CANDIDATE CEQA FINDINGS OF FACT

and

STATEMENT OF OVERRIDING CONSIDERATIONS

for the

NAKANO

PROJECT

Project No. EIR22-

0001 SCH No.

2022060260

October 2024

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I. INTRODUCTION

The following Findings of Fact (Findings) and Statement of Overriding Considerations have been prepared for the Nakano Project (Project) (Project No. EIR22-0001). The environmental effects of the Project are addressed in the Final Environmental Impact Report (Final EIR) (State Clearinghouse No. 2022060260) dated April 2024, which is incorporated by reference herein.

A. California Environmental Quality Act

The California Environmental Quality Act (CEQA) (Public Resources Code Section 21000, et seq.) and the State CEQA Guidelines (CEQA Guidelines; 14 California Code of Regulations, Section 15000, et seq.) promulgated thereunder require that the environmental impacts of a project or program be examined before a project is approved. In addition, once significant impacts have been identified, CEQA and the CEQA Guidelines require that certain findings be made before project approval. While staff of a decision-making body can assist in recommending adoption of findings to proceed on a project subject to a certified EIR, only the decision-making body has the authority to make such findings. Specifically, CEQA Guidelines Section 15091(a) states that no public agency shall approve or carry out a project or program for which an EIR has been certified which identifies one or more significant effects on the environment that would occur if the project is approved or carried out unless such public agency makes one or more of the following findings for each potentially significant effect:

(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 EIR.

CEQA also requires that the findings made pursuant to Section 15091 of the CEQA Guidelines be supported by substantial evidence in the record (Section 15091(b) of the 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 predicated upon facts, and expert opinion supported by facts (Section 15384 of the CEQA Guidelines).

When making the findings required in CEQA Guidelines Section 15091(a)(1), the agency shall also adopt a program for reporting on or monitoring the changes which it has either required in the project or made a condition of approval to avoid or substantially lessen significant environmental effects. These measures must be fully enforceable through permit conditions, agreements, or other measures.

The following Findings have been submitted to the City Council of the City of Chula Vista (City), as the decision-making body, to be approved for the Project pursuant to CEQA. The Project, as detailed

below, would result in significant and unavoidable impacts. Therefore, a Statement of Overriding Considerations is included herein (see Section X) as part of the Project's Findings.

Having received, reviewed, and considered the Final EIR for the Project (EIR 22-0001, State Clearinghouse No. 2022060260), as well as all other information in the Record of Proceedings (as defined below) on this matter, the following Findings are hereby adopted by the City in its capacity as the CEQA lead agency. These Findings set forth the environmental basis for current and subsequent discretionary actions to be undertaken by the City and responsible agencies for the implementation of the Project.

B. Record of Proceedings

For purposes of CEQA and these Findings, the Record of Proceedings for the Project consists of the following documents and other evidence, at a minimum:

- The Notice of Preparation (NOP) and all other public notices issued by the City in conjunction with the Project;
- Comments received on the NOP;
- The Draft EIR for the Project;
- All written comments submitted by agencies or members of the public during the public review comment period on the Draft EIR;
- All responses to written comments submitted by agencies or members of the public during the public review and comment period for the Draft EIR;
- All written and oral public testimony presented during a noticed public hearing for the Project at which such testimony was taken;
- The Mitigation Monitoring and Reporting Program (MMRP);
- All documents, studies, EIRs, or other materials incorporated by reference or cited in the Draft EIR and the Final EIR;
- All supplemental documents prepared for the EIR and submitted to the City Council prior to its public hearing on the Project;
- 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;
- City staff report prepared for the public hearing related to the Project and any exhibits thereto;
- Project permit conditions; 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 offices of the Development Services Department (DSD) at 276 Fourth Avenue, Chula Vista, CA 91910. DSD is the custodian of the Project's Record of Proceedings.

Copies of the documents that constitute the Record of Proceedings are and at all relevant times have been available upon request at the offices of DSD.

The Draft and Final EIR are available for review on the City's CEQA website at: https://www.chulavistaca.gov/departments/development-services/planning/planning-digital- library/eir. This information is provided in compliance with Public Resources Code Section 21081.6(a)(2) and CEQA Guidelines Section 15091(e).

II. PROJECT SUMMARY

A. Project Objectives

The objectives of the Project include the following:

1. Develop underutilized property to provide housing in response to regional housing needs.
2. Achieve efficient provision of services through reorganization of the property through an application to the San Diego Local Agency Formation Commission (LAFCO) to detach from the City and Otay Water District (OWD) and annex into the City of San Diego.
3. Provide a compact residential development pattern that is conducive to walking and bicycling.
4. Construct a variety of housing types at a density range that maximizes development potential consistent with the surrounding residential communities.
5. Provide amenities that contribute to the nearby Otay Valley Regional Park (OVRP) recreational uses and community connectivity, including an overlook to the park and multi-modal connections.
6. Generate financial benefits to the local economy, through efficient provision of public services, providing workforce housing, and generating property tax and local jobs.

B. Project Description

The Project is a residential development consisting of up to 221 detached condominiums, duplexes, and townhomes – including 22 affordable homes – and their supporting amenities. Recreational amenities include pocket parks, an overlook park associated with the OVRP, and publicly accessible trail connections to the OVRP. Primary site access is proposed via an off-site connection to Dennery Road, and secondary emergency access is proposed via a connection to Golden Sky Way in the adjacent RiverEdge Terrace residential development. The Project proposes a private internal street network and would require off-site remedial grading north of the Project site on property owned by the City.

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

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

All three scenarios would be set in the same project footprint and include the same physical design, including the requirement for approvals from the United States Army Corps of Engineers, the Regional Water Quality Control Board (RWQCB), and the California Department of Fish and Wildlife (CDFW) for proposed changes to on-site drainage.

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

Residential Unit Mix

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

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

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

Access and Off-site Roadway Improvements

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

The following off-site improvements would be implemented at this intersection:

- Palm Avenue Left Turn Bay Storage: To accommodate additional Project trips, for eastbound left turns, the Project would extend the existing left turn bay storage at the intersection of Palm Avenue and Dennery Road by an additional 85 feet to provide approximately 365 feet of left turn bay storage.

- Dennery Road Right Turn Bay Storage: To accommodate additional Project trips, for southbound right turns, the Project would extend the right turn bay by an additional 50 feet to provide approximately 145 feet of right turn bay storage.

- As part of the City of San Diego's street safety policy, *Systemic Safety: The Data-Driven Path to Vision Zero*, upgraded signal heads with backplates with retroreflective borders would be installed by the Project at all intersection approaches to increase the visibility of traffic signals and reduce incidences of vehicles proceeding through red lights.

- As part of the City of San Diego's street safety policy, *Systemic Safety: The Data-Driven Path to Vision Zero*, proposed improvements at the intersection of Palm Avenue and Dennery Road include the installation of audible countdown pedestrian heads for each pedestrian phase and upgrading the traffic controller to a 2070 controller including software update and communications equipment per current City of San Diego standards.

- To accommodate the Project's eastbound U-turning vehicles along Dennery Road, the Project would extend the left turn bay storage by an additional 50 feet at the intersection of Dennery Road and Red Coral Lane/Red Fin Lane to provide approximately 240 feet of left turn bay storage.

Open Space, Recreation Amenities, and Landscaping

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

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

The Project has prepared a detailed landscape plan to guide the appearance and functionality of landscaping within the Project site. Street trees would be provided along Dennery Road in addition to the proposed private streets. Native, drought-tolerant species would be emphasized for water conservation, fire resistance, and erosion control. The homeowners association would be responsible for long-term maintenance of all landscaping outside of individual homeowner lots. All constructed

slope areas would be landscaped in compliance with City standards relating to minimum planting and landscaped area requirements.

Fire Management

The Project would incorporate fuel modification alongside roadways and generally within 100 feet of residences. Where 100 feet of brush management cannot be accommodated, alternative compliance measures would be incorporated to provide enhanced fire protection. Alternative compliance measures include the installation of radiant heat walls that include either 6-foot masonry walls or 6-foot masonry with glass view fence wall. Brush management zones and alternative compliance features are depicted on Final EIR Figure 3-9. Both walls would provide fire protection; however, the masonry with glass view wall would be provided along the northern Project border to provide views toward the Otay River. Additional alternative compliance measures would be installed including dual-glazed/ dual-tempered panes and additional 10-foot perpendicular returns along adjacent wall faces.

Signage, Lighting Walls, and Fencing

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

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

Grading

Grading is proposed on a total of 21.18 acres within and adjacent to the Project site. Off-site improvement areas would include an approximate 0.45-acre area of remedial grading and trail improvements within the OVRP to the north. Off-site improvements to the south and east would include grading within an approximate 1.28-acre area of disturbance associated with the Project's

access road and secondary emergency only access road located in the City of San Diego. The total Project disturbance footprint including all grading, off-site improvement areas, and buffer areas beyond grading limits is 23.37 acres.

Development Regulations

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

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

- A deviation is proposed for minimum and standard side yard setbacks where the required minimum side yard setback is 5 feet or 10 percent of the premises width (100 feet), whichever is greater; the proposed minimum side yard setback is 10 feet. Where the standard setback is 8 feet or 10 percent of the premises width (100 feet), whichever is greater, the proposed standard side yard setback is 10 feet. A deviation is requested to increase the retaining wall height outside of the required yard in the RM-1-1 zone from 12 feet to 204 feet. The reduced setbacks and increased wall height allow the proposed development to meet the Otay Mesa Community Plan design guideline objective of providing a diversity of housing opportunities for a variety of household types, lifestyles, and income levels, while meeting conservation goals for environmentally sensitive lands and maximizing the health, safety, and welfare of the community. Requiring 100 feet minimum and standard side yard setbacks and 12 feet maximum retaining wall height will eliminate much of the development footprint, and the Project will not be able to maximize the number of residential units.

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

Discretionary Actions

The discretionary actions for the City under Annexation Scenario 2a would include the following:

- Amend the City's General Plan to remove the Open Space (OS) designation and designate the Project site as Residential Medium to allow residential development at a density range of 6.1 to 11 dwelling units per acre.

- Adopt the Nakano Specific Plan to establish the land use, intensity, development regulations, design standards, and primary infrastructure components needed to support development of the site.

- Approve a Tentative Map to subdivide the property as a condominium project as defined by Section 4125 of the Civil Code of the State of California and as filed pursuant to the Subdivision Map Act.

- Certify the Project EIR.
- Adopt the CEQA Findings, a Statement of Overriding Considerations, and a Mitigation Monitoring and Reporting Program for the Project.
- Adopt a Resolution of Support for the City of San Diego's Application to LAFCO consenting to the reorganization annexing the Project site into the City of San Diego.
- Approve an Annexation Agreement outlining the process by which the Project would be processed and annexed into the City of San Diego.

