



Project Location Map

Midway Rising
PRJ-1106734

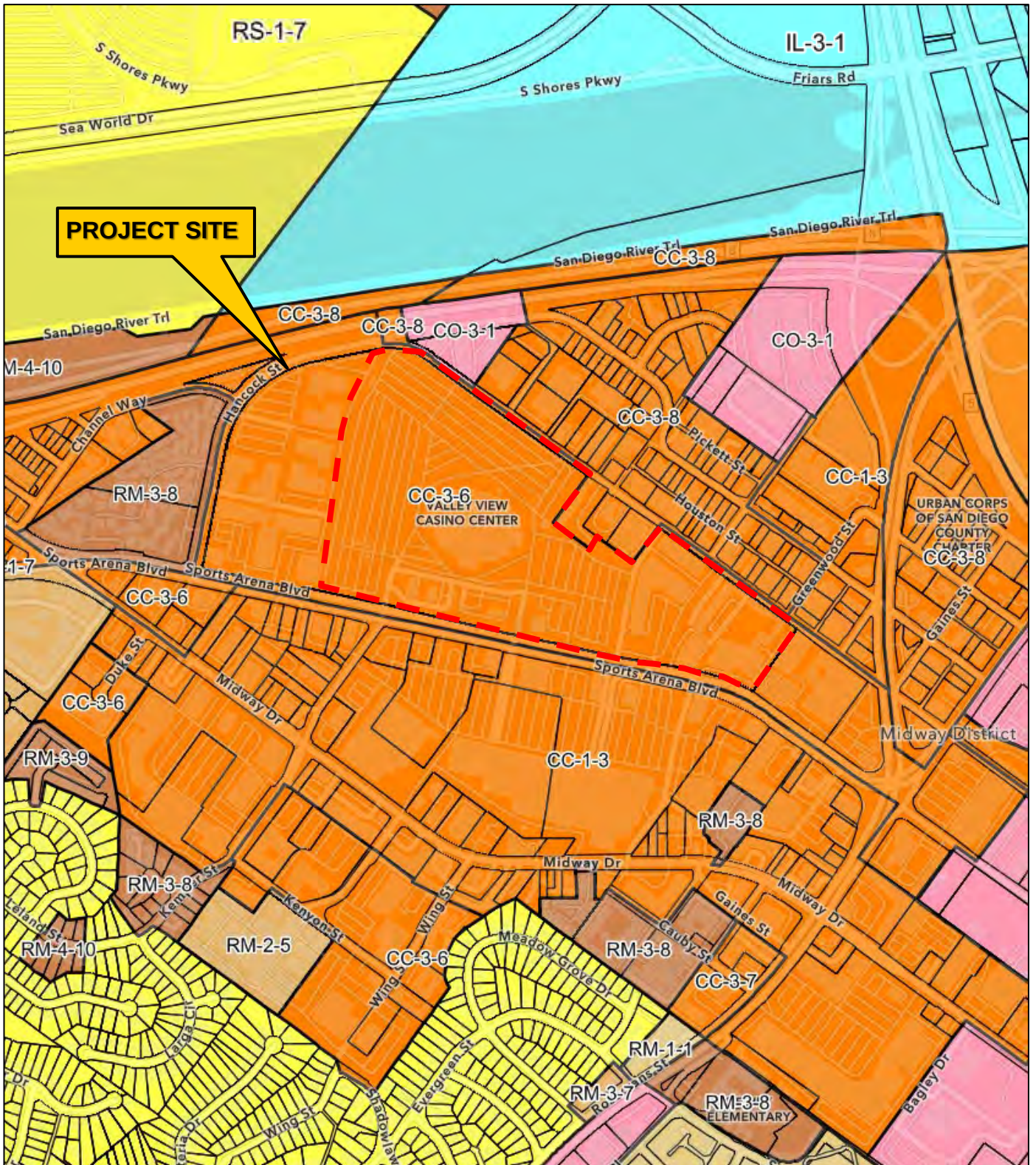




Project Site

Midway Rising
PRJ-1106734





Zoning Map

Midway Rising
PRJ-1106734



(O-20[INSERT REMAINDER OF TITLE])

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF
SAN DIEGO APPROVING SITE DEVELOPMENT PERMIT
NO. PMT-3318619 FOR THE MIDWAY RISING PROJECT NO.
PRJ-1106734 (MMRP).

RECITALS

The Council of the City of San Diego (Council) adopts this Ordinance based on the following:

A. MIDWAY RISING, LLC, submitted an application to the City of San Diego for a Site Development Permit to demolish an existing entertainment/sports center (San Diego International Sports Arena) and to construct approximately 4,254 housing units (2,000 affordable units); public parks and open space; a 16,000 seat, multi-purpose Entertainment Center; and up to 130,000 square feet of commercial and retail uses. The Project would also include infrastructure improvements on- and off-site, including extensions and/or upgrades of existing water, sewer, storm drain, drainage, roadways, bike paths, transit, mobility and pedestrian access, for the Midway Rising project (Project).

B. The 49.23-acre site is located at 3220, 3240, 3250, 3350, and 3500 Sports Arena Boulevard within the Midway Pacific Highway Community Plan in the CC-3-6 zone, Coastal Height Limit Overlay Zone; the Airport Land Use Compatibility Overlay Zone (ALUCOZ) – San Diego International Airport (SDIA) Review Areas 1 and 2, Naval Air Station North Island Review Area 2, the Federal Aviation Administration Part 77 Noticing Area; and within a Transit Priority Area, and designated for Community Commercial-Residential Permitted by the Midway Pacific Highway Community Plan. The project site is legally described as PARCEL 1: THOSE PORTIONS OF PUEBLO LOTS 241, 242, 259, 276, 311, 312, 313, 314, 337 AND 338 OF THE

(O-20[INSERT REMAINDER OF TITLE])

PUEBLO LANDS OF SAN DIEGO, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF MADE BY JAMES PASCOE, A COPY OF WHICH SAID MAP WAS FILED IN THE OFFICE OF COUNTY RECORDER OF SAN DIEGO COUNTY, AND KNOWN AS MISCELLANEOUS MAP NO. 36, TOGETHER WITH LOT "A" AND A PORTION OF LOT "B" OF PUEBLO LOT 339, ACCORDING TO PARTITION MAP THEREOF ON FILE IN THE OFFICE OF THE COUNTY CLERK OF SAID COUNTY, IN AN ACTION ENTITLED "STEELE VS. STEELE", SUPERIOR COURT, CASE NO. 5620, TOGETHER WITH MAP OF CASS AND MCELWEE SUBDIVISION, ACCORDING TO MAP THEREOF NO. 1581, FILED IN THE OFFICE OF COUNTY RECORDER OF SAN DIEGO COUNTY;

PARCEL 2: ALL THAT PORTION OF PUEBLO LOTS 242, 243, 259 AND 311 OF THE PUEBLO LANDS OF SAN DIEGO, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO THE MAP THEREOF MADE BY JAMES PASCOE IN 1870; A COPY OF WHICH MAP WAS FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, NOVEMBER 14, 1921; PARCEL 3: THAT PORTION OF PUEBLO LOT 259 OF THE PUEBLO LANDS OF SAN DIEGO, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF MADE BY JAMES PASCOE, A COPY OF WHICH SAID MAP WAS FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY AND KNOWN AS MISCELLANEOUS MAP NO. 36; PARCEL 4: EXCEPTING THEREFROM A PORTION OF SAID LAND, ALL URANIUM, THORIUM, AND ALL OTHER MATERIALS DETERMINED PURSUANT TO SECTION 5(B) (1) OF THE ATOMIC ENERGY ACT OF 1946 (60 STAT. 761), TO BE PECULIARLY ESSENTIAL TO

(O-20[INSERT REMAINDER OF TITLE])

THE PRODUCTION OF FISSIONABLE MATERIAL, CONTAINED IN WHATEVER CONCENTRATION IN DEPOSITS IN THE LANDS COVERED BY THIS INSTRUMENT, TOGETHER WITH THE RIGHT OF THE UNITED STATES THROUGH ITS AUTHORIZED AGENTS OR REPRESENTATIVES AT ANY TIME TO ENTER UPON THE LAND AND PROSPECT FOR, MINE AND REMOVE THE SAME, AS RESERVED FOR THE USE OF THE UNITED STATES, IN A DEED RECORDED JANUARY 31, 1955 IN BOOK 5514, PAGE 182 OF OFFICIAL RECORDS.

C. On September 25, 2025, the Planning Commission of the City of San Diego considered the entire project, including Site Development Permit No. PMT-3318619 and voted to recommend Council approval of the project pursuant to Resolution No. [INSERT RESO #]-PC.

D. On [INSERT DATE], the Council considered the entire project, including Site Development Permit No. PMT-3318619 pursuant to the Land Development Code of the City of San Diego.

E. The Office of the City Attorney prepared this Resolution based on the information provided by City staff (including information provided by affected third parties and verified by City staff), with the understanding that this information is complete and accurate.

F. Under San Diego Charter section 280(a)(1), this Resolution is not subject to veto by the Mayor because this matter requires the Council to act as a quasi-judicial body and where a public hearing was required by law implicating due process rights of individuals affected by the decision and where the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented.

ACTION ITEMS

(O-20[INSERT REMAINDER OF TITLE])

Be it resolved by the Council of the City of San Diego:

1. The Council adopts the following findings with respect to Site Development Permit No. PMT-3318619:

SITE DEVELOPMENT PERMIT – San Diego Municipal Code (SDMC) Section 126.0505

1. **Findings for all Site Development Permits:**
 - a. **The proposed development will not adversely affect the applicable land use plan.**

To ensure that the Sports Arena Community Village would be planned comprehensively, the 2018 Midway-Pacific Highway Community Plan (“Community Plan”) identified the need to prepare either a Specific Plan or a Master Planned Development Permit, and therefore, a Specific Plan has been prepared and is proposed as part of the project. The Midway Rising Specific Plan (“Specific Plan”) provides guidance on the permitted and regulated land uses within the Specific Plan area, as well as policies and supplemental development regulations that work with the underlying base zones and development regulations in the San Diego Municipal Code (“SDMC”) to ensure the implementation of the Community Plan’s vision. The Specific Plan will help guide development. The Specific Plan’s purpose is to provide guidance and direction on land use, site planning, building, public space, and landscape design to ensure that future development of the community village results in a pedestrian and transit-oriented mixed use entertainment destination.

The Specific Plan's purpose is to provide guidance and direction on land use, site planning, building, public space, and landscape design to ensure that future development of the Project site results in a pedestrian- and transit-oriented mixed-use entertainment destination. The Specific Plan allows for the redevelopment of the 49.23-acre site with a mix of uses, including entertainment, retail, residential, recreational, and public park uses.

The Specific Plan would provide up to 4,254 housing units, including 2,000 affordable units restricted to households with incomes less than 80 percent area median income, 2,254 market rate rental residential dwelling units, a new 380,000 square foot entertainment center with a minimum capacity of 16,000 seats, 130,000 square feet of commercial and retail space including restaurants, shops, and supporting neighborhood retail, parking garages with approximately 7,747 (3,191 EV) parking spaces, approximately 14.54 acres of open space comprised of 8.12 acres of public park space and 6.42 acres of public plaza space, and offsite improvements.

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The Specific Plan identifies a multimodal transportation network that would include new public streets, modified public streets, sidewalks, multi-use paths, bicycle facilities, promenades, and pedestrian paseo greens and paseo greenways. Internal circulation would be facilitated by two new on-site public roadway segments, Kemper Street and Frontier Drive, which would run north-south through the Project site and provide a connection between Sports Arena Boulevard and Kurtz Street. In addition, frontage and off-site transportation improvements will be implemented.

The Project also includes a Development Agreement (“DA”), called the Midway Rising Development Agreement, to set forth the terms and conditions for how the property may be developed by the developer and to provide extraordinary benefits to the public, including the development of 936 affordable housing in excess of the Surplus Land Act (SLA) requirement that projects responding to an NOA reserve 25% of units as affordable; a multi-purpose 16,000-seat entertainment center; development and maintenance of 14.5 acres of high-quality parks, and major mobility infrastructure improvements. In addition, the development agreement requires payment of an ad hoc fire development impact fee that could generate up to \$2.5 million that would be used to upgrade Fire Station 20, located on Kemper Street. The total estimate of the extraordinary public benefits is \$1.2 billion.

The Project includes a General Plan Amendment to redesignate the site from Community Commercial – Residential Permitted to Community Village in the Community Plan. The proposed Community Village land use designation is consistent with the existing Multiple Use land use designation identified in the General Plan. In addition, a Community Plan Amendment redesignates the Community Plan Community Commercial – Residential Permitted (zero to 44 dwelling units per acre) designation to a Community Village designation (zero to 72 dwelling units per acre). The revised land use designation is consistent with the overall vision of the Community Plan, which identifies this area as the location for a Sports Arena Community Village. Amendments to the Community Plan are proposed concurrently with this action. The Community Plan includes a Community Plan Implementation Overlay Zone (CPIOZ), which includes the Project site. The Specific Plan includes tailored standards so the Project site is being removed from the CPIOZ. In addition, it adds the Community Village land use designation to the Community Plan and includes additions and revisions to Chapter 2: Land Use, Villages & Districts; Chapter 3: Mobility; Chapter 4: Urban Design; Chapter 6: Public, Semi-Public and Community Services; Chapter 7: Recreation; and Chapter 10: Historic Preservation. Those updates will ensure the project is consistent with the community plan policies.

A rezone will change the Project site’s base zone from CC-3-6 (Community Commercial) to a Mixed-Use Residential base zone (RMX-2), which allows residential and commercial uses that include retail sales, commercial services,

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personal services, entertainment, assembly, and visitor accommodation uses that serve residents and workers in the community and adjacent communities.

The Project implements the goals of the land use plan by creating a Specific Plan for the site, and by proposing development consistent with the goals of the community plan. Therefore, the Project will not adversely impact the land use plan.

b. The proposed development will not be detrimental to the public health, safety, and welfare.

As described in Site Development Permit (“SDP”) Finding 1 above and Chapter 3.0 of the Supplemental Environmental Impact Report (“SEIR”), the Project involves redevelopment of the existing site with a mix of uses, including entertainment, retail, residential, recreational, and public park uses.

The Project would also include infrastructure improvements, such as relocations, extension, and/or upgrades to existing water, sewer, electrical and gas distribution, communication facilities, and stormwater facilities. The Specific Plan identifies a multimodal transportation network that would include new public streets, modified public streets, sidewalks, multi-use paths, bicycle facilities, promenades, and pedestrian paseo greens and paseo greenways. The Project would incorporate a number of Sustainability Design Features to meet San Diego’s 2022 Climate Action Plan goals, including compliance with the California Green Building Standards Code, solar panels, EV parking infrastructure, and rainwater capture.

The DA, Specific Plan, and SDP for the Project include various conditions and referenced exhibits of approval relevant to achieving compliance with the applicable regulations of the SDMC in effect for this Project. Such conditions have been determined as necessary to avoid adverse impacts upon the health, safety, and general welfare of persons residing or working in the surrounding area. The Project will comply with the development conditions in effect for the subject property as described in the DA, the EIR, the SDP, and other regulations and guidelines pertaining to the subject property per the SDMC for the site. Prior to issuance of any building permits for the Project, the plans will be reviewed for compliance with all Building, Electrical, Mechanical, Plumbing and Fire Code requirements, and the Owner/Permittee will be required to obtain a public improvement permit. Therefore, the proposed development would not be detrimental to the public health, safety, and welfare.

c. The proposed development will comply with the regulations of the Land Development Code including any allowable deviations pursuant to the Land Development Code.

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The Specific Plan provides guidance and direction on land use, site planning, building, public space, and landscape design for the redevelopment of the Project site. The Specific Plan envisions a transformation of the area from a single-purpose arena, ancillary auto-oriented retail, and parking into a mixed-use community village with up to 4,254 homes, approximately 8.12 acres of parks, 6.42 acres of public space, a multi-purpose entertainment center, and pedestrian-oriented commercial and supporting uses that together will result in a walkable and inclusive urban village consistent with the vision and policies established in the SDMC, the San Diego Land Development Code, the Community Plan, and the City of San Diego General Plan.

The Specific Plan includes a fully outlined infrastructure program with an implementation plan as required for specific plans, a framework for public spaces and parks, and a plan for a multi-modal transportation network. This level of detail is not provided in community plans, and a more detailed document such as a specific plan is needed to guide this level of development. The Specific Plan also contains supplemental development regulations including deviations for the Project which are detailed in Chapter 8 of the Specific Plan. These tailored standards reflect the unique constraints of the site or allow additional benefits that can only be realized through a Specific Plan. The project is required to comply with the supplemental development regulations and Land Development Code regulations.

The Project site is currently zoned CC-3-6, and the Project includes a rezone action to change the zoning designation to RMX-2, to ensure the Project is consistent with the underlying zone.

The Project includes a DA to set forth the terms and conditions for how the property may be developed, to provide extraordinary benefits to the public, and to provide assurance that the Project site can be developed in accordance with the Development Regulations described in the DA. Therefore, with the implementation of the Specific Plan, the Project meets all applicable regulations and policy documents, and is consistent with the recommended land use, design guidelines, and development standards in effect for this site.

2. **Supplemental Findings – Historical Resources Deviation for Substantial Alternation of a Designated Historical Resource - SDMC Section 126.0505(i)**
 - a. **There are no feasible measures, including a less environmentally damaging alternative, that can further minimize the potential adverse effects on the designated historical resource or historical district.**

The San Diego International Sports Arena (HRB #1525) was designated in April 2024 under Criteria A and B with a period of significance of 1966-1974, and Criterion C with a period of significance of 1966. The designation excludes the temporary storage container, the temporary office building northeast of the arena

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and the structures located at 3580, 3570, 3494, 3350, 3250, 3240 and 3220 Sports Arena Boulevard. HRB designated the property under Criterion A as a special element of the development of the Midway-Pacific Highway Community and the City as a whole, under Criterion B for its association with Robert Breitbard, and under Criterion C as an example of the New Formalist style.

The conditions of the site and existing arena represent programmatic deficiencies that affect the long-term economic viability of the arena, including a lack of production space and services, an undersized loading dock, no main kitchen commissary, and the lack of premium space offerings. The existing building has structural deficiencies that represent significant challenges to its redevelopment. The San Diego International Sports Arena (SDISA), built in 1966, has never undergone structural upgrades to comply with modern codes. The arena exhibits non-ductile concrete design, which does not meet current seismic safety standards, including inadequate reinforcing and confinement. The seismic force resisting system relies on outdated and segmented precast concrete panels, which lack continuity and redundancy. The roof diaphragm and shear wall connections require further evaluation to address structural deficiencies during seismic events. The existing steel H-pile foundation system does not meet current code requirements and lacks grade beams for interconnected stability, and geotechnical concerns include poor soil conditions and the need for pile load tests to assess vertical and lateral load capacities.

The applicant explored various options for rehabilitating the existing Resource; however, during a structural investigation (included in Attachment 3) reports concluded that the existing arena “has significant limitations for structural renovations without providing substantial gravity and seismic retrofit to the arena structure and foundations. This is based on [SDISA’s] era of design and construction, seismic lateral systems, and foundations,” Moreover, the “structure is in a state of disrepair and distress which should be remedied as soon as possible. Substantial repairs and retrofit/replacement are required and, if elected, should be performed prior to new owner occupation of the residence.” According to the structural investigation, the poor structural integrity of the building would make rehabilitation of the Resource as residential infeasible unless significant structural repairs occurred.

An economic analysis of three different alternatives, including the Base Project was prepared in an Economic Feasibility Study (Feasibility Study) (Attachment 3) prepared by London Moeder Associates (LMA).

The **Base Project** includes the construction of a new entertainment center over a 24-month period. During this period, there will be ongoing operations from the SDISA as the new entertainment center will be constructed in a different location within the project. The total cost of the project is estimated to be \$552.2 million. Based on a Loan-to-Cost (“LTC”) of 41.1%, the required equity investment is estimated to be \$307.4 million. After the project is completed, the forecasted Net

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Operating Income (“NOI”) at stabilization is \$31.5 million. After a 15-year holding period, the total profit from the project is estimated to be \$597.7 million. The Internal Rate of Return (“IRR”) achieved from this alternative is estimated at 10.5% with an equity multiple of 3.06.

Alternative A includes the renovation of the SDISA with an assumed construction timeline over a 36-month period. To match the lifespan of the Midway Rising development, the renovated SDISA would need to entail a dramatic transformation to provide the type of facility that could exist for the next 50 plus years. Renovations will need to address the multiple programmatic deficiencies of the SDISA including (a) lack of production space and services, (b) an undersized loading dock, (c) no main kitchen commissary, and (d) the lack of premium space offerings. Therefore, the renovation concept put forth attempts to address these deficiencies by adding programs with additional building footprint at every level. A new premium level for suites would be added at the top of the seating bowl. This scale of renovation would trigger a full seismic retrofit and new building envelope to address the added program. However, due to the limitations of the height of the long span trusses within the SDISA, the overall height of the seating bowl is limited, resulting in a maximum capacity of 12,000 seats (4000 less than the new entertainment center in the Base Project). During the renovations required for this alternative, the SDISA will not generate any revenue as the facility will be closed for construction. This 36-month closure of the SDISA will also create significant business operation interruption for the existing sports tenants, concerts, and entertainment events. The 36-month closure may have permanent negative market impacts.

The total cost of the project is estimated to be \$403.5 million. Based on the LTC of 41.1%, the required equity investment is estimated to be \$237.5 million. After the project is completed, the forecasted NOI at stabilization is \$6.3 million, or \$25.2 million less than the Proposed Project. The principal reason for a lower NOI in Alternative A is that the construction program will not produce a seating program that matches Alternative A, resulting in reduced revenue streams. Upon sale, the Year 16 NOI is projected to be \$10.7 million, resulting in a sale price of \$177.8 million. After a 15-year hold, the project is estimated to result in a financial loss of negative \$234.7 million. The IRR achieved for this alternative rounds to approximately zero.

Alternative B includes a conversion and adaptive reuse of the SDISA into a residential building that includes 240 rental apartments. The construction timeline is estimated to be over a 24-month period. During this time, the SDISA will not generate any entertainment revenue during or after the completion of construction. The total capital expenditure is estimated to be \$519.8 million. Based on a LTC of 65%, the required equity investment is estimated to be \$181.9 million. After the project is completed, the forecasted NOI at stabilization is \$4.2 million, or \$27.3 million less than the Base Project. Upon sale, the Year 11 NOI is

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projected to be \$5.6 million, resulting in a sale price of \$102.5 million. After a 10-year hold, the project is estimated to result in a financial loss of *negative* \$404.1 million. The IRR achieved for this alternative is *negative* 26.4%.

The following table summarizes each alternative:

Alternative	Description	Components	Impact to Resource
Base Project	Development of a new 16,000-seat entertainment center in a different location on site	16,000-seat entertainment center; 130,000 sq.ft. commercial uses; approx. 4,250 total dwelling units	Total demolition of SDSA
Alternative A	Renovation of SDSA	12,000-seat entertainment center; 72,000 sq.ft. commercial uses; approx. 3,900 total dwelling units	Partial demolition of SDSA, modifications to interior and exterior of the building to include a seismic retrofit and new building envelope.
Alternative B	Conversion and adaptive re-use of SDSA into a residential building consisting of 240 rental apartments; Development of a new 16,000-seat entertainment center in a different location on site	16,000-seat entertainment center; 65,000 sq.ft. commercial uses; approx. 3,610 total dwelling units	Partial demolition of SDSA, façade would be left in place with new structure elements added to reinforce it and a new free-standing structure built within the interior footprint with a single-loaded residential building with views to an interior courtyard that is open to the sky.

According to the Feasibility Study, the applicant has assumed the following:

- A construction period of 24 months for the Base Project, 36 months for Alternative A, and 24 months for Alternative B.
- Holding period of 15 years for the Base Project and Alternative A; 10 years for Alternative B is assumed in order to calculate the IRR.
- Construction cost estimates of \$522.2 million for the Base Project, \$403.5 million for Alternative A, and \$519.8 million for Alternative B.

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- Base Project LTC of 41.1% and an interest rate of 7.33% for 24 months, Alternative A LTC of 41.1% and an interest rate of 7.33% for 36 months, Alternative C LTC of 65% and an interest rate of 7.5% for 24 months.
- Revenue assumptions provided by applicant and available market revenue data.
- Revenue inflation: Base Project (3%); Alternative A (3%); Alternative B (3%).
- Expense inflation: Base Project (2.3%); Alternative A (2.3%); Alternative B (2%).
- Cap rate at time of sale: Base Project (6%); Alternative A (6%); Alternative B (5.5%).

According to the Feasibility Study:

- Alternative A is not economically feasible. This alternative is estimated to result in a financial loss of *negative* \$234.7 million and would not meet the necessary return on investment for financing. Furthermore, due to the deficiencies in current SDSA, it is not possible to renovate the SDSA to create a programmatically equivalent entertainment center as the Base Project. To do so would drastically change the exterior of the building (i.e. additional height, building protrusions, and building footprint), having a significant adverse impact on the Resource to the point where it will no longer retain historical integrity as it relates to HRB Criteria A, B and C.
- Alternative B is not economically feasible. This alternative is estimated to result in a financial loss of *negative* \$404.1 million and would not meet the necessary return on investment for financing. Furthermore, this alternative proposes a significant adverse impact to the Resource because it proposes modifications to the façade and demolition of the interior for use as a residential building, resulting in the loss of the historic use. Therefore, the property would no longer retain historic integrity as it relates to HRB Criteria A, B, and C.

The feasibility study also includes an analysis of the project's impact to the masterplan feasibility. Utilizing a market rate podium residential prototype with a total net revenue per unit of \$440,385 as a basis, the economic impacts of the two alternative masterplan scenarios were analyzed and compared to the Base Project:

- **Base Project:** This masterplan scenario proposed a total of approximately 4,250 units.

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- **Alternative A:** This master plan scenario proposes 3,900 units, representing a reduction of 350 units compared to the Base Project. The reduction of 350 units at \$440,385 per unit results in a total revenue loss of \$154,134,761 when compared to the Base Project.
- **Alternative B:** This master plan scenario proposes 3,610 units, representing a reduction of 640 units compared to the Base Project. Utilizing the \$440,385 per unit basis, the reduction of 640 units results in a total net revenue loss of \$281,846,421 when compared to the Base Project.

The reduction in units across the 2 alternative master plan scenarios results in identifiable net revenue losses, directly impacting overall feasibility when compared to the Base Project. Moreover, the significant cost of infrastructure and site improvements are fixed costs, meaning there are no cost reductions if the unit count is reduced. Therefore, as the unit count decreases, the development cost per unit would increase, further compromising project feasibility.

As demonstrated by the Economic Feasibility Study, the Base Project is the only economically feasible option due to the historical resource designation, the deficiencies of the historical resource, the structural upgrades required to bring the property up to current standards, and the Total Net Development Profit and Development Margin. Therefore, for these reasons, there are no feasible measures, including a less environmentally damaging alternative that can further minimize the potential adverse effects on the designated historical resource.

b. The deviation is the minimum necessary to afford relief and accommodate the development and all feasible measures to mitigate for the loss of any portion of the historical resource have been provided by the applicant; and

The City's Historical Resources Regulations require that all designated historical resources be maintained consistent with the Standards. The Base Project is a substantial alteration that is not consistent with the Standards; therefore, a deviation from the Historical Resources Regulations is being requested. As demonstrated by the Economic Feasibility Study prepared by the applicant, demolition of the Resource is the minimum deviation from the City's Historical Resources Regulations necessary to afford relief and accommodate the development of the site due to the historic building's deficiencies in meeting programmatic goals for the site.

Historical resource mitigation measures have been developed for adoption within the Midway Rising Environmental Impact Report (Project No. PRJ-1106734, Attachment 4), with which the Base Project has been evaluated and deemed necessary. The Mitigation Monitoring and Reporting Program (MMRP) for the Resource requires the implementation of a documentation program submitted to City Historic Resources Division staff for review and approval, architectural salvage and a Monitoring Plan, and interpretive signage displays to ensure

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appropriate implementation of the Base Project. The MMRP identifies mitigation measures, mitigation timeframes, responsible parties, and approving agencies.

In order to mitigate the impacts to the Resource, the applicant will be required to submit Historic American Building Survey (HABS) documentation of the SDISA prior to the issuance of a demolition permit. The HABS documentation shall achieve Level 2 standards in accordance with the Historic American Buildings Survey Guidelines for Preparing Written Historical Descriptive Data. The HABS documentation shall include detailed drawings, photo documentation and written documentation of the Resource consistent with National Park Service guidance. A copy of this documentation will be archived with the City and other depositories as outlined in the MMRP.

Prior to the issuance of the demolition permit, the applicant shall assess the Resource and create a Salvage Plan that indicates architectural elements that are proposed for salvage. The salvage plan, to be implemented during the demolition of the SDISA, shall catalog and identify elements proposed for removal from the Resource and shall include historic period architectural elements, as well as memorabilia, including photographs, posters, and plaques of past athletic and entertainment events, teams, and entertainers, for display in publicly accessible areas throughout the new entertainment center. Once the items for salvage are identified, the project's qualified historic preservation professional (QHPP) shall submit this information to the City's Heritage Preservation Section for approval. As a condition of closure of the demolition permit for the SDISA, the applicant shall document that the various displays presenting the salvaged items from the Resource have been installed at the entertainment center to the satisfaction of the Heritage Preservation staff.

“The Green” Interpretive Display - Prior to issuance of a demolition permit for the SDISA, Heritage Preservation staff shall review and accept plans for an interpretive display to be installed in “The Green” area (Lot I, as shown on the approved Tentative Map) of the site near the old footprint of the SDISA to be prepared by a qualified team, including a historian and a graphic designer. Verification that the display has been installed shall be as outlined in the MMRP. The display shall do the following:

1. Explain the history of the site from the Pre-European era through present day, including demolition of the SDISA
2. Describe the SDISA building's New Formalist architecture and the role of the SDISA in the Midway neighborhood development.
3. Discuss the Frontier Housing Project as the first modern development on the site and the current Project returning the site to affordable housing with a new entertainment center.

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Robert Breitbard Interpretive Display

Prior to issuance of a demolition permit for the SDSA, Heritage Preservation staff shall review and accept plans for an interpretive display that shall be designed by a qualified team, including a historian and a graphic designer, that focuses on the life of Robert Breitbard as it relates to his work in the sports field.

The applicant shall document that the interpretative display has been installed in a location accessible to the public at the new entertainment center. The display shall include photographs of Breitbard, the SDSA, the San Diego Gulls, the San Diego Rockets, and a text description of Breitbard's sports career.

Interpretive displays shall be installed in a publicly visible location. The installation shall describe the history and significance of SDSA under Criteria A, B, and C. The installation shall be reviewed and approved by Heritage Preservation Staff.

Therefore, the project is designed with the minimum necessary deviations to afford relief from the restrictions of the Historical Resources Regulations and accommodate the development and all feasible measures to mitigate for the loss of any portions of the historical resource have been provided by the applicant

- c. The denial of the proposed development would result in economic hardship to the owner. For purposes of this finding, "economic hardship" means there is no reasonable beneficial use of the property and it is not feasible to derive a reasonable economic return from the property.**

As discussed above, only the Base Project is economically feasible, as neither a reasonable beneficial use nor a reasonable economic return can be derived from the subject property under Alternatives A and B. Renovation and adaptive reuse of the existing SDSA is infeasible due to the building's multiple programmatic deficiencies, the requirement for a full seismic retrofit and new building envelope, and the need for closure of the existing SDSA during construction, all resulting in a financial loss. Due to these factors and the reduction of dwelling units in the overall master plan, without the relief provided by a deviation from the City's Historical Resources Regulations, the alternatives would result in an economic hardship to the owner.

An economic analysis of three different alternatives was prepared, including the Base Project, in an Economic Feasibility Study conducted by LMA which determined that the Base Project is the only feasible option among those analyzed and is the only one to provide an economic return from the property based upon market appropriate performance metrics. The table below summarizes the conclusions of the LMA analysis for each alternative.

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Alternative	Total Profit	Internal Rate of Return
Base Project	\$597,674,773	10.5%
A	-\$234,682,026	0.0%
B	-\$404,085,343	-26.4%

The Base Project includes the construction of a new entertainment center. The project is expected to retain the NOI of the SDISA while under construction for 24 months and assumes a sale after a 15-year holding period. At stabilization, the project revenue is assumed to be \$50.4 million and operating expenses are assumed to be \$19 million. The estimated revenue of the new entertainment center includes ticket sales, ticket fees, premium seating, general and premium concessions, merchandise, parking, advertising and sponsorships, and other revenues. Operating expenses include staffing, utilities, general and administrative fees, operations, insurance, repairs and maintenance, and materials and supplies. The project is estimated to generate an NOI at stabilization of \$31.5 million. The Base Project is estimated to generate a total profit of \$597.7 million. The resulting IRR for the \$307.4 million of capital invested in the project is forecasted to be 10.5%. The Base Project also achieves an equity multiple of 3.06. This demonstrates that the project is economically feasible.

Alternative A includes the renovation of the SDISA. In this scenario, the project is expected to shut down entirely while under construction for 36 months. At stabilization, project revenue is assumed to be \$20.9 million and operating expenses are assumed to be \$14.6 million. The estimated revenue of the new entertainment center includes ticket sales, ticket fees, general concessions, merchandise, parking, advertising and sponsorships, and other revenues. Operating expenses include staffing, utilities, general and administrative fees, operations, insurance, repairs and maintenance, and materials and supplies. The project is estimated to generate a NOI at stabilization of \$6.3 million. The forecasted sale price for the project is \$177.8 million. Total project costs are anticipated to be \$403.5 million. Based on a LTC of 41.1%, the required equity investment is estimated to be \$237.5 million. This alternative is estimated to result in a financial loss of negative \$234.7 million. The resulting IRR for the \$237.5 million of capital invested in the project is forecasted to round to approximately zero. This demonstrates that the project is not economically feasible, and neither a reasonable beneficial use nor any reasonable economic return could be derived from the SDISA under this alternative.

Alternative B includes the conversion and adaptive reuse of the SDISA into a residential building consisting of 240 rental apartments. The project is forecasted to be sold after a 10 year holding period. The 240 units include an average of approximately 860 square feet of rentable space. When the 240 units are leased

(O-20[INSERT REMAINDER OF TITLE])

after construction is completed, the forecasted average rent is estimated to be \$3,473, or \$4.04 per square foot of rentable space (2026 dollars). The forecasted sale price for the entire project is \$102.5 million. Total project costs are anticipated to be \$519.8 million (\$2.2 million per unit). Based on the LTC of 65%, the required equity investment is estimated to be \$181.9 million. This project is estimated to generate an NOI at stabilization of \$4.2 million, which when compared to the total cost of the project represents a yield on cost (“YOC”) of 0.9%. For the project to be economically feasible the YOC for a residential project must be a minimum of 6.25%, which indicates Alternative B is not economically feasible. This alternative is estimated to result in a financial loss of *negative* \$404.1 million dollars. The resulting IRR for the \$181.9 million of capital invested in the project is forecasted to be *negative* 26.2%, which also demonstrates that this alternative is not economically feasible, and neither a reasonable beneficial use nor any reasonable economic return can be derived from the SDSA under this alternative.

Since all analyzed alternatives to the Base Project failed to meet the minimum thresholds for financial feasibility, there is no other reasonable beneficial use of the property from which the applicant may derive a reasonable economic return besides the Base Project as demonstrated above. There are no reasonable beneficial uses of the Resource without a substantial alteration of the Resource. Therefore, it is not feasible to derive a reasonable economic return from the property without substantial alteration and the denial of this proposed development would result in economic hardship for the owner.

City Staff believes that there is sufficient evidence to support the SDP Supplemental Findings related to the designated historical resource. In addition, Staff believes that the proposed mitigation measures of the MMRP and draft permit conditions (Attachment 5) are sufficient to reduce the identified impacts to the SDSA, HRB #1525.

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

3. Based on these findings adopted by the Council, Site Development Permit No. PMT-3318619 is granted by the Council Midway Rising, LLC, Permittee, in the form, exhibits, terms, and conditions as set forth in Site Development Permit No. PMT-3318619, a copy of which is attached to and made a part of this Ordinance, and under the terms and conditions in the attached Permit. Granting of Site Development Permit No. PMT-3318619 is contingent upon

(O-20[INSERT REMAINDER OF TITLE])

final passage of O-_____, adopting the Midway Rising Specific Plan, O-_____, rezoning the Project site, and R-_____, approving amendments to the Midway Pacific Highway Community Plan and General Plan.

4. Notwithstanding San Diego Municipal Code section 125.0460, which provides an approved tentative map expires 36 months after its approval, Site Development Permit No. PMT-3318619 shall expire in accordance with the approved Development Agreement.

5. That a full reading of this Ordinance is dispensed with prior to passage, a written copy having been made available to the Council and the public prior to the day of its passage.

6. This Ordinance will take effect and be in force on the thirtieth day from and after its passage, contingent upon the final passage of O-_____, adopting the Midway Rising Specific Plan, O-_____, rezoning the Project site, and R-_____, approving amendments to the Midway Pacific Highway Community Plan and General Plan.

