



THE CITY OF SAN DIEGO

## REPORT TO THE HEARING OFFICER

HEARING DATE: February 13, 2013

REPORT NO. HO-13-003

ATTENTION: Hearing Officer

SUBJECT: **FONTAINE STREET STORM DRAIN REPAIR**  
PROJECT NO. 264038

APPLICANT: City Of San Diego/Engineering & Capital Projects Department

### SUMMARY

Issue(s): Should the Hearing Officer approve the Fontaine Street Storm Drain Repair project in the Navajo Community Plan area?

### Staff Recommendation(s)

1. **Certify** Mitigated Negative Declaration (MND) No. 264038 and **Adopt** the Mitigation Monitoring and Reporting Program; and
2. **Approve** Site Development Permit No. 929310.

Community Planning Group Recommendation - On December 20, 2011, the Navajo Community Planning Association voted 13-0-0 to recommend approval without conditions (Attachment 8).

Environmental Review: A Mitigated Negative Declaration No. 264038 has been prepared for the project in accordance with State of California Environmental Quality Act (CEQA) Guidelines. A Mitigation Monitoring and Reporting Program (MMRP) has been prepared and would be implemented which would reduce, to a level of insignificance, any potential impacts identified in the environmental review process.

### BACKGROUND

The project site is located within the Rancho Mission Canyon system along the north side of Fontaine Street directly across from 5615 and 5625 Fontaine Street within the RS-1-7 and RS-1-2 zones of Navajo Community Planning area. The entire project area is located within the City's

Open Space/Park Preserve (APN 456-020-5000), and within and adjacent to the City's Multi-Habitat Planning Area (Attachment 1&2).

The existing storm drain was constructed in the 1960's and is the final phase of the Fontaine Street Storm Drain Replacement Project. The existing corrugated metal pipe is highly corroded which has resulted in a pipe break at the invert in the final 50 feet of the pipe. The collected runoff that now flows through the damaged pipe, is causing severe erosion to the canyon slope and to a portion of the slope within and adjacent to the pipe alignment.

The storm drain replacement in this phase of the project requires a Site Development Permit for impacts to approximately 0.36-acres of Environmentally Sensitive Lands (sensitive biological resources and steep hillsides). Although most of the site lies entirely within the City's Multi-Habitat Planning Area (MHPA), the project has been designed to avoid impacts to the adjacent wetlands.

## DISCUSSION

The storm drain pipe to be replaced originates at the top of a canyon slope approximately 25 feet north of Fontaine Street at the location of an existing cleanout, and falls approximately 125 feet in elevation from the top of the slope to its terminus near the bottom of Rancho Mission Canyon south of the location of the previous storm drain outlet and existing sewer maintenance access path and culvert traversing throughout the canyon. The project would replace approximately 250 feet of a damaged Corrugated Metal Pipe (CMP) with approximately 250 feet of 24-inch Reinforced Concrete Pipe (RCP) within the same pipe alignment. The project will require construction limits ranging in width from 30 to 70 feet from the top of the canyon slope to the bottom of the canyon and centered on the existing storm drain pipe. Staging would occur at the top of the canyon slope adjacent to Fontaine Street. Access would occur from the top of the slope down to the bottom of slope within the project work limits (Attachment 4).

General biological resource and jurisdictional delineation surveys of the project site were conducted in September 2009 to verify previous vegetation mapping and wetland delineation data. The analysis included vegetation mapping, field surveys for sensitive plant and animal species, as well as wetland/jurisdictional water assessments. Based on the findings of the surveys, the storm drain outlet and associated improvements have been relocated south outside the limits of the wetland vegetation community (southern willow scrub). A minimum five-foot wide buffer would be implemented during construction to avoid direct impacts to wetland species while locating the outlet as close to the canyon's low point as possible without impacting wetland and/or jurisdictional areas.

The project would result in impacts to 0.035 acre of coastal sage scrub (CSS) and 0.24 acre of southern mixed chaparral (SMC) within the MHPA, and 0.015 acre outside the MHPA which requires mitigation. Therefore, the project would be required to mitigate for a combined total acreage of 0.29 acre of upland habitat through payment into the City's Habitat Acquisition Fund (HAF).

Mitigation for these impacts has been identified within Section V, of the MMRP within the Mitigated Negative Declaration (MND), and would reduce impacts to upland habitat to below a level of significance. No wetland vegetation would be impacted by the project (Attachment 7).

All impacted portions of the slope occurring as a result of construction, with the exception of the new improvements (headwall, energy dissipater, and rip rap pad) would be revegetated per the approved revegetation plan prepared in accordance with the City's Landscape Standards, including the eroded portion of the slope to be filled, re-compacted and re-contoured. The revegetation plan would utilize an appropriate native, non-invasive upland for erosion control purposes.

The project site also contains mature trees that represent potential nesting habitat for raptors and other birds. A pre-construction survey will occur prior to construction if, construction were to occur during the general bird breeding season (February 1 – September 15), in order to determine presence/absence of nesting raptors and/or other migratory birds and ensure there will not be any impacts.

#### CONCLUSION

Staff has reviewed the request for a Site Development Permit to remove and replace the storm drain as and has found it to be in conformance with the applicable section of the San Diego Municipal Code and the California Environmental Quality Act Guidelines. Therefore, staff believes the findings can be made and recommends the Hearing Officer approve the project.

#### ALTERNATIVE

1. Approve the Mitigated Negative Declaration (MND) No. 264038 and Approve Site Development Permit No. 929310 and, with modifications or;
2. Deny Site Development Permit No. 929310 and the Mitigated Negative Declaration (MND) No. 264038, if the required findings to approve the project, cannot be affirmed.

Respectfully submitted,



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Helene Deisher, Development Project Manager

