

RESOLUTION NUMBER R- 313214DATE OF FINAL PASSAGE SEP 15 2020

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO CERTIFYING SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT NO. 598173/SCH NO. 97111070, AND ADOPTING THE FINDINGS, STATEMENT OF OVERRIDING CONSIDERATIONS, AND THE MITIGATION, MONITORING, AND REPORTING PROGRAM FOR THE AVION PROPERTY - PROJECT NO. 598173.

WHEREAS, on April 26, 2018, The DeBevoise Family Trust dated March 21, 1986, Owner, and Lennar Homes, Permittee, submitted an application to Development Services Department for a Rezone, Vesting Tentative Map, Planned Development Permit, Site Development Permit, and a Multi-Habitat Planning Area Boundary Line Adjustment for the Avion Property (Project); and

WHEREAS, on July 28, 1998, the Council of the City of San Diego (Council) adopted Resolution No. 290524, certifying Environmental Impact Report No. 96-7902 / SCH No. 97111070, a copy of which is on file in the Development Services Department in accordance with the California Environmental Quality Act of 1970 (CEQA) (Public Resources Code Section 21000 et seq.), as amended, and the State CEQA Guidelines thereto (California Code of Regulations, Title 14, Chapter 3, Section 15000 et seq.); and

WHEREAS, on July 23, 2020, the Planning Commission of the City of San Diego considered Planned Development Permit No. 2109731 and Site Development Permit No. 2109732, and pursuant to Resolution No. 5095-PC voted to recommend the Council approve the Permits with a recommendation in the motion for staff, regarding the significant and unavoidable impacts to Landform Alteration/Visual Quality, to add an additional finding to the Statement of

Overriding Considerations that relates to socioeconomic need for more housing (both market-rate and affordable); and

WHEREAS, staff determined that the overriding benefits of the Project with respect to the significant and unavoidable impacts to Landform Alteration/Visual Quality are more appropriately related to the avoidance of encroachment into sensitive steep slopes to maintain open space, and expansion of the Multi-Habitat Planning Area and preservation of additional sensitive habitat, and not the provision of more housing. The Project would provide housing in accordance with the Black Mountain Ranch Subarea Plan; and

WHEREAS, staff revised the Draft Candidate Findings and Statement of Overriding Considerations accordingly; and

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

WHEREAS, the issue was heard by the Council on September 15, 2020; and

WHEREAS, the Council considered the issues discussed in Supplemental Environmental Impact Report No. 598173 / SCH No. 97111070 (Report) prepared for this 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, a public hearing is 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; NOW, THEREFORE,

BE IT RESOLVED, by the Council that it is certified that the Report has been completed in compliance with the California Environmental Quality Act of 1970 (CEQA) (Public Resources Code Section 21000 et seq.), as amended, and the State CEQA Guidelines thereto (California Code of Regulations, Title 14, Chapter 3, Section 15000 et seq.), that the Report

reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in said Report, together with any comments received during the public review process, has been reviewed and considered by the City Council in connection with the approval of the Project.

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

BE IT FURTHER RESOLVED, that pursuant to State CEQA Guidelines Section 15093, the Council hereby adopts the Statement of Overriding Considerations with respect to the Project, which is attached hereto as Exhibit A.

BE IT FURTHER RESOLVED, that pursuant to CEQA Section 21081.6, the Council hereby adopts the Mitigation, Monitoring, and Reporting Program, or alterations to implement the changes to the Project as required by this Council in order to mitigate or avoid significant effects on the environment, which is attached hereto as Exhibit B.

BE IT FURTHER RESOLVED, that the Report and other documents constituting the record of proceedings upon which the approval is based are available to the public at the office of the City Clerk, 202 C Street, San Diego, CA 9210.

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

APPROVED: MARA W. ELLIOTT, City Attorney

By /s/ Lindsey H. Sebastian
Lindsey H. Sebastian
Deputy City Attorney

LHS:als
08/26/2020
Or.Dept:DSD
Doc. No.: 2437584

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

EXHIBIT A
FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATIONS
FOR
Avion Project
PROJECT NO. 598173
SCH No. 97111070
August 13, 2020

I. INTRODUCTION

A. Findings of Fact

The following Candidate Findings are made for the Avion Project (project). The environmental effects of the project are addressed in the Final Supplemental Environmental Impact Report (SEIR) dated July 2, 2020, which is incorporated by reference herein.

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

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

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

CEQA further requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits of a proposed project against its unavoidable

environmental effects when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered “acceptable” (Section 15093(a) of the State CEQA Guidelines). When the lead agency approves a project which will result in the occurrence of significant effects which are identified in the Final SEIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its actions based on the Final SEIR and/or other information in the record. On July 28, 1998, the Council for the City of San Diego certified Environmental Impact Report No. 96-7902/SCH No. 97111070 (1998 EIR), for the Black Mountain Ranch (Subarea I) Subarea Plan (Project No. 96-7902) and adopted Findings and Statement of Overriding Consideration, and the Mitigation Monitoring and Reporting Program via Resolution No. 290524. The Subarea Plan identified several perimeter properties, which were originally held by 11 different ownerships. The Avion project site is within the area of the Subarea Plan referred to as the “Southeast Perimeter” properties, which are composed of four parcels (A, B, C, and D). The project site consists of Parcel C, totaling 41.48 acres. At that time the Subarea Plan allocated 117 units to the project site and the following impacts were determined to be significant: land use, traffic, biological resources, hydrology/water quality, landform alteration/visual quality, air quality, geology and soils, natural resources/agriculture, noise, public facilities and services, and water conservation. The 1998 EIR indicates that significant impacts for the project site would be substantially lessened or avoided if the mitigation measures recommended in the 1998 EIR were implemented by future development for various environmental issues.

A Notice of Preparation (NOP) for the project was distributed on May 24, 2019. The project was designed to be similar to the project as anticipated in the Subarea Plan; however, changes were identified which triggered a need for the preparation of a SEIR pursuant to Section 15163(a) of the CEQA Guidelines. Chapters 1 and 4 of the Final SEIR provide specific details relating to the determination for the preparation of a supplemental document and the history of the project and project site. Overall, it was determined that the project involved new information of substantial importance and could have one or more significant effects not discussed in the 1998 EIR and that additions would be necessary to make the 1998 EIR adequate. These Findings are made relative to the specific conclusions of the Final SEIR prepared for the proposed project and supplement those associated with the 1998 EIR. Therefore, these Findings are hereafter referred to as Supplemental Findings.

The Supplemental Findings have been submitted by the City of San Diego as Candidate Findings to be made by the decision-making body. They are attached to allow readers of this report an opportunity to review the applicant’s position on this matter and to review potential reasons for approving the project despite the significant and unavoidable effects identified in the Final SEIR. It is the exclusive discretion of the decision-maker certifying the SEIR to determine the adequacy of the proposed Supplemental Findings. It is the role of staff to independently evaluate the proposed Supplemental Findings, and to make a recommendation to the decision-maker regarding their legal adequacy.