APPROVED: HEATHER FERBERT, City Attorney

By _____
DCA NAME
Deputy City Attorney

ATTACHMENT: Site Development Permit

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

WHEN RECORDED MAIL TO
CITY CLERK
MAIL STATION 2A

INTERNAL ORDER NUMBER: 24009773

SPACE ABOVE THIS LINE FOR RECORDER'S USE

SITE DEVELOPMENT PERMIT NO. PMT-3318619
MIDWAY RISING PROJECT NO. 1106734 - MMRP
CITY COUNCIL

This Site Development Permit No. PMT-3318619 is granted by the City Council of the City of San Diego to Midway Rising, LLC, Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0505. The 49.23-acre site is located at 3220, 3240, 3250, and 3500 Sports Arena Boulevard in the RMX-2 zone of the Midway-Pacific Highway Community Plan area. The project site is legally described as:

PARCEL 1: THOSE PORTIONS OF PUEBLO LOTS 241, 242, 259, 276, 311, 312, 313, 314, 337 AND 338 OF THE PUEBLO LANDS OF SAN DIEGO, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF MADE BY JAMES PASCOE, A COPY OF WHICH SAID MAP WAS FILED IN THE OFFICE OF COUNTY RECORDER OF SAN DIEGO COUNTY, AND KNOWN AS MISCELLANEOUS MAP NO. 36, TOGETHER WITH LOT "A" AND A PORTION OF LOT "B" OF PUEBLO LOT 339, ACCORDING TO PARTITION MAP THEREOF ON FILE IN THE OFFICE OF THE COUNTY CLERK OF SAID COUNTY, IN AN ACTION ENTITLED "STEELE VS. STEELE", SUPERIOR COURT, CASE NO. 5620, TOGETHER WITH MAP OF CASS AND MCELWEE SUBDIVISION, ACCORDING TO MAP THEREOF NO. 1581, FILED IN THE OFFICE OF COUNTY RECORDER OF SAN DIEGO COUNTY;

PARCEL 2: ALL THAT PORTION OF PUEBLO LOTS 242, 243, 259 AND 311 OF THE PUEBLO LANDS OF SAN DIEGO, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO THE MAP THEREOF MADE BY JAMES PASCOE IN 1870; A COPY OF WHICH MAP WAS FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, NOVEMBER 14, 1921;

PARCEL 3: THAT PORTION OF PUEBLO LOT 259 OF THE PUEBLO LANDS OF SAN DIEGO, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF MADE BY JAMES PASCOE, A COPY OF WHICH SAID MAP WAS FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY AND KNOWN AS MISCELLANEOUS MAP NO. 36; PARCEL 4: EXCEPTING THEREFROM A PORTION OF SAID LAND, ALL URANIUM, THORIUM, AND ALL OTHER MATERIALS DETERMINED PURSUANT TO SECTION 5(B) (1) OF THE ATOMIC ENERGY ACT OF 1946 (60 STAT. 761), TO BE PECULIARLY ESSENTIAL TO THE PRODUCTION OF FISSIONABLE MATERIAL, CONTAINED IN WHATEVER CONCENTRATION IN DEPOSITS IN THE LANDS COVERED BY THIS INSTRUMENT, TOGETHER WITH THE RIGHT OF THE UNITED STATES THROUGH ITS AUTHORIZED AGENTS OR REPRESENTATIVES AT ANY TIME TO ENTER UPON THE LAND AND PROSPECT FOR, MINE AND REMOVE THE SAME, AS RESERVED FOR THE USE OF THE UNITED STATES, IN A DEED RECORDED JANUARY 31, 1955 IN BOOK 5514, PAGE 182 OF OFFICIAL RECORDS.

Subject to the terms and conditions set forth in this Permit, permission is granted to Permittee to demolish the existing sports and entertainment center and associated structures, and develop the site with a new entertainment center, multi-unit residential, commercial, parks, and parking facilities, subject to the City's land use regulations as described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated [INSERT Approval Date], on file in the Development Services Department. The project shall include:

- a. Approximately 4,254 housing units (including 2,000 affordable housing units); a multi-purpose Entertainment Center with 16,000 seats; 130,000 square feet of commercial or retail uses;
- b. Landscaping (planting, irrigation and landscape-related improvements);
- c. Off-street parking;
- d. 14.54 acres of public parks and open space;
- e. On- and off-site improvements to public rights-of-way; and
- f. 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 Specific Plan, 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 in accordance with the Midway Rising Development Agreement, which includes the expiration provision for this Permit.

No permit for the construction, occupancy, or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:

- a. The Permittee signs and returns the Permit to the Development Services Department; and
- b. The Permit is recorded in the Office of the San Diego County Recorder.

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 and the Midway Rising Development Agreement 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 Permittee and any successor(s) in interest.
4. The continued use of this Permit shall be subject to the Midway Rising Specific Plan, the Midway Rising Development Agreement, 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 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.) and Title 27 Code of Regulations
6. The Permittee shall secure all necessary building permits. The Permittee is informed that to secure these permits, substantial building modifications and site improvements may be required to comply with applicable building, fire, mechanical, and plumbing codes, and State and Federal disability access laws.
7. 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.
8. 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 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 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.

9. The Permittee shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney's fees, against the City or its agents, officers, or employees, relating to the issuance of this permit including, but not limited to, any action to attack, set aside, void, challenge, or annul this development approval and any environmental document or decision. The City will promptly notify Permittee of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, the Permittee shall not thereafter be responsible to defend, indemnify, and hold harmless the City or its agents, officers, and employees. The City may elect to conduct its own defense,

participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, Permittee shall pay all of the costs related thereto, including without limitation reasonable attorney's fees and costs. In the event of a disagreement between the City and Permittee regarding litigation issues, the City shall have the authority to control the litigation and make litigation related decisions, including, but not limited to, settlement or other disposition of the matter. However, the Permittee shall not be required to pay or perform any settlement unless such settlement is approved by Permittee.

10. This Permit may be developed in phases. Each phase shall be constructed prior to sale or lease to individual owners or tenants to ensure that all development is consistent with the conditions and exhibits approved for each respective phase per the approved Exhibit "A."

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

11. Mitigation requirements in the Mitigation, Monitoring, and Reporting Program [MMRP] as specified in Subsequent Environmental Impact Report No. 1106734 (SCH No. 2023120451) shall apply to this Permit. These MMRP conditions are hereby incorporated into this Permit by reference.

12. The mitigation measures specified in the MMRP and outlined in Subsequent Environmental Impact Report No. 1106734 (SCH No. 2023120451) shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL MITIGATION REQUIREMENTS.

13. The Permittee shall comply with the MMRP as specified in Subsequent Environmental Impact Report No. 1106734 (SCH No. 2023120451) to the satisfaction of the Development Services Department and the City Engineer. Prior to issuance of any construction permit, 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:

- Land Use
- Transportation and Circulation
- Historical and Tribal Cultural Resources
- Noise
- Health and Safety
- Air Quality

AFFORDABLE HOUSING REQUIREMENTS:

14. Prior to the issuance of any building permits, the Permittee shall enter into an affordable housing agreement with the San Diego Housing Commission to provide affordable housing units in compliance with the City's Inclusionary Affordable Housing Regulations (SDMC § 142.1301 et seq.).

CITY PLANNING/HERITAGE PRESERVATION REQUIREMENTS:

15. Prior to issuance of a demolition permit for the San Diego International Sports Arena, the City of San Diego City Planning Department's Heritage Preservation staff shall review and accept a salvage plan prepared by a qualified historic preservation professional, consistent with mitigation measure HIST 5.3-1a of the MMRP. The salvage plan, to be implemented during the demolition of the San Diego International Sports Arena, shall catalog and identify elements proposed for removal from the existing San Diego International Sports Arena and shall include historic period architectural elements as well as memorabilia, including photographs, posters, and plaques of past athletic and entertainment events, teams, and entertainers, for display in publicly accessible areas throughout the new entertainment center.

16. As a condition of the closure of the demolition permit for the San Diego International Sports Arena, the Permittee shall document that the various displays presenting the salvaged items from the San Diego Sports Arena have been installed at the entertainment center, satisfactory to the City of San Diego City Planning Department's Heritage Preservation staff and consistent with mitigation measure HIST 5.3-1b of the MMRP.

17. Prior to the issuance of a demolition permit for the San Diego International Sports Arena, the City of San Diego City Planning Department's Heritage Preservation staff shall review and accept plans for an interpretive display to be installed in The Green area (Lot I, as shown on the approved Tentative Map) of the site near the old footprint of the San Diego International Sports Arena to be prepared by a qualified team including a historian and a graphic designer consistent with mitigation measure HIST 5.3-2 of the MMRP. The display shall explain the history of the site and describe the San Diego International Sports Arena's New Formalist architecture.

18. Prior to the issuance of the last certificate of occupancy for any building associated with the Lots 10, 11, 12, 13, and 14 or Lot I as shown on the approved Tentative Map, the Permittee shall document that the historical interpretive display has been installed in The Green area, satisfactory to the City of San Diego City Planning Department's Heritage Preservation staff consistent with mitigation measure HIST 5.3-2 of the MMRP.

19. Prior to issuance of a demolition permit for the San Diego International Sports Arena, the City of San Diego City Planning Department's Heritage Preservation staff shall review and accept plans for an interpretive display which shall be designed by a qualified team, including a historian and a graphic designer, that focuses on the life of Robert Breitbard as it relates to his work in the sports field consistent with mitigation measure HIST 5.3-3 of the MMRP.

20. Prior to the issuance of a demolition permit for the San Diego International Sports Arena, the Permittee shall document that the Breitbard interpretive display has been installed in a location accessible to the public at the new entertainment center. The display shall be designed consistent with mitigation measure HIST 5.3-3 of the MMRP.

21. Prior to issuance of a demolition permit for the San Diego International Sports Arena, the City of San Diego City Planning Department's Heritage Preservation staff shall review and accept the Historic American Buildings Survey documentation package for the San Diego Sports International

Arena to be documented to Historic American Buildings Survey Level 2 standards, in accordance with the Historic American Buildings Survey Guidelines for Preparing Written Historical Descriptive Data and consistent with mitigation measure HIST 5.3-4 of the MMRP. The Historic American Buildings Survey documentation package shall be prepared by a qualified team, including an architectural historian with prior experience preparing Historic American Buildings Survey photographs. The Historic American Buildings Survey documentation package shall include measured drawings, photographic documentation and a written historical narrative per the MMRP. Prior to issuance of a demolition permit for the San Diego International Sports Arena, the Permittee shall provide verification to the City of San Diego City Planning Department's Historic Preservation staff that two copies of the Historic American Buildings Survey documentation package were produced and submitted to the National Parks Service/Library of Congress and an archive or history collection accessible to the general public such as the San Diego History Center.

AIRPORT REQUIREMENTS:

22. Prior to the issuance of any building permits, the Permittee shall provide a copy of the signed agreement [DS-503] and show certification on the building plans verifying that the structures do not require Federal Aviation Administration [FAA] notice for Determination of No Hazard to Air Navigation, or provide an FAA Determination of No Hazard to Air Navigation as specified in Information Bulletin 520.

ENGINEERING REQUIREMENTS:

23. Prior to the to the recordation of the final map, the Permittee shall dedicate additional Right-of-Way along the property frontage on Kurtz Street on final map that fronts the street per the Approved Exhibit A, satisfactory to the City Engineer.

24. Prior to the recordation of the final map, the Permittee shall dedicate additional Right-of-Way along the property frontage on Sports Arena Blvd on the final map that fronts the street, per the Approved Exhibit A, satisfactory to the City Engineer.

25. Prior to the recordation of the final map, the Permittee shall assure, by permit and bond, the replacement of existing curb and gutter to current City Standards, adjacent to the site on Kurtz Street along the map frontage, satisfactory to the City Engineer.

26. Prior to the recordation of the final map, the Permittee shall assure, by permit and bond, the replacement of existing curb and gutter to current City Standards, adjacent to the site on Sports Arena Blvd along the map frontage, satisfactory to the City Engineer.

27. Prior to the recordation of the final map, the Permittee shall assure, by permit and bond, the replacement of existing sidewalk with non-contiguous sidewalk to current City Standards, adjacent to the site on Kurtz Street along the map frontage, satisfactory to the City Engineer.

28. Prior to the recordation of the final map, the Permittee shall assure, by permit and bond, the replacement of existing sidewalk with non-contiguous sidewalk to current City Standards, adjacent to the site on Sports Arena Blvd along the map frontage, satisfactory to the City Engineer.

29. Prior to the recordation of the final map that includes Kemper Street, the Permittee shall assure, by permit and bond, the construction of a new public street, Kemper Street, per the Approved Exhibit A, satisfactory to the City Engineer.
30. Prior to the recordation of the final map that contains Frontier Drive, the Permittee shall assure, by permit and bond, the construction of a new public street, Frontier Drive, per the Approved Exhibit A, satisfactory to the City Engineer.
31. Prior to the recordation of a final map the Permittee shall assure, by permit and bond, the replacement of existing non-standard curb ramps with City Standard directional curb ramps, at all intersections adjacent to the map boundary, satisfactory to the City Engineer. Where City Standard curb ramps cannot be constructed due to existing constraints, the Permittee shall submit Deviation From Standards forms to the City Engineer for review.
32. Prior to the recordation of the final map, the Permittee shall assure, by permit and bond, the construction of two new 30-foot-wide driveways per current City Standards, adjacent to the map boundary on Sports Arena Blvd, satisfactory to the City Engineer.
33. Prior to the recordation of the final map that contains Kurtz Street the Permittee shall assure, by permit and bond, the construction of three new 26-foot-wide driveways per current City Standards, adjacent to the site on Kurtz Street, satisfactory to the City Engineer.
34. Prior to recordation of the final map, the Permittee shall assure, by permit and bond, the construction of a new 26-foot-wide driveway per current City Standards, adjacent to the map boundary on Sports Arena Blvd, satisfactory to the City Engineer.
35. Prior to the recordation of the final, the Permittee shall assure, by permit and bond, the construction of new bus stop slabs per current City Standards, adjacent to the map boundary on Sports Arena Blvd, satisfactory to the City Engineer.
36. Prior to the recordation of the final map, the Permittee shall obtain an Encroachment Maintenance and Removal Agreement for the private storm drains, landscape and irrigation within the City's right-of-way and easements within the map boundary satisfactory to the City Engineer.
37. The State Construction General Permit (CGP), Order No. 2022-0057-DWQ, NPDES No. CAS000002, National Pollutant Discharge Elimination System (NPDES) Permit and Waste Discharge Requirements for Discharges from the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds within the San Diego Region. A Risk Level Determination shall be calculated for the site and a Storm Water Pollution Prevention Plan (SWPPP) shall be implemented concurrently with the commencement of grading activities.
38. Prior to issuance of a grading or a construction permit, a copy of the Notice of Intent (NOI) with a valid Waste Discharge ID number (WDID#) shall be submitted to the City of San Diego as a proof of enrollment under the Construction General Permit. When ownership of the entire site or portions of the site changes prior to filing of the Notice of Termination (NOT), a revised NOI shall be

submitted electronically to the State Water Resources Board in accordance with the provisions as set forth in Section II.C of Order No. 2022 -0057-DWQ and a copy shall be submitted to the City.

39. The drainage system proposed for this development is private and subject to approval by the City Engineer.

40. Prior to the issuance of a grading permit, a Drainage Study, which includes a storm drain analysis, shall be provided to the satisfaction of the City Engineer. The Drainage Study shall include hydraulic analysis to identify the proposed project's storm drain system, including site flooding limits. The starting water surface elevation for the analysis shall be located immediately downstream of the project boundary and based on the best available water surface elevation data considering the downstream control at Pump Station H, as provided by the City Stormwater Department's Operation and Maintenance Division.

41. Prior to the issuance of any construction permit, the Permittee shall submit a Technical Report that will be subject to final review and approval by the City Engineer, based on the Storm Water Standards in effect at the time of the construction permit issuance.

42. Prior to the issuance of any construction permit, the Permittee shall enter into a Maintenance Agreement for the ongoing permanent Best Management Practices (BMPs) maintenance, satisfactory to the City Engineer.

43. Per the City of San Diego Street Design Manual-Street Light Standards, and Council Policy 200-18, the Subdivider will be required to install new streetlights adjacent to the site, per the Approved Exhibit A, satisfactory to the City Engineer.

LANDSCAPE REQUIREMENTS:

44. Prior to issuance of any construction permit for grading, the Permittee shall submit complete construction documents for the revegetation and hydro-seeding of all disturbed land in accordance with the City of San Diego Landscape Standards, Storm Water Design Manual, and to the satisfaction of the Development Services Department. All plans shall be in substantial conformance to this permit (including Environmental conditions) and Exhibit "A," on file in the Development Services Department.

45. Prior to issuance of any public improvement permit, the Permittee shall submit complete landscape construction documents for right-of-way improvements to the Development Services Department for approval. Improvement plans shall show, label, and dimension a 40-square-foot area around each tree which is unencumbered by utilities. Driveways, utilities, drains, water and sewer laterals shall be designed so as not to prohibit the placement of street trees.

46. Prior to issuance of any building permit (including shell), the Permittee shall submit complete landscape and irrigation construction documents, which are consistent with the Landscape Standards, to the Development Services Department for approval. The construction documents shall be in substantial conformance with Exhibit "A," Landscape Development Plan, on file in the Development Services Department. Construction plans shall provide a 40-square-foot area around

each tree that is unencumbered by hardscape and utilities unless otherwise approved per SDMC §142.0403(b)6.

47. The Permittee shall be responsible for the maintenance of all landscape improvements shown on the approved plans, including in the right-of-way, unless long-term maintenance of said landscaping will be the responsibility of another entity approved by the Development Services Department. All required landscape shall be maintained consistent with the Landscape Standards in a disease, weed, and litter free condition at all times. Severe pruning or "topping" of trees is not permitted.

48. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved construction documents is damaged or removed, the Permittee shall repair and/or replace in kind and equivalent size per the approved documents to the satisfaction of the Development Services Department within 30 days of damage or Certificate of Occupancy.

PLANNING/DESIGN REQUIREMENTS:

49. A topographical survey conforming to the provisions of the SDMC may be required if it is determined, during construction, that there may be a conflict between the building(s) under construction and a condition of this Permit or a regulation of the underlying zone. The cost of any such survey shall be borne by the Permittee.

50. All signs associated with this development shall be consistent with sign criteria established by either the approved Exhibit "A" (including the Midway Rising Specific Plan) or SDMC sign regulations.

TRANSPORTATION REQUIREMENTS

51. All automobile, motorcycle, and bicycle parking spaces must be constructed in accordance with the requirements of the SDMC. All on-site parking stalls and aisles widths shall be in compliance with requirements of the City's Land Development Code and shall not be converted and/or utilized for any other purpose, unless otherwise authorized in writing by the appropriate City decision maker in accordance with the SDMC.

52. The Permittee shall assure by permit and bond the following improvements along Kurtz Street in the following segments:

a. Hancock Street to Frontier Drive:

Prior to issuance of the first building permit for Lots 6, 15, 16, 17, or 18 (whichever comes first), narrow the existing southern curb line by 5-ft and dedicate 2.2 to 14.2-ft for that fronting portion of southeast bound Kurtz Street and construct an 8-foot parking lane adjacent to the northerly curb, 13-foot travel lane, 13-foot travel lane adjacent to the southerly curb, and a 30-foot promenade (9 to 13-foot landscape, 14-foot minimum multi-use path, 0 to 4-foot landscape, 3-foot private landscape within the project site on the southerly side), per Kurtz Street (Public)(1) cross-section on Sheet 2 and plan view on Sheet 12 of the VTM Exhibit of Exhibit "A",

satisfactory to the City Engineer. All improvements shall be completed and operational prior to first occupancy of Lots 6, 15, 16, 17, or 18.

- b. Westerly Property Line of Privately-Owned Parcel (APN 441-330-0100) to Easterly Property Line of Privately Owned Parcel (APN 441-330-1100):

Prior to issuance of the first building permit for Lots 6, 15, 16, 17, or 18 (whichever comes first), restripe to provide two (two-way) 13-foot travel lanes, per plan view on Sheets 12 and 13 of the VTM Exhibit of Exhibit "A", satisfactory to the City Engineer. All improvements shall be completed and operational prior to first occupancy of Lots 6, 15, 16, 17, or 18.

- c. Easterly Property Line of Privately Owned Parcels to Sherman Street

Prior to issuance of the first building permit for Lots 6, 15, 16, 17, or 18 (whichever comes first), narrow the existing southern curb line by 5-ft and dedicate 2.2 to 14.2-ft for that fronting portion of southeast bound Kurtz Street and construct an 8-foot parking lane adjacent to the northerly curb, 13-foot travel lane, 13-foot travel lane adjacent to the southerly curb, and a 30-foot promenade (9 to 13-foot landscape, 14-foot (minimum) multi-use path, 0 to 4-foot landscape, 3-foot private landscape within the project site on the southerly side), per Kurtz Street (Public)(1) cross-section on Sheet 2 and plan view on Sheet 13 of the VTM Exhibit of Exhibit "A", satisfactory to the City Engineer. All improvements shall be completed and operational prior to first occupancy of Lots 6, 15, 16, 17, or 18.

- d. Sherman Street to Easterly Project Site Property Line

Prior to issuance of the first building permit for Lots 23, 24, or 25 (whichever comes first), narrow the existing southern curb line by 5-ft and dedicate 2.2 to 14.2-ft for that fronting portion of southeast bound Kurtz Street and construct an 8-foot parking lane adjacent to the northern curb, 13-foot travel lane, 13-foot travel lane, 30-foot promenade (9 to 13-foot landscape, 14-foot (minimum) multi-use path, 0 to 4-foot landscape, and 3-foot private landscape within the project site on the southerly side), per Kurtz Street (Public)(2) cross-section on Sheet 2 and plan view on Sheets 13 of the VTM Exhibit of Exhibit "A", satisfactory to the City Engineer. All improvements shall be completed and operational prior to first occupancy of Lots 23, 24, or 25.

- e. Easterly Project Site Property Line to Camino Del Rio West

Prior to issuance of the first building permit for Lots 23, 24, or 25 (whichever comes first), narrow the existing southern curb line by 13-ft along southeast bound Kurtz Street between the easterly property line and Camino Del Rio West and assure by permit and bond to provide a 13-foot travel lane adjacent to northerly curb, 13-foot travel lane adjacent to southerly curb, 19-foot parkway (5-foot landscape, and 14-foot (minimum) multi-use path within the project site on the southerly side), per Kurtz Street (Public) Off-Site (1) and plan view on Sheets 22 of the VTM Exhibit of Exhibit "A", satisfactory to the City Engineer. All improvements shall be completed and operational prior to first occupancy of Lots 23, 24, or 25.

- f. Camino Del Rio West to Rosecrans Street

Prior to issuance of the first building permit for Lots 23, 24, or 25 (whichever comes first), narrow the existing southern curb line by 13-ft along southeast bound Kurtz Street between Camino Del Rio West and Rosecrans Street and assure by permit and bond to provide a 13-foot travel lane, 13-foot travel lane, 19-foot parkway (5-

foot landscape, and 14-foot (minimum) multi-use path within the project site on the southerly side), per Kurtz Street (Public) Off-Site (2) and plan view on Sheet 22 of the VTM Exhibit of Exhibit "A", satisfactory to the City Engineer. All improvements shall be completed and operational prior to first occupancy of Lots 23, 24, or 25.

53. The Permittee shall assure by permit and bond the following construction of Frontier Drive in the following segments:

- a. Sports Arena Boulevard to Southerly Property Line of Privately-Owned Parcels: Prior to issuance of the first building permit for Lots 8, 9, 11, 12, 14, 17, 18, 19 or 20 (whichever comes first), the Permittee shall assure by permit and bond the construction of Frontier Drive between Sports Arena Boulevard and the southerly property line of the privately-owned parcels as a 2-lane collector with a 44-foot curb-to-curb pavement width (7-foot parking lane, 10-foot travel lane, 10-foot center turn lane, 10-foot travel lane, 7-foot parking lane), and a 30-foot promenade (8-foot landscaping, 12-foot (minimum) multi-use path), adjacent to a 10-foot café zone and 4-foot private landscaping on the east side of the street per Frontier Drive (Public) cross-section on Sheet 2 and per plan view on Sheet 13 of the VTM Exhibit of Exhibit "A", satisfactory to the City Engineer. Improvements may be phased for the westerly side of landscaping/sidewalks (i.e., behind the curb) depending on implementation of Phase 2 building improvements.

All improvements shall be completed and operational prior to first occupancy on any of Lots 8, 9, 11, 12, 14, 17, 18, 19 or 20.

- b. Southerly Property Line of Privately-Owned Parcels to Kurtz Street: Prior to issuance of the first building permit for Lots 8, 9, 11, 12, 14, 17, 18, 19 or 20, (whichever comes first), the Permittee shall assure by permit and bond the construction of Frontier Drive as a 2-lane collector between the southerly property line of the privately owned parcel and Kurtz Street with 0 to 2-foot private landscape within the project site on the westerly side, 7-foot sidewalk, 7-foot landscape, and 37 ft- curb-to-curb pavement width (7-foot parking lane adjacent to the westerly curb, 10-foot travel lane, 10-foot center turn lane, 10-foot travel lane adjacent to the easterly curb), and 7-foot contiguous sidewalk adjacent to eastern curb, per Frontier Drive (Public) Interim cross-section on Sheet 2 and per plan view on Sheet 12 of the VTM Exhibit of Exhibit "A", satisfactory to the City Engineer. Improvements may be phased for the westerly side of landscaping/sidewalks (i.e., behind the curb) depending on implementation of Phase 2 building improvements.

All improvements shall be completed and operational prior to first occupancy on any of Lots 8, 9, 11, 12, 14, 17, 18, 19 or 20.

54. The Permittee shall provide and maintain onsite the following Vehicle Miles Traveled (VMT) Reduction Measures for the commercial land use in the locations shown in Exhibit "A":

- a. Install pedestrian scale lighting along the project frontage roadways of Sports Arena Boulevard and Kurtz Street; this measure shall be implemented at the time of Conditions #52a-c, 58 & 81.

- b. Install pop-outs at adjacent intersections or curb extensions at adjacent mid-block crosswalks, which shall comply with the Street Design Manual Traffic Calming Chapter in coordination with Fire-Rescue Department staff and/or San Diego Metropolitan Transit System (MTS), which may be required at the following three locations, and implemented in at the same time as improvements identified in the associated other conditions:
 - Sports Arena Boulevard / Frontier Drive (half intersection); to implemented with Condition #52a
 - Sports Arena Boulevard / Kemper Street (half intersection); to be implemented with Condition #80
 - Frontier Drive mid-block crossing (South) (full intersection); to be implemented with Condition #52a
 - c. Construct a multi-use path along Kurtz Street and Rosecrans Street (approximately 2,200 linear feet); (this multi-use path is included as part of Conditions #52a-c & #69)
 - d. Provide an on-site bicycle repair station located near the Class I path along Sherman Street alignment through the site; to be implemented with Condition #82
 - e. Construct a Class I multi-use path the north side of Sports Arena Boulevard, east side of Frontier Drive, south side of Kurtz Street, and east side of Rosecrans Street that would connect to Class II bike lanes on Pacific Highway and Sports Arena Boulevard (approximately 3,960 linear feet) (this multi-use path is included as part of Conditions #58 & 81).
 - f. Provide enhanced amenities at the proposed new bus stop on the west side of the Sports Arena Boulevard/Kemper Street intersection, including a shelter, relocate existing bus stop (ID 13345) and upgrade to a RAPID bus stop per the MTS Designing for Transit Manual (February 2018) including real-time digital display for rapid bus stop and rapid shelter (Condition #85);
 - g. Provide a system map for local bus stop (ID 13344) on Sports Arena Boulevard (Condition #61); and
 - h. Construct a raised crossing on Frontier Drive at a location within the roadway approximately between Lot I and Lot 22 (to be implemented with Condition 52a-c).
57. The Permittee shall provide and maintain onsite the following Vehicle Miles Traveled (VMT) Reduction Measures for the entertainment land use in the locations shown in Exhibit "A":
- a. Install pop-outs at adjacent intersections or curb extensions at adjacent mid-block crosswalks, which shall comply with the Street Design Manual Traffic Calming Chapter in coordination with Fire-Rescue Department staff and/or San Diego Metropolitan Transit System (MTS), which may be required at the following two locations:
 - Kemper Street mid-block crossing (North) (full intersection); to be implemented with Condition #82
 - Kemper Street mid-block crossing (South) (full intersection); to be implemented with Condition #82
 - b. Provide an on-site bicycle repair station located near Lots 13 and 14—to be completed with Condition #78; and

- c. Provide a system map for local bus stop (new stop) on Sports Arena Boulevard on the west side of Kemper Street (to be implemented with Condition #84).

These improvements shall be completed and operational when the entertainment land use, adjacent roadway improvements, and adjacent lots are constructed.

Phase 1

58. Prior to issuance of the first building permit for Lots 19, 20, 21, 24, or 25 (whichever comes first), the Permittee shall assure by permit and bond to narrow the existing curb line of Sports Arena Boulevard between Frontier Drive and the project's easterly property line by 8-ft and dedicate 12-ft along that fronting portion of westbound Sports Arena Boulevard to provide a 5-foot private resident zone adjacent to a 33-foot promenade (including 3-foot private landscape, 0 to 4-foot landscape, 12-foot (minimum) multi-use path, 5 to 9-foot landscape, 6-foot Class IV cycle track, 3-foot bike buffer), and within the curb-to-curb a 12-foot Business Access & Transit (BAT) lane adjacent to the northerly curb, 10-foot travel lane, 11-foot travel lane, 5 to 15-foot raised median, 10-foot travel lane, 10-foot travel lane, 11-foot bus lane, 3-foot bike buffer, and 6-foot bike lane adjacent to the southerly curb per Sports Arena Blvd (Public) cross-section on Sheet 2 of the VTM Exhibit and plan view on Sheets 11 and 13 of the VTM Exhibit of Exhibit "A", satisfactory to the City Engineer. All improvements shall be completed and operational prior to first occupancy on Lots 19, 20, 21, 24, or 25.

59. Prior to issuance of the first building permit for Lots 23, 24, or 25 (whichever comes first), the Permittee shall assure by permit and bond the restriping of the southbound approach of Kurtz Street at the intersection of Kurtz Street/Rosecrans Street to provide 1 exclusive left-turn lane and 1 through/right turns lane, necessary traffic signal modification, and stripe continental crosswalks across all approaches, per plan view on Sheet 22 of the VTM Exhibit of Exhibit "A", satisfactory to the City Engineer. All improvements shall be completed and operational prior to first occupancy of Lots 23, 24, or 25.

60. Prior to issuance of the first building permit for Lots 23, 24, or 25 (whichever comes first), the Permittee shall restripe the southbound approach of Kurtz Street at the intersection of Kurtz Street/Camino Del Rio West to provide 1 exclusive left-turn lane and 1 shared left-turn/through/right-turn lane, provide the necessary traffic signal modification, and stripe continental crosswalks across all approaches, per plan view on Sheet 22 of the VTM Exhibit of Exhibit "A", satisfactory to the City Engineer. All improvements shall be completed and operational prior to first occupancy of Lots 23, 24, or 25.

61. Prior to issuance of the first building permit for Lots 19, 20, or 21, (whichever comes first), the Permittee shall assure the construction of Private Drive D within Lot N to provide 5 to 7-foot landscape within the project site, a 13-foot parkway, 5-foot sidewalk, with a 40-foot curb-to-curb pavement width (7-foot parking lane, 13-foot travel lane, 13-foot travel lane, 7-foot parking lane) and a 5-foot sidewalk, 13-foot parkway, and 5 to 7-foot landscape (within the project site) per Private Drive D cross-section on Sheet 2 and per plan view on Sheet 13 of the VTM Exhibit of Exhibit "A", satisfactory to the City Engineer. All improvements shall be completed and operational prior to first occupancy on any of Lots 19, 20, or 21.

62. Prior to issuance of the first building permit for Lots 23, 24, or 25, (whichever comes first), the Permittee shall assure the construction of Private Drive E south of Kurtz Street in alignment with the extension of Sherman Street to provide a 26-foot fire access lane within the project site on the easterly side, 0 to 8.9-foot parkway, and a curb-to-curb pavement width of 26-feet (13-foot travel lane, 13-foot travel lane), and a 21.1-foot parkway, and 1 to 2-foot private landscape per Private Drive E cross-section on Sheet 2 and per plan view on Sheet 13 of the VTM Exhibit of Exhibit "A", satisfactory to the City Engineer. All improvements shall be completed and operational prior to first occupancy on any of Lots 23, 24, or 25.

63. Prior to issuance of the first building permit for Lots 21, 24, or 25, (whichever comes first), the Permittee shall relocate existing local bus stop (ID 13344) to the west side of the Sports Arena Boulevard / East Drive intersection in the approximate location shown on Sheet 13 of the VTM Exhibit of Exhibit "A" and provide a sign, bench, schedule display, route and system map, trash receptacle, concrete bus pad, and shelter, satisfactory to the City Engineer and in coordination with Metropolitan Transit System (MTS). All improvements shall be completed and operational prior to first occupancy on any of Lots 21, 24, or 25.

64. Prior to issuance of the first building permit for Lots 24 or 25, (whichever comes first), the Permittee shall provide documentation to the satisfaction of the City Engineer of the project's operating and implementation plan for a shuttle service to and from the site for the following scenarios:

- For events with greater than 7,500 spectators, an event shuttle service would run between the Old Town Transit Center and the entertainment land use. The event shuttle would run along Rosecrans Street, Sports Arena Boulevard, Frontier Drive, and Kurtz Street.
- For events with greater than 10,000 spectators, two event shuttle services would run between the Old Town Transit Center and between the off-site business park lot just west of the Project site and the entertainment land use. The event shuttle would run along Sports Arena Boulevard, Frontier Drive, Kurtz Street, and Hancock Street.
- For events with greater than 12,000 spectators, three event shuttle services would run between the Old Town Transit Center, the off-site business park lot just west of the Project site, and off-site parking at SeaWorld and the entertainment land use. The event shuttle would run along West Mission Bay Drive, Sports Arena Boulevard, Frontier Drive, Kurtz Street and Hancock Street.

All improvements shall be completed and operational prior to the first occupancy of Lots 24 or 25.

65. Prior to issuance of the first building permit for Lots 19, 20, 21, 22, 23, 24 or 25, (whichever comes first), the Permittee shall restripe the intersection of West Point Loma Boulevard/Sports Arena Boulevard/Midway Drive and assure by permit and bond the following improvements:

- Remove the channelized portions of northbound and southbound right-turn movements;

- Reduce of the roadway width in the northeast corner to convert the westbound channelized right turn lane to an exclusive right turn lane;
- Restripe the southbound approach to include 2 left turn lanes, 1 through lane, and 1 shared through/right lane;
- Restripe the northbound to include 2 left turn lanes, 1 through lane, and 1 shared through/right lane;
- Widen the eastbound approach by 6 feet to construct a left turn lane, 1 shared/through lane, 1 through lane, and 1 right turn lane.

Signal modifications will be required to provide protected left turn phasing instead of split phasing for the northbound and southbound movements, an overlap phase for the westbound right turn movement, and signal optimization. All improvements shall be completed, satisfactory to the City Engineer, and operational prior to first occupancy of Lots 19, 20, 21, 22, 23, 24 or 25.

66. Prior to issuance of the first building permit for retail land use, the Permittee shall document to the satisfaction of the City Engineer that a daily retail shuttle shall be implemented between Frontier Drive and the Old Town Transit Center for the life of the commercial land uses, satisfactory to the City Engineer. The shuttle shall operate between 12:00 p.m. and 10:00 p.m. using one vehicle at 20- or 30-minute headways.

67. Prior to issuance of the first building permit for the entertainment center, the Permittee shall implement an employee transit subsidy for the entertainment center employees to offset the net increase in vehicle miles traveled for the Project, satisfactory to the City Engineer. The employee transit subsidy shall be offered to all employees at 50 percent off the San Diego Metropolitan Transit System's current monthly pass rate for the life of the entertainment center.

68. Prior to issuance of the first building permit for Lots 19, 20, 21, 22, 23, 24 or 25, (whichever comes first), the Permittee shall assure by permit and bond the following improvements at the intersection of Sports Arena Boulevard/Rosecrans Street/Camino Del Rio West:

- Convert channelized right-turn lane from Camino Del Rio West to Sports Arena Boulevard to an exclusive right-turn lane;
- Demolish northbound "channelized" right-turn from Sports Arena Boulevard to Rosecrans Street and ancillary intersection and allow through movement from Sports Arena Boulevard;
- Modify the eastbound approach on Sports Arena Boulevard to include 1 left-turn lane, 1 shared left/through lane, 1 through lane to Sports Arena Boulevard, and 1 right-turn lane to Rosecrans Street; and
- Provide the necessary traffic signal modification.

All improvements shall be completed, satisfactory to the City Engineer, and operational prior to first occupancy of Lots 19, 20, 21, 22, 23, 24 or 25.

69. Prior to issuance of the first building permit for Lots 23, 24, or 25 (whichever comes first), the Permittee shall assure by permit and bond the construction of Rosecrans Street between Kurtz Street and Pacific Highway to provide 11-foot parking adjacent to westerly curb, 11-foot BAT lane, 11-foot travel lane, 10-foot center turn lane, 11-foot travel lane, 12-foot BAT lane adjacent to the easterly curb, 3 to 7-foot bike buffer, 10-foot bikeway, 0 to 4-foot landscape, and 8-foot sidewalk within the project site on the easterly side per Rosecrans Street (Public) Off-Site cross-section and plan view on Sheet 22 of the VTM Exhibit of Exhibit "A", and provide the necessary traffic signal modifications at the intersections of Rosecrans Street/Kurtz Street and Rosecrans Street/Taylor Street/Pacific Highway per plan on Sheet 22 of the VTM Exhibit of Exhibit "A", satisfactory to the City Engineer. All improvements shall be completed and operational prior to first occupancy of Lots 23, 24, or 25.

70. Prior to issuance of the first building permit for Lots 19, 20, 21, 22, 23, 24 or 25, (whichever comes first), the Permittee will assure by permit and bond to provide the following improvements, satisfactory to the City Engineer:

- a. Modify the traffic signal to include retroreflective traffic signal head backplates at the approaches of the following intersections:
 - Midway Drive / East Drive
 - Rosecrans Street / Midway Drive
 - Rosecrans Street / Lytton Street
 - Pacific Highway / Rosecrans Street/Taylor Street
 - Midway Drive / Barnett Avenue
 - Friars Road / Sea World Drive
- b. Modify the traffic signal to include Lead Pedestrian Interval (LPI) phase on all approaches at the following intersections:
 - Midway Drive/East Drive
 - Rosecrans Street/Kurtz Street

Additionally, the Permittee shall implement a Public Safety Messaging Campaign regarding multi-modal safety directed to residents, entertainment center patrons, employees, and visitors to be implemented via emails and information available at on-site kiosks. All improvements shall be completed and operational prior to first occupancy of for Lots 19, 20, 21, 22, 23, 24 or 25.

Phase 2

71. Prior to issuance of the first building permit for Lots 1, 2, 3, or 4, (whichever comes first), the Permittee shall assure the construction of Private Drive A-1 within Lot B to provide 5 to 7-foot landscape within the project site on the southerly side, 5-foot sidewalk, and 40-foot curb-to-curb pavement width (7-foot parking lane, 13-foot travel lane, 13-foot travel lane, 7-foot parking lane), 5-foot sidewalk, and 5 to 7-foot landscape, per Private Drive A-1 cross-section on Sheet 2 and per plan view on Sheet 11 of the VTM Exhibit of Exhibit "A", satisfactory to the City Engineer. All improvements shall be completed and operational prior to first occupancy on any of Lots 1, 2, 3, or 4.

72. Prior to issuance of the first building permit for Lots 3, 4, 5, or 6, (whichever comes first), the Permittee shall assure the construction of Private Drive A-2 within Lot D to provide 5 to 7-foot landscaped stoops within the project site on the southerly side, 0.9 to 12.5-foot landscape, 5-foot sidewalk, and 40-foot curb-to-curb pavement width (7-foot parking lane, 13-foot travel lane, 13-foot travel lane, 7-foot parking lane), 5-foot sidewalk, 0.8 to 12.5-foot landscape, and 5 to 7-foot landscaped stoops per Private Drive A-2 cross-section on Sheet 2 and per plan view on Sheet 12 of the VTM Exhibit of Exhibit "A", satisfactory to the City Engineer. All improvements shall be completed and operational prior to first occupancy on any of Lots 3, 4, 5, or 6.

