,642,000

6. That the expenditure of an amount not to exceed \$4,492,000 from CIP No. 58.140.0, Bayshore Bikeway, \$3,774,000 in SANDAG Transnet Major Corridor (MC) funds and \$718,000 of Transnet Bikeway Fund 30301, is authorized, solely and exclusively for the purpose of providing funds for the Project, 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.

7. That, after advertising for bids in accordance with law, and contingent upon receipt of all permits, the Mayor or his designee is authorized to enter into a Construction Contract (BID No. K083903C) with the lowest responsible and reliable bidder, 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.

8. That the City Auditor and Comptroller, upon advice from the administering department, is authorized to transfer excess budgeted funds, if any, to the appropriate reserves.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By *Peter A. Mesich*  
Peter A. Mesich  
Deputy City Attorney

PAM:cfq  
08/07/07  
Or.Dept:ECP  
R-2008-123

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 \_\_\_\_\_

WHEREAS, SD&AE Railroad and M&A Gabae, CLP, Owners/City of San Diego Engineering and Capital Projects Department, Transportation Design Division, Permittee applied for a site development permit to construct and operate a 1.8-mile Class I bike path to be located along the Otay River Berm and the Main Street Dike, and to relocate an existing haul road utilized by the South Bay Salt Works; and

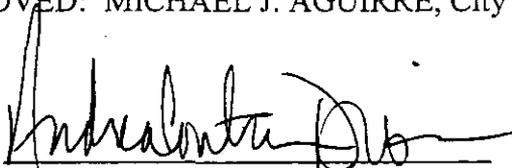
WHEREAS, the bike path would be a segment of the 24 mile Bayshore Bikeway and would connect to an existing bike path segment at 13<sup>th</sup> Street (City of Imperial Beach) on the west side and Main Street (City of San Diego) on the east; and

WHEREAS, the bike path would be located primarily within the Metropolitan Transit [MTS] railroad right-of-way; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that the Mayor, or his designee, is authorized to accept an easement deed executed by M&A Gabae, CLP, granting to the City a permanent easement and right-of-way for pedestrian and non-motor vehicular purposes and incidents thereto, over, under, upon along and across all that real property situated

in the City of San Diego, County of San Diego, State of California, as more particularly described in said deed, a copy of which is on file in the Office of the City Clerk as Document No. RR-\_\_\_\_\_.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By   
Andrea Contreras Dixon  
Deputy City Attorney

ACD:pev  
08/22/07  
Or.Dept:DSD  
R-2007-139  
MMS #5210

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)

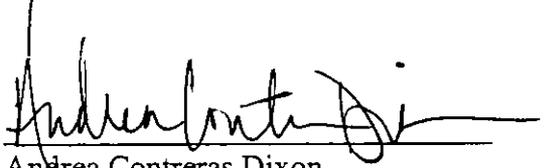
\_\_\_\_\_  
JERRY SANDERS, Mayor

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

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

BE IT RESOLVED, by the Council of the City of San Diego, that the Mayor be and he is hereby authorized and empowered to execute, for and on behalf of said City, a licensing agreement with the Metropolitan Transit System [MTS]/SD&AE Railroad [SD&AE], for the use of the MTS/SD&AE right-of-way for purposes of constructing and operating the Bayshore Bikeway, under the terms and conditions set forth in the Licensing Agreement on file in the office of the City Clerk as Document No. RR \_\_\_\_\_.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By   
Andrea Contreras Dixon  
Deputy City Attorney

ACD:pev  
08/22/07  
Or.Dept:DSD  
R-2008-140  
MMS #5210

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

Item 9

**PLANNING COMMISSION OF THE CITY OF SAN DIEGO  
MINUTES OF REGULAR SCHEDULED MEETING OF  
SEPTEMBER 6, 2007  
IN CITY COUNCIL CHAMBERS - 12<sup>TH</sup> FLOOR  
CITY ADMINISTRATION BUILDING**

**CHRONOLOGY OF THE MEETING:**

Chairperson Schultz called the meeting to order at 9:07 a.m. Chairperson Schultz adjourned the meeting at 5:03 p.m.

**ATTENDANCE DURING THE MEETING:**

Chairperson Barry Schultz-present  
Vice-Chairperson Kathleen Garcia- present for only items 11, 12, & 13  
Commissioner Robert Griswold- present  
Commissioner Gil Ontai-present  
Commissioner Dennis Otsuji- present  
Commissioner Eric Naslund- present  
Commissioner Smiley - present  
Cecilia Williams, Planning Department – present  
Mike Westlake, Development Services-present  
Andrea Dixon, City Attorney- present  
Sabrina Curtin, Recorder-present

## PLANNING COMMISSION MINUTES FOR SEPTEMBER 6, 2007

ITEM-9:       **\*BAYSHORE BIKEPATH - PROJECT NO. 1901**  
City Council District: 8 Plan Area: Otay Mesa-Nestor

Patricia Grabski presented Report No. PC-07-101 to the Planning Commission.