After approval of the City of Chula Vista discretionary actions, the following City of San Diego actions would be required:

- Adopt a Prezoning Ordinance delineating the zoning territory not yet incorporated into the City of San Diego as Residential Multiple Unit Zone, RM-1-1. The Prezone Ordinance would be initiated by and receive a recommendation from the Planning Commission. The Prezone Ordinance would require City Council approval and would not be effective until after the effective date of the LAFCO approval of the Nakano Reorganization.
- Amend the City of San Diego General Plan to designate the site Residential.
- Amend the Otay Mesa Community Plan to designate the site as Residential – Low Medium.
- Adopt Site Development Plan Findings as required by SDMC Section 126.0505 for the off-site primary and secondary emergency only access roads currently within the City of San Diego.
- Approve a Multiple Species Conservation Program (MSCP) Subarea Plan Minor Amendment to include the property within the City of San Diego Subarea Plan.
- Approve a Resolution of Application to LAFCO.
- Approve an Annexation Agreement outlining the process by which the Project would be processed and annexed into the City of San Diego.
- Approve a City of San Diego sewer easement vacation pursuant to Section 66434(G) of the Subdivision Map Act. Adopt an uncodified ordinance allowing site development to proceed after annexation. The uncodified ordinance would ensure Project consistency with the Land Development Code and applicable City of San Diego requirements.
- Wetland Deviation findings based on the Biologically Superior Option in accordance with SDMC Section 143.0150 for the portion of the Project site.
- Amend the City of San Diego City Council District Boundary to incorporate the Project site into District 8.
- Annex the Project site into the Ocean View Hills Maintenance Assessment District.

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

- Approve a City of San Diego and City of Chula Vista Sphere of Influence Revision.
- Approve a resolution to detach the site from the City of Chula Vista and Otay Water District.
- Remove the site from the City of Chula Vista and Annex the Project site to the City of San Diego.

Additionally, prior to submittal of a LAFCO application, the OWD would provide a Resolution or Letter of Support to remove the property from the OWD boundaries and annex the property into the City of San Diego for water services. Lastly, San Diego Gas & Electric would be required to approve easement vacations along the northern and eastern property line as shown on the Tentative Map. Easements would be vacated pursuant to Section 66434(G) of the Subdivision Map Act.

III. ENVIRONMENTAL REVIEW AND PUBLIC PARTICIPATION

A. Notice of Preparation

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

B. Public Review of EIR

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

C. Final EIR

On October 9, 2024, the Planning Commission held a public hearing to consider the Project and, by a 4-1 vote, recommended approval of the Project and certification of the Final EIR. On [date], the City Council certified the Final EIR, adopted these Findings of Fact, and approved the Project.

IV. GENERAL FINDINGS

The City hereby finds as follows:

- Pursuant to CEQA Guidelines Sections 15050 and 15051, the City is the "Lead Agency" for the Project.
- The Draft EIR and Final EIR were prepared in compliance with CEQA and the CEQA Guidelines.
- The City has independently reviewed and analyzed the Draft EIR and Final EIR, and these documents reflect the independent judgment of the City.
- A MMRP has been prepared for the Project, which the City has adopted or made a condition of approval of the Project. That MMRP is incorporated herein by reference and is considered part of the Record of Proceedings for the Project.
- The MMRP designates responsibility and anticipated timing for the implementation of mitigation measures. The City will serve as the MMRP Coordinator.
- In determining whether the Project has a significant impact on the environment, and in adopting these Findings pursuant to Section 21081 of Public Resources Code, the City has based its decision on substantial evidence and has complied with Public Resources Code Sections 21081.5 and 21082.2 and CEQA Guidelines Section 15901(b).
- The impacts of the Project have been analyzed to the extent feasible at the time of certification of the Final EIR.
- The City reviewed the comments received on the Draft EIR and the responses thereto and has determined that neither the comments received nor the responses to such comments add significant new information regarding environmental impacts associated with the Project. The City has based its actions on full appraisal of all viewpoints, including all comments received up to the date of adoption of these Findings concerning the environmental impacts identified and analyzed in the Final EIR.
- The responses to comments on the Draft EIR, which are contained in the Final EIR, clarify and amplify the analysis in the Draft EIR, and do not result in new information being added to the Final EIR that would require recirculation pursuant to CEQA Guidelines Section 15088.5(a).
- The City has made no decisions that constitute an irretrievable commitment of resources toward the Project prior to certification of the Final EIR, nor has the City previously committed to a definite course of action with respect to the Project.
- Copies of all the documents incorporated by reference in the Draft EIR and/or Final EIR are and have been available upon request at all times at the offices of the City, custodian of record for such documents or other materials.
- Having received, reviewed, and considered all information and documents in the record, the City hereby conditions the Project and finds as stated in these Findings.

V. FINDINGS REQUIRED UNDER CEQA

Public Resources Code Section 21002 provides that "public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available that would substantially lessen the significant environmental effects of such projects[...]" The same statute states that the procedures required by CEQA "are intended to assist public agencies in systematically identifying both the significant effects of proposed projects or programs and the feasible alternatives or feasible mitigation measures that will avoid or substantially lessen such significant effects." Public Resources Code Section 21002 goes on to state that "in the event [that] specific economic, social, or other conditions make infeasible such project alternatives or such mitigation measures, individual projects may be approved in spite of one or more significant effects."

The mandate and principles described in Public Resources Code Section 21002 are implemented, in part, through the requirement that agencies must adopt findings before approving projects or programs for which EIRs are required. For each significant environmental effect identified in an EIR for a proposed project or program, the approving agency must issue a written finding reaching one or more of three permissible conclusions. The first such finding is that "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" (CEQA Guidelines Section 15091(a)(1)). The second permissible finding is that "such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency" (CEQA Guidelines Section 15091(a)(2)). The third potential conclusion is that "specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the Final EIR" (CEQA Guidelines Section 15091(a)(3)). Public Resources Code Section 21061.1 defines "feasible" to mean "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors." CEQA Guidelines Section 15364 adds another factor: "legal" considerations (see also *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 565).

CEQA requires that the lead agency adopt mitigation measures or alternatives, where feasible, to substantially lessen or avoid significant environmental impacts that would otherwise occur. Project modifications or alternatives are not required; however, where such changes are infeasible or where the exclusive jurisdiction and responsibility for modifying the Project lies and has been implemented by with some other agency (CEQA Guidelines, Section 15091, subd. (a), (b), and (c)).

A. Legal Effects of Findings

To the extent that these Findings conclude that various design features incorporated into the program and mitigation measures outlined in the Final EIR are feasible and have not been modified, superseded, or withdrawn, the City hereby binds itself to implement these design features and mitigation measures. These Findings, therefore, constitute a binding set of obligations that will come into effect when the City formally approves the Project.

The Project design features and adopted mitigation measures are included in the MMRP adopted concurrently with these Findings and will be effectuated through the process of constructing and implementing the Project.

VI. MITIGATION MONITORING AND REPORTING PROGRAM

As required by Public Resources Code Section 21081.6(a)(1), the City, in adopting these Findings, also concurrently adopts an MMRP. The MMRP is designed to ensure that during Project implementation, all responsible parties comply with the feasible mitigation measures identified below. The MMRP is described in the document entitled "Mitigation Monitoring and Reporting Program," included as Chapter 10 of the Final EIR. The City will use the MMRP to track compliance with required mitigation measures. The MMRP will be available for the public to review by request during the mitigation compliance period, which is ongoing following program approval and through buildout of future projects implemented under the conditions of the program.

The MMRP will serve the dual purpose of verifying completion of the mitigation measures for the program and generating information on the effectiveness of the mitigation measures to guide future decisions.

VII. SUMMARY OF IMPACTS

The Final EIR contains an environmental analysis of the potential impacts associated with Project implementation. The Final EIR concludes that the Project would have **no significant impacts and require no mitigation measures** associated with the following issue areas:

- Land Use (Physically Divide a Community; Plan Consistency; Deviation or Variance)
- Air Quality (All Thresholds)
- Biological Resources (Wildlife Corridors and Nurseries; Conflicts with Plans)
- Geologic and Paleontological Resources (All Thresholds)
- Health and Safety (Handling, Storage and Treatment; Emissions near School; Airport Safety; Emergency Plans; Wildland Fires)
- Historic Resources (Human Remains; Sacred Uses)
- Noise (All Thresholds)
- Transportation (Transportation System, Design Hazard; Emergency Access)
- Aesthetics (All Thresholds)
- Hydrology and Water Quality (Violate Standards–Operational; Groundwater; Drainage; Flood, Tsunami, Seiche; Conflict with Plans)
- Public Services and Facilities (All Thresholds)
- Utilities and Sewer Systems (All Thresholds)
- Wildfire (All Thresholds)
- Energy (All Thresholds)
- Population and Housing (All Thresholds)
- Agricultural and Forestry Resources (All Thresholds)

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

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

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

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

VIII. LESS THAN SIGNIFICANT IMPACTS

The City finds the characterization of impacts in the Final EIR with respect to issue areas identified as less than significant have been described accurately and would result in less than significant impacts as so described in the Final EIR. This finding applies to the impacts evaluated in the Final EIR and determined to be less than significant, as stated under VII.

IX. SIGNIFICANT EFFECTS AND MITIGATION MEASURES

A. Impacts Mitigated to Less than Significant Levels: Findings Pursuant to State CEQA Guidelines Section 15091(a)(1)

Under Annexation Scenario 2a, all mitigation associated with Project site and off-site improvement area impacts would be under the jurisdiction of the City of San Diego. See Section IX.B, Findings Pursuant to State CEQA Guidelines Section 15091(a)(2).

B. Impacts that can only be Mitigated to Less than Significant Levels by Another Jurisdiction: Findings Pursuant to State CEQA Guidelines Section 15091(a)(2)

1. Biological Resources

Impact: The Project would result in direct impacts to 17.25 acres of sensitive upland vegetation communities within the Project site and off-site improvement areas. Direct impacts would be potentially significant.

Facts: The Project would result in direct impacts to sensitive upland vegetation communities, consisting of 3.60 acres of Tier II vegetation communities (Diegan coastal sage scrub) and 13.65 acres of Tier IIIB vegetation communities (non-native grassland). As detailed in Final EIR Section 4.3.3.2, potentially significant direct impacts include 3.60 acres of Tier II vegetation communities (Diegan coastal sage scrub) and 13.65 acres of Tier IIIB vegetation communities (non-native grasslands).

Mitigation Measures:

BIO-SD-1 Sensitive Upland Vegetation

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

BIO-SD-2 Biological Resource Protection During Construction

I. Prior to Construction

A. **Biologist Verification -** The owner/permittee shall provide a letter to the City's Mitigation Monitoring Coordination (MMC) section stating that a Project Biologist (Qualified Biologist) as defined in the City of San Diego's Biological Guidelines (2018), has been retained to implement the project's biological monitoring program. The letter shall include the names and contact information of all persons involved in the biological monitoring of the project.

B. **Preconstruction Meeting -** The Qualified Biologist shall attend the preconstruction meeting, discuss the project's biological monitoring program, and arrange to perform any follow up mitigation measures and reporting including site-specific monitoring, restoration or revegetation, and additional fauna/flora surveys/salvage.

C. **Biological Documents -** The Qualified Biologist shall submit all required documentation to MMC verifying that any special mitigation reports including but not limited to, maps, plans, surveys, survey timelines, or buffers are completed or scheduled per City Biology Guidelines, MSCP, ESL, project permit conditions; CEQA; endangered species acts (ESAs); and/or other local, state or federal requirements.