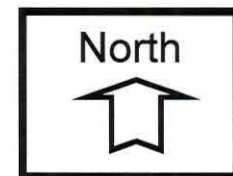
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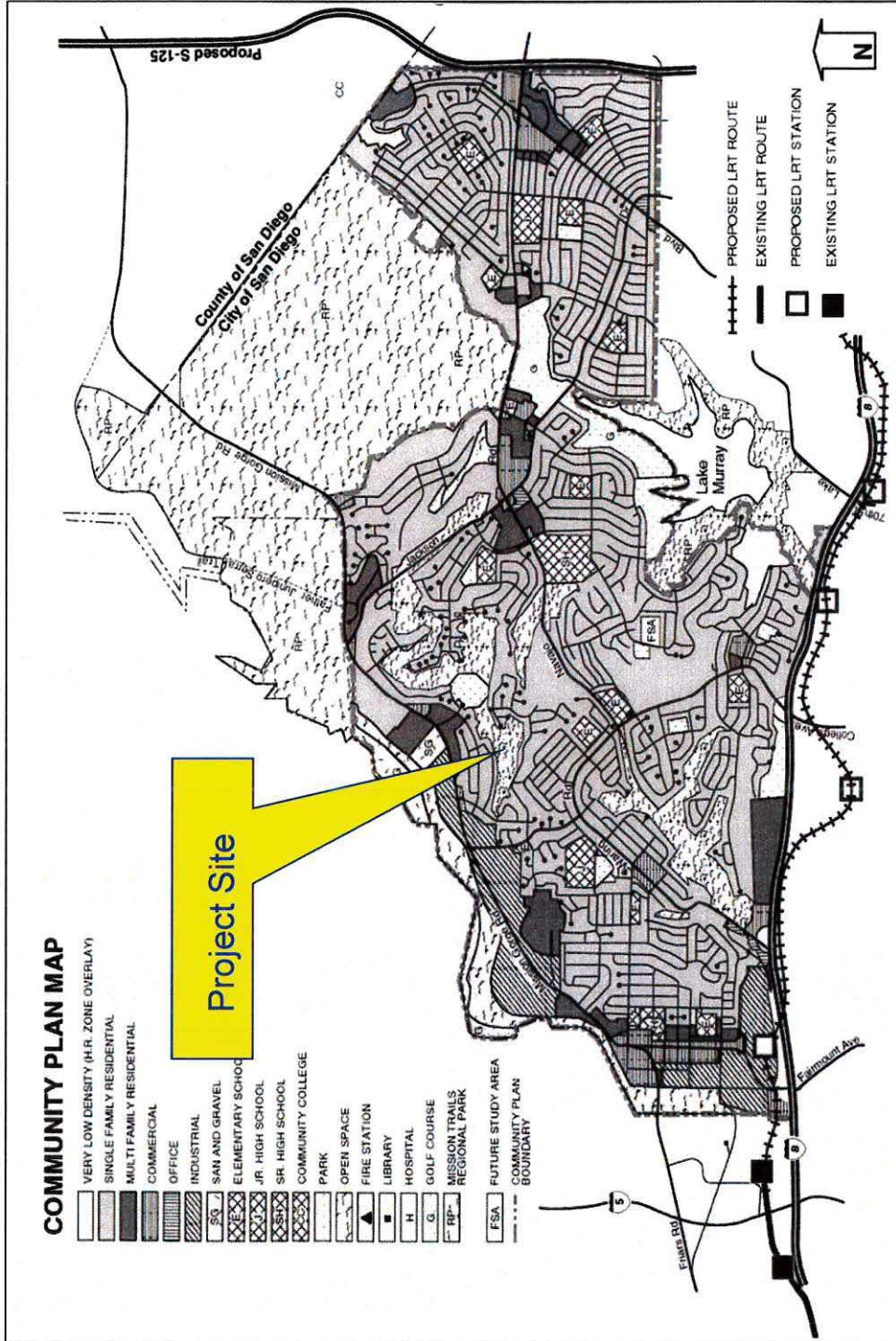
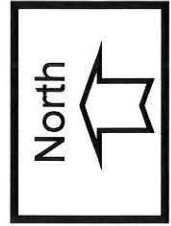
1. Aerial Photograph
2. Community Plan Land Use Map

3. Project Photos
4. Project Plans
5. Draft Permit Resolution with Findings
6. Draft Permit with Conditions
7. Draft Environmental Resolution with MMRP
8. Community Planning Group Recommendation



