THE CITY OF SAN DIEGO

M E M O R A N D U M

DATE: October 30, 2026,

TO: City Council

FROM: Elizabeth Shearer-Nguyen, Assistant Deputy Director, Development Services Department

SUBJECT: Midway Rising (PRJ-1106734) – Clarifications to the Subsequent Environmental Impact Report No. 1106734 / SCH No. 2023120451

Following the finalization of the Subsequent Environmental Impact Report (SEIR) (1106734/SCH No. 2023120451) on September 10, 2025, revisions to the final environmental document have been made. These text edits and clarifications are indicated by either a double strikethrough or a double underline. Text edits, reflected in a single strikethrough and a single underline, resulted from clarifications made during the SEIR's finalization.

1. SEIR Certification (page 1) – Project description clarifications have been made as follows:

   SUBJECT: Midway Rising Specific Plan: GENERAL PLAN AMENDMENT, ~~and~~ COMMUNITY PLAN AMENDMENT to the Midway-Pacific Highway Community Plan to redesignate the site from Community Commercial-Residential Permitted (0-44 dwelling units/acre (du/ac)) to Mixed Community Village (0-72 du/ac) and revise associated plan policies, discussions, exhibits and tables; adoption of a SPECIFIC PLAN; REZONE from CC-3-6 (Community-Commercial) to RMX-2 (Mixed-Use Residential); ~~an ORDINANCE to propose the Midway Rising Entertainment Center District overlay~~ ORDINANCE to amend the San Diego Municipal Code (SDMC) to designate and regulate the Midway Rising Entertainment Center District; ORDINANCE to amend the SDMC to exclude the Specific Plan area from the Community Plan Implementation Overlay Zone - Type B; a VESTING TENTATIVE MAP; ~~various~~ PUBLIC RIGHT-OF-WAY VACATION; PUBIC UTILITY EASEMENT VACATIONS; VARIANCE TO THE INCLUSIONARY HOUSING REGULATIONS FOR AN ALTERNATIVE PHASING PLAN; ~~and a~~ SITE DEVELOPMENT PERMIT; DISPOSITION AND DEVELOPMENT AGREEMENT; and a DEVELOPMENT AGREEMENT to adopt the Midway Rising Specific Plan that would establish goals, policies, development standards, and architectural guidelines for a transit-oriented development with a range of land uses.

2. Thematic Response; Height Limit, third paragraph (page RTC-4) – Typographical edits and clarification text have been made describing the recent CEQA litigation, *Save Our Access v. City of San Diego,* related to the Coastal Height Limit as follows:

   The Project site is within the geographic boundaries of a 1972 citizens' initiative ballot measure that generally limits ~~ed~~ the height of buildings to 30 feet (Proposition D) in a defined coastal area, codified in San Diego Municipal Code (SDMC) Section 132.0505(a). On November 3, 2020, City residents voted in favor of Ballot Measure E to amend the ~~San Diego Municipal Code (~~SDMC~~)~~ to remove the Midway-Pacific Highway Community planning area from the existing 30-foot height limit. The environmental review for the initial ballot measure was challenged in court and found not to comply with CEQA. Thereafter, the ~~The~~ Supplemental EIR for the removal of the Midway-Pacific Highway Community planning area from the ~~c~~Coastal ~~h~~Height ~~l~~Limit Overlay Zone was certified by the San Diego City Council in 2022. ~~The measure was voted on again in 2022 as Measure C.~~ On November 8, 2022, City residents voted in favor of Measure C to again amend the SDMC to remove the 30-foot height limit in the Midway-Pacific Highway Community planning area. It was again challenged in court and on October 17, 2025, the Court of Appeal, Fourth Appellate District, Division One, issued an opinion in *Save Our Access v. City of San Diego*. The appellate court determined that the Supplemental EIR prepared for the second ballot measure was inadequate pursuant to CEQA. As such, the Midway Rising Specific Plan area is subject to the Coastal Height Limit Overlay Zone.