B. Record of Proceedings

For purposes of CEQA and these Supplemental Findings and Statement of Overriding Considerations, the Record of Proceedings for the project consist of the following documents and other evidence, at a minimum:

- The NOP and all other public notices issued by the City in conjunction with the project;
- All comments on the NOP received by the City;
- The draft SEIR;
- All written comments submitted by agencies or members of the public during the public review comment period on the Draft SEIR;
- All responses to the written comments included in the Final SEIR;
- The final SEIR;
- The Mitigation Monitoring and Reporting Program;
- All written and oral public testimony presented during a noticed public hearing for the project at which such testimony was taken;
- The reports and technical memoranda included or referenced in any responses to comments in the Final SEIR;
- All documents, studies, EIRs, or other materials incorporated by reference in, or otherwise relied upon during the preparation of, the Draft SEIR and the Final SEIR;
- Matters of common knowledge to the City, including, but not limited to, federal, state, and local laws and regulations;
- Any documents expressly cited in these Findings and Statement; and
- Any other relevant materials required to be in the record of proceedings by Public Resources Code Section 21167.6(e).

C. Custodian and Location of Records

The documents and other materials which constitute the record of proceedings for the City's actions on the project are located at the City's Development Services Department, 1222 First Avenue, San Diego, California 92101. The City is the custodian of the project's administrative record. The Draft SEIR was also placed on the City's CEQA website at <https://www.sandiego.gov/ceqa/draft>; whereas the Final SEIR was placed on the City's CEQA website at <https://www.sandiego.gov/ceqa/final>. This information is provided in compliance with the Public Resources Code 21081.6(a)(2) and the CEQA Guidelines 15091(e).

II. PROJECT SUMMARY

A. Project Objectives

The primary purposes, goals, and objectives of the project are:

- Provide residential development that is consistent with the location and the goals and objectives of the adopted Black Mountain Ranch Subarea Plan.

- Provide new residential development, which is consistent with existing residential development patterns in the surrounding area.
- Implement "smart growth" principles of development through the provision of new residences within a complete master planned community.
- Implement sustainable development principles through the provision of a community of new residences with many energy-efficient features.
- Provide infrastructure improvements consistent with the Subarea Plan.

B. Project Description

A request for a Rezone from AR-1-1 to RS-1-14; Vesting Tentative Map (VTM); Planned Development Permit (PDP); Site Development Permit (SDP); Multi-Habitat Planning Area Boundary Line Adjustment; a reorganization consisting of an expansion of latent powers for sewer service and the annexation of the project site to Olivenhain Municipal Water District and for the district's sewer service area. The project would subdivide the project site and construct 84 multi-family residential, the transfer of 19 affordable units and 14 dwelling units to Parcel 1 of Map No. 21331 in the Black Mountain Ranch North Village Town Center for a combined total of 117 dwelling units. The affordable units would be constructed as part of the Fairbanks Terrance Apartments Phase II. The project would also construct various site improvements which include associated public and private streets, hardscape, retaining walls, and landscaping. The project site consists of a 41.48-acre parcel of undeveloped land located approximately 0.6 mile south of Carmel Valley Road/Bernardo Center Drive, 1.2 miles west of Interstate 15, and 1.4 miles east of Black Mountain Road. The site is designated Low Density Residential and zoned AR-1-1 (Agricultural) within the Black Mountain Ranch Subarea Plan. Additionally, the site is within the Airport Land Use Compatibility Overlay Zone (Marine Corps Air Station [MCAS] Miramar), Airport Influence Area (MCAS Miramar - Review Area 2), Affordable Housing Parking Demand, and the Very High Hazard Severity Zone. (LEGAL DESCRIPTION PARCEL 1: The Southeast quarter of the Southeast quarter of Section 32, Township 13 South, Range 2 West, San Bernardino Base and Meridian, in the City of San Diego, County of San Diego, State of California, except for all crude oil, petroleum, gas, brea, asphaltium, and all kindred substances and other minerals under and said land, as reserved in Deed recorded May 30, 1960 as Instrument No. 111628 of Official Records. LEGAL DESCRIPTION PARCEL 2: Lots 1 and 2 and the Southeast quarter of the Northeast quarter of Section 5, Township 14 South, Range 2 West, San Bernardino Base and Meridian, in the City of San Diego, County of San Diego, State of California, except for all crude oil, petroleum, gas, brea, asphaltium, and all kindred substances and other minerals under and said land, as reserved in Deed recorded May 30, 1960 as Instrument No. 111628 of Official Records). Applicant: CalAtlantic Homes.

III. ENVIRONMENTAL REVIEW AND PUBLIC PARTICIPATION

The lead agency approving the project and conducting environmental review under the California Environmental Quality Act (CEQA), California Public Resources Code Sections 21000, et seq., and the Guidelines promulgated thereunder in California Code of Regulations, Title 14, Sections 15000 et seq. (CEQA Guidelines), hereinafter collectively CEQA, shall be the City of San Diego (the City). The City as lead agency shall be primarily responsible for carrying out the project. In compliance with Section 15082 of the CEQA Guidelines, the City published a

Notice of Preparation (NOP) on May 24, 2019, which began a 30-day period for comments on the appropriate scope of the SEIR. Comments on the NOP were received from the California Department of Fish and Wildlife, Native American Heritage Commission, Department of Toxic Substance Control, and a private citizen, Kimberly Uyeda. A copy of the NOP and public comment letters received on the NOP are provided in Appendix A of the Final SEIR.

The City published a Draft SEIR on January 13, 2020 in compliance with CEQA that was circulated for review and comment by the public, agencies, and organizations. The 45-day public review period began on January 13, 2020 and ended on February 27, 2020. Pursuant to CEQA Guidelines Section 15085, upon publication of the Draft SEIR, the City filed a Notice of Completion with the Governor's Office of Planning and Research, State Clearinghouse, indicating that the Draft SEIR had been completed and was available for review and comment by the public. The City also posted a Notice of Availability of the Draft SEIR at this time pursuant to CEQA Guidelines Section 15087. During the public review period, the City received comments on the environmental document. Comments on the Draft SEIR were received from Rincon Band of Luiseño Indians, Viejas Tribal Government, the San Diego County Archeological Society, and Mitchell M. Tsai, Attorney at Law. After the close of the public review period, the City provided responses in writing to all comments received on the Draft SEIR.

The Final SEIR has been prepared in accordance with CEQA and the State CEQA Guidelines. The City, acting as the Lead Agency, has reviewed and edited as necessary the submitted drafts and certified that the Final SEIR reflects its own independent judgment and analysis under Guideline §15090(a)(3) and CEQA Statute §21082.1(a)-(c).

The Final SEIR addresses the environmental effects associated with implementation of the project. The Final SEIR is intended to serve as an informational document for public agency decision-makers and the general public regarding the objectives and components of the project. The Final SEIR addressed the potential significant adverse environmental impacts associated with the project and identifies feasible mitigation measures and alternatives that may be adopted to reduce or eliminate these impacts. The Final SEIR is incorporated by reference into this CEQA Findings document.

The Final SEIR is the primary reference document for the formulation and implementation of a mitigation monitoring program for the project. Environmental impacts cannot always be mitigated to a level that is considered less than significant. In accordance with CEQA, if a Lead Agency approves a project that has significant unavoidable impacts that cannot be mitigated to a level below significance, the agency must state in writing the specific reasons and overriding considerations for approving the project based on the final CEQA documents and any other information in the public record for the project (CEQA Guidelines §15093). The Final SEIR for the project was published on July 2, 2020 and posted on the City's CEQA website at <https://www.sandiego.gov/ceqa/final>.