D. **BCME -** The Qualified Biologist shall present a Biological Construction Mitigation/Monitoring Exhibit (BCME) which includes the biological documents in C above. In addition, include: restoration/revegetation plans, plant salvage/relocation requirements (e.g., coastal cactus wren plant salvage, burrowing owl exclusions, etc.), avian or other wildlife surveys/survey schedules (including general avian nesting and USFWS protocol), timing of surveys, wetland buffers, avian construction avoidance areas/noise buffers/ barriers, other impact avoidance areas, and any subsequent requirements determined by the Qualified Biologist and the City ADD/MMC. The BCME shall include a site plan, written and graphic depiction of the project's biological mitigation/monitoring program, and a schedule. The BCME shall be approved by MMC and referenced in the construction documents.

E. **Resource Delineation -** Prior to construction activities, the Qualified

Biologist shall supervise the placement of orange construction fencing or equivalent along the limits of disturbance adjacent to sensitive biological habitats and verify compliance with any other project conditions as shown on the BCME. This phase shall include flagging plant specimens and delimiting buffers to protect sensitive biological resources (e.g., habitats/flora & fauna species, including nesting birds) during construction. Appropriate steps/care should be taken to minimize attraction of nest predators to the site.

F. **Education -** Prior to commencement of construction activities, the Qualified Biologist shall meet with the owner/permittee or designee and the construction crew and conduct an on-site educational session regarding the need to avoid impacts outside of the approved construction area and to protect sensitive flora and fauna (e.g., explain the avian and wetland buffers, flag system for removal of invasive species or retention of sensitive plants, and clarify acceptable access routes/methods and staging areas, etc.).

II. During Construction

A. **Monitoring -** All construction (including access/staging areas) shall be restricted to areas previously identified, proposed for development/staging, or previously disturbed as shown on "Exhibit A" and/or the BCME. The Qualified Biologist shall monitor construction activities as needed to ensure that construction activities do not encroach into biologically sensitive areas, or cause other similar damage, and that the work plan has been amended to accommodate any sensitive species located during the preconstruction surveys. In addition, the Qualified Biologist shall document field activity via the Consultant Site Visit Record (CSVR). The CSVR shall be e-mailed to MMC on the 1st day of monitoring, the 1st week of each month, the last day of monitoring, and immediately in the case of any undocumented condition or discovery.

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

III. Post Construction Measures

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

Finding: A total of 3.60 acres of Tier II vegetation communities (Diegan coastal sage scrub) and 13.65 acres of Tier III vegetation communities (non-native grassland) would be directly impacted as a result of Project development. Implementation of the mitigation measures BIO-SD-1 and BIO-SD-2 would require preservation of like habitat consistent with the ratios consistent with the City of San Diego's Biology Guidelines listed in Final EIR Table 4.3-5. To ensure no additional indirect impacts would occur, the mitigation requires on-site biological monitors to be present during grading activities and requires

best management practices during construction to reduce potential direct and indirect impacts. Therefore, mitigation measures BIO-SD-1 and BIO-SD-2 would ensure that all direct, indirect, and cumulatively significant impacts related to sensitive species and habitats under Annexation Scenario 2a would be reduced to less than significant levels.

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

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

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

Mitigation Measures: See **BIO-SD-2**

BIO-SD-3 Otay Tarplant Mitigation Plan

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

Prior to Permit Issuance

A. Land Development Review (LDR) Plan Check

1. Prior to the NTP or issuance for any construction permits, including but not limited to, the first Grading Permit, Demolition Plans/Permits and Building Plans/Permits, whichever is applicable, the ADD environmental designee shall verify that the requirements for the revegetation/restoration plans and specifications, including mitigation of direct impacts to Otay tarplant individual plants at a 4:1 ratio. While the number of individual plants present may vary year-to-year, it is estimated 14 individuals would be impacted and mitigation would include 56 Otay tarplant individuals. The landscape construction documents and specifications must be found to be in conformance with the Otay Tarplant Mitigation Plan for the Nakano Project prepared by RECON 2022, the requirements of which are summarized below:

B. Revegetation/Restoration Plan(s) and Specifications

1. Landscape Construction Documents (LCD) shall be prepared on D-sheets and submitted to the City of San Diego Development Services Department, Landscape Architecture Section (LAS) for review and approval. LAS shall consult with Mitigation Monitoring Coordination (MMC) and obtain concurrence prior to approval of LCD. The LCD shall consist of revegetation/restoration, planting, irrigation and erosion control plans; including all required graphics, notes, details, specifications, letters, and reports as outlined below.

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

3. The Revegetation Installation Contractor (RIC), Revegetation Maintenance Contractor (RMC), Construction Manager (CM) and Grading Contractor (GC), where applicable shall be responsible to insure that for all grading and contouring, clearing and grubbing, installation of plant materials, and any necessary maintenance activities or remedial actions required during installation and the 120-day plant establishment period are done per approved LCD. The following procedures at a minimum, but not limited to, shall be performed:

    a. The RMC shall be responsible for the maintenance of the *upland* mitigation area for a minimum period of 120 days. Maintenance visits shall be conducted on a *weekly* basis throughout the plant establishment period.

    b. At the end of the 120-day period the PQB shall review the mitigation area to assess the completion of the short-term plant establishment period and submit a report for approval by MMC.

    c. MMC will provide approval in writing to begin the *five-year* long-term establishment/maintenance and monitoring program.

    d. Existing indigenous/native species shall not be pruned, thinned or cleared in the revegetation/mitigation area.

    e. The revegetation site shall not be fertilized.

    f. The RIC is responsible for reseeding (if applicable) if weeds are not removed, within one week of written recommendation by the PQB.

g. Weed control measures shall include the following: (1) hand removal, (2) cutting, with power equipment, and (3) chemical control. Hand removal of weeds is the most desirable method of control and will be used wherever possible.

h. Damaged areas shall be repaired immediately by the RIC/RMC. Insect infestations, plant diseases, herbivory, and other pest problems will be closely monitored throughout the *five-year* maintenance period. Protective mechanisms such as metal wire netting shall be used as necessary. Diseased and infected plants shall be immediately disposed of off-site in a legally-acceptable manner at the discretion of the PQB or Qualified Biological Monitor (QBM) (City approved). Where possible, biological controls will be used instead of pesticides and herbicides.

4. If a Brush Management Program is required the revegetation/restoration plan shall show the dimensions of each brush management zone and notes shall be provided describing the restrictions on planting and maintenance and identify that the area is impact neutral and shall not be used for habitat mitigation/credit purposes.

C. Letters of Qualification Have Been Submitted to ADD

1. The applicant shall submit, for approval, a letter verifying the qualifications of the biological professional to MMC. This letter shall identify the PQB, Principal Restoration Specialist (PRS), and QBM, where applicable, and the names of all other persons involved in the implementation of the revegetation/restoration plan and biological monitoring program, as they are defined in the City of San Diego Biological Review References. Resumes and the biology worksheet should be updated annually.

2. MMC will provide a letter to the applicant confirming the qualifications of the PQB/PRS/QBM and all City Approved persons involved in the revegetation/restoration plan and biological monitoring of the project.

3. Prior to the start of work, the applicant must obtain approval from MMC for any personnel changes associated with the revegetation/restoration plan and biological monitoring of the project.

4. PBQ must also submit evidence to MMC that the PQB/QBM has completed Storm Water Pollution Prevention Program (SWPPP) training.

Prior to Start of Construction

A. PQB/PRS Shall Attend Preconstruction (Precon) Meetings

1. Prior to beginning any work that requires monitoring:

a. The owner/permittee or their authorized representative shall arrange and perform a Precon Meeting that shall include the PQB or PRS, Construction Manager (CM) and/or Grading Contractor (GC), Landscape Architect (LA), Revegetation Installation Contractor (RIC), Revegetation Maintenance Contractor (RMC), Resident Engineer (RE), Building Inspector (BI), if appropriate, and MMC.

b. The PQB shall also attend any other grading/excavation related Precon Meetings to make comments and/or suggestions concerning the revegetation/restoration plan(s) and specifications with the RIC, CM and/or GC.

c. If the PQB is unable to attend the Precon Meeting, the owner shall schedule a focused Precon Meeting with MMC, PQB/PRS, CM, BI, LA, RIC, RMC, RE and/or BI, if appropriate, prior to the start of any work associated with the revegetation/ restoration phase of the project, including site grading preparation.

2. Where Revegetation/Restoration Work Will Occur

   a. Prior to the start of any work, the PQB/PRS shall also submit a revegetation/restoration monitoring exhibit (RRME) based on the appropriate reduced LCD (reduced to 11"x 17" format) to MMC, and the RE, identifying the areas to be revegetated/restored including the delineation of the limits of any disturbance/grading and any excavation.

   b. PQB shall coordinate with the construction superintendent to identify appropriate Best Management Practices (BMPs) on the RRME.

3. When Biological Monitoring Will Occur

   a. Prior to the start of any work, the PQB/PRS shall also submit a monitoring procedures schedule to MMC and the RE indicating when and where biological monitoring and related activities will occur.

4. PQB Shall Contact MMC to Request Modification

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

During Construction

A. PQB or QBM Present During Construction/Grading/Planting

1. The PQB or QBM shall be present full-time during construction activities including but not limited to, site preparation, cleaning, grading, excavation, landscape establishment in association with the project's grading permit which could result in impacts to sensitive biological resources as identified in the LCD and on the RRME. **The RIC and/or QBM are responsible for notifying the PQB/PRS of changes to any approved construction plans, procedures, and/or activities. The PQB/PRS is responsible to notify the CM, LA, RE, BI and MMC of the changes.**

2. The PQB or QBM shall document field activity via the Consultant Site Visit Record Forms (CSVR). The CSVRs shall be faxed by the CM the first day of monitoring, the last day of

monitoring, monthly, and in the event that there is a deviation from conditions identified within the LCD and/or biological monitoring program. The RE shall forward copies to MMC.

3. The PQB or QBM shall be responsible for maintaining and submitting the CSVR at the time that CM responsibilities end (i.e., upon the completion of construction activity other than that of associated with biology).

4. All construction activities (including staging areas) shall be restricted to the development areas as shown on the LCD. The PQB/PRS or QBM staff shall monitor construction activities as needed, with MMC concurrence on method and schedule. This is to ensure that construction activities do not encroach into biologically sensitive areas beyond the limits of disturbance as shown on the approved LCD.

5. The PQB or QBM shall supervise the placement of orange construction fencing or City approved equivalent, along the limits of potential disturbance adjacent to (or at the edge of) all sensitive habitats, including Diegan coastal sage scrub (including Baccharis-variant), non-native grassland, southern willow scrub, emergent wetland, and disturbed wetland, as shown on the approved LCD.

6. The PBQ shall provide a letter to MMC that limits of potential disturbance has been surveyed, staked and that the construction fencing is installed properly.

7. The PQB or QBM shall oversee implementation of BMPs, such as gravel bags, straw logs, silt fences or equivalent erosion control measures, as needed to ensure prevention of any significant sediment transport. In 4.0 Environmental Analysis 4.3 Biological Resources Nakano Project EIR Page 4.3-59 addition, the PQB/QBM shall be responsible to verify the removal of all temporary construction BMPs upon completion of construction activities. Removal of temporary construction BMPs shall be verified in writing on the final construction phase CSVR.