73. Prior to issuance of the first building permit for Lots 7 or 10, (whichever comes first), the Permittee shall assure the construction of Private Drive B-1 within Lot F to provide 5 to 7-foot landscape within the project site on the northerly side, 5-foot sidewalk, 40-foot curb-to-curb pavement width (7-foot parking lane, 13-foot travel lane, 13-foot travel lane, 7-foot parking lane) 5-foot sidewalk, and 5 to 7-foot landscape within the project site per Private Drive B-1 cross-section on Sheet 2 and per plan view on Sheet 11 of the VTM Exhibit of Exhibit "A", satisfactory to the City Engineer. All improvements shall be completed and operational prior to first occupancy on any of Lots 7 or 10.

74. Prior to issuance of the first building permit for Lots 8, 9, 11, or 12, (whichever comes first), the Permittee shall assure the construction of Private Drive B-2 within Lot H to provide 5 to 7-foot landscape within the project site, 5-foot sidewalk, 40-foot curb-to-curb pavement width (7-foot parking lane, 13-foot travel lane, 13-foot travel lane, 7-foot parking lane), 5-foot sidewalk, and 5 to 7-foot landscape per Private Drive B-2 cross-section on Sheet 2 the VTM Exhibit of and per plan view on Sheet 11 of the VTM Exhibit of Exhibit "A", satisfactory to the City Engineer. All improvements shall be completed and operational prior to first occupancy on any of Lots 8, 9, 11, or 12.

75. Prior to issuance of the first building permit for Lots 7, 8, 9, 10, 11, or 12, (whichever comes first), the Permittee shall assure the construction of Private Drive B (Fire Lane) within Lot G to provide 5 to 7-foot landscape within the project site, 5-foot sidewalk, and 7-foot parkway, 26-foot pavement width (13-foot fire lane, 13-foot fire lane), 7-foot parkway, 5-foot sidewalk, and 5 to 7-foot landscape per Private Drive B – Fire Lane cross-section on Sheet 2 the VTM Exhibit of and per plan view on Sheet 11 of the VTM Exhibit of Exhibit "A", satisfactory to the City Engineer. All improvements shall be completed and operational prior to first occupancy on any of Lots 7, 8, 9, 10, 11, or 12.

76. Prior to issuance of the first building permit for Lots 13, 15, or 16, (whichever comes first), the Permittee shall assure the construction of Private Drive C-1 within Lot J to provide 5 to 7-foot landscape within the project site, 5-foot sidewalk, 40-foot curb-to-curb pavement width (7-foot parking lane, 13-foot travel lane, 13-foot travel lane, 7-foot parking lane), 5-foot sidewalk, and 5 to 7-foot landscape within the site per Private Drive C-1 cross-section on Sheet 2 and per plan view on Sheet 12 of the VTM Exhibit of Exhibit "A", satisfactory to the City Engineer. All improvements shall be completed and operational prior to first occupancy on any of Lots 13, 15, or 16.

77. Prior to issuance of the first building permit for Lots 14, 17, or 18, (whichever comes first), the Permittee shall assure the construction of Private Drive C-2 within Lot L to provide 5 to 7-foot landscape within the project site, 5-foot sidewalk, 40-foot curb-to-curb pavement width (7-foot parking lane, 13-foot travel lane, 13-foot travel lane, 7-foot parking lane), 5-foot sidewalk, and 5 to 7-foot landscape within the site per Private Drive C-2 cross-section on Sheet 2 and per plan view on Sheet 12 of the VTM Exhibit of Exhibit "A", satisfactory to the City Engineer. All improvements shall be completed and operational prior to first occupancy on any of Lots 14, 17, or 18.

78. Prior to issuance of the first building permit for Lots 13, 14, 15, 16, 17, or 18, (whichever comes first), the Permittee shall assure the construction of Private Drive C (Fire Lane) within Lot K to provide 5 to 7-foot landscape within the project site on the southerly side, 5-foot sidewalk, 7-foot parkway, 26-foot pavement width (13-foot fire lane, 13-foot fire lane), 7-foot parkway, 5-foot sidewalk, and 5 to 7-foot landscape within the project site per Private Drive C – Fire Lane cross-section on Sheet 2 the VTM Exhibit of and per plan view on Sheet 12 of the VTM Exhibit of Exhibit "A", satisfactory to the City Engineer. All improvements shall be completed and operational prior to first occupancy on any of Lots 13, 14, 15, 16, 17, or 18.

79. Prior to issuance of the first building permit for Lots 8, 9, 17, or 18, (whichever comes first), the Permittee shall provide documentation that the project will seek approval from City Engineer to implement the following temporary traffic control and modify intersection geometry at the intersection of Sherman Street /Hancock Street during the PM Pre-Event peak:

- Implement traffic control flagger (or appropriate traffic control setup) to allow two westbound lanes to turn left from Hancock Street onto southbound Sherman Street;
- Convert Sherman Street (temporarily) to a one-way two-lane southbound street;
- Vehicles wishing to travel northbound on Sherman Street from Kurtz Street will be redirected to Greenwood Street; and
- At Sherman Street / Kurtz Street, two southbound lanes would be directed to turn right or go straight into the H1 driveway for Entertainment Center parking.

All temporary traffic control arrangements for pre-event conditions shall be satisfactory to the City Engineer, Police Department, and Special Events and shall be completed and operational prior to first occupancy of Lots 8, 9, 17, or 18.

80. Prior to issuance of the first building permit for Lots 1, 2, 7, or 10, (whichever comes first), the Permittee shall construct the southbound approach of the intersection of Kemper Street/Sports Arena Boulevard to provide 1 through lane and 1 exclusive right-turn lane and necessary traffic signal modification, per plan view on Sheet 11 of the VTM Exhibit of Exhibit "A", satisfactory to the City Engineer. All improvements shall be completed and operational prior to first occupancy of Lots 1, 2, 7, or 10.

81. Prior to issuance of the first building permit for Lots 8, 9, 11, 12, 14, or 18 (whichever comes first), the Permittee shall assure by permit and bond to narrow the existing curb line of Sports Arena Boulevard between the project's westerly property line and Frontier Drive by 8-ft and dedicate 12-ft along that fronting portion of westbound Sports Arena Boulevard to provide

a 5-foot private resident zone and 3-foot private landscaping adjacent to a 33-foot promenade (including 3-foot private landscape, 0 to 4-foot landscape, 12-foot (minimum) multi-use path, 5 to 9-foot landscape, 6-foot Class IV cycle track, 3-foot bike buffer), and within the curb-to-curb a 12-foot Business Access & Transit (BAT) lane adjacent to the northerly curb, 10-foot travel lane, 11-foot travel lane, 5 to 15-foot raised median, 10-foot travel lane, 10-foot travel lane, 11-foot BAT lane, 3-foot bike buffer, and 6-foot bike lane adjacent to the southerly curb per Sports Arena Blvd (Public) cross-section on Sheet 2 of the VTM Exhibit and plan view on Sheets 11 and 13 of the VTM Exhibit of Exhibit "A", satisfactory to the City Engineer. All improvements shall be completed and operational prior to first occupancy on Lots 8, 9, 11, 12, 14, or 18.

82. Prior to issuance of the first building permit for Lots 1, 2, 3, 4, 5, 6, 7, 10, 13, or 15, (whichever comes first), the Permittee shall assure by permit and bond the construction of Kemper Street between Sports Arena Boulevard and Kurtz Street as a 2-lane collector between Sports Arena Boulevard and Kurtz Street to provide a 5 to 7-foot private resident zone within the project site on the westerly side, 7-foot sidewalk, 2.5 to 7-foot landscape, 6-foot Class IV cycle track, 3-foot bike buffer, 44-foot curb-to-curb paved width (7-foot parking lane, 10-foot travel lane, 10-foot center turn lane, 10-foot travel lane, 7-foot parking lane), a 30-foot promenade (3-foot bike buffer, 6-foot Class IV cycle track, 6.5 to 11-foot landscape, 6-foot sidewalk), and 4-foot private landscape adjacent to a 1.4 to 5-foot private resident zone within the project site on the easterly side per Kemper Street (Public) cross-section and per plan view on Sheets 11 and 12 of the VTM Exhibit of Exhibit "A", satisfactory to the City Engineer. All improvements shall be completed and operational prior to occupancy of Lots 1, 2, 3, 4, 5, 6, 7, 10, 13, and 15.

83. Prior to issuance of the first building permit for Lots 17 or 18, the Permittee shall assure by permit and bond the construction of a roundabout at the intersection of Hancock Street and Kurtz Street in the location shown per plan view on Sheet 12 of the VTM Exhibit of Exhibit "A", satisfactory to the City Engineer. All improvements shall be completed and operational prior to first occupancy of Lots 17 or 18.

84. Prior to issuance of the first building permit for Lots 1, 2, 7, or 10 (whichever comes first), the Permittee shall construct a new local bus stop on the west side of the Sports Arena Boulevard / Kemper Street intersection in the approximate location shown in plan view on Sheet 11 of the VTM Exhibit of Exhibit "A" and provide a sign, bench, schedule display, route and system map, trash receptacle, concrete bus pad, and shelter, satisfactory to the City Engineer and in coordination with Metropolitan Transit System (MTS). All improvements shall be completed and operational prior to first occupancy of Lots 1, 2, 7, or 10.

85. Prior to issuance of the first building permit for Lots 9, 10, 12, 14, 17, or 18 (whichever comes first), the Permittee shall relocate existing local bus stop (ID 13345) to the west side of the Sports Arena Boulevard / Frontier Drive intersection in the approximate location shown in plan view on Sheet 11 of the VTM Exhibit of Exhibit "A", designate this stop as a RAPID service bus stop, and provide a sign, bench, schedule display, trash receptacle, concrete bus pad, rapid shelter, and real-time digital display, satisfactory to the City Engineer and in coordination with Metropolitan Transit System (MTS). All improvements shall be completed and operational prior to first occupancy of Lots 9, 10, 14, 17, or 18.

86. Prior to issuance of the first building permit for Lots 9, 10, 12, 14, 17, or 18 (whichever comes first), the Permittee shall stripe exclusive Business Access & Transit BAT lanes on:

- Sports Arena Boulevard between W. Point Loma Boulevard and Kemper Street (westbound direction only)
- Sports Arena Boulevard between Kemper Street and Camino Del Rio West (both directions)
- Rosecrans Street between Sports Arena Boulevard and Kemper Street (both directions)

These improvements shall be satisfactory to the City Engineer and in coordination with Metropolitan Transit Services (MTS) per plan view on Sheet 11 of the VTM Exhibit of Exhibit "A". All improvements shall be completed and operational prior to first occupancy of Lots 9, 10, 14, 17, or 18.

87. Prior to issuance of the first building permit for Lots 9, 10, 12, 14, 17, or 18 (whichever comes first), the Permittee shall request from the City, subject to City approval and implementation, the following signal timing improvements at the intersection of Sports Arena Boulevard/Frontier Drive/West Drive:

- Increase the overall signal cycle length to 105 seconds during the AM peak and 150 seconds during the PM and Pre-Event PM peaks;
- Manage signal timing operations during the PM peak to manually provide green time to the heaviest movement on event days.

All improvements shall be completed and operational prior to first occupancy of Lots 9, 10, 14, 17, or 18.

88. Prior to issuance of the first building permit for Lots 9, 10, 17, or 18 (whichever comes first), the Permittee shall request from the City, subject to City approval and implementation, signal timing optimization at the intersection of Barnett Avenue/Midway Drive to decrease the overall signal cycle length to 110 seconds during the AM peak, 150 seconds during the PM peak, 100 seconds during the Pre-Event PM peaks, and 90 seconds during the weekend peak, satisfactory to the City Engineer. All improvements shall be completed and operational prior to first occupancy of Lots 9, 10, 17, or 18.

89. Prior to issuance of the first building permit for Lots 17 or 18, the Permittee shall restripe Hancock Street between Sports Arena Boulevard and Channel Way to a 4-Lane Collector through the conversion of the existing angled parking to parallel parking, satisfactory to the City Engineer. All improvements shall be completed and operational prior to first occupancy of Lots 17 or 18.

90. Prior to issuance of the first building permit Lots 17 or 18, the Permittee shall restripe Hancock Street between Channel Way and Kurtz Street to a 4-Lane Collector through the conversion of the existing angled parking to parallel parking, satisfactory to the City Engineer. All improvements shall be completed and operational prior to first occupancy of Lots 17 or 18.

PARKS AND RECREATION DEPARTMENT REQUIREMENTS:

91. Consistent with the Development Agreement, the Permittee shall design, construct, maintain, and operate approximately 8.12 acres of recreational facilities satisfying the development's population-based park requirements, as labeled on the Midway Rising Specific Plan, Table 2 of the approved Exhibit "A" as Lots A, C, E, G, I, K, M, O, P, and R, to the satisfaction of the Parks and Recreation Director or designee as follows:

- a. Park #1 - generally consistent with the park identified as Sports Arena Green in the Midway-Pacific Highway Community Plan, totaling 4.65 acres, and shall generally consist of the following:
 - i. The Green: 2.32 acres
 - ii. Paseo Greens: 1.06 acres
 - iii. Paseo Greenways: 1.27 acres
- b. Park #2 - generally consistent with the park identified as Sports Arena Square in the Midway-Pacific Highway Community Plan, totaling 3.47 acres, and shall generally consist of the following:
 - i. The Square: 2.93 acres
 - ii. The Plaza: 0.54 acres

92. The Parks and Recreation Department shall review and approve all substantial conformance reviews associated with the development, as well as all construction permits associated with the development prior to their issuance, including, but not limited to, grading plans, public improvement plans, and park construction plans.

93. Any portion of the development that is proposed to satisfy the development's population-based park requirements shall be designed and constructed in accordance with all Disability Access Laws, all federal, state and local accessibility laws, regulations and standards including but not limited to the applicable version of the Americans with Disabilities Act (ADA), Title II Regulations 28 CFR Part 35 and 35.151, including the 2010 ADA Standards for Accessible Design, (Appendix A of 28 CFR PART 36) (ADAS); The State of California Code of Regulations (CCR), including the current California Building Code (CBC) and the current California Access Compliance Reference Manual; and City of San Diego Access Memorandums.

94. Prior to the final inspection of the first dwelling unit, the Permittee shall enter into fully executed agreements with the City: a Park Development Agreement (PDA), a Park Maintenance Agreement (PMA), and a Park Operations Agreement (POA), for the design, construction, maintenance, and operation of any recreational facilities satisfying the development's population-based park requirements. The Mayor, or the Mayor's designee, is authorized to execute these agreements. The Permittee shall establish deposit accounts, internal orders, or other approved mechanisms to allow Parks & Recreation and Engineering & Capital Projects staff to charge for services. These services shall include, but are not limited to, negotiation of the PDA, PMA, and POA; review of construction documents; and Parks & Recreation and Engineering & Capital Projects services during construction.

95. Any portion of the development satisfying the development's population-based park requirements, shall be designed and constructed in accordance with the Consultant's Guide to Park Design and Development to the satisfaction of the Parks and Recreation Director or their designee. The Owner/Permittee shall ensure the Parks and Recreation Department's review and approval of park construction plans prior to submittal of the plans to Development Services Department for permitting.

96. All utility infrastructure for the 8.12 acres of recreational facilities satisfying the development's population-based park requirements shall be separately and independently metered, and shall be fully segregated from, and shall not be interconnected with, any utility infrastructure serving the private development.

PUBLIC UTILITIES DEPARTMENT REQUIREMENTS:

97. Prior to the issuance of any Certificate of Occupancy, the Permittee shall assure, by permit and bond the design and construction of all public water and sewer facilities as required in the accepted water and sewer studies for this project in a manner satisfactory to the Public Utilities Department and the City Engineer. Water and sewer facilities, as shown on the approved Exhibit "A", may require modification at final engineering.

98. During ministerial review, the Permittee shall submit special design and calculations prepared by a Professional Engineer (PE) to show that there will be no adverse loading on the existing 96" sewer main and that the limits of the trenching operations for the sewer repair or replacement will be outside the area of influence of the structure. If unable to show no adverse loading will occur on the existing 96" sewer main, the Permittee shall redesign the structure and amend the discretionary permit as necessary.

99. The Permittee shall perform odor monitoring on the 36" New Ocean Beach Trunk Sewer for a period of at least 10 consecutive days with data collected continuously at maximum 20-minute intervals between the first day of June and the last day of September so that data is collected during the hottest months of the year. Once the odor monitoring data is compiled, the Midway Rising project will prepare a report summarizing and evaluating the odor data collected and make recommendations as to the severity of the odors measured and what level of mitigation is necessary to prevent nuisance odors from emanating from the onsite private sewer system. The odor monitoring evaluation report will be submitted to the City for review and approval to determine whether P-traps are needed or not.

100. The Permittee shall perform CCTV inspection of the existing 96" sewer main prior to and after construction of the proposed Entertainment Center structure. Video recordings will be provided to the City for review and to determine if any repairs to the sewer main are required due to damage caused by the construction.

101. Prior to the issuance of any building permits, the Permittee shall assure, by permit and bond, the design and construction of new water and sewer service(s) outside of any driveway or drive aisle and the abandonment of any existing unused water and sewer services within the right-

of-way adjacent to the project site, in a manner satisfactory to the Public Utilities Department and the City Engineer.

102. Permittee shall apply for a plumbing permit for the installation of appropriate private back flow prevention device(s) (BFPD), on each water service (domestic, fire and irrigation), in a manner satisfactory to the Public Utilities Department and the City Engineer. BFPDs shall be located above ground on private property, in line with the service and immediately adjacent to the right-of-way.

103. Maximum water static pressures onsite are expected to range from 163 psi to 165 psi. When static pressure exceeds 80 psi, the Permittee shall install individual pressure regulators for services on all pads in order to comply with the California Plumbing Code which limits building supply pressures to a maximum of 80 psi.

104. During ministerial review the Permittee shall evaluate sizing and connection of proposed sewer mains and laterals below the trunk sewer dry weather flow level to ensure mains and laterals are always submerged.

105. During the ministerial phase, Permittee will need to complete and submit a Deviation from Standards request and Encroachment Maintenance and Removal Agreement (EMRA) for the proposed structure over the interceptor easement.

106. During the ministerial phase (60% design phase), the Permittee will need to develop and submit a shutdown request, which needs to be coordinated with and approved by DSD and PUD.

107. The Permittee shall design and construct all proposed public water and sewer facilities, in accordance with established criteria in the current edition of the City of San Diego Water and Sewer Facility Design Guidelines and City regulations, standards and practices.

108. The Permittee shall grant sewer access easements as shown on the approved Exhibit "A", satisfactory to the Public Utilities Department and the City Engineer. Easements shall be located entirely within one lot or parcel and adjacent to the property line.

109. No approved improvements or landscaping, including private water facilities, grading and enhanced paving, shall be installed in or over any easement prior to the applicant obtaining an Encroachment Maintenance and Removal Agreement (EMRA).

110. No trees or shrubs exceeding three feet in height at maturity shall be installed within ten feet of any sewer facilities and five feet of any water facilities.

SOLID WASTE LOCAL ENFORCEMENT AGENCY (LEA):

111. Prior to the issuance of any construction permits, such as demolition, grading, or building permits, the Permittee shall include the following notes on all construction documents, including demolition, grading, or building permits, subject to verification by the City's Solid Waste and Local Enforcement Agency (LEA) staff and Development Services staff.

A. Solid Waste Local Enforcement Agency Notes

1. The City of San Diego Solid Waste Local Enforcement Agency (LEA) is certified by the Department of Resources Recycling and Recovery (CalRecycle) to enforce state laws and regulations at solid waste facilities, including closed disposal sites. The LEA has authority to review and approve land use changes on or within 1000 feet of closed disposal sites pursuant to Title 27, California Code of Regulations (27CCR), Section 21190 (c).
2. The project is within the boundary of the Midway Landfill, which has CalRecycle Solid Waste Information System (SWIS) Number **37-AB-0034**.
3. Reference
4. the Title 27 California Code of Regulations (27CCR), Section 21190 , Community Health and Safety Plan, Waste Management Plan and Postclosure Land Use Plan on all plans.
5. The waste footprint delineated in the Phase II Environmental Site Assessment Report Number 2 – Geophysical Survey and Trenching Assessment is only estimated. All work outside of the estimated waste footprint shall be monitored for the presence of buried waste.

B. Delineate the estimated Midway Landfill waste footprint on all construction plans.

112. After the approval of Midway Rising Project review cycles and at any time during the project, additional information or documents from the Permittee may be required to demonstrate to the LEA that the project does not pose a threat to public health and safety and the environment (Title 27 Section 21190(d)).

113. Prior to any geotechnical exploration, no portions of the project related to Title 27 Section 21190 regulations shall commence without review and approval by the City of San Diego Solid Waste Local Enforcement Agency (LEA) of the following:

- A. Prepare and submit a site-specific Community Health and Safety Plan (CHSP) to the LEA for review and approval prior to any ground disturbance on the project site and off-site improvements that are on or within 1,000 feet of the known and inferred limits of the Midway Landfill waste footprint. CHSP must include the following:
- 1) Air monitoring for fugitive dust and landfill gas for any trenching or grading activity.
 - 2) Decontamination plan for all equipment that comes in contact with burn ash or municipal solid waste (MSW).
 - 3) Public notification plan.
 - 4) Notifications to applicable regulatory agencies such as the Regional Water Quality Control Board and the Air Pollution Control District.

114. Prior to issuance of any construction permit, no portions of the project that are on or within 1,000 feet of the known and inferred limits of the Midway Landfill waste footprint related to Title 27 Section 21190 regulations, shall commence without review and approval by the City of San Diego Solid Waste Local Enforcement Agency (LEA) of the following:

- A. Prepare and submit a site-specific Community Health and Safety Plan (CHSP) to

the LEA for review and approval prior to any ground disturbance on the project site. CHSP must include, but is not limited to, the following:

- 1) Air monitoring for fugitive dust and landfill gas for any trenching or grading activity.
- 2) Decontamination plan for all equipment that comes in contact with burn ash or MSW.
- 3) Public notification plan.

- B. Prepare and submit a site-specific Waste Management Plan (WMP) for encountering expected and unexpected burn ash and MSW, including impacted soil, to the LEA for review and approval. WMP must include, but not limited to, the following:
 - 1) Identification procedure for burn ash and MSW.
 - 2) On-site management plan for burn ash and MSW
 - 3) Burn ash and MSW testing plan.
 - 4) Final Waste Disposition Plan for burn ash and MSW
- C. Prepare and submit all construction plans and technical documentation for all products to be used for the project that are related to the portions of the project related to Title 27 Section 21190 regulations.
- D. Prepare and submit a Post-Closure Land Use Plan (PCLUP) to the LEA for review and approval. The PCLUP shall include the following information in a formal report to demonstrate that the post-closure use of the land meets the requirements of Title 27 California Code of Regulations. Such that landfill gases, wastes, disturbance of the final cover, liner or other components of the containment system will not increase the potential threat to public health and safety and the environment. PCLUP must include the following (contact LEA for guidance):
 - 1) Site description and history.
 - 2) Proposed land use: provide a narrative that thoroughly describes the proposed use of the landfill.
 - 3) Post-closure maintenance plan: description of the proposed maintenance plan to control and correct onsite deficiencies due to settlement, ponding, gas control, erosion, etc.

115. Prior to the issuance of the first construction permit, the Permittee shall submit to the LEA a copy of the San Diego Air Pollution Control District's (APCD) Mitigation Measures.

116. Prior to the issuance of the first construction permit, the Permittee shall submit to LEA a copy of any approved removal action work plan for Clean Closure or Partial Clean Closure from the Regional Water Quality Control Board (RWQCB) or Department of Toxic Substances Control (DTSC).

117. Prior to the issuance of the first construction permit, the Permittee shall submit to LEA a copy of the notice that work is proposed on or near an inactive landfill to the Regional Water Quality Control Board and the Air Pollution Control District.

118. Prior to issuance of any building permit within portions of the site subject to Title 27 California Code of Regulations, Section 21190, the Permittee shall submit

methane mitigation system design plans to LEA for review and approval.

119. The following conditions must be met before commencing any construction above the methane mitigation system:

- a. The methane mitigation membrane installer shall perform a smoke test to verify that the methane mitigation membrane has been installed and tested in accordance with the manufacturer's specifications and is free of leaks.
- b. Smoke test to be conducted and observed by a qualified inspector as designated by the engineer of record.
- c. Prior to the issuance of the certificate of occupancy for any building affected by and/or within the footprint of any methane mitigation system, the Permittee shall provide a verification letter from the Engineer of Record to the LEA confirming that all regulatory requirements related to the design and construction of the methane mitigation system have been met.

120. Prior to the issuance of any permits for work on or within 1,000 feet of the known and inferred limits of the Midway Landfill waste footprint, the Permittee shall ensure the City's Resident Engineer (RE) includes the City of San Diego Solid Waste Local Enforcement Agency (LEA) at any pre-construction meeting for such work. LEA shall be contacted at least 3 days prior to the scheduled preconstruction meeting via email to jwchen@sandiego.gov or the current inspector.

121. Prior to and at the pre-construction meeting, the Permittee shall:

- 1) Provide map(s) that delineate the known and inferred limits of the Midway Landfill waste footprint.
- 2) Disclose the presence of the burn ash and municipal solid waste to all contractors, including the distribution of the LEA-approved Community Health and Safety Plan.
- 3) Provide and instruct all contractors to follow the LEA-approved Community Health and Safety Plan, Waste Management Plan, and Postclosure Land Use Plan.

122. Prior to any grading or ground-disturbance work on or within 1,000 feet of the known and inferred limits of the Midway Landfill waste footprint, the Permittee shall notify the LEA at least two working days prior to start of work via email to jwchen@sandiego.gov or current inspector.

123. Prior to any grading or ground-disturbance work on or within 1,000 feet of the known and inferred limits of the Midway Landfill waste footprint, the Permittee shall ensure a Certified Industrial Hygienist (CIH) or HAZWOPER-certified professional is on-site to oversee the excavation and handling of burn ash, MSW, and impacted soil.

124. Prior to the commencement of any building or foundation work on or within 1,000 feet of the known and inferred limits of the Midway Landfill waste footprint, the Permittee shall provide the LEA a copy of any Clean Closure or Partial Clean Closure Certification from the Regional Water

Quality Control Board (RWQCB) or Department of Toxic Substances Control (DTSC) if applicable.

125. Prior to the release of grading bonds for any work on or within 1,000 feet of the known and inferred limits of the Midway Landfill waste footprint, the Permittee shall prepare and submit the Final Construction Report, which includes the as-built plans, final waste disposition, updated waste footprint, and landfill gas monitoring logs.

126. After the construction of any engineered cap, a land use covenant shall be filed with the County of San Diego Recorder's Office prior to the release of grading bonds for any on, or within 1,000 feet of the known and inferred limits of the Midway Landfill waste footprint.

INFORMATION ONLY:

- The issuance of this discretionary permit alone does not allow the immediate commencement or continued operation of the proposed use on site. Any operation allowed by this discretionary 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.
- This development may be subject to impact fees at the time of construction permit issuance.

APPROVED by the City Council of the City of San Diego on [INSERT Approval Date] and [Approved Resolution Number].

ATTACHMENT 5

SITE DEVELOPMENT PERMIT NO. PMT-3318619

Date of Approval: XX

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES DEPARTMENT

Martha Blake
Development Project Manager

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

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

Midway Rising LLC
Permittee

By _____
NAME
TITLE

Midway Rising LLC
Permittee

By _____
NAME
TITLE

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

(O-20[INSERT REMAINDER OF TITLE])

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF
SAN DIEGO APPROVING VESTING TENTATIVE MAP NO.
PMT-3258589 AND EASEMENT VACATIONS NO. PMT-
3369681 AND PMT-3369682 FOR MIDWAY RISING –
PROJECT NO. PRJ-1106734.

RECITALS

The Council of the City of San Diego (Council) adopts this Ordinance based on the following:

A. MIDWAY RISING LLC, a California Corporation, Applicant/Subdivider, and BOWMAN, Engineer, filed an application with the City of San Diego for a vesting tentative map (Vesting Tentative Map No. PMT-3258589) and easement vacations (Easement Vacations No. PMT-3369681 and PMT-3369682) for a mixed-use subdivision for the Midway Rising project (Project), which will include approximately 4,254 housing units, including 2,000 affordable units, public parks and open space, a 16,000 seat, multi-purpose Entertainment Center, and up to 130,000 square feet of commercial uses. The 49.23-acre project site is located at 3220, 3240, 3250, 3350, and 3500 Sports Arena Boulevard, and legally described as: PARCEL 1: THOSE PORTIONS OF PUEBLO LOTS 241, 242, 259, 276, 311, 312, 313, 314, 337 AND 338 OF THE PUEBLO LANDS OF SAN DIEGO, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF MADE BY JAMES PASCOE, A COPY OF WHICH SAID MAP WAS FILED IN THE OFFICE OF COUNTY RECORDER OF SAN DIEGO COUNTY, AND KNOWN AS MISCELLANEOUS MAP NO. 36, TOGETHER WITH LOT “A” AND A PORTION OF LOT “B” OF PUEBLO LOT 339, ACCORDING TO PARTITION MAP THEREOF ON FILE IN THE OFFICE OF THE

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COUNTY CLERK OF SAID COUNTY, IN AN ACTION ENTITLED "STEELE VS. STEELE", SUPERIOR COURT, CASE NO. 5620, TOGETHER WITH MAP OF CASS AND MCELWEE SUBDIVISION, ACCORDING TO MAP THEREOF NO. 1581, FILED IN THE OFFICE OF COUNTY RECORDER OF SAN DIEGO COUNTY; PARCEL 2: ALL THAT PORTION OF PUEBLO LOTS 242, 243, 259 AND 311 OF THE PUEBLO LANDS OF SAN DIEGO, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO THE MAP THEREOF MADE BY JAMES PASCOE IN 1870; A COPY OF WHICH MAP WAS FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, NOVEMBER 14, 1921; PARCEL 3: THAT PORTION OF PUEBLO LOT 259 OF THE PUEBLO LANDS OF SAN DIEGO, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF MADE BY JAMES PASCOE, A COPY OF WHICH SAID MAP WAS FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY AND KNOWN AS MISCELLANEOUS MAP NO. 36; PARCEL 4: EXCEPTING THEREFROM A PORTION OF SAID LAND, ALL URANIUM, THORIUM, AND ALL OTHER MATERIALS DETERMINED PURSUANT TO SECTION 5(B) (1) OF THE ATOMIC ENERGY ACT OF 1946 (60 STAT. 761), TO BE PECULIARLY ESSENTIAL TO THE PRODUCTION OF FISSIONABLE MATERIAL, CONTAINED IN WHATEVER CONCENTRATION IN DEPOSITS IN THE LANDS COVERED BY THIS INSTRUMENT, TOGETHER WITH THE RIGHT OF THE UNITED STATES THROUGH ITS AUTHORIZED AGENTS OR REPRESENTATIVES AT ANY TIME TO ENTER UPON THE LAND AND PROSPECT FOR, MINE AND REMOVE THE SAME, AS RESERVED FOR THE USE OF THE UNITED STATES, IN A DEED RECORDED JANUARY 31, 1955 IN BOOK 5514, PAGE 182 OF

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OFFICIAL RECORDS. The project site is in the CC-3-6, Coastal Height Limit Overlay Zone; the Airport Land Use Compatibility Overlay Zone (ALUCOZ) – San Diego International Airport (SDIA) Review Areas 1 and 2, Naval Air Station North Island Review Area 2, the Federal Aviation Administration Part 77 Noticing Area; and within a Transit Priority Area, and the Community Plan Implementation Overlay Zone Type B (CPIOZ-B) within the Midway-Pacific Highway Community Plan.

B. The Map proposes the subdivision of one legal lot consisting of portions of four parcels on a 49.23-acre site into 43 lots for a new entertainment, residential and mixed-use development. The Map proposes 11 residential lots, 12 mixed-use lots, 8 public space lots, 2 public park lots, 8 private drive lots, and 2 lots for the new entertainment center for a total of 43 lots.

C. The project complies with the requirements of a preliminary soils and/or geological reconnaissance report under the Subdivision Map Act sections 66490 and 66491(b)-(f) and San Diego Municipal Code section 144.0220.

D. On September 25, 2025, the Planning Commission of the City of San Diego considered Vesting Tentative Map No. PMT-3258589 and Easement Vacations No. PMT-3369681 and PMT-3369682 and voted to recommend approval of the project pursuant to Resolution No. [INSERT RESO #]-PC.

E. On _____, the Council held a noticed public hearing to consider Tentative Map No. PMT-3258589 and Easement Vacations No. PMT-3369681 and PMT-3369682. Pursuant to San Diego Municipal Code sections 125.0440 and 125.1040, and Subdivision Map Act section 66428, the Council received for its consideration written and oral

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presentations, evidence, and testimony from all interested parties at the public hearing. The Council has fully considered and has been fully advised on this matter.

F. The Office of the City Attorney prepared this Resolution based on the information provided by City staff (including information provided by affected third parties and verified by City staff), with the understanding that this information is complete and accurate.

G. Under San Diego Charter section 280(a)(1), this Resolution is not subject to veto by the Mayor because this matter requires the Council to act as a quasi-judicial body and where a public hearing was required by law implicating due process rights of individuals affected by the decision and where the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented.

ACTION ITEMS

Be it resolved by the Council of the City of San Diego:

1. The Council adopts the following findings with respect to Tentative Map No. PMT-3258589:

TENTATIVE MAP – SAN DIEGO MUNICIPAL CODE [SDMC] SECTION 125.0440

- 1. The proposed subdivision and its design or improvement are consistent with the policies, goals, and objectives of the applicable land use plan.**

The Project involves the redevelopment of the Project site with a mix of uses, including entertainment, retail, residential, recreational, and public park uses. The Project encompasses 4,254 housing units, including 2,000 affordable units restricted to households with incomes less than 80 percent of the area median income, as well as a multi-purpose entertainment center to replace the existing San Diego International Sports Arena (“SDISA”).

To ensure that the Sports Arena Community Village would be planned comprehensively, the 2018 Midway-Pacific Highway Community Plan (“Community Plan”) identified the need to prepare either a Specific Plan or a Master Planned Development Permit, and therefore, a Specific Plan has been prepared and is proposed as part of the project. The Midway Rising Specific Plan (“Specific Plan”) provides guidance on the permitted and

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regulated land uses within the Specific Plan area, as well as policies and regulations that work with the underlying base zones and development regulations in the San Diego Municipal Code (“SDMC”) to ensure the implementation of the Community Plan’s vision. The Specific Plan will help guide development. The Specific Plan’s purpose is to provide guidance and direction on land use, site planning, building, public space, and landscape design to ensure that future development of the community village results in a pedestrian and transit-oriented mixed use entertainment destination.

To ensure that the Sports Arena Community Village would be planned comprehensively, the 2018 Midway-Pacific Highway Community Plan (“Community Plan”) identified the need to prepare either a Specific Plan or a Master Planned Development Permit, and therefore, a Specific Plan has been prepared and is proposed as part of the project. The Midway Rising Specific Plan (“Specific Plan”) provides guidance on the permitted and regulated land uses within the Specific Plan area, as well as policies and regulations that work with the underlying base zones and development regulations in the San Diego Municipal Code (“SDMC”) to ensure the implementation of the Community Plan’s vision. The Specific Plan will help guide development. The Specific Plan’s purpose is to provide guidance and direction on land use, site planning, building, public space, and landscape design to ensure that future development of the community village results in a pedestrian and transit-oriented mixed use entertainment destination.

The Project includes a Vesting Tentative Map (“VTM”) to allow for grading and development of the Midway Rising Specific Plan. The VTM provides details relative to grading, street design, and utility layout necessary to implement the land use plan of the Project. Further, the VTM provides for the implementation of residential and commercial land uses.

The Project also includes a development agreement (“DA”), called the Midway Rising Development Agreement, to set forth the terms and conditions for how the property may be developed by the developer and to provide extraordinary benefits to the public.

Improvements to infrastructure, including relocations, extension, and/or upgrades to existing water, sewer, electrical and gas distribution, communication facilities, and stormwater facilities, would be implemented as part of the Project. The Specific Plan identifies a multimodal transportation network that would include new public streets, modified public streets, sidewalks, multi-use paths, bicycle facilities, promenades, and pedestrian paseo greens and paseo greenways. The Project would incorporate a number of Sustainability Design Features to meet San Diego’s 2022 Climate Action Plan goals, including compliance with the California Green Building Standards Code, solar panels, EV parking infrastructure, and rainwater capture.

The Project includes a General Plan Amendment to redesignate the site from Community Commercial – Residential Permitted to Community Village in the Community Plan. The proposed Community Village land use designation is consistent with the existing Multiple Use land use designation identified in the General Plan. In addition, a Community Plan Amendment redesignates the Community Plan Community Commercial

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– Residential Permitted (zero to 44 dwelling units per acre) designation to a Community Village designation (zero to 72 dwelling units per acre). The revised land use designation is consistent with the overall vision of the Community Plan, which identifies this area as the location for a Sports Arena Community Village. Amendments to the Community Plan are proposed concurrently with this action. The Community Plan includes a Community Plan Implementation Overlay Zone – Type B (CPIOZ), which includes the Project site. The Specific Plan includes tailored standards so the Project site is being removed from the CPIOZ. In addition, it adds the Community Village (0-72 dwelling units per acre) land use designation to the Community Plan, as well as a number of revisions to the Midway Rising Community Plan. Those revisions include, but are not limited to, amending exhibits for Figure 2-1: Land Use Map and Table 2-1: Midway-Pacific Highway Plan Land Use Designations to reflect the Community Village land Use Designation; and revision to Land Use Policy LU-4.1 to provide multi-modal access to the specific plan area, provide a continuous promenade along Frontier and Kurtz Streets to further the vision for a multi-modal village destination. In addition, related to Chapter 3: Mobility of the Community Plan, a new policy, ME-2.13 has been added to provide access to properties along Rosecrans Street at Kurtz Street, Hancock Street, and Moore Street to reduce curb cut to support transportation network improvement including flex lanes. Chapter 3 is also revising the recommendation for the Greenwood Street extension to allow for a Class 1 bicycle path to provide a connection across the project site from Sports Areas to Greenwood Street in lieu of a public street connection. The Community Plan is also being amended to include updated Figures (4-1 and 4-2) to reflect the Midway Rising Specific Plan area and to reflect the revised alignments for Kemper street, which applies to the Bay-to-Bay Urban Path, and Frontier Street.

A rezone will change the Project site's base zone from CC-3-6 (Community Commercial) to a Residential Mixed-Use base zone (RMX-2), which allows residential and commercial uses that include retail sales, commercial services, personal services, entertainment, assembly, and visitor accommodation uses that serve residents and workers in the community and adjacent communities. Therefore, the proposed subdivision and its design or improvement are consistent with the policies, goals, and objectives of the applicable land use plans.