**Location Aerial Photo**  
**FONTAINE STREET STORM DRAIN REPAIR**  
**PROJECT NO. 264038**





**Land Use Map**  
**FOUNTAIN STREET STORM DRAIN REPAIR**  
**PROJECT NO. 264038**



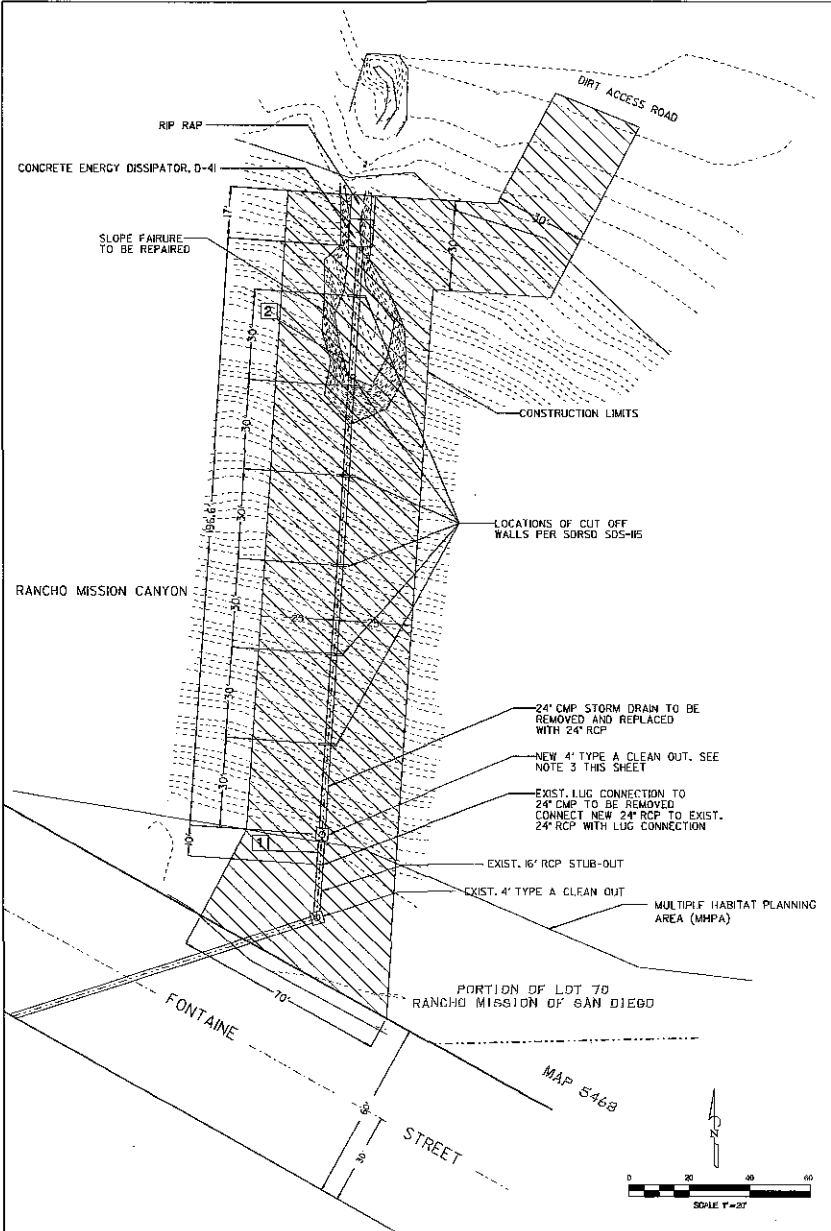








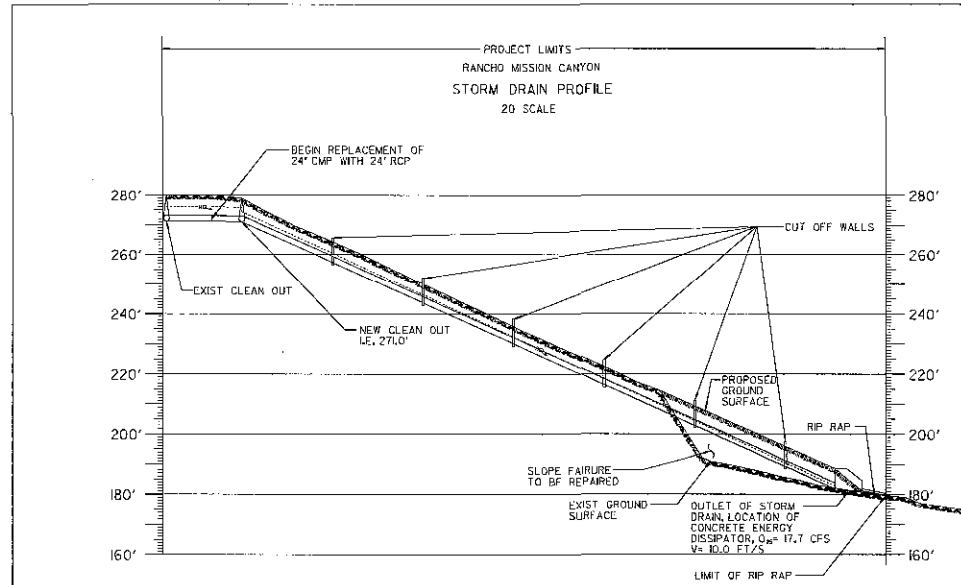
—NOT FOR CONSTRUCTION—



**CONSTRUCTION NOTES**

1. CONTRACTOR TO INSTALL TEMPORARY STORM DRAIN BYPASS DURING CONSTRUCTION.
2. CUTOFF WALLS TO BE INSTALLED PER STANDARD DRAWING SDS-HS.
3. CONTRACTOR SHALL NOT DISTURB ANY AREA OUTSIDE THE CONSTRUCTION LIMITS.

PROPOSED PIPE DATA TABLE					
NO.	Δ/BEARING	RADIUS	LENGTH	REMARKS	SLOPE
1	N 03° 45' 55" E	-	8.0'	24" RCP	1.26%
2	N 03° 45' 55" E	-	194.6'	24" RCP	45.8%



**PLANS FOR THE IMPROVEMENT OF FONTAINE STREET STORM DRAIN PHASE III**

CITY OF SAN DIEGO, CALIFORNIA ENGINEERING AND CAPITAL PROJECTS DEPARTMENT SHEET 2 OF 3 SHEETS		NO. B-00607
FOR CITY ENGINEER	DATE	APPROVED BY
DESCRIPTION	BY	DATE
ORIGINAL	CC	FILED
CONTRACTOR: JASON GUTSE PROJECT ENGINEER		CASEY CROBY PROJECT ENGINEER
INSPECTOR: _____		DATE STARTED: _____
DATE COMPLETED: _____		34417-2-D

CONTRACTOR MUST NOTIFY THE BELOW LISTED AGENCY AT LEAST TWO (2) WORKING DAYS PRIOR TO COMMENCEMENT OF EXCAVATION:

UNDERGROUND SERVICE ALERT  
(USGA) 1-888-422-4133

FONTAINE STREET STORM DRAIN PHASE III

—NOT FOR CONSTRUCTION—



HEARING OFFICER RESOLUTION NO. XXXX  
SITE DEVELOPMENT PERMIT NO. 929310  
**FONTAINE STREET STORM DRAIN REPAIR, PROJECT NO. 264038 [MMRP]**

WHEREAS, the Engineering and Capital Projects Department of the City of San Diego, Owner/Permittee, filed an application with the City of San Diego for a permit to remove and replace an existing damaged 24-inch metal storm drain pipe with a 24-inch reinforced concrete pipe and install a new cleanout and energy dissipater as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Permit No. 929310;

WHEREAS, the project site is located directly across from 5615 and 5625 Fontaine Street within Rancho Mission Canyon within City Owned Open Space/Park Preserve (APN 465-020-5000) in the RS-1-7 and RS-1-2 zones within the Navajo Community Plan area;

WHEREAS, on February 13, 2013 the Hearing Officer of the City of San Diego considered Site Development Permit No. 929310 pursuant to the Land Development Code of the City of San Diego;

NOW, THEREFORE, BE IT RESOLVED by the Hearing Officer of the City of San Diego as follows:

That the Hearing Officer adopts the following written Findings, dated February 13, 2013.

FINDINGS:

**Site Development Permit - Section 126.0504**

**A. Findings for all Site Development Permits**

- 1. The proposed development will not adversely affect the applicable land use plan.** The proposed project would remove and replace an existing deteriorated 24-inch corrugated metal pipe (CMP) with a new 250-foot long 24-inch reinforced concrete pipe to be installed within the existing storm drain alignment. Associated new improvements would include installation of a new cleanout structure, concrete cutoff walls, a headwall, an energy dissipater, and a rip rap pad. The Other Community Facilities Element of the Navajo Community Plan states that existing facilities currently do not meet the standards as outlined in the Progress Guide and General Plan and one of their objectives is to ensure adequate facilities such as drainage. The proposed project would implement the intent of the Community Facilities Element of the Plan by maintaining this storm drain. Therefore, the proposed project would not adversely affect the applicable land use plan.
- 2. The proposed development will not be detrimental to the public health, safety, and welfare.** The proposed project would remove and replace an existing deteriorated 24-inch corrugated metal pipe (CMP) with a new 250-foot long 24-inch reinforced concrete pipe to be installed within the existing storm drain alignment. Associated new improvements would include installation of a new cleanout structure, concrete cutoff walls, a headwall, and energy dissipater. The project would also restore and revegetate an eroded portion of the canyon slope adjacent to the pipe alignment caused by a break in the CMP storm drain occurring as a result of deterioration and undermining of the soil beneath the CMP. The proposed work will replace aged pipes and bring

them to up to the current City standards. In addition, the project also complies with the City of San Diego Council Policy 800-04 (Drainage Facilities) which states that adequate drainage facilities are required to remove storm water runoff in an efficient, economic, environmentally and aesthetically acceptable manner for the protection of property and life. Therefore, the proposed project to replace the pipes as described will support public health, safety and welfare and not be detrimental.