8. PQB shall verify in writing on the CSVR's that no trash stockpiling or oil dumping, fueling of equipment, storage of hazardous wastes or construction equipment/material, parking or other construction related activities shall occur adjacent to sensitive habitat. These activities shall occur only within the designated staging area located outside the area defined as a biological sensitive area.

9. The long-term establishment inspection and reporting schedule per LCD must all be approved by MMC prior to the issuance of the Notice of Completion (NOC) or any bond release.

B. Disturbance/Discovery Notification Process

1. If unauthorized disturbances occurs or sensitive biological resources are discovered that where not previously identified on the LCD and/or RRME, the PQB or QBM shall direct the contractor to temporarily divert construction in the area of disturbance or discovery and immediately notify the RE or BI, as appropriate.

2. The PQB shall also immediately notify MMC by telephone of the disturbance and report the nature and extent of the disturbance and recommend the method of additional protection, such as fencing and appropriate Best Management Practices (BMPs). After obtaining

concurrence with MMC and the RE, PQB and CM shall install the approved protection and agreement on BMPs.

3. The PQB shall also submit written documentation of the disturbance to MMC within 24 hours by fax or email with photos of the resource in context (e.g., show adjacent vegetation).

C. Determination of Significance

1. The PQB shall evaluate the significance of disturbance and/or discovered biological resource and provide a detailed analysis and recommendation in a letter report with the appropriate photo documentation to MMC to obtain concurrence and formulate a plan of action which can include fines, fees, and supplemental mitigation costs.

2. MMC shall review this letter report and provide the RE with MMC's recommendations and procedures.

Post Construction

A. Mitigation Monitoring and Reporting Period

1. Five-Year Mitigation Establishment/Maintenance Period

    a. The RMC shall be retained to complete maintenance monitoring activities throughout the five-year mitigation monitoring period.

    b. Maintenance visits will be conducted twice per month for the first six months, once per month for the remainder of the first year, and quarterly thereafter.

    c. Maintenance activities will include all items described in the LCD.

    d. Plant replacement will be conducted as recommended by the PQB (note: plants shall be increased in container size relative to the time of initial installation or establishment or maintenance period may be extended to the satisfaction of MMC.

2. Five-Year Biological Monitoring

    a. All biological monitoring and reporting shall be conducted by a PQB or QBM, as appropriate, consistent with the LCD.

    b. Monitoring shall involve both qualitative horticultural monitoring and quantitative monitoring (i.e., performance/success criteria). Horticultural monitoring shall focus on soil conditions (e.g., moisture and fertility), container plant health, seed germination rates, presence of native and non-native (e.g., invasive exotic) species, any significant disease or pest problems, irrigation repair and scheduling, trash removal, illegal trespass, and any erosion problems.

    c. After plant installation is complete, qualitative monitoring surveys will occur monthly during year one and quarterly during years two through five.

d. Upon the completion of the 120-days short-term plant establishment period, quantitative monitoring surveys shall be conducted at 0, 6, 12, 24, 36, 48 and 60 months by the PQB or QBM. The revegetation/restoration effort shall be quantitatively evaluated once per year (in spring) during years three through five, to determine compliance with the performance standards identified on the LCD. All plant material must have survived without supplemental irrigation for the last two years.

e. Quantitative monitoring shall include the use of fixed transects and photo points to determine the vegetative cover within the revegetated habitat. Collection of fixed transect data within the revegetation/restoration site shall result in the calculation of percent cover for each plant species present, percent cover of target vegetation, tree height and diameter at breast height (if applicable) and percent cover of non-native/non- invasive vegetation. Container plants will also be counted to determine percent survivorship. The data will be used to determine attainment of performance/success criteria identified within the LCD.

f. Biological monitoring requirements may be reduced if, before the end of the fifth year, the revegetation meets the fifth-year criteria and the irrigation has been terminated for a period of the last two years.

g. The PQB or QBM shall oversee implementation of post-construction BMPs, such as gravel bags, straw logs, silt fences or equivalent erosion control measure, as needed to ensure prevention of any significant sediment transport. In addition, the PBQ/QBM shall be responsible to verify the removal of all temporary post-construction BMPs upon completion of construction activities. Removal of temporary postconstruction BMPs shall be verified in writing on the final postconstruction phase CSVR.

B. Submittal of Draft Monitoring Report

1. A draft monitoring letter report shall be prepared to document the completion of the 120-day plant establishment period. The report shall include discussion on weed control, horticultural treatments (pruning, mulching, and disease control), erosion control, trash/debris removal, replacement planting/reseeding, site protection/signage, pest management, vandalism, and irrigation maintenance. The revegetation/restoration effort shall be visually assessed at the end of 120-day period to determine mortality of individuals.

2. The PQB shall submit two copies of the Draft Monitoring Report which describes the results, analysis, and conclusions of all phases of the Biological Monitoring and Reporting Program (with appropriate graphics) to MMC for review and approval within 30 days following the completion of monitoring. Monitoring reports shall be prepared on an annual basis for a period of five years. Site progress reports shall be prepared by the PQB following each site visit and provided to the owner, RMC, and RIC. Site progress reports shall review maintenance activities, qualitative and quantitative (when appropriate) monitoring results including progress of the revegetation relative to the performance/success criteria, and the need for any remedial measures.

3. Draft annual reports (three copies) summarizing the results of each progress report including quantitative monitoring results and photographs taken from permanent viewpoints shall be

submitted to MMC for review and approval within 30 days following the completion of monitoring.

4. MMC shall return the Draft Monitoring Report to the PQB for revision or for preparation of each report.

5. The PQB shall submit revised Monitoring Report to MMC (with a copy to RE) for approval within 30 days.

6. MMC will provide written acceptance of the PQB and RE of the approved report.

C. Final Monitoring Reports(s)

1. PQB shall prepare a Final Monitoring upon achievement of the fifth-year performance/success criteria and completion of the five-year maintenance period.

    a. This report may occur before the end of the fifth year if the revegetation meets the fifth-year performance /success criteria and the irrigation has been terminated for a period of the last two years.

    b. The Final Monitoring report shall be submitted to MMC for evaluation of the success of the mitigation effort and final acceptance. A request for a pre-final inspection shall be submitted at this time, MMC will schedule after review of report.

    c. If at the end of the five years any of the revegetated area fails to meet the project's final success standards, the applicant must consult with MMC. This consultation shall take place to determine whether the revegetation effort is acceptable. The applicant understands that failure of any significant portion of the revegetation/restoration area may result in a requirement to replace or renegotiate that portion of the site and/or extend the monitoring and establishment/maintenance period until all success standards are met.

D. Management and Maintenance in Perpetuity

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

Finding: Implementation of the mitigation measures BIO-SD-2 and BIO-SD-3 require on-site biological monitoring and the best management practices to be employed during grading and construction activities. Mitigation measure BIO-SD-2 would ensure that indirect impacts associated with dust, erosion, and runoff generated by construction activities would not occur. Mitigation measure BIO-SD-3 provides specific guidelines related to the disturbance of Otay tarplant including

replacement, management and maintenance in perpetuity. Therefore, direct and indirect impacts related to special status plants under Annexation Scenario 2a would be reduced to less than significant levels.

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

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

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

Mitigation Measures: See **BIO-SD-1**

BIO-SD-4 Avian Protection Requirements

Prior to issuance of any construction permits, including but not limited to, the first Grading Permit, Demolition Plans/Permits and Building Plans/Permits or a Notice to Proceed for Subdivisions, removal of habitat that supports active nests in the proposed area of disturbance (both on-site and within the Wetland Plan area of work) should occur outside of the breeding season for least Bell's vireo, burrowing owl, coastal California gnatcatcher, yellow-breasted chat, and yellow warbler (February 1 to September 15) or a preconstruction survey shall be completed by a Qualified Biologist preconstruction to determine the presence or absence of nesting least Bell's vireo, burrowing owl, coastal California gnatcatcher, yellow-breasted chat, and yellow warbler on the proposed area of disturbance. The preconstruction survey shall be conducted within 10 calendar days prior to the start of construction activities (including removal of vegetation). The applicant shall submit the results of the preconstruction survey to City of San Diego DSD for review and written approval prior to initiating any construction activities. If nesting birds are detected, a letter report in conformance with the City of San Diego's Biology Guidelines and applicable state and federal law (i.e., appropriate follow-up surveys, monitoring schedules, construction and noise barriers/buffers, etc.) shall be prepared and include proposed measures to be implemented to ensure that take of birds or eggs or disturbance of breeding activities is avoided. The report shall be submitted to the City of San Diego for review and written approval and implemented to the satisfaction of the City of San Diego. The City of San Diego's MMC Section and Biologist shall verify and approve that all measures identified in the report or mitigation plan are in place prior to and/or during construction.

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

Prior to issuance of any construction permits, including but not limited to, the first Grading Permit, Demolition Permits and Building Permits or a Notice to Proceed for Subdivisions, the City of San Diego

Manager (or appointed designee) shall verify that the following project requirements regarding the least Bell's vireo are shown on the construction and wetland restoration plans:

No clearing, grubbing, grading, or other construction activities shall occur between March 15 and September 15, the breeding season of the least Bell's vireo, until the following requirements have been met to the satisfaction of the City of San Diego Manager:

A. A Qualified Biologist (possessing a valid Endangered Species Act Section 10(a)(1)(a) Recovery Permit) shall survey those wetland areas that would be subject to construction noise levels exceeding 60 decibels [dB(A)] hourly average for the presence of the least Bell's vireo. Surveys for this species shall be conducted pursuant to the protocol survey guidelines established by the USFWS within the breeding season prior to the commencement of construction. If the least Bell's vireo is present, then the following conditions must be met:

1. Between March 15 and September 15, no clearing, grubbing, or grading of occupied least Bell's vireo habitat shall be permitted. Areas restricted from such activities shall be staked or fenced under the supervision of a Qualified Biologist; and

2a. Between March 15 and September 15, no construction activities shall occur within any portion of the site where construction activities would result in noise levels exceeding 60 dB(A) hourly average at the edge of occupied least Bell's vireo or habitat. An analysis showing that noise generated by construction activities would not exceed 60 dB(A) hourly average at the edge of occupied habitat must be completed by a qualified acoustician (possessing current noise engineer license or registration with monitoring noise level experience with listed animal species) and approved by the City of San Diego Manager at least two weeks prior to the commencement of construction activities. Prior to the commencement of any construction activities during the breeding season, areas restricted from such activities shall be staked or fenced under the supervision of a qualified biologist; or

2b. At least two weeks prior to the commencement of construction activities, under the direction of a qualified acoustician, noise attenuation measures (e.g., berms, walls) shall be implemented to ensure that noise levels resulting from construction activities will not exceed 60 dB(A) hourly average at the edge of habitat occupied by the least Bell's vireo. Concurrent with the commencement of construction activities and the construction of necessary noise attenuation facilities, noise monitoring* shall be conducted at the edge of the occupied habitat area to ensure that noise levels do not exceed 60 dB(A) hourly average. If the noise attenuation techniques implemented are determined to be inadequate by the qualified acoustician or biologist, then the associated construction activities shall cease until such time that adequate noise attenuation is achieved or until the end of the breeding season (September 16).