IV. CUSTODIAN AND LOCATION OF RECORDS

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

V. SUMMARY OF IMPACTS

The Final SEIR Sections 5.1 and 5.6 demonstrate, and the City hereby finds, based on the Final SEIR and the Record of Proceedings, that the project would have **less than significant impacts** and require no mitigation with respect to the following issues:

- Land Use
- Noise

The Final SEIR Sections 5.2, 5.3, and 5.5 demonstrate, and the City hereby finds, based on the Final SEIR and the Record of Proceedings, that potentially significant impacts of the project will be **mitigated to below a level of significance** with respect to the following issues:

- Biological Resources
- Cultural/Historical Resources
- Air Quality

The Final SEIR Section 5.4 demonstrates, and the City hereby finds, based on the Final SEIR and the Record of Proceedings, that **no feasible mitigation measures** are available to reduce impacts to below a level of significance for the following issue:

- Landform Alteration/Visual Quality

VI. FINDINGS REGARDING SIGNIFICANT IMPACTS

In making each of the findings below, the City has considered the Plans, Programs, and Policies discussed in the Final SEIR. The Plans, Programs, and Policies discussed in the Final SEIR are existing regulatory plans and programs the project is subject to, and, likewise, are explicitly made conditions of the project's approval.

A. Findings Regarding Potentially Significant Environmental Impacts Found To Be Less Than Significant After Mitigation

The City, having independently reviewed and considered the information contained in the Final SEIR and the Record of Proceedings, finds pursuant to CEQA Section 21081(a)(1) and State

CEQA Guidelines Section 15091(a)(1), adopts the following findings regarding the significant effects of the project, as follows:

Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant effects on the environment as identified in the Final SEIR. (Project No. 598173/SCH No. 97111070) as described below:

Biological Resources

1. *Description of Potentially Significant Impacts:*

As described in Section 5.2 of the Final SEIR, the project would result in the following impacts to 15.20 acres of vegetation communities (Impact BIO-1):

- Coastal Sage Scrub: 0.56 acres
- Southern mixed chaparral: 13.04 acres
- Non-native Grassland: 1.50 acres

Facts in Support of Finding: MM-BIO-1 would be required to mitigate potential impacts associated with vegetation communities. MM-BIO-1 would require that prior to issuance of any construction permits, including but not limited to, the first Grading Permit, Demolition Plans/Permits and Building Plans/Permits, the project would demonstrate to the satisfaction of the City that impacts to a total of 15.2 acres of sensitive vegetation would be mitigated by the on-site preservation of 24.03 acres of sensitive vegetation as summarized by habitat type in Table 5.2-5 of the Final SEIR. The preserved habitat areas on the site would all be within the boundaries of the Multi-Habitat Planning Area (MHPA) Boundary Line Adjustment (BLA) dedicated to the City in fee title. Acceptance of land dedicated in fee title is subject to approval by the City's Park and Recreation Open Space Division. Implementation of the mitigation measure would ensure that adequate ratios of sensitive habitat would be preserved to offset the impacts and support the ongoing viability of the MHPA.

2. As described in Section 5.2 of the Final SEIR, the project could result in impacts to sensitive wildlife residing within the project site. Likewise, construction and grading activities could result in significant impacts to nesting Cooper's hawk and/or rufous-crowned sparrow that have a moderate to high potential to occur within the project area (Impact BIO-2).

Facts in Support of Finding: MM-BIO-2 would require that prior to issuance of any construction permits, including but not limited to, the first Grading Permit, Demolition Plans/Permits, and Building Plans/Permits, mitigation for general impacts to biological resources would be incorporated via standard measures including general mitigation measures, biological protections during construction (includes monitoring, preconstruction meetings, and development of a Biological Condition Monitoring Exhibit, etc.) as described in Section 5.2.4.4 of the Final SEIR. These Biological Resources Protection requirements shall be depicted on the construction documents verbatim and implemented accordingly. Implementation of the mitigation measure would

ensure that both general and resource specific steps are taken to verify the presence, monitoring and protection of sensitive wildlife.

The City finds that with implementation of mitigation measures MM-BIO-1 and MM-BIO-2, the potential for adverse project impacts associated with vegetation communities and sensitive wildlife would be reduced to a level less than significant.

Reference: Final SEIR Section 5.2.

Historical Resources

1. *Description of Potentially Significant Impacts:* As described in Section 5.3 of the SEIR, the project would have the potential to unearth subsurface deposits associated with P-37-038893 during project construction, which would have the potential to result in a significant impact (Impact HIST-1).

Facts in Support of Finding: As described in the Final SEIR, mitigation measure MM-HIST-1 would be required to mitigate potential impacts associated with P-37-038893. This mitigation measure would require implementation of specific monitoring actions, prior to permit issuance, prior to start of construction, during construction, and upon completion of construction. Implementation of the mitigation measure would ensure that should cultural resources be discovered, steps are taken to preserve, document, and record such resources.

The City finds that with implementation of mitigation measure MM-HIST-1, the potential for adverse project impacts associated with P-37-038893 would be reduced to a level less than significant.

Reference: Final SEIR Section 5.3.

Air Quality

1. *Description of Potentially Significant Impacts:* As described in Section 5.5 of the SEIR, dust generated from blasting operations required during project construction would have the potential to release naturally occurring subsurface arsenic, which could result in short-term exposure that may result in a significant impact (Impact AIR-1).

Facts in Support of Finding: As described in the Final SEIR, mitigation measures MM-AIR-1a and MM-AIR-1b would be required to mitigate potential impacts associated with blasting operations. Mitigation measure MM-AIR-1a would require Geocon to obtain periodic random samples from select air-track borehole spoils or the ground surface over the course of the blasting program. The number of samples shall vary and be based on judgement depending on the size of the shot. The samples shall be assigned for analysis of arsenic using U.S. Environmental Protection Agency Test Method 6010B with a reporting limit of 1.0 milligram per kilogram. The sampling shall be performed under the direct supervision of Geocon's Project Manager and Professional Geologist. Mitigation measure MM-AIR-1b would require that specific protocols listed in Section 5.5.5.4 of the

Final SEIR shall be performed to minimize the generation of visible dust during the hard rock blasting events. Implementation of these mitigation measures would ensure that dust generation from blasting is maintained at acceptable levels to reduce potential exposure. The City finds that with implementation of mitigation measures MM-AIR-1a and MM-AIR1b, the potential for adverse project impacts associated with dust generated from blasting operations would be reduced to a level less than significant.

Reference: Final SEIR Section 5.5.

B. Findings Regarding Significant and Unavoidable Impacts

The City, having independently reviewed and considered the information contained in the Final SEIR and the Record of Proceedings pursuant to Public Resource Code §21081(a)(3) and State CEQA Guidelines §15091(a)(3), adopts the following findings regarding the significant effects of the project, as follows:

Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the Final SEIR. (Project No. 598173/SCH No. 97111070) as described below:

Landform Alteration/Visual Quality

1. *Description of Potentially Significant Impacts:* As described in Section 5.4 of the SEIR, the project would result in a substantial change in an existing landform. Therefore, impacts would be significant. This impact is consistent with the conclusion in the 1998 EIR.