2. The proposed subdivision complies with the applicable zoning and development regulations of the Land Development Code, including any allowable deviations pursuant to the land development code.

The Specific Plan provides guidance and direction on land use, site planning, building, public space, and landscape design for the redevelopment of the Project site. The Specific Plan envisions a transformation of the area from a single-purpose arena, ancillary auto-oriented retail, and parking into a mixed-use community village with up to 4,254 homes, approximately 8.12 acres of parks, 6.42 acres of public space, a multi-purpose entertainment center, and pedestrian-oriented commercial and supporting uses that together will result in a walkable and inclusive urban village consistent with the vision

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and policies established in the SDMC, the San Diego Land Development Code, the Community Plan, and the City of San Diego General Plan.

The Specific Plan includes a fully outlined infrastructure program with an implementation plan as required by state guidance for specific plans, a framework for public spaces and parks, and a plan for a multi-modal transportation network. This level of detail is not provided in community plans, and a more detailed document such as a specific plan is needed to guide this level of development. The Specific Plan also contains supplemental development regulations including deviations for the Project which are detailed in Chapter 8 of the Specific Plan. These tailored standards reflect the unique constraints of the site or allow additional benefits that can only be realized through a Specific Plan.

The Project includes a DA to set forth the terms and conditions for how the property may be developed, to provide extraordinary benefits to the public, and to provide assurance that the Project site can be developed in accordance with the Development Regulations described in the DA. Therefore, with the implementation of the Specific Plan, the Project and proposed subdivision comply with the applicable zoning and development regulations of the Land Development Code including any allowable deviations pursuant to the Land Development Code.

3. The site is physically suitable for the type and density of development.

The Project site encompasses 49.23 acres of developed land located at 3220, 3240, 3250, 3350, and 3500 Sports Arena Boulevard in the City of San Diego (City). The site is generally bounded by Kurtz Street to the north, Sports Arena Boulevard to the south, and commercial properties to the west and east. The Project site is currently developed with various commercial and entertainment uses, including the San Diego International Sports Arena, and paved surface parking areas. The Project site is generally flat with little to no topographic contours. On-site elevation ranges from approximately 10 feet to 15 feet above mean sea level. The highest elevations surround the existing San Diego Sports Arena, while the lowest elevations are in the northwestern area of the site.

The Project site is surrounded by urban development. Existing uses in the surrounding area include community commercial services (such as grocery stores, drugstores, restaurants, hardware, and auto-related services), regional commercial (such as big box retailers and hotels), and community-serving uses (such as medical facilities and City services). Uses include commercial and office uses to the west, light industrial and office space to the north along Kurtz Street, and a parking structure and the Rosecrans Plaza Shopping Center to the east. The Sports Arena Shopping Center is directly south of Sports Arena Boulevard. Multi-family residential uses of varying scales and densities are located farther west and south of the Project site.

The Project encompasses 4,254 housing units, including 2,000 affordable units restricted to households with incomes less than 80 percent of the area median income, as well as a multi-purpose entertainment center to replace the existing SDSA. The Project would also

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include a maximum of 130,000 square feet of commercial retail uses, including restaurants, shops, and supporting neighborhood retail. The Midway Rising DA sets forth the terms and conditions for how the property may be developed by the developer and outlines the extraordinary benefits provided by the Project to the public.

Furthermore, the Project will add 14.54 acres of parks and public space (specifically, 8.12 acres of public parks and 6.42 acres of public space in a network of plazas, promenades, paseo greens, and streetscapes). These parks and public spaces will provide open space for uses such as sports, exercise, community recreation, community events, public art, and pedestrian and bike paths. The public parks and spaces would be open to the general public. .

The Project would also include infrastructure improvements, such as relocations, extension, and/or upgrades to existing water, sewer, electrical and gas distribution, communication facilities, and stormwater facilities. The Specific Plan identifies a multimodal transportation network that would include new public streets, modified public streets, sidewalks, multi-use paths, bicycle facilities, promenades, and pedestrian paseo greens and paseo greenways. The Project would incorporate a number of Sustainability Design Features to meet San Diego's 2022 Climate Action Plan goals, including compliance with the California Green Building Standards Code, solar panels, EV parking infrastructure, and rainwater capture.

On-site runoff would be collected and conveyed through a series of new underground private storm drains collecting rooftop and surface drainage. The Project would construct new 24-inch public storm drains within Kemper Street and Frontier Drive running east-west and a new 36-inch public storm drain within Frontier Drive running north-south. Portions of the existing 42-inch public storm drain that crosses the property diagonally at the northwestern corner would be realigned due to conflicts with proposed building sites and replaced with a 54-inch public storm drain within Kemper Street. Multiple connections into the existing storm drains surrounding the site would be constructed through a series of storm drains. Frontage improvements would also include the replacement and installation of storm drain inlets and cleanouts along Sports Arena Boulevard and Kurtz Street. The new on-site storm drain system would collect and treat stormwater before it discharges off-site through a combination of modular wetland units and private biofiltration planters. In addition, the Project would create approximately 14.10 acres of landscape area on a site that is currently approximately 97 percent impermeable and has no stormwater treatment. All runoff from the site would be treated in modular wetlands or planter areas as required by law. Therefore, the Project site is physically suitable for the type and density of development proposed.

4. The design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

The project site is fully developed with structure and surface, paved parking lots. No sensitive biological resources exist on-site, and no habitat for fish or wildlife. The San

(O-20[INSERT REMAINDER OF TITLE])

Diego River is located north of the project site, separated from that area which does support wildlife, by the Interstate 8, also known as the Kumeyaay Highway or Ocean Beach Freeway. Given the distance from the San Diego River, and the freeway that separates the project site from the river, no impacts to that area from the project are expected.

A Supplemental Environmental Impact Report (“SEIR”) has been prepared for the Project in accordance with the California Environmental Quality Act (“CEQA”). A Mitigation, Monitoring and Reporting Program (“MMRP”) will be implemented with this Project, which would reduce some of the potential impacts to below a level of significance a number of impacts related to Land Use, Transportation and Circulation, Historical and Tribal Cultural Resources, Noise, Health and Safety, and Air Quality. . However, significant unmitigated impacts would result to Land Use, Transportation and Circulation, Historical and Tribal Cultural Resources, and Noise. All other impacts analyzed in the SEIR were determined to be less than significant.

Furthermore, the Project site encompasses 49.23 acres of developed land bounded by Kurtz Street to the north, Sports Arena Boulevard to the south, and commercial properties to the west and east. The Project site is developed with a variety of commercial and entertainment uses, including the SDSA, and paved surface parking areas. The Project site has approximately 97 percent impermeable areas. The Project solely proposes redevelopment of the site already impacted by development and does not propose changes to any undeveloped areas. Therefore, the design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

5. The design of the subdivision or the type of improvement will not be detrimental to the public health, safety, and welfare.

As described in VTM Findings 1 and 2 above and Chapter 3.0 of the SEIR, the Project involves redevelopment of the existing site with a mix of uses, including entertainment, retail, residential, recreational, and public park uses. The Project encompasses 4,254 housing units, including 2,000 affordable units restricted to households with incomes less than 80 percent of the area median income, as well as a multi-purpose entertainment center to replace the existing SDSA. The Project would also include a maximum of 130,000 square feet of commercial retail uses, including restaurants, shops, and supporting neighborhood retail. The Midway Rising DA sets forth the terms and conditions for how the property may be developed by the developer and outlines the extraordinary benefits provided by the Project to the public.

Furthermore, the Project will add 14.54 acres of parks and public space (specifically, 8.12 acres of public parks and 6.42 acres of public space in a network of plazas, promenades, paseo greens, and streetscapes). These parks and public spaces will provide open space for uses such as sports, exercise, community recreation, community events, public art, and pedestrian and bike paths. The public parks and spaces would be open to the general public. .

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The Project would also include infrastructure improvements, such as relocations, extension, and/or upgrades to existing water, sewer, electrical and gas distribution, communication facilities, and stormwater facilities. The Specific Plan identifies a multimodal transportation network that would include new public streets, modified public streets, sidewalks, multi-use paths, bicycle facilities, promenades, and pedestrian paseo greens and paseo greenways. The Project would incorporate a number of Sustainability Design Features to meet San Diego's 2022 Climate Action Plan goals, including compliance with the California Green Building Standards Code, solar panels, EV parking infrastructure, and rainwater capture.

An SEIR has been prepared for the Project in accordance with CEQA. A MMRP will be implemented with this Project, which would reduce some of the potential impacts to below a level of significance a number of impacts related to Land Use, Transportation and Circulation, Historical and Tribal Cultural Resources, Noise, Health and Safety, and Air Quality. However, significant unmitigated impacts would result to Land Use, Transportation and Circulation, Historical and Tribal Cultural Resources, and Noise. All other impacts analyzed in the EIR were determined to be less than significant.

The conditions to the VTM include various conditions and referenced exhibits of approval relevant to achieving project compliance with the applicable regulations of the SDMC in effect for this Project. Such conditions within the permit have been determined as necessary to avoid adverse impacts upon the health, safety and general welfare of persons residing or working in the surrounding area. The Project will comply with the development conditions in effect for the subject property as described in VTM No. 3258589, and other regulations and guidelines pertaining to the subject property per the SDMC for the Project site. Prior to issuance of any building permits for the proposed development, the plans will be reviewed for compliance with all Building, Electrical, Mechanical, Plumbing and Fire Code requirements, and the owner/ permittee will be required to obtain a grading and public improvement permit. Therefore, the design of the subdivision and the type of improvement would not be detrimental to the public health, safety and welfare.

6. The design of the subdivision or the type of improvements will not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision.

The 49.23-acre site currently contains a number of easements, including easements for public utilities, including sewer, gas, and electric; ingress and egress; access road; public street; and incidental purposes. The Project proposes to vacate three of the easements: one easement contains an abandoned sewer main, and runs parallel to the eastern project boundary, between Sports Arena Boulevard and Kurtz Street; the second would be to vacate portions of an easement, located in in the center of the project site, between Sports Arena Boulevard and Kurtz Street that is for an active public sewer; the third easement to be conditionally vacated is for storm drain and appurtenances, that crosses the northwestern portion of the project site. A new easement would be dedicated over the public sewer line, and the storm drain would be relocated as part of the project. Once the new

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easement and relocation have been accepted, the conditional vacations could be finalized, as the purpose for which those easements were required would no longer be needed.. However, all necessary easements acquired by the public at large will be replaced with new, functionally equivalent easements on the property. Therefore, the design of the subdivision and improvements will not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision.

7. The design of the proposed subdivision provides, to the extent feasible, for future passive or natural heating and cooling opportunities.

The design and proposed improvements for the subdivision are consistent with California Government Code Section 66473.1 and SDMC Section 125.0440(g) regarding the design of the subdivision for future passive or natural heating and cooling opportunities. The Specific Plan includes a fully outlined infrastructure program with an implementation schedule as required by state guidance for specific plans. This level of detail is not provided in community plans, and a more detailed document such as a specific plan is needed to guide this level of development.

The Specific Plan also contains supplemental development standards and sustainable building and site design, which are detailed in Chapter 8 and Appendix A of the Specific Plan. These tailored standards reflect the unique constraints of the site or allow additional benefits that can only be realized through a Specific Plan. As specified in the Specific Plan, building materials and colors should complement the natural, climatic, and architectural environment. The landscape philosophy of the Project focuses on a harmonious and aesthetically pleasing community which utilizes extensive tree canopy and open green space to connect the elements of the vibrant and inclusive mixed-use village. Therefore, within the implementation of the Specific Plan, the proposed subdivision has been designed to allow for future passive or natural heating and cooling opportunities.

8. The decision maker has considered the effects of the proposed subdivision on the housing needs of the region and that those needs are balanced against the needs for public services and the available fiscal and environmental resources.

As described in VTM Findings 1 and 2 above and Chapter 3.0 of the EIR, the Project involves redevelopment of the existing site with a mix of uses, including entertainment, retail, residential, recreational, and public park uses. The Project encompasses 4,254 housing units, including 2,000 affordable units restricted to households with incomes less than 80 percent of the area median income, as well as a multi-purpose entertainment center to replace the existing SDISA. The Project would also include a maximum of 130,000 square feet of commercial retail uses, including restaurants, shops, and supporting neighborhood retail. The Midway Rising DA sets forth the terms and conditions for how the property may be developed by the developer and outlines the extraordinary benefits provided by the Project to the public.

(O-20[INSERT REMAINDER OF TITLE])

An SEIR has also been prepared for the Project in accordance with CEQA. A MMRP will be implemented with this Project, which would reduce some of the potential impacts to below a level of significance a number of impacts related to Land Use, Transportation and Circulation, Historical and Tribal Cultural Resources, Noise, Health and Safety, and Air Quality. However, significant unmitigated impacts would result to Land Use, Transportation and Circulation, Historical and Tribal Cultural Resources, and Noise. All other impacts analyzed in the EIR were determined to be less than significant.

The Project includes a Development Agreement (DA) to set forth the terms and conditions for how the property may be developed, to provide extraordinary benefits to the public, and to provide assurance that the Project site can be developed in accordance with the Development Regulations described in the DA.

Improvements to infrastructure, including relocations, extension, and/or upgrades to existing water, sewer, electrical and gas distribution, communication facilities, and stormwater facilities, would be implemented as part of the Project. The Specific Plan identifies a multimodal transportation network that would include new public streets, modified public streets, sidewalks, multi-use paths, bicycle facilities, promenades, and pedestrian paseo greens and paseo greenways. The Project would incorporate a number of Sustainability Design Features to meet San Diego's 2022 Climate Action Plan goals, including compliance with the California Green Building Standards Code, solar panels, EV parking infrastructure, and rainwater capture.

Furthermore, the Project implements the City's General Plan policies that encourage locating residential near transit and employment opportunities, thereby capturing automobile trips and allowing for increased pedestrian activity, bicycle and transit activity. All appropriate public services (including fire, police, medical, schools, public parks, and libraries) as well as necessary utilities such as electricity, water, and sewer, will be available for the proposed Project. Therefore, the decision maker has considered the effects of the proposed subdivision on the housing needs of the region that includes on-site affordable housing units, and that those needs are balanced against the needs for public services and the available fiscal and environmental resources.

2. Portions of public sewer or sewers, drainage and incidental purposes easements located within the Project boundaries as shown Vesting Tentative Map No. PMT-3258589 shall be vacated, contingent upon the recordation of the approved Final Map for the Project, and that the following findings are supported by the minutes, maps, and exhibits, all of which are herein incorporated by reference:

1. **There is no present or prospective public use for the easement, either for the facility or purpose for which it was originally acquired or for any other public use of a like nature that can be anticipated.**

(O-20[INSERT REMAINDER OF TITLE])

The Project site encompasses 49.23 acres of developed land located at 3220, 3240, 3250, 3350, and 3500 Sports Arena Boulevard in the City. The site is generally bounded by Kurtz Street to the north, Sports Arena Boulevard to the south, and commercial properties to the west and east. Existing uses in the surrounding area include community commercial services (such as grocery stores, drugstores, restaurants, hardware, and auto-related services), regional commercial (such as big box retailers and hotels), and community-serving uses (such as medical facilities and City services). Uses include commercial and office uses to the west, light industrial and office space to the north along Kurtz Street, and a parking structure and the Rosecrans Plaza Shopping Center to the east. The Sports Arena Shopping Center is directly south of Sports Arena Boulevard. Multi-family residential uses of varying scales and densities are located farther west and south of the Project site. The Project site is currently developed with various commercial and entertainment uses, including the SDISA, and paved surface parking areas.

The Project site has operated as the SDISA for 59 years.

To ensure that the Sports Arena Community Village would be planned comprehensively, the Community Plan identified the need to prepare either a Specific Plan or a Master Planned Development Permit, and therefore, a Specific Plan has been proposed. The Specific Plan provides supplemental development regulations that work with the underlying base zones and development regulations in the SDMC to ensure the implementation of the Community Plan's vision.

The Specific Plan provides guidance and direction on land use, site planning, building, public space, and landscape design for the redevelopment of the Project site. The Specific Plan envisions a transformation of the area from a single-purpose arena, ancillary auto-oriented retail, and parking into a mixed-use community village with up to 4,254 homes, approximately 8.12 acres of parks, 6.42 acres of public space, a multi-purpose entertainment center, and pedestrian-oriented commercial and supporting uses that together will result in a walkable and inclusive urban village consistent with the vision and policies established in the SDMC, the San Diego Land Development Code, the Community Plan, and the City of San Diego General Plan.

The site contains 11 easements consisting of easements for public utilities, storm drain and appurtenances, ingress/egress, public sewer, access roads, public streets, transmission and distribution of electricity and gas once used for the existing SDISA and neighboring businesses. The Project proposes to vacate three of the easements: one easement contains an abandoned sewer main, and runs parallel to the eastern project boundary, between Sports Arena Boulevard and Kurtz Street; the second would be to conditionally vacate portions of an easement located in the center of the project site, between Sports Arena Boulevard and Kurtz Street, that is for an active public sewer; the third easement to be conditionally vacated is for storm drain and appurtenances, that crosses the northwestern portion of the project site. The Project would construct new 24-inch public storm drains within Kemper Street and Frontier Drive running east-west and a new 36-inch public storm drain within Frontier Drive running north-south. Portions of the existing 42-inch public storm drain that crosses the property diagonally at the northwestern corner would

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be realigned due to conflicts with proposed building sites and replaced with a 54-inch public storm drain within Kemper Street. Multiple connections into the existing storm drains surrounding the site would be constructed through a series of storm drains. In addition, a new easement would be dedicated over the public sewer line. Once the new easement and the relocation have been accepted, the conditional vacations could be finalized, as the purposes for which those easements were required would no longer be needed. The remaining 8 easements will be quitclaimed through the proposed Vesting Tentative Map action. Six of those easements are to San Diego Gas & Electric (SDG&E) in specific locations for gas and electric utilities; one is blanket easement for the whole property to SDG&E; and the last easement is to an existing leasehold for ingress and egress. The various easements are identified on sheets 4, 5, 6, and 7 of the proposed Vesting Tentative Map. The Project will include new roads with curb, gutter, sidewalk, water, sewer, storm drain, electric and telecommunications utilities and the necessary realigned easement for these purposes. As the uses for the SDG&E easements will be relocated and accommodated with new easements, those easements will no longer serve their purpose. In addition, as the project site is redeveloped, the leasehold would no longer exist and no longer require access on the property. There are remnant portions of the existing easements that extend beyond the Project's boundary that will remain.

The Project will introduce two new north-south roadway connections through the site by extending Kemper Street and Frontier Drive between Sports Arena Boulevard and Kurtz Street. The new Kemper Street right-of-way will be 93 feet wide, while the Frontier Drive right-of-way will be 78 feet wide. To support overall mobility improvements, 12 feet of additional right-of-way will be dedicated along the north side of Sports Arena Boulevard. Similarly, an additional 2.2 to 14.2 feet of right-of-way will be dedicated along the south side of Kurtz Street. On the west side of the project site, an existing storm drain will be realigned, and a new 30-foot-wide drainage easement will be dedicated for the relocated facility. Additionally, a new 50-foot-wide sewer easement will replace the existing substandard 20-foot-wide easement for the 96-inch interceptor sewer that traverses the site.

The Project would also include infrastructure improvements, such as relocations, extension, and/or upgrades to existing water, sewer, electrical and gas distribution, communication facilities, and stormwater facilities. The Specific Plan identifies a multimodal transportation network that would include new public streets, modified public streets, sidewalks, multi-use paths, bicycle facilities, promenades, and pedestrian paseo greens and paseo greenways. Therefore, there is no present or prospective public use for the easements, either for the facility or purpose for which it was originally acquired or for any other public use of a like nature that can be anticipated.

2. The public will benefit from the action through improved utilization of the land made available by the vacation.

The Project proposes to vacate, conditionally vacate, and quitclaim several easements associated with the previous configuration of the SDISA that are no longer needed with

(O-20[INSERT REMAINDER OF TITLE])

the Project's new, more modern design. The site currently contains 12 easements consisting of easements for public utilities, storm drain and appurtenances, ingress/egress, public sewer, access roads, public streets, transmission and distribution of electricity and gas once used for the existing SDISA and neighboring businesses. One of the existing easements are proposed to be vacated, 2 of the existing easements are proposed to be conditionally vacated, and the remaining 8 easements will be quitclaimed through the proposed Vesting Tentative Map action, as noted in Finding 1. above. The various easements are identified on sheets 4, 5, 6, and 7 of the proposed Vesting Tentative Map. The Project will include new roads with curb, gutter, sidewalk, water, sewer, storm drain, electric and telecommunications utilities and the necessary realigned easement for these purposes. There are remnant portions of the existing easements that extend beyond the Project's boundary that will remain.

The Project site is currently developed with various commercial and entertainment uses, including the SDISA, and paved surface parking areas. The Project encompasses 4,254 housing units, including 2,000 affordable units restricted to households with incomes less than 80 percent of the area median income, as well as a multi-purpose entertainment center to replace the existing SDISA. The Project would also include a maximum of 130,000 square feet of commercial retail uses, including restaurants, shops, and supporting neighborhood retail. The Midway Rising DA sets forth the terms and conditions for how the property may be developed by the developer and outlines the extraordinary benefits provided by the Project to the public.

The Project will add 14.54 acres of parks and public space (specifically, 8.12 acres of public parks and 6.42 acres of public space in a network of plazas, promenades, paseo greens, and streetscapes). These parks and public spaces will provide open space for sports, exercise, community recreation, community events, public art, pedestrian and bike paths, and more.

The Project would also include infrastructure improvements, such as relocations, extension, and/or upgrades to existing water, sewer, electrical and gas distribution, communication facilities, and stormwater facilities. The Specific Plan identifies a multimodal transportation network that would include new public streets, modified public streets, sidewalks, multi-use paths, bicycle facilities, promenades, and pedestrian paseo greens and paseo greenways. The Project would incorporate a number of Sustainability Design Features to meet San Diego's 2022 Climate Action Plan goals, including compliance with the California Green Building Standards Code, solar panels, EV parking infrastructure, and rainwater capture.

On-site runoff would be collected and conveyed through a series of new underground private storm drains collecting rooftop and surface drainage. The Project would construct new 24-inch public storm drains within Kemper Street and Frontier Drive running east-west and a new 36-inch public storm drain within Frontier Drive running north-south. Portions of the existing 42-inch public storm drain that crosses the property diagonally at the northwestern corner would be realigned due to conflicts with proposed building sites and replaced with a 54-inch public storm drain within Kemper Street. Multiple

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connections into the existing storm drains surrounding the site would be constructed through a series of storm drains. Frontage improvements would also include the replacement and installation of storm drain inlets and cleanouts along Sports Arena Boulevard and Kurtz Street. The new on-site storm drain system would collect and treat stormwater before it discharges off site through a combination of modular wetland units and private biofiltration planters. In addition, the Project would create approximately 14.10 acres of landscape area on a site that is currently approximately 97 percent impermeable and has no stormwater treatment. All runoff from the site would be treated in modular wetlands or planter areas as required by law.

The Project site is currently developed with various commercial and entertainment uses, including the SDSA, and paved surface parking areas. The Specific Plan provides guidelines for the development of the Sports Arena Community Village, including dwelling units, commercial uses, parks, and improvements. The easement vacations are necessary due to conflicts with proposed building sites and any facilities that need to be relocated will be replaced in an appropriate location, such as the public storm drain that will be relocated to Kemper Street. Therefore, the public will benefit from the action through improved utilization of the land made available by the vacation.

3. The vacation is consistent with any applicable land use plan.

As outlined in Vesting Tentative Map Finding No. 1 above, the vacation is consistent with any applicable land use plan, including the proposed Midway Rising Specific plan.

4. The public facility or purpose for which the easement was originally acquired will not be detrimentally affected by the vacation or the purpose for which the easement was acquired no longer exists.

The Project site is currently developed with various commercial and entertainment uses, including the SDSA, and paved surface parking areas. The Project site has operated as the SDSA for 59 years.

The project is proposing a new, modern design for the SDSA as well as the development of the Sports Arena Community Village, including all dwelling units, commercial uses, parks, and improvements. The Project proposes to vacate, conditionally vacate, and quitclaim several easements associated with the previous configuration of the SDSA that are no longer needed with the Project's new, more modern design. All easements the Project requires to satisfy applicable laws will replace or modify existing easements.

The site contains 11 easements consisting of easements for public utilities, storm drain and appurtenances, ingress/egress, public sewer, access roads, public streets, transmission and distribution of electricity and gas once used for the existing SDSA and neighboring businesses. Details of the proposed vacations and quit claims are detailed in Finding 1. The various easements are identified on sheets 4, 5, 6, and 7 of the proposed Vesting Tentative Map. The Project will include new roads with curb, gutter, sidewalk, water, sewer, storm drain, electric and telecommunications utilities and the necessary realigned

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easement for these purposes. There are remnant portions of the existing easements that extend beyond the Project's boundary that will remain.

Specifically, the Project will introduce two new north-south roadway connections through the site by extending Kemper Street and Frontier Drive between Sports Arena Boulevard and Kurtz Street. The new Kemper Street right-of-way will be 93 feet wide, while the Frontier Drive right-of-way will be 78 feet wide. To support overall mobility improvements, 12 feet of additional right-of-way will be dedicated along the north side of Sports Arena Boulevard. Similarly, an additional 2.2 to 14.2 feet of right-of-way will be dedicated along the south side of Kurtz Street. On the west side of the project site, an existing storm drain will be realigned, and a new 30-foot-wide drainage easement will be dedicated for the relocated facility. Additionally, a new 50-foot-wide sewer easement will replace the existing substandard 20-foot-wide easement for the 96-inch interceptor sewer that traverses the site.

The Project would also include infrastructure improvements, such as relocations, extension, and/or upgrades to existing water, sewer, electrical and gas distribution, communication facilities, and stormwater facilities. The Specific Plan identifies a multimodal transportation network that would include new public streets, modified public streets, sidewalks, multi-use paths, bicycle facilities, promenades, and pedestrian paseo greens and paseo greenways. The Project would incorporate a number of Sustainability Design Features to meet San Diego's 2022 Climate Action Plan goals, including compliance with the California Green Building Standards Code, solar panels, EV parking infrastructure, and rainwater capture.

The Project will add 14.54 acres of parks and public space (specifically, 8.12 acres of public parks and 6.42 acres of public space in a network of plazas, promenades, paseo greens, and streetscapes). These parks and public spaces will provide open space for sports, exercise, community recreation, community events, public art, pedestrian and bike paths, and more. The current SDSA will be demolished and a new entertainment center will be constructed. Therefore, the public facility or purpose for which the easement was originally acquired will not be detrimentally affected by the vacation or the purpose for which the easement was acquired no longer exists.

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

4. Based on these findings adopted by the Council, Vesting Tentative Map No. PMT-3258589 and Easement Vacations No. PMT-3369681 and PMT-3369682), are granted to Midway Rising LLC, Subdivider, subject to the attached conditions which are made a part of this Ordinance, and contingent upon final passage of O-_____, adopting the Midway Rising

(O-20[INSERT REMAINDER OF TITLE])

Specific Plan, O-_____, approving the Development Agreement, and R-_____,
approving amendments to the Midway Pacific Highway Community Plan and General Plan. .

5. Upon satisfaction of the conditions described and attached in this Ordinance, as determined by the City Engineer, the Development Services Department shall record a certified copy of this Ordinance with attached exhibits, attested by the City Clerk under seal, in the Office of the County Recorder.

6. Notwithstanding San Diego Municipal Code section 125.0460, which provides an approved tentative map expires 36 months after its approval, Vesting Tentative Map PMT-3258589 and Easement Vacations No. PMT-3369681 shall expire in accordance with the approved Development Agreement.

7. That a full reading of this Ordinance is dispensed with prior to passage, a written copy having been made available to the Council and the public prior to the day of its passage.

APPROVED: HEATHER FERBERT, City Attorney

By

DCA Name
Deputy City Attorney

Attachments: Exhibit 1 – Vesting Tentative Map Conditions

CITY COUNCIL
CONDITIONS FOR VESTING TENTATIVE MAP NO. PMT-3258589
PROJECT NO PRJ-1106734 [MMRP]

ADOPTED BY ORDINANCE NO. O-_____ ON _____

GENERAL

1. This Vesting Tentative Map will expire _____.
2. Compliance with all of the following conditions shall be completed and/or assured, to the satisfaction of the City Engineer, prior to the recordation of the first Final Map, unless otherwise noted.
3. Prior to the recordation of the first Final Map, a tax certificate stating that there are no unpaid lien conditions against the subdivision must be recorded in the Office of the San Diego County Recorder.
4. Prior to the expiration of the Site Development Permit/Tentative Map, a Final Map to consolidate and subdivide the 49.23-acre City-owned Sports Arena site shall be recorded in the San Diego County Recorder's Office.
5. The Tentative Map shall comply with the conditions of Site Development Permit No. PMT-3318619 and Specific Plan No. PMT-3258590.
6. The Subdivider shall defend, indemnify, and hold the City (including its agents, officers, and employees [together, "Indemnified Parties"]) harmless from any claim, action, or proceeding, against the City and/or any Indemnified Parties to attack, set aside, void, or annul City's approval of this project, which action is brought within the time period provided for in Government Code section 66499.37. City shall promptly notify Subdivider of any claim, action, or proceeding and shall cooperate fully in the defense

ENGINEERING

7. The Subdivider shall ensure that all existing onsite utilities serving the subdivision shall be undergrounded with the appropriate permits. The Subdivider shall provide written confirmation from applicable utilities that the conversion has taken place, or provide other means to assure the undergrounding, satisfactory to the City Engineer.
8. Prior to the issuance of a building permit, the Owner/Permittee shall obtain a grading permit for the grading proposed for this project. All grading shall conform to requirements in accordance with the City of San Diego Municipal Code in a manner satisfactory to the City Engineer.
9. Conformance with the "General Conditions for Tentative Subdivision Maps," filed in the Office of the City Clerk under Document No. 767688 on May 7, 1980, is required. Only

those exceptions to the General Conditions which are shown on the Vesting Tentative Map and covered in these special conditions will be authorized. All public improvements and incidental facilities shall be designed in accordance with criteria established in the Street Design Manual, filed with the City Clerk as Document No. RR-297376.

MAPPING

10. “Basis of Bearings” means the source of uniform orientation of all measured bearings shown on the map. Unless otherwise approved, this source shall be the California Coordinate System, Zone 6, North American Datum of 1983 [NAD 83].
11. “California Coordinate System” means the coordinate system as defined in Section 8801 through 8819 of the California Public Resources Code. The specified zone for San Diego County is “Zone 6,” and the official datum is the “North American Datum of 1983.”
12. All subdivision maps in the City of San Diego are required to be tied to the California Coordinate System of 1983 (CCS83), Zone 6 pursuant to section 8801 through 8819 of the California Public Resources Code. The Final Map shall:
 - a. Use the California Coordinate System for its “Basis of Bearing” and express all measured and calculated bearing values in terms of said system. The angle of grid divergence from a true median (theta or mapping angle) and the north point of said map shall appear on each sheet thereof. Establishment of said Basis of Bearings may be by use of existing Horizontal Control stations or astronomic observations.
 - b. Show two measured ties from the boundary of the map to existing Horizontal Control stations having California Coordinate values of First Order accuracy. These tie lines to the existing control shall be shown in relation to the California Coordinate System (i.e., grid bearings and grid distances). All other distances shown on the map are to be shown as ground distances. A combined factor for conversion of grid-to-ground distances shall be shown on the map.
13. The project Final Map shall be based on field survey and all lot corners must be marked with durable survey monuments pursuant to Section 144.0311(d) of the City of San Diego Land Development Codes and Subdivision Map Act Section 66495. All survey monuments shall be set prior to the recordation of the Final Map, unless the setting of monuments is deemed impractical due to proposed project improvements requiring delayed monumentation procedures per S.D.M.C. Section 144.0130.
14. All proposed project easements and leasehold utility infrastructure areas defined within Site Development Plan/Tentative Map boundary shall be granted on the Final Map with the exception of any leasehold interests determined to be granted by deed instrument.
15. Prior to the expiration of the Site Development Permit/Tentative Map, a Final Map to consolidate and subdivide the 49.23-acre City-owned Sports Arena site shall be recorded in the San Diego County Recorder’s Office.

LANDSCAPE/BRUSH MANAGEMENT

16. Prior to issuance of any public improvement permit, the Owner/Permittee shall submit complete landscape construction documents for right-of-way improvements to the Development Services Department for approval. Improvement plans shall show, label, and dimension a 40-square-foot area around each tree which is unencumbered by utilities. Driveways, utilities, drains, water and sewer laterals shall be designed so as not to prohibit the placement of street trees.

TRANSPORTATION

17. Prior to the recordation of the first final map for any of the lots adjacent to Sports Arena Boulevard between Frontier Drive and the project's easterly property line, the Permittee shall assure by permit and bond to narrow the existing curb line of Sports Arena Boulevard between Frontier Drive and the project's easterly property line by 8-ft and dedicate 12-ft along that fronting portion of westbound Sports Arena Boulevard to provide a 5-foot private resident zone adjacent to a 33-foot promenade (including 3-foot private landscape, 0 to 4-foot landscape, 12-foot (minimum) multi-use path, 5 to 9-foot landscape, 6-foot Class IV cycle track, 3-foot bike buffer), and within the curb-to-curb a 12-foot Business Access & Transit (BAT) lane adjacent to the northerly curb, 10-foot travel lane, 11-foot travel lane, 5 to 15-foot raised median, 10-foot travel lane, 10-foot travel lane, 11-foot BAT lane, 3-foot bike buffer, and 6-foot bike lane adjacent to the southerly curb per Sports Arena Blvd (Public) cross-section on Sheet 2 of the VTM Exhibit and plan view on Sheets 11 and 13 of the VTM Exhibit of Exhibit "A", satisfactory to the City Engineer. All improvements shall be completed and operational prior to first occupancy on Lots 19, 20, 21, 24, or 25. Prior to the recordation of the first final map for any of the lots adjacent to the below segments of Kurtz Street, the Permittee shall assure by permit and bond the following improvements along Kurtz Street in the following segments:

- a. Hancock Street to Frontier Drive:
Narrow the existing southern curb line by 5-ft and dedicate 2.2 to 14.2-ft for that fronting portion of southeast bound Kurtz Street and construct an 8-foot parking lane adjacent to the northerly curb, 13-foot travel lane, 13-foot travel lane adjacent to the southerly curb, and a 30-foot promenade (9 to 13-foot landscape, 14-foot minimum multi-use path, 0 to 4-foot landscape, 3-foot private landscape within the project site on the southerly side), per Kurtz Street (Public)(1) cross-section on Sheet 2 and plan view on Sheet 12 of the VTM Exhibit of Exhibit "A", satisfactory to the City Engineer. All improvements shall be completed and operational prior to first occupancy of Lots 6, 15, 16, 17, or 18.
- b. Westerly Property Line of Privately-Owned Parcel (APN 441-330-0100) to Easterly Property Line of Privately Owned Parcel (APN 441-330-1100):
Restripe to provide two (two-way) 13-foot travel lanes, per plan view on Sheets 12 and 13 of the VTM Exhibit of Exhibit "A", satisfactory to the City Engineer. All improvements shall be completed and operational prior to first occupancy of Lots 6, 15, 16, 17, or 18.

- c. Easterly Property Line of Privately Owned Parcels to Sherman Street
Narrow the existing southern curb line by 5-ft and dedicate 2.2 to 14.2-ft for that fronting portion of southeast bound Kurtz Street and construct an 8-foot parking lane adjacent to the northerly curb, 13-foot travel lane, 13-foot travel lane adjacent to the southerly curb, and a 30-foot promenade (9 to 13-foot landscape, 14-foot (minimum) multi-use path, 0 to 4-foot landscape, 3-foot private landscape within the project site on the southerly side), per Kurtz Street (Public)(1) cross-section on Sheet 2 and plan view on Sheet 13 of the VTM Exhibit of Exhibit “A”, satisfactory to the City Engineer. All improvements shall be completed and operational prior to first occupancy of Lots 6, 15,16, 17, or 18.
 - d. Sherman Street to Easterly Project Site Property Line
Narrow the existing southern curb line by 5-ft and dedicate 2.2 to 14.2-ft for that fronting portion of southeast bound Kurtz Street and construct an 8-foot parking lane adjacent to the northern curb, 13-foot travel lane, 13-foot travel lane, 30-foot promenade (9 to 13-foot landscape, 14-foot (minimum) multi-use path, 0 to 4-foot landscape, and 3-foot private landscape within the project site on the southerly side), per Kurtz Street (Public)(2) cross-section on Sheet 2 and plan view on Sheets 13 of the VTM Exhibit of Exhibit “A”, satisfactory to the City Engineer. All improvements shall be completed and operational prior to first occupancy of Lots 23, 24, or 25.
 - e. Easterly Project Site Property Line to Camino Del Rio West
Narrow the existing southern curb line by 13-ft along southeast bound Kurtz Street between the easterly property line and Camino Del Rio West and provide a 13-foot travel lane adjacent to northerly curb, 13-foot travel lane adjacent to southerly curb, 19-foot parkway (5-foot landscape, and 14-foot (minimum) multi-use path within the project site on the southerly side), per Kurtz Street (Public) Off-Site (1) and plan view on Sheets 22 of the VTM Exhibit of Exhibit “A”, satisfactory to the City Engineer. All improvements shall be completed and operational prior to first occupancy of Lots 23, 24, or 25.
 - f. Camino Del Rio West to Rosecrans Street
18. Narrow the existing southern curb line by 13-ft along southeast bound Kurtz Street between Camino Del Rio West and Rosecrans Street and provide a 13-foot travel lane, 13-foot travel lane, 19-foot parkway (5-foot landscape, and 14-foot (minimum) multi-use path within the project site on the southerly side), per Kurtz Street (Public) Off-Site (2) and plan view on Sheet 22 of the VTM Exhibit of Exhibit “A”, satisfactory to the City Engineer. All improvements shall be completed and operational prior to first occupancy of Lots 23, 24, or 25. Prior to the recordation of the first final map in Phase 1, the Permittee shall assure by permit and bond the restriping of the southbound approach of Kurtz Street at the intersection of Kurtz Street/Rosecrans Street to provide 1 exclusive left-turn lane and 1 through/right-turns lane necessary traffic signal modification, and stripe continental crosswalks across all approaches, per plan view on Sheet 22 of the VTM Exhibit of Exhibit “A”, satisfactory to the City Engineer. All improvements shall be completed and operational prior to first occupancy of Lots 23, 24, or 25.