3. **The proposed development will comply with the applicable regulations of the Land Development Code, including any allowable deviations pursuant to the Land Development Code.** The proposed project does not require any deviations to regulations in order to replace an existing deteriorated 24-inch corrugated metal pipe (CMP) with a new 250-foot long 24-inch reinforced concrete pipe to be installed within the existing storm drain alignment. The project will also restore and revegetate an eroded portion of the canyon slope adjacent to the pipe alignment caused by a break in the pipe. The proposed project will comply with all applicable regulations of the Land Development Code by ensuring that all impacted area will be revegetated per the approved Revegetation and Erosion Control Plan in accordance with the City's Land Development Manual and Landscape Standards. The project is not proposing any deviations and will repair the slope as well as re vegetate according to the code requirements. Therefore, the development would comply with the land development code.

**B. Supplemental Findings--Environmentally Sensitive Lands**

1. **The site is physically suitable for the design and siting of the proposed development and the development will result in minimum disturbance to environmentally sensitive lands.** The proposed project would remove and replace an existing deteriorated 24-inch corrugated metal pipe (CMP) with a new 250-foot long 24-inch reinforced concrete pipe to be installed within the existing storm drain alignment. Associated new improvements would include installation of a new cleanout structure, concrete cutoff walls, a headwall, and energy dissipater. The project would also restore and revegetate an eroded portion of the canyon slope adjacent to the pipe alignment caused by a break in the CMP storm drain occurring as a result of deterioration and undermining of the soil beneath the CMP. Due to the topography and original alignments, occasional work in areas containing environmentally sensitive lands is unavoidable. Staging would occur at the top of the canyon slope adjacent to Fontaine Street and access would occur from the top of the slope down to the bottom of slope within the project work limits. The storm drain outlet and associated improvements have been relocated south, outside the limits of the wetland vegetation community (i.e. southern willow scrub). A minimum five-foot wide buffer would be implemented during construction to avoid impacts to wetland species while locating the outlet as close to the canyon's low point as possible. Additionally, all impacted vegetation will be revegetated per the approved revegetation/erosion control plan prepared in accordance with the City's Land Development Manual and Landscape Standards. The facilities are existing and are in need of repair to avoid additional environmental impacts. The proposed work will replace the aged pipes and bring them to up to current City standards. One of the functions of the storm drain is to minimize flood risk by controlling storm water runoff into a confined system to dissipate and disperse the flow which protects unplanned runoff into sensitive area. The work proposed would help minimize future impacts to the environment by maintaining the facilities. Therefore, the site is physically suitable for the design and siting of the proposed development and the development will result in minimum disturbance to environmentally sensitive lands.

- 2. The proposed development will minimize the alteration of natural land forms and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards.** The proposed project would remove and replace an existing deteriorated 24-inch corrugated metal pipe (CMP) with a new 250-foot long 24-inch reinforced concrete pipe to be installed within the existing storm drain alignment. Associated new improvements would include installation of a new cleanout structure, concrete cutoff walls, a headwall, an energy dissipater, and a rip rap pad. The project proposes no land form alterations other than minimal excavation and remediation of the site to construct a 250 foot long 24 inch pipe within the existing storm drain alignment. The project includes a re-vegetation and erosion control plan to address any potential erosion during and after the work is completed. The function of the storm drain is to minimize flood risk by controlling storm water runoff into a confined system and to dissipate and disperse the flow to a desired location. The system is not made of flammable materials, so there is no fire hazard. Therefore, the proposed development will minimize the alteration of natural land forms and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards.
- 3. The proposed development will be sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands.** The proposed project would remove and replace an existing deteriorated 24-inch corrugated metal pipe (CMP) with a new 250-foot long 24-inch reinforced concrete pipe to be installed within the existing storm drain alignment. Associated new improvements would include installation of a new cleanout structure, concrete cutoff walls, a headwall, an energy dissipater, and a rip rap pad. The function of the storm drain is to minimize flood risk by controlling storm water runoff into a confined system and to dissipate and disperse the flow. This would prevent adverse impacts to environmentally sensitive lands. The project would also restore and revegetate an eroded portion of the canyon slope adjacent to the pipe alignment caused by a break in the CMP storm drain occurring as a result of deterioration and undermining of the soil beneath the CMP. The staging of the project would occur in an easement at the top of the canyon slope adjacent to Fontaine Street. Access to the site would occur from the top of the slope down to the bottom of slope within the project work limits. The storm drain outlet and associated improvements have been relocated south, outside the limits of the wetland vegetation community (southern willow scrub) to prevent adverse impacts on any of the adjacent environmentally sensitive lands. Additionally, a minimum five-foot wide buffer would be implemented during construction to also avoid direct impacts to wetland species while locating the outlet as close to the canyon's low point as possible without impacting those wetland and/or jurisdictional areas. Therefore, the proposed development will be sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands
- 4. The proposed development will be consistent with the City of San Diego's Multiple Species Conservation Program (MSCP) Subarea Plan.** The project lies within the boundaries of the of the City's MSCP Subarea and within and adjacent to the City's Multi-Habitat Planning Area (MHPA). The project will adhere to the MHPA Land Use Adjacency Guidelines (Section 1.4.3) of the City's MSCP Subarea Plan. The project would result in impacts to 0.035 acre of coastal sage scrub (CSS) and 0.24 acre of southern mixed chaparral (SMC) within the MHPA, and 0.015 acre outside the MHPA which requires mitigation. Therefore, the project would be required to mitigate for a combined total acreage of 0.29 acre of upland habitat through payment into the City's Habitat Acquisition Fund (HAF). Mitigation for these impacts has been identified within Section V, of the MMRP within the Mitigated Negative Declaration (MND), and would reduce impacts to upland habitat to below a level of significance. No wetland vegetation would be

impacted by the project. All impacted portions of the slope occurring as a result of construction, with the exception of the new improvements (headwall, energy dissipater, and rip rap pad) would be revegetated per the approved revegetation plan prepared in accordance with the City's Landscape Standards, including the eroded portion of the slope to be filled, re-compacted and re-contoured. The revegetation plan would utilize an appropriate native, non-invasive upland for erosion control purposes. Therefore, the proposed project will be consistent with the City of San Diego's MSCP Subarea Plan.

5. **The proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply.** The proposed project is located approximately 15 miles from a public beach and or local shoreline and does not contain coastal beaches, sensitive coastal bluffs, or flood hazard areas. Therefore, the project will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply.
  