Facts in Support of Finding: The 1998 EIR determined that impacts related to Landform Alteration/Visual Quality would remain significant and unavoidable. The amount and severity of grading for development of the four perimeter properties could not be quantified at that time, and stated that in general, grading of the northeast and southeast perimeter properties may result in significant adverse impacts. The Avion project site is within the area of the Subarea Plan referred to as the southeast perimeter properties, which are composed of four parcels (A, B, C, and D). The project site consists of Parcel C, totaling 41.48 acres.

The project has implemented mitigation measures listed in the 1998 EIR to the extent feasible. For instance, each housing product type has been designed to articulate bulk and scale with varying gables and angled roof sheds mimicking the undulating hillsides in order to fit the natural landform. Proposed earthwork would be balanced onsite, and grading would include five terrace levels as the development steps up the hillside in order to avoid grading one large pad. The proposed access road would wind around natural contours to reach the project site, and the proposed tops and toes of the manufactured slopes would be rounded as they intersect with the natural terrain in order to follow the shape of the existing landform and compliment the natural hillside. Project construction would grade 15.69 acres of the 41.48-acre project site (37.8 percent) in a manner that

would avoid much of the steep sloping terrain and limit intrusion into open space. However, the project would create manufactured slopes over 10 feet in height by creating cut slopes of up to 52 feet in height on the perimeter of the development area. Therefore, the project would not implement all of the measures listed in the 1998 EIR and would result in a substantial change in an existing landform. Impacts would remain significant and unmitigated.

Reference: Final SEIR Section 5.4.

VII. FINDINGS REGARDING ALTERNATIVES

In accordance with Section 15126.6(a) of the CEQA Guidelines, an EIR must contain a discussion of "a range of reasonable alternatives to a project, or the location of a project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project and evaluate the comparative merits of the alternatives." Section 15126.6(f) further states that "the range of alternatives in an EIR is governed by the 'rule of reason' that requires the EIR to set forth only those alternatives necessary to permit a reasoned choice." Thus, the following discussion focuses on project alternatives that are capable of eliminating significant environmental impacts or substantially reducing them as compared to the proposed project, even if the alternative would impede the attainment of some project objectives or would be more costly. In accordance with Section 15126.6(f)(1) of the CEQA Guidelines, among the factors that may be taken into account when addressing the feasibility of alternatives are: (1) site suitability; (2) economic viability; (3) availability of infrastructure; (4) general plan consistency; (5) other plans or regulatory limitations; and (6) jurisdictional boundaries; and (7) whether the proponent can reasonably acquire, control, or otherwise have access to the alternative site.

As required in CEQA Guidelines Section 15126.6(a), in developing the alternatives to be addressed in this section, consideration was given regarding an alternative's ability to meet most of the basic objectives of the project. Because the project would result in potentially significant environmental effects unless mitigated, the City must consider the feasibility of any environmentally superior alternatives to the project evaluating whether these alternatives could avoid or substantially lessen the potentially significant environmental effects while achieving most of the objectives of the project. The project objectives are presented above, Section II.A.

The City, having reviewed and considered the information contained in the Final SEIR and the Record of Proceedings, and pursuant to Public Resource Code §21081(a)(3) and State CEQA Guidelines §15091(a)(3), makes the following findings with respect to the alternatives identified in the Final SEIR.

Specific economic, legal, social, technological, or other considerations, including considerations of the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the Final SEIR (Project No. 598173/SCH No. 97111070) as described below.

"Feasible" is defined in Section 15364 of the CEQA Guidelines to mean "capable of being accomplished in a successful manner within a reasonable period of time, taking into account

economic, environmental, legal, social, and technological factors.” The CEQA statute (Section 21081) and Guidelines (Section 15019(a)(3)) also provide that “other” considerations may form the basis for a finding of infeasibility.

Alternatives Under Consideration

The Final SEIR evaluated two alternatives. Potential impacts that could occur under each alternative was compared to the potential impacts that could occur under the proposed project. The two alternatives are as follows:

- Alternative 1: No Project (No Development) Alternative
- Alternative 2: Reduced Development Footprint Alternative

No Project (No Development) Alternative

The No Project (No Development) Alternative would maintain the project site in its current condition. This alternative would preserve the existing environmental setting and would thereby eliminate all of the project’s impacts. This alternative would not require any deviations from the City’s Land Development Code (LDC), Environmentally Sensitive Lands (ESL) ordinance, or the Historic Resource Regulations. Similarly, this alternative would not conflict with the Multiple Species Conservation Program (MSCP)/MHPA. No grading or construction activities would occur under this alternative, which would avoid impacts to sensitive vegetation communities, wildlife species, or unknown subsurface deposits associated with P-37-038893. This alternative would not alter existing landforms on the project site, including steep hillsides. No construction or blasting activities would occur under this alternative, which would avoid generation of construction emissions, noise, and vibration.

Facts in Support of Findings: While this alternative would avoid impacts associated with the project, this alternative would not meet any of the project objectives described above and in Section 3.2 of the Final SEIR. This alternative would not provide residential development that is consistent with the location and the goals and objectives of the adopted Black Mountain Ranch Subarea Plan. This alternative would not provide new residential development which is consistent with existing residential development patterns in the surrounding area. This alternative would not implement "smart growth" principles of development through the provision of new residences within a complete master planned community and would not implement sustainable development principles through the provision of a community of new residences with many energy-efficient features. Nor would this alternative provide infrastructure improvements consistent with the Subarea Plan. This alternative also would not provide the project benefit of expanding the MHPA through a boundary line adjustment that would result in a net increase of 5.06 acres. Therefore, the City rejects this alternative as infeasible on the basis that it fails to meet the project objectives. The City finds that although the No Project (No Development) Alternative would have fewer environmental impacts, specific economic, legal, social, technological, or other considerations, as set forth in the Statement of Overriding Considerations and rejects the No Project (No Development) Alternative on such grounds.

Reduced Development Footprint Alternative

The Reduced Development Footprint Alternative would reduce the grading footprint compared to the project. This alternative would reduce the footprint of the project area thereby avoiding impacts to the MHPA and would not require a boundary line adjustment. Similarly, the smaller project footprint would reduce impacts to sensitive vegetation communities and reduce impacts on landform alteration because it would not require encroachment into steep hillsides. Under this alternative, the same number of residential units (117) as prescribed for the project site in the Black Mountain Ranch (Subarea I) Subarea Plan would be constructed. However, this alternative would produce attached multi-family structures with an increased density compared to the project. The Reduced Development Footprint Alternative would reduce the grading footprint, and thereby avoid encroachment into the MHPA, and thereby not require a boundary line adjustment. However, the increased density associated with the alternative would require a height deviation to allow for development of the 117 units within the reduced grading footprint. The reduced grading footprint would also lessen impacts to sensitive upland vegetation communities. This alternative would have similar potential to impact cultural resources associated with P-37-038893. On balance, the reduction of landform alteration and encroachment into steep slopes would lessen impacts compared to the project, but would remain significant and unavoidable. The Reduced Development Footprint Alternative would reduce the grading footprint, and thereby reduce the amount of construction emissions, construction noise, and construction vibration.