*Construction noise monitoring shall continue to be monitored at least twice weekly on varying days, or more frequently depending on the construction activity, to verify that noise levels at the edge of occupied habitat are maintained below 60 dB(A) hourly average or to the ambient noise level if it already exceeds 60 dB (A) hourly average. If not, other measures shall be implemented in consultation with the Qualified Biologist and the City of San Diego Manager, as necessary, to reduce noise levels to below 60 dB(A) hourly average or to the ambient noise level if it already exceeds 60 dB(A) hourly average. Such measures may

include, but are not limited to, limitations on the placement of construction equipment and the simultaneous use of equipment.

B. If least Bell's vireo are not detected during the protocol survey, the Qualified Biologist shall submit substantial evidence to the City of San Diego Manager and applicable resource agencies for review and written approval which demonstrates whether or not mitigation measures such as noise walls are necessary between March 15 and September 15 as follows:

1. If this evidence indicates the potential is high for least Bell's vireo to be present based on historical records or site conditions, then condition A.III shall be adhered to as specified above.

2. If this evidence concludes that no impacts to this species are anticipated, no mitigation measures would be necessary.

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

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

PRECONSTRUCTION SURVEY ELEMENT

Prior to Permit or Notice to Proceed Issuance:

1. As this project area has been determined to be burrowing owl occupied or to have burrowing owl occupation potential, the Applicant Department or Permit Holder shall submit evidence to the ADD of Entitlements and MSCP staff, to the satisfaction of the City, verifying that a biologist possessing qualifications pursuant to the "Staff Report on Burrowing Owl Mitigation, State of California Natural Resources Agency Department of Fish and Game, March 7, 2012 (hereafter referred as CDFG 2012, Staff Report), has been retained to implement a burrowing owl construction impact avoidance program.

2. The qualified burrowing owl biologist (or their designated biological representative) shall attend the preconstruction meeting to inform construction personnel about the City of San Diego's burrowing owl requirements and subsequent survey schedule.

Prior to Start of Construction:

1. The Applicant Department or Permit Holder and Qualified Biologist must ensure that initial preconstruction/take avoidance surveys of the project "site" are completed between 14 and 30 days before initial construction activities begin, including brushing, clearing, grubbing, or grading of the project site regardless of the time of the year. "Site" means the project site and the area within a radius of 450 feet of the project site. The report shall be submitted and approved by the Wildlife Agencies and/or City of San Diego MSCP staff in writing prior to construction or burrowing owl eviction(s) and shall include maps of the project site and burrowing owl locations on aerial photos.

2. The preconstruction survey shall follow the methods described in CDFG 2012, Staff Report - Appendix D.

3. 24 hours prior to commencement of ground-disturbing activities, the Qualified Biologist shall verify results of preconstruction/take avoidance surveys via review of the Survey Report (see report requirements in CDFG 2012, Staff Report - Appendix D 3) that is to be provided to the City and Wildlife Agencies. Written verification via the Survey Report shall be provided to the City of San Diego's MMC and MSCP Sections, and to the satisfaction of these sections. If results of the preconstruction surveys have changed and burrowing owl are present in areas not previously identified, immediate notification to the City of San Diego and Wildlife Agencies shall be provided prior to ground-disturbing activities.

During Construction:

1. Best Management Practices shall be employed as burrowing owls are known to use open pipes, culverts, excavated holes, and other burrow-like structures at construction sites. Legally permitted active construction projects which are burrowing owl occupied and have followed all protocol in this mitigation section, or sites within 450 feet of occupied burrowing owl areas, should undertake measures to discourage burrowing owls from recolonizing previously occupied areas or colonizing new portions of the site. Such measures include, but are not limited to, ensuring that the ends of all pipes and culverts are covered when they are not being worked on, and covering rubble piles, dirt piles, ditches, and berms.

2. Ongoing Burrowing Owl Detection - If burrowing owls or active burrows are not detected during the preconstruction surveys, Section "A" below shall be followed. If burrowing owls or burrows are detected during the preconstruction surveys, Section "B" shall be followed. NEITHER THE MSCP SUBAREA PLAN NOR THIS MITIGATION SECTION ALLOWS FOR ANY BURROWING OWLS TO BE INJURED OR KILLED OUTSIDE **OR** WITHIN THE MHPA; in addition, IMPACTS TO BURROWING OWLS WITHIN THE MHPA MUST BE AVOIDED.

   A. **Post Survey Follow Up if Burrowing Owls and/or Signs of Active Natural or Artificial Burrows Are Not Detected During the Initial Preconstruction Survey** - Monitoring the site for new burrows is required using CDFG Staff Report 2012 Appendix D methods for the period following the initial preconstruction survey, until construction is scheduled to be complete and is complete (NOTE - Using a projected completion date [that is amended if needed] will allow development of a monitoring schedule).

      1) If no active burrows are found but burrowing owls are observed to occasionally (1–3 sightings) use the site for roosting or foraging, they should be allowed to do so with no changes in the construction or construction schedule.

      2) If no active burrows are found but burrowing owls are observed during follow up monitoring to repeatedly (4 or more sightings) use the site for roosting or foraging, the City of San Diego's MMC and MSCP Sections shall be notified and any portion of the site where owls have been sited and that has not been graded or otherwise disturbed shall be avoided until further notice.

3) If a burrowing owl begins using a burrow on the site at any time after the initial preconstruction survey, procedures described in Section B must be followed.

4) Any actions other than these require the approval of the City of San Diego and the Wildlife Agencies.

B. **Post Survey Follow Up if Burrowing Owls and/or Active Natural or Artificial Burrows are Detected During the Initial Preconstruction Survey** - Monitoring the site for new burrows is required using Appendix D CDFG 2012, Staff Report for the period following the initial preconstruction survey, until construction is scheduled to be complete and is complete (NOTE - Using a projected completion date (that is amended if needed) will allow development of a monitoring schedule which adheres to the required number of surveys in the detection protocol).

1) This section (B) applies only to sites (including biologically defined territory) wholly outside of the MHPA – all direct and indirect impacts to burrowing owls within the MHPA SHALL be avoided.

2) If one or more burrowing owls are using any burrows (including pipes, culverts, debris piles, etc.) on or within 300 feet of the proposed construction area, the City of San Diego's MMC and MSCP Sections shall be immediately contacted. The City of San Diego's MSCP and MMC Section shall contact the Wildlife Agencies regarding eviction/collapsing burrows and enlist appropriate City of San Diego biologist for on-going coordination with the Wildlife Agencies and the qualified consulting burrowing owl biologist. No construction shall occur within 300 feet of an active burrow without written concurrence from the Wildlife Agencies. This distance may increase or decrease, depending on the burrow's location in relation to the site's topography, and other physical and biological characteristics.

a) **Outside the Breeding Season** - If the burrowing owl is using a burrow on-site outside the breeding season (i.e., September 1– January 31), the burrowing owl may be evicted after the qualified burrowing owl biologist has determined via fiber optic camera or other appropriate device, that no eggs, young, or adults are in the burrow. Eviction requires preparation of an Exclusion Plan prepared in accordance with CDFG 2012 Staff Report, Appendix E (or most recent guidance available) for review and submittal to Wildlife Agencies and City of San Diego (MMC and MSCP). Written concurrence from the Wildlife Agencies is required prior to Exclusion Plan implementation.

b) **During Breeding Season** - If a burrowing owl is using a burrow onsite during the breeding season (February 1–August 31), construction shall not occur within 300 feet of the burrow until the young have fledged and are no longer dependent on the burrow, at which time the burrowing owls can be evicted. Eviction requires preparation of an Exclusion Plan prepared in accordance with CDFG 2012 Staff Report, Appendix E (or most recent guidance available) for review and submittal to Wildlife Agencies and City of San Diego (MMC and MSCP). Written concurrence from the Wildlife Agencies is required prior to Exclusion Plan implementation.

3. **Survey Reporting During Construction** - Details of construction surveys and evictions (if applicable) carried out shall be immediately (within 5 working days or sooner) reported to the City of San Diego's MMC, and MSCP Sections and the Wildlife Agencies and must be provided in writing (as by e-mail) and acknowledged to have been received by the required Agencies and DSD Staff member(s).

Post Construction:

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

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

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

1. Prior to the Notice to Proceed (NTP) for any construction permits, including but not limited to, the first Grading Permit, Demolition Plans/Permits and Building Plans/Permits, the Development Services Department (DSD) Director's Environmental Designee shall verify the following project requirements regarding the Crotch's bumble bee are shown on the construction permit:

   A. To avoid impacts to Crotch's bumble bee, removal of habitat in the proposed area of disturbance must occur outside of the Colony Active Period between April 1 through August 31. If removal of habitat in the proposed area of disturbance must occur during the Colony Active Period, a Qualified Biologist shall conduct a preconstruction survey to determine the presence or absence of Crotch's bumble bee within the proposed area of disturbance.

   B. Surveys must be conducted by a Qualified Biologist meeting the qualifications discussed in the California Department of Fish and Wildlife (CDFW) guidance (i.e., Survey Considerations for California Endangered Species Act [CESA] Candidate Bumble Bee Species, dated June 6, 2023). The Qualified Biologist shall send all photo vouchers to a CDFW-approved taxonomist to confirm the identifications of the bumble bees encountered during surveys.

   C. The preconstruction survey shall be conducted during the colony active period between April 1 through August 31 by the Qualified Biologist within 30 calendar days prior to the issuance of Grading Permit, Demolition Plans/Permits and Building Plans/Permits and within one year prior to the initiation of project activities (including removal of vegetation). The pre- construction survey shall consist of photographic surveys following California Department of Fish and Wildlife (CDFW) guidance (i.e., Survey Considerations for California Endangered Species Act [CESA] Candidate Bumble Bee Species, dated June 6, 2023). The surveys shall consist of passive methods unless a Memorandum of Understanding is obtained, as described below. The surveys shall consist of three separate visits spaced two to four weeks apart. Survey results will be considered valid until the start of the next colony active period.

D. If additional activities (e.g., capture or handling) are deemed necessary to identify bumble bees of an unknown species that may be Crotch's bumble bee, then the Qualified Biologist shall obtain required authorization via a Memorandum of Understanding or Scientific Collecting Permit pursuant to CDFW Survey Considerations for CESA Candidate Bumble Bee Species (CDFW 2023). Survey methods that involve lethal take of species are not acceptable.

E. The Qualified Biologist/owner permittee shall submit the results (including positive or negative survey results) of the pre-construction survey to City DSD (Mitigation Monitoring and Coordination) City Planning Department (MSCP) staff and CDFW for review and written approval prior to the issuance of Grading Permit, Demolition Plans/Permits and Building Plans/Permits.

F. If pre-construction surveys identify Crotch's bumble bee individuals on-site, the Qualified Biologist shall notify and consult with CDFW to determine whether project activities would result in impacts to Crotch's bumble bee, in which case an Incidental Take Permit ITP) may be required. If an ITP is required, it shall be obtained prior to issuance of Grading Permit, Demolition Plans/Permits and Building Plans/Permits and all necessary permit conditions shall be fulfilled prior to initiation of project activities. Take of any endangered, threatened, candidate species that results from the Project is prohibited, except as authorized by State law (California Fish and Game Code §§ 86, 2062, 2067, 2068, 2080, 2085; California Code of Regulations, Title 14, §786.9) under the CESA.

G. Survey data shall be submitted by the Qualified Biologist to the CNDDB in accordance with the Memorandum of Understanding with CDFW, or Scientific Collecting Permit requirements, as applicable.