Speaker slips submitted in favor by Marie Lia, Dennis Landual, Danny Melgoza, Kathy Keehan, and Stephan Vance.

Speaker slips submitted in opposition by Cory Briggs and Bruce Coons.

### **COMMISSION ACTION:**

Motion by Commissioner Griswold to recommend to the city council to certify the Environmental Impact Report (EIR) Project No. 1901.

Recommend to the City Council Adoption of the Statement of Overriding Considerations and Adoption of the Mitigation Monitoring and Reporting Program (MMRP); and recommend to the City Council approval of the Site Development Permit No. 3276 with the modification;

Subject to Finding 2 (which can not be made with out modification) to preserve the ties as indicated by the Historic Resources Board (HRB) and SOHO in the 3600 foot area currently being purposed to be removed.  
Second by Commissioner Naslund.

11:02:47 AM Vote fails 2-4-1 with Chairperson Schultz, and Commissioners Smiley, Ontai and Commissioner Otsuji voting nay and Vice-Chairperson Garcia not present.

### **COMMISSION ACTION: Substitute Motion**

**MOTION COMMISSIONER SMILEY TO RECOMMEND TO CITY COUNCIL TO CERTIFY THE ENVIRONMENTAL IMPACT REPORT (EIR) PROJECT NO. 1901.**

**RECOMMEND TO THE CITY COUNCIL ADOPTION OF THE STATEMENT OF OVERRIDING CONSIDERATIONS AND ADOPTION OF THE MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)**

**RECOMMEND TO THE CITY COUNCIL TO APPROVE SITE DEVELOPMENT PERMIT NO. 3276 AS PRESENTED IN REPORT NO. PC-07-101.**

Second by Commissioner Ontai. Passed by a vote of 4-2-1 with Commissioners Griswold and Naslund voting nay.

Bay Shore Bike Path

7/10 - Item #9

## Proposed South Bay Excursion Train

***Prepared for:***

SANDAG

***Prepared by:***



701 B Street, Suite 850  
San Diego, CA 92101

August 1996



distances with no competent ties. Some new ballast was placed near Western Salt in the recent past. However, most of the track is bedded in sand and dirt. The subgrade consists of sandy soil through a salt marsh. At M.P. 10.40 there is a dirt crossing used by Western Salt. And at M.P. 10.57 there is dirt crossing built up 2 to 3 over the top of rail, making the track impassable.

M.P. 10.57 to M.P. 11.15, 13th Street - Salt Works Section

~~The track in this stretch is intact except for a couple of rails that have been removed.~~ However, the track section is fouled with medium to dense brush. Rail and tie plate condition ranges from moderate to extreme corrosion. In some places tie plates are completely rusted through and/or the rail base is severely corroded. Tie condition is poor to very poor where the ties are not too obscured by dirt and brush to see. There are long distances with no competent ties. The track is bedded in sand and dirt. The subgrade consists of sandy soil through a salt marsh. At M.P. 10.90 there is a pipe bridge extending over the track about 3 feet above top of rail. It will require removal.

MP 11.15, 13th Street to MP 11.6, 10th Street I.B. Section

This track section extends along Coronado Bay from approximately 13<sup>th</sup> Street to a few hundred feet west of the maintenance facility crossing at 10<sup>th</sup> Street. The track is open and intact except west of 10<sup>th</sup> Street where it is buried in dirt with dense grass growing on it. The rail is 75 pounds rail -- it and the tie plates exhibit moderate rusting. Tie condition appears to be better than it is from Western Salt to 13<sup>th</sup> Street. However, these ties have experienced no rail traffic for quite some time and may deteriorate quickly under traffic. No doubt many ties could not withstand the forces exerted on them during ballasting, surfacing and lining operations. Nevertheless, some existing ties could be effective in holding gauge surface and line. Ballast is primarily sandy soil. And the subgrade rests on a bench along the bay shore. At M.P. 11.27 a fence extends across the track. 11<sup>th</sup> Street crosses the track at M.P. 11.44 - it is a 50 foot wide asphalt road. The road fill extends onto the track and the road surface is two to three feet above the top of rail, rendering the track impassable. There is a 36 foot wide asphalt crossing serving the maintenance facility at 10<sup>th</sup> Street (it is at top of rail elevation).

MP 11.6, 10th Street to MP 11.8, 8th Street

The track has been removed from a few hundred feet west of 10<sup>th</sup> Street to near 8<sup>th</sup> Street, a distance of approximately 1000 feet. A few length of rail are lying in the area but there are no ties or other track materials apparent. Some grading would be required to construct a subgrade suitable for constructing track. It appears that some imported fill may be required.