   The Midway Rising Specific Plan (Specific Plan) ~~Project~~ includes development that may exceed the 30-foot height limit if permitted by applicable state law as follows: ~~a 250-foot high-rise residential building,~~ 105-foot-tall mid-rise mixed-use buildings; a ~~, and~~ 165-foot-tall entertainment center; and up to 10 percent of the Specific Plan area (approximately 214,446 square feet) may include buildings that reach a maximum height of 250 feet. Project buildings would be constructed on relatively low ground (10 to 15 feet above mean sea level). ~~These heights would be allowed via the approval of the Midway Rising Specific Plan (Specific Plan).~~ Development on site will be governed by the development regulations in the SDMC and the supplemental development regulations in the Specific Plan. Where development regulations in the SDMC conflict with the Specific Plan, the Specific Plan shall prevail (SDMC Section 122.0107).

3. Response to Comment (RTC) O4-5 (page RTC-O4-8) – Clarification text has been made describing the recent CEQA litigation, *Save Our Access v. City of San Diego,* related to the Coastal Height Limit as follows:

   Building height is analyzed in Final SEIR Section 5.8, Visual Effects and Neighborhood Character. Please refer to Thematic Response: Height Limit. On October 17, 2025, the Court of Appeal, Fourth Appellate District, Division One, issued an opinion in *Save Our Access v. City of San Diego*. The appellate court determined that the Supplemental EIR prepared for the second ballot measure was inadequate pursuant to CEQA. As such, the Midway Rising Specific Plan area is subject to the Coastal Height Limit Overlay Zone. As discussed in Final SEIR Section 5.8, the Midway Rising Specific Plan (Specific Plan) ~~Project~~ includes development that may exceed the 30-foot height limit if permitted by applicable state law as follows: 105-foot-tall mid-rise buildings; a 165-foot-tall entertainment center; and up to 10 percent of the Specific Plan area (approximately

214,446 square feet) may include buildings that reach a maximum height of 250 feet. ~~Project buildings~~ ~~(including a 250-foot high-rise building, 105-foot mid-rise mixed-use buildings, and 165-foot entertainment center)~~ The project buildings would be constructed on relatively low ground (10 to 15 feet above mean sea level). ~~This would be allowable through the approval of the Specific Plan.~~ As discussed in Final SEIR Section 5.8, building heights would affect the scenic quality of the surrounding area, including views from public areas. Further, the 2018 Community Plan does not identify any scenic vistas, scenic views, or prominent view corridors on or over the Project site. Nevertheless, in accordance with Senate Bill 743, the potential aesthetic or visual impacts on scenic vistas and views from Project implementation would not be considered a significant impact on the environment because the Project is a residential and mixed-use development in a Transportation Priority Area. Therefore, this issue is adequately addressed in the Final SEIR, and no further response is required.

4. Response to Comment (RTC) O12-1 (page RTC-O12-1) – Clarification text has been made describing the recent CEQA litigation, *Save Our Access v. City of San Diego,* related to the Coastal Height Limit as follows:

   Refer to Thematic Response: Height Limit. ~~Additionally, no final ruling has been made on the height limit. Therefore, the Midway Rising Project (Project) relies on the existing San Diego Municipal Code zoning.~~ On October 17, 2025, the Court of Appeal, Fourth Appellate District, Division One, issued an opinion in *Save Our Access v. City of San Diego*. The appellate court determined that the Supplemental EIR prepared for the second ballot measure was inadequate pursuant to CEQA. As such, the Midway Rising Specific Plan area is subject to the Coastal Height Limit Overlay Zone.

5. Response to Comment (RTC) I3-2 (page RTC-I3-3) – Edits have been made to acknowledge that the project seeks a variance from the City's Inclusionary Affordable Housing Regulations (Inclusionary Regulations):

   Please see Thematic Response: Height Limit and Final SEIR Section 5.1, Land Use, for a discussion of the height limit propositions and a land use consistency analysis. The heights on site would be allowed via the approval of the Specific Plan and as permitted under state law because of the Coastal Height Limit Overlay Zone. The Specific Plan includes development that may exceed the 30-foot height limit if permitted by applicable state law as follows: 105-foot-tall mid-rise buildings; a 165-foot-tall entertainment center; and up to 10 percent of the Specific Plan area (approximately 214,446 square feet) may include buildings that reach a maximum height of 250 feet. Development on site will be governed by the development regulations in the SDMC and the supplemental development regulations provided in the Specific Plan. Where development regulations in the SDMC conflict with the Specific Plan, the Specific Plan shall prevail. ~~The Project application does not include a variance or affordable housing incentive regarding height.~~ A variance from the City's Inclusionary Affordable Housing Regulations (Inclusionary Regulations) is being requested, and the height of buildings may exceed the 30-foot heigh limit pursuant to state density bonus law.