Facts in Support of Findings: The Reduced Development Footprint Alternative would be considered the environmentally superior alternative. This alternative would avoid impacts to the MHPA and would not require a boundary line adjustment. Similarly, the smaller project footprint would reduce impacts to sensitive vegetation communities and reduce impacts on landform alteration. Although, the increased density and introduction of attached multi-family residential units that would occur under this alternative would not be consistent with the character of the single-family and detached multi-family residential units surrounding the project site, it would be considered environmentally superior to the project due to the reduction in grading and biological impacts.

The City rejects this alternative as infeasible because the increased density and introduction of attached multi-family residential units that would occur under this alternative would not be consistent with the character of the single-family and detached multi-family residential units surrounding the project site. Furthermore, this alternative would not transfer the affordable units to Fairbanks Terrace Apartments Phase II, which would better serve affordable housing tenants due to the closer proximity to transportation and commercial amenities at this site. The City finds that although the Reduced Development Footprint Alternative would have fewer environmental impacts, specific economic, legal, social, technological, or other considerations, make the Reduced Development Footprint Alternative infeasible, as set forth in the Statement of Overriding Considerations, and rejects the Reduced Development Footprint Alternative on such grounds.

STATEMENT OF OVERRIDING CONSIDERATIONS

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

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

Pursuant to the Public Resources Code §21081(b) and CEQA Guidelines §15093, the City Council, having considered all of the foregoing, finds that the following specific overriding economic, legal, social, technological, or other benefits associated with the project outweigh unavoidable adverse direct impacts related to Landform Alteration/Visual Quality.

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

BIOLOGICAL BENEFITS

- The project would result in the expansion of the Multi-Habitat Planning Area (MHPA) through a boundary line adjustment that would result in a net increase of 5.06 acres. Additionally, the use of slopes that exceed the ten-foot height restriction related to landform alteration would serve to preserve additional sensitive habitat that otherwise would have been impacted.

OPEN SPACE BENEFITS

- The project has reduced the development footprint in a manner that would preserve steep slopes consistent with Open Space Element of the Black Mountain Ranch Subarea Plan implementing principle to “maintain natural resources such as mature stands of native vegetation, seasonal stream courses, wetlands and significant landforms”.

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

EXHIBIT B

MITIGATION, MONITORING, AND REPORTING PROGRAM

**REZONE ORDINANCE NO. 2109729, PLANNED DEVELOPMENT PERMIT NO. 2109731,
SITE DEVELOPMENT PERMIT NO. 2109732, AND VESTING TENTATIVE MAP
NO. 2109728
PROJECT NO. 598173 / SCH No. 97111070**

This Mitigation, Monitoring, and Reporting Program is designed to ensure compliance with Public Resources Code Section 21081.6 during implementation of mitigation measures. This program identifies at a minimum: the department responsible for the monitoring, what is to be monitored, how the monitoring shall be accomplished, the monitoring and reporting schedule, and completion requirements. A record of the Mitigation, Monitoring, and Reporting Program will be maintained at the offices of the Land Development Review Division, 1222 First Avenue, Fifth Floor, San Diego, CA, 92101. All mitigation measures contained in the Environmental Impact Report No. 598173 / SCH No. 97111070 shall be made conditions of Rezone Ordinance No. 2109729, Planned Development Permit No. 2109731, Site Development Permit No. 2109732, and Vesting Tentative Map No. 2109728, as may be further described below.

A. GENERAL REQUIREMENTS – PART I (*Plan Check Phase (prior to permit issuance)*)

1. Prior to the issuance of a Notice to Proceed (NTP) for a subdivision, or any construction permits, such as Demolition, Grading or Building, or beginning any construction related activity on-site, the Development Services Department (DSD) Director's Environmental Designee (ED) shall review and approve all Construction Documents (CD) (plans, specification, details, etc.) to ensure the MMRP requirements are incorporated into the design.
2. In addition, the ED shall verify that the MMRP Conditions/Notes that apply ONLY to the construction phases of this project are included VERBATIM, under the heading, "ENVIRONMENTAL/MITIGATION REQUIREMENTS."
3. These notes must be shown within the first three (3) sheets of the construction documents in the format specified for engineering construction document templates as shown on the City website:
<http://www.sandiego.gov/development-services/industry/standtemp.shtml>
4. The **TITLE INDEX SHEET** must also show on which pages the "Environmental/Mitigation Requirements" notes are provided.
5. **SURETY AND COST RECOVERY** – The Development Services Director or City Manager may require appropriate surety instruments or bonds from private Permit Holders to ensure the long-term performance or implementation of required mitigation measures or programs. The City is authorized to recover its

cost to offset the salary, overhead, and expenses for City personnel and programs to monitor qualifying projects.

B. GENERAL REQUIREMENTS – PART II (*Post Plan Check (After Permit Issuance/Prior to Start of Construction)*)

1. **PRECONSTRUCTION MEETING IS REQUIRED TEN (10) WORKING DAYS PRIOR TO BEGINNING ANY WORK ON THIS PROJECT.** The PERMIT HOLDER/OWNER is responsible to arrange and perform this meeting by contacting the CITY RESIDENT ENGINEER (RE) of the Field Engineering Division and City staff from MITIGATION MONITORING COORDINATION (MMC). Attendees must also include the Permit holder's Representative(s), Job Site Superintendent and the following consultants:
Qualified Paleontological Monitor(s), Acoustician, Archaeologist(s), Native American Monitor(s), and Biologist(s)

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

Contact Information:

- (a) The PRIMARY POINT OF CONTACT is the RE at the Field Engineering Division – 858-627-3200
 - (b) For Clarification of ENVIRONMENTAL REQUIREMENTS, it is also required to call RE and MMC at 858-627-3360
2. **MMRP COMPLIANCE:** This Project, Project Tracking System (PTS) No. 598173 and/or Environmental Document No. 598173, shall conform to the mitigation requirements contained in the associated Environmental Document and implemented to the satisfaction of the DSD's Environmental Designee (MMC) and the City Engineer (RE). The requirements may not be reduced or changed but may be annotated (i.e. to explain when and how compliance is being met and location of verifying proof, etc.). Additional clarifying information may also be added to other relevant plan sheets and/or specifications as appropriate (i.e., specific locations, times of monitoring, methodology, etc.).

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

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

include copies of permits, letters of resolution or other documentation issued by the responsible agency.

- California Department of Fish and Wildlife: California Fish and Game Code Section 1602 Streambed Alteration Agreement
- Federal Emergency Management Agency: Conditional Letter of Map Revision
- Regional Water Quality Control Board: National Pollutant Discharge Elimination System General Construction Permit, Clean Water Act Section 401 waiver/certification
- U.S. Army Corps of Engineers: Clean Water Act Section 404 authorization
- San Diego County Airport Land Use Commission Consistency Determination (Conditional Consistency November 6, 2018)

4. **MONITORING EXHIBITS:** All consultants are required to submit, to RE and MMC, a monitoring exhibit on a 11x17 reduction of the appropriate construction plan, such as site plan, grading, landscape, etc., marked to clearly show the specific areas including the **LIMIT OF WORK**, scope of that discipline's work, and notes indicating when in the construction schedule that work will be performed. When necessary for clarification, a detailed methodology of how the work will be performed shall be included.