6. **The nature and extent of mitigation required as a condition of the permit is reasonably related to, and calculated to alleviate, negative impacts created by the proposed development.** The proposed project would remove and replace an existing deteriorated 24-inch corrugated metal pipe (CMP) with a new 250-foot long 24-inch reinforced concrete pipe to be installed within the existing storm drain alignment. Associated new improvements would include installation of a new cleanout structure, concrete cutoff walls, a headwall, an energy dissipater, and a rip rap pad. The systems failure has caused some erosion which will be repaired and the pipe moved slightly away from wetlands. Section V. of the Mitigation, Monitoring, and Reporting Program (MMRP) within the Mitigated Negative Declaration (MND) prepared for this proposed project, identifies the impacts and created a mitigation plan which reduces those impacts to upland habitat to below a level of significance. Since all impacted vegetation will be revegetated per the approved Revegetation and Erosion Control Plan prepared in accordance with the City's Land Development Manual and Landscape Standards, the nature and extent of mitigation required as a condition of the permit is reasonably related to, and calculated to alleviate, negative impacts created by the proposed development.

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Helene Deisher  
Development Project Manager  
Development Services

Adopted on: February 13, 2013

WBS No. B-00607.02.06

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

**WHEN RECORDED MAIL TO**

**PROJECT MANAGEMENT**  
**PERMIT CLERK**  
**MAIL STATION 501**

SPACE ABOVE THIS LINE FOR RECORDER'S USE

WBS NUMBER: B-00607.02.06

**SITE DEVELOPMENT PERMIT NO. 929310**  
**FONTAINE STREET STORM DRAIN REPAIR, PROJECT NO. 264038 [MMRP]**  
**HEARING OFFICER**

This Site Development Permit No. 929310 is granted by the Hearing Officer of the City of San Diego to the City of San Diego, Engineering and Capital Projects Department Owner, and Engineering and Capital Projects Department, Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0502. The project is located directly across from 5615 and 5625 Fontaine Street within Rancho Mission Canyon within City Owned Open Space/Park Preserve (APN 465-020-5000 in the RS-1-7 and RS-1-2 zones within the Navajo Community Plan area.

Subject to the terms and conditions set forth in this Permit, permission is granted to City of San Diego, Engineering and Capital Projects Department, Owner and the City of San Diego Engineering and Capital Projects, Permittee to remove and replace an existing damaged 24-inch metal storm drain pipe with a 24-inch reinforced concrete pipe and install a new cleanout and energy dissipater as described on the approved exhibits [Exhibit "A"] dated February 13, 2013, on file in the Development Services Department.

The project shall include:

- a. Remove and replace an existing damaged 24-inch metal storm drain pipe and install a new cleanout and energy dissipater; and
- b. Revegetation; and
- c. Public and private accessory improvements determined by the Development Services Department to be consistent with the land use and development standards for this site in accordance with the adopted community plan, the California Environmental Quality Act [CEQA] and the CEQA Guidelines, the City Engineer's requirements, zoning regulations, conditions of this Permit, and any other applicable regulations of the SDMC.



**STANDARD REQUIREMENTS:**

1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. If this permit is not utilized in accordance with Chapter 12, Article 6, Division 1 of the SDMC within the 36 month period, this permit shall be void unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker.
2. While this Permit is in effect, the subject property shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the appropriate City decision maker.
3. This Permit is a covenant running with the subject property and all of the requirements and conditions of this Permit and related documents shall be binding upon the Owner/Permittee and any successor(s) in interest.
4. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
5. Issuance of this Permit by the City of San Diego does not authorize the Owner/Permittee for this Permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).
6. Construction plans shall be in substantial conformity to Exhibit "A." Changes, modifications, or alterations to the construction plans are prohibited unless appropriate application(s) or amendment(s) to this Permit have been granted.
7. All of the conditions contained in this Permit have been considered and were determined-necessary to make the findings required for approval of this Permit. The Permit holder is required to comply with each and every condition in order to maintain the entitlements that are granted by this Permit.

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

**ENVIRONMENTAL/MITIGATION REQUIREMENTS:**

8. Mitigation requirements in the Mitigation, Monitoring, and Reporting Program [MMRP] shall apply to this Permit. These MMRP conditions are hereby incorporated into this Permit by reference.

9. The mitigation measures specified in the MMRP and outlined in **Mitigated Negative Declaration [MND]**, NO. 264038 shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL MITIGATION REQUIREMENTS.

10. The Owner/Permittee shall comply with the MMRP as specified in the Mitigate Negative Declaration, NO. 264038 to the satisfaction of the Development Services Department and the City Engineer. Prior to the issuance of the "Notice to Proceed" with construction, all conditions of the MMRP shall be adhered to, to the satisfaction of the City Engineer. All mitigation measures described in the MMRP shall be implemented for the following issue areas:

**Biological Resources and Land Use Adjacency (MHPA)**

**INFORMATION ONLY:**

- The issuance of this discretionary use permit alone does not allow the immediate commencement or continued operation of the proposed use on site. The operation allowed by this discretionary use permit may only begin or recommence after all conditions listed on this permit are fully completed and all required ministerial permits have been issued and received final inspection.
- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this Permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code-section 66020.

APPROVED by the Hearing Officer of the City of San Diego on February 13, 2013 and Resolution No. XXXX

SITE DEVELOPMENT PERMIT NO. 929310  
DATE OF APPROVAL: FEBRUARY 13, 2013

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES  
DEPARTMENT

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Helene Deisher  
Development Project Manager

**NOTE: Notary acknowledgment  
must be attached per Civil Code  
section 1189 et seq.**

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

**City of San Diego**  
Engineering and Capital Projects

By \_\_\_\_\_  
NAME  
TITLE

**NOTE: Notary acknowledgments  
must be attached per Civil Code  
section 1189 et seq.**

RESOLUTION NUMBER R- XXXX

ADOPTED ON February 13, 2013

WHEREAS, on December 6, 2011, City of San Diego, Public Works-Engineering and Capital Projects Department, Right-of-Way Design Division submitted an application to Development Services Department for a Site Development Permit for the Fontaine Street Storm Drain Project; and

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

WHEREAS, the issue was heard by the Hearing Officer on February 13, 2013; and

WHEREAS, the Hearing Officer considered the issues discussed in Mitigation Negative Declaration No. 264038 prepared for this Project; NOW THEREFORE,

BE IT RESOLVED, by the Hearing Officer that it is certified that the Declaration has been completed in compliance with the California Environmental Quality Act of 1970 (CEQA) (Public Resources Code Section 21000 et seq.), as amended, and the State CEQA Guidelines thereto (California Code of Regulations, Title 14, Chapter 3, Section 15000 et seq.), that the Declaration reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in said Declaration, together with any comments received during the public review process, has been reviewed and considered by the Hearing Officer in connection with the approval of the Project.