6. Executive Summary; Section S.1.3.1, Summary of Discretionary Actions (page S-3) – Additional text has been added that describes the approvals the project requires:

   The Project would require a General Plan Amendment to redesignate the site from Community Commercial – Residential Permitted to Community Village. In addition, a Community Plan Amendment would be required to redesignate the 2018 Community Plan Community Commercial – Residential Permitted (zero to 44 dwelling units per acre) designation to a Mixed Community Village designation (zero to 72 dwelling units per acre). This includes areas used for streets, parks, public spaces, and non-residential uses. A rezone would be required to 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. No visitor accommodations are ~~currently~~ proposed as part of the Project. The Project also includes amendments to the San Diego Municipal Code (SDMC) to designate and regulate the Midway Rising Entertainment Center District and to exclude the Specific Plan area from the Community Plan Implementation Overlay Zone - Type B. The Project includes a Vesting Tentative Map to allow for grading and development of the Specific Plan. In addition, the Project requires Public Right-of-Way Vacation and Public Utility Easement Vacations; a Site Development Permit due to the historic resource (San Diego International Sports Arena) present on site ~~and the development of a large retail establishment in Community Plan Implementation Overlay Zone B. Finally, certain public easements and rights-of-way would be vacated as part of the Project~~. The Project also includes a variance to the inclusionary housing regulations for an alternative phasing plan. In addition, approvals of a Disposition and Development Agreement and a Development Agreement.

7. Chapter 1, Introduction; Section 1.1, SEIR Purpose and Intended Uses (page 1-2) – Additional text has been added to clarify the appropriateness of tiering under CEQA:

   Pursuant to CEQA Guidelines Section 15152, this SEIR will "tier" from the Midway-Pacific Highway CPU PEIR. Tiering refers to using the analysis of general matters contained in a broader EIR with later EIRs on narrower projects, incorporating by reference the general discussions from the broader EIR, and concentrating the later EIR solely on the issues specific to the later project. Agencies are encouraged to tier the environmental analyses they prepare for separate but related projects. This approach can eliminate repetitive discussion of the same issues and focus the later EIR on the actual issues ripe for decision at each level of environmental review. Where an EIR has been prepared and certified for a program, plan, policy, or ordinance, any lead agency for a later project pursuant to or consistent with the program, plan, policy, or ordinance should limit the EIR on the later project to the effects that were not examined as significant effects on the environmental analysis in the prior EIR or are susceptible to substantial reduction or avoidance by the choice of specific revisions in the project. A later EIR shall be required when the City finds that the later project may cause a significant effect on the environment that was not adequately addressed in the prior EIR. Per CEQA Guidelines Section 15162(d), the Midway-Pacific Highway CPU PEIR is available for review at https://www.sandiego.gov/ceqa/final and is also included as Appendix B of this SEIR.

Appropriateness of Tiering Under CEQA

Under CEQA, tiering is a process that lets agencies address broad environmental concerns in general or programmatic environmental impact reports (EIRs). It then allows them to focus later environmental analysis on more specific project-related issues. This approach aims to enhance efficiency and minimize repetition during the environmental review process.

Tiering is appropriate under CEQA because it enhances the efficiency of the environmental review process. By addressing broad issues in a programmatic EIR, agencies can streamline subsequent analyses. CEQA explicitly encourages tiering to simplify the preparation of environmental documents and avoid repetitive discussions. This allows agencies to focus on the specific impacts of individual projects, leading to more precise and relevant environmental analysis. Tiering ensures consistency in addressing environmental impacts across related projects and ensures that cumulative impacts are addressed. By using a programmatic EIR as a foundation, subsequent project-specific reviews can maintain a coherent unified approach to environmental issues. This consistency helps set clear expectations for mitigation measures and enables coordinated implementation across multiple projects. Tiering supports comprehensive planning efforts by allowing agencies to consider the cumulative impacts of a series of related projects. This holistic approach ensures that the environmental review process accounts for the broader context and long-term effects of development, rather than evaluating projects in isolation.