19. Prior to the recordation of the first final map in Phase 1, the Permittee shall restripe the southbound approach of Kurtz Street at the intersection of Kurtz Street/Camino Del Rio West to provide 1 exclusive left-turn lane and 1 shared left-turn/through/right-turn lane, provide the necessary traffic signal modification, , and stripe continental crosswalks across all approaches, per plan view on Sheet 22 of the VTM Exhibit of Exhibit "A", satisfactory to the City Engineer. All improvements shall be completed and operational prior to first occupancy of Lots 23, 24, or 25.
20. Prior to the recordation of the first final map for any of the lots adjacent to Frontier Drive between Sports Arena Boulevard and the southerly property line of the privately-owned parcels, the Owner shall dedicate 78-feet of right-of-way and Permittee shall assure by permit and bond the construction of Frontier Drive as a 2-lane collector between Sports Arena Boulevard and the southerly property line of the privately-owned parcel with a 44-foot curb-to-curb pavement width (7-foot parking lane, 10-foot travel lane, 10-foot center turn lane, 10-foot travel lane, 7-foot parking lane), and a 30-foot promenade (8-foot landscaping, 12-foot (minimum) multi-use path), adjacent to a 10-foot café zone and 4-feet private landscaping on the east side of the street per Frontier Drive (Public) cross-section on Sheet 2 and per plan view on Sheet 13 of the VTM Exhibit of Exhibit "A", satisfactory to the City Engineer. Improvements may be phased for the westerly side of landscaping/sidewalks (i.e., behind the curb) depending on implementation of Phase 2 building improvements.

All improvements shall be completed and operational prior to first occupancy on any of Lots 8, 9, 11, 12, 14, 17, 18, 19 or 20.

21. Prior to the recordation of the first final map for any of the lots adjacent to Frontier Drive between the southern property line of the privately-owned parcel and Kurtz Street, the Owner shall dedicate 58-feet of right-of-way and Permittee shall assure by permit and bond the construction of Frontier Drive as a 2-lane collector between the southerly property line of the privately owned parcel and Kurtz Street with 0 to 2-foot private landscape within the project site on the westerly side, 7-foot sidewalk, 7-foot landscape, and 37 ft- curb-to-curb pavement width (7-foot parking lane adjacent to the westerly curb, 10-foot travel lane, 10-foot center turn lane, 10-foot travel lane adjacent to the easterly curb), and 7-foot contiguous sidewalk adjacent to eastern curb, per Frontier Drive (Public) Interim cross-section on Sheet 2 and per plan view on Sheet 12 of the VTM Exhibit of Exhibit "A", satisfactory to the City Engineer. Improvements may be phased for the westerly side of landscaping/sidewalks (i.e., behind the curb) depending on implementation of Phase 2 building improvements.

All improvements shall be completed and operational prior to first occupancy on any of Lots 8, 9, 11, 12, 14, 17, 18, 19 or 20.

22. Prior to recordation of the first final map for any of the adjacent lots, the Permittee shall assure the construction of Private Drive A-1 within Lot B (per Exhibit "A"), to provide 5 to 7-foot landscape within the project site on the southerly side, 5-foot sidewalk, and 40-foot curb-to-curb pavement width (7-foot parking lane, 13-foot travel lane, 13-foot travel lane, 7-foot parking lane), 5-foot sidewalk, and 5 to 7-foot landscape, per Private Drive A-1 cross-

section on Sheet 2 and per plan view on Sheet 11 of the VTM Exhibit of Exhibit “A”, satisfactory to the City Engineer. All improvements shall be completed and operational prior to first occupancy on any of Lots 1, 2, 3, or 4.

23. Prior to recordation of the first final map for any of the adjacent lots, the Permittee shall assure the construction of Private Drive A-2 within Lot D (per Exhibit “A”), to provide 5 to 7-foot landscaped stoops within the project site on the southerly side, 0.9 to 12.5-foot landscape, 5-foot sidewalk, and 40-foot curb-to-curb pavement width (7-foot parking lane, 13-foot travel lane, 13-foot travel lane, 7-foot parking lane), 5-foot sidewalk, 0.8 to 12.5-foot landscape, and 5 to 7-foot landscaped stoops per Private Drive A-2 cross-section on Sheet 2 and per plan view on Sheet 12 of the VTM Exhibit of Exhibit “A”, satisfactory to the City Engineer. All improvements shall be completed and operational prior to first occupancy on any of Lots 3, 4, 5, or 6.
24. Prior to recordation of the first final map for any of the adjacent lots, the Permittee shall assure the construction of Private Drive B-1 within Lot F (per Exhibit “A”), to provide 5 to 7-foot landscape within the project site on the northerly side, 5-foot sidewalk, 40-foot curb-to-curb pavement width (7-foot parking lane, 13-foot travel lane, 13-foot travel lane, 7-foot parking lane) 5-foot sidewalk, and 5 to 7-foot landscape within the project site per Private Drive B-1 cross-section on Sheet 2 and per plan view on Sheet 11 of the VTM Exhibit of Exhibit “A”, satisfactory to the City Engineer. All improvements shall be completed and operational prior to first occupancy on any of Lots 7 or 10.
25. Prior to recordation of the first final map for any of the adjacent lots, the Permittee shall assure the construction of Private Drive B-2 within Lot H (per Exhibit “A”), to provide 5 to 7-foot landscape within the project site, 5-foot sidewalk, 40-foot curb-to-curb pavement width (7-foot parking lane, 13-foot travel lane, 13-foot travel lane, 7-foot parking lane), 5-foot sidewalk, and 5 to 7-foot landscape per Private Drive B-2 cross-section on Sheet 2 the VTM Exhibit of and per plan view on Sheet 11 of the VTM Exhibit of Exhibit “A”, satisfactory to the City Engineer. All improvements shall be completed and operational prior to first occupancy on any of Lots 8, 9, 11, or 12.
26. Prior to recordation of the first final map for any of the adjacent lots, the Permittee shall assure the construction of Private Drive B (Fire Lane) within Lot G (per Exhibit “A”), to provide 5 to 7-foot landscape within the project site, 5-foot sidewalk, and 7-foot parkway, 26-foot pavement width (13-foot fire lane, 13-foot fire lane), 7-foot parkway, 5-foot sidewalk, and 5 to 7-foot landscape per Private Drive B – Fire Lane cross-section on Sheet 2 the VTM Exhibit of and per plan view on Sheet 11 of the VTM Exhibit of Exhibit “A”, satisfactory to the City Engineer. All improvements shall be completed and operational prior to first occupancy on any of Lots 7, 8, 9, 10, 11, or 12.
27. Prior to recordation of the first final map for any of the adjacent lots, the Permittee shall assure the construction of Private Drive C-1 within Lot J (per Exhibit “A”), to provide 5 to 7-foot landscape within the project site, 5-foot sidewalk, 40-foot curb-to-curb pavement width (7-foot parking lane, 13-foot travel lane, 13-foot travel lane, 7-foot parking lane), 5-foot sidewalk, and 5 to 7-foot landscape within the site per Private Drive C-1 cross-section

on Sheet 2 and per plan view on Sheet 12 of the VTM Exhibit of Exhibit "A", satisfactory to the City Engineer. All improvements shall be completed and operational prior to first occupancy on any of Lots 13, 15, or 16.

28. Prior to recordation of the first final map for any of the adjacent lots, the Permittee shall assure the construction of Private Drive C-2 within Lot L (per Exhibit "A"), to provide 5 to 7-foot landscape within the project site, 5-foot sidewalk, 40-foot curb-to-curb pavement width (7-foot parking lane, 13-foot travel lane, 13-foot travel lane, 7-foot parking lane), 5-foot sidewalk, and 5 to 7-foot landscape within the site per Private Drive C-2 cross-section on Sheet 2 and per plan view on Sheet 12 of the VTM Exhibit of Exhibit "A", satisfactory to the City Engineer. All improvements shall be completed and operational prior to first occupancy on any of Lots 14, 17, or 18.
29. Prior to recordation of the first final map for any of the adjacent lots, the Permittee shall assure the construction of Private Drive C (Fire Lane) within Lot K (per Exhibit "A"), to provide 5 to 7-foot landscape within the project site on the southerly side, 5-foot sidewalk, 7-foot parkway, 26-foot pavement width (13-foot fire lane, 13-foot fire lane), 7-foot parkway, 5-foot sidewalk, and 5 to 7-foot landscape within the project site per Private Drive C – Fire Lane cross-section on Sheet 2 the VTM Exhibit of and per plan view on Sheet 12 of the VTM Exhibit of Exhibit "A", satisfactory to the City Engineer. All improvements shall be completed and operational prior to first occupancy on any of Lots 13, 14, 15, 16, 17, or 18.
30. Prior to recordation of the first final map for any of the adjacent lots, the Permittee shall assure the construction of Private Drive D within Lot N (per Exhibit "A"), to provide 5 to 7-foot landscape within the project site, a 13-foot parkway, 5-foot sidewalk, with a 40-foot curb-to-curb pavement width (7-foot parking lane, 13-foot travel lane, 13-foot travel lane, 7-foot parking lane) and a 5-foot sidewalk, 13-foot parkway, and 5 to 7-foot landscape (within the project site) per Private Drive D cross-section on Sheet 2 and per plan view on Sheet 13 of the VTM Exhibit of Exhibit "A", satisfactory to the City Engineer. All improvements shall be completed and operational prior to first occupancy on any of Lots 19, 20, or 21.
31. Prior to recordation of the first final map for any of the adjacent lots, the Permittee shall assure the construction of Private Drive E south of Kurtz Street in alignment with the extension of Sherman Street (per Exhibit "A"), to provide a 26-foot fire access lane within the project site on the easterly side, 0 to 8.9-foot parkway, and a curb-to-curb pavement width of 26-feet (13-foot travel lane, 13-foot travel lane), and a 21.1-foot parkway, and 1 to 2-foot private landscape per Private Drive E cross-section on Sheet 2 and per plan view on Sheet 13 of the VTM Exhibit of Exhibit "A", satisfactory to the City Engineer. All improvements shall be completed and operational prior to first occupancy on any of Lots 23, 24, or 25.
32. Prior to recordation of the first final map in Phase 1, the Permittee shall relocate existing local bus stop (ID 13344) to the west side of the Sports Arena Boulevard / East Drive intersection in the approximate location shown on Sheet 13 of the VTM Exhibit of Exhibit

“A” and provide a sign, bench, schedule display, route and system map, trash receptacle, concrete bus pad, and shelter, satisfactory to the City Engineer and in coordination with Metropolitan Transit System (MTS). All improvements shall be completed and operational prior to first occupancy on any of Lots 21, 24, or 25.

33. Prior to recordation of the first final map in Phase 1, the Permittee shall provide documentation to the satisfaction of the City Engineer of the project’s operating and implementation plan for a shuttle service to and from the site for the following scenarios:

- For events with greater than 7,500 spectators, an event shuttle service would run between the Old Town Transit Center and the entertainment land use. The event shuttle would run along Rosecrans Street, Sports Arena Boulevard, Frontier Drive, and Kurtz Street.
- For events with greater than 10,000 spectators, two event shuttle services would run between the Old Town Transit Center and between the off-site business park lot just west of the Project site and the entertainment land use. The event shuttle would run along Sports Arena Boulevard, Frontier Drive, Kurtz Street, and Hancock Street.
- For events with greater than 12,000 spectators, three event shuttle services would run between the Old Town Transit Center, the off-site business park lot just west of the Project site, and off-site parking at SeaWorld and the entertainment land use. The event shuttle would run along West Mission Bay Drive, Sports Arena Boulevard, Frontier Drive, Kurtz Street and Hancock Street.

All improvements shall be completed and operational prior to first occupancy of Lots 24 or 25.

34. Prior to recordation of the first final map in Phase 1, the Permittee shall restripe the intersection of West Point Loma Boulevard/Sports Arena Boulevard/Midway Drive and assure by permit and bond the following improvements:

- Remove the channelized portions of northbound and southbound right-turn movements;
- Reduce of the roadway width in the northeast corner to convert the westbound channelized right turn lane to an exclusive right turn lane;
- Restripe the southbound approach to include 2 left turn lanes, 1 through lane, and 1 shared through/right lane;
- Restripe the northbound to include 2 left turn lanes, 1 through lane, and 1 shared through/right lane;
- Widen the eastbound approach by 6 feet to construct a left turn lane, 1 shared/through lane, 1 through lane, and 1 right turn lane.

- Signal modifications will be required to provide protected left turn phasing instead of split phasing for the northbound and southbound movements, an overlap phase for the westbound right turn movement, and signal optimization.

All improvements shall be satisfactory to the City Engineer and shall be completed and operational prior to first occupancy of Lots 19, 20, 21, 22, 23, 24 or 25.

35. Prior to recordation of the first final map in Phase 2, the Permittee shall provide documentation that the project will seek approval from City Engineer to implement the following temporary traffic control and modify intersection geometry at the intersection of Sherman Street /Hancock Street during the PM Pre-Event peak:

- Implement traffic control flagger (or appropriate traffic control setup) to allow two westbound lanes to turn left from Hancock Street onto southbound Sherman Street;
- Convert Sherman Street (temporarily) to a one-way two-lane southbound street;
- Vehicles wishing to travel northbound on Sherman Street from Kurtz Street will be redirected to Greenwood Street; and
- At Sherman Street / Kurtz Street, two southbound lanes would be directed to turn right or go straight into the H1 driveway for Entertainment Center parking.

All temporary traffic control arrangements for pre-event conditions shall be satisfactory to the City and shall be completed and operational prior to first occupancy of Lots 8, 9, 17, or 18.

36. Prior to the recordation of the first final map in Phase 1, the Permittee shall assure by permit and bond the following improvements at the intersection of Sports Arena Boulevard/Rosecrans Street/Camino Del Rio West:

- Convert channelized right-turn lane from Camino Del Rio West to Sports Arena Boulevard to an exclusive right-turn lane;
- Demolish northbound “channelized” right-turn from Sports Arena Boulevard to Rosecrans Street and ancillary intersection and allow through movement from Sports Arena Boulevard;
- Modify the eastbound approach on Sports Arena Boulevard to include 1 left-turn lane, 1 shared left/through lane, 1 through lane to Sports Arena Boulevard, and 1 right-turn lane to Rosecrans Street; and
- Provide the necessary traffic signal modification.

All improvements shall be satisfactory to the City Engineer and shall be completed and operational prior to first occupancy of Lots 19, 20, 21, 22, 23, 24 or 25.

37. Prior to the recordation of the first final map for any of the adjacent lots, the Permittee shall assure by permit and bond the construction of Rosecrans Street as a 4-lane collector with center left-turn lane (2 General Purpose Lanes + 2 Flexible Lanes) between Kurtz Street and Pacific Highway, including parkways and roadway improvements. Specifically, provide 11-foot parking adjacent to westerly curb, 11-foot BAT lane, 11-foot travel lane, 10-foot center turn lane, 11-foot travel lane, 12-foot BAT lane adjacent to the easterly curb, 3 to 7-foot bike buffer, 10-foot bikeway, 0 to 4-foot landscape, and 8-foot sidewalk within the project site on the easterly side per Rosecrans Street (Public) Off-Site cross-section and plan view on Sheet 22 of the VTM Exhibit of Exhibit "A", and provide the necessary traffic signal modifications at the intersections of Rosecrans Street/Kurtz Street and Rosecrans Street/Taylor Street/Pacific Highway per plan on sheet 22 of the VTM Exhibit of Exhibit "A", satisfactory to the City Engineer. All improvements shall be completed and operational prior to first occupancy of Lots 23, 24, or 25.
38. Prior to the recordation of the first final map in Phase 2, the Permittee shall construct the southbound approach of the intersection of Kemper Street/Sports Arena Boulevard to provide 1 through lane and 1 exclusive right-turn lane and necessary traffic signal modification, per plan view on Sheet 11 of the VTM Exhibit of Exhibit "A", satisfactory to the City Engineer. All improvements shall be completed and operational prior to first occupancy of Lots 1, 2, 7, or 10.
39. Prior to the recordation of the first final map for any of the lots adjacent to Sports Arena Boulevard between the project's westerly driveway and Frontier Drive, the Permittee shall assure by permit and bond to narrow the existing curb line of Sports Arena Boulevard between the project's westerly property line and Frontier Drive by 8-ft and dedicate 12-ft along that fronting portion of westbound Sports Arena Boulevard to provide a 5-foot private resident zone and 3-foot private landscaping adjacent to a 33-foot promenade (including 3-foot private landscape, 0 to 4-foot landscape, 12-foot (minimum) multi-use path, 5 to 9-foot landscape, 6-foot Class IV cycle track, 3-foot bike buffer), and within the curb-to-curb a 12-foot Business Access & Transit (BAT) lane adjacent to the northerly curb, 10-foot travel lane, 11-foot travel lane, 5 to 15-foot raised median, 10-foot travel lane, 10-foot travel lane, 11-foot BAT lane, 3-foot bike buffer, and 6-foot bike lane adjacent to the southerly curb per Sports Arena Blvd (Public) cross-section on Sheet 2 of the VTM Exhibit and plan view on Sheets 11 and 13 of the VTM Exhibit of Exhibit "A", satisfactory to the City Engineer. All improvements shall be completed and operational prior to first occupancy on Lots 8, 9, 11, 12, 14, or 18.
40. Prior to the recordation of the first final map for any of the lots adjacent to Kemper Street between Sports Arena Boulevard and Kurtz Street, the Owner shall dedicate 93-feet of right-of-way and the Permittee shall assure by permit and bond the construction of Kemper Street as a 2-lane collector between Sports Arena Boulevard and Kurtz Street as a 2-lane collector between Sports Arena Boulevard and Kurtz Street to provide a 5 to 7-foot private resident zone within the project site on the westerly side, 7-foot sidewalk, 2.5 to 7-foot landscape, 6-foot Class IV cycle track, 3-foot bike buffer, 44-foot curb-to-curb paved width (7-foot parking lane, 10-foot travel lane, 10-foot center turn lane, 10-foot travel lane, 7-foot parking

lane), a 30-foot promenade (3-foot bike buffer, 6-foot Class IV cycle track, 6.5 to 11-foot landscape, 6-foot sidewalk), and 4-foot private landscape adjacent to a 1.4 to 5-foot private resident zone within the project site on the easterly side per Kemper Street (Public) cross-section and per plan view on Sheets 11 and 12 of the VTM Exhibit of Exhibit "A", satisfactory to the City Engineer. All improvements shall be completed and operational prior to occupancy of Lots 1, 2, 3, 4, 5, 6, 7, 10, 13, and 15.

41. Prior to the recordation of the first final map in Phase 2, the Permittee shall assure by permit and bond the construction of a roundabout at the intersection of Hancock Street and Kurtz Street in the location shown per plan view on Sheet 12 of the VTM Exhibit of Exhibit "A", satisfactory to the City Engineer. All improvements shall be completed and operational prior to first occupancy of Lots 17 or 18.
42. Prior to the recordation of the first final map in Phase 2, the Permittee shall construct a new local bus stop on the west side of the Sports Arena Boulevard / Kemper Street intersection in the approximate location shown in plan view on Sheet 11 of the VTM Exhibit of Exhibit "A" and provide a sign, bench, schedule display, route and system map, trash receptacle, concrete bus pad, and shelter, satisfactory to the City Engineer and in coordination with Metropolitan Transit System (MTS). All improvements shall be completed and operational prior to first occupancy of Lots 1, 2, 7, or 10.
43. Prior to recordation of the first final map in Phase 2, the Permittee shall relocate existing local bus stop (ID 13345) to the west side of the Sports Arena Boulevard / Frontier Drive intersection in the approximate location shown on Exhibit "A", designate this stop as a RAPID service bus stop, and provide a sign, bench, schedule display, trash receptacle, concrete bus pad, rapid shelter, and real-time digital display, satisfactory to the City Engineer and in coordination with Metropolitan Transit System (MTS). All improvements shall be completed and operational prior to first occupancy of Lots 9, 10, 14, 17, or 18.
44. Prior to the recordation of the first final map in Phase 2, the Permittee shall stripe Business Access & Transit (BAT) lanes on:
 - Sports Arena Boulevard between W. Point Loma Boulevard and Kemper Street (westbound direction only)
 - Sports Arena Boulevard between Kemper Street and Camino Del Rio West (both directions)
 - Rosecrans Street between Sports Arena Boulevard and Kemper Street (both directions)

These improvements shall be satisfactory to the City Engineer and in coordination with Metropolitan Transit Services (MTS) per plan view on Sheet 11 of the VTM Exhibit of Exhibit "A". All improvements shall be completed and operational prior to first occupancy of Lots 9, 10, 14, 17, or 18.

45. Prior to recordation of the first final map in Phase 2, the Permittee shall request from the City, subject to City approval and implementation, the following signal timing improvements at the intersection of Sports Arena Boulevard/Frontier Drive/West Drive:

- Increase the overall signal cycle length to 105 seconds during the AM peak and 150 seconds during the PM and Pre-Event PM peaks;
- Manage signal timing operations during the PM peak to manually provide green time to the heaviest movement on event days.

These improvements shall be satisfactory to the City Engineer and shall be completed and operational prior to first occupancy of Lots 9, 10, 14, 17, or 18.

46. Prior to recordation of the first final map in Phase 2, the Permittee shall provide signal timing optimization at the intersection of Barnett Avenue/Midway Drive to decrease the overall signal cycle length to 110 seconds during the AM peak, 150 seconds during the PM peak, 100 seconds during the Pre-Event PM peaks, and 90 seconds during the weekend peak, satisfactory to the City Engineer. All improvements shall be completed and operational prior to first occupancy of Lots 9, 10, 17, or 18.

47. Prior to recordation of the first final map in Phase 2, the Permittee shall restripe Hancock Street between Sports Arena Boulevard and Channel Way to a 4-Lane Collector through the conversion of the existing angled parking to parallel parking, and provide the necessary traffic signal modification at the intersection of Hancock Street/Sports Arena Boulevard, satisfactory to the City Engineer. All improvements shall be completed and operational prior to first occupancy of Lots 17 or 18.

48. Prior to recordation of the first final map in Phase 2, the Permittee shall restripe Hancock Street between Channel Way and Kurtz Street to a 4-Lane Collector through the conversion of the existing angled parking to parallel parking, satisfactory to the City Engineer. All improvements shall be completed and operational prior to first occupancy of Lots 17 or 18.

PARKS AND RECREATION

49. Prior to recordation of any Final Map, the Owner/Permittee shall identify Lots A, C, E, G, I, K, M, O, P, and R (8.12 acres) for recreational purposes, in conformance with the approved Vesting Tentative Map, to the satisfaction of the City Engineer.

50. Prior to recordation of any Final Map, the Subdivider shall ensure Parks and Recreation review and approval of any Final Map to ensure substantial conformance with the parks facilities as shown on the Vesting Tentative Map of the approved Exhibit "A".

INFORMATION:

- The approval of this Vesting Tentative Map by the City Council of the City of San Diego does not authorize the subdivider to violate any Federal, State, or City

laws, ordinances, regulations, or policies including but not limited to, the Federal Endangered Species Act of 1973 and any amendments thereto (16 USC § 1531 et seq.).

- If the Subdivider makes any request for new water and sewer facilities (including services, fire hydrants, and laterals), the Subdivider shall design and construct such facilities in accordance with established criteria in the most current editions of the City of San Diego water and sewer design guides and City regulations, standards and practices pertaining thereto. Off-site improvements may be required to provide adequate and acceptable levels of service and will be determined at final engineering.
- Subsequent applications related to this Vesting Tentative Map will be subject to fees and charges based on the rate and calculation method in effect at the time of payment.
- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of the Vesting Tentative Map, may protest the imposition within ninety days of the approval of this Vesting Tentative Map by filing a written protest with the San Diego City Clerk pursuant to Government Code sections 66020 and/or 66021.
- Where in the course of development of private property, public facilities are damaged or removed, the Subdivider shall at no cost to the City, obtain the required permits for work in the public right-of-way, and repair or replace the public facility to the satisfaction of the City Engineer (San Diego Municipal Code § 142.0607).

Internal Order No. 24009733

RESOLUTION NUMBER R-_____

DATE OF FINAL PASSAGE _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO CERTIFYING SUBSEQUENT ENVIRONMENTAL IMPACT REPORT NO. 1106734/SCH NO. 2023120451, ADOPTING FINDINGS AND A STATEMENT OF OVERRIDING CONSIDERATIONS, AND ADOPTING MITIGATION MONITORING AND REPORTING PROGRAM NO. 1106734 FOR MIDWAY RISING, PROJECT NO. 1106734.

RECITALS

The Council of the City of San Diego adopts this Resolution based on the following:

A. Midway Rising, LLC submitted an application to Development Services Department for a General Plan Amendment, Community Plan Amendment, Rezone, Specific Plan adoption, San Diego Municipal Code amendments to implement an Entertainment District and remove Community Plan Implementation Overlay Zone A, Public Right-Of-Way Vacation, Public Utility Easement Vacations, Vesting Tentative Map, Site Development Permit, and a Development Agreement for the Midway Rising (Project).

B. On September 25, 2025, the Planning Commission of the City of San Diego considered Subsequent Environmental Impact Report (Report) No. 1106734/SCH No. 2023120451 as well as the Findings and Statement of Overriding Considerations and voted to recommend certification of the Report and approval of the Project.

C. The matter was set for a public hearing and heard by the Council of the City of San Diego on _____. At the hearing, the Council considered the issues discussed in Report prepared for this Project.

D. The Office of the City Attorney prepared this Resolution based on the information provided by City staff (including information provided by affected third parties and verified by City staff), with the understanding that this information is complete and accurate.

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

ACTION ITEMS

Be it resolved by the Council of the City of San Diego:

1. It is certified the Report has been completed in compliance with the California Environmental Quality Act of 1970 (CEQA) (California Public Resources Code section 21000, *et seq.*), as amended, and the State CEQA Guidelines (California Code of Regulations, Title 14, Chapter 3, section 15000, *et seq.*), that the Report reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in the Report, together with any comments received during the public review process, has been reviewed and considered by the Council in connection with the approval of the Project.

2. Under CEQA section 21081 and State CEQA Guidelines section 15091, the Council of the City of San Diego adopts the Findings made with respect to the Project, which are attached to this Resolution as Exhibit A.

[OBJ][Reso Code][OBJ]

3. Under State CEQA Guidelines section 15093, the Council of the City of San Diego adopts the Statement of Overriding Considerations with respect to the Project, which is attached to this Resolution as Exhibit A.

4. Under CEQA section 21081.6, the Council adopts the Mitigation Monitoring and Reporting Program, or alterations to implement the changes to the Project as required by Council of the City of San Diego to mitigate or avoid significant effects on the environment, which is attached to this Resolution as Exhibit B.

5. The Report and other documents constituting the record of proceedings upon which the approval is based are available to the public at the office of the City Clerk at 202 C Street, Second Floor, San Diego, CA 92101.

6. The City Clerk is directed to file a Notice of Determination in accordance with CEQA with the San Diego County Clerk's Office and the State Clearinghouse in the Office of Land Use and Climate Innovation regarding the Project.

APPROVED: HEATHER FERBERT, City Attorney

By _____
Attorney Name
Deputy City Attorney

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

XXX:xxx
DATE
Or. Dept: DSD
Doc. No. 4122006

ATTACHMENT 8

[OBJ][Reso Code][OBJ]

EXHIBIT A

FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATIONS

REGARDING THE FINAL SUBSEQUENT ENVIRONMENTAL IMPACT REPORT

FOR THE

MIDWAY RISING PROJECT

Project No. 1106734

SCH No. 2023120451

DRAFT

MONTH DAY, 2025

DRAFT

EXHIBIT B

MITIGATION, MONITORING AND REPORTING PROGRAM (MMRP)

GENERAL PLAN AMENDMENT, COMMUNITY PLAN AMENDMENT, REZONE, SPECIFIC PLAN ADOPTION, AMENDMENTS TO SAN DIEGO MUNICIPAL CODE TO IMPLEMENT AN ENTERTAINMENT DISTRICT AND REMOVE COMMUNITY PLAN IMPLEMENTATION OVERLAY ZONE A, PUBLIC RIGHT-OF-WAY VACATION, PUBLIC UTILITY EASEMENT VACATIONS, VESTING TENTATIVE MAP, SITE DEVELOPMENT PERMIT, and a DEVELOPMENT AGREEMENT

This Mitigation, Monitoring and Reporting Program is designed to ensure compliance with Public Resources Code Section 21081.6 during the 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 Development Services Department, 7650 Mission Valley Road, MS DSD-1A, San Diego, CA 92108. All mitigation measures contained in the Subsequent Environmental Impact Report No. 1106734/SCH No. 2023120451 shall be made conditions of the General Plan Amendment, Community Plan Amendment, Rezone, Specific Plan, Amendments to the San Diego Municipal Code to implement an Entertainment District and remove Community Plan Implementation Zone A, Public Right-of-Way Vacation, Public Utility Easement Vacations, Vesting Tentative Map, Site Development Permit, Development Agreement, and Park Agreements as may be further described below.

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

1. Prior to the issuance of any construction permits, such as demolition, grading or building, or beginning any construction-related activity on-site, the Development Services Department (DSD) Environmental Designee (ED) shall review and approve construction documents (CD) (plans, specification, details, etc.) to ensure the applicable MMRP requirements are incorporated into the design and/or construction documents.
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 of San Diego (City) website:
<https://www.sandiego.gov/development-services/forms-publications/design-guidelines-templates>

4. The **TITLE INDEX SHEET** must also show on which pages the “Environmental/Mitigation Requirements” notes are provided.
5. **SURETY AND COST RECOVERY:** The DSD Director or City Manager may require appropriate surety instruments or bonds from private Permit Holders to ensure the long-term performance or implementation of required mitigation measures or programs. The City is authorized to recover its cost to offset the salary, overhead, and expenses for City personnel and programs to monitor qualifying projects.

B. GENERAL REQUIREMENTS – PART II Post Plan Check (After permit issuance/Prior to start of construction)

1. **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:

- **Qualified Historic Preservation Professional**
- **Qualified Acoustician**
- **Qualified Vibration Expert**

Note: If all responsible Permit Holders’ representatives and consultants fail to attend, an additional meeting with all parties present will be required.

CONTACT INFORMATION:

- a) **The PRIMARY POINT OF CONTACT is the RE at the Field Engineering Division and can be reached at (858) 627-3200**
- b) **For Clarification of ENVIRONMENTAL REQUIREMENTS, contact call RE and MMC at (858) 627-3360**

2. **MMRP COMPLIANCE:** This Project, PRJ-1106734 and /or Environmental Document 1106734/SCH No. 2023120451 shall conform to the mitigation requirements contained in the associated Environmental Document and implemented to the satisfaction of the DSD’s Environmental Designee (MMC) and the City Engineer (RE). The requirements may not be reduced or changed but may be annotated (i.e., to explain when and how compliance is being met and the 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, monitoring times, methodology, etc.)

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

3. **OTHER AGENCY REQUIREMENTS:** Evidence of compliance with all other agency requirements or permits shall be submitted to the RE and MMC for review and acceptance prior to the beginning of work or within one week of the Permit Holder obtaining documentation of those permits or requirements. Evidence shall include copies of permits, letters of resolution, or other documentation issued by the responsible agency.
- **County of San Diego Environmental Department of Health and Quality;**
 - **State Water Resources Board/Regional Water Quality Control Board;**
4. **MONITORING EXHIBITS:** All consultants are required to submit to RE and MMC, a monitoring exhibit on an 11x17 reduction of the appropriate construction plan, such as site plan, grading, landscape, etc., marked to clearly show the specific areas including the **LIMIT OF WORK**, scope of that discipline's work, and notes indicating when in the construction schedule that work will be performed. When necessary for clarification, a detailed methodology of how the work will be performed shall be included.
- Note: Surety and Cost Recovery: When deemed necessary by the DSD Director or City Manager, additional surety instruments or bonds from the private Permit Holder may be required to ensure the long-term performance or implementation of required mitigation measures or programs. The City is authorized to recover its cost to offset the salary, overhead, and expenses for City personnel and programs to monitor qualifying projects.**
5. **OTHER SUBMITTALS AND INSPECTIONS:** The Permit Holder/Owner's representative shall submit all required documentation, verification letters, and requests for all associated inspections to the RE and MMC for approval per the following schedule:

Document Submittal/Inspection Checklist		
Issue Area	Document Submittal	Associated Inspection/Approvals/Notes
General	Consultant Qualification Letters	Prior to the Preconstruction Meeting
General	Consultant Construction Monitoring Exhibits	Prior to or at the Preconstruction Meeting
Air Quality	Zero-emissions landscaping equipment verification letter	Prior to first certificate of occupancy
Air Quality	Tier 4 (or better) construction equipment verification letter	Prior to issuance of grading permit for each Phase
Health and Safety	Asbestos-containing material removal verification letter	Prior to first certificate of occupancy

Health and Safety	lead-based paint removal verification letter	Prior to first certificate of occupancy
Health and Safety	Underground Storage Tank (UST) verification letter	Prior to issuance of grading permit
Health and Safety	Soil Vapor Sampling and verification letter	Prior to issuance of grading permit
Health and Safety	Vapor Intrusion Mitigation System Installation verification letter	Prior to issuance of occupancy for any affected building(s)
Historical Resources (Built Environment)	Salvage Plan	Prior to demolition of San Diego International Sports Arena
Historical Resources (Built Environment)	The Green Interpretive Display Plans	Prior to demolition of San Diego International Sports Arena
Historical Resources (Built Environment)	Site inspection for The Green Interpretive Display installation	Prior to last certificate of occupancy for any building associated with Lots 10, 11, 12, 13, and 14 or Lot I as shown on the approved Tentative Map
Historical Resources (Built Environment)	Robert Breitbard Interpretive Display Plans	Prior to demolition of San Diego International Sports Arena
Historical Resources (Built Environment)	Historic American Buildings Survey documentation package	Prior to demolition of San Diego International Sports Arena
Land Use	See Historical Resources and Noise Requirements	See applicable Historical Resources and Noise triggers
Noise (Operational)	Noise Control Plan	Prior to approval of a sitewide or individual Special Event Venue Permit
Noise (Construction)	Noise attenuation measures on grading plans	Prior to issuance of grading permit
Noise/Vibration (Construction)	Vibration study and notes on plans	Prior to construction activities near vibration-sensitive land uses (within 230 feet from operating vibrating equipment [roller and plate compactor] or 140 feet from other operating construction equipment)
Transportation and Circulation	Shuttle Service verification	Prior to issuance of certificate of occupancy for the first eating or drinking land use
Transportation and Circulation	Employee Transit Subsidy verification	Prior to first certificate of occupancy for the entertainment center (Phase 1)
Bond Release	Request for Bond Release Letter	Final MMRP Inspections Prior to Bond Release Letter

C. SPECIFIC MMRP ISSUE AREA CONDITIONS/REQUIREMENTS

Land Use

See **MM HIST-5.3-1**, **MM HIST 5.3-2**, **MM HIST 5.3.-3** and **MM HIST 5.3-4** under Historical Resources; and **MM NOI-5.5-1** under Noise.

Transportation and Circulation

MM TRANS 5.2-1: Commercial Shuttle

1. Prior to issuance of certificate of occupancy for the first eating or drinking land use, the Owner/Permittee shall implement a daily shuttle between Frontier Drive and the Old Town Transit Center for the life of the commercial land uses, satisfactory to the City Engineer. The shuttle shall operate between 12:00 p.m. and 10:00 p.m. using one vehicle at 20- or 30-minute headways.

MM TRANS 5.2-2: Employee Transit Subsidy

1. Prior to issuance of the first certificate of occupancy for the entertainment center, the Owner/Permittee shall implement an employee transit subsidy for the entertainment center employees to offset the net increase in vehicle miles traveled for the Project, satisfactory to the City Engineer. The employee transit subsidy shall be offered to all employees at 50 percent off the San Diego Metropolitan Transit System's current monthly pass rate for the life of the entertainment center.

Historical Resources (Built Environment)

MM HIST 5.3-1: San Diego International Sports Arena Salvage Plan

1. Prior to issuance of a demolition permit for the San Diego International Sports Arena, the City of San Diego City Planning Department's Heritage Preservation staff shall review and accept a salvage plan prepared by a qualified historic preservation professional. The salvage plan, to be implemented during the demolition of the San Diego International Sports Arena, shall catalog and identify elements proposed for removal from the existing San Diego International Sports Arena and shall include historic period architectural elements, as well as memorabilia, including photographs, posters, and plaques of past athletic and entertainment events, teams, and entertainers, for display in publicly accessible areas throughout the new entertainment center.
2. As a condition of closure of the demolition permit for the San Diego International Sports Arena, the Owner/Permittee shall document that the various displays presenting the salvaged items from the San Diego International Sports Arena have been installed at the entertainment center to the satisfaction of the City of San Diego Heritage Preservation staff.

MM HIST 5.3-2: The Green Interpretive Display

1. Prior to issuance of a demolition permit for the San Diego International Sports Arena, the City of San Diego City Planning Department's Heritage Preservation staff shall review and accept plans for an interpretive display to be installed in The Green area (Lot I, as shown on the approved Tentative Map) of the site near the old footprint of the San Diego International Sports Arena to be prepared by a qualified team, including a historian and a graphic designer.
1. Prior to issuance of the last certificate of occupancy for any building associated with Lots 10, 11, 12, 13, and 14 or Lot I as shown on the approved Tentative Map, whichever occurs latest, the Owner/Permittee shall document that the interpretive display has been installed in The Green area, satisfactory to the City of San Diego City Planning Department's Heritage Preservation staff. The display shall do the following:
 - a. Explain the history of the site from the Pre-European era through present day, including demolition of the San Diego International Sports Arena.

- b. Describe the San Diego International Sports Arena building's New Formalist architecture and the role of the San Diego International Sports Arena in the Midway neighborhood development.
- c. Discuss the Frontier Housing Project as the first modern development on the site and the current Project returning the site to affordable housing with a new entertainment center.

MM HIST 5.3-3: Robert Breitbard Interpretive Display

- 1. Prior to issuance of a demolition permit for the San Diego International Sports Arena, the City of San Diego City Planning Department's Heritage Preservation staff shall review and accept plans for an interpretive display that shall be designed by a qualified team, including a historian and a graphic designer, that focuses on the life of Robert Breitbard as it relates to his work in the sports field.
- 2. Prior to issuance of a demolition permit for the San Diego International Sports Arena, the Owner/Permittee shall document that the interpretative display has been installed in a location accessible to the public at the new entertainment center. The display shall include photographs of Breitbard, the San Diego International Sports Arena, the San Diego Gulls, and the San Diego Rockets and a text description of Breitbard's sports career.