BE IT FURTHER RESOLVED, that the Hearing Officer finds on the basis of the entire record that project revisions now mitigate potentially significant effects on the environment previously identified in the Initial Study, that there is no substantial evidence that the Project will have a significant effect on the environment, and therefore, that said Declaration is hereby adopted.

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

BE IT FURTHER RESOLVED, that the Declaration and other documents constituting the record of proceedings upon which the approval is based are available to the public at the office of the DEVELOPMENT SERVICES DEPARTMENT, 1222 FIRST AVENUE, SAN DIEGO, CA 92101

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

APPROVED: Helene Deisher

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

Helene Deisher, Project Manager

ATTACHMENT(S): Exhibit A, Mitigation Monitoring and Reporting Program

**EXHIBIT A**  
 Fontaine Street Storm Drain  
 MITIGATION MONITORING AND REPORTING PROGRAM  
 Site Development Permit No. 929310

PROJECT NO. 264038

This Mitigation Monitoring and Reporting Program is designed to ensure compliance with Public Resources Code Section 21081.6 during implementation of mitigation measures. This program identifies at a minimum: the department responsible for the monitoring, what is to be monitored, how the monitoring shall be accomplished, the monitoring and reporting schedule, and completion requirements. A record of the Mitigation Monitoring and Reporting Program will be maintained at the offices of the Entitlements Division, 1222 First Avenue, Fifth Floor, San Diego, CA, 92101. All mitigation measures contained in the Mitigated Negative Declaration No. 230429 shall be made conditions of Site Development Permit as may be further described below.

**A. GENERAL REQUIREMENTS – PART I**

Plan Check Phase (prior to permit issuance)

1. Prior to Bid Opening/Bid Award or beginning any construction related activity on-site, the Development Services Department (DSD) Director's Environmental Designee (ED) shall review and approve all Construction Documents (CD) (plans, specification, details, etc.) to ensure the MMRP requirements have been incorporated.
2. In addition, the ED shall verify that the MMRP Conditions/Notes that apply ONLY to the construction phases of this project are included VERBATIM, under the heading, "ENVIRONMENTAL/MITIGATION REQUIREMENTS."
3. These notes must be shown within the first three (3) sheets of the construction documents in the format specified for engineering construction document templates as shown on the City website:

<http://www.sandiego.gov/development-services/industry/standtemp.shtml>

4. The **TITLE INDEX SHEET** must also show on which pages the "Environmental/Mitigation Requirements" notes are provided.

**B. GENERAL REQUIREMENTS – PART II**

**Post Plan Check (After permit issuance/Prior to start of construction)**

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

**Biologist**

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

**CONTACT INFORMATION:**

a) The PRIMARY POINT OF CONTACT is the **RE** at the **Field Engineering Division 858-627-3200**

b) For Clarification of ENVIRONMENTAL REQUIREMENTS, it is also required to call **RE and MMC at 858-627-3360**

- 2. MMRP COMPLIANCE:** This Project, Project Tracking System (PTS) No. 264038, shall conform to the mitigation requirements contained in the associated Environmental Document and implemented to the satisfaction of the DSD's ED, MMC and the City Engineer (RE). The requirements may not be reduced or changed but may be annotated (i.e. to explain when and how compliance is being met and location of verifying proof, etc.). Additional clarifying information may also be added to other relevant plan sheets and/or specifications as appropriate (i.e., specific locations, times of monitoring, methodology, etc)

**Note:**

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

- 3. OTHER AGENCY REQUIREMENTS:** Evidence that any other agency requirements or permits have been obtained or are in process shall be submitted to the RE and MMC for review and acceptance prior to the beginning of work or within one week of the Permit Holder obtaining documentation of those permits or requirements. Evidence shall include copies of permits, letters of resolution or other documentation issued by the responsible agency.

**California Department of Fish and Game (CDFG) - Streambed Alteration Permit, Regional Water Quality Control Board (RWQCB) - 401 Water Quality Certificate, and Army Corps of Engineers (ACOE) - preconstruction notification.**

- 4. MONITORING EXHIBITS:** All consultants are required to submit, to RE and MMC, a monitoring exhibit on a 11x17 reduction of the appropriate construction plan, such as site plan, grading, landscape, etc., marked to clearly show the specific areas including the **LIMIT OF WORK**, scope of that discipline's work, and notes indicating when in the construction schedule that work will be performed. When necessary for clarification, a detailed methodology of how the work will be performed shall be included.
- 5. OTHER SUBMITTALS AND INSPECTIONS:** The Permit Holder/Owner's representative shall submit all required documentation, verification letters, and requests for all associated inspections to the RE and MMC for approval per the following schedule:

**Document Submittal/Inspection Checklist**

<b><i>Issue Area</i></b>	<b><i>Document submittal</i></b>	<b><i>Associated Inspection/Approvals/Note</i></b>
General	Consultant Qualification Letters meeting	Prior to Pre-construction
General	Consultant Const. Monitoring	Prior to or at the Pre-Construction meeting
Biology Final MMRP	Biology Reports	Limit of Work Verification Final MMRP Inspection

## SPECIFIC MMRP ISSUE AREA CONDITIONS/REQUIREMENTS:

**A. LAND USE- MULTIPLE SPECIES CONSERVATION PROGRAM (MSCP)**

## I. Prior to Preconstruction meeting:

- a. Prior to the Notice to Proceed, which will be sent to DSD, the ADD Environmental Designee shall verify that all Multi-Habitat Planning Area (MHPA) boundaries and limits of work have been delineated on all construction documents.
- b. Prior to the first pre-construction meeting, the Applicant Department shall provide a letter of verification to the Mitigation Monitoring Coordination (MMC) Section stating that a qualified Biologist or City Biologist, as defined in the City of San Diego Biology Guidelines, has been retained to implement the project's MSCP Monitoring Program. The letter shall include the names and contact information of all persons involved in the Biological Monitoring of the project.
- c. At least thirty days prior to the pre-construction meeting, the qualified Biologist shall submit all required documentation to MMC, verifying that any special reports, maps, plans and time lines, such as, but not limited to, revegetation plans, plant relocation requirements and timing, MSCP requirements, avian or other wildlife protocol surveys, impact avoidance areas or other such information has been completed and updated.