The CEQA Guidelines Sections 15152, 15162, 15168, and 15385 provide a detailed framework for tiering, outlining how lead agencies can effectively use programmatic EIRs and subsequent project-specific environmental documents. Tiering is an appropriate and effective tool under CEQA for managing environmental review processes more efficiently and consistently. It enables agencies to address broad issues at the programmatic level and focus on specific impacts at the project level, ensuring a thorough, streamlined approach to environmental protection and planning.

Appropriateness of Tiering the Midway Rising Subsequent EIR from the 2018 Midway-Pacific Highway Community Plan Update Program EIR

Background of the 2018 Midway-Pacific Highway Community Plan Update Program EIR

The 2018 Midway-Pacific Highway Community Plan Update (Midway-Pacific Update) Program EIR (PEIR) was developed to address the environmental impacts of a comprehensive plan update for the Midway-Pacific Highway Community Plan. This PEIR analyzed broad environmental issues associated with the build-out of the updated community plan, laying the foundation for more detailed, project-specific environmental reviews. The PEIR evaluated cumulative impacts and set forth mitigation measures applicable to future development projects. More specifically, the 2018 Community Plan called for the redevelopment of the San Diego International Sports Arena site and adjacent buildings as a vibrant, pedestrian and transit-oriented entertainment area and requires a Specific Plan or Master Plan.

Specifics of the Midway Rising Subsequent EIR

Midway Rising is a project within the scope of the Midway-Pacific Update PEIR. The Midway Rising Project proposes to redevelop the site with a transit-oriented mix of uses, including entertainment, retail, residential, recreational, and park uses under a comprehensive Specific Plan. Given its alignment with the community plan's overarching goals and policies, tiering the Subsequent EIR from the Midway-Pacific PEIR is appropriate and efficient. The Midway Rising Subsequent EIR tiers from the groundwork laid by the PEIR. The Midway Rising Project proposes to redevelop the site with a transit-oriented mix of uses, including entertainment, retail, residential, recreational, and parks under a comprehensive Specific Plan.

Benefits of Tiering for Environmental Review

The practice of tiering is supported by the CEQA Guidelines, which encourage using prior EIRs to streamline subsequent project reviews. By tiering from the Midway-Pacific Update PEIR, the Subsequent EIR can focus on site-specific impacts without duplicating the extensive analysis already conducted. This streamlining reduces redundancy, saving time and resources while still ensuring comprehensive environmental review.

The Midway-Pacific Update PEIR established a mitigation framework applicable to future planned development within the Midway-Pacific Highway Community Plan area. The Midway-Pacific Update PEIR includes a cumulative impact analysis that examines the broader environmental implications of the community plan buildout. The Subsequent EIR for Midway Rising tiers from this analysis, providing a more focused evaluation of the project's incremental contribution to cumulative impacts, thereby ensuring a holistic approach to environmental review.

Overall, tiering the Midway Rising Subsequent EIR from the Midway-Pacific Update PEIR is appropriate because it increases the efficiency and consistency of the environmental review process. This approach allows for a focused analysis of project and site-specific impacts, ensures the adoption of consistent mitigation measures, and builds on the cumulative impact analysis already conducted. By leveraging the comprehensive groundwork of the PEIR, the Subsequent EIR can provide a thorough, streamlined environmental review that aligns with CEQA's principles and guidelines.

8. Chapter 2, Environmental Setting; Section 2.4.3, Zoning (page 2-5) – Clarification text has been added describing the recent CEQA litigation, *Save Our Access v. City of San Diego,* related to the Coastal Height Limit as follows:

Section 2.4.3, Zoning

Zoning for the site is governed by the San Diego Municipal Code (SDMC). The base zone on the site is CC-3-6 (Community Commercial) (Figure 2-6, Zoning Designation). The purpose of the Community Commercial zone is to accommodate community-serving commercial services, retail

uses, and residential uses. The CC-3-6 zone is intended to accommodate development with high intensity and pedestrian orientation and permit a maximum density of 1 dwelling unit for each 1,000 square feet of lot area. The maximum height limit in the CC-3-6 zone is 65 feet.