MM HIST 5.3-4: Historic American Buildings Survey Level 2 Documentation

- 1. Prior to issuance of a demolition permit for the San Diego International Sports Arena, the City of San Diego City Planning Department's Heritage Preservation staff shall review and accept the Historic American Buildings Survey documentation package for the San Diego International Sports Arena. The Historic American Buildings Survey documentation shall achieve Level 2 standards in accordance with the Historic American Buildings Survey Guidelines for Preparing Written Historical Descriptive Data. The Historic American Buildings Survey documentation package shall be prepared by a qualified team, including an architectural historian with prior experience preparing Historic American Buildings Survey photographs. The Historic American Buildings Survey documentation package shall include the following:
 - a. Measured drawings shall be produced according to Historic American Buildings Survey guidelines depicting existing conditions or other relevant features of historic buildings, sites, structures, objects, or landscapes.
 - b. Photographic documentation shall follow the Photographic Specification–Historic American Buildings Survey, including 15–20 archival quality, large-format photographs of the exterior and interior of the building and its architectural elements. Construction techniques and architectural details shall be documented, noting the measurements, hardware, and other features that tie architectural elements to a specific date. The historic photographs and original architectural plans shall be included as figures in the historical report, following current Historic American Buildings Survey guidelines.
 - c. A written historical narrative and report shall be completed according to the Historic American Buildings Survey Historical Report Guidelines.
- 1. Prior to issuance of a demolition permit for the San Diego International Sports Arena, the Owner/Permittee shall provide verification, satisfactory to the City of San Diego City Planning Department's Historic Preservation staff, that two copies of the Historic American Buildings Survey documentation package were produced and submitted as follows:

- a. One copy submitted to the National Parks Service/Library of Congress; and
- b. The second copy provided to an archive or history collection accessible to the general public, such as the San Diego History Center.

Noise (Operational)

MM NOISE 5.5-1: Special Events Noise Best Management Practices

1. Prior to approval of a sitewide or individual Special Event Venue Permit for all private events, public events, or commercial operations in outdoor spaces on the Project site that require the use of amplified noise, the Owner/Permittee, event organizer, or individual responsible party shall submit a Noise Control Plan, satisfactory to the City of San Diego Special Events & Filming Department. The Noise Control Plan shall:
 - a. Demonstrate that event acoustics have been planned to minimize their impact on the nearest noise-sensitive receptors.
 - b. Indicate where stationary noise sources such as generators and speakers will be located. No speakers or other stationary noise sources shall be allowed in areas not indicated in the Noise Control Plan.
 - c. Demonstrate how speaker arrays would be designed to reduce noise spillage to the surrounding environment. This may include the following:
 - 1) Directing speakers away from sensitive receptors to the extent feasible.
 - 2) Using temporary sound barriers for stages and event areas where they would not present a safety hazard or inhibit movement on the site.
 - 3) Incline elevated speakers downward or otherwise design them to reduce noise spillage.
 - 4) Install optimized sub-arrays and optimized speaker arrays for temporary stages, if required. If suitable, employ delay tower speaker systems or circuit speakers rather than banks of speakers on either side of the stage.
 - 5) Establish a contact phone number that is monitored during outdoor events. If complaints are received, or there is reason to suspect that conditions of the Noise Control Plan have not been met, the City of San Diego shall require the Owner/Permittee to conduct noise monitoring of events to confirm noise levels and enforce agreement compliance.

Noise (Construction)

MM NOISE 5.5-2: Construction Noise Best Management Practices

1. Prior to issuance of a grading permit, the Owner/Permittee shall submit grading plans that demonstrate that Project construction shall achieve a 12-hour average sound level of less than 75 A-weighted decibel, satisfactory to the Chief Building Official.

At a minimum, construction noise best management practices shall be applied to all construction activities within 170 feet of existing or future residential development occupied at the time of construction. Best management practices shall be detailed on all Project construction plans and shall include but are not limited to the following:

- a. Limit construction activities to the hours between 7:00 a.m. and 7:00 p.m. Construction is not allowed on legal holidays as specified in Section 21.04 of the San Diego Municipal Code, with the exception of Columbus Day and Washington's Birthday, or on Sundays (consistent with Section 59.5.0404 of the San Diego Municipal Code).

- b. Equip all internal combustion engine-driven equipment with appropriately sized intake and/or exhaust mufflers that are properly operating and maintained consistent with manufacturer's standards.
- c. Stationary noise-generating equipment (e.g., compressors or generators) shall be located as far as possible from adjacent residential receivers and oriented so that emitted noise is directed away from sensitive receptors, whenever feasible.
- d. If noise levels are expected to potentially exceed San Diego Municipal Code thresholds, locate temporary noise barriers with a minimum height of 8 feet around pertinent active construction equipment or entire work areas to shield nearby sensitive receivers.
- e. Use "quiet" air compressors, generators, and other stationary noise sources where technology exists.
- f. The contractor shall prepare a detailed construction plan identifying the schedule for major noise-generating construction activities. The construction plan shall identify a procedure for coordination with adjacent residential land uses so that construction activities can be scheduled to minimize noise disturbance.
- g. Designate a "disturbance coordinator" responsible for receiving and responding to any complaints about construction noise or vibration. Contact information shall be posted in a conspicuous location near the construction site entrance. The disturbance coordinator shall determine the cause of the noise complaint and, if identified as a sound generated by construction area activities, shall institute modifications to the construction operations, equipment, or work plan to ensure compliance with San Diego Municipal Code standards. These modifications shall implement one or more of the following: administrative controls (e.g., reduce equipment operating time and/or prohibit the use of equipment types within certain distances of sensitive receptors); engineering controls (upgraded existing noise controls, such as installing better engine exhaust mufflers or improving existing noise abatement); and installation of temporary barriers, barrier back sound curtains, and/or acoustical panels around working construction equipment and, if necessary, around the construction boundary.
- h. Recurring disturbances shall be evaluated by a qualified acoustical consultant retained by the Project proponent to ensure compliance with applicable standards.

MM NOISE 5.5-3: Vibration Management Strategies

1. Prior to construction activities near vibration-sensitive land uses (within 230 feet from operating vibrating equipment [roller and plate compactor] or 140 feet from other operating construction equipment), vibration sensitive uses shall be identified on construction plans, and the Owner/Permittee shall submit the site-specific vibration studies that documents that Project construction would not adversely affect adjacent vibration-sensitive properties, satisfactory to the City Engineer. Surrounding vibration-sensitive uses include veterinary clinics on Sports Arena Boulevard where the operation of construction equipment could exceed 65 vibration decibels and interfere with interior operations that use vibration-sensitive equipment, such as medical equipment. Such efforts shall be conducted by a qualified vibration expert and shall include the following:
 - a. Develop a Vibration Monitoring and Construction Contingency Plan to identify structures where monitoring would be conducted; set up a vibration monitoring schedule; define structure-specific vibration limits; and address the need to conduct photo, elevation, and

crack surveys to document before and after construction conditions. Construction contingencies would be identified for when vibration levels exceed the limits.

- b. Monitor vibration during initial construction activities and during activities that require use of vibratory equipment. Monitoring results may indicate the need for modifications to the Vibration Monitoring and Construction Contingency Plan to include more or less intensive measurements.
- c. Designate a “disturbance coordinator” who would be responsible for receiving and responding to any complaints about construction vibration. The disturbance coordinator shall determine the cause of the noise complaint and shall require that reasonable measures be implemented to correct the problem.
- d. When vibration levels exceed limits, suspend construction and implement contingencies to either lower vibration levels or secure the affected structures.
- e. Conduct post-activity survey on structures where either monitoring has indicated high levels or complaints of damage have been made. Make appropriate repairs or compensation where damage has occurred as a result of construction activities.

Health and Safety

MM HS 5.6-1: Asbestos-Containing Material Removal

1. Prior to issuance of a demolition permit, the Owner/Permittee shall provide a verification letter to the City of San Diego Development Services Department’s Mitigation Monitoring Coordination staff confirming that all regulatory requirements pertaining to asbestos-containing material removal have been met.

MM HS 5.6-2: Lead-Based Paint Removal

1. Prior to issuance of a demolition permit, the Owner/Permittee shall provide a verification letter to the City of San Diego Development Services Department’s Mitigation Monitoring Coordination staff confirming that all regulatory requirements pertaining to lead-based paint removal have been met.

MM HS 5.6-3: Removal of Underground Storage Tank

1. Prior to issuance of a grading permit for the area where an underground storage tank was encountered on the Project site, the Owner/Permittee shall provide a verification letter to the City of San Diego Development Services Department’s Mitigation Monitoring Coordination staff confirming that all regulatory requirements related to the removal of the underground storage tank have been met.

MM HS 5.6-4: Soil Vapor Sampling and Vapor Intrusion Mitigation System Where Indicated

1. Prior to issuance of a grading permit, the Owner/Permittee shall collect soil vapor samples within the footprints of the proposed Project buildings to re-assess soil vapor concentrations. Where soil vapor concentrations comply with the State Water Resources Control Board Low-Threat Underground Storage Tank Case Closure Policy, which provides specific health risk-based screening criteria for the petroleum hydrocarbon-related volatile organic compounds that include benzene, ethylbenzene, and naphthalene established by the State Water Resources Control Board, as well as the applicable vapor intrusion screening levels for human health risks, the additional round of soil vapor sampling may indicate that vapor intrusion remediation is not

necessary beneath certain buildings proposed above the sampling site, and no further work is required in connection with indoor air, provided applicable regulatory agency approval is received.

2. Prior to the issuance of the first certificate of occupancy for any building affected by and/or within the footprint of the vapor intrusion mitigation system, the Owner/Permittee shall provide a verification letter from the County of San Diego's Department of Environmental Health and Quality, the San Diego Regional Water Quality Control Board, or other applicable agency with environmental authority to the City of San Diego Development Services Department's Mitigation Monitoring Coordination staff confirming that all regulatory requirements related to the design and construction of the vapor intrusion mitigation system have been met. For buildings proposed to be located on soil where previously collected and future soil vapor sample results indicate a vapor risk is present for future occupants, a vapor intrusion mitigation system shall be installed. The vapor intrusion mitigation system shall be installed for the enclosed occupied ground floor spaces of the residential or commercial buildings where necessary due to the high concentrations of volatile organic compounds identified in soil vapor sampling. The vapor intrusion mitigation system shall be designed by a licensed professional engineer and consist of a passive-vented system with the option to convert to an active system with a gas-tight horizontal membrane barrier above.

Air Quality

MM AIR 5.9-1: Zero-Emissions Landscape Equipment.

1. Prior to issuance of the first certificate of occupancy, the Owner/Permittee shall submit verification that landscaping equipment operated on the Project site shall be zero-emissions, satisfactory to the City of San Diego Development Services Department's Mitigation Monitoring Coordination staff. This measure shall be incorporated into all contracts to provide landscape services on the Project site.

MM AIR 5.9-2: Construction Equipment Emissions Standards

1. Prior to issuance of a grading permit for each phase of construction, the construction contractor shall submit verification that the on-site diesel construction fleet shall include at least 50 percent equipment with engines that meet, at a minimum, the Tier 4 Final California Emissions Standards, satisfactory to the City of San Diego Development Services Department's Mitigation Monitoring Coordination staff. Alternatively, additional electric-powered equipment may be used, such that at least 50 percent of the construction fleet meets or exceeds Tier 4 Final California Emissions Standards for particulate matter emissions.

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF
SAN DIEGO APPROVING A DEVELOPMENT AGREEMENT
BETWEEN THE CITY OF SAN DIEGO AND MIDWAY
RISING LLC.

RECITALS

The Council of the City of San Diego (Council) adopts this Ordinance based on the following:

A. The City of San Diego (City) is the fee title owner of real property (the project site) consisting of approximately 48.5 acres located at 3220, 3240, 3250, and 3500 Sports Arena Boulevard within the Midway-Pacific Highway Community Plan.

B. The City will lease the project site to Midway Rising, LLC (the Developer), who will develop the project site with 2,000 residential rental units affordable to lower income households, 2,254 residential units at market rate rents, a new, entertainment center with a capacity of 16,000 seats; up to 130,000 square feet of retail space; parking garages with approximately 7,040 (3,191 Zero Emissions Vehicles) parking spaces; approximately 14.54 acres of open space comprised of 8.12 acres of public park space and 6.42 acres of public plaza space; and offsite improvements (Project).

C. The project site is legally described as Portions of APN 441-590-04 and more precisely PARCEL 1: THOSE PORTIONS OF PUEBLO LOTS 241, 242, 259, 276, 311, 312, 313, 314, 337 AND 338 OF THE PUEBLO LANDS OF SAN DIEGO, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF MADE BY JAMES PASCOE, A COPY OF WHICH SAID MAP WAS FILED IN

(O-20[Ord Code])

THE OFFICE OF COUNTY RECORDER OF SAN DIEGO COUNTY, AND KNOWN AS MISCELLANEOUS MAP NO. 36, TOGETHER WITH LOT "A" AND A PORTION OF LOT "B" OF PUEBLO LOT 339, ACCORDING TO PARTITION MAP THEREOF ON FILE IN THE OFFICE OF THE COUNTY CLERK OF SAID COUNTY, IN AN ACTION ENTITLED "STEELE VS. STEELE", SUPERIOR COURT, CASE NO. 5620, TOGETHER WITH MAP OF CASS AND MCELWEE SUBDIVISION, ACCORDING TO MAP THEREOF NO. 1581, FILED IN THE OFFICE OF COUNTY RECORDER OF SAN DIEGO COUNTY; PARCEL 2: ALL THAT PORTION OF PUEBLO LOTS 242, 243, 259 AND 311 OF THE PUEBLO LANDS OF SAN DIEGO, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO THE MAP THEREOF MADE BY JAMES PASCOE IN 1870; A COPY OF WHICH MAP WAS FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, NOVEMBER 14, 1921; PARCEL 3: THAT PORTION OF PUEBLO LOT 259 OF THE PUEBLO LANDS OF SAN DIEGO, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF MADE BY JAMES PASCOE, A COPY OF WHICH SAID MAP WAS FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY AND KNOWN AS MISCELLANEOUS MAP NO. 36; PARCEL 4: EXCEPTING THEREFROM A PORTION OF SAID LAND, ALL URANIUM, THORIUM, AND ALL OTHER MATERIALS DETERMINED PURSUANT TO SECTION 5(B) (1) OF THE ATOMIC ENERGY ACT OF 1946 (60 STAT. 761), TO BE PECULIARLY ESSENTIAL TO THE PRODUCTION OF FISSIONABLE MATERIAL, CONTAINED IN WHATEVER CONCENTRATION IN DEPOSITS IN THE LANDS COVERED BY THIS INSTRUMENT,

TOGETHER WITH THE RIGHT OF THE UNITED STATES THROUGH ITS AUTHORIZED AGENTS OR REPRESENTATIVES AT ANY TIME TO ENTER UPON THE LAND AND PROSPECT FOR, MINE AND REMOVE THE SAME, AS RESERVED FOR THE USE OF THE UNITED STATES, IN A DEED RECORDED JANUARY 31, 1955 IN BOOK 5514, PAGE 182 OF OFFICIAL RECORDS.

D. The City, a Charter City, is authorized pursuant to San Diego Municipal Code (Municipal Code) Section 124.0104 *et seq.* and California Government Code Section 65864 *et seq.* to enter into a binding development agreement with person(s) having legal or equitable interest(s) in real property for the development of such property in order to establish certainty in the development process.

E. The City and the Developer desire to enter into a Development Agreement (Development Agreement), relating to the Property Site in conformance with the provisions of the SDMC and Government Code to achieve the development of private land uses, together with the provisions of public services, public uses, and urban infrastructure all in the promotion of the health, safety, and general welfare of the City.

F. Under the terms of the Development Agreement, Midway Rising, LLC will provide substantial public improvements and benefits to the City including, but not limited to, 2,000 total affordable residential dwelling units, including 936 affordable units in excess of the Surplus Land Act requirement that projects that respond to a Notice of Availability reserve 25% of units for affordable housing affordable residential dwelling units, which help alleviate the City's ongoing housing crisis; a multi-purpose 16,000-seat entertainment center to expand access to cultural, sporting, and civic events; 14.5 acres of high quality parks and public space, the

creation of a new urban village to fulfill the City's land use plans and revitalize the Midway-Pacific Highway Community Planning Area; implementation of the City's sustainability and Climate Action Plan goals; promotion of multimodal travel by creating a transit-oriented village with major mobility infrastructure improvements; as well as employment and economic benefits.

G. In consideration of the public improvements and benefits to be provided by the Developer pursuant to the Development Agreement, and to strengthen the public planning process and reduce the economic costs of development, the City intends to give the Developer assurance to proceed with the development of the property by the terms of the Development Agreement.

H. In consideration of the public parks and public plazas that will be developed and maintained by the Developer pursuant to the Development Agreement, as well as the public outreach that occurred as part of the development of the Midway Rising Specific Plan, the Council agrees to waive Council Policy 600-33 requiring a General Development Plan (GDP) for the public parks and public plazas as part of the Development Agreement.

I. On September 25, 2025, the Planning Commission of the City of San Diego, after giving notice pursuant to Municipal Code section 112.0301(c), *et seq.*, and California Government Code section 65090, *et seq.*, held a public hearing on the Development Agreement and pursuant to Resolution No. [REDACTED]-PC voted to recommend that the Council approve the Development Agreement.

J. On [REDACTED], 2025, the Council, after giving notice pursuant to Municipal Code section 112.0301(c), *et seq.*, and California Government Code Section 65090 *et seq.*, held a

public hearing, where testimony was heard, evidence was submitted, and the Council fully considered the matter and was fully advised on the project and Development Agreement.

K. The Council finds the Development Agreement is consistent with the General Plan and Midway-Pacific Highway Community Plan to the extent required by law, as well as all other applicable policies and regulations of the City of San Diego, having reviewed and considered the Development Agreement and determined the content of it to be complete and correct.

L. The Office of the City Attorney prepared this Ordinance based on the information provided by City staff (including information provided by affected third parties and verified by City staff), with the understanding that this information is complete and accurate.

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

ACTION ITEMS

Be it ordained by the Council of the City of San Diego:

Section 1. The Council finds and determines the facts stated above to be true.

Section 2. The Council further finds with respect to the Development Agreement that:

- 1. The Development Agreement is consistent with the applicable land use plans, Local Coastal Program, and the Land Development Code.**

To ensure that the Sports Arena Community Village would be planned comprehensively, the 2018 Midway-Pacific Highway Community Plan (“Community Plan”) identified the need to prepare either a Specific Plan or a Master Planned Development Permit, and therefore, a Specific Plan has been prepared and is proposed. The Midway Rising Specific Plan (“Specific Plan”) provides guidance on the permitted and regulated land uses within the Specific Plan area, as well as policies and supplemental development regulations that work with the underlying base zones and development regulations in the San Diego Municipal Code (“SDMC”) to ensure the implementation of the Community Plan’s vision.

The Development Agreement specifically calls for implementing the Midway Rising Specific Plan and its associated actions to create a project that focuses on pedestrian mobility, bicycle connectivity, community roadways, direct access to transit, and accommodating a portion of the region’s housing needs. The project is consistent with the City’s General Plan and City of Villages Strategy, the Midway-Pacific Highway Community Plan, and the City’s Land Development Code (LDC) as described below. The project site is not in the Coastal Zone; therefore, the Local Coastal Program does not apply.

The project consists of up to 4,254 housing units, including 2,000 affordable units restricted to households with incomes less than 80 percent area median income, 2,254 market rate rental residential dwelling units, a new 380,000 square foot entertainment center with a capacity of 16,000 seats, up to 130,000 square feet of commercial and retail space including restaurants, shops, and supporting neighborhood retail, parking garages with approximately 7,747 (3,191 EV) parking spaces, approximately 14.54 acres of open space comprised of 8.12 acres of public park space and 6.42 acres of public plaza space, and offsite improvements.

The Project includes a General Plan Amendment to redesignate the site from Community Commercial – Residential Permitted to Community Village in the Community Plan. The proposed Community Village land use designation is consistent with the existing Multiple Use land use designation identified in the General Plan. In addition, a Community Plan Amendment redesignates the Community Plan Community Commercial – Residential Permitted (zero to 44 dwelling units per acre) designation to a Community Village designation (zero to 72 dwelling units per acre). The revised land use designation is consistent with the overall vision of the Community Plan, which identifies this area as the location for a Sports Arena Community Village.

The project implements the General Plan's Housing Element goals and policies by providing desperately needed housing, including on-site affordable housing, with 47 percent of the 4,254 dwelling units (2000 dwelling units) set aside as income-restricted affordable housing dwelling units. Relative to the Community Plan's Mobility Element, the project will implement Bus Rapid Transit (BRT) infrastructure and provide bus stop and bus lane enhancements. The project is also within 1 mile walking distance to high-quality transit at the nearby Old Town Transit Center. The project will provide multi-

modal access to the larger MTS and Amtrak rail systems and will construct and support other on- and off-site mobility improvements.

The project supports active transportation in proximity to local pedestrian circulation facilities and regional bicycle transportation. The Specific Plan identifies a multimodal transportation network that would include new public streets, modified public streets, sidewalks, multi-use paths, bicycle facilities, promenades, and pedestrian paseo greens and paseo greenways. Internal circulation would be facilitated by two new on-site public roadway segments, Kemper Street and Frontier Drive, which would run north-south through the Project site and provide connection between Sports Arena Boulevard and Kurtz Street. The Project would provide bicycle access through Class I, II, and IV bicycle facilities and the network of promenades, paseo greens, and paseo greenways. Separated protected bikeways are proposed for Sports Area Boulevard and Kemper Street. The Project's bicycle improvements would extend along Kurtz Street and Rosecrans Street to connect the site with the Old Town Transit Center at Pacific Highway and Taylor Street. Bicycle parking would be provided on site to serve proposed residential, retail, and event uses, including in public spaces and promenades for public use. To support transit access, the Project would relocate and provide enhancements to the two existing local bus stops along the Project frontage on Sports Arena Boulevard, which include installing transit shelters and benches. A third new bus stop would be constructed on the west side of Frontier Drive for the planned extension of Rapid Bus Route 10 that would connect the Specific Plan area to the Old Town Transit Center, Mission Bay, and Clairemont. This combination of transit opportunities and the project's extensive pedestrian and bicycle system is consistent with the City's Climate Action Plan, with a goal to reduce the rate of vehicle miles traveled per person and per employee, as well as reduce greenhouse gas emissions. Specific design guidelines and development standards included in the Specific Plan will ensure infill development that is sensitive to the character and quality of the existing neighborhood, while creating a distinct identity on-site, supporting the General Plan's Urban Design goals.

The Specific Plan will respect the community character by encouraging orderly, sequential development compatible in its intensity with surrounding existing and future land development. The project provides approximately 14.54 acres of open space comprised of 8.12 acres of public park space and 6.42 acres of public plaza space - implementing the Recreation Element of the General Plan in a manner that will serve the project and the community, while also meeting the City's population-based parks requirements providing 610 recreational value points (RVPs).

The Project provides for a high-intensity, mixed-use development that integrates residential, commercial, employment, and recreational uses within a Transit Priority Area (TPA), consistent with the Community Plan. The Specific Plan residential density (0 to 72 units per acre, or 3,545 units, up to 4,254 units with a density bonus) and non-residential intensity (130,000 square feet of commercial use, and a 380,000-square-foot entertainment center) are consistent with the Midway-Pacific Highway Community Plan. The project allows for a variety of multi-family housing types in a mixed-use pedestrian-

and transit-oriented development that would integrate residential uses with employment uses.

The Community Village land use designation allows for a mix of uses, including commercial uses such as retail sales, commercial services, personal services, entertainment, assembly, and visitor accommodation, that serve residents and workers in the community and adjacent communities. Residential uses are allowed as a primary use of mixed-use development that features ground-floor commercial uses or development that provides a horizontal mix of uses connected by public space.

The project will also promote alternative modes of transportation by introducing greater connectivity to and through the community village. The Specific Plan identifies a multi-modal network including new streets, wide sidewalks, multi-use paths, new bicycle facilities, promenades, pedestrian paseos, and greenways. The Specific Plan identifies two new public streets that will traverse the community village to create three smaller blocks, establishing a grid network of streets in the surrounding area.

Additionally, through implementation of the Midway Rising Specific Plan, the development is consistent with the City's LDC, allowing for a mix of land uses and development standards consistent with City-wide development regulations. Changes from the LDC are permitted with the approval of the Specific Plan and/or Development Agreement.

A rezone will change the Project site's base zone from CC-3-6 (Community Commercial) to a Mixed-Use Residential base zone (RMX-2), which allows residential and commercial uses that include retail sales, commercial services, personal services, entertainment, assembly, and visitor accommodation uses that serve residents and workers in the community and adjacent communities. The Midway Rising Specific Plan includes accompanying implementation regulations to facilitate achievement of the Project's densities and intensities. To allow greater flexibility and site planning, the Specific Plan includes tailored development standards, which respond to the site constraints and opportunities. To achieve the project objectives of a unified land use design and built elements that create a positive sense of character and community, the project proposes land uses and development regulations that implement the LDC. The zoning development regulations, as modified through the project-specific tailored development standards, included in the Specific Plan and related permits, will ensure quality site and architectural design and must be adhered to through project build-out.

2. The Development Agreement will provide significant public benefits in proportion to the rights granted under the Development Agreement.

The Development Agreement provides significant public benefits to the City which will be in excess of what can be obtained under existing policies and regulations, and otherwise could not be reasonably derived or provided except through this Agreement. 2,000 residential units affordable to low-income households: The number of affordable

residential dwelling units to be provided far exceeds the standard development requirements outlined in SDMC section 142.1304 Inclusionary Affordable Housing Requirements and the affordable housing requirements for Affordable Housing Regulations density bonus eligibility in SDMC section 143.0720 Density Bonus in Exchange for Affordable Housing Units as well as the statutory Surplus Land Act on-site affordable unit requirement of 25 percent.

Population-based parks: Dedication of land and construction of at least 14.54 acres of publicly accessible park and public plaza space, which would be operated and maintained by the Permittee but open to the public.

16,000-seat Multi-Purpose Entertainment Center: The entertainment center will allow a broader range of sporting, cultural, and civic events and will be designed to modern standards, including accessibility, to enhance the patron experience for San Diegans.

Other benefits: These include the creation of a new urban village to fulfill the City's land use plans and revitalize the Midway-Pacific Highway Community Planning Area; implementation of the City's sustainability and Climate Action Plan goals; promotion of multimodal travel by creating a transit-oriented village with major mobility infrastructure improvements; and employment and economic benefits.

In exchange, the City grants vested rights to develop the project in conformance with the existing permitted uses, maximum height, building size, density, intensity, and as otherwise outlined in the Midway Rising Specific Plan and other entitlements approved with the Development Agreement. This certainty of regulatory requirements allows the project to proceed without undue risk and unpredictable cost increases from changing regulations.

The proposed significant public benefits are proportional to the rights granted under the Development Agreement because one is needed to obtain the other. The vested rights granted are consistent with the California Legislature's reason for authorizing such agreements. Under state law, the certainty created by the Development Agreement's vested rights provides housing opportunities, promotes job-producing commerce, and encourages private participation in the comprehensive planning process that the California Legislature promotes. The comprehensive planning process resulted in the Specific Plan, which in turn provides rules for developing the parkland and other benefits, which exceed normal benefits that can be obtained under existing policies and regulations, as described in more detail in the finding below. Accordingly, those enhanced public benefits would not exist without the rights granted under the Development Agreement.

The rights granted to the Developer under this Development Agreement, including vested rights for the Developer for a period of 30 years, are in proportion to the Extraordinary Benefits provided. The vested rights period allowed in the California Subdivision Map Act is not long enough to give the applicant sufficient certainty to build

out this project. Revenue generated by leasing constructed residential units and commercial space provides the revenue to design and build the extraordinary benefits. Therefore, shortening the vested rights period would result in fewer public benefits. Accordingly, the public benefits provided are in proportion to the vested rights granted.

3. The significant public benefits will be in excess of what can be obtained under existing policies and regulations, and otherwise could not reasonably be derived or provided except through the Development Agreement.

The Development Agreement would provide significant public benefits in proportion to the rights granted under the Agreement and are described above in Section 2

The Development Agreement requires Developer to design, construct, operate, and maintain 8.12 acres of park, and 6.42 acres of public plaza, worth an estimated 610 recreational value points.

The Project's significant public benefits are in excess of what can be obtained under existing policies and regulations, and otherwise could not reasonably be derived or provided except through the Development Agreement.

2,000 residential units affordable to low-income households: The number of affordable residential dwelling units to be provided far exceeds the standard development requirements outlined in SDMC section 142.1304 Inclusionary Affordable Housing Requirements and the affordable housing requirements for Affordable Housing Regulations density bonus eligibility in SDMC section 143.0720 Density Bonus in Exchange for Affordable Housing Units as well as the statutory Surplus Land Act on-site affordable unit requirement of 25 percent. This extraordinary benefit is valued at \$547,560,000.

Population-based parks in excess of requirement: Dedication of land and construction of at least 14.54 acres of publicly accessible park space and public plaza space, which provide new recreational opportunities for San Diego residents that would not be available without the Development Agreement, and which helps to achieve the goals of the General Plan, Midway-Pacific Highway Community Plan and the applicable Parks Master Plan. This benefit is valued at \$65,146,000.

16,000-seat Multi-Purpose Entertainment Center: The entertainment center will allow a broader range of sporting, cultural, and civic events and will be designed to modern standards to enhance the patron experience for San Diegans. This extraordinary benefit is valued at \$520,458,000.

Mobility Infrastructure Improvements: Off-site improvements include a multi-use path at Kurtz and Rosecrans Streets, a roundabout at Hancock Street and Kurtz Street, multiple intersection improvements, traffic signal improvements, street improvements, and bridge enhancements, Bus Rapid Transit, and bus stop and bus lane enhancements. On-site streets and linear parks are also part of this benefit, which is valued at \$22,100,000.

The City will not provide reimbursement for the above, and therefore, the public benefits of these improvements exceed what could be obtained if the City were required to fully reimburse the Developer for this benefit.

In summary, the City could not otherwise require these improvements of the Developer or would have to provide reimbursement beyond the level of impact fees owed by the Project. Developer is providing them in exchange for the City's agreement to provide certainty in development rules by allowing the Project to proceed according to existing policies, rules, and regulations. The significant public benefits, therefore, exceed what can be obtained by applying existing policies and regulations, and otherwise could not reasonably be derived or provided except through the Development Agreement.

Section 3. The Council approves the Development Agreement with Midway Rising LLC, a copy of which is on file in the Office of the City Clerk as Document No.

OO-_____, and authorizes and directs the City Manager, or designee, to execute the Development Agreement in the name of the City and to sign all documents necessary and appropriate to carry out and implement the Development Agreement, and to administer the City's obligations, responsibilities, and duties to be performed under the Development Agreement.

Section 4. As part of the Development Agreement and this Ordinance, the Council waives Council Policy 600-33.

Section 5. Notwithstanding Municipal Code section 22.5908(b), requiring the Developer to comply with the Civic Enhancement allocation requirements through one of three identified means, the Developer will comply with the Civic Enhancement allocation requirements through a different means of construction of a multi-purpose entertainment venue with 16,000 seats on City-owned property that is open and accessible for cultural use.

Section 6. The City Clerk is directed to record the Development Agreement and this Ordinance with the County Recorder of San Diego County within ten days after the execution of the Agreement.

Section 5. The Council dispenses with a full reading of this Ordinance before its passage because a written copy of this Ordinance was made available to the Council and the public before the date of its passage.

Section 6. This Ordinance shall take effect and be in force on the thirtieth day from and after its passage, or on the date that the O-_____, adopting the Midway Rising Specific Plan, on file in the Office of the City Clerk as Document No. OO-_____ becomes effective, or on the date that R-_____, adopting an amendment to the Midway-Pacific Highway Community Plan, on file in the Office of the City Clerk as Document No. RR - _____ becomes effective, whichever date occurs last.

Section 7. No building permits for development inconsistent with the provisions of this Ordinance shall be issued unless an application therefore was deemed complete prior to the date of adoption of this Ordinance.

APPROVED: HEATHER FERBERT, City Attorney

By _____
Attorney Name
Deputy City Attorney

4,254

RECORDING REQUESTED BY
 AND WHEN RECORDED MAIL TO:
 Allen Matkins Leck Gamble Mallory & Natsis LLP
 Attn: Jeffrey A. Chine Esq.
 600 W. Broadway
 27th Floor
 San Diego, CA 92101

THIS SPACE ABOVE FOR RECORDER'S USE

MIDWAY RISING

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (the "Agreement") is executed this ____ day of _____, 2025, by and between (1) THE CITY OF SAN DIEGO, a California municipal corporation (the "City") and (2) MIDWAY RISING, LLC a Delaware limited liability company (the "Developer"). City and Developer may be individually referred to herein as a "Party" and collectively as the "Parties."

RECITALS

A. City is the fee title owner of approximately 48.5 acres of land located in the community commonly referred to as the "Midway-Pacific Highway Community", addressed at 3220, 3240, 3250, and 3500 Sports Arena Boulevard San Diego, California, as further described and depicted in **Exhibits A and B**, respectively (collectively the "Property"). Developer intends to: (i) enter into ground leases (the "Leases") with the City for the Property; and (ii) develop the "Project" (as such term is defined below) on the Property.

B. The project, as further described in the Midway Rising Specific Plan Environmental Impact Report project description, Project No. PRJ-1106734, SCH No. 2023120451, includes the mix and quantity of land uses described in the "Specific Plan" (as such term is defined in Section 3.b. below), approved with this Agreement and includes 4,254 rental residential dwelling units comprised of 2,000 rental residential dwelling units available at affordable rent, as defined in California Health and Safety Code section 50053, to lower income households, as defined in California Health and Safety Code section 50079.5, and 2,254 rental residential dwelling units available at then current market rate rents; a new, minimum 380,000 square foot entertainment center with a minimum capacity of 16,000 seats; up to 130,000 square feet of retail space; parking garages with approximately 7,040 (3,191 Zero Emissions Vehicles) parking spaces; approximately 14.54 acres of open space (the "Parks and Plazas") comprised of 8.12 acres of public park space (the "Public Park Space"), as identified on the Vesting Tentative Map as "Park" in the Lot Type table, and 6.42 acres of public plaza space; and offsite improvements (collectively the "Project"). The Project also focuses on pedestrian mobility, bicycle connectivity, community roadways, and direct access to transit.

C. Pursuant to Government Code Section 65864, the California Legislature authorized development agreements in order to provide assurance to the applicant for a development project that upon approval of the project, the applicant may proceed with the project in accordance with existing policies, rules and regulations, and subject to conditions of approval, will strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the economic costs of development.

D. The Parties desire to fulfill the Legislature's purpose in providing certainty in development rules applicable to the Project so as to provide housing opportunities, reduce the economic costs of development to encourage new housing supply, promote job-producing commerce, and encourage private participation in the comprehensive planning found in the "Specific Plan" (as such term is defined in Section 3.b. below) that will help promote development of parks, transit improvements and other facilities important to the future and vitality of the Midway-Pacific Highway Community Planning Area and the City, which are both deficient in affordable housing, market-rate housing and park land and have untapped potential for locating jobs and housing near public transit.

E. The City finds that this Agreement provides significant public benefits to the City which will be in excess of what can be obtained under existing policies and regulations, and otherwise could not be reasonably derived or provided except through this Agreement. The significant public benefits provided by this Agreement include, amongst others, 2,000 total affordable residential dwelling units, including 936 affordable units in excess of the Surplus Land Act requirement that projects that respond to a Notice of Availability reserve 25% of units for affordable housing affordable residential dwelling units, which help alleviate the City's ongoing housing crisis; a multi-purpose 16,000-seat entertainment center to expand access to cultural, sporting, and civic events; 14.5 acres of high quality parks and public space, the creation of a new urban village to fulfill the City's land use plans and revitalize the Midway-Pacific Highway Community Planning Area; implementation of the City's sustainability and Climate Action Plan goals; promotion of multimodal travel by creating a transit-oriented village with major mobility infrastructure improvements; as well as employment and economic benefits.

F. The City finds that this Agreement is consistent with the City of San Diego's General Plan and Local Coastal Program including the Midway-Pacific Highway Community Plan adopted in 2018 (the "Community Plan"), and that the City has completed all necessary proceedings in accordance with the City's rules and regulations for its approval.

AGREEMENT

NOW, THEREFORE, City and Developer agree as follows:

1. Recitals. The Recitals set forth above are incorporated herein.
2. Purpose. The purposes of this Agreement are to accomplish the objectives set forth in the Recitals to this Agreement, to set forth the terms and conditions for how the Property may be developed by Developer in order to provide extraordinary benefits to the public, and to provide assurance that the Property can be developed in accordance with the Development Regulations described in this Agreement.