NOTE: Surety and Cost Recovery – When deemed necessary by the Development Services Director or City Manager, additional surety instruments or bonds from the private Permit Holder may be required to ensure the long-term performance or implementation of required mitigation measures or programs. The City is authorized to recover its cost to offset the salary, overhead, and expenses for City personnel and programs to monitor qualifying projects.

5. **OTHER SUBMITTALS AND INSPECTIONS:** The Permit Holder/Owner's representative shall submit all required documentation, verification letters, and requests for all associated inspections to the RE and MMC for approval per the following schedule:

Document Submittal/Inspection Checklist		
Issue Area	Document Submittal	Associated Inspection/ Approvals/ Notes
General	Consultant Qualification Letters	Prior to Preconstruction Meeting
General	Consultant Construction Monitoring Exhibits	Prior to or at Preconstruction Meeting

Document Submittal/Inspection Checklist		
Land Use	Multi-Habitat Planning Area (MHPA) Land Use Adjacency Issues Consultant Site Visit Records (CSVSR)	Land Use Adjacency Issue Site Observations
Biology	Biologist Limit of Work Verification	Limit of Work Inspection
Biology	Biology Reports	Biology/Habitat Inspection
Archaeology	Archaeology Reports	Archaeology/Historic Site Observation
Noise	Blasting Management Plan	Prior to issuance of the first grading permit
Waste Management	Waste Management Reports	Waste Management Inspections
Bond Release	Request for Bond Release Letter	Final MMRP Inspections Prior to Bond Release Letter

C. SPECIFIC MMRP ISSUE AREA CONDITIONS/REQUIREMENTS

Biological Resources

Vegetation Communities

MM-BIO-1: Upland Vegetation Communities

Mitigation for impacts to coastal sage scrub (Tier II habitat), southern mixed chaparral (Tier IIIA habitat), and non-native grassland (Tier IIIB habitat) communities would be achieved through the preservation of habitat on the site located outside of the development area. Prior to issuance of any construction permits, including but not limited to, the first Grading Permit, Demolition Plans/Permits and Building Plans/Permits, the project would demonstrate to the satisfaction of the City that impacts to a total of 15.2 acres of sensitive vegetation would be mitigated by the on-site preservation of 24.03 acres of sensitive vegetation as summarized by habitat type in Table 5.2-5. The preserved habitat areas on the site would all be within the boundaries of the MHPA Boundary Line Adjustment (BLA) dedicated to the City in fee title. Acceptance of land dedicated in fee title is subject to approval by the City's Park and Recreation Open Space.

Sensitive Wildlife

MM-BIO-2: Standard City Construction Measures

Prior to issuance of any construction permits, including but not limited to, the first Grading Permit, Demolition Plans/Permits and Building Plans/Permits, mitigation for general impacts to biological resources would be incorporated via standard measures including general mitigation measures, biological protections during construction, (includes monitoring, preconstruction meetings, and development of a Biological Condition Monitoring Exhibit, etc.) as described

below. These Biological Resources Protection requirements shall be depicted on the construction documents verbatim and implemented accordingly.

Biological Resources (Protection During Construction)

I. Prior to Construction

- A. **Biologist Verification** - The owner/permittee shall provide a letter to the City's Mitigation Monitoring Coordination (MMC) section stating that a Project Biologist (Qualified Biologist) as defined in the City's Biological Guidelines (2012), has been retained to implement the project's biological monitoring program. The letter shall include the names and contact information of all persons involved in the biological monitoring of the project.
- B. **Preconstruction Meeting** - The Qualified Biologist shall attend the preconstruction meeting, discuss the project's biological monitoring program, and arrange to perform any follow up mitigation measures and reporting including site-specific monitoring, restoration or revegetation, and additional fauna/flora surveys/salvage.
- C. **Biological Documents** - The Qualified Biologist shall submit all required documentation to MMC verifying that any special mitigation reports including but not limited to, maps, plans, surveys, survey timelines, or buffers are completed or scheduled per the City's Biology Guidelines, MSCP, ESL Ordinance, project permit conditions; CEQA; endangered species acts (ESAs); and/or other local, state or federal requirements.
- D. **Biological Construction Mitigation/Monitoring Exhibit (BCME)** - The Qualified Biologist shall present a BCME, which includes the biological documents in "C" above. In addition, include: restoration/revegetation plans, plant salvage/relocation requirements (e.g., coastal cactus wren plant salvage, burrowing owl exclusions, etc.), avian or other wildlife surveys/survey schedules (including U.S. Fish and Wildlife Service protocol), timing of surveys, wetland buffers, other impact avoidance areas, and any subsequent requirements determined by the Qualified Biologist and the City Assistant Deputy Director (ADD)/MMC. The BCME shall include a site plan, written and graphic depiction of the project's biological mitigation/monitoring program, and a schedule. The BCME shall be approved by MMC and referenced in the construction documents.
- E. **Avian Protection Requirements** - To avoid any direct impacts to Cooper's hawk, rufous-crowned sparrow, and coastal California gnatcatcher or any species identified as listed, candidate, sensitive, or special status in the MSCP, removal of habitat that supports active nests in the proposed area of disturbance should occur outside of the breeding season for these species (February 1 to September 15). If removal of habitat in the proposed area of disturbance must occur during the breeding season, the Qualified Biologist shall conduct a preconstruction survey to

determine the presence or absence of nesting for these three sensitive bird species on the proposed area of disturbance. The preconstruction survey shall be conducted within 10 calendar days prior to the start of construction activities (including removal of vegetation). The applicant shall submit the results of the preconstruction survey to the City's DSD for review and approval prior to initiating any construction activities. If nesting activities for any of the above-mentioned sensitive bird species are detected, a letter report or mitigation plan in conformance with the City's Biology Guidelines and applicable state and federal law (i.e., appropriate follow up surveys, monitoring schedules, construction and noise barriers/buffers, etc.) shall be prepared and include proposed measures to be implemented to ensure that take of birds or eggs or disturbance of breeding activities is avoided. The report or mitigation plan shall be submitted to the City for review and approval and implemented to the satisfaction of the City. The City's MMC Section or Resident Engineer, and Biologist shall verify and approve that all measures identified in the report or mitigation plan are in place prior to and/or during construction.

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

II. During Construction

- A. **Monitoring** - All construction (including access/staging areas) shall be restricted to areas previously identified, proposed for development/staging, or previously disturbed as shown on "Exhibit A" and/or the BCME. The Qualified Biologist shall monitor construction activities as needed to ensure that construction activities do not encroach into biologically sensitive areas, or cause other similar damage, and that the work plan has been amended to accommodate any sensitive species located during the preconstruction surveys. In addition, the Qualified Biologist shall document field activity via the Consultant Site Visit Record (CSV). The CSV shall be e-mailed to the MMC on the first day of monitoring,

the first week of each month, the last day of monitoring, and immediately in the case of any undocumented condition or discovery.