In addition to the base zone, the Community Plan Implementation Overlay Zone B is applied to the entire site to provide supplemental development regulations that implement the 2018 Community Plan's vision and policies.

In addition, the Project site is within the geographic boundaries of a 1972 citizens' initiative ballot measure (Proposition D) that limit~~ed~~s the height of buildings in the City to 30 feet in a defined area west of Interstate 5 described as the coastal zone within citizen's initiative ballot and the Coastal Height Limit Overlay Zone regulations outlined in SDMC Chapter 13, Article 2, Division 5. The Coastal Height Limit Overlay Zone term for the coastal zone is a separate geographic area from the City's Coastal Overlay Zone as designated by the California Coastal Commission. For the purpose of the coastal zone defined in the 1972 citizens' initiative ballot measure and codified in the SDMC, the geographic boundaries of the 30-foot coastal height limit overlay zone include the City's land and water area from the northern City limits south to the border of Mexico, extending seaward to the outer limit of the City's jurisdiction and inland to I-5. The coastal height limit has been amended several times by the electorate (SDMC Section 132.0505).

On November 3, 2020, City residents voted in favor of Ballot Measure E to amend the SDMC to exempt the Midway-Pacific Highway Community planning area from the existing 30-foot height limit. The environmental review for the initial ballot measure was challenged in court and found not to comply with CEQA.

Thereafter, a Supplemental EIR for the removal of the Midway-Pacific Highway Community planning area from the Coastal Height Limit Overlay was certified by the San Diego City Council in 2022. On November 8, 2022, City residents voted in favor of Measure C to again amend the SDMC to remove the 30-foot height limit in the Midway-Pacific Highway Community planning area. That was again challenged in court, and on October 17, 2025, the Court of Appeal, Fourth Appellate District, Division One, issued an opinion in *Save Our Access v. City of San Diego*. The appellate court determined that the Supplemental EIR prepared for the second ballot measure was inadequate pursuant to CEQA. This means that the Midway-Pacific Highway Community planning area remains within the boundaries of the 30-foot coastal height limit overlay zone. ~~, but the height limit of 30 feet is not enforced. The SEIR for the Removal of the Midway-Pacific Highway Community Planning Area from the Coastal Height Limit was certified by the San Diego City Council in 2022. Voters reaffirmed the removal of the height limit from the Midway-Pacific Highway Community planning area in November 2022 by approving Ballot Measure C.~~

9. Chapter 3, Project Description; Section 3.7 Discretionary Actions (pages 3-21 and 3-22) – Additional text has been added that describes the required project approvals:

Section 3.7.4, San Diego Municipal Code Amendments

The Project requires a Municipal Code Amendment (SDMC) to Chapter 5, Article 9, Division 1 and the addition of a new Chapter 5, Article 9, Division 6 for the Midway Rising Entertainment Center District. Additionally, the Project includes an Ordinance to amend SDMC Chapter 13, Article 2, Division 14 to exclude the Midway Rising Specific Plan area from the Community Plan Implementation Overlay Zone – Type B.

3.7.10 Disposition and Development Agreement

Approval of a Disposition and Development Agreement (DDA) between the City and the applicant. The DDA will contain financing and other conditions to be satisfied before the City, as landlord, and the applicant or its permitted assignees, as tenants, enter into long-term ground leases of portions of the overall project site consistent with a Development Phasing Plan and Performance Schedule to undertake construction and operation of the various project improvements.

3.7.11 Variance

The Inclusionary Regulations generally require a development project to construct affordable housing units no later than the date on which the market-rate units receive final inspection approval. Due to the large-scale, multi-phased buildout of the Project and the various uses proposed at the project site, an alternative schedule is proposed to allow affordable units to be built in phases, concurrent with the phasing of the market-rate units. Therefore, a variance from the City's Inclusionary Affordable Housing Regulations (Inclusionary Regulations) is being requested.