Finding: In addition to mitigation measure BIO-SD-1 requiring habitat-based mitigation, the Project would implement BIO-SD-4 through BIO-SD-7 requiring specific measures associated with each special status species. BIO-CV-4 requires preconstruction should occur outside of the breeding season for least Bell's vireo, burrowing owl, coastal California gnatcatcher, yellow-breasted chat, and yellow warbler (February 1 to September 15) or a preconstruction survey shall be completed by a Qualified Biologist preconstruction to determine the presence or absence of nesting least Bell's vireo, burrowing owl, coastal California gnatcatcher, yellow-breasted chat, and yellow warbler on the proposed area of disturbance. Specifically related to avoidance of least Bell's vireo, BIO-SD-5 requires avoidance or preconstruction surveys between March 15 and September 15, the breeding season of the least Bell's vireo until specific requirements are met including an additional work zone delineation plus 300 feet, as well as noise reduction measures if a preconstruction survey detects this species. Initial preconstruction/take avoidance surveys are completed between 14 and 30 days before initial construction activities begin. Surveys must be conducted by a Qualified Biologist meeting the qualifications discussed in the CDFW guidance (i.e., Survey Considerations for California Endangered Species Act [CESA] Candidate Bumble Bee Species, dated June 6, 2023). The Qualified Biologist shall send all photo vouchers to a CDFW-approved taxonomist to confirm the identifications of the bumble bees encountered during surveys. Implementation of BIO-SD-1 and BIO-SD-4 through BIO-SD-7 would ensure that direct, indirect, and cumulatively significant impacts related to sensitive species and habitats under the Annexation Scenario 2a would be reduced to less than significant levels.

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

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

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

Mitigation Measures: See **BIO-SD-2**

BIO-SD-8 Wetland Restoration/Creation and Permits

Prior to issuance of land development permits by the City of Chula Vista, including clearing, grubbing, grading, and/or construction permits that impact jurisdictional waters, the Project applicant shall provide compensatory wetland mitigation resulting in no overall net loss of wetlands. The Project would result in a total of 0.40 acre of impacts to RWQCB wetland waters, CDFW riparian, and City of Chula Vista wetlands. A total of 0.80 acre of mitigation for permanent impacts shall be provided, at minimum. To ensure no net loss, the mitigation shall include a 1:1 creation component.

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

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

The Project applicant shall implement the Wetlands Plan subject to the oversight and approval of the City of San Diego DSD director (or their designee), RWQCB, and CDFW. Additionally, as a project design feature, the Final Wetlands Mitigation and Monitoring Plan shall include 2.21 acres of weed control within the Spring Canyon corridor and 0.46 acre of wetland creation/establishment area that shall

serve as partial mitigation for Southwest Village project being processed by the City of San Diego (SCH2004651076; PRJ-0614791).

The Project proponent shall provide funding in an amount approved by the City and the Wildlife Agencies based on a Property Analysis Record, or similar cost estimation method, to secure the ongoing funding for the perpetual long-term management, maintenance, and monitoring of the off- site wetland mitigation area by an agency, nonprofit organization, or other entity approved by the City and the Wildlife Agencies.

BIO-SD-9 Protection and Management Element

Prior to issuance of any construction permits, including but not limited to, the first Grading Permit, Demolition Permits and Building Permits or a Notice to Proceed for Subdivisions, the remaining environmentally sensitive lands (ESL) shall be placed in a covenant of easement (Figure 6-1) per Section 143.0140(a) of the SDMC ESL regulation (City of San Diego 2022). These lands will not be used towards mitigation and will be protected from future development. Long-term management of the wetlands within the covenant of easement would be managed by the homeowners association in accordance with the Long-term Management Plan (see BIO-SD-10).

BIO-SD-10

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

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

than significant. With implementation of BIO-SD-2, indirect impacts to wetlands during construction would be reduced to less than significant.

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

3. Health and Safety/Hazardous Materials

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

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

Mitigation Measure:

HAZ-SD-1 Community Health and Safety Plan

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

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

The Owner/Permittee shall provide the City of San Diego evidence of completion and approval of the CHSP prior to issuance of grading permits.

Finding: Mitigation measure HAZ-SD-1 requires preparation of a CHSP under the oversight of the City of San Diego LEA to detail potential hazards that may be present, and procedures and protocols based on current regulatory standards to be utilized in the event any hazardous condition is encountered. Specifically, the CHSP would include procedures to follow should burn ash be encountered during grading and construction activities. Implementation of mitigation measure HAZ-SD-1 would ensure

adverse impacts related to potential accidental release of burn ash during grading for the areas currently within the City would be reduced to less than significant.

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

4. Historical and Tribal Cultural Resources

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

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

Mitigation Measure:

HIST-SD-1 Archeological and Native American Monitoring

I. Prior to Permit Issuance

A. Entitlements Plan Check

1. Prior to issuance of any construction permits, including but not limited to, the first Grading Permit, Demolition Permits and Building Permits or a Notice to Proceed for Subdivisions, but prior to the first preconstruction meeting, whichever is applicable, the Assistant Deputy Director (ADD) Environmental designee shall verify that the requirements for Archaeological Monitoring and Native American monitoring have been noted on the applicable construction documents through the plan check process.

B. Letters of Qualification have been submitted to ADD

1. The applicant shall submit a letter of verification to the Mitigation Monitoring and Coordination (MMC) office identifying the Principal Investigator (PI) for the project and the names of all persons involved in the archaeological monitoring program, as defined in the City of San Diego Historical Resources Guidelines (HRG). If applicable, individuals involved in the archaeological monitoring program must have completed the 40-hour HAZWOPER training with certification documentation.

2. MMC will provide a letter to the applicant confirming the qualifications of the PI and all persons involved in the archaeological monitoring of the project meet the qualifications established in the HRG.

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

II. Prior to Start of Construction

A. Verification of Records Search

1. The PI shall provide verification to MMC that a site specific records search (¼-mile radius) has been completed. Verification includes, but is not limited to a copy of a confirmation letter from South Coastal Information Center, or, if the search was in-house, a letter of verification from the PI stating that the search was completed.

2. The letter shall introduce any pertinent information concerning expectations and probabilities of discovery during trenching and/or grading activities.

3. The PI may submit a detailed letter to MMC requesting a reduction to the ¼-mile radius.

B. PI Shall Attend Precon Meetings

1. Prior to beginning any work that requires monitoring; the Applicant shall arrange a Precon Meeting that shall include the PI, Native American consultant/monitor (where Native American resources may be impacted), Construction Manager (CM) and/or Grading Contractor, Resident Engineer (RE), Building Inspector (BI), if appropriate, and MMC. The qualified archaeologist and Native American monitor shall attend any grading/excavation related precon meetings to make comments and/or suggestions concerning the archaeological monitoring program with the CM and/or Grading Contractor.

   If the PI is unable to attend the precon meeting, the applicant shall schedule a focused precon meeting with MMC, the PI, RE, CM or BI, if appropriate, prior to the start of any work that requires monitoring.

2. Identify Areas to be Monitored

   a. Prior to the start of any work that requires monitoring, the PI shall submit an Archaeological Monitoring Exhibit (AME) (with verification that the AME has been reviewed and approved by the Native American consultant/monitor when Native American resources may be impacted) based on the appropriate construction documents (reduced to 11x17) to MMC identifying the areas to be monitored including the delineation of grading/excavation limits.

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

3. When Monitoring Will Occur

   a. Prior to the start of any work, the PI shall also submit a construction schedule to MMC through the RE indicating when and where monitoring will occur.

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

III. During Construction

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

1. The archaeological monitor shall be present full-time during all soil disturbing and grading/excavation/trenching activities that could result in impacts to archaeological resources as identified on the AME. The CM is responsible for notifying the RE, PI, and MMC of changes to any construction activities such as in the case of a potential safety concern within the area being monitored. In certain circumstances Occupational Safety and Health Administration (OSHA) safety requirements may necessitate modification of the AME.

2. The Native American consultant/monitor shall determine the extent of their presence during soil disturbing and grading/excavation/trenching activities based on the AME and provide that information to the PI and MMC. If prehistoric resources are encountered during the Native American consultant/monitor's absence, work shall stop and the Discovery Notification Process detailed in Section III.B–C and IV.A–D shall commence.

3. The PI may submit a detailed letter to MMC during construction requesting a modification to the monitoring program when a field condition such as modern disturbance post-dating the previous grading/trenching activities, presence of fossil formations, or when native soils are encountered that may reduce or increase the potential for resources to be present.

4. The archaeological and Native American consultant/monitor shall document field activity via the Consultant Site Visit Record (CSVR). The CSVRs shall be faxed or emailed by the CM to the RE the first day of monitoring, the last day of monitoring, monthly (Notification of Monitoring Completion), and in the case of ANY discoveries. The RE shall forward copies to MMC.

B. Discovery Notification Process

1. In the event of a discovery, the archaeological monitor shall direct the contractor to temporarily divert all soil disturbing activities, including but not limited to digging, trenching, excavating or grading activities in the area of discovery and in the area reasonably suspected to overlay adjacent resources and immediately notify the RE or BI, as appropriate.

2. The monitor shall immediately notify the PI (unless monitor is the PI) of the discovery.

3. The PI shall immediately notify MMC by phone of the discovery, and shall also submit written documentation to MMC within 24 hours by fax or email with photos of the resource in context, if possible.

4. No soil shall be exported off-site until a determination can be made regarding the significance of the resource specifically if Native American resources are encountered.

C. Determination of Significance

1. The PI and Native American consultant/monitor, where Native American resources are discovered, shall evaluate the significance of the resource. If human remains are involved, follow protocol in Section IV below.

    a. The PI shall immediately notify MMC by phone to discuss significance determination and shall also submit a letter to MMC indicating whether additional mitigation is required.

    b. If the resource is significant, the PI shall submit an Archaeological Data Recovery Program (ADRP), which has been reviewed by the Native American consultant/monitor, and obtain written approval from MMC. Impacts to significant resources must be mitigated before ground-disturbing activities in the area of discovery will be allowed to resume. Note: If a unique archaeological site is also a historical resource as defined in CEQA, then the limits on the amount(s) that a project applicant may be required to pay to cover mitigation costs as indicated in CEQA Guidelines Section 21083.2 shall not apply.

    c. If the resource is not significant, the PI shall submit a letter to MMC indicating that artifacts will be collected, curated, and documented in the final monitoring report. The letter shall also indicate that no further work is required.

IV. Discovery of Human Remains

If human remains are discovered, work shall halt in that area and no soil shall be exported offsite until a determination can be made regarding the provenance of the human remains; and the following procedures as set forth in CEQA Section 15064.3(e), the California Public Resources Code (Section 5097.98) and state Health and Safety Code (Section 7050.5) shall be undertaken:

A. Notification

1. Archaeological monitor shall notify the RE or BI as appropriate, MMC, and the PI, if the monitor is not qualified as a PI. MMC will notify the appropriate senior planner in the Environmental Analysis Section of the Development Services Department to assist with the discovery notification process.

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

B. Isolate discovery site

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

2. The medical examiner, in consultation with the PI, will determine the need for a field examination to determine the provenance.

3. If a field examination is not warranted, the medical examiner will determine with input from the PI, if the remains are or are not most likely to be of Native American origin.