- B. **Subsequent Resource Identification** – The Qualified Biologist shall note/act to prevent any new disturbances to habitat, flora, and/or fauna on-site (e.g., flag plant specimens for avoidance during access, etc.). If active nests for Cooper's hawk, rufous-crowned sparrow, and coastal California gnatcatcher, or other previously unknown sensitive resources are detected, all project activities that directly impact the resource shall be delayed until species specific local, state or federal regulations have been determined and applied by the Qualified Biologist.

III. Post Construction Measures

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

Cultural/Historical Resources

Historic Resources

MM-HIST-1: Archaeological Monitoring

I. Prior to Permit Issuance

- A. **Entitlements Plan Check**
 - 1. Prior to issuance of any construction permits, including but not limited to, the first Grading Permit, Demolition Plans/Permits and Building Plans/Permits or a Notice to Proceed for Subdivisions, but prior to the first preconstruction meeting, whichever is applicable, the Assistant Deputy Director (ADD) Environmental designee shall verify that the requirements for Archaeological Monitoring and Native American monitoring have been noted on the applicable construction documents through the plan check process.
- B. **Letters of Qualification have been submitted to ADD**
 - 1. The applicant shall submit a letter of verification to Mitigation Monitoring Coordination (MMC) identifying the Principal Investigator (PI) for the project and the names of all persons involved in the archaeological monitoring program, as defined in the City of San Diego Historical Resources Guidelines (HRG). If applicable, individuals involved in the archaeological monitoring program must have completed the 40-hour HAZWOPER training with certification documentation.
 - 2. MMC will provide a letter to the applicant confirming the qualifications of the PI and all persons involved in the archaeological monitoring of the project meet the qualifications established in the HRG.

3. Prior to the start of work, the applicant must obtain written approval from MMC for any personnel changes associated with the monitoring program.

II. Prior to Start of Construction

A. Verification of Records Search

1. The PI shall provide verification to MMC that a sit- specific records search (1/4-mile radius) has been completed. Verification includes but is not limited to a copy of a confirmation letter from South Coastal Information Center, or, if the search was in-house, a letter of verification from the PI stating that the search was completed.
2. The letter shall introduce any pertinent information concerning expectations and probabilities of discovery during trenching and/or grading activities.
3. The PI may submit a detailed letter to MMC requesting a reduction to the ¼ mile radius.

B. PI Shall Attend Precon Meetings

1. Prior to beginning any work that requires monitoring; the Applicant shall arrange a Precon Meeting that shall include the PI, Native American consultant/monitor (where Native American resources may be impacted), Construction Manager (CM) and/or Grading Contractor, Resident Engineer (RE), Building Inspector (BI), if appropriate, and MMC. The qualified Archaeologist and Native American Monitor shall attend any grading/excavation related Precon Meetings to make comments and/or suggestions concerning the Archaeological Monitoring program with the Construction Manager and/or Grading Contractor.
 - a. If the PI is unable to attend the Precon Meeting, the Applicant shall schedule a focused Precon Meeting with MMC, the PI, RE, CM or BI, if appropriate, prior to the start of any work that requires monitoring.
2. Identify Areas to be Monitored
 - a. Prior to the start of any work that requires monitoring, the PI shall submit an Archaeological Monitoring Exhibit (AME) (with verification that the AME has been reviewed and approved by the Native American consultant/monitor when Native American resources may be impacted) based on the appropriate construction documents (reduced to 11x17) to MMC identifying the areas to be monitored including the delineation of grading/excavation limits.
 - b. The AME shall be based on the results of a site specific records search as well as information regarding existing known soil conditions (native or formation).

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

III. During Construction

- A. Monitor(s) Shall be Present During Grading/Excavation/Trenching
 1. The Archaeological Monitor shall be present full-time during all soil disturbing and grading/excavation/trenching activities which could result in impacts to archaeological resources as identified on the AME. The Construction Manager is responsible for notifying the RE, PI, and MMC of changes to any construction activities such as in the case of a potential safety concern within the area being monitored. In certain circumstances OSHA safety requirements may necessitate modification of the AME.
 2. The Native American consultant/monitor shall determine the extent of their presence during soil disturbing and grading/excavation/trenching activities based on the AME and provide that information to the PI and MMC. If prehistoric resources are encountered during the Native American consultant/monitor's absence, work shall stop, and the Discovery Notification Process detailed in Section III.B-C and IV.A-D shall commence.
 3. The PI may submit a detailed letter to MMC during construction requesting a modification to the monitoring program when a field condition such as modern disturbance post-dating the previous grading/trenching activities, presence of fossil formations, or when native soils are encountered that may reduce or increase the potential for resources to be present.
 4. The archaeological and Native American consultant/monitor shall document field activity via the Consultant Site Visit Record (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.
- B. Discovery Notification Process
 1. In the event of a discovery, the Archaeological Monitor shall direct the contractor to temporarily divert all soil disturbing activities, including but not limited to digging, trenching, excavating or grading activities in the

- area of discovery and in the area reasonably suspected to overlay adjacent resources and immediately notify the RE or BI, as appropriate.
2. The Monitor shall immediately notify the PI (unless Monitor is the PI) of the discovery.
 3. The PI shall immediately notify MMC by phone of the discovery and shall also submit written documentation to MMC within 24 hours by fax or email with photos of the resource in context, if possible.
 4. No soil shall be exported off-site until a determination can be made regarding the significance of the resource specifically if Native American resources are encountered.

C. Determination of Significance

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

IV. Discovery of Human Remains

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

A. Notification

1. Archaeological Monitor shall notify the RE or BI as appropriate, MMC, and the PI, if the Monitor is not qualified as a PI. MMC will notify the appropriate Senior Planner in the Environmental Analysis Section (EAS)

of the Development Services Department to assist with the discovery notification process.

2. The PI shall notify the Medical Examiner after consultation with the RE, either in person or via telephone.

B. Isolate discovery site

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

C. If Human Remains ARE determined to be Native American

1. The Medical Examiner will notify the Native American Heritage Commission (NAHC) within 24 hours. By law, ONLY the Medical Examiner can make this call.
2. NAHC will immediately identify the person or persons determined to be the Most Likely Descendent (MLD) and provide contact information.
3. The MLD will contact the PI within 24 hours or sooner after the Medical Examiner has completed coordination, to begin the consultation process in accordance with CEQA Section 15064.5(e), the California Public Resources and Health & Safety Codes.
4. The MLD will have 48 hours to make recommendations to the property owner or representative, for the treatment or disposition with proper dignity, of the human remains and associated grave goods.
5. Disposition of Native American Human Remains will be determined between the MLD and the PI, and, if:
 - a. The NAHC is unable to identify the MLD, OR the MLD failed to make a recommendation within 48 hours after being granted access to the site, OR;
 - b. The landowner or authorized representative rejects the recommendation of the MLD and mediation in accordance with PRC 5097.94 (k) by the NAHC fails to provide measures acceptable to the landowner, the landowner shall reinter the human remains and items associated with Native American human remains with appropriate dignity on the property in a location not subject to further and future subsurface disturbance, THEN
 - c. To protect these sites, the landowner shall do one or more of the following:
 - (1) Record the site with the NAHC;
 - (2) Record an open space or conservation easement; or

- (3) Record a document with the County. The document shall be titled "Notice of Reinternment of Native American Remains" and shall include a legal description of the property, the name of the property owner, and the owner's acknowledged signature, in addition to any other information required by PRC 5097.98. The document shall be indexed as a notice under the name of the owner.
 - 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 items associated and buried with Native American human remains shall be reinterred with appropriate dignity, pursuant to Section 5.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 San Diego Museum of Man for analysis. The decision for internment of the human remains shall be made in consultation with MMC, EAS, the applicant/landowner, any known descendant group, and the San Diego Museum of Man.