10. Chapter 5.1, Land Use, Section 5.1.2.3 Regulatory Section-Local, City of San Diego Municipal Code, Chapter 14 – General Regulations, fourth bullet (page 5.1-7) – Text corrections have been made as follows:

    - City of San Diego Affordable Housing Density Bonus Regulations. The City's Affordable Housing Density Bonus Regulations (SDMC, Chapter 14, Article 3, Division 7) provide incentives for developments that provide housing for very low-, low- and moderate-income households, as well as senior households, transitional age foster youth, disabled veterans, or homeless San Diegans. ~~On March 6, 2018, the San Diego City Council approved changes to the density bonus program to allow a 10 percent density bonus for developments that do not exceed the maximum permitted building footprint, allowing developers to be eligible for an incentive or waiver even if they do not request a density bonus, and allowing for 100 percent density bonus for micro-unit production for developments that do not exceed the permitted building footprint~~.

11. Chapter 5.1, Land Use; Section 5.1.4, Impact Analysis (page 5.1-70) – Clarification text has been added to explain the recent CEQA litigation related to the Coastal Height Limit as follows:

City of San Diego Municipal Code

Zoning

The SDMC implements the 2018 Community Plan policies through zoning, development regulations, and other controls pertaining to land use density and intensity, building massing, landscape, streetscape, and other development characteristics. Chapters 11 through 14 of the SDMC contain the City's planning, zoning, subdivision, and building regulations that dictate how land is to be developed and used within the City. ~~In 2022, the SDMC was amended to allow buildings to be built above 30 feet in height in the Midway-Pacific Highway Community planning area.~~ Additionally, the City has adopted CAP Consistency Regulations (SDMC Chapter 14, Article 3, Division 14) to ensure that all new development is consistent with the 2022 CAP. The CAP Consistency Regulations apply to specified ministerial and discretionary projects to ensure that projects comply with the goals and objectives of the 2022 CAP and contain measures that are required to be implemented on a project-by-project basis to confirm that the specified emissions targets identified in the 2022 CAP are achieved.

The base zone on the Project site is CC-3-6 (Community Commercial). The Project proposes rezoning the Project site to a mixed-use residential base zone (RMX-2; Figure 5.1-1, Proposed Zoning Plan). The purpose of the residential mixed-use base zone is to provide a mix of uses with a focus on residential uses. Section 8 of the Specific Plan provides supplemental development regulations that work with the underlying base zone and development regulations in the SDMC to ensure the implementation of the Specific Plan's vision. The supplemental development regulations ensure the attainment of the purpose of the Specific Plan, which is to systematically implement the 2008 General Plan and the 2018 Community Plan and provide greater planning and design guidance for the area covered by the Specific Plan. Where the Project deviates from the SDMC, the supplemental development regulations and rezone shall prevail as the governing documents for the Project and Specific Plan.

The Project site is within the geographic boundaries of a 1972 citizens' initiative ballot measure that limits the height of buildings to 30 feet (Proposition D) in a defined coastal area, codified in SDMC Section 132.0505(a). On November 3, 2020, City residents voted in favor of Ballot Measure E to amend the SDMC to remove the Midway-Pacific Highway Community planning area from the existing 30-foot height limit. The environmental review for the initial ballot measure was challenged in court and determined not to comply with CEQA. Thereafter, the Supplemental EIR for the removal of the Midway-Pacific Highway Community planning area from the Coastal Height Limit Overlay was certified by the San Diego City Council in 2022. On November 8, 2022, City residents voted in favor of Measure C to again amend the SDMC to remove the 30-foot height limit in the Midway-Pacific Highway Community planning area. That was also challenged in court, and on October 17, 2025, the Court of Appeal, Fourth Appellate District, Division One, issued an opinion in *Save Our Access v. City of San Diego*. The appellate court determined that the Supplemental EIR prepared for the second ballot measure was inadequate pursuant to CEQA.

The Specific Plan includes development that may exceed the 30-foot coastal height limit if permitted by state law as follows: 105-foot-tall mid-rise buildings; a 165-foot-tall entertainment center; and up to 10 percent of the Specific Plan area (approximately 214,446 square feet) may include buildings with a maximum height of 250 feet. Project buildings would be constructed on relatively low ground (10 to 15 feet above mean sea level).

Therefore, with the approved rezone, the Project would not conflict with the SDMC. Therefore, this impact would be **Less than Significant**.