3. Authorized Development -- Permitted Uses, Height, Building Size, Density and Intensity. Developer obtains the vested rights described herein to develop in conformance with the permitted uses, maximum height, building size, density and intensity in the locations and in accordance with the implementation procedures set forth in the “Specific Plan” (as such term is defined in Section 3.b. below), which collectively with the related easement vacations and other entitlement approvals described below is referred to as the “Authorized Development”, all of which are portions of Project No. PRJ-1106734:

a. Vesting Tentative Map. Concurrent with approval of this Agreement, City will approve a Vesting Tentative Map (VTM) consistent with the Authorized Development, authorizing subdivision of the Property consistent with the Authorized Development. Pursuant to Government Code Section 66452.6(a)(1), the term of the VTM shall run concurrent with the term of this Agreement. Likewise, all other development permits for the Authorized Development may be initiated anytime within the term of this Agreement; once initiated, they shall not expire.

b. Specific Plan. Concurrent with approval of this Agreement, the City will approve a Midway Rising Specific Plan providing for the comprehensive planning of the Property (the “Specific Plan”). The permitted uses, height, building size, density and intensity, and provisions for reservation and dedication of public uses are identified in the Specific Plan, which authorize 4,254 rental residential dwelling units comprised of 2,000 rental residential dwelling units available at affordable rent, as defined in California Health and Safety Code section 50053, to lower income households, as defined in California Health and Safety Code section 50079.5, and 2,254 rental residential dwelling units available at then current market rate rents; a new, minimum 380,000 square foot entertainment center with a minimum capacity of 16,000 seats; up to 130,000 square feet of retail space; parking garages with approximately 7,747 (3,191 EV) parking spaces; approximately 14.54 acres of open space (the “Parks and Plazas”) comprised of 8.12 acres of public park space and 6.42 acres of public plaza space; and offsite improvements. The maximum height and size of proposed buildings, density and intensity, permitted use, and provisions for reservation and dedication of public uses provided in the Specific Plan and other objective development standards from the Specific Plan, including Midway Rising Supplemental Development Regulations, are hereby incorporated by reference so that the Parties acknowledge that this Agreement meets the content requirements for a development agreement pursuant to Government Code Section 65865.2.

c. Rezone. Concurrent with approval of this Agreement, the City will also approve a Rezone consistent with the Authorized Development that updates the zoning map to Rezone Map No. _____ with Base Zone RMX-2, so that Developer may process any future approvals (e.g. vesting tentative maps, parcel maps, final maps, neighborhood use permits, neighborhood development permits, conditional use permits, planned development permits, site development permits, and amendments thereto) building out the Project and Specific Plan without further processing a rezone.

d. Site Development Permit. Concurrent with approval of this Agreement, the City will also approve a Site Development Permit (SDP) consistent with the Authorized Development, based on substantial evidence supporting a SDP’s findings.

e. Easement Vacations. Concurrent with approval of this Agreement, the City will also approve easement and rights-of-way vacations (either as stand-alone easement vacations or through the VTM and final maps) consistent with the Authorized Development (“Easement Vacation”), based on substantial evidence supporting an Easement Vacation’s findings.

f. General Plan Amendment. Concurrent with approval of this Agreement, the City will also approve a General Plan Amendment (“GPA”) consistent with the Authorized Development.

g. Community Plan Amendment. Concurrent with approval of this Agreement, the City will also approve a Community Plan Amendment (“CPA”) to the Midway Pacific Highway Community Plan, consistent with the Authorized Development.

h. Affordable Housing Variance. Concurrent with approval of this Agreement, the City will also approve the variance described in **Exhibit C** attached to this Agreement from the requirements of San Diego Municipal Code section 142.1304(e)(1) based on substantial evidence in the record supporting the variance findings.

i. Development Impact Fees and Non-Fee Exactions. The Parties agree that generally applicable development impact fees and the non-fee exactions identified in the Project’s conditions of approval represent the Developer’s contribution to all the impacts caused by the development, which Developer may satisfy by either (1) paying the applicable fee prior to certificate of occupancy; (2) providing improvements in-lieu of development impact fees (“DIF”), as described in Section 5.a of this Agreement called Improvements In Lieu of DIF (“IIL”); (3) tendering the required irrevocable offer to dedicate, if any; or (4) constructing or bonding for the improvements required for the authorized development.

j. Subsequent Development Approvals. To the extent subsequent development approvals will be required to implement the Project, including but not limited to conditional use permits, site development permits, planned development permits, tentative maps, vested tentative maps, parcel maps, final maps and amendments thereto, any subsequent approvals, including those listed in the preceding clauses, grading permits, building permits or other discretionary or ministerial approvals shall be processed in accordance with the vested rights granted herein and consistent with this Agreement and the Specific Plan’s implementation procedures. In recognition of Developer’s vested rights pursuant to this Agreement, City will apply Current Land Use Rules (defined herein) when considering subsequent development approvals for the Project, unless the Developer elects in writing with notice to be subject to the new rule, regulation, or policy. This section shall not prevent the City from exercising such discretion it may have under the Current Land Use Rules.

k. Public Park Space Staging.

i. Summary. Development of the Project includes construction of the Public Park Space identified in Specific Plan Chapter 6. The Developer may construct any Public Park Space at any time, so long as the timing requirements specified in this section are met. For illustrative purposes, the Public Park Space is planned in three stages from east to west

across the Property. Stage one is expected to extend from the eastern property line of the Property up to and including Frontier Street. Stage two is expected to extend from Frontier Street up to and including Kemper Street. Stage three is expected to extend from Kemper Street up to and including the western property line of the Property.

ii. **Staging.** The Developer shall not receive a certificate of occupancy for the residential units in a later stage until the Mayor or their designee has determined that construction is complete for required parks and public spaces improvements in the prior stage or stages. The Mayor or their designee may, at their sole discretion, exempt affordable housing units from the required staging to facilitate construction of affordable housing. Developer is responsible for providing parks needed to serve the on-site population pursuant to the scoring methodology outlined in the City's Parks Master Plan adopted August 2021, Appendix D ("Recreational Value Points"). The total Recreational Value Points required for the Development, as determined by the Planning Department, is eight hundred thirteen (813). Pursuant to Note 14 of Appendix D of the Parks Master Plan, the required Recreational Value Points have been reduced to six hundred ten (610) (see **Exhibit F**), reflecting deductions for (i) the provision of the required Recreational Value Points on the Property within the Public Park Space, and (ii) the Developer's assumption of responsibility for the maintenance of the Public Park Space for a term of thirty (30) years.

The Recreational Value Points achieved shall be determined at each stage by the Mayor or designee. The required staging and estimated Recreational Value Points are as follows:

(A) Provide Public Park Space worth 153 recreational value points prior to certificate of occupancy of the 1,064th unit;

(B) Provide Public Park Space worth a cumulative total of 244 Recreational Value Points prior to certificate of occupancy of the 1,702nd unit;

(C) Provide Public Park Space worth a cumulative total of 366 Recreational Value Points prior to certificate of occupancy of the 2,552nd unit;

(D) Provide Public Park Space worth a cumulative total of 458 Recreational Value Points prior to certificate of occupancy of the 3,191st unit;

(E) Provide Public Park Space worth a cumulative total of 610 Recreational Value Points prior to certificate of occupancy of the 4,000th unit.

iii. **Phased Performance Bond.** To ensure completion of the required park improvements as outlined above, the Developer shall submit a phased performance bond equal to the verified cost of on-site park improvements prior to certificate of occupancy of the first unit. For the alleviation of doubt, the performance bond is first required to be in the amount necessary to ensure the construction of the first stage of Public Park Space worth 153 Recreational Value Points. Upon completion of the first stage of Public Park Space worth 153 Recreational Value Points, the performance bond shall be released, and a new bond shall be issued to ensure the construction of the second stage of Public Park Space worth a cumulative total of 244 Recreational Value Points. Upon completion of the second stage of Public Park

Space worth a cumulative total of 244 Recreational Value Points, the performance bond shall be released, and a new bond shall be issued to ensure the construction of the third stage of Public Park Space worth a cumulative total of 366 Recreational Value Points. Upon completion of the third stage of Public Park Space worth a cumulative total of 366 Recreational Value Points, the performance bond shall be released, and a new bond shall be issued to ensure construction of the fourth stage of Public Park Space worth a cumulative total of 458 Recreational Value Points. Upon completion of the fourth stage of Public Park Space worth a cumulative total of 458 Recreational Value Points, the performance bond shall be released, and a new bond shall be issued to ensure construction of the fifth stage of Public Park Space worth a cumulative total of 610 Recreational Value Points. Upon completion of the fifth stage of Public Park Space worth a cumulative total of 610 Recreational Value Points, the performance bond shall be released.

4. Public Benefits.

a. Summary. The Project provides public benefits in excess of what the City requires under existing policies and regulations, which results in extraordinary benefits as detailed below.

i. Extraordinary Benefits. The Project's 2,000 affordable residential dwelling units (which is 936 units in excess of the Surplus Land Act requirement of 25% of the units set aside as affordable), and 16,000-seat multi-purpose entertainment center are the centerpiece of the Project's extraordinary benefits. The production of such housing addresses the ongoing housing crisis experienced by the State of California, the City and the San Diego region. The number of affordable residential dwelling units to be provided far exceeds the standard development requirements set forth in San Diego Municipal Code (Municipal Code) section 142.1304 Inclusionary Affordable Housing Requirements and the affordable housing requirements for Affordable Housing Regulations density bonus eligibility in Municipal Code section 143.0720 Density Bonus in Exchange for Affordable Housing Units as well as the statutory Surplus Land Act on-site affordable unit requirement of 25%. The entertainment center will allow a broader range of sporting, cultural, and civic events and will be designed to modern standards to enhance the patron experience for San Diegans. The Project also provides enhanced parks, public space, and mobility infrastructure representing an investment that exceeds the otherwise applicable required amount under the City's Public Facility Regulations. The Project's extraordinary benefits and the value of each benefit is itemized in **Exhibit D**.

5. Financing of Improvements -- Development Impact Fee Improvements In Lieu Schedule; and Fee Deferral Agreements.

a. Improvements In Lieu (IIL) Schedule. The estimated Project infrastructure benefits (as expressed in Development Impact Fee (DIF) value) constitute in-kind payments that exceed the estimated DIF for mobility and park improvements required to build-out the Project under the Specific Plan. Although all in-kind DIF value and excess in-kind DIF value ("Improvements In Lieu or IIL") may be used for development anywhere within the Project by the Developer and may be assigned by the Developer to an assignee, grantee, lessee or other transferee of any interest in all or a portion of the Property upon written notice to City provided pursuant to Section 13 of this Agreement, IIL may not be used for development outside

the Project area and are not transferrable to a successor for use for development outside the Project area. Developer shall provide improvements within the Project area in-lieu of paying its Citywide Park DIF and Citywide Mobility DIF in accordance with the schedule and values attached hereto as **Exhibit E** and as described below (“IIL Schedule”). The Developer shall also be obligated to maintain and operate the Public Park Space for a term of thirty (30) years to the satisfaction of the Director of the Parks and Recreation Department or designee. Nothing in this Agreement affects the Developer’s obligation to pay the Citywide Library DIF, the Citywide Fire DIF or any other fees identified in this Agreement.

i. Payment of Regional Transportation Congestion Improvement Fees. Developer shall pay the Regional Transportation Congestion Improvement Program (RTCIP) fees due prior to final inspection.

ii. Payment of School Mitigation Impact Fees. Developer shall pay school mitigation impact fees required by state law.

iii. Payment of Housing Impact Fees. Developer shall pay the City’s Housing Impact Fee on Commercial Development pursuant to Chapter 9, Article 8, Division 6 of the San Diego Municipal Code. At Developer’s request, the City shall allocate from the Affordable Housing Fund to the Developer for use on the Project an amount equivalent to the Housing Impact Fees paid by the Developer to the extent permitted by law.

iv. Payment of Development Impact Fees. Developer shall pay the City’s Citywide Library DIF and Citywide Fire DIF. In addition, Developer shall pay an additional ad hoc fire development impact fee in the amount of \$588 per dwelling unit, which shall be paid at the same time and in the same manner – but in addition to – as the otherwise applicable Citywide Library DIF and Citywide Fire DIF, including, but not limited to, inflationary increases as specified in Section 7.

b. Fee Deferral Agreements. If Developer’s pace of construction temporarily exceeds its pace of providing IIL value under the IIL Schedule, Developer may enter into a Fee Deferral Agreement or other mechanism, as determined by the Mayor or their designee, with the City in a form reasonably acceptable to Developer and the City. Through such Fee Deferral Agreement to be more particularly described herein, Developer shall provide the City with security equal to the value of the IIL required of the Developer to obtain building permits in the form of cash, financial surety bond, a letter of credit, or other form of security acceptable to the Mayor or Mayor’s designee. Developer and the City agree the security need not be in the form of a lien on the specific property being improved by the building permits issued under the Fee Deferral Agreement. The City shall release the security upon Developer either paying cash or providing IIL value pursuant to the timing set forth in the IIL Schedule. The term of any such Fee Deferral Agreement shall not exceed two years and may only be extended beyond two years at the discretion of the Mayor or their designee, up to a maximum total of four years.

6. Recordation. This Agreement and any amendment, modification, or cancellation to it shall be recorded in the Office of the County Recorder of the County of San Diego in the period required by Government Code Section 65868.5 and City of San Diego Municipal Code Section 124.0106.

7. Vested Rights. Developer shall have the vested right to develop the Project in accordance with (1) this Agreement, the Specific Plan, the Rezone, the VTM, Easement Vacation, the CPA, the GPA, the Affordable Housing Variance, and the SDP, approved concurrent with or after this Agreement; (2) the Community Plan in effect at the time this Agreement is approved, and (3) those policies, rules and regulations existing as of the Vested Rights Effective Date of this Agreement (the “Current Land Use Rules”). The Vested Rights Effective Date shall be November 9, 2023, which is the date the VTM application was deemed complete. Notwithstanding that effective date, with respect to any payment of development impact fees, the fee schedule in effect at the time of issuance of the Project’s first building permit shall apply, but shall additionally be subject to annual increases on each July 1st thereafter, based on the one-year change (from March to March) in the Construction Cost Index (CCI) for Los Angeles as published monthly in the Engineering News-Record. Consistent with the legislative purpose of a development agreement stated in Government Code 65864(b), the Agreement enforcement rules stated in Government Code 65865.4, and the vested rights rules in Government Code 66498.9, 66474.2, and 66498.1, from and after the Vested Rights Effective Date (i) no future modification of the City’s General Plan, the Community Plan, the San Diego Municipal Code, zoning, subdivision, building regulation or other ordinances, policies or regulations shall apply to the Project that purports to limit (or has the effect of limiting) the Authorized Development within the Property, the density and intensity of use, or the maximum height and size of proposed building; and (ii) no new conditions may be imposed upon subsequent discretionary development approvals for the Project if they conflict with any Current Land Use Rule, Government Code 65864(b), 65865.4, 66498.9, 66474.2, or 66498.1. Notwithstanding the foregoing, Developer may elect at any time, in writing and in its sole discretion, to be bound by a particular policy, rule or regulation adopted or otherwise coming into effect after the Vested Rights Effective Date.

a. City Reservation of Authority Rights. Notwithstanding the grant of vested rights described above, consistent with Government Code 66498.1(c), City reserves the right to (i) apply regulations adopted after the Vested Rights Effective Date, but only to the extent necessary to protect persons or property from imminent dangerous or hazardous conditions which create a threat to the public health or safety or create a physical risk, based on findings adopted by the City Council identifying the imminent dangerous or hazardous conditions requiring application of such new regulations, why there are no feasible alternatives to the imposition of such new regulations, and how such regulations would alleviate the imminent dangerous or hazardous conditions; (ii) apply regulations adopted after the Vested Rights Effective Date to the minimum extent required to comply with state or federal law and regulations; and (iii) apply California Building, Fire, Plumbing, Mechanical and Electrical Codes that have been adopted by the City. Pursuant to Municipal Code section 124.0103(d), the Developer shall be subject to additional fees, impositions, or monetary exactions adopted following the Vested Rights Effective Date, provided that such fees, impositions or exactions shall be limited to the Developer’s fair share contribution to impacts caused by the Project and shall not duplicate any exactions or other mitigations or fees contributed or paid by the Developer. In the event state or federal laws or regulations prevent or preclude compliance with one or more provisions of this Agreement, such provisions shall be modified or suspended as may be necessary to comply with such laws or regulations; this shall not constitute an amendment to this Agreement that requires City Council approval.

8. Term, Termination and Effect of Lease of Completed Residential Unit to Public. Unless the City and Developer mutually agree in writing to terminate this Agreement early, this Agreement will terminate on the date that is thirty (30) years following the Effective Date (defined in Section 25), or upon the completion of construction for the entire Project, whichever occurs first. In addition, this Agreement shall Partially terminate automatically upon the lease of any completed residence to a member of the home-leasing public (not a merchant builder), as to that residential unit only. The term of the VTM, or the initiation period for any other subsequent or concurrent approval issued for the Project, shall expire no earlier than the term of this Agreement.

9. Amendments. If Developer proposes to extend the term of this Agreement or remove any Extraordinary Benefit, then a formal mutually agreed upon amendment to this Agreement is required. Cancellation or amendment of this Agreement shall only be made in a writing entered into by both Parties and in the same manner as its adoption by ordinance set forth in Government Code Sections 65867, 65867.5, and 65868 and City of San Diego Municipal Code Section 124.0104 and 124.0108. Conditions of approval required by non-City public agencies with jurisdiction over the Project shall be incorporated into the Project without triggering an amendment to this Agreement or entitlements so long as it does not conflict with the provisions in this Agreement. Project entitlements and agreements, other than formal amendments to this Agreement, may be amended without requiring an amendment to this Agreement so long as it does not directly conflict with the provisions in this Agreement.

10. Parks Public Notification and Input. The City agrees to waive City Council Policy 600-33 (Public Notification and Input for City-wide Park Development Projects) for the Development's Public Park Space. The Public Park Space shall not be subject to a General Development Plan ("GDP") or any other provision of City Council Policy No. 600-33, but shall be completed in accordance with this Agreement, the Specific Plan, and the Midway Rising Park Development Agreement.

11. Civic Enhancement Allocation. Concurrent with approval of this Agreement, the City will approve an uncodified ordinance to amend City of San Diego Municipal Code Section 22.5908(b), allowing the applicant to comply with the Civic Enhancement Allocation Regulations through a fourth option for an applicant to construct a multi-purpose entertainment venue with at least 16,000 seats on City-owned property that is open and accessible for cultural use. The City agrees that the Midway Rising Entertainment Center is a cultural use that is open and accessible because it is designed to accommodate performing arts programming and ticketed events that the general public may attend during normal hours of business operation consistent with the operation and use of the Entertainment Center.

12. No Cross-Default. Should Developer Transfer an interest under the Lease in all or any portion of, the Property to any other person or entity, (i) no default by Developer under this Agreement, or any other agreement or instrument provided in connection therewith, shall be deemed to otherwise constitute a breach or default by any such other person or entity and (ii) no default by such other person or entity under this Agreement, or any other agreement or instrument provided in connection therewith, shall be deemed to be a breach or default by Developer or any other person or entity.

13. Notices. All notices given pursuant to this Agreement or law shall be in writing. Notices shall be delivered with all delivery or postal charges prepaid. Notices may be given personally; by electronic mail (provided notice is also given pursuant to another method set forth in this Section 13); by United States first-class mail; by United States certified or registered mail; or by other recognized overnight service. Notices shall be deemed received on the date of personal delivery or electronic mail transmission; on the date shown on a signed return receipt or acknowledgment of delivery; or, if delivery is refused or notice is sent by regular mail, seventy-two hours after deposit. Until a Party gives notice of a change to noticing requirements (which change shall be effective on the date that is ten (10) days following the delivery of such notice of such change to the other Party pursuant to this Section 13), notices shall be sent to:

If to the City: Office of the Mayor
City of San Diego
202 C Street
San Diego, CA 92101

With a copy to: Office of the City Attorney
1200 Third Avenue, Suite 1620
San Diego, CA 92101
Attn: City Attorney

If to Developer: Midway Rising, LLC
c/o Zephyr Real Estate
329 S. Hwy 101, Suite 150
Solana Beach, CA 92075
Attention: Brad Termini
Email: brad@zephyrpartners.com

With a copy to: Allen Matkins Leck Gamble Mallory & Natsis LLP
600 West Broadway, 27th Floor
San Diego, California 92101
Attn: Jeffrey A. Chine
Email: jchine@allenmatkins.com

14. Breach, Cure, Default & Remedies.

a. A Party shall be in "Default" of this Agreement if it fails to comply with any covenant or perform any obligation required hereunder and such failure is not cured within sixty (60) days after the delivery of written notice describing such failure by the other Party, provided that if such failure cannot be reasonably cured within such sixty (60)-calendar day period and the defaulting Party commences to cure such failure within such sixty (60)-calendar day period and thereafter diligently and expeditiously proceeds to cure the same, the defaulting Party shall be afforded such additional period of time as may be reasonably necessary to cure such failure. If Developer is in Default of providing the exactions and contributions described herein, Developer shall not be issued further building permits or construction permits until the Developer performs one of the options described in Section 3.i. of this Agreement.

b. If a Default is not cured in accordance with Section 14.a. of this Agreement, the Parties agree that the remedies for breach of this Agreement shall be limited to one or more of the following:

i. If the Default is by the Developer, or any of their assigns, except with respect to a Default of providing exactions and contributions, the City has the following remedies, in order: (1) seek specific performance or equitable remedy against such Party as provided in this Agreement; (2) where specific performance and equitable remedies are not adequate, seek a modification of this Agreement as to such Party; and finally (3) in the event of a Persistent Default and the City determines it is in the best interests of the public, terminate this Agreement. A Persistent Default is a repeated failure of the Developer to comply with any of the material covenants, duties, or obligations under this Agreement that is likely to prejudice the City. The City shall not terminate this Agreement without notice, a City Council public hearing, and written findings based on substantial evidence that a Persistent Default has occurred, that the City is prejudiced from the Persistent Default, and that it is in the public's best interest to terminate the Agreement.

ii. If the Default is by the City, the Developer, or any of their assigns may (1) seek a modification of this Agreement; or (2) seek specific performance or equitable remedy as provided in this Agreement.

c. The Parties acknowledge that, except as provided in Section 14.d. of this Agreement, money damages and remedies at law are generally inadequate and that specific performance is appropriate for enforcement of this Agreement. Specific performance of the Developer's obligations shall mean (1) City's ability to withhold construction and building permits for residential units or commercial development in accordance with the terms of this Agreement until Developer performs, or (2) City's ability to call security allowed or required by this Agreement in order to ensure performance. The remedy of specific performance, or, in the alternative, a writ of mandate, shall be the sole and exclusive remedy available to either Party in the event of a Default or alleged Default by the other, with the exception that City shall be entitled to damages against the Developer, or its assigns, for breach of its obligations under Section 19 of this Agreement.

d. If any legal action is brought by any Party to this Agreement as a result of any breach of this Agreement or to enforce any provision of this Agreement, the prevailing Party shall be entitled to recover all expenses incurred thereof including reasonable attorneys' fees and court costs.

e. In addition to the procedures set forth in subsections (a)-(d) above, in the event a dispute arises between the Parties regarding any aspect of this Agreement or the Project, either Party may request in writing a dispute resolution meeting ("Dispute Resolution Meeting"). The Parties shall meet and confer not later than ten (10) days thereafter in a good faith effort to resolve the dispute, including all personnel from each Party necessary for issue resolution. In the event resolution is not achieved at the meeting, the Parties may, in their mutual discretion, choose to schedule further Dispute Resolution Meeting(s).

15. Mortgagee Protection. [[Note: This Section will need to conform with the same concept in the DDA and ground leases.]] If any ground leasehold interest of any portion of the Property is encumbered by any financing lien, mortgage, or deed of trust (each, a “Security Instrument”), the City agrees as follows:

a. Each holder of a Security Instrument is a “Secured Party” and each distinct parcel of the Property encumbered by a Security Instrument is a “Subject Portion of the Property”. If the City receives written request from a Secured Party to receive copies of notices of Default delivered by the City under this Agreement, together with a copy of the recorded Security Instrument showing all recording information and the Secured Party’s current address, the City will send to the Secured Party, at the Secured Party’s address provided to the City in writing, a copy of each notice of Default delivered by City under this Agreement. The failure of a Secured Party to receive a sent copy of a notice of Default from the City will not constitute a Default of the City under this Agreement.

b. Each Secured Party will have the right, but not the duty, to cure any Default under this Agreement and otherwise perform any other act and/or make any payment required under this Agreement, within thirty (30) days after the expiration of the applicable cure period provided to Developer under this Agreement. All acts performed and/or payments made by Secured Party within such cure period will be as effective to cure any Default to the same extent as if made and performed by Developer. If any non-monetary Default under this Agreement is such that possession of leasehold interest in the Subject Portion of the Property encumbered by the applicable Security Instrument is necessary to remedy the Default, Secured Party will have a reasonable time period to remedy such Default, provided that (i) Secured Party commences such cure, or initiate proceedings to obtain control of the Subject Portion of the Property, within thirty (30) days after expiration of the cure period provided to the Developer under this Agreement to remedy such Default and thereafter diligently pursues such cure to completion, (ii) Secured Party shall have fully cured all monetary Defaults of Developer within thirty (30) days after the expiration of the applicable cure period provided to Developer under this Agreement to remedy the Default and will have continued to timely pay all monetary obligations of the Developer under this Agreement and all monetary obligations of the Developer with respect to the Subject Portion of the Property, until completion of the cure, and (iii) Secured Party will have performed all other obligations of the Developer under this Agreement and all other obligations of the Developer with respect to the Subject Portion of the Property, to the extent that they are susceptible of being performed by Secured Party, until completion of the cure.

c. Upon the occurrence of a Default under the Security Instrument, the City acknowledges that Secured Party may acquire the Subject Portion of the Property by completion of a foreclosure of the Security Instrument or by deed in lieu of foreclosure or otherwise. This Agreement shall survive any such acquisition of the Subject Portion of the Property by Secured Party. Following Secured Party’s acquisition of the Subject Portion of the Property, upon the City’s written request, Secured Party shall agree to assume all obligations of the Defaulting Party under this Agreement relating to the Subject Portion of the Property, by signing and delivering an assignment and assumption agreement in form and content reasonably acceptable to the City and the Secured Party.

d. The breach by Developer of any of its obligations under this Agreement, and the exercise of the City's remedies with respect to any such breach by Developer, shall not defeat or render invalid the lien of any Security Instrument.

16. Estoppel Certificates. Up to twice each year, each Party to this Agreement ("Requesting Party") may require the other Party ("Certifying Party") to sign and deliver to the Requesting Party (or directly to a Third Person designated by the Requesting Party) up to four (4) original counterparts of an Estoppel Certificate. The Certifying Party will sign and deliver such Estoppel Certificate, within fifteen (15) days after request, even if the Requesting Party is in Default. If a Certifying Party fails to sign and deliver an Estoppel Certificate within the required fifteen (15) day period, then the Certifying Party will pay the Requesting Party liquidated damages of two hundred fifty dollars (\$250) per day for each day after the expiration of the fifteen (15) day period for delivery of an Estoppel Certificate until the date the Certifying Party delivers the Estoppel Certificate. A Requesting Party will pay all the expenses (including legal costs) of the Certifying Party incurred in providing an Estoppel Certificate. Any such Estoppel Certificate may be relied upon by the Requesting Party and its designated Third Person, if any.

a. "Estoppel Certificate" Definition. A written, signed certification of each of the following: (a) the nature of the Certifying Party's interest in the Premises and all Transfers or Security Instruments of which the Certifying Party is aware, except as otherwise disclosed in the public record; (b) this Agreement is unmodified and in full force and effect, or, if there have been amendments, that this Agreement is in full force and effect, as modified, in the manner specified in the certification; (c) to the Certifying Party's knowledge (meaning to the current, actual knowledge of the Mayor or the Mayor's designee, in the case of City), there are no uncured breaches, Default by Developer or City or failures to perform under this Agreement on the part of the Requesting Party or the Certifying Party or specifying any such breaches, Defaults by Developer or City or failures claimed to exist; (d) the Effective Date of this Agreement and the Term of the Agreement; and (f) any other matters reasonably requested by the Requesting Party.

17. Annual Review. Developer shall submit annually an affidavit to the City within 30 days of the anniversary date of the Effective Date of this Agreement demonstrating good faith compliance with the terms of this Agreement and specifying that Developer is responsible for the cost of the periodic review. If upon the City's review of the affidavit, the City finds and determines, based upon substantial evidence, that the Developer has not complied in good faith with terms or conditions of this Agreement, the City may seek remedies following the notice and cure procedures in Section 13 and Section 14 of this Agreement. The City may review the Developer's compliance with this Agreement at other times other than the annual review.

18. No Personal Liability. Notwithstanding anything in this Agreement to the contrary, recourse against Developer for the satisfaction of the obligations hereunder or any judgment rendered against Developer with respect to this Agreement shall be limited solely to the assets of Developer and none of (i) any person or entity owning, directly or indirectly, any legal or beneficial interest in Developer, (ii) any partner (general or limited, or a subpartner at any level), principal, officer, controlling person or entity, beneficiary, trustee, real estate investment advisor or other similar fiduciary, shareholder, employee, agent, affiliate or director

of Developer or any person described in clause (i) above, or (iii) any of the respective successors and assigns of the individuals or entities described in clauses (i) or (ii) above, shall be personally liable for the performance of the obligations described herein or the satisfaction of any judgment and all such liability shall be deemed to be waived by the City.

19. Indemnity. Developer shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney's fees, against the City or its agents, officers, or employees (collectively, the "Indemnitees"), relating to the entering into this Agreement or from Developer's performance of its obligations under this Agreement, including, but not limited to, any action to attack, set aside, void, challenge, or annul this Agreement and any environmental document or decision. The City will promptly notify Developer of any claim, action, or proceeding and, if the City should fail to cooperate in good faith in the defense, the Developer shall not thereafter be responsible to defend, indemnify, and hold harmless the City or its agents, officers, and employees. The City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, Developer shall pay all of the costs related thereto, including without limitation reasonable attorney's fees and costs. In the event of a disagreement between the City and Developer regarding litigation issues, the City shall have the authority to control the litigation and make litigation related decisions as to claims solely against the City, including, but not limited to, settlement or other disposition of the matter. However, the Developer shall not be required to pay or perform any settlement unless such settlement is approved by Developer in Developer's sole discretion. The indemnity provisions in this Section 19 shall survive termination of this Agreement.

20. Signatures / Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original and all of which, when taken together, shall be deemed to be one and the same Agreement or document. A signed copy of this Agreement transmitted by facsimile, email, DocuSign or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original executed copy of this Agreement for all purposes. If Developer is a corporation, limited liability company, partnership or other legal entity, Developer covenants to the City that the individual(s) signing this Agreement on behalf, directly or indirectly, of Developer, has the necessary capacity and authority to act for, sign and bind the respective entity or principal on whose behalf he/she is signing.

21. Force Majeure. [[Note: This Section will need to conform with the same concept in the DDA and ground leases.]] A Party's duty to perform is temporarily excused for the duration of the Force Majeure Event which interferes with their ability to comply with this Agreement. Force Majeure Events include, but are not limited to, acts of God or the public enemy, riot, war, civil unrest, labor strike, unforeseeable and significant labor shortages, revolutions, terrorism, insurrections, fire or other casualty, floods, earthquakes, epidemics or quarantine restrictions (including, without limitation, current or future COVID-19 orders and/or mandates from Federal, state or local governments), freight embargos, litigation, changes in laws not subject to vested rights, changes in interpretations of law, building moratoria, unusual and significant government delays by an entity other than the City, unavailability of materials by

reason of shortages which generally affect the region in which such Project is located or which are national in scope, or financing and currency cost overruns.

22. Severability. In the event that any provision or covenant of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, then it shall be severed from the remaining portions of this Agreement which shall remain in full force and effect.

23. Waiver. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the Party against whom enforcement of a waiver is sought. No waiver of any right or remedy in respect to any occurrence or event shall be deemed a waiver of any right or remedy in respect to any other occurrence or event.

24. Conflicting Terms. In the event of a conflict among the terms of the Midway Rising Environmental Impact Report, the Disposition and Development Agreement, this Agreement, the Midway Rising Specific Plan, the VTM, and the SDP, the Parties agree the terms of the document shall prevail over the terms of the other documents in the following order:

- a. Midway Rising Environmental Impact Report
- b. Disposition and Development Agreement
- c. this Development Agreement
- d. Midway Rising Specific Plan
- e. VTM
- f. SDP

25. Effective Date. The Effective Date shall be the later of (1) the date the ordinance approving this Agreement goes into effect; (2) the date of the last signature of the last Party to sign this Agreement; or (3) the last date the Midway Rising Specific Plan, Rezone, VTM, CPA, GPA, Affordable Housing Regulations Variance, and SDP, approved concurrent with this Agreement, go into effect.

26. Exhibits. The following exhibits are attached to this Agreement and hereby incorporated by this reference:

Exhibit A	Legal Description of Property
Exhibit B	Depiction of Property
Exhibit C	Variance to the Inclusionary and Affordable Housing Regulations & Inclusionary and Affordable Housing Regulation Variance Findings
Exhibit D	Extraordinary Benefits Table
Exhibit E	IIL Schedule

[SIGNATURES ON PAGES THAT FOLLOW]

IN WITNESS WHEREOF, this Agreement is executed by the City of San Diego, acting by and through its Mayor or Mayor's designee, pursuant to Ordinance No. O- [TO BE PROVIDED] which authorizes such execution, and by Developer.

CITY

THE CITY OF SAN DIEGO, a California
municipal corporation

Dated: _____

By: _____

Its: _____

Approved as to form:

HEATHER FERBERT, City Attorney

Dated: _____

By: _____

Its: _____

DEVELOPER

MIDWAY RISING, LLC,
a Delaware limited liability company

Dated: _____

By: _____

Name: _____

Its: _____

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
 County of _____)

On _____, before me, _____,
(insert name of notary)

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

I certify under PENALTY OF PERJURY under the laws of the State of California that
 the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
 County of _____)

On _____, before me, _____,
(insert name of notary)

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

I certify under PENALTY OF PERJURY under the laws of the State of California that
 the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)

EXHIBIT A**LEGAL DESCRIPTION OF PROPERTY**

Real property in the City of San Diego, County of San Diego, State of California, described as follows: PARCEL 1:

THOSE PORTIONS OF PUEBLO LOTS 241, 242, 259, 276, 311, 312, 313, 314, 337 AND 338 OF THE PUEBLO LANDS OF SAN DIEGO, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF MADE BY JAMES PASCOE, A COPY OF WHICH SAID MAP WAS FILED IN THE OFFICE OF COUNTY RECORDER OF SAN DIEGO COUNTY, AND KNOWN AS MISCELLANEOUS MAP NO. 36, TOGETHER WITH LOT "A" AND A PORTION OF LOT "B" OF PUEBLO LOT 339, ACCORDING TO PARTITION MAP THEREOF ON FILE IN THE OFFICE OF THE COUNTY CLERK OF SAID COUNTY, IN AN ACTION ENTITLED "STEELE VS. STEELE", SUPERIOR COURT, CASE NO. 5620, TOGETHER WITH MAP OF CASS AND MCELWEE SUBDIVISION, ACCORDING TO MAP THEREOF NO. 1581, FILED IN THE OFFICE OF COUNTY RECORDER OF SAN DIEGO COUNTY, DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT OF INTERSECTION OF THE SOUTHEASTERLY LINE OF PUEBLO LOT 312 WITH THE NORTHERLY LINE OF FRONTIER STREET, (NOW SPORTS ARENA BOULEVARD) AS DESCRIBED IN DEED TO FRONTIER ENTERPRISES, INC., RECORDED MARCH 5, 1941 IN [BOOK 1143](#), PAGE 320 OF OFFICIAL RECORDS OF SAN DIEGO COUNTY; THENCE NORTHEASTERLY ALONG SAID SOUTHEASTERLY LINE TO A POINT OF INTERSECTION WITH A LINE WHICH IS DISTANT 15.00 FEET NORTHERLY, MEASURED AT RIGHT ANGLES TO THE NORTHERLY LINE OF SAID SPORTS ARENA BOULEVARD, BEING THE TRUE POINT OF BEGINNING; THENCE SOUTH 77° 23' 46" EAST, 869.92 FEET TO A TANGENT 1,010.93 FOOT RADIUS CURVE, CONCAVE SOUTHWESTERLY; THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH AN ANGLE OF 15° 07' 07" A DISTANCE OF 269.13 FEET TO THE SOUTHEASTERLY LINE OF SAID PUEBLO LOT 337; THENCE ALONG SAID SOUTHEASTERLY LINE NORTH 36° 29' 46" EAST 404.64 FEET TO THE MOST EASTERLY CORNER OF SAID PUEBLO LOT 337; THENCE ALONG THE NORTHEASTERLY LINE OF SAID PUEBLO LOT 337 NORTH 53° 26' 44" WEST 464.11 FEET TO THE MOST EASTERLY CORNER OF SAID PUEBLO LOT 338; THENCE ALONG THE NORTHEASTERLY LINE OF SAID PUEBLO LOT 338 NORTH 53° 27' 34" WEST 466.64 FEET TO THE MOST NORTHERLY CORNER OF SAID PUEBLO LOT 338; THENCE SOUTH 36° 37' 26" WEST ALONG THE NORTHWESTERLY LINE OF PUEBLO LOT 338, A DISTANCE OF 233.40 FEET TO THE MOST EASTERLY CORNER OF SAID LOT "A"; THENCE NORTH 53° 27' 44" WEST ALONG THE NORTHEASTERLY LINE OF SAID LOT "A", A DISTANCE OF 233.41 FEET TO THE MOST NORTHERLY CORNER OF SAID LOT "A", THENCE SOUTH 36° 33' 41" WEST ALONG THE NORTHWESTERLY LINE OF SAID LOT "A", A DISTANCE OF 74.98 FEET TO A POINT DISTANT NORTH 36° 33' 41" EAST, 158.40 FEET FROM THE MOST WESTERLY CORNER OF SAID LOT "A", THENCE NORTH 53° 27' 19" WEST, 233.43 FEET TO A POINT IN THE NORTHWESTERLY LINE OF PUEBLO LOT 339 DISTANT SOUTH 36° 36' 21" WEST, 308.33 FEET FROM THE MOST NORTHERLY CORNER OF SAID

PUEBLO LOT 339; THENCE NORTH 36° 36' 21" EAST ALONG THE NORTHEASTERLY LINE OF PUEBLO LOT 339, A DISTANCE OF 301.33 FEET TO A LINE WHICH IS PARALLEL WITH AND 7.00 FEET SOUTHWESTERLY OF AND MEASURED AT RIGHT ANGLES TO THE NORTHERLY PROLONGATION OF THE NORTHEASTERLY LINE OF SAID PUEBLO LOT 339; THENCE ALONG SAID PARALLEL LINE NORTH 53° 26' 49" WEST, A DISTANCE OF 786.16 FEET TO A POINT IN THE SOUTHEASTERLY LINE OF KURTZ STREET AS DEDICATED BY RESOLUTION NO. 197563 OF THE COUNCIL OF THE CITY OF SAN DIEGO, A COPY OF WHICH WAS RECORDED JULY 30, 1969 AS INSTRUMENT NO. 137836 OF OFFICIAL RECORDS; THENCE ALONG THE BOUNDARY OF SAID KURTZ STREET AS FOLLOWS:

SOUTH 36° 32' 31" WEST, A DISTANCE OF 5.00 FEET, NORTH 53° 26' 49" WEST, A DISTANCE OF 307.00 FEET TO THE BEGINNING OF A 300.00 FOOT RADIUS CURVE, CONCAVE SOUTHWESTERLY; AND WESTERLY ALONG THE ARC OF SAID CURVE TO AND ALONG THE SOUTHERLY LINE OF HANCOCK STREET DEDICATED BY SAID RESOLUTION, THROUGH A CENTRAL ANGLE OF 39° 03' 30" AN ARC LENGTH OF 204.51 FEET; THENCE SOUTH 26° 51' 31" WEST, A DISTANCE OF 393.88 FEET; THENCE SOUTH 12° 35' 00" WEST, A DISTANCE OF 968.25 FEET TO SAID LINE WHICH IS PARALLEL WITH AND 15.00 FEET NORTHERLY OF THE NORTHERLY LINE OF FRONTIER STREET; THENCE ALONG SAID PARALLEL LINE SOUTH 77° 23' 46" EAST, TO THE TRUE POINT OF BEGINNING.

EXCEPTING THEREFROM A PORTION OF SAID LAND, ALL URANIUM, THORIUM, AND ALL OTHER MATERIALS DETERMINED PURSUANT TO SECTION 5(B) (1) OF THE ATOMIC ENERGY ACT OF 1946 (60 STAT. 761), TO BE PECULIARLY ESSENTIAL TO THE PRODUCTION OF FISSIONABLE MATERIAL, CONTAINED IN WHATEVER CONCENTRATION IN DEPOSITS IN THE LANDS COVERED BY THIS INSTRUMENT, TOGETHER WITH THE RIGHT OF THE UNITED STATES THROUGH ITS AUTHORIZED AGENTS OR REPRESENTATIVES AT ANY TIME TO ENTER UPON THE LAND AND PROSPECT FOR, MINE AND REMOVE THE SAME, AS RESERVED FOR THE USE OF THE UNITED STATES, IN A DEED RECORDED JUNE 23, 1954 IN BOOK 5279, PAGE 259 OF OFFICIAL RECORDS.