C. If human remains ARE determined to be Native American

1. The medical examiner will notify the Native American Heritage Commission (NAHC) within 24 hours. By law, ONLY the medical examiner can make this call.

2. NAHC will immediately identify the person or persons determined to be the most likely descendent (MLD) and provide contact information.

3. The MLD will contact the PI within 24 hours or sooner after the medical examiner has completed coordination, to begin the consultation process in accordance with CEQA Guidelines Section 15064.3(e), and the California Public Resources and Health & Safety Codes.

4. The MLD will have 48 hours to make recommendations to the property owner or representative, for the treatment or disposition with proper dignity, of the human remains and associated grave goods.

5. Disposition of Native American Human Remains will be determined between the MLD and the PI, and, if:

    a. The NAHC is unable to identify the MLD, OR the MLD failed to make a recommendation within 48 hours after being granted access to the site, OR;

    b. The landowner or authorized representative rejects the recommendation of the MLD and mediation in accordance with PRC Section 5097.94 (k) by the NAHC fails to provide measures acceptable to the landowner, the landowner shall reinter the human remains and items associated with Native American human remains with appropriate dignity on the property in a location not subject to further and future subsurface disturbance, THEN

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

        (1) Record the site with the NAHC;

        (2) Record an open space or conservation easement; or

        (3) Record a document with the County. The document shall be titled "Notice of Reinterment of Native American Remains" and shall include a legal description of the property, the name of the property owner, and the owner's acknowledged signature, in addition to any other information required by PRC Section 5097.98. The document shall be indexed as a notice under the name of the owner.

V. Night and/or Weekend Work

A. If night and/or weekend work is included in the contract:

1. When night and/or weekend work is included in the contract package, the extent and timing shall be presented and discussed at the 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 fax by 8 a.m. of the next business day.

b. Discoveries

All discoveries shall be processed and documented using the existing procedures detailed in Sections III - During Construction, and IV – Discovery of Human Remains. Discovery of human remains shall always be treated as a significant discovery.

c. Potentially Significant Discoveries

If the PI determines that a potentially significant discovery has been made, the procedures detailed under Section III - During Construction and IV – Discovery of Human Remains shall be followed.

d. The PI shall immediately contact MMC, or by 8 a.m. of the next business day, to report and discuss the findings as indicated in Section III-B, unless other specific arrangements have been made.

B. If night and/or weekend work becomes necessary during the course of construction:

1. The CM shall notify the RE, or BI, as appropriate, a minimum of 24 hours before the work is to begin.

2. The RE, or BI, as appropriate, shall notify MMC immediately.

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

VI. Post Construction

A. Preparation and Submittal of Draft Monitoring Report

1. The PI shall submit two copies of the Draft Monitoring Report (even if negative), prepared in accordance with the Historical Resources Guidelines (Appendix C/D) which describes the results, analysis, and conclusions of all phases of the Archaeological Monitoring Program (with appropriate graphics) to MMC for review and approval within 90 days following the completion of monitoring. It should be noted that if the PI is unable to submit

the Draft Monitoring Report within the allotted 90-day timeframe resulting from delays with analysis, special study results or other complex issues, a schedule shall be submitted to MMC establishing agreed due dates and the provision for submittal of monthly status reports until this measure can be met.

a. For significant archaeological resources encountered during monitoring, the Archaeological Data Recovery Program shall be included in the Draft Monitoring Report.

b. Recording Sites with State of California Department of Parks and Recreation

The PI shall be responsible for recording (on the appropriate State of California Department of Park and Recreation forms—DPR 523A/B) any significant or potentially significant resources encountered during the Archaeological Monitoring Program in accordance with the City of San Diego's HRG, and submittal of such forms to the South Coastal Information Center with the Final Monitoring Report.

2. MMC shall return the Draft Monitoring Report to the PI for revision or, for preparation of the Final Report.

3. The PI shall submit revised Draft Monitoring Report to MMC for approval.

4. MMC shall provide written verification to the PI of the approved report.

5. MMC shall notify the RE or BI, as appropriate, of receipt of all Draft Monitoring Report submittals and approvals.

B. Handling of Artifacts

1. The PI shall be responsible for ensuring that all cultural remains collected are cleaned and cataloged.

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

3. The cost for curation is the responsibility of the property owner.

C. Curation of artifacts: Accession Agreement and Acceptance Verification

1. The PI shall be responsible for ensuring that all artifacts associated with the survey, testing and/or data recovery for this project are permanently curated with an appropriate institution. This shall be completed in consultation with MMC and the Native American representative, as applicable.

2. The PI shall include the Acceptance Verification from the curation institution in the Final Monitoring Report submitted to the RE or BI and MMC.

3. When applicable to the situation, the PI shall include written verification from the Native American consultant/monitor indicating that Native American resources were treated in accordance with state law and/or applicable agreements. If the resources were reinterred, verification shall be provided to show what protective measures were taken to ensure no further disturbance occurs in accordance with Section IV – Discovery of Human Remains, Subsection 5.

D. Final Monitoring Report(s)

1. The PI shall submit one copy of the approved Final Monitoring Report to the RE or BI as appropriate, and one copy to MMC (even if negative), within 90 days after notification from MMC that the draft report has been approved.

2. The RE shall, in no case, issue the Notice of Completion and/or release of the Performance Bond for grading until receiving a copy of the approved Final Monitoring Report from MMC which includes the Acceptance Verification from the curation institution.

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

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

6. Hydrology and Water Quality

Impact: The Project could violate water quality standards or waste discharge requirements or otherwise substantially degrade surface or groundwater quality during construction, resulting in a significant direct impact to water quality.

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

Mitigation Measures: See **HAZ-SD-1**

Finding: The Project would implement mitigation measure HAZ-SD-1, requiring preparation and approval of a CHSP prior to ground-disturbing activities within the City. Under the oversight of the City of San Diego LEA, the CHSP would detail potential hazards that may be present, as well as procedures and protocols based on current regulatory standards to be utilized in the event any hazardous condition is encountered. Specifically, the CHSP would include procedures to follow should burn ash be encountered during grading and construction activities. Therefore, implementation of mitigated

measure HAZ-SD-1 would reduce potential direct and indirect impacts related to pollutant runoff (burn ash) to less than significant levels.

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

C. Impacts that would remain Significant and Unavoidable: Findings Pursuant to State CEQA Guidelines Section 15091(a)(3)

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

"Feasible" is defined in Section 15364 of the CEQA Guidelines to mean "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors." Public Resources Code Section 21081 and CEQA Guidelines Section 15091(a)(3) also provide that "other" considerations may form the basis for a finding of infeasibility. Case law makes clear that a mitigation measure or alternative can be deemed infeasible because of its failure to meet Project objectives or on related public policy grounds. These Findings are appropriate because there are no feasible mitigation measures available that would reduce the identified Project impacts to below a level of significance.

1. Greenhouse Gas Emissions

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

Facts: Under Annexation Scenario 2a, the Project would implement the City of San Diego's Climate Action Plan (CAP) Consistency Regulations and proposed project design features. However, because the Project would not be consistent with the growth projections used in the development of the CAP, cumulative GHG impacts would be significant.

Therefore, impacts related to GHG emissions and conflicts with applicable plans, policies, or regulations adopted for the purpose of reducing the emissions of GHGs would be significant as detailed in Final EIR Section 4.5 and Final EIR Appendix M-1.

Mitigation Measures:

GHG-SD-1 Transit Passes

Prior to first occupancy, the permittee shall implement a transit subsidy program. The subsidy value will be limited to the equivalent value of 25 percent of the cost of an MTS "Regional Adult Monthly/30 Day Pass" (currently $72, which equates to a subsidy value of $18 per month). Subsidies will be

available on a per-unit basis to residential tenants for a period of five years (five years after issuance of the first occupancy permit). Permittee shall provide an annual report to the City Engineer in each of the first five years demonstrating how the offer was publicized to residents and documenting the results of the program each year, including number of participants and driveway traffic counts.

GHG-SD-2 Commute Trip Reduction Program

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

GHG-SD-3 Bicycle Micro-mobility Fleet

Prior to first occupancy, the permittee shall provide one bicycle (up to a $400 value) per unit to the first buyer of each unit.

GHG-SD-4 Energy Star Appliances

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

GHG-SD-5 Alternative Water Heating

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

GHG-SD-6 Water Efficient Landscaping

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

Finding: The Project would implement mitigation measures GHG-SD-1 through GHG-SD-6 to reduce the Project's GHG emission impact. The Project would also implement the City of San Diego's CAP Consistency Regulations. However, per the City of San Diego's CAP threshold guidance, a project that would generate more emissions than planned for in the City of San Diego CAP would result in a significant impact with regards to GHG. The Project site is not currently within the City of San Diego and therefore the associated GHG emissions were not accounted for in the City of San Diego CAP. As such, the Project would be required to achieve net zero emissions in order to not increase emissions beyond the level assumed in the CAP. All feasible mitigation has been implemented as further detailed in the GHG Emissions Technical Report (see Appendix G). While the proposed mitigation measures would reduce GHG emissions to the extent feasible, the Project would not achieve net zero emissions and therefore would not be consistent with the CAP, resulting in a significant and unavoidable cumulative GHG emission impact after mitigation.

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

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

2. Transportation/Circulation

Impact: The Project would result in VMT exceeding thresholds identified in the City of San Diego Transportation Study Manual (TSM). Pursuant to the TSM the Project would exceed the threshold of 15 percent below the regional mean VMT per capita. Impacts would be significant.

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

Mitigation Measures:

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

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

Finding: The Project would implement mitigation measures TRA-SD-1 requiring the collection of funds consistent with SDMC Section 143.1101 to be used to fund VMT reducing infrastructure projects throughout the City of San Diego. However, notwithstanding implementation of CAPCOA reduction measure T-4 and mitigation measure TRA-SD-1, because the Project would not be able to reduce VMT to below 85 percent of regional mean (per capita), it would result in a significant and unavoidable VMT impact after mitigation.

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

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

3. Land Use

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

Facts: Although the Project would implement mitigation measures GHG-SD-1 through GHG-SD-6, GHG emissions are considered significant because the Project site is not currently within the City of San Diego and associated emissions were not accounted for in the City of San Diego CAP. To meet the assumptions in the CAP, the Project would have to obtain net zero or negative GHG emissions. While the inclusion of proposed PDF-GHG-1 through PDF-GHG-9 and mitigation measures GHG-SD-1 through GHG-SD-4 would reduce GHG emissions, the associated reduction cannot be shown to result in net zero emissions, and it cannot be demonstrated that the Project would achieve emissions consistent with the CAP. As such, the Project would not be consistent with the CAP and the Project would not be consistent with Goal 5, Objective O of the Housing Element.

X. 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."

The objectives of the proposed Project are stated above in Section II.A. Project Objectives.

The City Council must consider the feasibility of any alternatives to the Project, evaluating whether these alternatives could avoid or substantially lessen significant environmental effects while achieving most of the objectives of the Project. The Final EIR includes an analysis of three alternative scenarios comparable to the Annexation Scenario 2a: No Project (No Development) Alternative, No Project (Development Under the Existing General Plan) Alternative, and the Reduced Footprint Wetland Impact Reduction Alternative.