12. Chapter 5.8, Visual Effects and Neighborhood Character; Section 5.8.2 Regulatory Setting, San Diego Municipal Code (page 5.8-16) – Typographical edits and clarification text have been made to explain the recent CEQA litigation related to the Coastal Height Limit as follows:

Section 5.8.2.3, Local

Chapter 13, Zones

Development regulations for underlying base zones are in Chapter 13, Article 1, Base Zones. The base zone on the Project site is Community Commercial (CC-3-6). In addition to the base zones, Community Plan Implementation Overlay Zone Type B is applied to the entire Project site to provide supplemental development regulations that implement the vision and policies of the 2018 Community Plan. Projects within the Community Plan Implementation Overlay Zone Type B require a Neighborhood Development Permit to develop within this overlay zone.

The Project site is within the geographic boundaries of a 1972 citizens' initiative ballot measure that ~~generally~~ limits ~~ed~~ the height of buildings to 30 feet (Proposition D) in a defined coastal area, codified in SDMC Section 132.0505(a). On November 3, 2020, City residents voted in favor of Ballot Measure E to amend the SDMC to remove the Midway-Pacific Highway Community planning area from the existing 30-foot height limit. The environmental review for the initial ballot measure was challenged in court and ultimately determined not to comply with CEQA. Thereafter, a ~~The~~ Supplemental EIR for the Removal of the Midway-Pacific Highway Community planning area from the Coastal Height Limit Overlay was certified by the San Diego City Council in 2022 (City of San Diego 2022b). ~~The measure was voted on again in 2022.~~ On November 8, 2022, City residents voted in favor of Measure C to amend the SDMC to remove the 30-foot height limit in the Midway-Pacific Highway Community planning area (City of San Diego 2022c). That was also challenged in court, and on October 17, 2025, the Court of Appeal, Fourth Appellate District, Division One, issued an opinion in *Save Our Access v. City of San Diego*. The appellate court determined the Supplemental EIR prepared for the second ballot measure was inadequate pursuant to CEQA.

13. Chapter 6.0, Cumulative Impacts; Section 6.3.8.2, Project-Specific Impact Analysis, fourth paragraph (page 6-20) – Typographical edits and clarification text have been made to explain the recent CEQA litigation related to the Coastal Height Limit as follows:

The 2018 Community Plan contains policies to ensure that new development is consistent with the existing character and protects public views. However, it is anticipated that viewers would notice a change in views due to the proximity and heights of future development on the Project site from the increase in building heights allowed by the Project coupled with cumulative development. ~~The majority of the Midway-Pacific Highway Community planning area is currently developed to a maximum height of 30 feet, with allowed heights up 100 feet or higher in areas with no height limit since the approval of Ballot Measure E amended the SDMC to remove the Midway-Pacific Highway Community planning area from the existing 30-foot height limit.~~ On November 3, 2020, City residents voted in favor of Ballot Measure E to amend the SDMC to remove the Midway-Pacific Highway Community planning area from the existing 30-foot height limit. The environmental review for the initial ballot measure was challenged in court and ultimately determined not to comply with CEQA. Thereafter, a Supplemental EIR for the Removal of the Midway-Pacific Highway Community planning area from the Coastal Height Limit Overlay was certified by the San Diego City Council in 2022. Voters reaffirmed the removal of the height limit from the Midway-Pacific Highway Community planning area in November 2022 by approving Ballot Measure C. However, that was also challenged in court, and on October 17, 2025, the Court of Appeal, Fourth Appellate District, Division One, issued an opinion in *Save Our Access v. City of San Diego*. The appellate court determined the Supplemental EIR prepared for the second ballot measure was inadequate pursuant to CEQA.

In addition, the Navy OTC Revitalization Project development would allow heights up to 240 feet. Cumulative development would affect the scenic quality of the surrounding area, including views from public areas. In accordance with SB 743, the potential aesthetic or visual impacts on scenic vistas and views from Project implementation would not be considered a significant impact on the environment because the Project is a residential and mixed-use development in a Transit Priority Area (as described in the introduction to this SEIR section and in Section 5.8.2.2). Similarly, development and redevelopment projects associated with the 2018 Community Plan and Navy OTC Revitalization Project would also be subject to SB 743. Therefore, the Project's contribution would **Not be Cumulatively Considerable**.