V. Night and/or Weekend Work

- A. If night and/or weekend work is included in the contract
 1. When night and/or weekend work is included in the contract package, the extent and timing shall be presented and discussed at the precon meeting.
 2. The following procedures shall be followed.
 - a. No Discoveries
In the event that no discoveries were encountered during night and/or weekend work, the PI shall record the information on the CSVN and submit to MMC via fax by 8AM of the next business day.
 - b. Discoveries
All discoveries shall be processed and documented using the existing procedures detailed in Sections III - During Construction, and IV - Discovery of Human Remains. Discovery of human remains shall always be treated as a significant discovery.

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

VI. Post Construction

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

3. The PI shall submit revised Draft Monitoring Report to MMC for approval.
 4. MMC shall provide written verification to the PI of the approved report.
 5. MMC shall notify the RE or BI, as appropriate, of receipt of all Draft Monitoring Report submittals and approvals.
- B. Handling of Artifacts
1. The PI shall be responsible for ensuring that all cultural remains collected are cleaned and catalogued
 2. The PI shall be responsible for ensuring that all artifacts are analyzed to identify function and chronology as they relate to the history of the area; that faunal material is identified as to species; and that specialty studies are completed, as appropriate.
 3. The cost for curation is the responsibility of the property owner.
- C. Curation of artifacts: Accession Agreement and Acceptance Verification
1. The PI shall be responsible for ensuring that all artifacts associated with the survey, testing and/or data recovery for this project are permanently curated with an appropriate institution. This shall be completed in consultation with MMC and the Native American representative, as applicable.
 2. The PI shall include the Acceptance Verification from the curation institution in the Final Monitoring Report submitted to the RE or BI and MMC.
 3. When applicable to the situation, the PI shall include written verification from the Native American consultant/monitor indicating that Native American resources were treated in accordance with state law and/or applicable agreements. If the resources were reinterred, verification shall be provided to show what protective measures were taken to ensure no further disturbance occurs in accordance with Section IV – Discovery of Human Remains, Subsection 5.
- D. Final Monitoring Report(s)
1. The PI shall submit one copy of the approved Final Monitoring Report to the RE or BI as appropriate, and one copy to MMC (even if negative), within 90 days after notification from MMC that the draft report has been approved.
 2. The RE shall, in no case, issue the Notice of Completion and/or release of the Performance Bond for grading until receiving a copy of the approved Final Monitoring Report from MMC which includes the Acceptance Verification from the curation institution.

Air Quality

Sensitive Receptors (Construction)

MM-AIR-1a: Arsenic Testing Protocol in Areas Requiring Blasting

Geocon shall obtain periodic random samples from select air-track borehole spoils or the ground surface over the course of the blasting program. The number of samples shall vary and be based on judgement depending on the size of the shot. The samples shall be assigned for analysis of arsenic using U.S. Environmental Protection Agency Test Method 6010B with a reporting limit of 1.0 milligram per kilogram. The sampling shall be performed under the direct supervision of Geocon's Project Manager and Professional Geologist.

MM-AIR-1b: Blasting Dust Mitigation Plan

The following protocols shall be performed to minimize the generation of visible dust during the hard rock blasting events:

- The areas shall be heavily watered prior to the planned blasting. The amount of water applied shall depend on the size of the shot and composition of the materials exposed at the top of the shot (i.e., topsoil vs. hard rock).
- A water truck shall be dedicated to pre-wet the ground surface.
- Detergent, if necessary, shall be added to the water truck to reduce the surface tension of the water and promote soaking into the surface materials. The water used shall be confined to the area of the shot and not be allowed to migrate out of the work limits. Confinement of the water shall be achieved through use of earthen berms, ditches, or other containment features that shall prevent migration of the water outside the work area.
- Once the boreholes are loaded with blasting agent, a final soaking shall occur just prior to the shot.

D. PREVIOUS MITIGATION (1998 EIR)

Transportation/Circulation

The project would be subject to conditions of approval consistent with the MMRP for the 1998 EIR. Specifically, prior to the issuance of any building permit, the project is required to be in conformance with the Black Mountain Ranch Transportation Phasing Plan.

Air Quality

The 1998 EIR incorporated mitigation measures that would reduce fugitive dust impacts from construction activity. Dust control during construction and grading operations would be regulated in accordance with the rules of the San Diego Air Pollution Control District. The following measures would reduce fugitive dust impacts:

1. All unpaved construction areas would be sprinkled with water or other acceptable San Diego County Air Pollution Control District (SDAPCD) dust control agents during dust-generating activities to reduce dust emissions. Additional watering or acceptable Air

Pollution Control District dust control agents would be applied during dry weather or windy days until dust emissions are not visible.

2. Trucks hauling dirt and debris would be covered to reduce windblown dust and spills.
3. On dry days, dirt and debris spilled onto paved surfaces would be swept up immediately to reduce resuspension of particulate matter caused by vehicle movement. Approach routes to construction sites would be cleaned daily of construction-related dirt in dry weather.
4. On-site stockpiles of excavated material would be covered or watered.

To reduce construction-related vehicle emissions, ride share opportunities would be encouraged and construction vehicle access would be limited to roads determined in a temporary traffic construction management plan. In addition, construction staging areas would be as far away from existing or completed residences as possible.

Landform Alteration/Visual Quality

The 1998 EIR incorporated mitigation measures that would reduce landform alteration/visual quality impacts due to major alterations to the underlying terrain for Subarea I. The measures would place limitations on the severity of slopes and require blending and contouring to natural adjacent slopes. The following measures would be incorporated into approvals to partially mitigate direct impacts for any future development within Subarea I to minimize large manufactures slope or major alteration to underlying terrain. The following measures would partially reduce impacts:

1. Design structures to fit the natural landform.
2. Locate architectural and site elements at different elevations to avoid grading one large pad.
3. Utilize stepped building foundations or retaining structures as an alternative to conventional cut and fill methods.
4. Encourage site development that avoids steeply sloping terrain.
5. Locate site access roads and driveways to follow natural contours.
6. Encourage daylight cut situations where pads interface with natural open space.
7. Blend transitional manufactured slopes with the natural slope.
8. Balance earthwork on the individual lot when possible to avoid soil import or export.
9. Do not grade outside individual property lines.

10. Employ blending and rounding techniques where manufactured slopes meet natural ground.
11. Vary slope gradient and width and contour edges to achieve a more natural appearance to slope banks.

Passed by the Council of The City of San Diego on SEP 15 2020, by the following vote:

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

Date of final passage SEP 15 2020.

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

AUTHENTICATED BY:

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

(Seal)

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

By , Deputy

Office of the City Clerk, San Diego, California

Resolution Number R- 313214