## II. Prior to the Notice to Proceed:

- a. The qualified biologist (project biologist) shall attend the first preconstruction meeting and discuss the projects biological monitoring program.
- b. The limits of work shall be clearly delineated by a survey crew prior to brushing, clearing or grading. The limits of work, as shown on the approved Exhibit A, shall be defined with flagging and checked by the biological monitor before initiation of construction grading. All native plants or species of special concern,



as identified in the biological technical report, shall be staked, flagged and avoided within Brush Management Zone 2, if applicable.

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

### III. During Construction:

- a. The Biological Monitor shall be present full-time during clearing activities, which could result in impacts to biological resources as identified on the Biological Monitoring Exhibit.
- b. The monitor shall document field activity via the Consultant Site Visit Record (CSV). The CSV's shall be faxed to MMC the first day of monitoring, the last day of monitoring, monthly.
- c. The Biological Monitor shall immediately notify MMC by phone of any unanticipated impacts outside the approved limits of work, and shall also submit written documentation to MMC within 24 hours by fax or email with photos of the impacts to biological resources in context, if possible.

In addition, the following mitigation measures related to the MHPA Land Use Adjacency Guidelines shall be implemented during construction:

- d. Prior to initiation of any demolition and/or construction-related grading, the project biologist shall discuss the sensitive nature of the adjacent habitat with the crew and subcontractor.
- e. Invasive non-native plant species shall not be introduced into areas within, or adjacent to, the MHPA. Landscape plans shall contain non-invasive native species adjacent to sensitive biological areas as shown on the approved Exhibit A.
- f. All lighting adjacent to the MHPA shall be shielded, unidirectional, low pressure sodium illumination (or similar) and directed away from preserve areas using appropriate placement and shields. If lighting adjacent to the MHPA is required for nighttime construction, it shall be directed away from the preserve and the tops of adjacent trees with potentially nesting raptors, using appropriate placement and shielding.
- g. All construction activities (including staging areas and/or storage areas) shall be restricted to the development area as shown on the approved Exhibit A. No equipment maintenance shall be conducted within or near the adjacent open space and/or sensitive areas and shall be restricted to the development area, as shown on the approved Exhibit. All construction activities shall not encroach into sensitive

biological areas within either the open-space and/or MHPA areas. The project biologist shall monitor construction activities, as needed, to ensure that construction activities do not encroach into biologically sensitive areas beyond the limits of work as shown on the approved Exhibit "A".

- h. Natural drainage patterns shall be maintained as much as possible during construction. Erosion control techniques, including the use of sandbags, hay bales, and/or the installation of sediment traps, shall be used to control erosion and deter drainage during construction activities into the adjacent open space. Drainage from all development areas adjacent to the MHPA shall be directed away from the MHPA, or if not possible, must not drain directly into the MHPA, but instead into sedimentation basins, grassy swales, and/or mechanical trapping devices as specified by the City Engineer.
- i. No trash, oil, parking or other construction related activities shall be allowed outside the established limits of grading, as shown on the approved Exhibit A. All construction related debris shall be removed off-site to an approved disposal facility.

## **B. BIOLOGICAL RESOURCES**

- I. Prior to the Notice to Proceed, which will be sent to DSD, the ADD Environmental Designee of the Entitlements Division shall verify that the following conditions have occurred to mitigate direct impacts to 0.05 acre of Diegan coastal sage scrub (Tier II habitat) and 0.24 acre of southern mixed chaparral (Tier IIIA habitat):
  - a. In order to mitigate for the impacts to uplands, the applicant would be required to provide verification that payment into the Habitat Acquisition Fund (HAF) has occurred. The required mitigation ratio for both the Tier II and IIIA habitats listed above is 1:1. Therefore, the applicant shall purchase a total of 0.29 acre of habitat through the City's Habitat Acquisition Fund (HAF) at the current per-acre contribution amount.
- II. Letters of Qualification Have Been Submitted to ADD
  - a. The applicant shall submit, for approval, a letter verifying the qualifications of the biological professional to MMC. This letter shall identify the Principal Qualified Biologist (PQB) and Qualified Biological Monitor (QBM) and the names of all other persons involved in the implementation of the 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.
  - b. MMC will provide a letter to the applicant confirming the qualifications of the PQB/QBM and all City Approved persons involved in the biological monitoring of the project.
  - c. Prior to the start of work, the applicant must obtain approval from MMC for any personnel changes associated with the biological monitoring of the project.

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

### III. Prior to Start of Construction

#### A. PQB 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, 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 biological monitoring program.
  - c. If the PQB is unable to attend the Precon Meeting, the owner shall schedule a focused Precon Meeting with MMC, PQB, 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.

#### B. When Biological Monitoring Will Occur

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

#### C. PQB Shall Contact MMC to Request Modification

1. The PQB 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 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.

### IV. 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, and excavation, in association with the construction of the project which could result in impacts to sensitive biological resources as identified in the LCD and on the RRME. **The QBM is responsible for notifying the PQB of changes to any approved construction plans, procedures, and/or activities. The PQB is responsible to notify MMC of the changes.**

2. The PQB or QBM shall document field activity via the Consultant Site Visit Record Forms (CSVSR). The CSVSR's shall be faxed by the CM the first day of monitoring, the last day of monitoring, monthly, and in the event that there is a deviation from conditions identified within the LCD and/or biological monitoring program. The RE shall forward copies to MMC.
  3. The PQB or QBM shall be responsible for maintaining and submitting the CSVSR at the time that CM responsibilities end (i.e., upon the completion of construction activity other than that of associated with biology).
  4. All construction activities (including staging areas) shall be restricted to the development areas. The PQB 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.
  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.
  6. The PBQ shall provide a letter to MMC that the limits of potential disturbance have been surveyed, staked and that the construction fencing has been installed properly.
  7. The PQB or QBM shall oversee implementation of BMP's, such as gravel bags, straw logs, silt fences or equivalent erosion control measures, as needed to ensure prevention of any significant sediment transport. In addition, the PQB/QBM shall be responsible to verify the removal of all temporary construction BMP's upon completion of construction activities. Removal of temporary construction BMP's shall be verified in writing on the final construction phase CSVSR.
  8. PQB shall verify in writing on the CSVSR'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 biological sensitive area.
- B. Disturbance/Discovery Notification Process
1. If unauthorized disturbances occurs or sensitive biological resources are discovered that were not previously identified, 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 (BMP's). After obtaining concurrence with MMC and the RE, PQB and CM shall install the approved protection and agreement on BMP's.
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.