14. Clarification edits have been made to the mitigation measures presented in the environmental document to improve consistency, readability, and implementation. Rather than identifying each individual section in which these edits appear, the clarifications described below should be understood to apply globally to all relevant mitigation measures throughout the document:

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 PERMITTEE ~~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 RE and MMC at (858) 627-3360

2. **MMRP COMPLIANCE:** This Project, PRJ-1106734 and /or Environmental Document 1106734/SCH No. 2023120451shall 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~~ Permittee 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

Document Submittal/Inspection Checklist		
Issue Area	**Document Submittal**	**Associated Inspection/Approvals/Notes**
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

Prior to issuance of a 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 ~~first ten years of the Project Opening Phase 1, which is anticipated to occur in 2030~~ 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

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 ~~first 10 years of the Project Opening Phase 1, which is anticipated to occur in 2030~~ life of the entertainment center.

Historical Resources (Built Environment)

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

a. Prior to issuance of a demolition permit for the San Diego International Sports Arena, the Permittee shall submit a salvage plan for review and acceptance by 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.

b. 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

a. Prior to issuance of a demolition permit for the San Diego International Sports Arena, the Permittee shall submit interpretive display plans for review and acceptance by the City of San Diego City Planning Department's Heritage Preservation staff for their review and acceptance. These plans shall be 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.

b. 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:
    1. Explain the history of the site from the Pre-European era through present day, including demolition of the San Diego International Sports Arena.
    2. 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.
    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.

MM HIST 5.3-3: Robert Breitbard Interpretive Display

a. Prior to issuance of a demolition permit for the San Diego International Sports Arena, the Permittee shall submit plans for review and acceptance by the City of San Diego's 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.

b. 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

a. Prior to issuance of a demolition permit for the San Diego International Sports Arena, the Permittee shall submit a Historic American Buildings Survey documentation package for the San Diego International Sports Arena for review and acceptance by 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:
    1. 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.
    2. 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.
    3. A written historical narrative and report shall be completed according to the Historic American Buildings Survey Historical Report Guidelines.

b. 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:
    1. One copy submitted to the National Parks Service/Library of Congress; and
    2. 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

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:

1. Demonstrate that event acoustics have been planned to minimize their impact on the nearest noise-sensitive receptors.
2. 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.
3. Demonstrate how speaker arrays would be designed to reduce noise spillage to the surrounding environment. This may include the following:
    a. Directing speakers away from sensitive receptors to the extent feasible.
    b. Using temporary sound barriers for stages and event areas where they would not present a safety hazard or inhibit movement on the site.
    c. Incline elevated speakers downward or otherwise design them to reduce noise spillage.
    d. 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.
4. 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

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:

- 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).
- 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.
- 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.
- 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.
- Use "quiet" air compressors, generators, and other stationary noise sources where technology exists.
- 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.
- 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.
- 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

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:

- 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.
- 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.
- 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.
- When vibration levels exceed limits, suspend construction and implement contingencies to either lower vibration levels or secure the affected structures.
- 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

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

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

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

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.

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. ~~The Owner/Permitee shall provide a verification letter to the City of San Diego'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.~~

Air Quality

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

Conclusion

Pursuant to CEQA Guidelines Section 15088.5(a), *a lead agency is required to recirculate an EIR when significant new information is added to the EIR after public notice is given of the availability of the draft EIR for public review under Section 15087 but before certification.* The term "information" *can include changes in the project or environmental setting as well as additional data or other information. New information added to an EIR is not significant unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the project's proponents have declined to implement. "Significant new information" requiring recirculation includes, for example, a disclosure showing that:*

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

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

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

(4) The draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.

The revisions made to the final environmental document include corrections, typographical edits, and text additions that do not disclose a new significant impact, an increase in the severity of an impact, or a feasible project alternative or mitigation measure and do not therefore constitute significant new information but merely provide clarifications that do not affect the analysis or conclusions of the final Subsequent EIR. In accordance with the CEQA Section 15088.5(b), *recirculation is not required when new information is added that merely clarifies, amplifies, or makes insignificant modifications* to an EIR. As none of the conditions outlined in Section 15088.5(a) have occurred, recirculation is not required.

Elizabeth Shearer-Nguyen
Assistant Deputy Director

ES/es

cc: Project File, Development Services Department