ALSO EXCEPTING THEREFROM A PORTION OF SAID LAND, ALL URANIUM, THORIUM, AND ALL OTHER MATERIALS DETERMINED PURSUANT TO SECTION 5(B) (1) OF THE ATOMIC ENERGY ACT OF 1946 (60 STAT. 761), TO BE PECULIARLY ESSENTIAL TO THE PRODUCTION OF FISSIONABLE MATERIAL, CONTAINED IN WHATEVER CONCENTRATION IN DEPOSITS IN THE LANDS COVERED BY THIS INSTRUMENT, TOGETHER WITH THE RIGHT OF THE UNITED STATES THROUGH ITS AUTHORIZED AGENTS OR REPRESENTATIVES AT ANY TIME TO ENTER UPON THE LAND AND PROSPECT FOR, MINE AND REMOVE THE SAME, AS RESERVED FOR THE USE OF THE UNITED STATES, IN A DEED RECORDED JANUARY 31, 1955 IN BOOK 5514, PAGE 182 OF OFFICIAL RECORDS.

EXHIBIT B
DEPICTION OF PROPERTY

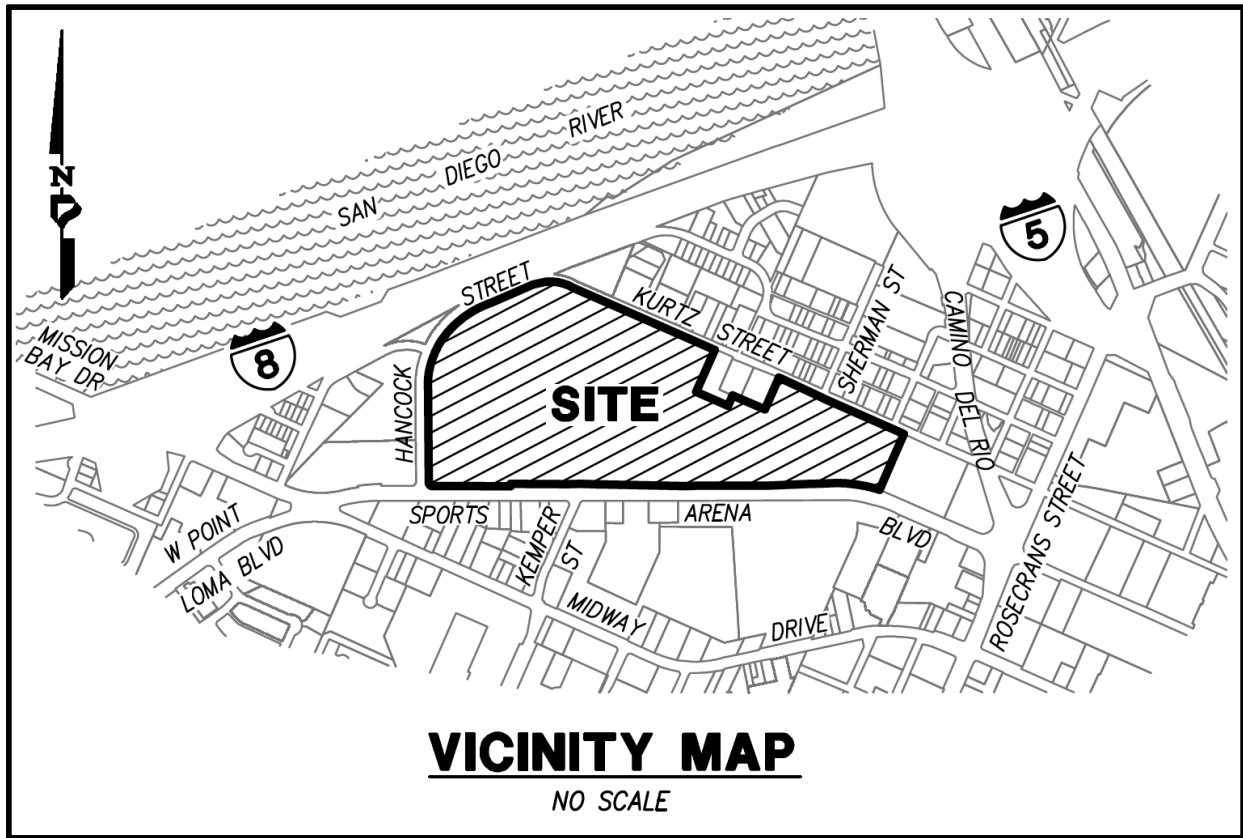


EXHIBIT C**VARIANCE TO THE INCLUSIONARY AND AFFORDABLE HOUSING
REGULATIONS & INCLUSIONARY AND AFFORDABLE HOUSING REGULATIONS
VARIANCE FINDINGS****Variance to the Inclusionary Affordable Housing
Regulations & Inclusionary Affordable Housing
Regulations Variance Findings (SDMC §§ 142.1310
and 142.1311)**

The City's Inclusionary Affordable Housing Regulations (San Diego Municipal Code ("SDMC") §§ 142.1304(e)(1) generally require a development project to construct affordable housing units no later than the date the market rate units receive final inspection. A project may obtain a variance for an alternative inclusionary development schedule/phasing plan in accordance with SDMC § 142.1310 and 142.1311.

While simultaneous development of market rates units and affordable housing units is common for a single building or single-phase project, the Inclusionary Affordable Housing Implementing and Monitoring Procedures ("Affordable Housing Manual") recognizes there are special circumstances unique to a project when it proposes to be constructed in phases and encourages the applicant and San Diego Housing Commission to enter into an affordable housing agreement with an alternative phasing schedule.

This Inclusionary Affordable Housing Regulation Variance is for an alternative phasing plan described below. The flexibility of the alternative phasing plan is necessary for the Developer to provide extraordinary benefits through the Development Agreement. With approval of the Development Agreement, the following Inclusionary Affordable Housing Regulation Variance Findings are concurrently approved and authorized:

1. Special circumstances unique to that development, justify granting the variance, waiver, adjustment, or reduction.

While simultaneous development of market rate units and affordable housing units is common for a single building or single-phase project, the Affordable Housing Manual recognizes there are special circumstances unique to a project when it proposes to be constructed in phases and encourages the applicant and San Diego Housing Commission to enter into an affordable housing agreement with an alternative phasing schedule. The Project is particularly unique because it is a very large 4,254-unit multi-phased project constructing 2,000 units as affordable housing units pursuant to a Development Agreement, Disposition and Development Agreement

(“DDA”), and Specific Plan. Most projects processed by the City are not this large, do not have a Development Agreement, and do not propose such a high number or percentage of affordable housing units. Through the Development Agreement, the Project provides approximately \$1.2 billion in unique, desirable extraordinary benefits. The Project is also unique because it will be comprised of individual pads that are developed by market rate or affordable developers, thus preventing the Project from sequencing affordable units linearly as is required for more conventional housing projects. The financial burden of providing the extraordinary benefits along with the large number and percentage of affordable units, justify the variance, because it would not be feasible for the Project to meet the timing requirements of SDMC § 142.1304(e)(1). Therefore, special circumstances justify granting a variance for an alternative phasing plan for this large, multi-phase project.

2. The Project would not be feasible without the modification.

The Project would not be feasible without a variance to follow the phasing plan described below for several reasons. First, as described in the Development Agreement, the Project includes approximately \$1.2 billion in extraordinary benefits. The Developer only agrees to provide extraordinary benefits through the Development Agreement in exchange for the vested rights and flexibility described in the Development Agreement, including the phasing plan described below. The Developer would not provide the extraordinary benefits if the City would not grant flexibility in the timing of providing affordable housing. Accordingly, the Project, including its extraordinary benefits, would not be feasible without the variance. Second, without this variance, the development would be required to provide 2,000 affordable housing units at the time of issuance of the first Certificate of Occupancy for any market rate units. This would be financially infeasible and contrary to the Affordable Housing Manual’s policy of allowing large multi-phase projects to build the affordable units in accordance with an alternative phasing plan. Third, the Project’s highly-unusual size, with a total of 4,254 residential including 2,000 affordable units, and multi-phase nature requires more flexibility. Multi-phased developments of this scale cannot provide such high levels of affordable units at the beginning of the Project in an economically-viable fashion. Fourth, as described above, the Project will be comprised of individual pads that are developed by market rate or affordable developers, thus preventing the Project from sequencing affordable units linearly as is required for more conventional housing projects. Each of the reasons above independently support the finding.

3. A specific and substantial financial hardship would occur, if the variance, waiver, adjustment, or reduction were not granted.

Without this affordable housing variance, the Project would face a specific and substantial financial hardship. The first hardship is that the Project and its

benefits would not occur without the variance. As described in the Development Agreement, the project includes approximately \$1.2 billion in extraordinary benefits, which are part of the Project. The Developer only agrees to provide extraordinary benefits through the Development Agreement in exchange for the vested rights and flexibility described in the Development Agreement, including this phasing plan. The Developer would not provide the extraordinary benefits or move forward with the Project if the City will not grant flexibility in the timing of providing affordable housing. Second, providing 2,000 affordable units prior to issuance of Certificate of Occupancy for the first market rate unit would create substantial financial hardship for the developer. The City commissioned an economic analysis from Keyser Marston and Associates in advance of the latest major amendment to the City's Inclusionary Housing Ordinance, which noted a 10% affordable housing set-aside at 65% AMI generated a moderate impact on a San Diego multi-family projects' feasibility, but increasing the affordable housing set-aside to 15% or 20% generated a high impact on a San Diego multi-family project causing a greater than 25% decrease in residual land value, which the economist noted "may result in a financially infeasible project." [Table 2A, Scenario B.1, "Feasibility of Alternative Inclusionary Set-Asides: Economic Feasibility Analysis: San Diego Housing Commission." (Keyser Marston October 25, 2018).] Without the variance, the project would be required to provide 2,000 affordable units within the first phase, which is far above the 10% level that the City's economic expert found to be feasible for multi-family development in the City. Accordingly, a specific and substantial financial hardship would occur if the variance were not granted. Each of the reasons above independently support the finding.

4. No alternative means of compliance are available that would be more effective in attaining the purposes of this Division than the relief requested.

The alternative phasing plan described below is the most effective alternative phasing plan for attaining the purposes of the Inclusionary Affordable Housing Regulations, which includes the creation of diverse and balanced neighborhoods with housing available for households of all income levels.

Phasing Plan. The Project's phasing is specified in Specific Plan Section 8.8. Within the first phase, at least 10% of the Project's total units must be constructed as affordable units. In each subsequent phase, Developer must construct a minimum of 10% of the housing units within that phase as affordable units, unless the Project has constructed in excess of 10% of the units as affordable during prior phases, as specified below.

If in any phase, Developer constructs affordable units in excess of 10% during that phase, the affordable units may be used to satisfy the 10% requirement in subsequent phases. The required affordable units, as defined

above, must receive a certificate of occupancy within 54 months of receipt of the certificate of occupancy of the first market-rate units constructed within each phase. If in the event Developer demonstrates that Developer is unable to secure financing for the required affordable units in each phase, as defined above, Developer may proceed with constructing additional market-rate units. Developer may show that one of the following conditions is present to demonstrate that Developer, through its affordable developer partner, is unable to secure financing:

- Identified Gap financing is unavailable, and affordable developer is therefore not able to apply for Gap financing, which must be secured before an affordable project can submit a tax credit financing application, in line with the anticipated phasing schedule.
 - Examples of Gap financing including but not limited to include: State of CA (1) Affordable Housing and Sustainable Communities (“AHSC”) financing program annual grants with applications due in February each year; (2) the Department of Housing and Community Development (“HCD”) will publish annual Notices of Availability (“NOFA”) for various financing sources such as Multifamily Housing Program (“MHP”). The amount and timing of the various funding sources to be made available each year is determined as part of the annual state budget process.
- The affordable developer made a timely application for Gap financing, but the application for Gap financing sources was unsuccessful due to competitive nature of the financing program.
- The affordable developer made a timely application for tax credit financing, but the application for tax credit financing was unsuccessful due to competitive nature of the financing program.

This phasing plan is the most effective means of compliance because it follows the intent of the Inclusionary Affordable Housing Regulations to supply diverse and balanced neighborhoods. If all 2,000 affordable units were in the first phase, then the rest of the Project would lack income diversity and balance. Moreover, this phasing plan is aligned with the City’s existing economic analysis of a feasible percentage of affordable units for a multi-family project. In order for a phasing plan to be effective, it has to be feasible and not create an undue financial hardship. For all these reasons, this variance allows the parties to enter into the Development Agreement, where the phasing plan is assured to be effective in providing the purposes of the Inclusionary Affordable Housing Regulations. A different phasing plan in an agreement without adequate security or that required an infeasible percentage of affordable units within a phase would not be as effective in attaining the purposes of the Inclusionary Affordable Housing Regulations. Each of the reasons above independently support the finding.

EXHIBIT D**EXTRAORDINARY BENEFITS TABLE**

EXTRAORDINARY BENEFITS			\$1,254,323,000
	Affordable Housing	936 additional affordable homes $\leq$ 80% AMI	\$547,560,000
	Entertainment Center	Multi-purpose 16,000 seat venue	\$520,458,000
	Parks & Public Space	Total	\$65,146,000
		Maintenance & Security	\$19,710,000
		Park Improvements / Sitework	\$34,471,000
		Community Amenity Areas FF&E	\$10,965,000
	Mobility	Total	\$121,159,000
		Off-Site Kurtz/Rosecrans Multi-Use Path Improvements	\$4,000,000
		Off-Site Hancock & Kurtz Roundabout	\$3,000,000
		Off-Site Intersection Improvements	\$14,522,000
		Off-Site Traffic Signal Improvements	\$6,177,000
		Off-Site Street Improvements	\$8,247,000
		Off-Site Pacific Hwy Bridge Enhancements	\$2,822,000
		On-Site Internal Streets	\$28,965,000
		On-Site Linear Parks	\$9,638,000
		BRT Implementation and Bus Stop/Lane Enhancements	\$2,648,000
		Event/Employee Shuttle Service	\$41,140,000
DEVELOPMENT FEE ESTIMATE			(\$29,400,000)
	Mobility DIF		(\$22,100,000)
	Parks DIF		(\$7,300,000)
TOTAL EXTRAORDINARY BENEFIT			\$1,224,923,000

EXHIBIT E**Improvements In Lieu Schedule**

IIL Value Schedule	Infrastructure		IIL Value
	Parks & Public Space	Total	\$45,436,000
		Park Improvements / Sitework	\$34,471,000
		Community Amenity Areas FF&E	\$10,965,000
	Mobility	Total	\$80,019,000
		Off-Site Kurtz/Rosecrans Multi-Use Path Improvements	\$4,000,000
		Off-Site Hancock & Kurtz Roundabout	\$3,000,000
		Off-Site Intersection Improvements	\$14,522,000
		Off-Site Traffic Signal Improvements	\$6,177,000
		Off-Site Street Improvements	\$8,247,000
		Off-Site Pacific Hwy Bridge Enhancements	\$2,822,000
		On-Site Internal Streets	\$28,965,000
		On-Site Linear Parks	\$9,638,000
		BRT Implementation and Bus Stop/Lane Enhancements	\$2,648,000
TOTAL			\$125,455,000

EXHIBIT F**Recreational Value Points Tabulation Summary**

Recreational Value Points (RVP) Tabulation Summary	
RVP per DIF Worksheet	813.0
10% reduction for providing RVP in Project's Public Park Space	81.3
15% reduction for maintaining the Public Park Space for 30 years	122.0
Total Adjusted RVP	610

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE AMENDING CHAPTER 5, ARTICLE 9, DIVISION 1 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 59.0101 AND 59.0102; AND AMENDING CHAPTER 5, ARTICLE 9 BY ADDING NEW DIVISION 6 AND ADDING NEW SECTIONS 59.0601, 59.0605, 59.0607, 59.0610, AND 59.0620, RELATING TO MIDWAY RISING ENTERTAINMENT CENTER DISTRICT.

RECITALS

The Council of the City of San Diego (Council) adopts this Ordinance based on the following:

A. Midway Rising Specific Plan which was considered along with this Ordinance provides increases housing capacity and provides new public streets, parks, public spaces, commercial uses and an entertainment center within the Midway Pacific Highway Community Plan area.

B. The Midway Pacific Highway Community Plan amendment, which was considered along with this Ordinance, proposes an amendment to the Midway Pacific Highway Community Plan to increase housing capacity within the Sports Arena Village consistent with the Midway Rising Specific Plan.

C. Residential development within and surrounding the Midway Rising Entertainment Center District may be subject to some of the annoyances or inconveniences associated with living in proximity to both indoor and outdoor entertainment uses including concerts, music festivals, and live entertainment performances.

D. San Diego Ordinance O-_____, related to the Midway Rising Entertainment Center District Regulations, designates the Midway Rising Specific Plan Area a special event venue and regulates and prohibits certain activities, for the purpose of protecting the public

health, welfare, and safety of those businesses, residents, and visitors within and surrounding the Midway Rising Entertainment Center District during specified Midway Rising Entertainment Center District Events.

E. The regulations are intended to facilitate the operation of the Midway Rising Specific Plan Area as a destination for events, nightlife, and entertainment by preserving public order and preventing public nuisance.

F. The Office of the City Attorney prepared this Ordinance based on the information provided by City staff (including information provided by affected third parties and verified by City staff), with the understanding that this information is complete and accurate.

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

ACTION ITEMS

Be it ordained by the Council of the City of San Diego:

Section 1. Chapter 5, Article 9, Division 1 of the San Diego Municipal Code is amended by amending sections 59.0101 and 59.0102, to read as follows:

§59.0101 Purpose of Definitions

The purpose of this division is to provide clear and concise definitions of words and phrases that have meanings specifically related to Article 9 regarding QUALCOMM Stadium, QUALCOMM Stadium parking facilities, PETCO Park, the Ballpark District, ~~and~~ Outfield Park, and Midway Rising Entertainment Center

District. Each word or phrase that is defined in the division appears in the text of Article 9 in italicized letters.

§59.0102 Definitions

For purposes of Article 9, the following words or phrases have the respective meanings:

Area not open to the general public through Conclusion of an event [No change in text.]

Event refers to any sporting, athletic, musical, or other type of scheduled activity, conducted under contract with the City occurring within *QUALCOMM Stadium*.

Event also refers to *Padres games and events, City events*, and any sporting, athletic, musical, or other type of scheduled activity, conducted under contract with the City or Padres, occurring within *PETCO Park*. *Event* also refers to any scheduled contractual activity occurring within the *QUALCOMM Stadium*

parking facility including swap meets, flea markets, automobile sales *events*, circuses, and other such activities where permits are authorized. *Event* also refers to any sporting, athletic, musical, or other type of scheduled activity, conducted under an agreement with the City or where permits are authorized by the City Manager occurring within the *Midway Rising Entertainment Center District*.

Midway Rising Entertainment Center District means that territory lying from Sports Arena Boulevard to Rosecrans Street to Hancock Street; thence from Sports Arena Boulevard in a line directly east to Rosecrans Street; thence from Rosecrans Street in a line directly east Hancock Street; thence from Hancock Street in a line directly north to Sports Arena Boulevard. The *Midway Rising*

Entertainment Center District includes street areas and all adjacent sidewalks, pedestrian paths, and public space within these boundaries. The *Midway Rising Entertainment Center District* is shown in Figure 1 of Chapter 5, Article 9, Division 6 of this Code.

Midway Rising Entertainment Center District Event refers to any sporting, athletic, musical, or other type of scheduled *events* authorized by the City Manager activity occurring within the *Midway Rising Specific Plan Area*.

Midway Rising Specific Plan Area means a development with multiple uses and an entertainment center generally bounded by Kurtz Street to the north and Sports Arena Boulevard to the south which is located within the *Midway Rising Entertainment Center District* which is shown in Figure 1 of Chapter 5, Article 9, Division 6 of this Code.

Motor coach through *PETCO Park security personnel* [No change in text.]

Public Spaces means areas that adjoin a public right-of-way that are accessible to the public for all or a portion of day and can include play areas, seating areas, performance areas and other such areas that are not within a public park as defined in Section 63.0102, for the purpose of Chapter 5, Article 9, Division 16.

QUALCOMM Stadium through *Vehicle* [No change in text.]

Section 2. Chapter 5, Article 9 of the San Diego Municipal Code is amended by adding new Division 6 and adding new sections 59.0601, 59.0605, 59.0607, 59.0610, and 59.0620, to read as follows:

Article 9: City Sports Facilities

Division 6: Midway Rising Entertainment Center District

§59.0601 Purpose and Intent

This division designates the *Midway Rising Specific Plan Area* a special event venue and regulates and prohibits certain activities, for the purpose of protecting the public health, welfare, and safety of those businesses, residents, and visitors within and surrounding the *Midway Rising Entertainment Center District* during specified *Midway Rising Entertainment Center District Events*. The regulations of this division are intended to facilitate the operation of the *Midway Rising Specific Plan Area* as a destination for events, nightlife, and entertainment by preserving public order and preventing public nuisance. Residential development within and surrounding the *Midway Rising Entertainment Center District* may be subject to some of the annoyances or inconveniences associated with living in proximity to both indoor and outdoor entertainment uses including concerts, music festivals, and live entertainment performances.

§59.0605 Designation of the Midway Rising Entertainment Center District

The *Midway Rising Entertainment Center District* is designated a special event venue, pursuant to Chapter 2, Article 2, Division 40 of this Code, beginning three hours before the scheduled start time of any *Midway Rising Entertainment Center District event* permitted within the *Midway Rising Specific Plan Area*. The designation shall begin three hours before the scheduled start time of any event and conclude two hours after the conclusion of a *Midway Rising Entertainment Center District event*. All regulations and prohibitions set forth in Chapter 2, Article 2, Division 40, and Chapter 5, Article 9, Division 6, of this Code apply during the designation as a *special event venue*.

§59.0607 Special Event Permits Within the Midway Rising Entertainment Center District

Notwithstanding Chapter 2, Article 2, Division 40, within the *Midway Rising Entertainment Center District*, the City Manager may issue an annual special event permit pursuant to a separate operating agreement to the satisfaction of the City Manager.

§59.0610 Activities Prohibited within the Midway Rising Entertainment Center District

In addition to those regulations and prohibitions contained in Chapter 2, Article 2, Division 40 of this Code, it is unlawful for any person to engage in the following conduct upon streets, sidewalks, public parks, *public spaces*, or public rights-of-way within the *Midway Rising Entertainment Center District*:

- (a) *Tailgate*.
- (b) Consumption of one or more types of alcoholic beverages unless authorized.
- (c) Litter, throw, or deposit on the ground, or post or affix to any publicly owned or maintained tree within the *Midway Rising Entertainment Center District* any handbill, circular, pamphlet, tract, dodger, paper, *sticker*, or advertisement.
- (d) Bring, leave, turn loose or allow to go free any animal, fowl, or bird of any kind, except a trained guide, signal, or service animal that is in actual use unless authorized by the City Manager.
- (e) Consume from any container made of glass, except in locations where such containers are permitted under the terms of a lease, operating agreement, or permit.

- (f) Leave or scatter any boxes, empty or otherwise, waste paper, remains of meals, newspaper or rubbish of any kind, except that such material and matter may be deposited in receptacles provided for such purpose.
- (g) Motorcycles or any other motorized vehicles are prohibited except on streets designated and established for automotive traffic.
- (h) Obstruct the free travel of any vehicle or pedestrian on streets, sidewalks, public parks, *public spaces* or public rights-of-way.
- (i) Open or close any valves or switches pertaining to the water or electric services, except when performed by authorized City personnel.
- (j) Throw, discharge, launch, or spill any solid object (excluding sporting equipment such as footballs, baseballs, frisbees, and other such equipment) or liquid substance, or otherwise cause such object or substance to be thrown, discharged, launched, spilled, or to become airborne.
- (k) Explode, set-off, discharge, or otherwise release or cause to be released, any smoke bomb, fireworks, stink bomb, or other substance, which is physically harmful or otherwise irritating, offensive, repugnant, or disgusting to the eyes or sense of smell.
- (l) Cause or permit the engine of any privately owned *motor coach* to idle while parked, standing or stopped, upon any public way for more than fifteen minutes, provided however, if a privately owned *motor coach* is making a temporary stop for the sole purpose of loading or

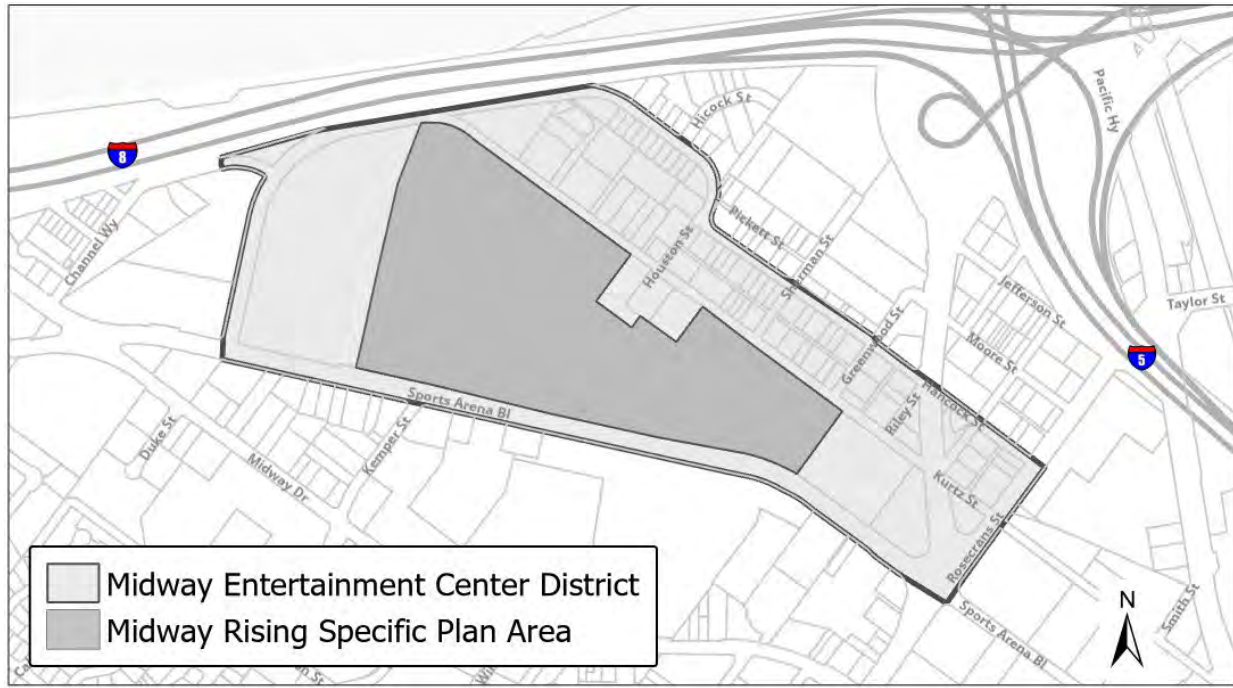
unloading passengers, such motor coach shall not be permitted to idle for longer than is reasonably necessary to load or unload passengers.

- (m) Bring onto or possess any noise making device, including, but not limited to, air horns, powered megaphones, bugles, drums, tambourines, or other musical instruments.

§59.0620 Noise Regulation for District Events

The Noise Abatement and Control regulations in Chapter 5, Article 9.5, Divisions 4 and 5 of this Code shall not apply to *events* within the *Midway Rising Entertainment Center District* during the time period of three hours before the scheduled start time and two hours after the conclusion of a *Midway Rising Entertainment Center District event*. Noise abatement and control for *events* shall be addressed through an agreement authorized by the City Manager or, when required, one or more special *event* permits.

FIGURE 1



Section 3. The Council dispenses with a full reading of this Ordinance before its passage because a written copy of this Ordinance was made available to the Council and the public before the date of its passage.

Section 5. This Ordinance shall take effect and be in force on the thirtieth day from and after its passage, or on the date that the O-_____, adopting the Midway Rising Specific Plan, on file in the Office of the City Clerk as Document No. OO-_____ becomes effective, or on the date that R-_____, adopting an amendment to the Midway-Pacific Highway Community Plan, on file in the Office of the City Clerk as Document No. RR - _____ becomes effective, whichever date occurs last.

APPROVED: HEATHER FERBERT, City Attorney

By _____
 Attorney Name
 Deputy City Attorney

STRIKEOUT ORDINANCE

OLD LANGUAGE: ~~Struck Out~~

NEW LANGUAGE: Double Underline

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE AMENDING CHAPTER 5, ARTICLE 9, DIVISION 1 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 59.0102; AND AMENDING CHAPTER 5, ARTICLE 9 BY ADDING NEW DIVISION 6 AND ADDING NEW SECTIONS 59.0601, 59.0605, 59.0607, 59.0610, AND 59.0620, RELATING TO MIDWAY RISING ENTERTAINMENT CENTER DISTRICT.

§59.0101 Purpose of Definitions

The purpose of this division is to provide clear and concise definitions of words and phrases that have meanings specifically related to Article 9 regarding QUALCOMM Stadium, QUALCOMM Stadium parking facilities, PETCO Park, the Ballpark District, ~~and Outfield Park, and Midway Rising Entertainment Center~~ District. Each word or phrase that is defined in the division appears in the text of Article 9 in italicized letters.

§59.0102 Definitions

For purposes of Article 9, the following words or phrases have the respective meanings:

Area not open to the general public through Conclusion of an event [No change in text.]

Event refers to any sporting, athletic, musical, or other type of scheduled activity, conducted under contract with the City occurring within QUALCOMM

Stadium. Event ~~event~~ also refers to Padres games and *events*, City *events*, and any sporting, athletic, musical, or other type of scheduled activity, conducted under contract with the City or Padres, occurring within PETCO Park. *Event* also refers to any scheduled contractual activity occurring within the QUALCOMM Stadium parking facility including swap meets, flea markets, automobile sales *events*, circuses, and other such activities where permits are authorized. Event refers to any sporting, athletic, musical, or other type of scheduled activity, conducted under an agreement with the City or where permits are authorized by the City Manager occurring within the Midway Rising Entertainment Center District.

Midway Rising Entertainment Center District means that territory lying from Sports Arena Boulevard to Rosecrans Street to Hancock Street; thence from Sports Arena Boulevard in a line directly east to Rosecrans Street; thence from Rosecrans Street in a line directly east Hancock Street; thence from Hancock Street in a line directly north to Sports Arena Boulevard. The Midway Rising Entertainment Center District includes street areas and all adjacent sidewalks, pedestrian paths, and public space within these boundaries. The Midway Rising Entertainment Center District is shown in Figure 1 of Chapter 5, Article 9, Division 6 of this Code.

Midway Rising Entertainment Center District Event refers to any sporting, athletic, musical, or other type of scheduled *events* authorized by the City Manager activity occurring within the Midway Rising Specific Plan Area.

Midway Rising Specific Plan Area means a development with multiple uses and an entertainment center generally bounded by Kurtz Street to the north and Sports Arena Boulevard to the south which is located within the Midway Rising Entertainment Center District which is shown in Figure 1 of Chapter 5, Article 9, Division 6 of this Code.

Motor coach through PETCO Park security personnel [No change in text.]

Public Spaces means areas that adjoin a public right-of-way that are accessible to the public for all or a portion of day and can include play areas, seating areas, performance areas and other such areas that are not within a public park, as defined in Section 63.0102, for the purpose of Chapter 5, Article 9, Division 6.

QUALCOMM Stadium through Vehicle [No change in text.]

Chapter 5: Public Safety, Morals and Welfare

Article 9: City Sports Facilities

Division 6: Midway Rising Entertainment Center District

§59.0601 Purpose and Intent

This division designates the Midway Rising Specific Plan Area a special event venue and regulates and prohibits certain activities, for the purpose of protecting the public health, welfare, and safety of those businesses, residents, and visitors within and surrounding the Midway Rising Entertainment Center District during specified Midway Rising Entertainment Center District Events. The regulations of this division are intended to facilitate the operation of the Midway Rising Specific Plan Area as a destination for events, nightlife, and entertainment by preserving public order and preventing public nuisance. Residential development within and

surrounding the *Midway Rising Entertainment Center District* may be subject to some of the annoyances or inconveniences associated with living in proximity to both indoor and outdoor entertainment uses including concerts, music festivals, and live entertainment performances.

§59.0605 *Designation of the Midway Rising Entertainment Center District*

The *Midway Rising Entertainment Center District* is designated a special event venue, pursuant to Chapter 2, Article 2, Division 40 and Chapter 6, Article 3, Division 1 of this Code, beginning three hours before the scheduled start time of any *Midway Rising Entertainment Center District event* permitted within the *Midway Rising Specific Plan Area*. The designation shall begin 3 hours before the scheduled start time of any event and conclude 2 hours after the conclusion of a *Midway Rising Entertainment Center District event*. All regulations and prohibitions set forth in Chapter 2, Article 2, Division 40, and Chapter 5, Article 9, Division 6, of this Code apply during the designation as a *special event venue*.

§59.0607 *Special Event Permits Within the Midway Rising Entertainment Center District*

Notwithstanding Chapter 2, Article 2, Division 40, within the *Midway Rising Entertainment Center District*, the City Manager may issue an annual special event permit pursuant to a separate operating agreement to the satisfaction of the City Manager.

§59.0610 *Activities Prohibited within the Midway Rising Entertainment Center District*

In addition to those regulations and prohibitions contained in Chapter 2, Article 2, Division 40 of this Code, it is unlawful for any person to engage in the

following conduct upon streets, sidewalks, public parks, *public spaces*, or public rights-of-way within the *Midway Rising Entertainment Center District*:

- (a) *Tailgate.*
- (b) Consumption of one or more types of alcoholic beverages unless authorized.
- (c) Litter, throw, or deposit on the ground, or post or affix to any publicly owned or maintained tree within the *Midway Rising Entertainment Center District* any handbill, circular, pamphlet, tract, dodger, paper, sticker, or advertisement.
- (d) Bring, leave, turn loose or allow to go free any animal, fowl, or bird of any kind, except a trained guide, signal, or service animal that is in actual use unless authorized by the City Manager.
- (e) Consume from any container made of glass, except in locations where such containers are permitted under the terms of a lease, operating agreement, or permit.
- (f) Leave or scatter any boxes, empty or otherwise, waste paper, remains of meals, newspaper or rubbish of any kind, except that such material and matter may be deposited in receptacles provided for such purpose.
- (g) Motorcycles or any other motorized vehicles are prohibited except on streets designated and established for automotive traffic.
- (h) Obstruct the free travel of any vehicle or pedestrian on streets, sidewalks, public parks, *public spaces* or public rights-of-way.
- (i) Open or close any valves or switches pertaining to the water or

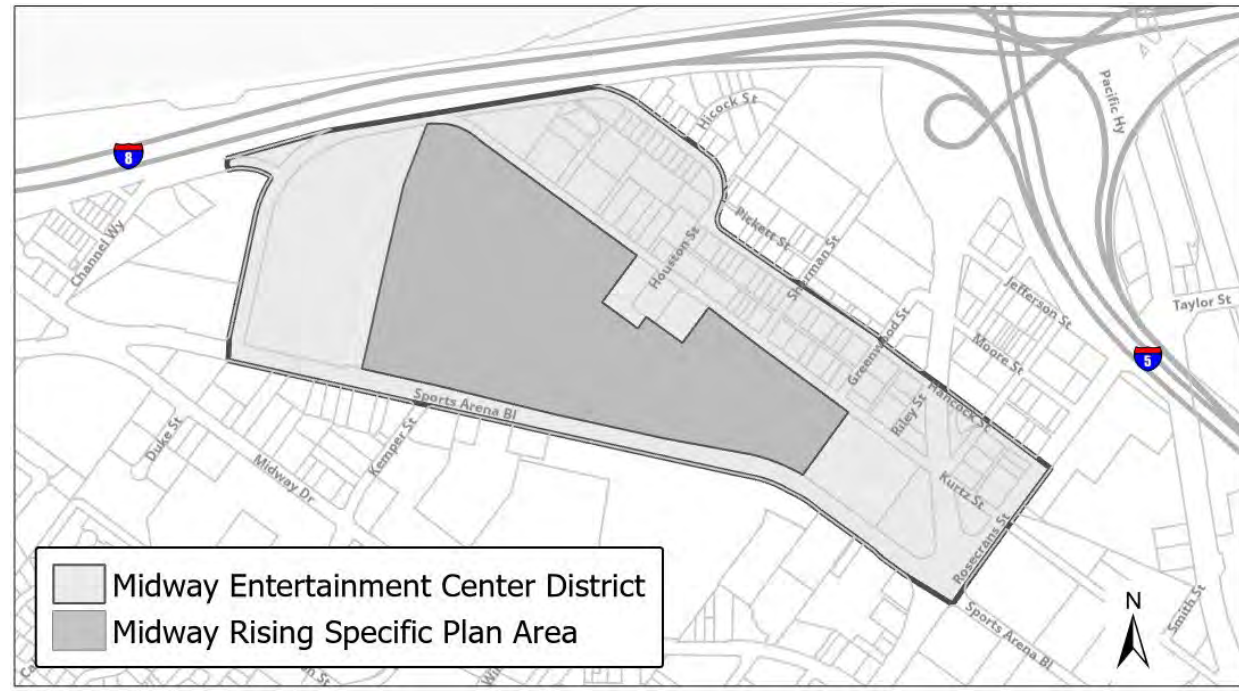
electric services , except when performed by authorized City personnel.

- (j) Throw, discharge, launch, or spill any solid object (excluding sporting equipment such as footballs, baseballs, frisbees, and other such equipment) or liquid substance, or otherwise cause such object or substance to be thrown, discharged, launched, spilled, or to become airborne.
- (k) Explode, set-off, discharge, or otherwise release or cause to be released, any smoke bomb, fireworks, stink bomb, or other substance, which is physically harmful or otherwise irritating, offensive, repugnant, or disgusting to the eyes or sense of smell.
- (l) Cause or permit the engine of any privately owned *motor coach* to idle while parked, standing or stopped, upon any public way for more than fifteen minutes, provided however, if a privately owned *motor coach* is making a temporary stop for the sole purpose of loading or unloading passengers, such motor coach shall not be permitted to idle for longer than is reasonably necessary to load or unload passengers.
- (m) Bring onto or possess any noise making device, including, but not limited to, air horns, powered megaphones, bugles, drums, tambourines, or other musical instruments.

§59.0620 Noise Regulation for District Events

The Noise Abatement and Control regulations in Chapter 5, Article 9.5, Divisions 4 and 5 of this Code shall not apply to *events* within the *Midway Rising*

Entertainment Center District during the time period of three hours before the scheduled start time and two hours after the conclusion of a Midway Rising Entertainment Center District event. Noise abatement and control for events shall be addressed through an agreement authorized by the City Manager or, when required, one or more special event permits.

FIGURE 1

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