V. General Bird Mitigation

- a. If project grading/brush management is proposed in or adjacent to native habitat during the typical bird breeding season (i.e. Feb. 1-Sept. 15), or an active nest is noted, the project biologist shall conduct a pre-grading survey for active nests in the development area and within 300 feet of it, and submit a letter report to MMC prior to the preconstruction meeting.
- b. If active nests are detected, or considered likely, the report shall include mitigation in conformance with the City's Biology Guidelines and applicable State and Federal Law (i.e. appropriate follow up surveys, monitoring schedules, construction and noise barriers/buffers, etc.) to the satisfaction of the Assistant Deputy Director (ADD) Environmental Designee of the Entitlements Division. Mitigation requirements determined by the project biologist and the ADD shall be incorporated into the project's Biological Construction Monitoring Exhibit (BCME) and all monitoring results shall be incorporated into the final biological construction monitoring report.
- c. If no nesting birds are detected per Section III(a) above, mitigation under III(a) is not required.

VI. LEAST BELL'S VIREO (State Endangered/Federally Endangered)

- I. Prior to the preconstruction meeting, the City Manager (or appointed designee) shall verify that the following project requirements regarding the least Bell's vireo are shown on the construction 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 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 U.S. FISH AND WILDLIFE SERVICE 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
  2. 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 MANAGER AT LEAST TWO WEEKS PRIOR TO THE COMMENCEMENT OF CONSTRUCTION ACTIVITIES. PRIOR TO THE COMMENCEMENT OF ANY OF CONSTRUCTION ACTIVITIES DURING THE BREEDING SEASON, AREAS RESTRICTED FROM SUCH ACTIVITIES SHALL BE STAKED OR FENCED UNDER THE SUPERVISION OF A QUALIFIED BIOLOGIST; OR
  3. 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 biologist and the City 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 MANAGER AND APPLICABLE RESOURCE AGENCIES 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.

VII. COASTAL CALIFORNIA GNATCATCHER (State Species of Special Concern/Federally Threatened)

- I. Prior to the preconstruction meeting, the City Manager (or appointed designee) shall verify that the following project requirements regarding the least Bell's vireo are shown on the construction plans:

NO MECHANIZED CLEARING, GRUBBING, GRADING, OR OTHER CONSTRUCTION ACTIVITIES SHALL OCCUR BETWEEN MARCH 1 AND AUGUST 15, THE BREEDING SEASON OF THE COASTAL CALIFORNIA GNATCATCHER UNTIL THE FOLLOWING REQUIREMENTS HAVE BEEN MET TO THE SATISFACTION OF THE CITY MANAGER:

- A. A QUALIFIED BIOLOGIST (POSSESSING A VALID ENDANGERED SPECIES ACT SECTION 10(A)(1)(A) RECOVERY PERMIT) SHALL SURVEY THOSE HABITAT AREAS WITHIN THE MHPA THAT WOULD BE SUBJECT TO CONSTRUCTION NOISE LEVELS EXCEEDING 60 DECIBELS [DB(A)] HOURLY AVERAGE FOR THE PRESENCE OF THE COASTAL CALIFORNIA GNATCATCHER. SURVEYS FOR THE COASTAL CALIFORNIA GNATCATCHER SHALL BE CONDUCTED PURSUANT TO THE PROTOCOL SURVEY GUIDELINES ESTABLISHED BY THE U.S. FISH AND WILDLIFE SERVICE WITHIN THE BREEDING SEASON PRIOR TO THE COMMENCEMENT OF ANY CONSTRUCTION. IF GNATCATCHERS ARE PRESENT, THEN THE FOLLOWING CONDITIONS MUST BE MET:

1. BETWEEN MARCH 1 AND AUGUST 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 GNATCATCHER 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 MANAGER AT LEAST TWO WEEKS PRIOR TO THE COMMENCEMENT OF CONSTRUCTION ACTIVITIES. PRIOR TO THE COMMENCEMENT OF CONSTRUCTION ACTIVITIES DURING THE BREEDING SEASON, AREAS RESTRICTED FROM SUCH ACTIVITIES SHALL BE STAKED OR FENCED UNDER THE SUPERVISION OF A QUALIFIED BIOLOGIST; OR



2. 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 COASTAL CALIFORNIA GNATCATCHER. 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 (AUGUST 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 biologist and the City 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 Coastal California gnatcatchers are not detected during the protocol survey, the qualified biologist shall submit substantial evidence to the city manager and applicable resource agencies which demonstrates whether or not mitigation measures such as noise walls are necessary between March 1 and August 15 as follows:
  1. If this evidence indicates the potential is high for Coastal California gnatcatcher 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 further mitigation measures are necessary.

The above mitigation monitoring and reporting program will require additional fees and/or deposits to be collected prior to the issuance of building permits, certificates of occupancy and/or final maps to ensure the successful completion of the monitoring program.



City of San Diego  
 Development Services  
 1222 First Ave., MS-302  
 San Diego, CA 92101  
 (619) 446-5210

Community Planning  
 Committee  
 Distribution Form Part 2

Project Name : <b>FONTAINE ST STORM DRAIN REPAIR</b>		Project Number <b>264038</b>	Distribution Date <b>12/6/11</b>
Project Scope : NAVAJO WBS#B-00607.02.06 (PROCESS 3) Site Development Permit for Environmentally Sensitive Lands for storm drain repair north of 5731 Fontaine St within the Navajo Community Plan. Council District 7. Notice Cards=3. ** CITY PROJECT **			
Project Location			
Applicant Name: <b>Casey Crown</b>		Applicant Phone No. <b>61-533-5485</b>	
Related Projects			
Project Manager <b>Helene Deisher</b>	Phone Number <b>446-5223</b>	Fax Number <b>(619) 446-5245</b>	E-mail Address <b>HDeisher@sandiego.gov</b>
Community Plan		Council District	
Existing Zone	Proposed Zone	Building Height	Number of Stories FAR
Committee Recommendations (To be completed for Initial Review):			
<input checked="" type="checkbox"/> Vote to Approve	Members Yes <b>13</b>	Members No <b>0</b>	Members Abstain <b>0</b>
<input type="checkbox"/> Vote to Approve With Conditions Listed Below	Members Yes	Members No	Members Abstain
<input type="checkbox"/> Vote to Approve With Non-Binding Recommendations Listed Below	Members Yes	Members No	Members Abstain
<input type="checkbox"/> Vote to Deny	Members Yes	Members No	Members Abstain
Agenda Date:	<input type="checkbox"/> No Action (Please specify, e.g., Need further information, Split vote, Lack of quorum, etc.)		<input type="checkbox"/> Continued
CONDITIONS: <b>no conditions</b>			
NAME <b>Allen Jones</b>		TITLE <b>Chair, Navajo Community Planners, Inc.</b>	
SIGNATURE <b>[Signature]</b>		DATE <b>12/20/11</b>	
Attach Additional Pages If Necessary. Please Return Within 30 Days of Distribution of Project Plans To: Project Management Division City Of San Diego Development Services Department 1222 First Avenue, MS 302 San Diego, CA 92101			