A. No Project (No Development) Alternative

Under the No Project (No Development) Alternative, the Project would not be implemented, and the Project site would remain in its current vacant condition.

Potentially Significant Effects: The No Project (No Development) Alternative would avoid all significant and potentially significant impacts associated with the Project, including significant and

unmitigated Land Use, Transportation and GHG impacts, and significant but mitigated impacts related to Biological Resources, Health and Safety/Hazardous Materials, Historical and Tribal Cultural Resources, and Hydrology and Water Quality.

Finding: The City, having reviewed and considered the information contained in the Final EIR, rejects the No Project (No Development) Alternative as it fails to satisfy the Project's underlying purpose and fails to meet any of the Project objectives. The City finds that any of these grounds are independently sufficient to support rejection of this alternative.

Reference: These Findings incorporate by reference the information and analysis included in Final EIR Section 9.2, No Project (No Development) Alternative.

B. No Project (Development Under the Existing General Plan) Alternative

The No Project (Development Under the Existing Plan) Alternative is the No Project Alternative that could reasonably be expected to occur if the Project did not proceed, and development would be completed in accordance with applicable land use plans and zoning. This alternative assumes the site would be developed with a passive recreational use consistent with the City Agricultural Zone (A-8) and Open Space (OS) General Plan designation. This alternative assumes the Project site would be developed with a passive park, including roadway improvements to allow vehicular access to the site via Dennery Road, and on-site parking primarily as trail staging for public access to the OVRP. Parking areas are assumed to be pervious. Passive park improvements are assumed to include natural and landscaped open space areas including grass play areas, picnic areas with shade structures, and trail improvements. One caretaker's residence is assumed for the site that would rely on a septic system. A secondary emergency access road through the residential development to the east would not be required under this alternative. Considering the minimal development area needed, off-site remedial grading in the Davies property would likewise not be required.

Potentially Significant Effects: The No Project (Development Under the Existing General Plan) Alternative would avoid all of the significant and potentially significant impacts associated with the Project, including significant and unmitigated Land Use (Consistency with City of San Diego Housing Element), Transportation (VMT) and GHG (emissions and consistency with plans) impacts. Specifically, these significant impacts would all be reduced to less than significant levels.

Impacts that would be the **same** or **similar** under this alternative compared to the proposed Project would include: Land Use (physical division of community and consistency with MSCP); Air Quality (air quality plan implementation); Biology (wildlife corridors and conflicts with plans); Geology (all thresholds); Health and Safety (airport, emergency plans, and wildfire); Historical and Tribal Cultural Resources (all thresholds); Noise (all thresholds); Transportation (circulation, hazards, and emergency access); Aesthetics (light/glare); Public Services; and Wildfire (all thresholds).

Potential impacts related to the following issue areas would result in incrementally reduced impacts compared to the proposed Project, with or without mitigation: Land Use (land use plan consistency); Air Quality (air quality standards, sensitive receptors, and odors); Biological Resources (sensitive species and habitats and wetlands); GHG (all thresholds); Health and Safety (hazardous materials); Transportation (VMT); Aesthetics (scenic vistas/views, scenic resources, and visual character); and Hydrology and Water Quality (all thresholds); and Utilities.

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

Finding: The No Project (Development Under the Existing Plan) Alternative would only meet a single Project objective (Objective 5), providing amenities that contribute to the nearby OVRP recreational uses, including an overlook to the park and multi-modal connections. None of the other Project objectives would be met. Primarily, this alternative would not provide housing in response to regional housing needs, including affordable housing consistent with the City's Housing Element goals. The City, having reviewed and considered the information contained in the Final EIR, rejects the No Project (Development Under the Existing General Plan) Alternative as it fails to satisfy the Project's underlying purpose and fails to meet most of the Project objectives. The City finds that any of these grounds are independently sufficient to support rejection of this alternative.

Reference: These Findings incorporate by reference the information and analysis included in Final EIR Section 9.3, No Project (Development Under the Existing General Plan) Alternative.

C. Reduced Footprint Wetland Impact Reduction Alternative

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

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

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

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

The Reduced Footprint Wetland Impact Reduction Alternative would meet Objective 1, as it would redevelop an underutilized property to provide housing in response to housing needs. This alternative

would also meet Objective 2 because it would require LAFCO action to annex into the City of San Diego. Objectives 3 and 5 would be met because, although the footprint of the development would be reduced, this alternative would provide a residential community conducive to walking and bicycling and provide amenities that contribute to the nearby OVRP recreational uses. Additionally, construction of this alternative would generate some financial benefits and meet Objective 6.

Due to the reduced development footprint and the need to construct three-story residential structures, housing under this alternative would be constructed as a single product: rowhomes. This would not meet Objective 4, which is to provide a variety of housing. Overall, the Reduced Footprint Wetland Impact Reduction Alternative would meet five out of six objectives and would meet the basic Project objectives. The City, having reviewed and considered the information contained in the Final EIR, rejects the Reduced Footprint Wetland Impact Reduction Alternative as it fails to satisfy the Project's underlying purpose associated with the provision of housing. The City finds this sufficient grounds to support rejection of this alternative.

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

XI. STATEMENT OF OVERRIDING CONSIDERATIONS

Pursuant to Public Resources Code Section 21081(b) and Section 15093 of the CEQA Guidelines, when the lead agency approves a project that may result in significant effects that are identified in the Final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action, based on the Final EIR and/or other information in the record.

The City has adopted Findings Regarding Significant Effects for the Project, which conclude that the Project will have the following significant effects that are unavoidable even after incorporation of feasible mitigation measures associated with GHG (emissions and conflicts with plans) and Transportation (VMT). Additionally, because development under Annexation Scenario 2a would be under the jurisdiction of the City of San Diego, the Project would also result in significant and unavoidable Land Use impacts due to conflicts with City of San Diego Housing Element goals and policies. The City has balanced the proposed Project's benefits against these unavoidable significant effects and determined that they are acceptable due to each of the specific economic, legal, social, technological, or other benefits listed below that will result from approval and implementation of the Project. All benefits are based on the facts in the CEQA Findings Regarding Significant Effects, the Final EIR, and the Record of Proceedings for this Project. Each of these benefits is a separate and independent basis that justifies approval of the Project so that if a court were to set aside the determination that any particular benefit will occur and justifies Project approval, the City determines that it would stand by its determination that the remaining benefits is or are sufficient to warrant Project approval.

Overriding Benefits

The City therefore finds that, for each of the significant impacts subject to a finding under Public Resources Code Section 21081(a)(3), each of the following social, economic, and environmental benefits of the Project, independent of the other benefits, outweigh the potential significant

unavoidable adverse impacts and render acceptable each and every one of these unavoidable adverse environmental impacts:

Public Services Benefits

- Annexation of the Project site into the City of San Diego would allow for the more efficient provision of public services.

- With the Project site being accessed from City of San Diego public roads and served by City of San Diego water and sewer facilities, annexation of the Project site would alleviate the City of Chula Vista from the potential necessity and administrative/fiscal burden of needing out-of- agency agreements for services. It would additionally alleviate the likely need for tax-sharing agreements with the City of San Diego to ensure the tax revenue from development in the City of Chula Vista appropriately funds the City of San Diego services upon which it relies.

Recreational Benefits

- The Project would construct on-site community facilities and other recreational amenities, including public trails with access to the OVRP.

- Even under Annexation Scenario 2a, the City of Chula Vista is one of the joint powers of the OVRP and would benefit from the proposed recreation improvements.

Biological Benefits

- The Project would preserve biological resources, including upland and wetland habitats and sensitive plants in perpetuity.

Regional Housing Benefits

- The Project would accommodate the need for housing to support the anticipated regional growth.

XII. FINDINGS REGARDING OTHER CEQA CONSIDERATIONS

A. Growth Inducement

1. Short-term Growth Inducement

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

2. Induce Population Growth

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

As detailed in Section 4.2.3.2 of the Final EIR, SANDAG Series 13 estimates the population in the City of San Diego would grow from 1,453,267 in 2020 to 1,665,609 in 2035. This would equate to an additional 14,156 persons per year from 2020 to 2035. Furthermore, SANDAG Series 13 estimates that the City of San Diego would have 559,143 residential units in 2020 and 640,668 residential units in 2035. This would equate to an additional 5,435 units per year from 2020 to 2035. Implementation of the Project would result in an increase in 221 residential units in a location assumed to be open space in SANDAG's growth projections. While the Project would include residential in an area previously planned for open space, this would be accommodated in the regional growth projections. As discussed in the City of San Diego General Plan Housing Element 2021-2029 the City of San Diego is currently experiencing a housing shortage and, as a result, in urgent need of additional housing. The City of San Diego's assigned target of the Regional Housing Needs Allocation (RHNA) target for the 2021-2029 RHNA Cycle is 108,036 homes. Although the City of San Diego is planning for additional housing to meet current need, during the fifth RHNA Cycle (2010-2020), the City of San Diego was assigned a target of permitting 88,096 new housing units and less than half of those units were constructed (42,275) as of December 2019. The proposed construction of 221 units is not anticipated to result in an unplanned population increase beyond SANDAG Regional Population and Housing Forecast considering there is a shortage of housing to accommodate the existing and planned population. Therefore, the Project would not induce unplanned population growth.

3. Induce Extension of Roads

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

Since the Project site is surrounded by existing development and would connect to existing utility infrastructure, implementation of the Project would not remove a barrier to economic or population

growth through the construction or connection of new public utility infrastructure. The Project would not induce road extensions or the need for new infrastructure.

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

B. Significant Irreversible Environmental Changes

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

XIII. DECISION AND EXPLANATION REGARDING RECIRCULATION OF THE EIR

Pursuant to the CEQA Guidelines, Section 15088.5(a), an agency is required to recirculate a Draft EIR when significant new information is added to the Draft EIR after public review of the Draft EIR, but before certification. Significant new information can include changes in the project or environmental setting, as well as additional data or other information. New information added to a Draft EIR is not significant unless the Draft EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse effect of the project or a feasible way to mitigate or avoid such an effect (including feasible alternatives) that the project's proponents have declined to implement. Recirculation is not required where the new information added to the EIR merely clarifies or amplifies or makes insignificant modifications in an adequate EIR.

As described in the CEQA Guidelines Section 15088.5(a), "Significant new information" requiring recirculation include, for example, a disclosure showing that:

(1) A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented.

(2) A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance.

(3) A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the environmental impacts of the project, but the project's proponents decline to adopt it.

(4) The Draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded. (Mountain Lion Coalition v. Fish and Game Com. (1989) 214 Cal.App.3d 1043).

The City hereby finds that recirculation of the Draft EIR is not required for the following reasons:

- Changes to the Draft EIR were made to clarify, correct, or add to the environmental impact analysis for the proposed Project. Such changes are a result of public review comments and/or further review of the Draft EIR. **The changes do not constitute significant new information that alters the outcome of the environmental analysis or require recirculation of the document**.

- All feasible mitigation measures and alternatives have been identified that could reduce environmental impacts. No feasible Project alternatives or mitigation measures have been identified that would clearly lessen environmental impacts of the Project, and no major flaws or inadequacies have been identified in the EIR based on comments received from public review. Therefore, consistent with CEQA Guidelines 15088.5, recirculation of the Draft EIR is not required.